



CITY OF TONTITOWN PLANNING OFFICE

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Meeting: **March 17, 2022**
Project: **Paramount Metals Rezoning**
Planner: Courtney McNair, Garver

PUBLIC HEARING AGENDA ITEM

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PLANNING COMMISSION AGENDA ITEM

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PARAMOUNT METALS REZONING REQUEST

761 & 829 W Henri de Tonti Blvd
Parcel # 830-37715-001, 830-37710-000 & 830-37709-001

SUMMARY: Request to rezone the existing Paramount Metals location from C-2 to L-I in order to bring the site into zoning compliance.

CURRENT ZONING: C-2 – General Commercial

REQUESTED ZONING: L-I – Light Industrial

FUTURE LAND USE CATEGORY: RC-C – Residential Commercial Core

CITY WARD: 3-Penny Baskin and Tim Burress

INFRASTRUCTURE SERVICE AREAS (not a guarantee of service availability):

Water: Tontitown Water, existing 6" water main.

Electric: Ozarks Electric

Sewer/Septic: Tontitown Sewer, existing 12" sewer main.

Phone: AT&T

Natural Gas: Source Gas

Cable: Cox Communications

PROJECT SYNOPSIS:

This project was heard and approved by the Planning Commission on November 1, 2021. At the following City Council meeting, the City Council tabled the project and asked that the Planning Commission review it again at the following Planning Commission Meeting. Planning Staff was instructed not to place it on the subsequent agenda at that time due to confusion over the nature of the request at the time (the replacement of the office building and demolition of the existing office building).

Since that time, it has been clarified that the existing office building on site may be replaced by a new building of equal or lesser size without a zoning change or a large-scale development plan. The applicant is moving forward with that project at this time.

However, the applicant has expressed that they may like to expand the existing warehousing building in the future. In order to expand any portion of the warehousing or fabrication business, this site will need to be rezoned in order to bring the existing use into zoning compliance. Non-conforming, grandfathered uses may not be expanded (except within very limited parameters). Therefore, the

applicant is asking that with the clarification regarding the office building, and potential future goals for their business, that this rezoning be reconsidered.

The owner of this property is Weeks Enterprises, LLC. The applicant/representative is Dan Scott, for Paramount Metals.

FUTURE LAND USE PLAN:

The Future Land Use Category shown in this area is for the Residential Commercial Core (RC-C).

From the Vision Plan Document adopted by the City Council in November 2018:

RESIDENTIAL and COMMERCIAL CORE (RC-C)

Core Areas contain some of the most intense and dense development patterns within the City, as well as the tallest and greatest variety of buildings. This is a higher intensity mixed use category, allowing for larger stores and more intense traffic patterns.

A mix of residential and non-residential development (excluding HEAVY industrial uses) is permitted. The residential component of this category will include higher intensity multifamily developments, and single family residential would likely be townhome or row house development models. The ideal mix of uses will be moderate to high density residential, office, and commercial uses, with additional open space amenities included within the development site.

These areas will accommodate row houses, apartments, local and regional retail, including large-scale stores, hotels, industry and entertainment uses. These areas are typified by their location adjacent to major thoroughfares with high visibility, usually automobile-dependent customers and large areas dedicated to parking. Although Urban Center Areas recognize the conventional big-box and strip retail centers developed along major arterials, it is expected that vacant properties will be developed into traditional mixed-use centers, allowing people to live, work and shop in the same areas.

Up to 20 multifamily dwelling units/acre.

STAFF ANALYSIS: This application is requesting rezoning for an existing, non-conforming, Light Industrial use to be brought into zoning compliance. The business has existed in this location for many years. They may not expand their business if they choose to in the future under the current zone of the property. The request for Light Industrial is well aligned with the Future Land Use Plan.

APPROVAL CRITERIA:

Not all of the criteria must be given equal consideration by the Planning Commission or City Council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

(1) Consistency of the proposal with the comprehensive plan.

STAFF ANALYSIS: The current Future Land Use Plan shows this area as Residential and Commercial Core. According to the City's Vision Plan document specifically calling "Industry" as land use that can be accommodated here, this request meets the intent of the Future Land Use Map for this area.

(2) Consistency of the proposal with the purpose of these regulations.

"The regulations are intended to provide for orderly growth and development; for protection of the character and stability of residential, commercial, industrial, recreational, and environmentally sensitive areas of the city; for protection of property from blight and undue depreciation; for efficiency

and economy in the process of development for the appropriate and best use of land; for the use and occupancy of buildings; for healthful and convenient distribution of population; for good civic design and arrangement; and for adequate public utilities and facilities.”

