

**AUGUST 13, 2015**

**2127 E. PARRISH AVE**

## ZONE CHANGE

<b>From:</b> I-1 Light Industrial
<b>To:</b> B-4 General Business
<b>Proposed Use:</b> Restaurant & Retail
<b>Acreage:</b> 3.04 acres
<b>Applicant:</b> YESS & J Properties, LLC (1508.1932)
<b>Surrounding Zoning Classifications:</b>
<b>North:</b> I-1 <b>South:</b> B-1
<b>East:</b> A-U <b>West:</b> A-U & I-1

## Proposed Zone & Land Use Plan

The applicant is seeking a B-4 General Business zone. The subject property is located in an Industrial Plan Area where General Business uses are appropriate in very limited locations.

## SPECIFIC LAND USE CRITERIA

(a) **Building and lot patterns; outdoor storage yards** – 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 expansions 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.

## 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 21059CO139 D.
- It appears that the subject property is not within the Owensboro Wellhead Protection area per the GRADD map dated March 1999.
- 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, sewer and gas are available to the subject property.

#### Development Patterns

The subject property in this rezoning application is a vacant 3.04 acre parcel known as 2127 E. Parrish Avenue. The applicant proposes to rezone the parcel to the B-4 General Business zoning classification for restaurant and retail purposes.

The property is located directly across E. Parrish Avenue from The Springs Medical Center, which is zoned B-1 Neighborhood Business Center and P-1 Professional/Service. The property to

the east of the site is the Temple Adath Israel Cemetery, zoned A-U Urban Agriculture. To the west along E. Parrish Avenue is a three acre residential property, zoned A-U Urban Agriculture. To the rear of the subject property is a 27 acre industrial property owned by Buskill Properties (Buskill's Automotive Repair) that only has access via Ragu Drive, zoned I-1 Light Industrial.

In 1994 this property was successfully rezoned from A-U to I-1 and intended to be consolidated with the Buskill property to the rear. A condition of the rezoning was to close an existing access to Parrish Avenue on the western side of the property, only allowing a single future access point to Parrish Avenue on the eastern side of the property. The property was never used industrially nor consolidated with the Buskill property, however, in 1997 a minor subdivision plat was approved that reaffirmed that the western access point was to be removed. Also in 1997, a final development plan for a new animal hospital on the subject site was approved. The approved final development plan required the existing entrance turnouts on the western side of the property to be closed. The animal hospital was never built and the final development plan was revoked by OMPC on 4/13/2000.

Access to the subject parcel must comply with the Access Management Manual. East Parrish Avenue in this location is classified as a principal arterial which requires minimum driveway spacing at 500 foot intervals. The subject property does not have sufficient road frontage to meet this standard and have two access points, as their conceptual site layout included in the traffic impact study illustrates. The applicant proposes a full access point on the eastern side of the property to be aligned with the existing signalized intersection across from The Springs Medical Center. The applicant also proposes a right turn/exit only access point on the western edge of the property. Kenny Potts, Kentucky Transportation Cabinet, in an email dated 7/21/15 states that KYTC does not recommend installation of the western entrance and that there appears to be adequate room within the internal parking lot for delivery truck movements and adequate access to the site can be provided via the eastern proposed entrance across from The Springs. OMPC staff agrees with KYTC's assessment of the proposed western access.

Properties in this area contain a variety of zoning classifications including agricultural, residential, office, commercial and industrial. Where adjacent to the residential property to the west, the proposed B-4 development, if approved, will be required to install a 10' landscape easement with one tree per 40' of linear boundary plus continuous 6' high planting, hedge, fence, wall or earth mound. The required minimum front building setback for the subject property shall be 75' from the street centerline, or 25' from the lot line, whichever is greater. A 60' roadway buffer from street centerline will also be required.

If the rezoning is successfully approved, zoning ordinance requirements related to landscaping, parking, signage, setbacks, buffers and access will be reviewed by OMPC staff during the required development plan review process prior to any permits being issued for construction.

**SPECIFIC LAND USE CRITERIA**

There are three potential findings the Planning Commission can make on a zoning change request based on KRS 100.213, included below:

**KRS 100.213**

*(1) Before any map amendment is granted, the planning commission or the legislative body or fiscal court must find that the map amendment is in agreement with the adopted comprehensive plan, or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or the legislative body or fiscal court:*

*(a) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;*

*(b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.*

The applicant's proposal, which is in an Industrial Plan Area, is not in compliance with the Comprehensive Plan. The proposed use does not conform to the criteria for non-residential development. This proposal is not a logical expansion of existing adjacent B-4 zoning. Since the property directly across Parrish Avenue is zoned B-1, which is the least intense commercial zoning classification, proposing a higher intensity commercial zoning classification such as B-4 on the subject property cannot be considered a logical expansion of an adjacent similar commercial zoning classification based on the current comprehensive plan land use plan and applicable criteria. The current comprehensive plan and its associated land use plan, which were most recently updated and adopted in 2013, shows the subject property in an Industrial Plan Area. Therefore, staff feels that the proposal does not meet the potential Type 2 findings stating that there have been major changes in the vicinity that were not anticipated in the latest Comprehensive Plan. Lastly, staff cannot find sufficient evidence to support finding that the proposed zoning is more appropriate than the existing zoning with the amount of industrial zoned property adjacent to the subject property.

**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 Industrial Plan Area where general business uses are appropriate in very limited locations;
3. The proposed use does not conform to the criteria for non-residential development;
4. This proposal is not a logical expansion of existing adjacent B-4 zoning. Since the property directly across Parrish Avenue is zoned B-1, which is the least intense commercial zoning classification, proposing a higher intensity commercial zoning classification such as B-4 on the subject property cannot be considered a logical expansion of an adjacent similar commercial zoning classification based on

the current Comprehensive Plan land use plan and applicable criteria;

5. The current Comprehensive plan and its associated land use plan, which were most recently updated and adopted in 2013, shows the subject property in an Industrial Plan Area. Therefore, the proposal does not meet the potential Type 2 findings stating that there have been major changes in the vicinity that were not anticipated in the latest Comprehensive Plan; and
6. Staff cannot find sufficient evidence to support finding that the proposed zoning is more appropriate than the existing zoning with the amount of industrial zoned property adjacent to the subject property.