

OCTOBER 10, 2002

1920 MCFARLAND AV

ZONE CHANGE

| | | |
|--|--|---|
| From: B-4 General Business | | |
| To: I-2 Heavy Industrial | | |
| Acreage: 1.84 ± | | |
| Applicant: West Side Auto Parts, Inc., Henry E. Phillips, Mary E. Posey (0210.1495) | | |
| Property Zone <i>Existing Use</i> | to North R-4DT <i>Residences & vacant lot</i> | |
| to West I-1, R-4DT <i>Plumbing Contractor, residence</i> | Subject B-4 → I-2 <i>Vacant</i> | to East B-4 <i>Wrecker service, Manpower service</i> |
| | to South Z-2 <i>Name Use</i> | |

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 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 areas**
Building and lot patterns should conform to the criteria for “**Non-residential Development**” (D7), and outdoor storage yards, with “**Buffers for Outdoor Storage Yards**” (D1). Furthermore, any building or outdoor storage, loading or working areas (except 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 an 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.

Applicant's Findings

The Land Use Element of the community's Comprehensive Plan recommends I-2 (Heavy Industrial) in very limited locations. Rezoning the site will result in correcting the zone classification to be consistent with the land use, which existed at the site for at least the past 20 years.

The general character of the neighborhood, including the disabled vehicle storage and dismemberment, has remained essentially unchanged for approximately 20 years, since the extension of McFarland Avenue westward.

The subject property is located in an area of mixed industrial, business and residential use. The mixed use neighborhood currently contains incompatible land uses as follows:

1. The plumbing and heating shop located at 1911 Old Henderson Road (zoned Industrial I-1) backs up to an existing residential land use at 2000 McFarland Avenue.

2. West Side Auto Parts business at Crabtree and McFarland (zoned I-2) adjoins residential properties on Girvin Court and on Lancaster Avenue. In addition, the residential properties on Girvin Court and McFarland back up to industrial properties owned by West Side Auto Parts on Lancaster Avenue. There is a six-foot fence separating the rear of the industrial properties on Lancaster Avenue from those residential properties on McFarland Avenue and Girvin Court.
3. On the south side of Old Henderson Road, the industrial warehouses of the plumbing and heating shop adjoin existing residential land use.

The subject property is on the south side of McFarland Avenue. In addition to this site, West Side Auto Parts has operated a similar operation (storage and dismemberment of disabled vehicles) on the north side of McFarland Avenue at Crabtree Avenue for approximately 50 years. The West Side Auto Parts property referred to above is presently zoned I-2. This property backs up to residential properties on Girvin Court and Lancaster Avenue. There is no buffer strip provided between the West Side Auto Parts property and the Girvin Court properties.

The property to the southwest is presently zoned industrial, and there is presently located on said property Scott Baird Plumbing and Heating.

Adjacent to and immediate to the southeast of the subject property there is an auto salvage yard for disabled vehicles which has been used for a salvage yard for decades. This salvage yard is presently known as Winter's Towing Service. It has been used by Falloway's Salvage Company and other salvage companies for numerous years. There is not a 300-foot strip between Winter's Towing Service and the residential properties on McFarland. This property immediately to the east of the subject property is zoned B-4, but contains a legal non-conforming heavy industrial use of storage of junked vehicles. The expansion of this use onto the subject property is a logical expansion of a heavy industrial use that does not significantly increase the extent of industrial uses in the vicinity. There are other industrial uses located in the area.

To the southwest there are storage warehouses used by Scott Baird Plumbing and Heating in an existing industrial zone.

The site is relatively contiguous, as previously defined by the OMPC, to the existing I-2 site of the West Side Auto

Parts operation. Currently, the site adjoins industrial zones at the western and southern corner of the site.

All urban services are available.

Inasmuch as the existing land use has existed at the site for approximately two decades, the rezoning, conforming to the existing use, will not overburden the capacity of the roadway.

The site contains approximately 1.9 acres and is non-residential in size and character.

The applicant has installed a six-foot high solid fence and gate around the entire perimeter. A closed vehicular access gate has been installed along McFarland Avenue, and the primary site entrance is now off Old Henderson Road. There is also installed a pedestrian gate at the McFarland Avenue frontage.

The applicant has removed all vehicles from the site and has purchased a fuel-recycling unit for odor control.

The applicant agrees to make the following improvements:

1. Install landscaping along McFarland Avenue in accordance with the OMPC zoning ordinance.
2. Provide a roadway buffer along McFarland Avenue in accordance with the OMPC zoning ordinance.
3. Restrict parking along McFarland Avenue (curbside parking) to routine parking patterns allowed under City of Owensboro ordinances; no parking in travel lanes.
4. Engage a pest control agent to routinely monitor (no less than bi-annually) and implement appropriate preventive action plan.
5. Provide entrance apron onto Old Henderson Road in accordance with the standard cement concrete apron requirements of the City Engineer's office. (permit required)
6. Routinely monitor the above items.

