



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, October 5, 2022
3:00 p.m.

Agenda

- 1. Call to Order**
- 2. Unfinished Business**
- 3. New Business**

Rezoning: Bill No. 7975 - A Bill 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 a C-4 district to a C-10 district, that certain lot or parcel of land located at 3406 Chesterfield Ave in the City of Charleston, Kanawha County, State of West Virginia, by petitioner Scott Martin.

Rezoning: Bill No. 7974 - A Bill to name a public alley, located between the opening that begins at Mountain Rd between 1339 and 1337 Mountain Rd and terminates between 1339 and 1321 Mountain Rd., as Ivory Lane henceforth.

- 4. Minutes of the September 7, 2022 MPC meeting**
- 5. Announcements**
- 6. Review of Rules of Procedure and Policy**
- 7. Adjournment**

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

Bill No. 7975

Introduced in Council

Passed by Council

October 3, 2022

Introduced By

Chad Robinson

Referred To:

Municipal Planning Committee
Planning, Streets, and Traffic

Bill No. 7975 - A Bill 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 a C-4 district to a C-10 district, that certain lot or parcel of land located at 3406 Chesterfield Ave in the City of Charleston, Kanawha County, State of West Virginia, by petitioner Scott Martin.

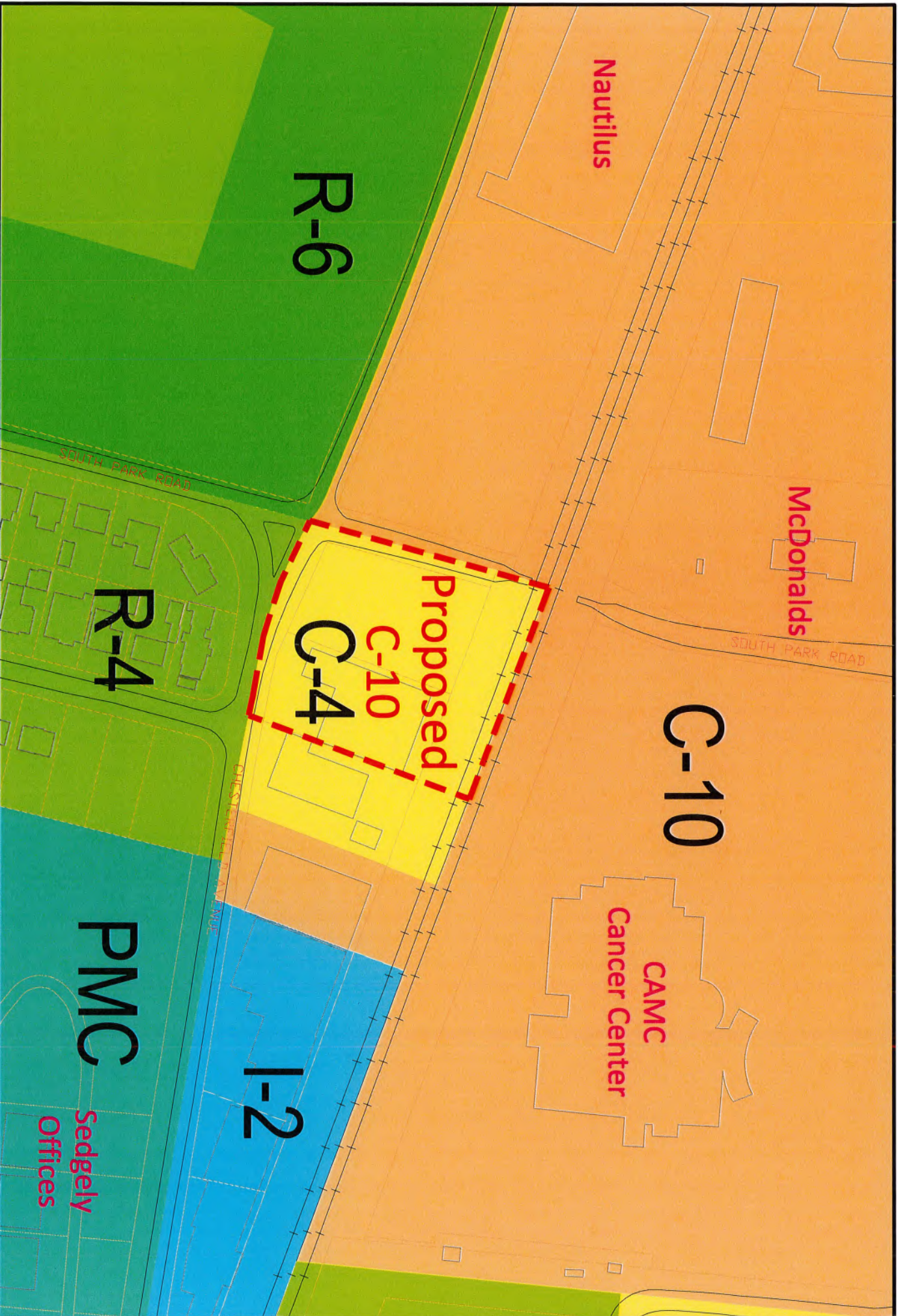
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA THAT:

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21st day of November, 2005, as amended, is hereby amended by rezoning from a R-4 district to a R-O district the whole of the following described lot or parcel of land:

Parcel No. 1 as shown upon Kanawha City Tax Map 23. Subject Parcel commonly known as 3406 Chesterfield Ave, West Virginia. Said tax map is of record in the Planning Office.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 29 of this ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are hereby repealed to the extent of said inconsistency.



REZONING FROM C-4 TO C-10

STAFF
EXHIBIT

Scott Martin DBA Tristate Stoneworks

3406 Chesterfield Ave

Charleston WV 25304

RE: Tristate Stoneworks Rezoning to C10

Tax Map and Parcel:

13 2300010000

City Council Members:

This Letter is to justify the reasoning behind why we think the rezoning of 3406 Chesterfield Ave. (Tristate Stoneworks) should be approved from zone C4 to C10. I Scott Martin owner of Tristate Stoneworks and owner of the property mentioned would like to start with I opened this business in 2017 from the ground up starting with absolutely nothing at all. Tristate Stoneworks builds and distributes granite, quartz, quartzite and marble countertops, along with selling and installing cabinets. We are a family owned and operated business. We take pride in all the work we do. Being able to buy a building in the city of Charleston was a huge step in our company's future. The opportunity to have a large outdoor showroom of stone for our customers to be able to pick the exact stone for their project is a huge step in the countertop process. Without being rezoned to a C10 we won't be able to have the indoor operating facility to be able to fabricate the stone. We are working hard to meet all the requirements and comply with the city of Charleston and ensure that we are following of the guidelines. We are one of the only lots that are not a C-10 on this block. Safety measures have been taken to ensure safety of the outside stone yard by having a fence installed completely around the property that is continuously locked during non-business hours.

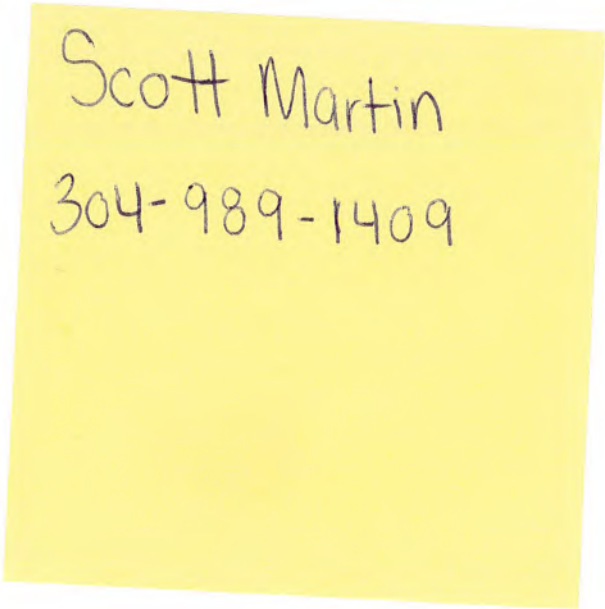
In conclusion I urge you to vote yes on this rezoning because we would love to be able to keep bringing jobs into Charleston and suppling the people of Charleston the goods of our services. We hope that you carefully consider the rezoning of 3406 Chesterfield Ave from a C4 to a C10 so that we can continue to grow our small business and to keep our outdoor slab yard. I love our city and would love to be able to continue operating within city limits.

