



Planning, Streets and Traffic Committee

November 25, 2019

5:00 p.m.

City Service Center – 915 Quarrier Street – Conference Room

Agenda

Bill No. 7855 - A Bill to establish a 15 MPH speed limit on Woodhaven Drive from Woodward Drive to end of Woodhaven Drive and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

Bill No. 7846 - amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by allowing "Automotive Body and Paint Shop" as a permitted use in the C-8 Village Commercial District.

Street Dedication: A request by WV IL- AL Investors, LLC to dedicate Peyton Way located off Parkway Road as a city street.

Miscellaneous

Approval of the Minutes of the October 28, 2019 meeting

1 **Bill No. 7855**

2 Passed by Council:

3 Introduced in Council

4 **November 4, 2019**

5 Referred to

6 Introduced by:

7 **Pat Jones**

Planning, Streets and Traffic

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9
10 **Bill No. 7855** - A Bill to establish a 15 MPH speed limit on Woodhaven Drive from
11 Woodward Drive to end of Woodhaven Drive and amending the Traffic Control Map and
12 Traffic Control File, established by the code of the City of Charleston, West Virginia, two
13 thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4,
14 Chapter 114, to conform therewith.

15 **Be it Ordained by the Council of the City of Charleston, West Virginia:**

16 Section 1. Establish a 15 MPH speed limit on Woodhaven Drive from Woodward
17 Drive to end of Woodhaven Drive.

18 Section 2. The Traffic Control Map and Traffic Control File, established by the code
19 of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic
20 Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and
21 hereby are amended, to conform to this Ordinance.

22
23 Section 3. All prior Ordinances, including but not limited to Ordinance 936, which are
24 inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Bill No. 7846, Committee Substitute

Introduced in Council

Passed by Council

November 4, 2019

Introduced by

Referred to

Adam Knauff

Planning, Streets & Traffic Committee
Municipal Planning Commission

Bill No. 7846 amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by allowing "Automotive Body and Paint Shop" as a permitted use in the C-8 Village Commercial District.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance for the City of Charleston, West Virginia, effective January 1, 2006, is hereby amended as follows:

- 1) In Article 3 Establishment of Zoning Districts and Map

Section 3-050 Permitted Land Uses

LAND USE	R-2	R-4	R-6	R-8	R-10	R-O	C-4	C-8	C-10	C-12	CBD	UCD	CVD	PMC	I-2	I-4	PUD	SUPP.
Automotive Body and Paint Shop								P	P	P					P	P		14, 55

55. Vehicles with body damage shall sit no more than 72 hours before being moved into an area with a privacy fence or into the shop.

- 2) All prior ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.



Adam Henry Knauff
City of Charleston
Ward 7

1607 Woodbine Avenue
Charleston, WV 25302
adamknauff@hotmail.com
cell 304-741-0781

Charleston Planning Department
915 Quarrier Street #1
Charleston, WV 25301

Dear Planning Department:

As a Charleston City Council member and a member of the Planning, Streets, and Traffic Committee, I support the text amendment to allow automotive body and paint shops as a permitted use in the C-8 Village Commercial District, referenced in Bill #7846. The use is similar to other uses already allowed in the district such as automobile sales, automotive repair, automotive retail parts and supplies, and automotive washing and polishing.

If you have any further questions about my support of the text amendment, please let me know.

Warmest Regards,

Adam



Charleston Planning Department
915 Quarrier Street #1
Charleston, WV 25301

Dear Planning Department:

Bigley Avenue Economic Development Foundation is an organization working to increase the business vitality along the Bigley Avenue business corridor. We strive to promote existing businesses, support potential businesses, and help develop new businesses in our area. We support Danny Wheeler's establishment of an Auto Body and Repair Center at 1724 Bigley Avenue.

The Bigley Avenue area is already a mix of residential, commercial, restaurant and light industrial activity. We feel Mr. Wheeler's business fits in with the character of the community and is a much greater use of property than a vacant lot. Given these facts we support the Planning Department's granting of a rear setback variance to Mr. Wheeler.

If you have any questions or would like any follow-up communications, please reach out and we will promptly respond.