Planning Staff Review

The subject property is located in the 1900 block of McFarland Av, with frontage on McFarland Av and Old Henderson Rd. Land use criteria applicable to this proposal are reviewed below.

GENERAL LAND USE CRITERIA

Environment

No important environmental criteria apply to the subject property.

Urban Services

All urban services are available to the site.

Development Patterns

The subject property is located in a mixed-use area. Property to the north across McFarland Av is zoned R-4DT and is residential in use. Property to the east of the subject property is zoned B-4 General Business and is used for junk vehicle storage. This is a non-conforming use. Property to the south is zoned B-4 and I-1 Light Industrial and contains business and industrial uses. Property to the west is zoned I-1 and is used for a plumbing contractor's shop. There is also property to the west that is zoned R-4DT Inner-City Residential. The applicant proposes to use the subject property to store and dismember disabled vehicles. This use would require a conditional use permit to be approved by the Owensboro Metropolitan Board of Adjustment.

The applicant lists several improvements that have been made to the property in an effort to reduce the impact on residential areas, including installation of a six-foot high fence around the perimeter of the property. The zoning ordinance requires a minimum 8-foot high solid wall or fence around junkyards in accordance with Section 17.311 of the Owensboro Metropolitan Zoning Ordinance. Junkyards are defined in Section 14.51 of the Zoning Ordinance as inclusive of auto wrecking yards. The six-foot high element does not meet the requirements of the zoning ordinance. A new 8-foot high solid fence or wall would need to be installed around the entire property perimeter to meet the Zoning Ordinance requirement. The six-foot high fence on the subject property has not been newly installed and portions of it are deteriorated or falling down.

The applicant states that a closed vehicular gate has been installed along McFarland Av and the primary entrance is now located off of Old Henderson Rd. Upon visiting the site on Sept 27, 2002, the vehicular gate along McFarland Av was completely open and the gate on Old Henderson Rd was closed. If the applicant's intent is to orient the industrial activity to Old Henderson Rd, the access point on McFarland should be completely closed and screened with an 8-foot high fence or wall and landscaping as

required by the Owensboro Metropolitan Zoning Ordinance.

The applicant also proposes future improvements to be accomplished on the property regarding pest and odor control.

Land-Use Intensity, Clusters and Buffers

In I-2 Heavy Industrial Zones, any building or outdoor storage, loading or working areas (except 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. The location of residential zoning to the west and north requires a 300-foot buffer to be established in those locations. The B-4 General Business zoning on the east would require a 100-foot buffer at that location. The size and shape of the property would not accommodate these buffer requirements without the granting of a variance by the Owensboro Metropolitan Board of Adjustment. Existing heavy industrial uses in the area currently do not meet the 100-foot or 300-foot setback required by the Zoning Ordinance. The non-conforming heavy industrial use located at 1903 Old Henderson Rd does not meet this buffer requirement, nor does the heavy industrial use that the applicant operates as West Side Auto Salvage at McFarland and Crabtree. The applicant's proposal is to make the Old Henderson Rd access the primary vehicular access to the site with a "closed" vehicular gate on McFarland Av. If the vehicular access on McFarland is completely closed and screened with the required 8-foot high solid fence or wall and landscaping, the business would then be solely oriented toward Old Henderson Rd in terms of vehicular access to the business. This would greatly reduce the visibility and intensity of the use from the residences across McFarland Av and would eliminate the traffic that previously entered and exited onto McFarland. The applicant proposes to install the landscaping that is required by the Zoning Ordinance, which would consist of one tree for every 40 linear feet. The use would also require an 8-foot high solid wall or fence around the entire perimeter of the property that would visually screen the activity on the site from the residences across McFarland. This 8-foot high solid element, if unpenetrated by the vehicular access point and gate, would act as a visual buffer to the residential property to the west and the residential property across McFarland Av.

Intersection & Driveway Spacing

McFarland Av is classified as a minor arterial roadway. Driveway access on McFarland Av should be limited to one access point, not to exceed 50 feet in width at the property line. Currently, the subject property meets the

driveway access requirements for the functional classification of the roadway. No additional driveway access would be permitted. The orientation of an access point onto McFarland Av places the heavy industrial activity into a residential block. It is the staff's recommendation that this access point be closed and the vehicular access point be placed on Old Henderson Rd, orienting the business to an area with existing industrial zoning within a Business/Industrial Plan Area.

Roadway Buffer Standards

A roadway buffer of 40 feet from the street centerline applies to McFarland Av. No required parking or landscaping is permitted within the roadway buffer. The fencing, landscaping and any vehicular paved area shall be located behind the roadway buffer. The gravel in the area between the roadway and the property line should be removed and returned to grass.