A map of the property has been attached.

Sincerely,



Scott W Martin



Scott Martin
304-989-1409

Municipal Planning Commission

Checklist for Application for Rezoning

MPC Hearing Date: _____

Bill #: _____

Applicant Information	Property Information
Name: Scott Martin DBA Tristate Stoneworks	Address: 3406 Chesterfield Ave Chas. WV 25304
Address: 2185 Four Mile Rd Chas. WV 25312	Tax Map and Parcel: 13 2300010000
Phone: 304-989-1409	Zoning District: C4
Agents Name, Address, Phone (If other than Applicant):	Property Owner and Mailing Address: (if other than applicant)

IMPORTANT: This application must be typed or legibly printed and filed by the filing deadline with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application: 1) a petition to rezone using the format in the sample provided; 2) a Bill sponsored by a member of Charleston City Council using the format of the sample provided; 3) a map of the area proposed for rezoning, drawn to scale; 4) a list of the owners, with their mailing addresses, of the properties within a 250 foot radius of the property for which the rezoning is being sought; 5) \$125.00 filing fee in the form of a check or money order made payable to the City of Charleston. In addition, you or your representative must be present at the scheduled public hearing in order to present your request and answer questions. THE PLANNING DEPARTMENT WILL NOT ACCEPT ANY INCOMPLETE APPLICATIONS.

PETITION

The following items shall be included in the petition which shall be filed in the format of the attached sample:

Section I

1. Statement of petitioner's identity as contract purchaser, agent or owner.
2. Property Address including Kanawha County Tax map and Parcel No.

Section II

1. Description of the use for which a rezoning is being requested and specific district being requested.

Section III

1. Applicable Sections of the Zoning Ordinance.
2. Statement of compliance with the City of Charleston Comprehensive and Neighborhood Plans.
3. If applicable, justification for a variance from the City of Charleston Comprehensive Plan and Neighborhood Plans.

Section IV

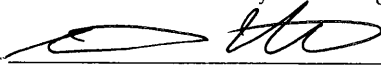
1. Statement of sponsorship of the Bill to Rezone by a member of City Council.
2. Statement of inclusion of a list of all property owners within 250 of the subject property.
3. Statement that the subject property is shown on a map of the subject property that is attached.
4. \$125.00 filing fee.

BILL

The following items shall be included in the Bill submitted along with the above petition:

1. Name of sponsoring member of City Council
2. Bill filed electronically with the Planning Department in the exact format shown on the attached sample Bill.

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.



Signature

8-29-2022

Date

Zoning Map

Web Map Application

This application can be used to determine what zoning district property lies within. Please note the map is subject to change pending the approval of further rezonings. This application can be accessed from a smartphone, tablet, and desktop computer.

How to Use this App:

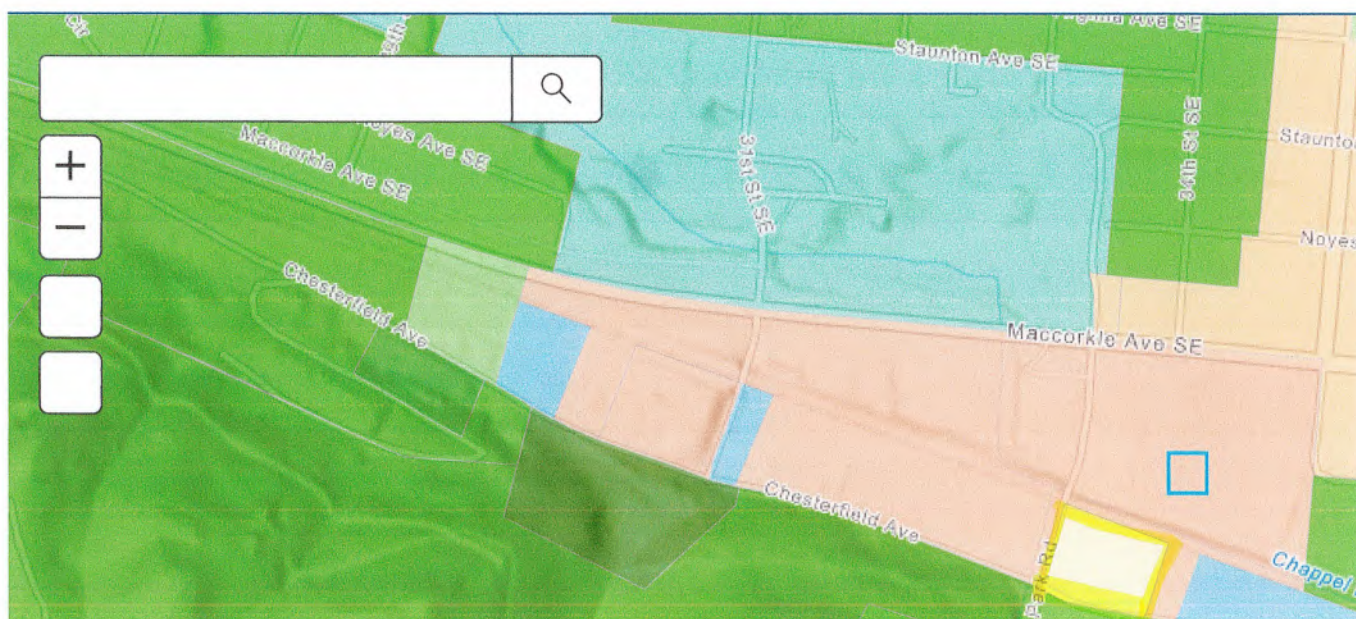
There are two methods available for identifying your Elected Representatives:

Use the Address Search bar in upper left corner. Enter full address to make sure it locates within Ward Boundaries. (Ex. 501 Virginia St E, Charleston, WV 25301)

Click anywhere within the Ward boundaries on the map. The map will lookup representatives for that location.

Switch To Full Page View (<https://gisweb.cityofcharleston.org/planning/ZOmap.html>)

