

MARCH 12, 2009

1212 JR MILLER BLVD

ZONE CHANGE

From: I-1 Light Industrial

To: B-4 General Business

Proposed Use: Commercial and Office

Acreage: 2.53

Applicant: Ron Sanders (0903.1739)

Property Zone <i>Existing Use</i>	to North I-1 Vacant, Railroad	
to West R-4DT, I-1 Residential	Subject I-1 ↔ B-4 Warehouse, Freezer Building	to East I-2 MPD Parking
	to South I-1, R-4DT Rental Store, Residential	

**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 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.

Applicant's Findings

The existing light industrial use has not developed on the lot and in fact has deteriorated.

The proposed commercial (B-4) zoning will be better suited to the adjoining residential area and less of a nuisance.

The existing building will be removed and a new development built to enhance and beautify the neighborhood.

Planning Staff Review

The subject property is located in the 1200 block of JR Miller Boulevard. 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 not located in a special flood hazard area per FIRM Map 21059CO140 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is not located in a special flood hazard area per map 21059CO138 D. 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

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

Development Patterns

The subject property is bordered to the west by R-4DT zoning with lots containing single family homes which are within the JZ Moore Historic Residential Neighborhood. Property to the north of the subject property is zoned I-1 Light Industrial and is comprised of CSX right of way and E 11th Street right of way separating the City of Owensboro Police station from the subject property. To the east across JR Miller Boulevard is I-2 Heavy Industrial zoned property used for loading, storage and parking. To the south of the subject property across East Parrish Avenue is a rental center operation located in an I-1 Light Industrial zone. Caddy cornered from the property at the southeast corner of JR Miller Boulevard and East Parrish Avenue is vacant property zoned I-2 Heavy Industrial, but was recommend approval for a zoning change at the March 12, 2009, Planning Commission meeting to B-5 Business/Industrial with a preliminary development plan for a convenience store with gas pumps fronting East Parrish Avenue and strip retail fronting JR Miller Boulevard, both uses that would also be allowable in a B-4 zone.

Several proposals have been considered for the subject property in the past. In 1995, an administrative appeal was filed to propose the continuance of outdoor storage on the property citing the opinion of the applicant that the use was nonconforming and should be allowed to continue. This application resulted from a violation issued by the Zoning Administrator that the nonconforming use of outdoor storage had been enlarged and must be screened in accordance with the zoning regulations. The Owensboro Board of Adjustment heard the administrative appeal and the appeal was denied in May of 1995.

In 2002, the current owner of the property made application to the Owensboro Metropolitan Board of Adjustment for a conditional use permit to locate and operate an indoor shooting range with accessory sales area and office space. The OMBA considered this request, and after extensive public testimony and evidence presented, the OMBA denied the conditional use permit in November of 2002.

The proposed rezoning is accompanied by a preliminary development plan showing uses of retail, office and

accessory residential dwellings above. The applicant proposes that this use is a more appropriate use for the property since the property has not been successful in developing under its current I-1 zoning classification.

While commercial uses may be more compatible with the adjoining residential uses than industrial uses, care should be taken to minimize negative impacts such as intrusive lighting onto residentially zoned properties. Any proposed building or parking lot lighting should be directed away from residentially zoned properties.

JR Miller Blvd is a minor arterial street in this location and East Parrish Avenue is a principal arterial. Both streets have access spacing standards and roadway buffers. The existing curb cut on JR Miller Blvd is located very close to the intersection of JR Miller and E Parish Av. The frontage along East Parrish Avenue is not sufficient to allow an access point and should be limited to the alley access that is currently present.

The preliminary development plan proposes an access point on JR Miller Blvd in alignment with the recently closed right of way of 12th Street and provides access to Daviess Street in alignment with the proposed access to JR Miller. The access located closest to JR Miller Blvd is proposed to be closed. A minor subdivision, previously approved, had proposed the access point to be slightly further to the north than the submitted development plan. A new minor subdivision will need to be approved to change the access point to the proposed location as shown on the preliminary development plan.

