

FEBRUARY 14, 2019

6301, 6345, 6373 HIGHWAY 54

ZONE CHANGE

From: A-R Rural Agriculture	
To: B-4 General Business	
Proposed Use:	Retail Sales
Acreage:	2.719
Applicant:	Robert E. Bryant; City of Whitesville (1902.2076)
Surrounding Zoning Classifications:	
North: A-R	South: A-R
East: A-R	West: B-4

Proposed Zone & Land Use Plan

The applicant is seeking a B-4 General Business zone. The subject property is located in a Rural Maintenance Plan Area, where general business uses are appropriate in very limited locations.

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage area – Building and lot patterns should conform to the criteria to “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 Map 21059CO305D.
- It does appear that the subject property is partially designated as prime agricultural farmland per the US Department of Agriculture Soil Conservation Service map dated March 1980.
- 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

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

Development Patterns

The subject properties are three tracts totaling 2.719 acres, located at the northeast intersection of Jack Hinton Road and Highway 54. Jack Hinton Road serves as the dividing line between the Rural Community of Philpot and the Rural Maintenance Plan Area.

6301 Highway 54 is a small 625 square foot tract owned by the City of Whitesville; 6345 Highway 54 is vacant and a single wide manufactured home sits on 6373 Highway 54. All of the surrounding properties on this side of Jack Hinton Road and in the Rural Maintenance Plan Area are zoned A-R Rural Agriculture and are being used for cropland and single family residential homes consistent with the subject properties.

The property to the west, across Jack Hinton Road was zoned to B-4 General Business in 2018 and is the site of a new Dollar General. This property was appropriate for the B-4 General Business zoning as it located within the Rural Community Plan Area and met the criteria of the Comprehensive Plan for the B-4 zoning. The subject property however is located in the Rural Maintenance Plan Area, outside of the Rural Community, and an expansion of the B-4 General Business zoning across Jack Hinton Road would be expanding the B-4 zoning outside of the Rural Community which is discouraged by the Comprehensive Plan.

The applicant sites two previous rezonings as precedent for this application to be approved; 7251 Hobbs Road and 806 Highway 279 N.

7251 Hobbs Road was recommended for approval to the B-4 General Business zone at the January 2013 OMPC meeting. The applicant contends the staff report indicated the proposal was in compliance with the Comprehensive Plan even though the property was located in the Rural Maintenance Plan Area. However, the property at 7251 Hobbs Road was, at that time, partially located in the Rural Maintenance Plan Area and partially located within the Rural Community Plan Area and therefore met the criteria of the Comprehensive Plan for the B-4 zoning classification. Furthermore, the property at 7251 Hobbs Road, as being in the Rural Community of West Louisville, was surrounded by various existing land uses including a restaurant, retail firearms dealer and the Diamond Lakes complex and directly adjoined existing B-4 zoning to the west.

806 Highway 279 N was recommended for approval to the I-1 Light Industrial zone at the June 2018 OMPC meeting, however, the staff recommended the application for denial in its staff report. 806 Highway 279 N is also located in the Rural Maintenance Plan Area, but the criteria of the Comprehensive Plan to rezone a property to I-1 Light Industrial are very different from those to rezone to a B-4 General Business zone. In fact, in Section 15.4 of the

Owensboro Metropolitan Zoning Ordinance, there are specific criteria to even be eligible to apply for consideration to rezone a property to B-4 General Business whereas the same criteria do not apply to the I-1 Light Industrial zone.

The applicant also states that the existing zoning classification of A-R Rural Agriculture given to the subject properties is inappropriate. Staff contends the A-R zoning is appropriate for the subject properties as they are and have been used for cropland and single family residential uses and there is no definitive plan for the properties other than the generic retail sales.

The applicant contends there have been major changes of an economic, physical, or social nature within the area of the subject properties which were not anticipated by the adopted Comprehensive Plan and these changes have substantially altered the basic character of the area involved. Although Highway 54 has grown, it has not grown out to the point of the subject properties. The growth and changes along the Highway 54 corridor were accounted for and anticipated in the current Comprehensive Plan which was adopted at the December 10, 2018 OMPC meeting. There have been no changes to the area in the last two months.

It appears that the subject properties are partially designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980.

If the rezoning is approved, the applicant will be required to provide vehicular use area screening compliant with Article 17 of the zoning ordinance around the perimeter of any proposed parking area that faces the Highway 54 or Jack Hinton Road rights-of-way. Any outdoor storage areas shall be screened with a six foot high continuous solid wall or fence.

If approved, prior to occupancy of the property the applicant must obtain approval of a final development plan or site plan to demonstrate compliance with zoning ordinance requirements including, but not limited to, parking, landscaping, building setbacks, access management and signage.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the Comprehensive Plan. The proposed use as retail sales does conform to the criteria for nonresidential development. However, the expansion of the B-4 General Business zone across Jack Hinton Road would nearly double the extent of the B-4 zone in the vicinity. The proposal would expand the B-4 zone outside of the Rural Community Plan Area which is discouraged by the comprehensive Plan. The current zoning is appropriate for the subject properties as they have been and continue to be used as cropland and residential with no definitive plan for the future. Additionally, there have been no changes to the area in question not anticipated by the most recent Comprehensive Plan as it was adopted on December 10, 2018.

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 Rural Maintenance Plan Area, where general business uses are appropriate in very limited locations;
3. The proposed use as retail sales would be nonresidential in nature;
4. The proposed expansion of the B-4 General Business zone nearly doubles the extent of the zone in the vicinity;
5. The proposal would allow for the expansion of the B-4 General Business zone beyond the boundary of the Rural Community Plan Area; and,
6. There have been no major changes to the area in question not anticipated by the Comprehensive Plan as it was most recently adopted on December 10, 2018.