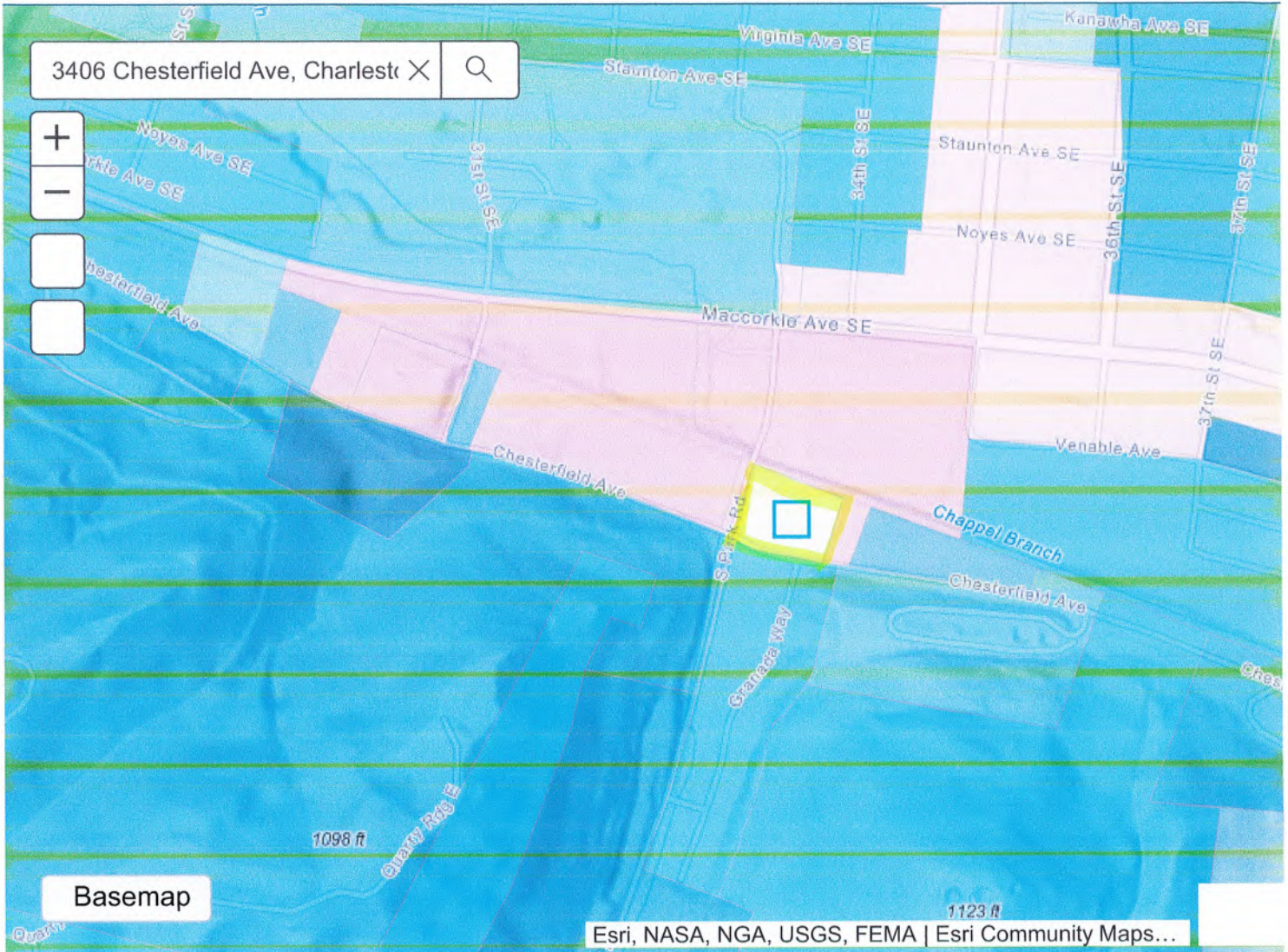
Zoning Ordinance Web Map App



Type

Maps (</index.php/taxonomy/term/46>)

Zoning Ordinance Web Map App





Property Type is 'Residential'
Status is one of 'Active', 'Contingent'
Latitude, Longitude is within 10.00 mi of Browser Location
Street Number Search is 3406
Ordered by Status, Current Price descending
Found 0 results in 0.02 seconds.

Bill No. 7974

Introduced in Council

Passed by Council

October 5, 2022

Introduced By

Joseph Jenkins

Referred To:

**Municipal Planning Committee
Planning, Streets, and Traffic**

Bill No. 7974 A Bill to name a public alley, located between the opening that begins at Mountain Rd between 1339 and 1337 Mountain Rd and terminates between 1339 and 1321 Mountain Rd., as Ivory Lane henceforth.

WHEREAS, the E911 Addressing Regulations require access roads to have unique street names for emergency services purposes and postal delivery purposes; and

WHEREAS, the Article IV of Chapter 102 requires the Municipal Planning Commission to recommend to the City Council a name for any proposed new street or public way.

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

1. The Traffic Control Map is hereby amended by naming a certain public alley between the opening that begins at Mountain Rd between 1339 and 1337 Mountain Rd and the terminus between 1339 and 1321 Mountain Rd as Ivory Lane henceforth. The drive is shown on Exhibit 1.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 29 of this ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are hereby repealed to the extent of said inconsistency.

Municipal Planning Commission
Application for Street Naming



MPC Hearing Date: _____

SND No: _____

Applicant Information	Street Information
Name: <u>Paul & Marsha Boddy</u>	Proposed Street Name: <u>Ivory Lane</u>
Address: <u>1323 Mountain Rd, Charleston WV</u>	Subdivision Name: _____
Phone: <u>304-550-5243</u>	☐ Private Street or ☒ Public Street
Agents Name, Address, Phone (If other than Applicant): _____	☒ New Street Naming or a ☐ Street Renaming:
	Location Description: _____

IMPORTANT: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions. THE PLANNING DEPARTMENT WILL NOT ACCEPT ANY INCOMPLETE APPLICATIONS.

The following supporting documentation must be submitted with this application:

- ☒ A petition containing the signatures of at least 80% of the owners of the land abutting the subject road;
- ☒ A map which clearly delineates the street to be named;
- ☒ A filing fee of \$125.00; and
- ☐ Any additional information, including photographs, elevations, testimonials or other documentation, which may support your application

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Paul Boddy
Signature

9/10/22
Date

E911 Addressing Coordinator

The E911 Addressing Coordinator will work with abutting landowners when naming or changing a street name for the purpose of bringing the name into compliance with the E911 Addressing Regulations. However, a petition containing 80% of the owner's signatures shall not be required.

All street naming applications should first be presented to the Planning Commission, which will provide a recommendation to Council. A resolution will then be placed on the agenda for the Planning/Streets and Traffic Committee to consider that includes the Planning Commission's recommendation and the street naming application as an exhibit.

Guidance to be considered by Council and the Planning Commission

The following standards should be adhered to when naming or renaming roads:

1. Avoid duplicate road names in the county.
2. Avoid duplicate road names with different suffixes, such as PINE RD and PINE LN.
3. Avoid sound-alike names. For example: BEECH and BEACH, MAINE and MAIN, GREY AND GRAY.
4. Avoid the use of non-standard street name suffixes in residential areas that may be confused with commercial developments. For example: STONEWALL PLZ, SMITH CTR.
5. Avoid using double suffixes in new street names. For example: TWIN BRANCH LN, CARVER RUN RD.
6. Avoid using numbers or numbered streets. For example: US HIGHWAY 290, 1ST ST, THIRD AVE.
7. Avoid names of living persons.
8. Avoid special characters in street names. For example: hyphens, apostrophes, periods, and ampersands (&).
9. Avoid the use of pre- or post-directionals or suffixes to distinguish separate non-continuous or continuous streets. For example: PALM CT, N PALM CT, PALM ST, PALM AVE.
10. Avoid road names longer than 18 characters (including spaces, pre- and post-directionals, and suffixes).
11. Avoid assignment of a primary street name that is also used as a standard suffix or directional. For example: NORTH AVE, COURT ST, SOUTHEAST BLVD.
12. If a road is continuous, try not to change the road name. If the name must change, then do so at an intersection or prominent landmark, rather than at a curve or some other arbitrary point.
13. All road names should use a suffix. For a complete list of approved suffixes, see the enclosed standards.
14. The suffix should be representative of the road type. For example: Circle is a short road that returns to itself. Lane is fire road or private road. Loop is short drive that begins and ends on the same road. Road is most common designation for a secondary thoroughfare; generally indicates a heavily traveled route. Street = Usually found in downtown or more congested areas.
15. If a directional (pre or post) is used in a road name, it should be abbreviated to avoid potential confusion with the road name. Approved directional abbreviations are: N, S, E, W, NE, NW, SE, and SW.

Council reserves the right to approve or deny any street name for any reason.

