

**SEPTEMBER 8, 2011**

**202 E BYERS AVE**

**ZONE CHANGE**

<b>From:</b> R-1B Single-Family Residential	
<b>To:</b> P-1 Professional/Service	
<b>Proposed Use:</b> Financial Planning/Accounting Office	
<b>Acreage:</b> 0.124	
<b>Applicant:</b> Red Rentals, LLC (1109.1816)	
<b>Surrounding Zoning Classifications:</b>	
<b>North:</b> R-1C, P-1	<b>South:</b> R-1B
<b>East:</b> P-1	<b>West:</b> R-1B

### Proposed Zone & Land Use Plan

The applicant is seeking a P-1 Professional/Service zone. The subject property is located in an Urban Residential Plan Area where professional/service uses are appropriate in limited locations.

#### SPECIFIC LAND USE CRITERIA

- (a) **Building and lot patterns** should conform to the criteria for **“Nonresidential Development” (D7)**.
- (b) **Logical expansions** – Existing areas of Professional/Service use may be expanded onto contiguous land that abuts the same street(s). If the contiguous land is located across an intervening street, the expansion should be at least **one (1) acre** in size, unless it would serve as a **“buffer-use” (D1)**. An expansion of this use should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.
- (d) **New Locations** – New location of Professional/Service use should be **“major-street-oriented” (D2)**. Also, a new location should be at least **one (1) acre** in size unless it would serve as a **“buffer-use” (D1)**.

### 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 located in a special flood hazard area per FIRM Map 21059CO276 D.
- It appears that the subject property is not within the Owensboro Wellhead Protection area per the GRADD map dated March 1999.
- The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

#### Urban Services

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

#### Development Patterns

The subject property is located on the west side of JR Miller Boulevard where land use is residential while the property on the east side of JR Miller Boulevard is a city park and golf course/country club. The only use in the immediate vicinity along W Byers Avenue that is not residential is the former Bratcher Vacuum shop on the corner of Allen Street and E Byers Avenue which is zoned R-1B Single-Family Residential but was in existence prior to implementation of zoning regulations in the late 1970s.

The applicant proposes to use the property as an office which requires one parking space per 400 square feet based on the zoning ordinance. The conceptual site plan submitted with the rezoning request shows four required spaces. Two of the spaces, including the ADA space, are located on the east side of the building. The only way to access those parking spaces is via a 12 foot drive behind the rear of the building. The zoning ordinance requires a minimum 24 foot drive width for two-way traffic. It also appears that the required three foot landscape screening element cannot be accomplished along the drive based on the limited space behind the building even with just a 12 foot driveway shown on the plan. The conversion of the residential structure to non-residential use will also require upgrades in regards to building code and ADA compliance issues. The applicant should be aware that it can often be difficult to meet the building code requirements for commercial occupancy in a residential structure.

#### SPECIFIC LAND USE CRITERIA

The applicant’s proposal is not in compliance with the Comprehensive Plan. The proposal would create the only non-residential use on E Byers Avenue west of JR Miller Boulevard in the vicinity. The site does not meet the minimum one acre standard established in the Comprehensive Plan for expansion of P-1 Professional/Service zoning across an intervening street or for new locations. The site will not provide a buffer between the adjoining residential uses and a higher intensity use. Based on the conceptual site plan submitted in conjunction with the rezoning application, it does not appear that the minimum parking requirements can be met on site.

### 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 an Urban Residential Plan Area where professional/service uses are appropriate in limited locations;
3. The proposal does not meet the logical expansion criteria of the Comprehensive Plan since the site is not one acre in size;
4. The proposal does not meet the new location criteria of the Comprehensive Plan since the site is not once acre in size;
5. The site will not serve as a buffer to the adjoining residential uses since there are no higher intensity commercial or industrial uses in the vicinity and,
6. Based on the conceptual site plan submitted with the rezoning application, it does not appear the site can meet the minimum requirements for parking and drive aisles based on zoning ordinance requirements.