Sincerely,

Jeffery Mace, CFE
CFO, Bigley Avenue Economic Development Foundation

WV IL- AL Investors, LC

4423 Pheasant Ridge Road, Suite 301
Roanoke, Virginia 24014

Friday October 18, 2019

City of Charleston

Attn: Dan Vriendt

915 Quarrier Street, Suite 1

Charleston, WV 25301

Dear Mr. Vriendt,

The portion of the road, Peyton Way, leading to 801 Peyton Way Charleston, WV has been completed to the satisfaction of the Engineering Department. Corey Maynard has inspected the road and is satisfied with construction of road.

WV IL- AL Investors, LLC respectfully requests that the road be dedicated to the city at this time.

Sincerely,

Aubury Holmes

Senior Development Manager

Municipal Planning Commission

Hearing and meeting: Wednesday, November 6, 2019, at 3:00 p.m., in the conference room of the City Service Center, 915 Quarrier Street.

Members Present

Aric Margolis
Margo Teeter
Adam Krason
Shawn Taylor
Dallas Staples
Mary Beth Hoover
Terry Pickett
JoEllen Zacks
Alice Hypes
J.D. Stricklen, Kanawha County Representative

Members Absent

Reverend Braxton Broady
Teresa Moore
Chad Robinson
Lisa Fischer-Casto
Deanna McKinney

Staff Present

Dan Vriendt
John Butterworth

Call to Order: Aric Margolis

New Business:

Text Amendment: Bill No. 7846 amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by allowing “Automotive Body and Paint Shop” as a permitted use in the C-8 Village Commercial District.

MR MARGOLIS: Dan, do you want to provide staff notes?

MR. VRIENDT: The amendment is a change to the zoning ordinance, which requires a legislative decision. The Commission is charged with conducting a public hearing and making a recommendation to Planning Committee with final action being at City Council. The Commission should determine if the text amendment is consistent with the goals and objectives of the Comprehensive Plan.

We have a gentleman here, Mr. Wheeler, who approached us about wanting to do an automobile paint and body shop in a C-8 Village Commercial District. When we looked in the Ordinance, in a C-8 you can do automobile renting and leasing. You can do retail sales, polishing. You can sell automobile parts and supplies. You can even do automotive repair, but you can't do paint and body. We have all these similar uses, but this use is excluded from that. We think this is a throw back to the 1983 Zoning Ordinance which was probably written in the late '70s and it may have been due to paints at that time were more toxic, more fumes involved, than the paints are today. If you want to get into the technical aspect of that, Mr. Wheeler can answer some of those questions. We think today that it's kind of a different story, that there is not the odors and nuisances that would negatively affect the adjacent property owners. We think making this a permitted use in a C-8 district makes it more consistent with the other allowable uses in the district. We're recommending approval of the bill. There are two letters of support that are on your desk. One is from Council member Adam Knauff who represents the ward where this automobile paint and body shop would go. He is here today with us. We also have a letter of support from Jeffrey Mace who represents the Bigley Avenue Economic Development Foundation. All these gentlemen are here for a specific property at 1724 Bigley Avenue. I will just remind the Commission that this is a policy change that affects C-8 zoning districts throughout the City.

MR. MARGOLIS: Tell us some of the locations if people aren't familiar with the C-8 districts.

MR. VRIENT: In the middle of Kanawha City on MacCorkle you have R-0. On either ends of Kanawha City you have a C-8 Village Commercial District.

MS. TEETER: When you say either end, what street number?

MR. VRIENDT: (Indicating.) Around 37th Street to about 42nd is C-8. Down here at the end from about 50th Street to 57th Street, that's all C-8. There's a lot of C-8 in the Bigley Avenue area. On the West Side, Virginia Street is C-10, but all around Virginia Street is C-8. There are other C-8s scattered around the City, but those are the big concentrations of it.

MS. TEETER: On 42nd Street, any corner on there would be backing up to residential, wouldn't it?

MR. VRIENDT: Sure.