The proposed preliminary development plan submitted with the rezoning request proposes the widening of the alley access point to a commercial entrance width of thirty feet. The proposed preliminary development plan also shows sidewalks to be constructed along JR Miller Boulevard, where none currently exist, and East Parrish and Daviess Street.

A variance request has been submitted in conjunction with this zoning request and will be considered by the OMPC. The applicant is requesting building setback variances along JR Miller Blvd, East Parrish Avenue and along the rear property line as well as roadway buffer variances along both roads. The applicant is proposing a roadway variance reduction along both streets from 50' to 40'. The city engineer's office has reviewed the requested variance in regards to the potential for a right-turn lane to be installed on J.R. Miller Boulevard. In order to have more area to develop on the property the applicant has also asked for a reduction in the building setback along the rear of the property from 20 feet to 5 feet. Based on the size, shape and character of the subject property, this variance is likely needed to make the lot more easily developed.

SPECIFIC LAND USE CRITERIA

While the specific criteria of the Land Use Element of the Comprehensive Plan do not support the zoning change request, the proposal is in compliance with the goals and objections of the Comprehensive Plan in several ways. The inclusion of accessory dwellings above the principal business uses would serve to help meet the goal in the Comprehensive Plan to provide a variety of housing types to a wide range of people and to promote the concept of planning and development at the neighborhood level to provide an opportunity for the development of neighborhood businesses to meet the daily need of nearby residents. The proposed request could also serve as a buffer from the more intense Heavy Industrial zoning across JR Miller Boulevard.

The subject property has historically been zoned I-1 Light Industrial due to the location of the railroad and previous uses on the property. Although zoned I-1 Light Industrial, the adjoining property to the south across East Parrish Avenue is located within Business/Industrial Plan Area and would support a zoning change to B-4 or B-5 allowing similar types of business uses. The property located at the southeast corner of JR Miller and East Parrish has been recommended for B-5 zoning with a preliminary development plan proposing general business uses. The subject property's proposed general business use could be seen as an expansion of the proposed use on contiguous property. Commercial uses that support the adjoining historical residential neighborhood may be more appropriate for this site than industrial uses and would encourage an innovative and complementary commercial area within an established neighborhood. Care should be taken to consider the concerns of adjoining residents, whose rear yards will abut the proposed commercial development, including lighting and traffic patterns on the site.

Planning Staff Recommendations

Staff recommends approval because the current zoning is inappropriate and the proposed zoning is more appropriate in that the proposed zoning serves more to encourage several goals and objectives of the Comprehensive Plan. The findings of fact that support this recommendation include the following:

Conditions:

1. Access to JR Miller Blvd shall be limited to the access point as shown on the preliminary development plan submitted in conjunction with the rezoning request;
2. Access to East Parrish Ave shall be limited to the existing alley access point:

3. A minor subdivision to identify the access points as shown on the development plan and to indicate any approved variances shall be submitted to OMPC;
4. Lighting on the site shall be directed away from the residences;
5. Sidewalks shall be provided along all street right of way; and,
6. A final development plan shall be submitted to the OMPC before issuance of building permits.

Findings of Fact:

1. The subject property is located in an Industrial Plan Area, where general business uses are appropriate in limited locations;
2. The subject property has not developed under the current I-1 Light Industrial zoning designation due in part to the incompatibility with the adjacent historic residential neighborhood;
3. The proposed request would encourage the development of neighborhood businesses to serve nearby residents;
4. The proposed request would serve as a buffer from the more intense Heavy Industrial zoning to the east across JR Miller Blvd;
5. Contiguous property located on the southeast corner of JR Miller Boulevard and East Parrish Avenue has been recommended for general business uses;
6. The proposed request would encourage a complementary commercial area within an existing developed neighborhood; and
7. The current zoning is inappropriate and the proposed zoning is more appropriate because of the proximity to the historical residential neighborhood.