

MARCH 13, 2008

6100 BLK AULL RD

ZONE CHANGE

From: A-R Rural Agriculture		
To: EX-1 Coal Mining		
Proposed Use: Coal Mining		
Acreage: 60.75		
Applicant: Western Kentucky Minerals, Inc.; Coomes Heirs c/o Bill Coomes (0803.1709)		
Property Zone <i>Existing Use</i>	to North EX-1 Pastureland	
to West EX-1 Pasture, Wooded	Subject A-R ➔ EX-1 Wooded	to East EX-1, A-R Agricultural, Wooded
	to South EX-1 Grassland	

**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 EX-1 Coal Mining zone. The subject property is located in a Rural Maintenance Plan Area where coal mining uses are appropriate in general locations.

SPECIFIC LAND USE CRITERIA

(a) Coal mining standards - Coal mining should conform with the following standards:

- 1) Locational Guidelines:** Coal mining activities should be located in the Rural Service Area, outside of Rural Community plan areas, in Rural Preference or Rural Maintenance plan areas. Mining activities should not occur in the 100-year floodplain. The particular location, scope, and characteristics of mining operations should be subject to **Discretionary Limits on Coal Mining**.
- 2) Site, Operational, Reclamation Plans and Procedures:** Due to the potentially adverse environmental impact of coal mining, detailed site, operation and reclamation plan information is required by the state. **State mandated procedures** must be followed. Necessary permits must be obtained from federal, state and local agencies having jurisdiction over any phase of the operation prior to the beginning of said operation. The planning commission or respective authority may require the posting of sufficient surety for maintenance and repair of those public facilities which are not otherwise bonded. The planning commission, at its discretion, may require pre-blast surveys be conducted for building on neighboring property, even beyond the requirements of state law. The planning commission may seek action to halt operations occurring in violation of state law or in violation of its discretionary requirements or limits.
- 3) Soil and Geology:** Evidence of the presence of coal should be supported by USGS Maps, core drills, etc. An investigation should be made to determining the agricultural potential of the land. **Prime agricultural land**, as defined by the U.S. Soil Conservation Service, must be protected from normal mining procedures, as required by state law.
- 4) Activity Buffers:** Coal mining should not be permitted within a minimum of **100 feet** of a public right-of-way nor within a minimum of **300 feet** of neighboring residential or nonresidential developed property, unless appropriate waivers are granted. These minimums may not be adequate in all cases and may be re-established dependent on circumstances of individual cases.

5) **Transportation Plan and Access Design:** A transportation plan must be prepared, and must be approved by the state highway department and the county engineer, as appropriate, showing the route to be followed in hauling coal from the site to ultimate destination in Daviess County. Surety should be provided to assure maintenance and repair of public roads and bridges. Particular attention should be given to proper and safe design of vehicular access points to public roads and highways. Access points should be located to assure adequate sight distances along through roadways and at stop legs of intersections. Such points should be altered, if necessary, to satisfy property and safe design.

(b) **Discretionary limits on coal mining:** Generally, mining should be permitted wherever coal exists in rural areas. However, where the planning commission finds advisable, limits may be set on the mining process where deemed necessary. The establishment of limits may arise from consideration of such issues as the pattern, density and predominance of nearby, established development; the zoning of adjoining properties; the impact of past or existing mining in the vicinity; and proximity of the mining area to highways.

Applicant's Findings

The applicant's proposal is in compliance with the Comprehensive Plan because:

- (1) The Comprehensive Plan anticipates the removal of coal minerals in Daviess County in limited areas by the creation of Articles 12, Appendix A, Exclusive Use Zone I (EX-1).
- (2) Coal mining of land for the removal of valuable and needed coal deposits is part of the community's economy.
- (3) Coal mining of land is a limited duration use, and once such use is terminated the high volume of truck traffic associated with transportation coal and the noise, dust and other potential nuisance-like characteristics of coal mining will terminate and the fact that the effected areas are not within immediate reach of public utilities and other facilities which are necessary to sustain concentrated urban growth makes this area appropriate for coal mining activities.
- (4) The location of the coal deposits at the depth below the surface at which the mineral is found and the quantity and quality of the mineral to be extracted outweigh the possible destruction of other natural amenities.
- (5) The extraction of coal minerals has historically existed in this area and at the current time property adjacent to the subject area is zoned

EX-1 and has or currently is undergoing mining operations.