MR. KRASON: Dan, is it possible that another reason that it was included, and the others weren't is because of the concern of how long damaged vehicles might be sitting in front of the establishment so if somebody wasn't running a real legitimate body shop, you may have a lot where damaged vehicles would be sitting out there for a significant period of time.

MR. VRIENDT: I don't know. Automobile repair establishment is permitted. They're kind of similar.

MR. KRASON: Repair is it could still look like a functioning vehicle whereas body shop is going to imply that it's going to look damaged, right?

MR. VRIENDT: Right.

MR. KRASON: How does the City regulate that now? How would that be regulated?

MS. TEETER: Is the paint part considered industrial?

MR. VRIENDT: It's permitted in the C-10 and I-2. Right now, it's permitted in a C-10, C-12, I-2 and I-4 district. Right now, in any of these districts if you have an automobile establishment, open storage is permitted.

MS. TEETER: What part of Virginia Street?

MR. VRIENDT: Virginia Street West. We can add the caveat that cars waiting to be painted have to be behind a screened area.

MR. KRASON: Cars would have to be moved within two weeks or something like that, so you don't get somebody essentially using it to store damaged vehicles in one of these areas.

MS. HOOVER: I get the concern that you don't want damaged cars, but within that zoning, rental, you're going to have out front, retail sales you would have cars out front.

MR. KRASON: My fear is if somebody turns it into a junk yard and calls it a body shop.

MR. VRIENDT: A junk yard is under a different zoning classification.

MR. KRASON: Can we put a caveat in that, that vehicles have to move.

MR. MARGOLIS: Please state your name and address for the record.

MR. WHEELER: My name is Danny Wheeler; body shop is Dedicated Auto Body. I definitely understand the concern. Obviously, that's not my intention. Like I tell my guys every day, they don't make me a dime until I see the tail lights. I have an agreement with Hertz Rental Car, so all the vehicles are generally 15s and newer. I also have an agreement with Nationwide and a few other insurance companies. If those cars are damaged to the point where they're going to sit there for more than two weeks they're going to be totaled. What they're going to do is they're going to bring in Copart to pick that vehicle up. The thing is, the second they total it out, every day they're paying me \$45 a day until they pick it up. So, trust me they want to get it fast and get it out of there fast.

What you generally have is a bullpen where you have a fenced in area. I wouldn't be opposed at all about putting a privacy fence up, putting them in the bullpen. Your insurance company is not going to insure you if you have cars laying around where somebody can come and steal stuff off. My plan for the building is to do the addition, repave everything, paint the whole building. I also have a lot of agreements. I do a lot of high end cars. I've got BMW 5 series, Mercedes. A lot of the doctors from CAMC bring their vehicles to me so therefore I have to have a place where they're going to be comfortable leaving a \$100,000-plus vehicle. They're not going to take it to a place that looks like a salvage yard. I know you're speaking for everybody that could possibly, not just me. I understand the concern.

MR. KRASON: Even if you're waiting for it to be serviced, two weeks, would that be enough time?

MS. HOOVER: What is the typical time frame that you work on a car?

MR. WHEELER: With distracted drivers, cell phones and stuff like that, every shop is busy.

MS. HOOVER: Business is good?

MR. WHEELER? Extremely good. There's never a time where I don't have 20 extra cars to work on. I also store a lot of them off site. So, two weeks, three weeks or so.

MR. MARGOLIS: I think it makes sense that they need to be kept behind a privacy fence if onsite for more than 24 hours, 48 hours.

MR. KRASON: How long does it take you to process?

MR. WHEELER: That's the thing. What I'm doing, if Geico or Erie or State Farm, if I can get them in the bullpen to look at them, that's one thing. What you have to do sometimes is say, if you knock your fender off or something is bent on the bottom, then I have to get them out and get them up in the air. They'll be in the garage at that point, then they'll come do their estimates. You process them within hopefully 72

hours or so. There's the unfortunate situation where sometimes you do order the parts and maybe the part comes in wrong or the part's hard to find. We have a Ford Edge that they completely discontinued the headliner. What do you do? You can't build one.

MR. KRASON: I think if we said 72 hours before it had to be moved behind a privacy fence. At least there is some enforcement.

