

**SEPTEMBER 11, 2008**

**10562 US HIGHWAY 431**

**ZONE CHANGE**

<b>From:</b> R-1A Single-Family Residential		
<b>To:</b> B-4 General Business		
<b>Proposed Use:</b> Commercial		
<b>Acreage:</b> 0.38		
<b>Applicant:</b> Daviess County, a political subdivision of the Commonwealth of Kentucky (0809.1727)		
<b>Property Zone Existing Use</b>	<b>to North</b> R-1A Residential	
<b>to West</b> R-1A Residential	<b>Subject</b> R-1A ➔ B-4 Utica Fire Station	<b>to East</b> R-1A Residential
	<b>to South</b> R-1A Residential	

**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 a B-4 General Business zone. The subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations.

**SPECIFIC LAND USE CRITERIA**

**(a) Building and lot patterns; outdoor storage areas -** Building and lot patterns should conform to the criteria for “Nonresidential Development” (D7), and outdoor storage yards with “Buffers for Outdoor Storage Yards” (D1).

**(b) Logical zoning expansion of proportional scope -** Existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). The expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

**(f) New locations in Rural Communities -** In Rural Community plan areas, new locations of General Business zones should be “major-street-oriented” (D2) and should be sited at corners of intersecting streets if located in close proximity to existing dwellings.

**Applicant's Findings**

The proposed rezoning is in compliance with the applicable criteria as set forth in the Comprehensive Land Use Plan. The rezoning proposal meets the requirements of the criteria as set out under Section 11 General Business of the Land Use Plan. The subject property is located in a Rural Community Plan where commercial activities are appropriate in limited locations.

Building and lot patterns; outdoor storage yards- Building and lot patterns conform to the criteria for “non-residential development.”

New locations in rural communities – In Rural Community plan areas, new locations of General Business zones should be “major-street-oriented”. As indicated in the background section above, the subject property has a long history of non-residential use and past use is consistent with B-4 General Business.

The rezoning proposal meets the “arterial-street-oriented” requirement. Highway 431 is a major arterial highway known as US Highway 431.

The area south of the subject property serves as a service center for the Utica area. Three lots to the south on the east side of Highway 431 is a commercial strip area with a

convenience store (known as Utica Food Mart) which is located at the intersection of US Highway 431 and KY 140. The property is zoned B-4.

On the east side of the intersection of US 431 and KY 140, there is a vacant tract zoned B-4.

On the west side of the intersection of US Highway 431 and KY 140, there are two vacant tracts zoned B-4.

On June 5, 2008, the property located at 10539 Hwy 431, which is north and east of the subject property, was rezoned from R-1A Single-Family Residential, A-U Urban Agriculture to B-4 General Business.

Applicant's plan is to rezone the property to make it a conforming use and then sell.

## Planning Staff Review

The subject property is located in the 10500 block of US 431. 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 21059CO425 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 21059CO405 D. It appears that a portion of the subject property is designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. However, the prime farmland has been lots from previous development on the site. 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 on-site septic system.

### Development Patterns

The subject property is located in the rural community of Utica. In the vicinity of the subject property, all surrounding properties are zoned R-1A Single-Family Residential. There are residences on all sides of the subject property.

The subject property is only 0.38 acres in size which could create issues when applying appropriate screening measures. A ten foot landscape buffer with a six foot element and one tree every 40 linear feet would be required along the entire boundary to the north, west and south. The east side of the property is the road frontage which is primarily open. The zoning ordinance allows for a maximum of 40% of the road frontage to be used for access.

The road frontage of the property is used primarily as access since the site has historically been used as a fire station. Although the use has been non-residential in nature, the fire station was approved under the public facility guidelines established in KRS for governmental uses and are appropriate in any zone. Since a fire station could be constructed in any zone as a public facility, the justification of use as commercial is negligible. Also, from previous public hearings concerning another rezoning in the vicinity, statements have been made that the fire station is being relocated due to poor sight visibility at this location. The appropriateness of converting the use to commercial which could significantly increase the extent of traffic utilizing the site may create a safety and liability issue.

There are two primary criteria in the Comprehensive Plan for general business uses within a Rural Community Plan Area. The first is a logical expansion which is not applicable for the subject property since the nearest B-4 General Business zoning is located across the street and to the north or south. The second criteria states that new locations of general business use should be major-street oriented and be located at the corner of intersecting streets if located in close proximity to existing dwellings. With frontage on US 431, the site is major-street oriented; however, the second portion of the requirement is not met and not addressed by the applicant in their findings. There are existing dwellings on three sides of the subject property with the property to the east across US Highway 431 being occupied by a residence as well.

### SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the Comprehensive Plan. The proposed use will be non-residential in nature and major-street oriented but is not located at the corner of intersecting streets and is in close proximity to existing dwellings.

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## Planning Staff Recommendations

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

### Findings of Fact:

1. The subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations;
2. Although the subject property may have been used for non-residential purposes as a fire station, the approval was via a public facility review for local government which is applicable in any zone;
3. The subject property is not contiguous to existing B-4 zoning or use and is therefore not a logical expansion of existing B-4 General Business zoning;
4. The subject property is situated in close proximity to existing dwellings with residences located to the north, south and west of the subject property: and,
5. The subject property is not located at the corner of intersecting streets.