

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE amending the zoning districts established pursuant to the Unified Development Code by changing a certain 2.73 ± acres tract from District A (Agricultural) to District LI (Light Industrial).

ORDINANCE #4382, January 3, 2012

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section 1. The Zoning Order of Jackson County, Missouri, and the official maps which are a part thereof, are amended by changing the boundaries of the "A" (Agricultural) District and the "LI" (Light Industrial) District, so that there will be transferred from District A to District LI, a tract of land described as follows:

Description: Beginning at a point on the South line of the North half of the Northwest Quarter of the Southeast Quarter of Section 34, Township 49, Range 31, said point being on the Southwesterly line of the right-of-way of the State Highway; thence West 862 2/10 feet to a point 405 feet West of the Southeast corner of the North half of the Northeast Quarter of the Southwest Quarter of said Section, Township and Range; thence North parallel to the half Section line 1025.6 feet to the Southwesterly line of the right-of-way of said State Highway; thence in a Southeasterly direction along the said Southwesterly line of said highway 1379 feet more or less to the place of beginning, in Jackson County, Missouri.

Except:

All that part of Section 34; Township 49, Range 31, in Jackson County, Missouri, described as follows: Beginning at a point 204 feet North of the Southeast corner of the North ½ of the Northeast ¼ of the Southwest ¼ of said Section 34; thence west 72 feet to the East line of United States Highway No. 40; thence Northwesterly along the Easterly line of said Highway, 450 feet; thence North 38 feet to the South line of Tapawingo Cross-over; thence Easterly along the South line of said Cross-over 474.8 feet; thence South 64 degrees East 93 feet to the Westerly line of old United States Highway No. 40; thence Southeasterly along the Westerly line of said Highway, 392.4 feet; thence Southwesterly in a straight line to the point of beginning.

And Except:

All that part of Section 34; Township 49, Range 31, in Jackson County, Missouri, described as follows: Beginning at a point in the Southerly line of old United States Highway No. 40, which point is 1025.8 feet North and 405 feet West of the Southeast corner of the North ½ of the Northeast ¼ of the Southwest ¼ of said Section; thence South 372 feet to the Northerly line of Tapawingo Cross-over; thence Easterly along the Northerly line of said Cross-over 471.3 feet to the Westerly line of old United States Highway No. 40; thence Northwesterly along the Southerly line of said Highway, 546.1 feet to the point of beginning.

And Except:

That part of the East 405 feet of the Northeast ¼ of the Northeast ¼ Southwest ¼ lying South and West of the Southwesterly right-of-way of U.S. Highway 40, in Section 34, Township 49 North, Range 31 West of the Fifth Principal Meridian, Jackson County, Missouri, and except part in streets and roads.

The North 50 feet of the South half of the Northwest Quarter of the Southeast Quarter of Section 34, Township 49, Range 31, lying between the East of West lanes of U.S. Highway No. 40, in Jackson County, Missouri, except part in streets and roads.

Section 2. The Legislature, pursuant to the application of Rainer and Barbara Popp (RZ-2011-477), requesting the amendment embodied in this Ordinance and with notice that the Jackson County Plan Commission voted 8 to 0 to recommend APPROVAL of this application after a public hearing on November 17, 2011, does adopt this Ordinance pursuant to the Jackson County Charter authorizing the Legislature to exercise legislative power pertaining to planning and zoning.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:


Chief Deputy County Counselor


County Counselor

I hereby certify that the attached Ordinance, Ordinance #4382 introduced on January 3, 2012, was duly passed on January 30, 2012 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

1/30/12
Date


Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4382.

1/31/2012
Date


Michael D. Sanders, County Executive

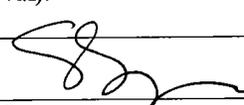
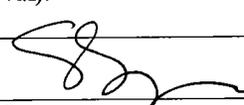
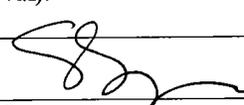
REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office:

~~Res~~/Ord No.: 4382

Sponsor(s): None

Date: January 3, 2012

SUBJECT	Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance Project/Title: <u>Rezoning (Rainer & Barbara Popp Case No. RZ-2011-477)</u>													
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" data-bbox="321 499 1198 810"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> OTHER FINANCIAL INFORMATION: <input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: \$ _____ Prior Year Budget (if applicable): _____ Prior Year Actual Amount Spent (if applicable): _____		Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT TO ACCT		
Amount authorized by this legislation this fiscal year:	\$													
Amount previously authorized this fiscal year:	\$													
Total amount authorized after this legislative action:	\$													
Amount budgeted for this item * (including transfers):	\$													
Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT TO ACCT													
PRIOR LEGISLATION	Prior ordinances and (date): _____ Prior resolutions and (date): _____													
CONTACT INFORMATION	RLA drafted by <u>Randy Diehl, Planning and Zoning Coordinator, 881-4577</u>													
REQUEST SUMMARY	Requesting an ordinance amending the zoning districts established by the Unified Development Code rezoning a certain 2.73 ± acres from District A (Agricultural) to District LI (Light Industrial). Description: The 2.73 ± acres are 1 mile west of Woods Chapel Road on the South side of westbound US 40 Highway described on Attachment to RLA-1. Staff recommends approval because the change in zoning is consistent with the intent and purpose of the County Plan and complies with the Unified Development Code requirements. The Jackson County Plan Commission voted 8 to 0 to recommend <u>APPROVAL</u> to the County Legislature. (One member abstained because they left the room during testimony)													
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)													
ATTACHMENTS	See Attachment to RLA-2													
REVIEW	<table border="1" data-bbox="321 1692 1247 1944"> <tr> <td>Department Director: Jerry A. Page, P.E.</td> <td></td> <td>Date: 12/01/2011</td> </tr> <tr> <td>Finance (Budget Approval): <i>If applicable</i></td> <td></td> <td>Date:</td> </tr> <tr> <td>Division Manager:</td> <td></td> <td>Date: 12/29/11</td> </tr> <tr> <td>County Counselor's Office:</td> <td></td> <td>Date:</td> </tr> </table>		Department Director: Jerry A. Page, P.E.		Date: 12/01/2011	Finance (Budget Approval): <i>If applicable</i>		Date:	Division Manager:		Date: 12/29/11	County Counselor's Office:		Date:
Department Director: Jerry A. Page, P.E.		Date: 12/01/2011												
Finance (Budget Approval): <i>If applicable</i>		Date:												
Division Manager:		Date: 12/29/11												
County Counselor's Office:		Date:												

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

ATTACHMENT TO RLA 1:

RZ-2011-477

LEGAL DESCRIPTION:

Beginning at a point on the South line of the North half of the Northwest Quarter of the Southeast Quarter of Section 34, Township 49, Range 31, said point being on the Southwesterly line of the right-of-way of the State Highway; thence West 862 $\frac{2}{10}$ feet to a point 405 feet West of the Southeast corner of the North half of the Northeast Quarter of the Southwest Quarter of said Section, Township and Range; thence North parallel to the half Section line 1025.6 feet to the Southwesterly line of the right-of-way of said State Highway; thence in a Southeasterly direction along the said Southwesterly line of said highway 1379 feet more or less to the place of beginning, in Jackson County, Missouri.

Except:

All that part of Section 34; Township 49, Range 31, in Jackson County, Missouri, described as follows: Beginning at a point 204 feet North of the Southeast corner of the North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 34; thence west 72 feet to the East line of United States Highway No. 40; thence Northwesterly along the Easterly line of said Highway, 450 feet; thence North 38 feet to the South line of Tapawingo Cross-over; thence Easterly along the South line of said Cross-over 474.8 feet; thence South 64 degrees East 93 feet to the Westerly line of old United States Highway No. 40; thence Southeasterly along the Westerly line of said Highway, 392.4 feet; thence Southwesterly in a straight line to the point of beginning.

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And Except:

That part of the East 405 feet of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ Southwest $\frac{1}{4}$ lying South and West or the Southwesterly right-of-way of U.S. Highway 40, in Section 34, Township 49 North, Range 31 West of the Fifth Principal Meridian, Jackson County, Missouri, and except part in streets and roads.

The North 50 feet of the South half of the Northwest Quarter of the Southeast Quarter of Section 34, Township 49, Range 31, lying between the East of West lanes of U.S. Highway No. 40, in Jackson County, Missouri, except part in streets and roads.

ATTACHMENT TO RLA-2:

Attachments

Plan Commission Public Hearing Summary from November 17, 2011

Staff report

Names/Addresses of surrounding property owners

Map showing current zoning districts in area

Application

4. RZ-2011-477– Rainer & Barbara Popp

Requesting a change of zoning from District A (Agricultural) on 2.73 ± acres to District LI (Light Industrial). The 2.73 ± acres are 1 mile west of Woods Chapel Road on the south side of westbound US 40 Highway, lying in Section 34, Township 49, Range 31, Jackson County, Missouri aka 5250 SW 40 Hwy.