STAFF ANALYSIS: The character of the commercial zone along Henri de Tonti Blvd will not be negatively affected by this rezoning request since the business already exists. The purpose of the rezoning is to bring the property into zoning compliance so that the business could potentially expand in the future.

(3) Compatibility of the proposal with the zoning, uses and character of the surrounding area.

STAFF ANALYSIS: The requested use is for light industrial zoning; surrounding properties are zoned C-2, General Commercial.

The actual uses of the surrounding properties include Single-family residential and commercial uses.

North- zoned C-2- Timmons Oil Company, and SF-R uses across the highway.

East- zoned C-2- Commercial tow yard.

South- zoned C-2- grandfathered SF-R use.

West- zoned C-2- Uncle Tanks Self Storage.

This is an existing business and does not negatively impact the character of the surrounding area.

(4) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment.

STAFF ANALYSIS: This property is operating successfully at this location with the current zoning designation as the first building on the site was constructed around 1986, but it is not currently in compliance with C-2 zoning. It appears that Tontitown first adopted zoning regulations in 1991.

(5) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual impairment, odor, noise, light, vibration, hours of use/operation, and any restriction to the normal and customary use of the affected property.

STAFF ANALYSIS: Nearby properties will not be affected at all by this requested rezoning. The business already exists and intends to continue to operate in the same manner.

(6) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and

STAFF ANALYSIS: This business is existing.

(7) Impact of the proposed development on community facilities and services, including those related to utilities, streets drainage, parks, open space, fire, police, and emergency medical services.

STAFF ANALYSIS: The business already exists and intends to continue to operate in the same manner.

TECHNICAL INFORMATION:

Technical information will be addressed if any additional projects are submitted in the future.

NEIGHBOR COMMENTS: All neighboring properties within 200 feet of the property boundary were notified by certified mail of this project. Staff has not received any comments for this project but will update the Planning Commission at the meeting if any are submitted.

ADDITIONAL INFORMATION:

Since the last meeting on February 22, 2022 (non-voting meeting), staff has been asked to also look at the possibility of rezoning this site to C-T, Commercial Trades and Services, instead of L-I, Light Industrial, and has been asked to consider only rezoning a portion of this site instead of all three parcels.

If this property is rezoned to C-T, the applicant will be required to request a Conditional Use Permit (CUP) to allow for a Primary Warehouse Use.

If only one or two of the parcels (three total) are rezoned, the applicant will need to have a new legal description written that describes only the rezoned parcels. The current legal description is for the entirety of the site which consists of three parcels.

The following describes the potential impact to the applicant and City for each scenario:

First, the application on hand is to rezone all three parcels to Light Industrial. This will bring the current business into compliance with the zoning code and allow him to expand in the future if he decides to move forward with those plans.

- Applicant: This request is the simplest solution for the applicant, will safeguard his future plans, and will ensure if anything happens to any of the existing buildings that he could rebuild his existing use without complication. This project has notified the surrounding neighbors twice, and there have been no comments or concerns submitted. This project has been non-contentious.
- City: If the rezoning to L-I is approved, and use allowed in L-I could potentially be placed on this property. Staff has attached a comparison chart that shows uses allowed in the current C-2 zoning, C-T zoning, and L-I zoning.

Alternatively, the Planning Commission could choose to just rezone one or two of the parcels.

- Applicant:
 - If the Planning Commission just wants to rezone only the middle parcel (830-37710-000) for the expansion of the newer existing warehouse, it would require that the applicant have a new legal description to be written. It also means that the existing building on the western parcel (830-37715-001) would still exist in a non-conforming manner, and any future development on the eastern parcel (830-37709-001) would require another rezoning.

- If the Planning Commission wants to rezone both the middle and eastern parcel, this would require that the applicant have a new legal description to be written. It also means that the existing building on the western parcel (830-37715-001) would still exist in a non-conforming manner.
- City: If only one or two of the parcels is rezoned it reduces the amount of land that could be used for the L-I or C-T uses. Staff has attached a comparison chart that shows uses allowed in the current C-2 zoning, C-T zoning, and L-I zoning.

The other alternative that has been discussed is to rezone the property to C-T, Commercial Trades and Services.

