

JUNE 13, 2013

2745 HAYDEN RD**ZONE CHANGE**

From: R-1A Single-Family Residential	
To: I-1 Light Industrial	
Proposed Use:	Repair/Remodeling Shop & Custom Airbrushing
Acreage:	0.67
Applicant:	Ray, Inc.; DAC Properties, LLC (1306.1877)
Surrounding Zoning Classifications:	
North: R-1A	South: R-1A
East: R-1A	West: R-1A

Proposed Zone & Land Use Plan

The applicant is seeking an I-1 Light Industrial zone. The subject property is located in an Urban Residential Plan Area, where light industrial uses are appropriate in very-limited locations.

SPECIFIC LAND USE CRITERIA

(a) Buildings 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 expansions outside of Industrial Parks – Existing areas of Light Industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not significantly increase the extent of industrial uses that are located in the vicinity and outside of Industrial Parks. Also, such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

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 Map 21059CO143D.
- A portion of the property may be designated as prime agricultural 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 or other state and federal agencies as may be applicable.

Urban Services

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

Development Patterns

The subject property is located in an area of primarily residential and agricultural uses. All surrounding properties are currently zoned R-1A Single-Family Residential with rural residences and farmland the general land uses.

According to the applicant’s findings, the site has been used for various non-residential uses over the years including an auto body shop, auto repair shop, pest control business, law service, remodeling shop and storage building. PVA records indicate that the main structure was built in 1968 and the business type was listed as construction. An Administrative Appeal was approved by the Owensboro Metropolitan Board of Adjustments in August 2001, to change from one non-conforming use as an automobile body/paint shop to another non-conforming use as a pest management business. The appeal was approved with the condition that a 24’ x 25’ drive apron be paved. An additional appeal was filed in February 2012, but was withdrawn prior to the Board of Adjustments hearing the item.

The Administrative Appeals have historically been filed to allow the non-residential uses to continue because a rezoning request to rezone the property to I-2 Heavy Industrial was denied by the OMPC in August 1987. At that time, the applicant included similar findings as the present applicant, indicating the history of non-residential use on the property. The OMPC’s findings for denial were based on the provision of the zoning ordinance to allow the continuation of the present use or other similar use of the property through the Administrative Appeal process and that the general growth pattern in the vicinity was rural residential so the industrial zoning was not in compliance with the land use plan.

If the site were to be rezoned, the site must be brought into compliance with the current zoning regulations. Site improvements would include, but not be limited to, paving of all vehicular use areas, vehicular use area landscaping, and a 10’ perimeter easement with a six foot solid elements and one tree every 40 linear feet. The applicant should also be aware that changes or alterations to the structures or uses on site may require building, electrical, and HVAC permits. The OMPC building and electrical division should be contacted prior to any construction activity or changes.

SPECIFIC LAND USE CRITERIA

The applicant’s proposal is not in compliance with the Comprehensive Plan. The proposal does not meet the requirements of the comprehensive plan for a logical expansion of existing industrial zone or use. While the site has a history of non-residential use, a previous request for zoning change was denied by the Planning Commission

and there is a provision in the zoning ordinance to allow the continuance of non-conforming uses and sites through an Administrative Appeal to the Board of Adjustments. The Administrative Appeal can allow the use, or similar use, to continue on the site provided that the proposed use is not more intense and that the scope of site improvements is not expanded.

Planning Staff Recommendations

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

Findings of Fact:

1. Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan;
2. The subject property is located in an Urban Residential Plan Area, where light industrial uses are appropriate in very-limited locations;
3. The proposal does not satisfy the land use plan requirements of a logical expansion of existing industrial use or zoning;
4. The industrial use is inappropriate for the predominately rural residential area due to the potential for nuisances; and,
5. While the subject property does have a history of non-residential use, the zoning ordinance allows for the continuance of non-conforming uses and sites through the Administrative Appeal process through the Board of Adjustments.