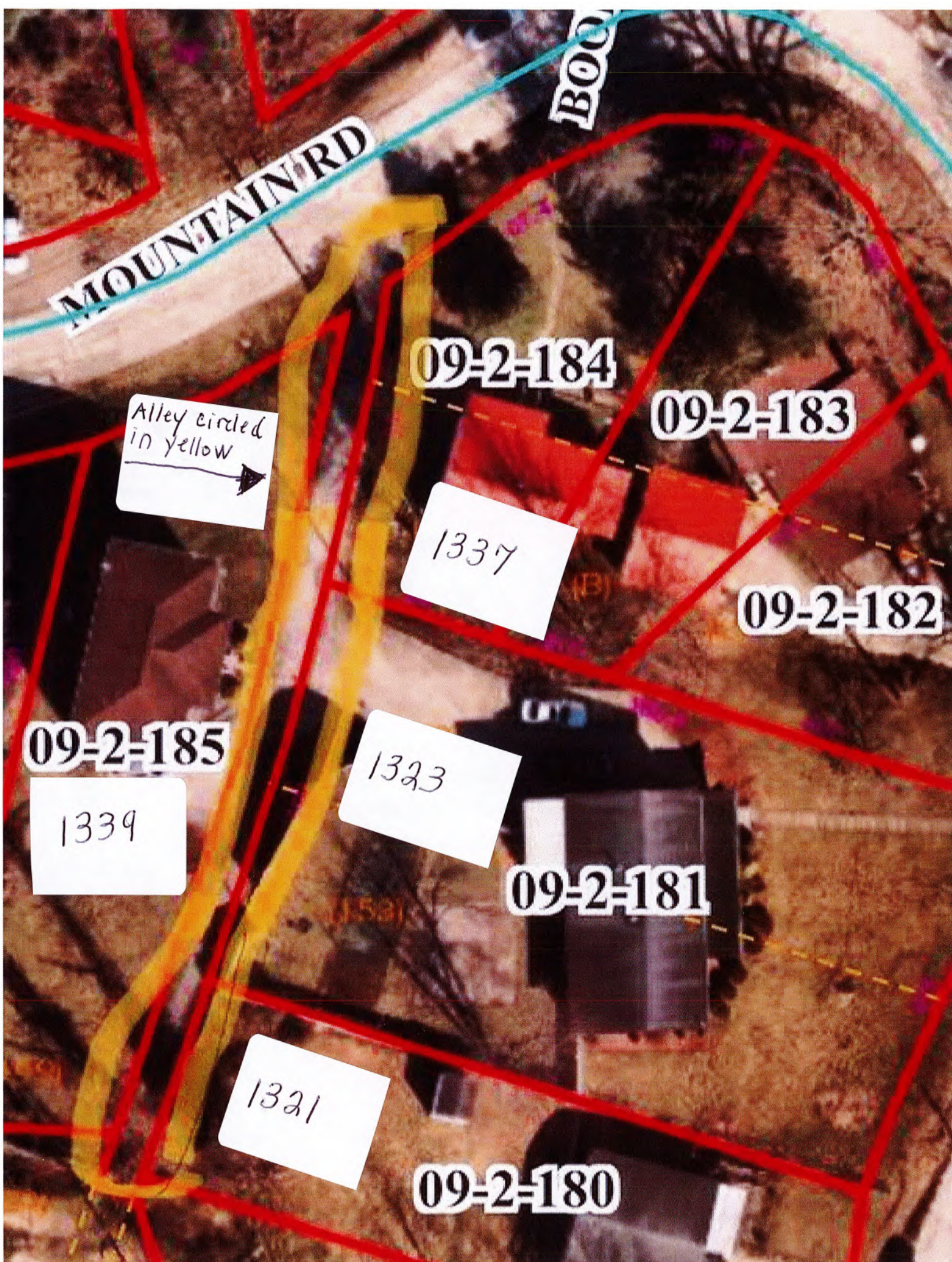
ROAD NAME SUFFIXES FOR NEW ROADS

ALLEY	ALY	EXTENSION	EXT	SPUR	SPUR
AVENUE	AVE	FREEWAY	FWY	STREET	ST
BOULEVARD	BLVD	HIGHWAY	HWY	TERRACE	TER
BYPASS	BYP	LANE	LN	TURNPIKE	TPKE
CIRCLE	CIR	LOOP	LOOP	WAY	WAY
DRIVE	DR	PARKWAY	PKWY		
EXPRESSWAY	EXPY	ROAD	RD		

Petition

Petition Summary: We are in support of naming the alley that adjoins our properties to Ivory Lane.

Date	Signature	Printed Name	Address	Comment
9/9/22	Paul Boddy	Paul Boddy	1323 Mountain Road Charleston WV 25303	
9/10/22	Jason Booker	Jason Booker	1337 Mountain Road Charleston WV 25303	
9/9/22	Lorraine R. Smith	Lorraine Smith	1321 Mountain Road Charleston WV 25303	I, Jason Booker the right of Ivory Lane Travelling thru the alley (and,
9-10-2022	Don-Twa: Walt	Don Staples	1339 Mountain Road Charleston WV 25303	



MOUNTAIN RD

BOO

09-2-184

09-2-183

Alley circled
in yellow

1337

09-2-182

09-2-185

1323

1339

09-2-181

1321

09-2-180



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, September 7, 2022
3:00 P.M.

Members Present

Quintie Smith, Acting Chair
Margo Teeter
Mary Beth Hoover
Adam Krason
JoEllen Zachs
Alice Hypes
Shannon Ferrari
Shawn Taylor
Justin Marlow
Lisa Fischer-Casto (late arrived during staff notes for Bill 7963)
Deanna McKinney
J.D. Stricklen, Kanawha County Representative

Members Absent

Terry Pickett

Staff Present

Dan Vriendt
Chad Webb

Public Present

Mitchell Rashid (Rezoning Bill No. 7963)
Aric Margolis (Rezoning Bill No. 7963)
Will Roberts & Christy Roberts (Rezoning Bill No. 7969)
Drew Larent w/ Carpenter Marty (Rezoning Bill No. 7969)
Kent Walker (Adjacent Neighbor)
Rudy Cambell (in support of Bill No. 7969)
Jerry Walters (Alter Road – supports Bill No. 7969)
Emmitt Pepper (in support of Bill No. 7969)
Gener Walker (supports Bill No. 7969)
Opal Pauley (against Bill No. 7969)
Nancy Coboy (898 Sherwood Road)
Robert Caldwell (Longridge Road)
Richard Ellis (against)

1. Call to Order

2. Unfinished Business

Rezoning: Bill No. 7963, Committee Substitute - Committee Substitute - A Bill 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 a R-4 district to a C-10 district, portions of Lots 5 and 6 of Block 37 located at 501 Patrick Street in the City of Charleston, Kanawha County, State of West Virginia, owned by C W PROPERTIES LLC and petitioned for by Mitch Rashid.

Mitchell Rashid, applicant, of 1230 Staunton Road, Charleston, West Virginia, addressed the Committee in regard to his request, as set forth in Bill No. 7963, for the proposed use of an athletic youth sports training facility.

A resident from 1711 Camp Avenue, whose residence is located directly behind the subject property, inquired as to whether or not there were any plans for this project. This resident asked the applicant if he had plans for the subject project. The applicant replied that he had artistic renditions, but I do not any structural plans. The resident asked the applicant is he was going to building the back zone up, since it is in a flood zone. The resident asked the applicant is he intended to take the entire area. The applicant said he did not intend to take all of it. The resident asked the applicant if he knew this area had a city center and heavy traffic between 5th and 7th. The resident asked applicant what the age group for the youth was. The resident further noted that 7th Avenue is across from the Schoenbaum Center. That is a busy place. The resident asked what control would be in place as the children run in and out of the facility. You have no control unless someone is out there guarding them. A member of the Planning Commission explained to this resident that the MPC is not looking at anything but the zoning of the property. The Commission understands this resident's concern and intend to take every precaution that they can with traffic. The resident replied that the only place pick-ups and drop-offs can take place would be in the alley, not 7th Avenue or 5th Avenue.

