

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2016-11: R. WALKER PROPERTIES, LLC

DESCRIPTION

Zone Change: From an Agricultural Rural (A-R) zone
To a Neighborhood Business (B-1) zone

Acreeage: 0.59 net (0.67 gross) acre

Location: 5569 Briar Hill Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	A-R	Vacant Convenience Store
To North	I-2	Concrete Facility
To East	A-R	Commercial
To South	A-R	Agricultural
To West	A-R & I-1	Single Family Residential

URBAN SERVICES REPORT

Roads – The subject property is located in the rural portion of northeastern Fayette County, across the tracks of the RJ Corman Railroad from Bluegrass Station (in the Avon Rural Activity Center). Avon is less than one mile from the Fayette/Bourbon County line. Although Briar Hill Road (KY 57) has a 70' right-of-way at this location, it is a rural unimproved road that provides a more or less east/west connection within Fayette County from Bryan Station Road to Bourbon County. Roadway improvements are not anticipated along the subject property's frontage, unless required by the Kentucky Transportation Cabinet, for any new commercial use at this location. The Division of Traffic Engineering may require some removal of pavement to more clearly define points of ingress and egress to the subject site.

Curb/Gutter/Sidewalks – Being a rural road, there are no curbs, gutters or sidewalks along Briar Hill. Road improvements may well be required at the time the property is developed.

Storm Sewers – The subject property is located within the North Elkhorn watershed. A small amount of FEMA Special Flood Hazard Area (associated with the Avon Branch of the North Elkhorn Creek) is located at the rear of the property, where there are currently no structures. According to the application, storm sewers exist to serve the property, but the staff is uncertain of their location in this vicinity. Stormwater improvements will be unnecessary with a reuse of an existing structure and off-street parking area, such as is proposed in this instance.

Sanitary Sewers – The subject property is currently serviced by a septic system, approved years ago by the Fayette County Health Department. There is a small wastewater treatment plant on the State's Bluegrass Station property just to the northeast of this location. A new sanitary sewer connection is not anticipated, but an update to the current septic system may need to meet with the approval by the Health Department, and would be required prior to any redevelopment of the subject property.

Refuse – According to this application, the Urban County Government will provide trash pickup. Because this property is outside the Urban Service Area, it is more likely that the property will be served by a private commercial waste hauler.

Police – The nearest police station is located a little over seven miles to the southwest, near Eastland Shopping Center on Winchester Road.

Fire/Ambulance – The nearest fire station to the subject property is Station #23, located less than ¼ mile to the northeast. The fire station is on the Avon/Bluegrass Station property, which is also located on Briar Hill Road.

Utilities – Natural gas, telephone service, electric, water, and cable television are all available to the area surrounding the subject property, and all can easily be extended to serve the property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The Rural Land Management Plan, an adopted element of the 2013 Comprehensive Plan, recommends 3.2 acres of Retail Land Use (Figure 3-9) for the Avon Rural Activity Center. The subject property is in that designated Rural Activity Center, and there is currently about 2.7 acres of land in Avon located in a Neighborhood Business (B-1) zone.

The petitioner proposes a Neighborhood Business (B-1) zone for the subject property in order to remove a non-conforming use from the existing Agricultural Rural (A-R) zone. This location has been used for a convenience store and as a restaurant in the past, with its associated off-street parking.

CASE REVIEW

The petitioner has requested a zone change from an Agricultural-Rural (A-R) zone to a Neighborhood Business (B-1) zone for less than one acre of land, located just to the southwest of the State's Bluegrass Station facility on Briar Hill Road, in the Avon Rural Activity Center.

This Rural Activity Center currently has a mixture of land uses and zoning categories. Property to the east and south are in the same A-R zone as the subject property, where there is a residence and commercial compound of some sort, and a farm, respectively. Property to the north has been approved for decades for a concrete mixing facility in a Heavy Industrial (I-2) zone, under a conditional use permit approved decades ago by the Board of Adjustment. There is a mixture of A-R, I-1, I-2 and B-1 zoning found in the Avon Rural Activity Center, which is generally bounded by Briar Hill Road, Houston-Antioch Road, The RJ Corman Railroad and a large, existing warehouse area in Bluegrass Station.

The applicant has filed this rezoning request to remove the non-conforming use at this location, and to have its zoning match its prior, and future use. Few physical changes are proposed for the subject property, at least at the present time. Because the property is currently non-conforming due to its A-R zoning, expansion and/or alterations are not permitted to this structure. Rezoning to B-1 would allow the structure to be expanded, as it would no longer be a non-conforming use or a non-conforming structure.

The subject property, which is located on the north side of Briar Hill Road, has historically been utilized as a small commercial use. Property Valuation Administrator records show it was formerly a convenience store with gasoline pumps between the building and the right-of-way. It was most recently used as a 64-seat restaurant, but the building has been vacant for a little over nine months. The property currently contains a single commercial structure of about 3,510 square feet in size, more than two dozen accessory parking spaces on the site, and unrestricted access to Briar Hill Road.