MS. PICKETT: Where is your business now?

MR. WHEELER: It's on Chesterfield Avenue in Kanawha City. 3430 Chesterfield Avenue.

MS. PICKETT: Where is your new business going to be?

MR. WHEELER: 1724 Bigley Avenue. It's going to be my second location. I'll still have the one in Kanawha City. Also, if you put in there that you can't have vehicles that you're selling parts off of. I don't sell parts off of vehicles; I put parts on vehicles. Therefore, if there's a day I sell a part, then I become a salvage yard. If you could have year ranges. No insurance company is paying to fix a 1967 Chevelle or something like that. If you had certain year ranges. That's a different type of body shop. If you had certain year ranges that would keep somebody from coming in with old 1984 pickup trucks and saying we're a body shop.

MR. MARGOLIS: Is there a way we can word this that if it has just a small dent in the door or something and it's not offensive –

MR. KRASON: I think if we just said it's permitted, but a vehicle can't sit outside more than 72 hours without being moved into the shop or behind that privacy fence and salvage is not permitted, something like that. That would probably cover most of the concerns.

MS. TEETER: I don't think there's concern about some of the locations you're talking about right now. When we vote on this it includes anything that's a C-8 so it can go in right behind somebody's house. How do you control any type of fumes from the paint?

MR. WHEELER: Back in the 1970s the paint was extremely toxic; there was no regulations. With everything going green, obviously, the paint companies are on top of it. I've got all the information as far as the organic compounds, the chemicals that's in the paint currently. I did it for 20 years and I'm perfectly healthy. Now, we have way better filtration. When we're painting a vehicle, the paint's going through filtration systems before it's actually going up and being released. I'm complying with the EPA there in Kanawha City. They check everything and make sure everything's compliant. There was a diesel shop there before and the diesel fumes are way more toxic to animals than the paint fumes. Another aspect of it is back in those days they would do a paint refresh, where if you had a '62 Impala they would paint the whole car. Now, it's mainly bumper, fender, hood. If you get into big damage like that it generally totals, and they take it to the crusher or the Copart salvage yard. It's definitely different than it was, and you may be painting two or three times a day but you're painting a very small amount. The solvents and stuff are water based. You're not evaporating a bunch of toxic fumes; you're evaporating water.

You have a filtration system that stops dirt and you have one that filters the fumes as they go out. That's also checked and controlled by EPA to make sure those filters are changed.

MR. STRICKLEN: I have a couple questions. One is what I hear is the fencing idea is on the table for discussion. My question about that would be in a C-8 would the fencing be allowed to come out to the front property line, or would there be a setback, would it have to be behind the front wall of the building? How would that be?

MR. VRIENDT: It can be whatever you all craft it to be. Currently, you can do a privacy in a C-8 all the way up to the front property line.

MR. STRICKLEN: You can go six feet tall?

MR. VRIENDT: You can go ten feet.

MR. STRICKLEN: The other question I have is when we pass this if we pass it, it's City wide in those zones. I wonder if there's been any consideration to a conditional use aspect for C-8?

MR. VRIENDT: We considered it. We felt that these other uses that are in the C-8 are comparable.

MR. KRASON: Conditional means they come for approval before us?

MR. MARGOLIS: Before the BZA.

MR. STRICKLEN: It means there's a little bit of a filter. In case it's not a guy that's got experience and has the right intentions and connected up good.

MS. TEETER: Can it be for those specific locations?

MR. VRIENDT: No.

MS. PICKETT: EPA has become problematic and I'm wondering if we can -- say the EPA is relaxing rules that it has no business relaxing, so I'm wondering if we can make sure that whatever happens on the federal level that the EPA rules will still apply to here.

MR. MARGOLIS: If they relax the rules there's no rules to enforce.

MS. PICKETT: I'm wondering if we can do something.

MR. KRASON: I guess the thought is if we're allowing these next to a residential structure and the rules are relaxed such that the fumes are no longer an issue, have we created a situation. I think if we went the conditional use route that covers us in the future because if there is a concern where it's next to a residential structure that's going to come out through that approval process, right? The adjacent homeowner would have an opportunity to come and express their concern.