A member of the Commission informed the resident that, after they consider how the property is going to be used, the applicant will apply for a building permit and they will make sure that there is adequate parking, all the traffic requirements. As much as the traffic is definitely a concern, that's outside the scope of this meeting. The Chair noted that the parents will drop their children off in the parking lot and pick them up. Perhaps a fence would keep people off Patrick Street. It's not going to be as though they are dropping them off on Patrick Street and going in.

The resident asked when the plans would be coming forth. He would like to see them. The Chair informed him the MPC is only looking at one aspect and that is changing the districting for the subject property from R-4 to C-10. The resident has one more opportunity to be heard in this matter and that is when the Bill No. 7963 goes before City Council. The Chair recommended this resident contact his city council representative to know when this bill goes before City Council.

Mitchell Rashid, the applicant, addressed the previous concerns expressed by the resident on Kemp Avenue. Where the flood is concerned, the applicant had a survey engineer look at everything and had it sent off to FEMA. It should not be any impact on the flood zone from any other property.

Chad Webb presented the staff notes:

APPLICABLE CODE:

Charleston Zoning Ordinance, adopted November 21, 2005, Article 28-030

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.

HISTORY:

The parcels in question are currently zoned R-4. Petitioner Rashid has combined these lots through subdivision with other adjacent lots directly on Patrick Street in order to create a commercially viable property. In its current form, the subdivided property is partially zoned R-4 and C-10.

ANALYSIS:

Existing Land Use and Zoning: The property is zoned R-6 Medium Density Residential District and is a single-family home.

Surrounding Land Use and Zoning: The surrounding areas include single family residential, CAMC's Gastroenterology and LabWorks facilities, a multi-unit apartment complex, and a restaurant. This area has a mixture of R-6, R-8, R-O, C-10, and I-2 zoning designations.

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.

Proposed Zoning: The R-O designation would allow for the same conditional use for the parcel as restricted accessory parking for the adjoining CAMC facility as it currently has but would allow for further office development.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates the property as being at the confluence of a "Suburban Neighborhood," which is defined as an area predominately meant for new single family home development outside the city's historic core while utilizing subdivisions and curvilinear streets to delineate it from more grid-based traditional core housing, and "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. Effectively, this rezoning would move the property from being primarily aligned with former and more in line with the latter.

Summary: This application to rezone the property is in pursuit of removing the conflict between R-6 and R-O zoning in the donut whole that was created with the current zoning. This is compliant with the comprehensive plan as it will create a larger buffer between the suburban and commercial areas that border this property.

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 at the transition area from "Suburban Neighborhood" to "Convenience Commercial".
2. The rezoning will remove the presence of the donut hole that has been created in the middle of the surrounding R-O properties.
3. The rezoning brings about a better buffer between suburban and commercial zones in this area.

MOTION AND VOTE: Adam Krason made a motion to approve Bill No. 7963, the motion was seconded by Deanna McKinney and passed by a vote of 12-0-1. (Margo Teeter abstaining).

3. New Business

Rezoning: Bill No. 7969 - A Bill 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 a R-4 district to a R-O district, that certain lot or parcel of land located at 280 Oakwood Road in the City of Charleston, Kanawha County, State of West Virginia, owned by Will Robinson and Benjamin Embrey.

Will Roberts and his wife, Christy, presented the commission with their request. We currently reside in the South Hill's community and are frequent travelers of Oakwood Road. The applicants and his wife plan to relocate one pediatric office to this property.

Will Roberts and Christy Roberts appreciates the process the city has to even consider our request, and like others, Applicant appreciates the questions the commission has given us. The endeavor to adequately discuss them in advance of our discussion today. Furthermore, we appreciate the process of allowing citizens to voice his or her concerns, whether founded or unfounded, citizens' participation is the key and appropriate avenue as we all try to advance the City of Charleston forward.

The applicant brought attention to the following facts as it relates to Oakwood Road, within a 2-mile radius of 280 Oakwood Road:

- There are currently no fewer than 10 medical practices.
- While travelling East on Oakwood Road from Corridor G, there are no further than 30 non-residential dwellings and associated non-single resident dwellings.
- Across Corridor G and within a 2-mile radius of 280 Oakwood Road, a Dunkin Donuts is currently being constructed.
- There is a One Stop gas station
- Kroger's gas station
- Fruth Pharmacy
- Oakwood Center
- New Storage Units being constructed.

The request before you today is not navigating a new frontier or one, quite frankly, that should be controversial. Medical offices are a necessity in a thriving community and currently exist in the previous examples that I previous cited. We engaged an independent and objective engineering firm from Columbus, Ohio, which has offices in Charleston as well. They arrived at the following summary conclusions:

- Site traffic from this location has a negligible impact on US 119 and the Oakwood Road intersection as noted within the report.
- The site access shown in the site plan is the recommended one and the site access provides 200' of visibility at each direction coming off that property.
- The driveway entrance and exits aligns with the DOH.
- The traffic engineer firm recommended no improvements for this development.

As noted within the city Zoning Ordinance, the purpose of the R-O residential office district is to provide opportunities for non-retail commercial offices in areas that are transitioned from neighborhoods to more intensive districts. Regulate new construction in this area, which is within a scale of the surrounding environments, which I previously mentioned.

The request of zoning modification is consistent with the city's neighborhood plan for the South Hills and Corridor G and, as particularly noted therein, focus on a redevelopment of older sections that need to be re-developed to attract quality retailers and continue to strengthen the business noted therein.

Christy Roberts then addressed the commission with her request for Bill No. 7969. Ms. Robinson is a pediatrician in Charleston. She has worked in Charleston since completing her residence 12 years ago and opened Capital City Pediatrics in 2017 and she is the sole physician of that practice. She has two part-time nurse practitioners. The hours of operation are 8:30 – 4:30, generally seeing 25-50 people max a day. They have no intentions of changing those hours. There will not be evening office hours or weekend office hours. It is a small pediatric practice and she is the only physician in the practice. Their practice supports local businesses, local schools, local teams, most anything are patients are involved in from youth soccer league to GW Volleyball, Bible Center, etc.

Will Roberts further stated the plans were not to change it to commercial. 280 Oakwood Road consists of three parcels. The subject we are here to talk about today is one of those three. It is the property most aligned with Corridor G.

Drew Larent with Carpenter Marty Transportation, a certified city planner with Carpenter Marty based out of Columbus, Ohio, spoke on behalf of the applicant. This development is so small that it normally would not require a traffic study, but Carpenter Marty's did put on together to support everybody's interest. Mr. Larent went through generally what they looked at. It is a pretty standard traffic impact study. They looked at capacity, turn lane warrants, queuing, cite distance, things of that nature. Based on national data, a medical dentist office building this size generates about 14 cars in the morning hour and 13 cars in the evening hour. Relative to the traffic that is already on Oakwood as well as the mainline there, a drop in the traffic bucket, one of the big things that we did look at for our client here was the site distance. Obviously, there is some concern with the stacking at the signal and whether it would extend past back the drive. Their analysis show that would happen in the 20-year horizon from now, but not necessarily present day. They look at average queuing and 95% queuing. What is the que through out the morning peak hour and the evening peak hour and what is it when it is the top 5 minutes of that peak hour. Queuing implies to the stacking of vehicles that are waiting to turn somewhere. The drive is about 215 south of US 199. Our analysis shows that in the morning peak, average ques are about 140 feet and in the pm 150 feet. You can roughly estimate 20 feet per car. Basically, in the analysis it shows, more often than not, 2-3 minutes in the morning and 2-3 minutes in the evening, the drive will be blocked by ques. Also, I wanted to mention that the peak hours that we looked at, we basically collected 24 hours of peak hour data at the main signalized

intersection. We determined what that morning peak hour is and that what the evening peak hours is. The morning peak and the evening peak are after this development will be before they opened and after they close.