Land to the immediate west is in a Light Industrial (I-1) zone, but may not have been converted from a single family residence that has occupied that lot for more than 30 years. It was rezoned from A-R to I-1 in 1995, in agreement with the 1988 Comprehensive Plan, for Terry Coleman (MAR 95-43) to "repair, refurbish wooden industrial pallets" at this location. Of the subject property, that Staff Report stated that it was an anomaly:

“The dominant land use recommended by the (1988) Plan in this area of the Avon RAC is for heavy industrial uses, except for the non-conforming grocery east of the subject site, which is identified for retail trade use.”

The 1996 and 2001 Comprehensive Plans also recommended a future Retail Trade and Personal Services land use for the subject property, probably recognizing its long-standing commercial use.

The 2013 Comprehensive Plan no longer contains a detailed land use element (i.e., map); but the policy statements, and the Goals and Objectives of the Plan, are utilized to help assess whether a proposed zone change can be found to be in agreement with the Plan. In this instance, the most definitive portion of the Comprehensive Plan is the 1999 Rural Land Management Plan, which is one of its adopted elements. That Plan, for the first time in our long local planning history, provided a comprehensive analysis and recommendation for all areas outside of the Urban Service Area. It also covered the four Rural Activity Centers, including the mix of land uses found in Avon.

The RLMP stated that land uses in the Avon RAC should include 247 acres of Light Industrial use, 43 acres of Heavy Industrial use, and 3.2 acres of Retail use (Figure 3-9, page III-22). Later in 1999, the year that the RLMP was adopted, 0.37 acres of B-1 land was rezoned to I-1 near Cable Drive, just to the northeast of the subject property. Thus, the staff estimates that about 2.72 acres of B-1 zoning remains in Avon. Addition of the 0.59 net acre of the subject property would result in a total of 3.3 acres of land “zoned” for retail use. The subject property could be partly rezoned (for instance, eliminating the unusable floodplain area to the rear of the parking lot and structure) to ensure exact compliance with the RLMP, but that would create additional landscaping requirements for this applicant, which wouldn’t really achieve much in terms of screening this use from the adjacent Heavy Industrial property to the north. That would create a split-zoned lot, which is typically undesirable. The proposed rezoning will also not “result in inappropriate growth pressures on farmland” (page III-20).

While the applicant believes that the existing Agricultural Rural (A-R) zone is far less appropriate than the Neighborhood Business (B-1) zone now proposed by the petitioner, the staff believes that this request can be found to be in agreement with the Rural Land Management Plan, and in turn, with the 2013 Comprehensive Plan. Conditional zoning restrictions are suggested by the staff for this location to limit the more intense commercial uses of the B-1 zone and to limit the illumination allowed on the site’s signage, since residences do exist in very close proximity to the subject site.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested zone change from an Agricultural Rural (A-R) zone to a Neighborhood Business (B-1) zone is in agreement with the 1999 Rural Land Management Plan, an adopted element of the 2013 Comprehensive Plan, for these reasons:
 - a. The Rural Land Management Plan recommends 3.2 acres of Retail future land use for the Avon Rural Activity Center. B-1 zoning for the subject property, even including an unusable floodplain area on the northern ½ of the site, would result in a total of about 3.3 acres of land in a Neighborhood Business (B-1) zone in this RAC, counting other existing B-1 zoned parcels.
 - b. The proposed B-1 zone can be utilized to implement the Plan’s future land use recommendation for this Rural Activity Center. It is the only zone in this vicinity that permits a retail use.
 - c. The subject property is not served by typical urban services such as sanitary sewers, storm sewers, or curb/gutter/sidewalks; but it is generally in character with other properties in this Rural Activity Center, due to its age and limited commercial use in the past.
 - d. The 1988, 1996 and 2001 Comprehensive Plans have specifically recommended Retail Trade and Personal Services land use for the subject property in the past.
2. This recommendation is made subject to approval and certification of ZDP 2016-44: Avon Acres Subdivision, Lot 2, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:
- a. Prohibited Uses:
 - 1. Drive-through facilities.
 - 2. The sale or provision of wine, beer or alcoholic beverages, other than by the drink.
 - 3. Live entertainment and/or dancing.
 - 4. Cocktail lounges, brew-pubs and nightclubs.
 - 5. Automobile service stations.
 - 6. Sale of firearms other than by federally licensed manufacturers, importers or dealers.
 - 8. Car washing establishments.
 - 9. Automobile and vehicle refueling stations.
 - b. Other Use Restrictions:
 - 1. Any outdoor lighting shall be shielded and directed away from any adjacent residential uses.
 - 2. Lighting attached to a pole or any structure shall be a maximum of twelve (12) feet in height.
 - 3. Any free-standing sign erected shall be a maximum of fifteen (15) feet in height, and shall be indirectly illuminated, if illuminated at all.

These use restrictions are appropriate and necessary for the subject property to ensure greater compliance with the 2013 Comprehensive Plan's requirements, and to prevent the possibility that uses at this location could disrupt activities on nearby residential and agricultural-rural properties in and near the Avon Rural Activity Center.

WLS/JE/TLW/BJR

4/4/2016

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