Mr. George introduced RZ-2011-477 and entered 8 exhibits into the record. Mr. George gave the staff report with comments and recommendation as follows: the property is located one mile west of Woods Chapel Road on the south side of Westbound 40 Highway and is 2.73 ± acres in size. The request is for a change of zoning from District A (Agricultural) to District LI (Light Industrial) for the purpose of making the property more compatible with surrounding properties.

To the north, zoning is Light Industrial which was rezoned in 1972. To the south, zoning is General Business. Land use is automobile repair business which was rezoned in 1971. To the east across US 40, zoning is Light Industrial which was rezoned in 1968 and 1971. Land use is auto repair facilities, auto sales, auto parts and a construction company. To the west across US 40, zoning is agricultural. This area is Blue Springs Lake which comprises part of Fleming Park and a KCP&L substation.

Present use of the property is a vehicle repossession, storage and sales and business operations with two small rental units. It is not known how long the automobile sales and storage have been operating from this property. Staff has access to aerial photography from 1957. All three of the structures were in existence at that time. It is possible that this property falls into a Legal Non-conforming status.

The County Court adopted a Zoning Order, predecessor to the Unified Development Code, in 1943. A new order was subsequently adopted in 1960 and revised in 1967. Under the Zoning Order, the Agricultural District (D) allowed any permitted uses within the First Dwelling House District (A) and Second Dwelling House District (B). Within the Light Industrial Zoning District (LI), automobile/truck/trailer/boat sales, rental and repairs, with all repair facilities contained within a building and no open storage of inoperable vehicles is allowed. An allowable accessory use within LI would also include a caretaker or security guard quarters.

Applicant is requesting to rezone the property to make it compatible with the surrounding properties. Staff supports the change, as this would bring the property more into compliance with the UDC. Land use must stay the same, as any change to the current land use would require the entire property to come into compliance with the UDC.

The County Plan Development Diagram illustrates this area within the Urban Development Tier. The Light Industrial District is appropriate in the Urban Development Tier. This request for rezoning is consistent with the intent and purpose of the County Plan. Staff recommends approval of RZ-2011-477.

Chairman Antey asked if the use would remain the same.

Mr. George answered yes, that if the use changed, it would no longer be grandfathered.

Mr. Tarpley wanted to know if the property owner made the application or if it were the county's request.

Mr. George said the property owner had made the application.

There were no further questions for staff.

Julius Oswald, agent for the applicant appeared to give testimony. Mr. Oswald said the property was surrounded by similar businesses and the houses were small and old and probably wouldn't last much longer. He said the county ordinance allowed a caretaker to reside on the property and there was in fact an individual who lived on the property and watched it. Mr. Oswald said the property is for sale and they wanted the zoning to be compatible with surrounding properties. He said the current zoning may be jeopardizing sale of the property.

Mr. Tarpley wanted to know if the primary reason for rezoning was to make the property easier to sell.

Mr. Oswald answered yes as the property would conform to surrounding zoning.

Lloyd Hilburn, neighboring property owner, appeared in support of the request for rezoning.

There were no further questions and no one else to appear in favor of or in opposition to the application.

Mr. Aikins moved to take RZ-2011-477 under advisement. Mr. Haley seconded the motion.

It was agreed that rezoning was the right thing to do to bring the property into conformity with other properties in the area.

Mrs. Mershon moved to approve RZ-2011-477. Mr. Tarpley second the motion.

VOTE:

Mr. Aikins	Approve
Mr. Crawford	Approve
Mr. Gibler	Approve
Mr. Haley	Approve
Mrs. Mershon	Approve
Mr. Pointer	Abstain
Mrs. Query	Approve
Mr. Tarpley	Approve
Chairman Antey	Approve

RZ-2011-477 APPROVED (8 – 0 – 1)

STAFF REPORT

PLAN COMMISSION

November 17, 2011

RE: RZ-2011-477

- Applicant:** Rainer & Barbara Popp
- Location:** 1 mile west of Woods Chapel Road on the south side of westbound US 40 Highway, lying in Section 34, Township 49, Range 31, Jackson County, Missouri aka 5250 SW 40 Hwy.
- Area:** 2.73 ± acres
- Request:** Change of zoning from District A (Agricultural) to District LI (Light Industrial)
- Purpose:** Rezoning the property to make it more compatible with surrounding properties.

