

Planning, Streets and Traffic Committee

Monday, April 25, 2022, at 5:00 p.m.

City Service Center – 915 Quarrier Street – Conference Room

Members Present

Naomi Bays, Vice-Chairperson
Becky Ceperley
Brady Campbell
Jennifer Pharr (via phone)
Bobby Haas

Staff Present

Dan Vriendt
Matt Hartline
Terri Allen
Corporal Harshbarger

Public Present

Larry Dennison

1. Call to Order

2. Unfinished Business

3. New Business

Bill No. 7951 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from an I-2 district to a C-10 district, that certain lot of land situate at 306 MacCorkle Avenue SE, Charleston, WV 25314.

Dan Vriendt presented the staff analysis:

STANDARD OF REVIEW:

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Committee's role is to review the Planning Commission's decision and forward a recommendation to City Council for final action. The Committee should determine if the request is spot zoning and if it is consistent with the Comprehensive Plan. A rezoning is considered spot zoning when all the following factors are present: A small parcel of land is singled out for special and privileged treatment; The singling out is not in the public interest but only for the benefit of the landowner; the action is not in accordance with the comprehensive plan. If a request is inconsistent with the comprehensive plan, the committee should consider if the original zoning classification was in error, or if the character of the area has changed significantly since the adoption of the comprehensive plan. Proposed uses should be treated with care, because once rezoned, any use that is permitted within the district would be permitted 'by right' with no review by the Committee.

HISTORY:

The parcel in question is part of small industrial hub built alongside MacCorkle Avenue. The adjacent parcels in this hub are zoned a combination of C-10 and I-2. In fact, the property at

306 MacCorkle Ave SE is presently zoned as both C-10 and I-2. Petitioners are seeking to redevelop the property into a gas station with an attached convenience store, of which the latter is currently prohibited by its partial I-2 zoning. Therefore, the petitioners are seeking to make the property uniformly C-10.

ANALYSIS:

Existing Land Use and Zoning: The property is zoned both C-10 General Commercial District and I-2 Light Industrial District R-6 Medium Density Residential District and is a large empty commercial lot.

Surrounding Land Use and Zoning: The surrounding areas includes large commercial and industrial business and is a mixture C-10 and I-2 zoning designations.

Current Zoning: The property is currently zoned both C-10 and I-2. While a “Gasoline Service Station” and a “Gasoline Station and Mini-Mart” are both permitted uses in both zoning designations, “Convenience Store, Neighborhood” is neither a permitted or conditional use in an I-2 zone.

Proposed Zoning: The uniform C-10 zoning of the property would allow a permitted use for both Gasoline Station uses while also allowing for “Convenience Store, Neighborhood”.

Compliance with the Comprehensive Plan: The comprehensive plan’s future land use map designates the property as being in a “Convenience Commercial”, which is defined to be an area that is primarily auto-focused and is used to be a commercial area consisting of small to medium-sized businesses that are more sensitive to neighboring context. The industrial hub that the property is a part of is designated both as traditional “Industrial” and “Convenience Commercial.” It has, through previous rezoning, been transitioning from uniform I-2 zoning to its current mixture of C-10 and I-2 due to increased demand for commercial uses of the property and declining industrial demand.

Summary: This application to rezone the property is in pursuit of removing the conflict between the property’s current C-10 and I-2 zoning. This is compliant with the comprehensive plan as it will allow more permitted uses under the land use table that are consistent with the property’s current designation of “Convenience Commercial.”

There was no opposition at the Planning Commission meeting. The Commission voted 9-0 to recommend passage.

RECOMMENDATION AND FINDINGS:

Staff recommends approval for the following reasons:

1. The rezoning is consistent with the future land use map which places this property in a “Convenience Commercial” area and the proposed uniform C-10 designation would further development in that direction.
2. The rezoning will remove the bifurcation of the property between two zoning designations.
3. Council has approved similar I-2 to C-10 rezoning in this area in the past.

Motion and Vote: A motion was made by Becky Ceperley, seconded by Brady Campbell and the Committee voted unanimously 5-0 to approve Bill No. 7951.

Bill No. 7952 amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-6 district to a C-10 district, that certain lot of land situate at 6600 MacCorkle Avenue SE, Charleston, WV 25304.

Dan presented the staff analysis:

STANDARD OF REVIEW:

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Committee's role is to review the Planning Commission's decision and forward a recommendation to City Council for final action. The Committee should determine if the request is spot zoning and if it is consistent with the Comprehensive Plan. A rezoning is considered spot zoning when all the following factors are present: A small parcel of land is singled out for special and privileged treatment; The singling out is not in the public interest but only for the benefit of the landowner; the action is not in accordance with the comprehensive plan. If a request is inconsistent with the comprehensive plan, the committee should consider if the original zoning classification was in error, or if the character of the area has changed significantly since the adoption of the comprehensive plan. Proposed uses should be treated with care, because once rezoned, any use that is permitted within the district would be permitted 'by right' with no review by the Committee.

HISTORY:

The property in question is currently zoned R-6 and situated in a residential neighborhood referred to as "East Kanawha Estates." Despite its residential designation the property has been used for numerous commercial activities alongside serving as rental housing and has been understood by some residents to be "grandfathered in" to the surrounding residential neighborhood. The petitioner is seeking a C-10 designation to bring the property into compliance with its current use as rental property and a headquarters to his tree management/contracting business.

ANALYSIS:

Existing Land Use and Zoning: The property is zoned R-6 Medium Density Residential District and is a multi-use commercial and rental residential structure.

Surrounding Land Use and Zoning: The surrounding areas are either zoned R-6 on the eastern side of MacCorkle Ave SE and C-10 on the opposite side.

