



OCTOBER 11, 2007

1760-1860 BLK RIVER RD

## ZONE CHANGE

<b>From:</b>	I-1 Light Industrial EX-1 Coal Mining	
<b>To:</b>	<b>A-U Urban Agriculture</b>	
<b>Proposed Use:</b>	Single-family residence, wooded area	
<b>Acreage:</b>	70.5	
<b>Applicant:</b>	Robert Wimsatt (0710.1693)	
<b>Property Zone Existing Use</b>	<b>to North</b> EX-1 Vacant	
<b>to West</b> EX-1 Vacant	<b>Subject</b> I-1, EX-1 → A-U Vacant	<b>to East</b> I-2 Vacant, Industrial
	<b>to South</b> I-1, EX-1 Residential, Vacant	

## GENERAL LAND USE CRITERIA

Apply, if marked below:

*Described in Comprehensive Plan on pages 445-448*

### Environmental ☒

- E1** Flood Plains
- E2** Steep Slope
- E3** Historical & Archaeological Sites
- E4** Soils
- E5** Plant & Animal Life

### Urban Services ☒

- ☒ **U1** Roadway Capacity
- ☒ **U2** Electricity Supply
- ☒ **U3** Water Supply
- U4** Stormwater Disposal
- U5** Sanitary Sewage Disposal

### Development Patterns ♦

- D1** Land-Use Intensity, Clusters and Buffers
- D2** Land Use versus Street Function
- ♦ **D3** Intersection & Driveway Spacing
- ♦ **D4** Roadway Buffer Standards
- D5** Lot Sizes & Proportions
- ♦ **D6** Residential Development
- D7** Non-Residential Development
- D8** Building Quality

## Proposed Zone & Land Use Plan

The applicant is seeking an A-U Urban Agriculture zone. The subject property is partially located in an Industrial Plan Area where agricultural uses are generally not recommended and partially in Future Urban Plan Area where agricultural uses are appropriate in general locations.

## SPECIFIC LAND USE CRITERIA

- (a) **Conservation of agricultural topsoil** - Agricultural topsoil should be conserved through appropriate farming practices.
- (b) **Sustain forests** - Forested areas should be sustained through appropriate forestry practices.

## Applicant's Findings

The subject property is located in an Industrial Plan Area where Rural Lot uses are not appropriate.

The applicant proposes to rezone a 70.50 acre tract located on River Road from EX-1 Exclusive Use Coal Mining and I-1 Light Industrial to A-U Urban Agriculture. Prior to being rezoned to EX-1, the subject property consisted of a mixed zoning classification of A-U Urban Agriculture and I-1 Light Industrial. Today, the subject property exists as an open field/wooded area. Upon obtaining the desired zoning classification the applicant proposes a single-family residence along the existing frontage on River Road.

Specific Land Use criteria applicable to this application are as follows:

- (a) Existing zoning classification given to this property is inappropriate and the proposed zoning classification is appropriate:

In compliance with Article 12a.31 of the Zoning Ordinance “. . . upon completion of the coal mining operation no other use shall be permitted, other than agriculture without placing the property in the appropriate zoning classification. The site shall revert to its original zone after mining.” As stated previously, the original zoning classification for the subject property was A-U and I-1. Approximately 65% of the subject property was A-U and 35% was I-1. The applicant proposes to rezone the property back to an A-U zoning classification which is consistent with the Zoning Ordinance, which does not allow for rezoning to mixed zoning.

In further support of the applicant's position that the existing zoning classification/land use plan area given to the property is inappropriate, the applicant would like to emphasize the fact that several properties in the general

vicinity are zoned A-U, including 1946, 1990, and 1996 River Road. All of these properties are located in an Industrial Plan Area and within 200 feet of the subject property.

## Planning Staff Review

The subject property is located in the 1760-1860 block of River Road. Land use criteria applicable to this proposal are reviewed below.

### GENERAL LAND USE CRITERIA

#### Environment

According to a study prepared by the US Department of Agriculture Soil Conservation Service dated March 6, 1990, it appears that the subject property is not located in a wetlands area. The subject property is not located in a special flood hazard area per FIRM Map 21059CO120 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is not located in a special flood hazard area per map 21059CO117 D. It appears that the subject property is not designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. The developer is responsible for obtaining permits as may be required by the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

It appears that the subject property is outside the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

#### Urban Services

Electricity, water and gas are available to the subject property. Sanitary sewage disposal is accomplished by an existing on-site septic system.

