



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, April 6, 2022
3:00 P.M.

Members Present

Mary Beth Hoover
JoEllen Zacks – via phone
Adam Krason
Alice Hypes
Shannon Ferrari
Justin Marlow
Cory Stout
Terri Allen, Mayor's Designee
Lisa Fischer-Casto

Members Absent

Aric Margolis
Margo Teeter
Terry Pickett
Quintie Smith
Shawn Taylor
J. D. Stricklen, Kanawha Co Rep
Deanna McKinney

Staff Present

Dan Vriendt
Lori Brannon
Chad Webb

Call to Order – Mary Beth Hoover

1. Unfinished Business

2. New Business

Preliminary and Final Subdivision - Application of J.D. Stricklen, requesting preliminary and final subdivision approval and a variance to subdivision regulations to create seven (7) lots located at 1258-1268 Oakhurst Drive, Charleston, West Virginia

Applicant, J. D. Stricklen, presented his request for the preliminary and final subdivision approval and variance as the owner and developer of property located at 1258-1268 Oakhurst Drive. After this matter was heard, a motion taken, and the Commission voted on it, J. D. Stricklen left the meeting.

Chad Webb presented the Planning Department's staff notes.

STANDARD OF REVIEW: The Commission is to review the plat to ensure conformity with the subdivision regulations and the comprehensive plan. The Commission shall also review the infrastructure to ensure that it can handle the proposed development. The

City, at its discretion, may require a bond in lieu of any unfinished work. The Commission's quasi-judicial decision is final.

ANALYSIS:

The petitioner is requesting preliminary and final subdivision approval at the same time. The request is to divide an apartment development currently in construction into 7 lots in order to sell them as townhomes instead of renting them out as housing units. In addition, the petitioner is requesting a modification to the subdivision regulations relating to the minimum lot depth and depth to width ratio. The Commission is the only entity that can grant modifications, therefore the request must come before the Commission. The property is located on Oakhurst Drive, right after it splits off of Eureka Drive at the intersection with Corridor G. The lots will intersect with the public road. The petitioner has agreed to comply with all requirements set forth in the Subdivision Regulations and any further stipulations set forth by the relevant municipal authorities.

RECOMMENDATION AND FINDINGS:

Staff recommends approval, including the modification request, for the following reasons:

1. The new and existing infrastructure will be able to handle the development; and
2. The request meets the Subdivision Regulations with the exception of Sections 4-050(B)(5)(a)&(b), pending approval of the variance granted by the Board of Zoning Appeals.

No one from the public was in attendance to speak in favor of or in opposition to the request for preliminary and final subdivision approval and variance at 1258-1268 Oakhurst Drive.

Questions were taken from the Commission.

MOTION AND VOTE

On the motion of Adam Krason, seconded by Cory Stout, the Commission voted unanimously, 9-0, to approve the preliminary and final subdivision, including the modification request.

Rezoning: 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.

Matt Kingrey presented the request for the rezoning Bill No 7951 on behalf of the applicant, Shop-A-Minit Market Partnership.

Chad Webb presented the Planning Department's staff notes.

STANDARD OF REVIEW:

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Commission's role is to make a recommendation to Planning Committee with final action being at City Council. The Commission 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 commission 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 Commission.

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 nor 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."

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.

No one present to speak in favor of or in opposition to the rezoning.

Questions were taken from the Commission.

MOTION AND VOTE

On the motion of Adam Krason, seconded by Shannon Ferrari, the Commission voted unanimously, 9-0, to approve Bill No. 7951.

Rezoning: 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.

Applicant, Kevin Serrat, presented his request for the rezoning Bill No. 7952.

Chad Webb presented the Planning Department's staff notes.

STANDARD OF REVIEW:

A rezoning is a change to the zoning map, which requires a legislative decision. Therefore, the Commission's role is to make a recommendation to Planning Committee with final action being at City Council. The Commission 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 commission 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 Commission.

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. Additionally, there are future concerns about the rezoning permitting further commercial development in an area that is traditionally residential.

RECOMMENDATION AND FINDINGS:

Staff recommends approval 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. However, in the alternative, if the MPC weighs the concerns of future commercial uses allowed by right on the newly rezoned area more heavily than the basis for our recommendations, we would suggest considering a less broad rezoning to C-4. This would allow for the current tree/contracting business while greatly reducing future commercial development opportunities.

Pam Burka, a 34-year resident of this area, voiced concerns, not necessarily opposition, on behalf of herself and other residents regarding the rezoning. Basically, Ms. Burka and the other residents were in favor of the C-4 rezoning.

Billy Linville, a 28-year resident of the 6600 block of Roosevelt Avenue in Kanawha City, spoke in opposition to the rezoning, primarily due to the permitted sales of alcoholic beverages and medicinal marijuana.

Questions were taken from the Commission.

Councilman Bobby Brown voiced his concerns regarding this matter. He is satisfied with a C-4 rezoning, although he adamantly opposed the potential for the future sale of medicinal or legalized marijuana by another business, in the event Mr. Serrat would sale or move.

Common Grounds, an outreach program that provides meals, will remain located in the same building. Mr. Serrat would have his business on the top floor.

Ruth Mullons, a resident of this area, voiced her concerns in regard to the traffic generated by a C-4 rezoning and the impact it would have on the immediate neighborhood should Mr. Serrat sale, move or go out of business.

Mr. Serratt presented his rebuttal to the opposition voiced against the rezoning of Bill No. 7952.

MOTION AND VOTE

On the motion of Adam Krason, seconded by Shannon Ferrari, the Commission voted unanimously, 9-0, to approve Bill No. 7952 as a C-4 rezoning.

3. Other Items

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

Applicant Larry Dennison, owner of Dennison Land and Development, presented his request for Bill No. 7953.

Dan Vriendt presented the Planning Department's staff notes.

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 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.

RECOMMENDATION AND FINDINGS:

The Planning Department recommends approval for the following reasons:

1. The Centre Court Subdivision that Centre Court Road runs through has long concluded development and has no future plans to restart, thus addressing the primary concern that is the primary policy motivation behind the 80% occupancy requirement;

2. 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
3. Centre Court Road conforms with all other requirements for dedication.

There was no one present at the meeting to speak in favor of or in opposition to Bill No. 953.

Questions from the Commission were addressed by the staff.

MOTION AND VOTE

On the motion of Cory Stout, seconded by Lisa-Fischer-Casto, the Commission voted unanimously, 9-0, to approve Bill No. 7953.

2021 Annual Report – Presentation and Discussion

4. Approval of Minutes of the February 9, 2022, MPC meeting

MOTION AND VOTE

Motion was made and seconded and the Commission voted unanimously, 9-0, to approve the Minutes of the February 9, 2022 MPC meeting.

5. Announcements

6. Adjournment