- Applicant: If the Planning Commission chooses to rezone to the C-T zoning category, the applicant would then need to apply for a Conditional Use Permit to allow Primary Warehousing. This would require that the applicant submit an additional permit, notify neighbors by certified mail, and be heard at the Planning Commission and City Council.
 - If the Planning Commission chooses to rezone to C-T for only 1 or 2 of the parcels, please refer to the above for additional steps required by the applicant.
- City: The C-T zoning has different uses allowed than the L-I zoning. Staff has attached a comparison chart that shows uses allowed in the current C-2 zoning, C-T zoning, and L-I zoning.

Code regarding non-conforming uses:

§ 153.041 DISCONTINUANCE OF USE.

(A) Whenever any part of a structure or land occupied by a nonconforming use is changed to, or replaced by, a use conforming to the provisions of these regulations, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.

(B) Whenever a nonconforming use of a structure or part thereof, has been discontinued or abandoned for a period of six months or more such use shall not be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(C) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six months or more shall constitute abandonment and shall not thereafter be used in a nonconforming manner.

§ 153.042 CHANGE OF USE.

(A) The nonconforming use of any structure or portion thereof, may be occupied by a similar or less intense nonconforming use as may be determined by the zoning official, subject to appeal to the Board of Zoning Adjustment. No building in which a nonconforming use has been changed to a more restricted use shall again be devoted to a less restricted use. All changes of use and or occupancy must comply with all applicable provisions of the building code.

(B) A nonconforming use of land without substantial buildings or structures may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of these regulations. If such nonconforming use or portion thereof is discontinued for a period of six months, or changed, any future use of such land or change of use shall be in conformity with the provisions of the district in which such land is located.

§ 153.043 REPAIRS AND ALTERATIONS.

(A) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted. Such structures may be expanded once, a maximum of 25% in gross floor area or expansion of 5,000 square feet, whichever is less.

(B) Alterations may be made when required by law, or when such alterations will actually result in eliminating the nonconformity.

(C) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.

(D) A structure that is nonconforming with respect to yards, height or any other element of bulk regulated by these regulations, shall not be altered or expanded in any manner that would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

§ 153.045 DAMAGE AND DESTRUCTION.

If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by natural disaster, fire, or other casualty, the structure may be repaired or reconstructed and used for the same purpose as it was before the occurrence; provided such repair or reconstruction is commenced within six months and completed within one year of the date of such damage or destruction. Failure to exercise this option within the time specified, shall be considered a voluntary abandonment and the structure may be rebuilt and used thereafter only for a conforming use, and in compliance with provisions of the district in which it is located.

USE COMPARISON CHART

Zoning Districts	C-2	C-T	L-I
Residential uses			
Single-family detached	C	C	C
Duplex	C	C	C
Loft living space	P	P	C
Townhomes (see LOT, YARD and HEIGHT REGULATIONS for requirements)	C	C	C
Triplex, quadplex	C	C	C
Multi-family	NP	NP	NP
Civic and commercial uses			
Airport or airstrip	NP	NP	NP
Animal care, general	P	C	P
Animal care, limited	P	P	P
Auditorium or stadium	C	C	C
Automated teller machine (ATM)	P	P	P
Bank or financial institution	P	P	P
Bed and breakfast	P	C	C
Car wash	P	C	P
Cemetery	P	P	P
Church	P	P	P
College or university	P	P	P
Communication tower	C	C	C
Construction sales or service	P	P	P
Convenience store	P	P	P
Day care, limited (family home)	P	C	C
Day care, general	P	P	C
Entertainment, adult	C	NP	C
Funeral home	P	C	C
Golf course	P	P	NP
Government service	P	P	P
Hospital	P	P	P
Hotel or motel	P	C	NP
Library	P	P	P
Medical service/office	P	P	P
Museum	P	P	C
Nursing home	P	P	C
Office, limited	P	P	P
Office, general	P	C	C
Parking lot, commercial	P	P	C
Parks and recreation	P	P	P
Pawn shops	P	NP	C
Post office	P	P	C
Recreation/entertainment, indoor	P	P	P
Recreation/entertainment, outdoor	P	C	C

Restaurant, fast food	P	C	C
Restaurant, general	P	C	C
Retail/service up to 5,500 sq. ft.	P	P	C
Retail/service up to 10,000 sq. ft.	P	C	C
Retail/service greater than 10,000 sq. ft.	P	C	C
Safety services	P	P	P
School, elementary/middle/high	P	P	NP
Service station	P	NP	P
Signs	*	*	*
Storage, outdoor (yard)	C	P	P
Utility, major	C	C	C
Utility, minor	P	P	P
Vehicle and equipment sales	P	C	P
Vehicle repair, general	P	C	P
Vehicle repair, limited	P	C	P
Vocational school	P	P	P
Warehouse, residential (mini) self- storage	P	P	P

