

AUGUST 10, 2023

4667 &amp; 4681 FREE SILVER ROAD

**ZONE CHANGE**

<b>From:</b> EX-1 Coal Mining	
<b>To:</b> A-R Rural Agriculture	
<b>Proposed Use:</b> Residential	
<b>Acreage:</b> 12.140	
<b>Applicant:</b> Brandon Lanham; Julie Olzak, James Toon & Stephen Toon (2308.2265)	
<b>Surrounding Zoning Classifications:</b>	
<b>North:</b> A-R	<b>South:</b> A-R
<b>East:</b> EX-1	<b>West:</b> EX-1 & A-R

**Proposed Zone & Land Use Plan**

The applicant is seeking an A-R Rural Agriculture zone. The subject properties are located in a Rural Maintenance Plan Area, where rural large-lot residential uses are appropriate in limited locations and where rural small-lot residential uses are not generally recommended.

**SPECIFIC LAND USE CRITERIA****RURAL LARGE-LOT RESIDENTIAL USES**

**(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 may 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 properties are not located in a wetlands area per the US Department of Agriculture Soil Conservation Service map dated March 6, 1990.
- The subject properties are partially located in a special flood hazard area per FIRM Map 21059C0170D.
- It appears that a portion of the subject properties are designated as prime agriculture farmland 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 properties. Sanitary sewage disposal will be accomplished by on-site septic systems.

**Development Patterns**

The subject properties are two lots with road frontage along the east side of Free Silver Road, just south of the Pence Road intersection. The first lot is a large agricultural property totaling 11.14 acres in size. The second is a smaller tract, only 1-acre in size.

The two subject properties and two additional lots located across Free Silver Road are owned by the same persons and all four lots are currently zoned EX-1 Coal Mining. With no active coal mining on the properties, the applicant has submitted two applications proposing to rezone all four lots to A-R Rural Agriculture to allow for residential uses.

As evidenced above, the proposal for a rural large-lot residential use on the 11.14-acre parcel is in compliance with the Comprehensive Plan. However, in reference to the 1-acre tract, rural small-lot residential uses are not generally recommended within the Rural Maintenance plan areas. Nevertheless, the proposal is an existing lot of record without active coal mining and, as a result, the proposed A-R Rural Agriculture zoning is more appropriate than the existing EX-1 Coal Mining zoning.

Any future changes to the properties shall comply with applicable portions of the Owensboro Metropolitan Zoning Ordinance and Subdivision Regulations. Before any construction activity takes place on the properties, the OMPC Building, Electrical and HVAC department shall be contacted regarding any necessary permits, inspections and certificates of occupancy and compliance.

**SPECIFIC LAND USE CRITERIA**

The two properties are existing lots of record, which are large enough in size to ensure that all proposed dwellings are located on their own individual lot. Each existing property contains road frontage along a public road, Free Silver Road and no new public roads are proposed with this request. As such, the proposal to rezone the 11.14-acre tract is in compliance with the Comprehensive Plan. Referencing the 1-acre parcel, the proposed A-R Rural Agriculture zoning is more appropriate than the existing EX-1 Coal Mining zoning because this is an existing lot of record without active coal mining on the 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 to rezone the 11.14-acre subject property to A-R Rural Agriculture is in compliance with the community's adopted Comprehensive Plan, and because the proposed A-R zone is more appropriate than the existing EX-1 Coal Mining zone at the 1-acre subject property;
2. The subject properties are located in a Rural Maintenance plan area, where rural large-lot residential uses, such as the 11.14-acre tract, are appropriate in limited locations;
3. Both properties are existing lots of record, large enough to ensure that proposed dwellings are located on their own individual property with frontage along a public road, Free Silver Road;
4. No new public roads are proposed with this request;
5. Coal mining activity on both properties has ceased;
6. Although the properties are located within a Rural Maintenance plan area where rural small-lot residential uses are not generally recommended, the 1-acre parcel is an existing lot of record and the proposed A-R Rural Agriculture zoning is more appropriate than the existing EX-1 Coal Mining zoning because there is no active coal mining at the subject property; and,
7. The Owensboro Metropolitan Zoning Ordinance Article 12a.31 requires that the properties shall revert to its original zoning classification after mining.