#### Development Patterns

The subject property is located in an area of mixed residential, agricultural/forestry and industrial uses. The property to the north is zoned EX-1 Coal Mining and is currently vacant wooded land. The property to the east is zoned I-2 Heavy Industrial as is part of the Owensboro Riverport Authority site. The property to the south is zoned I-1 and EX-1 and is primarily vacant wooded land and a single-family residence. The property to the west is zoned EX-1 and is vacant land.

In 1993, the subject property was part of a rezoning from A-U and I-1 to EX-1 that was approved by the Planning Commission and ultimately approved by Daviess County Fiscal Court. The subject property was approximately 70 acres of the 175 acre rezoning. As the applicant stated in

their findings, the zoning ordinance requires that the subject property in a coal mining rezoning revert to its original zoning prior to the issuance of any permits or activity on the site other than agricultural uses. However, reversion to the original zoning would create split zoning on the subject property which is not permitted unless part of a planned project under a final development plan. Since the majority of the lot was zoned agricultural prior to rezoning for coal mining purposes, it is a reasonable request to rezone the entire tract to agricultural to eliminate the potential of split zoning on the property. There is industrial zoning an activity across River Road in the vicinity of the subject property, but on the west side of River Road, the industrial activity is located south of the subject property and is separated from the subject property by a single-family residence.

Also, at 70.5 acres in size, the subject property could potentially qualify as a rural farm residential use or as an agricultural land use based upon the intended use. The applicant states their desire to construct a single-family residence which is permitted in an A-U Urban Agriculture zone. However, at 70 plus acres, the potential for agricultural or forestry production on the subject property exists and a single-family residence as proposed by the applicant is a permitted use under an agricultural zone. The proposal does meet the criteria for a rural farm residential use because agricultural potential does exist on the site and it has access to River Road, an existing street that is publicly maintained. Based on this information, an agricultural zoning is more appropriate for the subject that a split zoning containing some agricultural zoning and some industrial zoning.

In the vicinity of the subject property River Road is classified as a minor arterial roadway with a 500 foot spacing standard and a 40 foot roadway buffer. Rinaldo Road intersects with River Road in an alignment with the subject property. An access to the property shall be in alignment with Rinaldo Road. If sufficient frontage exists for an additional access to the property, it should be spaced a minimum of 500 feet from Rinaldo Road and the nearest access to the south of the subject property in compliance with the Access Management Manual.

### SPECIFIC LAND USE CRITERIA

Although the proposal does not meet all requirements of the Comprehensive Plan since a portion of the property is located in an Industrial Plan area, the requested A-U Urban Agriculture zoning is the appropriate zone for the entire tract than a potential split zoning. If the site were to revert to the previous zoning classification as it existed prior to the coal mining zoning change in 1993, the lot would be split zoned. Although there are existing split zoned lots in the community, the Planning Commission does not endorse split zonings today unless the mixed-use zoning is part of a planned development that might create a mix of

commercial and industrial zoning within the development that will compliment each other. A split between industrial and agricultural zoning would likely not be compatible.

## Planning Staff Recommendations

Staff recommends approval because the proposed agricultural zoning is more appropriate than a split agricultural and industrial zoning in the property. The condition and findings of fact that support this recommendation include the following:

**Condition:** Access to the subject property shall be in alignment with Rinaldo Road. Any additional access to River Road shall meet the minimum requirements of the Access Management Manual.

### Findings of Fact:

1. The subject property is partially located in an Industrial Plan Area where agricultural uses are generally not recommended and partially in Future Urban Plan Area where agricultural uses are appropriate in general locations;
2. According to Owensboro Metropolitan Zoning Ordinance section 12a.31, the site shall revert to original zoning prior to coal mining activity on the site;
3. A single agricultural zoning for the entire tract is more appropriate than a split zoning of agricultural and industrial since the majority of the subject property was zoned A-U Urban Agriculture prior to being zoned to EX-1 Coal Mining; and,
4. At 70.5 acres, the subject property is large enough to sustain forestry activities and support agricultural activity which would encourage the conservation of agricultural soils.