

FEBRUARY 11, 2021

9900 HIGHWAY 764	
ZONE CHANGE	
From:	R-1A Single Family Residential & A-R Rural Agriculture
To:	A-R Rural Agriculture
Proposed Use:	Residential
Acreage:	3.484
Applicant:	David E. Montgomery (2102.2154)
Surrounding Zoning Classifications:	
North:	A-R
South:	A-R & R-1A
East:	A-R
West:	A-R & R-1A

Proposed Zone & Land Use Plan

The applicant is seeking an A-R Rural Agriculture zone. The subject property is located in a Rural Maintenance Plan Area, where Rural Large-lot Residential uses are appropriate in limited locations.

SPECIFIC LAND USE CRITERIA

(a) Separate, large, well-proportioned lots –

Each dwelling should be located on its own individual lot that fronts on a public road or street. Lots should be large enough in size and width to avoid the creation of excessive numbers of lots or odd-shaped lots.

(c) Frontage only on existing roads or streets –

In Rural Maintenance plan areas new lots should front upon existing public roads or streets. Public roads or streets should not be created or extended to provide for new lots.

(d) Coal mining advisory – Prospective lot owners should be advised of the potential for coal mining activity in rural areas.

Planning Staff Review

GENERAL LAND USE CRITERIA

Environment

- It appears that the subject property is not located in a wetlands area per the US Department of Agriculture Soil Conservation Service dated March 6, 1990.
- The subject property is not located in a special flood hazard area per FIRM Maps 21059CO320D and 21059CO340D.
- It appears that the subject property is designated as additional farmland of statewide importance per the US Department of Agriculture Soil Conservation Service map dated March 1980.

- The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA, the EPA, the OMPC building/electrical/HVAC division or other state and federal agencies as may be applicable.

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 a 3.484 acre parcel with 280-feet of road frontage along Highway 764 and is currently split-zoned R-1A Single Family Residential and A-R Rural Agriculture. The front half of the property, encompassing the house and a detached structure, is zoned R-1A Single Family Residential; meanwhile the rear of the property, which includes a separate detached structure, is zoned A-R Rural Agriculture.

This property, located approximately 0.9 miles south of the Whitesville City Limits, appears to be the first property on the east side of Highway 764 that has any residential zoning. All properties between the subject property and the Whitesville City Limits are entirely zoned agriculturally.

To the east, behind the subject property, is a large farm tract that is zoned A-R Rural Agriculture. The adjoining property to the south, 9878 Highway 764, is split-zoned R-1A Single Family Residential and A-R Rural Agriculture in the same manner as the subject property. To the west, across Highway 764, is a farm tract that is zoned A-R (south side of Ward Road) and a Green River Electric Corporation station that is zoned R-1A (north side of Ward Road).

While the primary use of the property has been (and will continue to be) residential, the owner of the subject property has established a garden and greenhouse in the front yard, along Highway 764. Farming is permitted in both the agricultural and residential zoning classifications, so the farming and greenhouse operations do not require a zoning change. However, the owner recently expanded the activity beyond the extent of a farming and greenhouse operation. Through the utilization of a produce stand along Highway 764 and a small advertising sign, the owner began to allow the retail sales of his products without knowledge that such an activity is prohibited in the residential zoning classifications.

The zoning ordinance states that produce stands (such as the proposed) shall be permitted as an accessory use within the agricultural zoning classifications. Once the owner was notified that the produce stand operation was a violation to the zoning ordinance, he appears to have ceased activity and submitted a request to rezone the property to A-R Rural Agriculture in order to rectify the situation.

It is important to note that as an accessory use, the activity is only permitted in a limited scope. The ordinance states that such operations are only allowed if the sold items are limited to those that are grown on the property by the owner of the premises. As such, the retail sales of produce shall be owned and operated strictly by those that live at 9900 Highway 764 and the sales area of the operation shall be limited to the proposed produce stand. The activity shall not expand beyond the extent of an accessory use and become a commercial greenhouse operation.

Per the most recently recorded subdivision plat, the subject property has a building setback of 35-feet from the front property line along Highway 764. No structure, including the greenhouse, shall encroach into the front yard building setback.

Any future changes to the property would have to comply with applicable portions of the Owensboro Metropolitan Zoning Ordinance and Subdivision Regulations. Before any construction activity takes place on the property, the OMPC Building, Electrical and HVAC department shall be contacted regarding any necessary permits, inspections and certificates of occupancy and compliance; this includes the placement of any structures and signage in relation to the produce operation.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is in compliance with the Comprehensive Plan. The subject property is an existing lot with a single dwelling that fronts on a public road, Highway 764, with no new lots or new roads proposed. The proposed A-R Rural Agriculture zoning is a logical expansion of existing A-R zoning, including the A-R zoning located at the rear of the subject property.

Planning Staff Recommendations

The planning staff recommends approval subject to the findings of fact that follow:

Findings of Fact:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;
2. The subject property is located in a Rural Maintenance Plan Area, where rural large-lot residential uses are appropriate in limited locations;
3. Each dwelling will be located on its own individual lot that fronts on a public road, Highway 764;
4. No new lots or new roads will be created;
5. The proposed A-R Rural Agriculture zone is a logical expansion of the A-R zoning to the north, south, east, and west; and,
6. Rezoning the property from A-R Rural Agriculture and R-1A Single Family Residential to A-R Rural Agriculture will eliminate the existing split-zoning on the subject property.