MR. MARGOLIS: Is there a house backing up to this property?

MS. TEETER: There might be in some of these other areas.

MR. MARGOLIS: Most of these C-8 districts are pretty narrow.

MR. KRASON: So, if we do a conditional, it gives the adjacent property owners the chance to have a voice in the matter, right?

MR. STRICKLEN: It's a filter. I think the downside for this guy is sometimes you have to know when you're trying to negotiate a piece of property, can I do it or cannot do it. If you go conditional use, does it just go to BZA, is it a one-step thing?

MR. VRIENDT: The notification process is longer.

MR. STRICKLEN: Forty-five days?

MR. VRIENDT: Yes.

MS. HOOVER: How often are you inspected by the EPA?

MR. WHEELER: Generally, yearly.

MS. HOOVER: Is it a surprise? Do they just show up?

MR. WHEELER: Yes. We just stay compliant. I say up with anything that comes out safety wise or EPA wise or anything that comes to market that I can use to be greener I'm going to do it.

MR. MARGOLIS: Any other questions for this gentleman? (No response.) Is there anybody else to speak in favor of the application? (No response.)

MR. KNAUFF: My name is Adam Knauff. I'm a Charleston City Council member. I represent one of the areas in question. Mr. Krason has a great question. We talked about C-8 throughout the City. This is currently allowed in C-10s. How many C-10s do we have that are adjacent to other residential properties?

MR. VRIENDT: It's comparable, probably more. There's more C-10 than there is C-8.

MR. KNAUFF: Conceivably, this could be happening all over the City right now. Is there that big of a distinction between a repair shop and an auto body shop? You could bring in cars that look just as ugly to get repaired and be sitting out somewhere forever as opposed to auto body or a paint job. A paint job, the car may not have any damage at all; the owner may want to change it. I realize everyone here has great questions. I'm also on the Planning Committee for City Council so we're going to be looking at this too. Is there that big of a distinction between what we have currently in terms of body and paint versus repair work itself?

MR. MARGOLIS: Any questions?

MS. PICKETT: Does that mean we should make the C-10 more stringent?

MR. MARGOLIS: That is not what's in front of us today. That's something that we could propose.

MR. KRASON: Dan, is it possible that this could be handled with a clear definition in the Code of a body shop so that we exclude somebody who might be trying to part out vehicles?

MR. VRIENDT: We do have a definition of a salvage yard. They're only allowed in one or two zoning districts.

MR. MARGOLIS: So, the definition of a salvage yard is fairly clear?

MR. VRIENDT: Yes.

MR. STRICKLEN: It's a clear distinction between a salvage company and a body shop. We need all the economic development we can get. I think that the caustic smell of paint and the products, there's already been a lot of things that have changed about the industry through federal regulations on paints as far as the toxicity of them, the smell of them, the odor of them. I don't think it would be the same as if you had a body shop 30 years ago. It worries me a little bit about the damaged cars. Maybe the screening thing would be a good idea. At least some screening idea on some that would be here a long time.

The other thing I'll mention about this particular piece of property is I feel pretty certain at one time it was a gas filling station. I think it's had tanks under the ground. I think at one time it was where people donate cars to Mountaineer Garage or something like that.

MR. WHEELER: They took the tanks out in 2006 so there's no tanks anymore. At one time it was an Exxon filling station.

MR. KRASON: I think what we ought to do here is if we set this kind of minimum threshold of how long a vehicle can sit before it's in a screened area, we deal with that today and maybe we consider whether for the future if somebody is going to put one in a C-10 just make that a general requirement, right?

MR. MARGOLIS: Make it a text amendment for all auto body?

MR. KRASON: Right. It would be just for new businesses, right, Dan, if we made that amendment going forward?

MR. VRIENDT: Correct.

MR. WHEELER: Right now, I have BMW 5 series that has a scratch this long on it. Unless you're an autobody guy you're never going to see that. So, like a car with small scratches those will be fine?

MR. MARGOLIS: Likely. Nobody is going to send a complaint and say a BMW junked up is sitting in the parking lot for five days and they need to move it, because they're not going to see it.