Site difference was another concern obviously looking at the proximity of the drive to the intersection, we wanted to make sure that site distance was adequate. We evaluate horizontal and vertical. Basically, if you are looking down at a map and looking at where you need to make a turn, that is the horizontal. That is vertical, which is the curvature of the road to make sure that you have someone looking this direction or that direction, that the road is not elevating between that area. Based on the site plan and site analysis, if we were to push the access further south, the curvature of Oakwood Road would affect the site distance for the site distance for the access. It is currently proposed in a location that provides us the most stacking place between the signal and the access as well as site distance. No turn lands are warranted and capacity improvements are needed at the drive or the signalized intersection based on DOH standards. That is, for the most part, a high-level study of everything. WV GEO counts has seasonal adjustment factors that are applied during the times that schools are not sessions, because we can't go an entire year without collecting data. In this case a 16% adjustment factor was applied to all the data, increased by 16% in both peak hours.

Adam Krason stated that the other thing they are challenged with when they look at a rezoning like this, in spite of the fact there might be some back up if there were open at 7:30 or 5:30. We have no control over that. You say this is appropriate for a 4,000 square foot office, but what if in the future they add another 4,000 square foot office to that property. We have to look at the worst-case scenario of what could be developed on that property. Did you look at any of those other conditions, or just specifically at a 4,000 square-foot building that is open from 8:30 to 4:30.

The applicant responded that they were looking at this development specifically. We applied the trips generated by this development to the peak hours that were obtained in our data collection.

Adam replied that they couldn't look at just this development because, once we recommend a rezoning, anything that is permitted under an R-O. This property could support much larger office, a bigger practice, we have to consider all of those contingencies, not just what is proposed now, because we have no control over the things in the future.

The applicant stated that if enough larger trips could trigger a traffic impact study. In this case, this is a very small development or a drop in the traffic bucket. This study was done at the request of our client.

Dan stated that Oakwood Road is a state road and the DOH has to approve the curb cut. The curb cut will be for this very specific development. If they would try to come in with a really intense development and they felt it was unsafe, they would not be granted the permit.

Aric Margolis, representing the applicants, addressed the Commission. One thing Aric wanted to address is that everyone as a group must look at this as "what could it be". Everyone is thinking

"We are going to rezone this. They are planning a medical office and they could switch down the road. They could go to something very big." You have to remember R-O has a pretty limited scope of what can go there. It is mainly meant for residential or office and it is small office space i.e., medical clinics, dental clinics, barber shop. No have use items. It would be apartments, but apartments tend to filter out through the time of the day. Aric stated that his child goes to GW also and until he got his license this summer, Aric was dropping off every day and heading to work on Oakwood Road every morning. When the previous group was here it was in the middle of that construction. The Planning Commission said as a body, "You need to come back after the instruction has been done so this body can understand how that is going to affect the traffic. While Aric is certain everyone would agree that it did not make it perfect, not sure it saved any time, but you moved more. If you are moving at all at least you feel like you are getting somewhere. It does allow the traffic on Corridor G to continue on and less back up toward Kroger's and less back up toward Cantley. The backup on Oakwood, I haven't witnessed it being a problem. The school traffic is about a 20-30 minute at 3:00 p.m. when GW lets out. The schools are staggered. Overbrook is really early, then John Adams and GW in the mornings. It reverses in the afternoon. John Adams and GW may be more about the same time. As Will mentioned, a stop sign at Oakwood filters that. I am not sure it backs up heavily on Oakwood at 3:00 pm. The possible uses of that property are very limited and not out of line with what they are planning to do. Even if it did change, it would not be a big to do change. It is only one portion of the three lots. Even though it is a 3-acre lot. We are only talking about a small portion of that. The application is specific to the one lot.

Keith Walker, the adjacent landowner addressed the commission. He owns the property next door to what the applicants are wanting to develop. Mr. Walker is absolutely in favor of something being done with that property. He's not sure if it would be residential or another use. If the applicant wants to come in and add an office, Mr. Walker sees it as an ideal situation because it would be somewhat low traffic in an area known as a traffic issue on Oakwood and the Corridor.

Brady Campbell of 1933 Olympus Road addressed the commission. Brady grew up in this area and his wife was a teacher at Overbrook. He is also very familiar with that piece of property and it has been an absolute eye sore for years. Something that Mr. Campbell has to look at every day are these great new grey storage units going in there. This a result of no one else being permitted to build anything in that location. Mr. Robinson came to me twice, his wife, Dr. Robinson, very much would like to come up there and build her practice. She wants to be close to her patients. Mr. Campbell has a 16-month son home and, if she 's building a practice, she will be taking our son to see Dr. Robinson. Not only is there George Washington, John Adams and also Holz and Kenna are down the road, as well as Bible Center. The vast majority of those patients will come from those schools.

Jerry Waters of Altier Road spoke in support of Bill No. 7963. A lot of people from Bridge Road come all the way around Sherwood Road and then try to get on Oakwood Road, which is a miserable experience to just access that intersection. Mr. Waters indicated that he was more

concerned with their patients trying to get out on Oakwood Road.

Emmitt Pepper, a member of city council, is one of the three co-sponsors that Council Member Campbell mentioned. Emmitt is an alumnus of George Washington High School and an alumnus of Bible Center Elementary School, so I've spent my time driving through that intersection. He stated that he has been watching that property rot for all or most of his life. If Brady Campbell, Jerry Waters and Emmitt Pepper are on the same page, he is confident it is a good idea.

Gene Warner of 11 Meadow Crest Drive regarding the property that announced the rezoning hearing only. Mr. Moore said there has been a lot of discussion about traffic in the morning and very little about traffic in the afternoon. Oakwood Road is two different roads depending on what time of the day. When all the children are in school, it is a breeze. However, when schools are being let out, it is a different story. Traffic backs up both ways as they enter the parking lot, pick up their child and leave.

Oral Pauley lives at 259 Oakwood Road. Five houses up from the instances. Mr. Pauley left at 7:50 to go to work. He was running late. It took 20 minutes for Mr. Pauley to get from the driveway to the bottom of the lights. This new construction may help, but if you live on Oakwood, you cannot get in and out. In the middle of the day, it is the same way, depending on what it is going on around the community.

Nancy Coboy read a letter from, Debra Mattingly, a resident at 898 Sherwood Road, who could not attend the meeting because of her work. Nancy Coboy proceeded to read this letter. This letter objected to the rezoning of this property.

Robert Caldwell of 1500 Longridge Road addressed the Commission. Mr. Caldwell noted that it is a beautiful piece of property and he wanted to purchase it at one time and put a nursery there but decided against it because people could not get in and out. As far as a traffic study is concerned, Robert Caldwell drives that road frequently and it still backs up in spite of the J turns. It backs up past the curves, especially when the school buses are running. The other issue he has is the future. Mr. Caldwell is a retired hospital CEO and he knows how medical practices work. Regretfully, a solo practice is a thing of the past. If someone is going to practice medicine, they are going to need associates with different specialties that dove tail with a pediatric practice and that requires additional building, which results in additional traffic. This entire issue centers around the quality of our life.

Richard Ellis approached the Commission in opposition to Bill No. 7963.

