

NOVEMBER 8, 2018

PORTION OF 2400 W. 2ND STREET

ZONE CHANGE

From: I-1 Light Industrial
To: I-2 Heavy Industrial
Proposed Use: Towing and Vehicle Storage/Impound
Acreage: 0.258
Applicant: Jeffrey Martin (1811.6069)
Surrounding Zoning Classifications:
North: B-4 & B-5 South: I-1
East: I-1 West: I-1 & R-4DT

Proposed Zone & Land Use Plan

The applicant is seeking an I-2 Heavy Industrial zone. The subject property is located in a Business/Industrial Plan Area where heavy industrial 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). Furthermore, any building or outdoor storage, loading or working areas (except for accessory parking areas) should be located at least **three-hundred (300) feet** from any urban residential area and **one-hundred (100) feet** from any other area except those containing light industrial or agricultural/forestry uses.
- (b) **Logical expansions outside of Industrial Parks -**
Existing areas of Heavy 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 in the vicinity and outside of Industrial Parks. Such expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area. Also, such an expansion should be of adequate size and shape to provide the separation from incompatible uses cited in criteria (a) above.

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 21059CO119D.
- It appears that the subject property is not located within the Owensboro Wellhead Protection area per the OMU map dated 2015.
- 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

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property, zoned I-1 Light Industrial, is an existing 150' x 150' square lot located along West 2nd Street spanning from Sutton Lane to Edwards Street. There is currently a legal non-conforming automobile sales business operating from the site. This property is surrounded by a variety of uses, including a separate car-lot to the west that is zoned B-4 General Business. To the north is a combination of legal non-conforming residential properties that are zoned B-4 General Business as well as a B-5 Business/ Industrial zoning classification. The property to the east appears to be utilized for individual storage and is zoned I-1 Light Industrial. To the south is a legal non-conforming residential use zoned I-1 and other properties zoned R-4DT Inner-City Residential.

The applicant proposes to rezone the rear of the subject property (75' x 150') to I-2 Heavy Industrial in order to utilize the selected portion of the subject property as a Vehicle Storage/Impound Yard. The remaining portions of the property shall remain I-1 Light Industrial for the continuance of the automobile sales.

The criteria for **nonresidential development (D7)** allows for mixed uses of business and light industrial to continue in Business/Industrial Plan areas. The criteria specifically state business and light industrial uses are allowed to continue. The subject property is currently zoned I-1 Light Industrial, which is appropriate for the mixed use area in which it is located. An I-2 Heavy Industrial zoning classification and use would not be appropriate in a mixed use area, due to the nature of permitted uses in Heavy Industrial zones and the increased setbacks required for outdoor storage, loading or working areas from zones other than light industrial or agricultural/forestry uses.

This use, as an automobile impound yard, not only requires an I-2 Heavy Industrial zone, but also requires approval of a Conditional Use Permit; which the applicant has not filed for yet. The Zoning Ordinance additionally states that all outdoor storage yards that are utilized for the impounding of vehicles and/or the storage of salvaged vehicles shall be fully enclosed with an 8-foot tall solid wall or fence and shall maintain a 300' setback from the residentially zoned property to the south of the subject property and a 100' setback from the B-4 General Business and B-5 Business/ Industrial zoned properties to the west and north. The application of the required setbacks would prohibit the use of any portion of this property for an impound lot. Therefore, if the zoning request were approved, variances for the total setback requirements in this zone would have to be sought and approved along with a conditional use permit in order to use the subject property as proposed.

Prior to any development of the property, the applicant must obtain approval of a site plan or final development plan to demonstrate compliance with zoning ordinance requirements including, but not limited to, parking, landscaping, building setbacks, access management and signage. This site plan or development will include both the proposed impound yard as well as the automobile sales business that will continue to operate from the same lot.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the community's adopted Comprehensive Plan. While the proposed use as a towing and vehicle impound facility is non-residential in nature, it does not comply with the criteria for Nonresidential Development. Furthermore, the closest point of the outdoor storage area on the subject property does not meet the necessary setbacks from other zones excluding those from containing I-1 Light Industrial or Agricultural/Forestry uses. The proposed I-2 Heavy Industrial zoning classification is not a logical expansion of existing I-2 zoning and would significantly increase the extent of industrial uses in the vicinity.

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 a Business/Industrial Plan Area where Heavy Industrial uses are appropriate only in very-limited locations;
3. The proposal does not comply with the criteria for "**Nonresidential Development**" (D7) which only allows for mixed uses of business and light industrial to continue in Business/Industrial Plan areas;
4. The required 300' setback from the residentially zoned property to the south and the 100' setback from the business zones to west and north cannot be met on the subject property due to the pattern and development of surrounding areas without variance approval;
5. The proposed I-2 Heavy Industrial zoning classification is not a logical expansion of existing I-2 zoning classifications; and
6. The proposal will significantly increase the extent of industrial uses in the vicinity.