Current Land Use and Zoning in the Area:

To the north, zoning is Light Industrial which was rezoned in 1972.

To the south, zoning is General Business. Land use is automobile repair business which was rezoned in 1971.

To the east across US 40, zoning is Light Industrial which was rezoned in 1968 and 1971. Land use is auto repair facilities, auto sales, auto parts and a construction company.

To the west across US 40, zoning is agricultural. This area is Blue Springs Lake which comprises part of Fleming Park and a KCP&L substation.

- Comments:** Present use of the property is a vehicle repossession, storage and sales and business operations with two small rental units.

It is not known how long the automobile sales and storage have been operating from this property. Staff has access to aerial photography from 1957. All three of the structures were in existence at that time. It is possible that this property falls into a Legal Non-conforming status.

The County Court adopted a Zoning Order, predecessor to the Unified Development Code (UDC), in 1943. A new order was subsequently adopted in 1960 and revised in 1967. Under the Zoning Order, the Agricultural District (D) allowed any permitted uses within the First Dwelling House District (A) and Second Dwelling House District (B).

Within the Light Industrial Zoning District (LI), automobile/truck/trailer/boat sales, rental and repairs, with all repair facilities contained within a

building and no open storage of inoperable vehicles is allowed. An allowable accessory use within LI would also include a caretaker or security guard quarters.

Applicant is requesting to rezone the property to make it compatible with the surrounding properties. Staff supports the change, as this would bring the property more into compliance with the UDC. Land use must stay the same, as any change to the current land use would require the entire property to come into compliance with the UDC.

County Plan: The County Plan Development Diagram illustrates this area within the Urban Development Tier (UDT). The Light Industrial District is appropriate in the Urban Development Tier.

Recommendation:

This request for rezoning is consistent with the intent and purpose of the County Plan.

Staff recommends APPROVAL of RZ-2011-477.

Respectfully submitted,
Planning and Environmental Health Division

Randy Diehl
Planning and Zoning Coordinator

**Plan Commission
November 17, 2011
RZ-2011-477**

Applicants / Property Owners: **Rainer & Barbara Popp
1208 NE Crestview Dr.
Blue Springs, MO 64014**

**Parcel Nos: 35-940-05-03
35-940-05-02**

**Certified Mail – Return Receipt
Property Owners within 185 feet**

35-940-05-01
Lloyd Hilburn, Jr.
2920 Little Blue Pkwy
Independence, MO 64057

35-940-04-22.01
Douglas Taylor
P.O. Box 3198
Independence, MO 64055

35-940-05-05
Trust in Him LLC
P.O. Box 815
Blue Springs, MO 64013

35-940-05-13
McCorkendale Investment Co.
5125 SW 40 Hwy
Blue Springs, MO 64015

35-940-06-01
Aquila Inc.
P.O. Box 418679
Kansas City, MO 64141

35-940-05-14
Ride-Away Credit Inc.
5900 Troost Ave.
Kansas City, MO 64110

35-900-03-11
United States of America

35-940-04-75
Hot Rod Express LC
5105 SW 40 Hwy
Blue Springs, MO 64015



Jackson County Zoning Map

Legend	185' Notification Ring
Classification	
Class	Local
	Collector
	Major Arterial
	Minor Arterial
	percols
	<all other values>
	Piats
	Pending Rezoning
Rezoning selection	
Zoning	RR-Residential Ranchette
	Residential Ranchette-Planned
	RE-Residential Estates
	RS-Residential Suburban
	RU-Residential Urban
	AO-Single-Family
	BO-Two-Family
	CO-Multi-Family
	A1-Mobile Homes District
	ROP-Residential Office-Planned
	LB-Local Business
	LBp-Local Business-Planned
	GB-General Business
	GBp-General Business-Planned
	LI-Light Industrial
	LIp-Light Industrial-Planned
	HI-Heavy Industrial
	Inundation Area



RZ-2011-477

1 inch equals 100 feet

**JACKSON COUNTY, MISSOURI
APPLICATION FOR CHANGE OF ZONING**

APPLICANT INFORMATION:

1. Application must be filed with the Jackson County Planning and Development Division, 303 West Walnut, Independence, Missouri 64050 by the date on the Plan Commission Calendar.
 2. Application must be typed or printed in a legible manner.
 3. All applicable sections must be completed. If you need more space to provide information, please use separate 8 1/2"x11" paper, reference the application number and attach it to the application.
Incomplete applications will not be accepted and will be returned to the applicant.
 4. Attach application for subdivision approval, consistent with the requirements of UDC Section 24003.10, as may be required.
 5. The filing fee (non-refundable) must accompany application.
(Check payable to: Manager of Finance)
\$350.00 – Change of Zoning to Residential
\$500.00 – Change of Zoning to Commercial or Industrial
-

TO BE COMPLETED BY OFFICE PERSONNEL ONLY:

Rezoning Case Number RZ-2011- 477
 Date filed 9-29-2011 Date of hearing 11-17-2011
 Date advertised _____ Date property owners notified _____
 Date signs posted _____

Hearings:

Heard by _____	Date _____	Decision _____
Heard by _____	Date _____	Decision _____
Heard by _____	Date _____	Decision _____

BEGIN APPLICATION HERE:

1. Data on Applicant(s) and Owner(s):

- | | |
|--|---|
| <p>a. Applicant(s) Name:
Address:

Phone:</p> | <p>Rainer G. Popp and Barbara J. Popp
1208 N.E. Crestview Dr.
Blue Springs, MO 64014
(816) 229-3788</p> |
| <p>b. Owner(s) Name:
Address:
Phone:</p> | <p>Rainer G. Popp and Barbara J. Popp
1208 N.E. Crestview Dr.
(816) 229-3788</p> |
| <p><input checked="" type="checkbox"/> c. Agent(s) Name:
Address:

Phone:</p> | <p>Julius Oswald
601 NW Jefferson St., PO Box 550
Blue Springs, MO 64013
(816) 229-8121</p> |
| <p>d. Applicant's interest in Property:</p> | <p>Owner</p> |

EX. 8

2. **General location (Road Name):** Missouri 40 Highway, Blue Springs, MO 64015
Parcel # 35-940-05-02 and 35-940-05-03
3. **Present Zoning:** Agricultural **Requested Zoning:** Light Industrial
4. **AREA (sq. ft. / acres)** 119,293 sq. feet / 2.73859 acres
5. **Legal Description of Property:** Attached
6. **Present Use of Property:** Vehicle repossession, storage, sales and related business operations with currently two small rental residences.
7. **Proposed Use of Property:** Currently nothing proposed beyond the above.
8. **Proposed Time Schedule for Development:** No development currently planned beyond that existing in the near future.
9. **What effect will your proposed development have on the surrounding properties?**
None. The proposed rezoning will actually make this property more compatible with the zoning of surrounding properties.
10. **Is any portion of the property within the established flood plain as shown on the FEMA Flood Boundary Map?**
No.
If so, will any improvements be made to the property which will increase or decrease the elevation?
N/A
11. **Describe the source/method which provides the following services, and what effect the development will have on same:**
a. **Water:** City of Blue Springs; none
b. **Sewage disposal:** septic; none
c. **Electricity:** Kansas City Power & Light; none
d. **Fire and Police protection:** Central Jackson Co. Fire District; Jackson Co. Sheriff; none
12. **Describe existing road width and condition:**
Westbound 40 Highway – approximately 60 ft. right-of-way
Eastbound 40 Highway – approximately 100 ft. right-of-way
13. **What effect will proposed development have on existing road and traffic conditions?** None.
14. **Are any state, federal, or other public agencies approvals or permits required for the proposed development?** No.

If so, describe giving dates of application and status (include permit numbers and copies of same, if issued): N/A

Verification:

I (We) hereby certify that all of the foregoing statements contained in any papers and/or plans submitted herewith are true to the best of my (our) knowledge and belief.

Signature

Date

Property Owner(s)

RAINER G. POPP

9/23/11

Rainer G. Popp

BARBARA J. POPP

9/23/11

Barbara J. Popp

Applicant(s):

RAINER G. POPP

9/23/11

Rainer G. Popp

BARBARA J. POPP

9/23/11

Barbara J. Popp

Contract Purchaser(s):

N.A.

STATE OF MISSOURI

COUNTY OF JACKSON

On this 23rd day of September, in the year of 2011, before me the undersigned notary public, personally appeared **Rainer G. Popp** and **Barbara J. Popp**, known to me to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public *Janet E. Joles* Commission Expires 8/24/12