REQUEST:

Bill No. 7969 - A Bill 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 a R-4 district to a R-O district, that certain lot or parcel of land located at 280 Oakwood Road

in the City of Charleston, Kanawha County, State of West Virginia, owned by Will Robinson and Benjamin Embrey.

APPLICABLE CODE:

Charleston Zoning Ordinance, adopted November 21, 2005, Article 28-030

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.

HISTORY:

The lot in question is currently zoned R-4. Petitioner Robinson has purchased this lot and conducted extensive tree clearing efforts. Numerous attempts have been undertaken to redevelop this lot and have run into numerous concerns chiefly focused on how redevelopment would contribute to an increase traffic and further congest an already heavily congested series of intersections. In anticipation of this, the petitioner has provided a traffic study that they have commissioned to ascertain the proposed development's impact on traffic in the area.

ANALYSIS:

Existing Land Use and Zoning: The property is zoned R-4 Single Family Residential District and was a single-family home.

Surrounding Land Use and Zoning: On the southern side of US-119, the lot is surrounded by other lots zoned as a R-4 district. On the northern side of US-119, there is a large collection of C-8 Village Commercial District zoned properties.

Current Zoning: The R-4 district allows, almost exclusively, for the development and protection of single-family home neighborhoods. This includes a focus on the neighborhood's "desirable character," walkability to other adjacent uses, and preventing deterioration from change or intrusion.

Proposed Zoning: The R-O district would allow for multiple kinds of higher density residential development and non-retail commercial offices, as a form of transition area between "stable residential neighborhoods to more intensive commercial districts," while also preserving and utilizing "the existing stock of older, large residential structures, many of which exemplify periods

of early development of Charleston.” This district would open a wide variety of potential future utilizations for the lot including the petitioner’s proposed non-residential structure. However, in comparison to previous petitions to rezone this property, it is asking for the minimum of allowable commercial development moving forward – especially as it relates to retail, drive thru establishments, and other major sources of increased auto traffic.

Compliance with the Comprehensive Plan: The comprehensive plan’s future land use map designates the property as being well within a “Suburban Neighborhood” designated area - which is defined as an area predominantly meant for new single-family home development outside the city’s historic core while utilizing subdivisions and curvilinear streets to delineate it from more grid-based traditional core housing. Yet directly across the highway there is a “Convenience Commercial” district - which is defined to be an area that is primarily auto-focused and is used as a commercial area consisting of small to medium-sized businesses that are more sensitive to neighboring context. The expansion of the Convenience Commercial district has placed significant pressure on the surrounding area to include more commercial development. The lot in question is a prime candidate for that expansion, but increased development would lead to exacerbating existing traffic problems at the highway intersection and further up the street. If not for the traffic concerns, I think the organic expansion of the existing Convenience Commercial district across the highway would be permissible under the plan. However, the traffic impact to the surrounding Suburban Neighborhood would extend far beyond the immediate border with the highway and affect the character and enjoyability throughout the district.

Summary: This application to rezone the property is in pursuit of reacting to inherent demand for more non-residential development around the intersection of Oakwood Road and US-119, while trying to respect the community’s adversity to development that would further paralyze the local road network. After consideration of the traffic study and the application, I think the proposed development would honor that. However, the R-O zoning district allows for future higher density residential development or office development that could amount to a significant traffic issue.

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 at the transition area from “Suburban Neighborhood” to “Convenience Commercial” and meets organic demand for more non-residential development.
2. The proposed R-O zoning respects that transitive nature of the location and minimizes further commercial development.
3. The minimal traffic impact documented in the supplemental traffic study report, IF its findings are found to be reliable by the MPC and relevant city officials.

MOTION AND VOTE: Adam Krason made a motion to approve Bill No. 7969, the motion was seconded and passed by a vote of 12-0-1. (Alice Hypes abstaining).

4. Minutes of the August 3, 2022 MPC meeting

MOTION AND VOTE: Adam Krason made a motion to approve the August 3, 2022 minutes, Shawn Taylor seconded the motion and the Commission unanimously approved approval of the August 3, 2022 minutes 13-0.

5. Announcements

6. Adjournment

City of Charleston
Municipal Planning Commission
Rules of Procedure and Policy
And Overview of the Application Process
As amended, December 5, 2016

1. Establishment of the Rules of Procedure and Policy

1.1 Name

The name of the Commission shall be the Municipal Planning Commission of the City of Charleston, hereinafter referred to as "Commission."

1.2 Purpose

The purpose of these rules of procedure and policy are to provide for the conduct of Commission business in a responsible and orderly manner.

1.3 Authority

These rules of procedure and policy have been adopted by the Commission pursuant Section 8A-2-11 of the State Code, Section 90-36 of the City of Charleston Code, and Section 28-030 of the Zoning Ordinance of the City of Charleston.

1.4 Amendments

These rules of procedure and policy may be amended or altered by a majority vote of the Commission and affirmed by the Charleston City Council.

2. General Rules

2.1 Open Meetings

All official meetings of the Commission and its Committees shall be open to the public and the news media. The minutes of the proceedings shall be open to the public.

2.2 Ex Parte Communications

Commission members shall avoid ex parte communications when the Commission is adjudicating a matter in its quasi-judicial role. The Commission is acting in a quasi-judicial role when it hears zoning map amendment petitions, text amendments, and reviews applications.

2.2 Quorum

The Commission must have a quorum to conduct a meeting. A majority of the members constitutes a quorum. Commissioners may attend a meeting and vote on items in person, by telephone, or by video conference.

2.3 Voting

No action of the Commission is official unless authorized by a majority of the members present in person, by telephone, or by video conference. Commissioners may not vote by proxy.

2.4 Parliamentary Procedure

The Commission may refer to the applicable provision of Roberts Rules of Order for guidance for items not addressed by these Rules of Procedure and Policy

2.5 Recording of Minutes

Commission meetings are recorded electronically. As a matter of general policy, the proceedings are not transcribed. Anyone wishing a legal transcription must provide a court reporter at his/her own expense. Copies of recordings and minutes of Commission meetings shall be furnished upon written request. There will be a charge as necessary to recover the cost of making such copies. (Note: Commission minutes are not final until approved by the Commission at the subsequent meeting).

2.6 Planning Department Staff

The Planning Department staff, hereinafter referred to as "Staff," assists the Commission in carrying out their duties and responsibilities by: accepting applications for items to be reviewed by the Commission; preparing the Commission's agenda; publishing legal advertisements; posting notices on the subject property; taking minutes of the meetings; maintaining custody and preservation of all papers and documents of the Commission and their proceedings; preparing, publishing and distributing reports, ordinances and other material relating to the activities of the Commission; and enforcing the Commission's decisions.

2.7 Officers

At the first regular meeting following the appointment and re-appointment of members, the Commission shall elect from its members a president and vice president. The vice president shall have the power and authority to act as president of the Planning Commission during the absence or disability of the president.

2.8 Attendance

Should a Commissioner fail to attend four (4) or more regular meetings of the Commission per calendar year, that office may be declared vacant and a new Commissioner may be appointed by the Mayor and affirmed by the Charleston City Council.

3. Meetings

3.1 Regular Meetings

The Commission will meet regularly on the Wednesday following the first Monday of each month and shall begin its meetings at 3:00p.m. which will be held at the place as noted on the agenda.

3.2 Special Meetings

Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all Commissioners at least two (2) days before the special meeting.

Written notice of a special meeting is not required if the date, time and place of the special meeting were set during a regular meeting.

3.3 Study Sessions

The Commission may meet informally in study sessions (open to the public) at the request of a majority of the Commission or Staff, to review forthcoming requests of the City, to receive progress reports on current programs or projects, or to receive other similar information from the City Administration, provided that all discussions and conclusions thereon shall be informal.