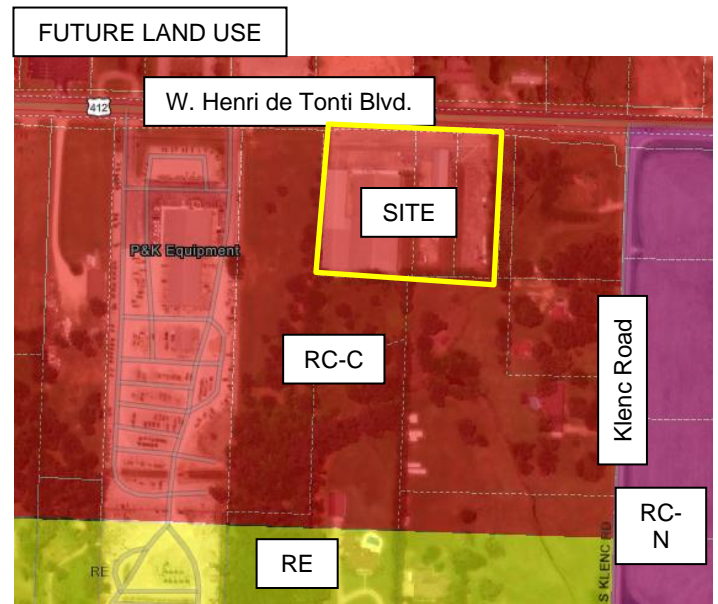
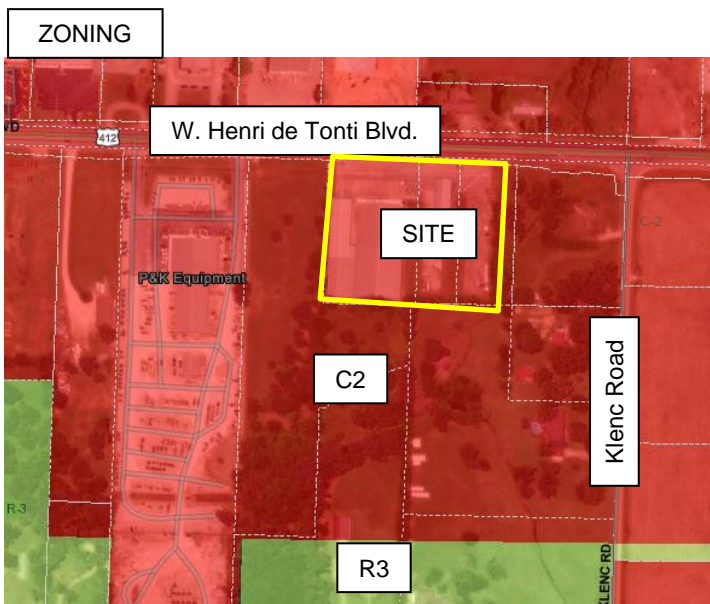
*The placements of all shall be in accordance with city code

Industrial, manufacturing, and extractive uses			
Asphalt or concrete plant	NP	NP	NP
Auto wrecking or salvage yard	NP	NP	NP
Basic industry	NP	NP	C
Freight terminal	C	NP	C
Manufacturing, general	NP	NP	C
Manufacturing, limited	NP	P	P
Mining or quarrying	NP	NP	NP
Soil borrowing	NP	NP	C
Research services	C	C	C
Warehousing primary	NP	C	P
Warehousing ancillary	C	P	P
Welding or machine shop	C	P	P
Agricultural uses			
Agriculture, animal	C	NP	C
Agriculture, crop	C	C	P
Agriculture, farmers' market	P	P	P
Agriculture, product sales	C	C	P
Animal, farm	NP	NP	NP
Chicken, hobby	NP	NP	NP
Exclusive uses			
Sanitary landfill	NP	NP	NP

STAFF RECOMMENDATION: Staff recommends approval of this request for Paramount Metals to rezone their property from C-2, General Commercial to L-I, Light Industrial, with conditions.

CONDITIONS RECOMMENDED FOR APPROVAL:

1. Standards found in Chapter 153.214 Residential Compatibility Standards, shall apply to all adjacent properties with a residential use regardless of current zoning.
2. This project shall be in compliance with all local, state, and federal regulations.
3. This rezoning must proceed to the City Council for approval.
4. Any improvements to this site require additional review.



SITE LOCATION



SITE