MR. WHEELER: We generally get about five to ten from the airport that are very mild. If those could sit out and everything in the bullpen could be the things like the headlight busted.

MR. MARGOLIS: Any other questions for Councilman Knauff? (No response.) Anybody else here to speak in favor of the application? (No response.) Anybody here to speak in opposition to the application? (No response.)

MR. KRASON: I would make a motion that we approve the text amendment with the revision that no vehicle with substantial body damage will sit more than 72 hours without being moved into an area that has a privacy fence or into the shop.

MR. VRIENDT: Is this just for properties in the C-8 or for all properties?

MR. MARGOLIS: For now, let's proceed for all properties. There's an amendment on the floor. Do I hear a second?

Motion and Vote: On motion of Adam Krason, seconded by Dallas Staples, the Commission voted 8 to 1 to approve the amendment that no vehicle with substantial body damage will sit more than 72 hours without being moved into an area that has a privacy fence or into the shop.

MR. MARGOLIS: Is there a motion to approve the Bill as amended?

Motion and Vote: On motion of Terry Pickett, seconded by Dallas Staples, the Commission voted 9 to 0 to approve Bill No. 7846 as amended.

Street Dedication: A request by WV IL- AL Investors, LLC to dedicate Peyton Way located off Parkway Road as a city street.

MR. MARGOLIS: Dan, John.

MR. BUTTERWORTH: You've heard matters relating to this previously. Under the history section there you'll see that City Council adopted Resolution 912-17 with attached Memorandum of Understanding dated May 31, 2017 between Bible Center Church and the City of Charleston expressing intent to adopt the remainder of Peyton Way upon proper construction and bonding of the roadway.

The Municipal Planning Commission approved a Major Development of Significant Impact: DSI-17-0027 application to construct a four story, 190,000 square foot independent living facility, comprised of 90 independent living units, 64 assisted living units and 32 memory care units on this proposed lot at the June 7, 2017 regular meeting.

The road was built as part of the Bible Center Church preliminary and final subdivision request approved by the Municipal Planning Commission August 9, 2017 under the City of Charleston Subdivision Regulations.

This body has looked at it twice; Council has considered it once. At this point the road is built, the facility is very nearly completed. At this time, the developer is requesting the street be dedicated

MR. MARGOLIS: The road currently exists to just past, dedicated, exists just past the entrance to 911?

MR. BUTTERWORTH: (Indicating.) The section that we're talking about today is right at 2500 feet.

MR. VRIENDT: This is an old map. The roadway as improved is not shown on here. This is a one-lane gravel road. This is now a 22-foot wide road.

MR. MARGOLIS: We're only approving the improved road, it's already a street. Peyton Way was already a street dedicated, correct, to that point?

MR. BUTTERWORTH: To that point, it's actually owned by the State, that small section.

MR. MARGOLIS: We're just extending it from that point on.

MR. BUTTERWORTH: There was a construction bond that the City Engineer developed. What they do is require a two-year maintenance bond. The City Engineer can draw that up.

MR. VRIENDT: The City Engineer actually made them wait to do the street dedication until the big heavy trucks were off the road.

MR. BUTTERWORTH: Staff is recommending approval.

RECOMMENDATION AND FINDINGS:

The Planning Department recommends **approval** for the following reasons and **contingent upon submittal and approval of a two-year maintenance bond**.

1. The amount of the bond adequately safeguards the city in the event of failure of the roadway; and
2. The construction of the street conforms to all development standards contained in the Subdivision Regulations as inspected by the City Engineer.
3. The development of the of the independent living facility and other improvements conforms with all requirements of DSI-17-0027 and Resolution 912-17.

MR. MARGOLIS: Any questions? (No response.)

Motion and Vote: On motion of Dallas Staples, seconded by Adam Krason, the Commission voted to approve the Street Dedication.

Minutes of the September 4, 2019, MPC meeting: On motion of Mary Beth Hoover, seconded by Terry Pickett, the Commission voted 9 to 0 to approve the minutes.

Announcements: Dan informed the Commission on the Land Reuse Agency Meeting.

Adjournment.