4. Order of Business and Agenda

4.1 Order of Business

The general rule as to the order of business in regular meetings shall be as follows, unless modified by the Commission or the Staff pursuant to the provisions below:

- Call to Order
- Unfinished Business
- New Business
 - Subdivisions
 - Rezoning
 - Developments of Significant Impact
 - Major Developments of Significant Impact
 - Temporary Permits
 - Street and Alley Closings
 - Text Amendments
- Other Items
- Approval and or Correction to Minutes of the Previous Meeting
- Announcements
- Adjournment

If there is more than one request pertaining to a particular project or property, the requests may be arranged consecutively on the agenda.

4.2 Agenda

Items may be placed on the agenda by either the President or Staff. Requests for rezonings, text amendments, developments of significant impact, major developments of significant impact and subdivisions must be filed with staff on or before the appropriate filing deadline. All other requests must be filed in writing at least four (4) calendar days prior to the hearing.

4.3 Request for Continuance

Prior to the hearing, any request for continuance must be made in writing at least seven (7) calendar days prior to the hearing. Staff will send notices to the adjacent property owners by U.S. mail stating that the request has been delayed. A request for continuance after the seven (7) day deadline requires a majority vote of the Commission at the hearing.

4.4 Request for Withdrawal

Requests for withdrawal must be made in writing prior to the hearing. A new application and associated filing fees must be resubmitted before the item is placed on a future agenda.

5. Meeting Procedures

5.1 Speaking Order

After the President announces a case, the testimony shall be made in the following order:

- Applicant or his/her agent
- Staff Report
- Other Persons in Favor
- Persons in Opposition
- Rebuttal by the Applicant

Except for a spokesperson that is coordinating presentations, no one may speak a second time until all other persons wishing to speak have been heard. Once the applicant, staff and all persons in favor of and in opposition to the application have been heard, the President shall close the case for public comment. The Commission may then hold discussion on the application. Following the discussion, the President shall ask for a motion, second on the motion and a hand count.

5.2 Applicant and Staff Responsibilities

It shall be the applicant's responsibility to prepare and present their case to the Commission. Staff shall not be expected to present or influence an application for either side, but shall be expected to exercise independent and professional judgment when presenting the staff report.

5.3 Time Limits

There shall be a five (5) minute time limit for all parties that address the Commission as either the applicant or parties speaking in favor or opposition to a case. The Commission may, at their discretion and upon a majority vote of the members present, extend the time limit.

5.4 Addressing the Commission

Formal rules of evidence do not apply at the Commission meetings. Anyone may appear and speak at a hearing. However, no person may speak until recognized by the President of the hearing.

5.5 Manner of Addressing the Commissions

Each person addressing the Commission shall speak clearly into the microphone located at the lectern and give his/her name and address for the record. All testimony shall be addressed to the Commission or President of the hearing.

5.6 Personal and Slandering Remarks

The President may declare out of order and terminate testimony that is repetitious, irrelevant, abusive or not within the Commission's jurisdiction.

5.7 Evidence

After a hearing is completed, no further evidence shall be received, unless (a) the evidence is specifically requested by the Commission; or (b) the hearing is re-opened by the Commission and opportunity is provided to other persons to respond.

5.8 Submitting Evidence

Persons wishing to submit reports or studies relating to a matter before the Commission should submit sufficient copies to staff for public inspection and distribution to Commission members at least two weeks prior to the hearing. This allows time for the study or report to be mailed to the Commissioners for their review. Otherwise, it may be necessary for the Commission to continue the hearing to another date. However, the Commission will not allow the late filing of material to be used as a delay tactic that infringes upon the rights of people on the opposite side of an issue.

5.9 Failure to Appear

The Commission, upon a majority vote, may open a hearing for public comment if the applicant or his/her agent fails to appear at the meeting. The public comments shall be recorded and made part of the file.

Application Process Overview*

1. Application Filing Deadline

Applications will be accepted on or before the appropriate filing deadlines for special permits, temporary permits, rezonings, text amendments and subdivisions. The application will be placed in a file, assigned a case number and be made available for public review.

2. Public Notification

After the appropriate filing deadline, staff will publish a legal advertisement in the local newspaper, send a notice via U.S. mail to those persons entitled to receive notice pursuant to applicable law, and post a sign on the subject property announcing the request.

3. Agenda

Staff will prepare the agenda and display a copy in the office of the City Clerk for public review. Staff may post the agenda on the City's web site. The agenda is subject to change, addition or deletion without notice.

4. Packets and Departmental Reviews

Staff will make copies of all timely filed applications and mail them to the Commission members for their review prior to the hearing. Copies will also be sent to various City departments for review and comment.

5. Public Record

Applications and their content are public information and shall be available for public review during normal office hours of the Planning Department.

6. Submittal of Evidence and Comments

Persons wishing to have their opinions heard but who are unable to attend the Commission meeting are encouraged to submit their comments or evidence in writing to the Planning Department so that it can be made part of the public file. Packets are prepared for the Commission members on a black and white copier using standard letter sized paper. Staff is not responsible for image degradation as a result of the copier, or from reducing exhibits submitted on larger than letter size paper.

7. Revised Agenda

Staff will revise the agenda to remove any withdrawn items or to add miscellaneous items prior to the hearing.

8. Revised Packet

Staff will create a revised packet for the Commission members a few days prior to the hearing that may include new exhibits, departmental reviews, or letters from the public. Generally the Commission receives the revised packet at the meeting.

* Application Process Overview is not part of the Rules of Procedures of the Planning Commission. They are general policies of the Planning Department and are subject to change without notice. The inclusion of the section is to provide the public with as much policy and procedure information as possible in one document

Ex parte Contacts

An **ex parte** communication occurs when a board member in a quasi-judicial proceeding communicates, directly or indirectly, with any person or party in connection with a matter before the board, absent of notice and opportunity for all parties to participate. The term *ex parte* literally means “one-sided.”

A critical **element of due process** is providing every party involved in a case the same opportunity to present facts to the **decision-making body**. **Boards and commissions** are supposed to base their decisions on what was said at public meetings, hearings, “the record.” This way **all parties are fully apprised of the facts** and no one gains an advantage through private conversations. This can be considered basic fair play. All members of a **planning commission or board of adjustment** have the right to hear everything that is said about the case. Everyone, including the applicant, and those who support or are opposed in a particular case also have the right to hear everything that is said about the case, and have the opportunity to rebut what was said, or endorse what was said. Private conversations outside of public meetings undermine this open exchange and fair play.

Nothing is more frustrating for the losing party than to have the impression that the other side prevailed through the use of “**back door**” politics.

Having said that, the law recognizes that it is simply impossible to avoid all contacts on all questions coming before the decision-making body. **Board and commission members** are appointed precisely because of their involvement in the community and understanding of the issues. It would be an unrealistic standard to meet if every **ex parte** contact resulted in disqualification of the board member or nullification of the action.

If such contact has taken place three steps should be taken by the board member to avoid giving rise to a legally-actionable claim:

- 1. End the communication.** Explain to the individual that you cannot talk about matters currently before the board outside the public meeting.
- 2. At the hearing, disclose on the record the fact that the communication took place** and share any substantive information that you may have received during the course of the contact.
- 3. The board member should indicate on the record whether or not the communication left him or her unable to base the decision solely on the evidence to be presented at the hearing**, no longer unbiased. If he or she is unable to do so the board member must recuse himself from the proceedings. It is not sufficient to participate in the discussions and merely abstain from voting; nor is it appropriate to keep silent and abstain but remain seated at the board table.

Remember, the prejudicial effect of an **ex parte contact** is in the fact that the other side is not given an opportunity to respond or is unaware of the contact altogether. *Ex parte* contacts, unless they lead to an incurable bias in the decision-maker, are not detrimental to the proceedings if they are disclosed and the other side is given an opportunity to respond.