Current Zoning: The R-6 district allows for single and multi-family housing and - as a conditional use - bed and breakfasts, educational institutions, community centers, museums, nursing homes, and restricted accessory parking, among others. It does not allow for any of

the structure's past or present commercial uses either "by right" or by approved conditional use.

Proposed Zoning: The C-10 designation allows for the continued use of the property as rental housing but would allow for the current commercial use that owner has located there.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates the property as being in a "Traditional/Core Neighborhood", which is described as "predominantly single-family" in character with a focus on smaller lots developed in the 19th century to today. The description also includes flexibility for the inclusion of duplexes, triplexes, or smaller multi-family units, but strongly discourages larger multi-family development, except for townhomes in a transition area.

In its current state, the property does not conform to the future land use plan for "Traditional/Core Neighborhood." However, the area on both sides of MacCorkle Avenue SE, as it intersects with 66th Street, also incorporates an area of "Convenience Commercial", which is defined to be an area that is primarily auto-focused and is used to be a commercial area consisting of small to medium-sized businesses that are more sensitive to neighboring context. Being at the boundary of the two land use areas, this rezoning would effectively just moving the property from one side of the transition to the other.

However, there is the concern of future commercial development surrounded by residential homes, given that future permitted uses granted under a C-10 designation are "by right" unless further rezoning occurs.

Summary: This application to rezone the property is in pursuit of bringing the property into compliance with current zoning laws as it is being used as both rental property and a commercial business site by changing its zoning designation from R-6 to C-10. While this does not strictly conform with the future "Traditional/Core Neighborhood" land use for the property, its being immediately adjacent to a large C-10 "Convenience Commercial" land use area would potentially allow it to be seen as a minor expansion that would allow the continued use of an existing non-residential structure. However, an argument for this being an example of spot rezoning could be made. Neighbors have concerns about future uses of the property under the C-10 zoning regulations. The C-4 designation is a better transitional zoning designation and will still allow reasonable reuse of the property. Therefore, the Planning Commission amended the rezoning from C-10 to C-4.

At the Planning Commission meeting, there was opposition to the proposed C-10 zoning. However, most felt that C-4 zoning is more palatable. Staff feels the C-4 designation is fair and just and is the minimum designation that will keep the property viable.

The Planning Commission voted 9-0 to approve the rezoning as a committee substitute to C-4 zoning.

RECOMMENDATION AND FINDINGS:

The Planning Department recommends approval of the Committee Substitute for the following reasons:

1. The rezoning is a minor expansion of the "Convenience Commercial" Land Use Designation.

2. The rezoning will allow the continued use of a long-existing, non-residential structure.
3. The C-4 designation is most restrictive designation that will keep the property viable.

Motion and Vote: A motion was made by Brady Campbell, seconded by Becky Ceperley and the Committee voted unanimously 5-0 to approve Bill No. 7952.

Bill No. 7953 accepting for dedication the entirety of Centre Court Road.

STANDARD OF REVIEW:

The Commission is to review the dedication request to ensure compliance with the Subdivision Regulations. The City Engineer may require a street maintenance bond to cover areas of concern. City Council takes final action on the request.

HISTORY:

The road was built by Dennison Land and Development, LLC as part of the 36 lot Centre Court Village subdivision and was approved for naming in 2000. The subdivision's easternmost lots have remained undeveloped and there is no foreseeable plan for future development given current market conditions. Additionally, in the intervening 22 years, Dennison Land has invested over \$40,000 in addressing CSB concerns that have arisen since the road's initial construction.

ANALYSIS:

A street will not be considered for dedication until a minimum of eighty percent (80%) of all the approved parcels with frontage on the proposed street to be dedicated have been developed with structures approved by the City. The driveways connecting to the street to be dedicated shall have approved drainage facilities as required by the City Engineer. The street shall not exceed the maximum allowed street grade as specified in this Ordinance, shall meet the minimum street width paving requirements as outlined in this Ordinance, shall connect to an existing City street or State road, shall be paved to specifications as outlined in this Ordinance, and dead-end streets shall have a turnaround as outlined in this Ordinance.

As mentioned above, Centre Court Road has been in a stable configuration with no major construction for a number of years and there are no further plans for development. The intent of the 80% occupancy requirement is to ensure that no further development that create significant wear and tear would occur after the dedication and, therefore, pass on substantial maintenance and repair costs to the city. While the development sits at roughly 61% occupancy, the long-concluded development of the subdivision would seemingly address the concerns addressed by the 80% requirement. Otherwise, Centre Court Road meets the other requirements necessary for dedication, absent any further objection or concern from the City Engineer or other municipal entity.

The Planning Commission voted 9-0 to recommend passage if the street dedication.

RECOMMENDATION AND FINDINGS:

The Planning Department recommends approval for the following reasons:

1. Dennison Land has made substantial investments to address the concerns raised by the City that have arisen in the intervening 21 years since the road was named, which also addresses the concern for exposing the City to future maintenance costs after dedication; and
2. Centre Court Road conforms with all other requirements for dedication.

Motion and Vote: A motion was made by Becky Ceperley, seconded by Bobby Haas and the Committee voted unanimously 5-0 to approve Bill No. 7953.

4. Discussion

Adding a loading zone on Washington Street, West in front of Bream Church.

Terri Allen presented the request.

Motion and Vote: A motion was made by Becky Ceperley, seconded by Bobby Haas and the Committee voted unanimously 5-0 to in favor of adding a loading zone on Washington Street, West, in front of Bream Church.

Becky Ceperley brought up a discussion concerning the City's plans for sidewalk maintenance.

5. Approval of the Minutes of the February 28, 2022, meeting

Motion and Vote: A motion was made by Becky Ceperley, seconded by Bobby Haas and the Committee voted unanimously 5-0 to approve the minutes of the February 28, 2022 meeting.

6. Adjournment