

DECEMBER 14, 2006

300 NEWMAN STILLHOUSE RD

ZONE CHANGE

From: A-R Rural Agriculture		
To: I-1 Light Industrial		
Proposed Use: Mechanical Shop		
Acreage: 1.0057		
Applicant: Larry W. and Sherry D. Schwartz (0612.1665)		
Property Zone Existing Use	to North A-R Residence	
to West Henderson Co. Agricultural, Manufacturing	Subject A-R ➔ I-1 Mechanical Shop	to East A-R Agricultural, Residence
	to South Henderson Co. Agricultural, Manufacturing	

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 I-1 Light Industrial zone. The subject property is located in a Rural Maintenance Plan Area, where light industrial uses are appropriate in limited locations.

SPECIFIC LAND USE CRITERIA

- (a) **Building and lot patterns; outdoor storage areas -**
Building and lot patterns should conform to the criteria for “Nonresidential Development” and outdoor storage yards to “Buffers for Outdoor Storage Yards.”
- (b) **Logical expansions outside of Industrial Parks -**
Existing areas of Light 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 that are located in the vicinity and outside of Industrial Parks. Also, such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.
- (g) **Large Industrial Reserve -** In Rural Maintenance plan areas, new and expanded locations of Light Industrial use may be developed as part of a planned “Large Industrial Reserve: which may also contain Heavy Industrial uses. Such a reserve should be “major-street-oriented,” at least five-hundred (500) acres in size, and be focused around a large industry. Plans for such a reserve should include substantial provisions to assure compatibility with adjoining land uses and the environment, and to assure the adequacy of necessary transportation and utility facilities.

Applicant's Findings

- Subject property is located in Henderson County, KY
- Other related type business operating on adjoining property
- At least four other light industrial type of businesses operating nearby
- Kimberly-Clark zoned industrial is located near subject property

Planning Staff Review

The subject property is located in the 300 block of Newman Stillhouse Road. 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 located in a special flood hazard area per FIRM Map 21059CO085C. It appears that the subject property is designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. 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 not in the vicinity of the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

Urban Services

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

Development Patterns

The subject property is located in an area of primarily agricultural and scattered rural residential uses. The property to the north and east is zoned agricultural and is used for both residential and agricultural purposes. The property to the east and south appears to be located in Henderson County and is used for agricultural and manufacturing uses.

At present, there is some question as to the actual jurisdiction the subject property is under. The property is taxed in Daviess County and the OMPC base map shows the property to be located in Daviess County. A previous survey prepared by Anthony W. Roberts in 1995 created the 1.0057 acre tract and includes a vicinity map which identifies the county line placing the tract in Daviess County. However, the applicant states that the property is located in Henderson County. Based on the information currently available, determining the exact location of the county boundary without a detailed survey is not possible.

The issue of the rezoning arises because the mechanical shop has been active on the site and is a zoning violation since that use is not permitted in an agricultural zone. A complaint brought the zoning violation to the attention of the OMPC Zoning Administrator. Building permits for the property were issued in February 2004, for the installation

of a manufactured home and for the construction of a detached residential storage building. Neither of the building permit requests included the construction of an industrial manufacturing building. Based on the zoning violation citations issued by the zoning administrator, the applicant had to meet the December Planning Commission filing deadline or the case would be taken to court for resolution. Since the addition to the building was constructed without appropriate permits, if the rezoning is approved all required site plan and permit approvals must be obtained by the applicant.

If in fact the property is located in Daviess County, the use of the property for industrial purposes is in violation of the zoning ordinance and does not fit into the character of the surrounding area. The nearest industrial zoning to the subject property is the Kimberly Clark property which is over a half-mile away which does not meet the criteria for a logical expansion. There are some adjacent manufacturing uses on property located in Henderson County; however, the Comprehensive Plan does not identify any industrial plan area in the vicinity of the subject property.

SPECIFIC LAND USE CRITERIA

Based on the requirements of the Comprehensive Plan, in order to rezone the subject property to light industrial, it must be nonresidential in use and be a logical expansion of an existing I-1 zoning classification or use. The current and proposed use of the site is for nonresidential development but it does not meet the criteria for a logical expansion of an industrial zone. The zoning to the north and east is agricultural and the property to the south and west is located in Henderson County. Based on this information, the rezoning does not meet the specific criteria established in the Comprehensive Plan.

Planning Staff Recommendations

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

Findings of Fact:

1. The subject property is located in a Rural Maintenance Plan Area, where light industrial uses are appropriate in limited locations;
2. The subject property is not a logical expansion of an existing light industrial zone; and,
3. The subject property is not part of a planned large industrial reserve.