SPECIFIC LAND USE CRITERIA

The subject property is located in an area of mixed industrial, business and residential use. The property immediately to the east is zoned B-4 but contains a legal, non-conforming heavy industrial use of storage of junk vehicles. The expansion of this use onto the subject property can be considered a logical expansion of a heavy industrial use that does not significantly increase the extent of industrial uses in the vicinity. There are other light industrial uses located in the area that are oriented toward Old Henderson Rd.

However, the subject property adjoins residentially zoned property. The criteria for an expansion specifically state that the expansion should be of a size and shape to accommodate the buffer requirements to separate incompatible land uses. In this case, the 300-foot setback from the residentially zoned property could not be met and still maintain a usable area on the subject property. Because the subject property adjoins and is adjacent to residential property and a residential plan area, the buffering of the heavy industrial use on the subject property is critical for the protection of the neighboring residences. Since this setback is primarily for the benefit of the owners of property in the neighborhood, due consideration should be given to neighboring residents with respect to the established lot patterns in their neighborhoods. However, with a reorientation of the business toward Old Henderson Rd, the visibility and impact of the use could be greatly reduced in the residential area. This would require closure of the vehicular access on McFarland Av, installation of a solid wall or fence at least 8 feet in height around the property perimeter, and construction of a new access point on the Old Henderson Rd frontage. An 8-foot high solid fence or

wall, without a vehicular gate, together with the roadway and the required landscaping, could serve in place of the required 300-foot buffer at this location if acceptable to the residents of the neighborhood. Other heavy industrial uses in the area do not meet the required buffer from incompatible land uses.

The applicant has cleared the property of the zoning violation that was occurring there. The property has been cited several times in the past 10 years for being in violation of the Zoning Ordinance. The B-4 General Business zoning classification permits operable vehicles to be parked there but not inoperable, wrecked or disassembled vehicles. Currently, the subject property is vacant.

The City of Owensboro's Community Development Department has begun to collect very preliminary information to review the possibility of developing a project for a residential revitalization area for properties in the vicinity of the subject property. This redevelopment area would include residential properties to the north of the subject property across McFarland Av. In light of this possible residential redevelopment, access to the subject property should occur on Old Henderson Rd and not in the existing or possible redeveloping residential area.

As stated above, due consideration should be given to neighboring residents with respect to the established lot patterns in their neighborhoods. There is currently a mixture of business uses, light and heavy industrial uses, and residential uses within this area. The frontage of the subject property on McFarland Av faces an existing developed residential block. The increase of heavy industrial use in the area could be detrimental to the existing residences that are established there, unless there can be conditions placed on the property to minimize negative effects to the satisfaction of the owners and residents in the neighborhood.

Planning Staff Recommendations

Staff recommends approval because the proposal is in substantial compliance with the community's adopted Comprehensive Plan, subject to the imposition of strict conditions to mitigate possible negative impact on the residential properties in the vicinity. This recommendation is made subject to the conditions and findings of fact that follow:

Conditions:

1. Driveway access shall be limited to one access point onto Old Henderson Rd, not to exceed 50 feet in width at the property line;
2. Driveway access on Old Henderson Rd shall be paved to a minimum distance of 50 feet inside the property boundary;
3. The existing driveway access on McFarland Av shall be closed, and the entire frontage on McFarland shall be screened with a minimum 8-foot high continuous solid element with one tree per 40 feet of linear boundary to be located outside of the required roadway buffer;
4. The gravel in the area between the street pavement on McFarland Av and the fence boundary shall be removed and the area returned to grass;
5. The applicant shall apply for a conditional use permit and variances from the required setback buffers from the Owensboro Metropolitan Board of Adjustment. Unless these items are approved, the property may not be used for the proposed use;
6. Existing fencing around the property on the east, west and south boundaries shall be replaced with a minimum 8-foot high solid element and maintained;
7. Storage of vehicles or materials on the site may not exceed the height of the fencing surrounding the property;
8. All conditions must be met prior to the use of the subject property for the storage of vehicles.

Findings of Fact:

1. The subject property is located in a Business/Industrial Plan Area, where heavy industrial uses are appropriate in only very-limited locations;
2. A required 8-foot high element, required landscaping, required roadway buffer, and right-of-way of McFarland Av will act as a buffer for the residentially zoned property across McFarland Av, if the access point onto McFarland Av is closed;
3. The applicant's proposal is a logical expansion of heavy industrial uses existing in the area, if conditions are imposed on the subject property to reduce the incompatibility with the adjoining residential properties; and,
4. The use of the subject property for disabled and wrecked vehicle storage and dismemberment is consistent with heavy industrial uses in the immediate vicinity.