- (6) Article 12, Appendix A, Section 31 provides that upon completion of the coal mining operation (a) no other use shall be permitted, other than agriculture, without first placing the property in the appropriate zoning classification and (b) the site shall revert to its original zoning classification.
- (7) The subject property is located in the Rural Service area outside of a Rural Community Plan area.
- (8) The subject property adjoins existing areas of EX-1 Coal Mining zoning. There are numerous coal-mining zonings in the vicinity that have historically been active in coal production.
- (9) The Philpot-Maceo Quadrangle map indicates the presence of coal deposits on the site.
- (10) State and county roads proposed to be used for the transportation have been approved by the appropriate officials.

Planning Staff Review

The subject property is located in the 6100 block of Aull 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 partially located in a special flood hazard area per FIRM Maps 21059CO170C and 21059CO310C and per preliminary FIRM Maps 21059CO170D and 21059CO310D, dated July 7, 2007. 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. 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.

Development Patterns

The subject property is located in an area of mixed rural residential, agricultural and coal mining uses. EX-1 Coal Mining zoning is located on all sides of the property with a portion of the property to the east being zoned A-R Rural Agriculture.

SPECIFIC LAND USE CRITERIA

General and specific land use criteria applicable to coal mining proposals are: location, site and mining procedures; soils, geology, and fragile areas; activity buffers; and transportation plan and access design. These items are reviewed below.

LOCATION

The subject property is located in the 6100 block of Aull Road. The subject property is in the Rural Service Area and within a Rural Maintenance Plan Area. There are numerous coal mining zonings in the vicinity that have historically been active in coal production.

SITE & MINING PROCEDURES

The subject property is a wooded 60.75 acre tract of land that is landlocked. Access to the property is from a drive on Aull Road that is currently used by coal trucks to get from the coal mining areas to Aull Road and KY 144. The applicant's attorney has indicated verbally that coal is to be mined by surface mining techniques.

SOILS, GEOLOGY & FRAGILE AREAS

A review of soils indicates that some prime farmland may be present on site. Also, 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. The applicant should be aware that state law requires protection of prime agricultural lands from normal mining practices.

The Philpot-Maceo Quadrangle Map of the U.S. Geological Survey indicates the presence of coal deposits on the site. Coal to be mined is from the White Ash and Lead Creek coal beds with average coal seam of 10" to 37". Coal depths range from 35 feet to 105 feet below the surface.

The subject property does not contain any known historical or archaeological sites.

The subject property is partially located in a special flood hazard area per FIRM Maps 21059CO170C and

21059CO310C and per preliminary FIRM Maps 21059CO170D and 21059CO310D, dated July 7, 2007. Also, 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

ACTIVITY BUFFERS

Mining activities should maintain a minimum 100 foot buffer from any road right-of-way and a 300 foot buffer from any residential or nonresidential developed property. Should any mining activity be required within these buffer areas, a waiver from the state and/or property owner and a variance from the Owensboro Metropolitan Board of Adjustments would be required.

TRANSPORTATION PLAN & ACCESS DESIGN

Coal mined on the subject property is proposed to be removed from the site via an existing private haul road intersecting Aull Road near KY 144. The applicant has submitted a transportation plan that has been approved by the Kentucky Transportation Cabinet and the Daviess County Engineer for all roads that will be used to haul coal from the subject property to the Yellow Banks River Terminal. The applicant may be required by the county engineer or state highway official to post bond or acquire excessive weight permits for the coal transportation activities to ensure that roads are properly maintained and not damaged during transport.

Planning Staff Recommendations

Staff recommends approval because the proposal is 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 Maintenance Plan Area where coal mining uses are appropriate in general locations;
2. The subject property is located in the Rural Service Area outside of a Rural Community Plan Area;
3. The subject property adjoins existing areas of EX-1 Coal Mining zoning and activity;
4. The Philpot-Maceo Quadrangle Map indicates the presence of coal deposits on the site; and,
5. State and county roads proposed to be used for the transportation of coal have been approved by the appropriate officials.