

**OCTOBER 10, 2002**

**9657 OLD HARTFORD RD**

## ZONE CHANGE

<b>From:</b> I-1 Light Industrial		
<b>To:</b> A-R Rural Agriculture		
<b>Acreage:</b> 4.633 acres		
<b>Applicant:</b> Clarence J. Turner (0210.1498)		
<b>Property Zone Existing Use</b>	<b>to North</b> A-R Residential, Agricultural	
<b>to West</b> A-R Residential	<b>Subject</b> I-1 → A-R Light industrial	<b>to East</b> A-R Residential, Agricultural
	<b>to South</b> A-R Commercial poultry operation	

## 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 an A-R Rural Agriculture zone. The subject property is located in a Rural Maintenance Plan Area, where rural farm residential uses are appropriate in general locations.

## SPECIFIC LAND USE CRITERIA

- (a) **Large tracts with agricultural potential** - Each dwelling should be located on a separate, large tract that has potential for productive agricultural use.
- (b) **Access to exiting public road via private drive**- Each dwelling/tract should have access to an existing public road; public roads should not be created or extended to provide access. Access should be provided via private drives. No more than two dwelling/tracts should share a single private drive where it connects with a public road.

## Applicant's Findings

The proposed use is in compliance with the comprehensive plan. The Owensboro Metropolitan Planning Commission has previously made such a finding in a prior application by the applicant. The applicant is discontinuing the industrial usage of the property, as allowed by Daviess Fiscal Court, and will return it to rural residential housing in compliance with the comprehensive plan.

## Planning Staff Review

The subject property is located in the 9601 block of Old Hartford Rd. The subject property is a portion of a larger 13.026 tract. Land use criteria applicable to this proposal are reviewed below.

## GENERAL LAND USE CRITERIA

### Environment

The subject property contains some prime farmland, as identified on the Map of Important Farmlands, prepared by the United States Department of Agriculture Soil Conservation Service in 1976. No other important environmental criteria apply to the subject property.

### Urban Services

Water and electricity are available to the site. Sanitary sewer disposal must be provided onsite by a septic tank.

## Development Patterns

The subject property is located within an area that is zoned R-1A Single-Family Residential or A-R Rural Agriculture. Adjoining properties to the west across Old Hartford Rd are used for residential activities. Properties to the north, south and east are used for residential and agricultural activities.

The subject property is located in proximity to at least eight (8) single-family residences. With the exception of the manufacturing activity that has occurred on the subject property, development within the immediate vicinity is typical of development in the Rural Maintenance Area.

## History of Events

The subject property is a portion of a 13.026-acre tract of land that was platted in February of 1992 as an agricultural division. The applicant obtained title to the property in October of 1992.

In June of 1994, the Daviess County Building Department issued a building permit for the construction of a 120' by 88' residential accessory building on the subject property. The accessory building did not receive the required inspections by the building department, because a request for inspection was not made.

In December of 1998, new construction activity, consisting of an addition to the original permitted accessory structure, was noticed by an OMPC building and electrical inspector. The construction was reported, and the Associate Director of Building and Electrical notified the applicant to advise that a building and electrical permit had not been issued. A verbal stop-work order was issued, and the applicant was advised to contact the Daviess County Enforcement Officer to determine appropriate zoning and site plan requirements.

In January of 1999, additional construction activity was observed by an OMPC building and electrical inspector. The structure was nearly completed. The Associate Director contacted the applicant again and also issued an official stop-work order.

Work continued, and on January 20, 1999, a rezoning application was filed by the applicant with the OMPC. On January 28, 1999, OMPC Planning Staff visited the subject property, and it was apparent that the building was occupied for manufacturing activities.

On March 10, 1999, the Daviess County Codes Enforcement Office agreed not to pursue a remedy for the zoning violations for a period of one year to allow the applicant an opportunity to find an appropriate location for

the industrial activities, known as Tefco, Inc. As a result of that agreement, the applicant withdrew the zoning application, and it was not heard by the OMPC.

The applicant failed to relocate within the one-year period and their temporary approval expired. The applicant once again filed a rezoning application with the OMPC on July 20, 2000, requesting that 4.633 acres of the tract be rezoned to I-1 Light Industrial. The OMPC heard the request on August 10, 2000, and recommended that the rezoning request to I-1 Light Industrial be denied. The Daviess County Fiscal Court conditionally approved the rezoning request to I-1 Light Industrial. A deed of trust was prepared between Daviess County Fiscal Court and the applicant on October 3, 2002 delineating the following conditions:

1. Within six (6) months from the date of this deed, First Party (*the applicant*) shall secure an option to purchase land in Daviess County, Kentucky, in an authorized zone location to operate his business. A copy of this option shall be provided to Second Party (*Daviess County Fiscal Court*).
2. Within twelve months (12) months from the date of this deed, First Party shall have purchased the optioned property and within sixty (60) days from that date, shall provide Second Party with a description of the plant facilities, to include a completion date for either the renovation of existing structures or the construction of a new structure, whichever is applicable.
3. On or before December 15, 2002, First Party shall have secured from the Owensboro Metropolitan Planning Commission and Second Party a rezoning of the herein described property to A-R Rural Agriculture and shall have ceased any and all activities on said property not allowed in an A-R Rural Agriculture zone.
4. So long as the herein described property is zoned I-1 Light Industrial, First Party shall not cause any new indebtedness to encumber the property and the property may not be sold without the express consent of Second Party.
5. Until such time as the subject property is rezoned A-R Rural Agriculture, no new structures shall be placed on the property and no existing structures shall be expanded.
6. First Party shall comply with I-1 Light Industrial zone requirements upon the subject property until such time as the property is restored to an A-R Rural Agriculture zone.
7. Should First Party fail to comply with any of the covenants or conditions contained herein, then it is specifically understood and agreed that ownership of

the herein described property shall immediately revert to and vest in Second Party.

The applicant's filing of a rezoning request to change the property to the previous rural agriculture zone is in compliance with the temporary rezoning conditions imposed by the Daviess County Fiscal Court.

### **SPECIFIC LAND USE CRITERIA**

The subject property is located in a Rural Maintenance Plan Area. The subject property contains some prime farmland. The subject property is located in an area of agricultural related uses. The subject property is a portion of a larger tract containing a rural residence that is currently zoned A-R Rural Agriculture. The entire tract is large enough to support agricultural uses. Emphasis is placed on protecting agricultural lands and discouraging urban-type activities beyond areas where they currently exist. The current zoning of I-1 Light Industrial is not appropriate for the subject property and was allowed only on a temporary basis, with conditions imposed by the Daviess County Fiscal Court.

### **Planning Staff Recommendations**

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. This recommendation is made subject to the condition and findings of fact that follow:

#### **Condition:**

1. Any and all activities not permitted in an A-R Rural Agriculture zone shall cease.

#### **Findings of Fact:**

1. The subject property is located in a Rural Maintenance Plan Area, where rural farm residential uses are appropriate in general locations;
2. The subject property contains some prime farmland;
3. The subject property is located in an area of agricultural-related uses;
4. The subject property is a portion of a larger tract that is zoned A-R Rural Agriculture and is large enough to support agricultural uses; and,
5. The current zoning of the subject property is not appropriate and was approved by Daviess County Fiscal Court on a temporary basis, subject to the subject property being zoned back to A-R Rural Agriculture prior to December of 2002.