



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

Members Present

Aric Margolis, Chair
Mary Beth Hoover
Quintie Smith
Alice Hypes
Shawn Taylor
Shannon Ferrari
Cory Stout
Terri Allen, Mayor's Designee
Deanna McKinney
J. D. Stricklen, Kanawha Co. Representative

Members Absent

Margo Teeter
Terry Pickett
JoEllen Zacks
Adam Krason
Justin Marlow
Lisa Fischer-Casto

Staff Present

Dan Vriendt
Chad Webb

Others Present

Paul Boddy (Bill No. 7974)
Marsha Boddy (Bill No. 7974)

Public Present

- 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.

Petitioner, Scott Martin, was not present at the meeting.

Chad Webb presented the following staff analysis and recommendation:

The Petitioner, Scott Martin, filed for this rezoning primarily to allow for outdoor display and warehousing of stonework countertop samples.

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 parcel in question is currently zoned C-4. Petitioner Martin seeks to have the property rezoned as C-10 to allow warehousing and a storage yard for their stonework countertop samples.

ANALYSIS:

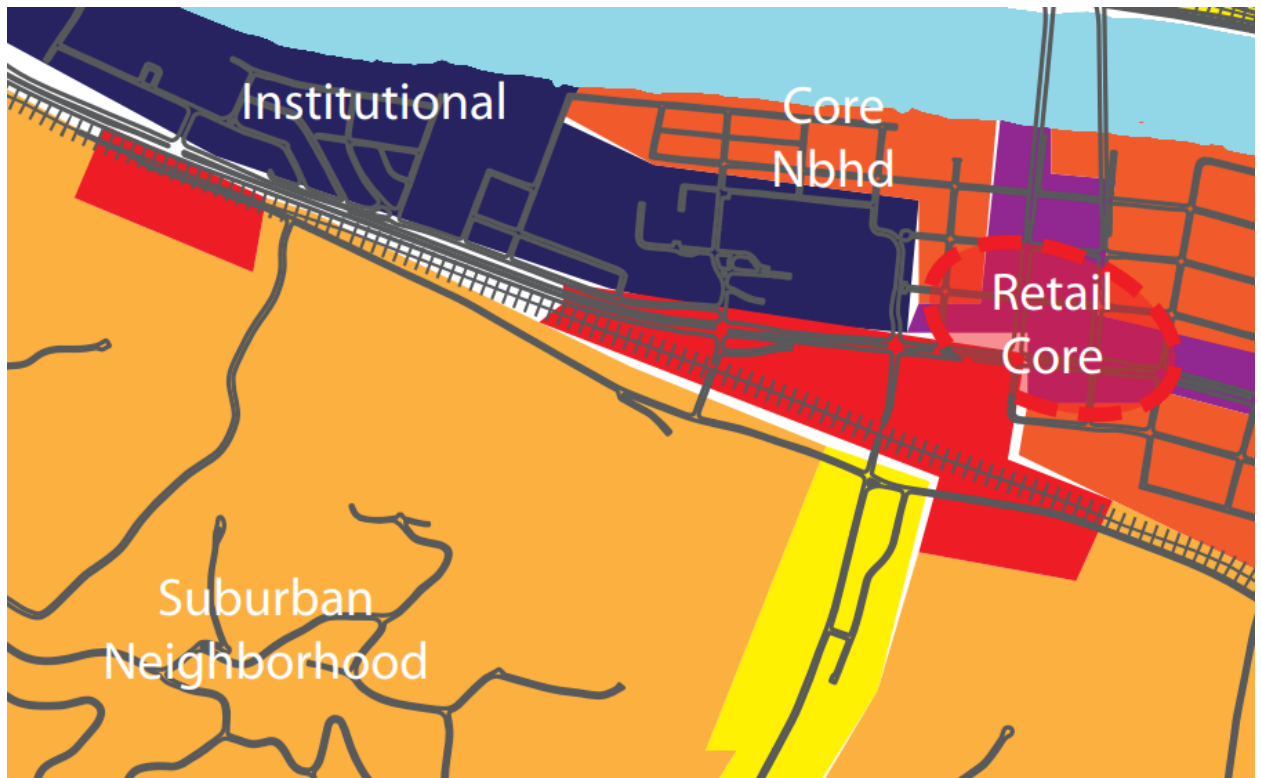
Existing Land Use and Zoning: The property is zoned C-4 Neighborhood Commercial District and is a custom countertop and cabinetry.

Surrounding Land Use and Zoning: To the North, East, and West, the facility is surrounded by many different commercial and industrial enterprises, including CAMC facilities, contracting, fabrication and other professional facilities. This row of C-4/C-10/I-2 uses exists on a pretty clear boundary along Chesterfield Avenue with a solid block of R-4/R-6 residential.

Current Zoning: The C-4 district allows for their fabrication and retail sale of custom cabinetry and countertop stonework. It would not allow outdoor storage for countertop stone samples to be displayed.

Proposed Zoning: The C-10 designation would allow for the proposed outdoor storage needed for the stonework display as well as its current uses.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates the property as being at the confluence of a Rural and Traditional/Core Neighborhoods with a well-established node of Convenience Commercial. The current C-4 district the parcel at subject currently resides in exists almost as a spot zoning of lower commercial utilization amongst a significantly more developed area of commercial activity in the surrounding C-10/I-2 areas. Changing the parcels zoning to C-10 would be in full compliance with the letter and spirit of the Comprehensive Plan.



Summary: This application to rezone the property conforms to the Comprehensive Plan and brings the property into line with the current level of zoning development in the area.

RECOMMENDATION AND FINDINGS:

Staff recommends **approval** for the following reasons:

1. The rezoning is consistent with the future land use map,
2. The rezoning makes the surrounding area of Convenience Commercial more uniform in zoning, and
3. The rezoning proposes minimal additional commercial activity to the surrounding Rural and Suburban Neighborhoods.

MOTION AND VOTE: Shannon Ferrari made a motion to approve Bill No. 7975. The motion was seconded by Deanna McKinney and passed by a vote of 8-0-1. (Quintie Smith abstaining).

Street Naming: 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.

Paul Boddy addressed the Commission in regard to his request for the above-mentioned street naming. It would be beneficial for to emergency services and delivery services in locating the residents along the subject property, on Mountain Road, off Kanawha Turnpike and Daverton Drive.

APPLICABLE CODE:

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

STANDARD OF REVIEW:

The Commission is to review the request for compliance with the E911 Addressing Regulations and to make a recommendation to Planning Committee. Final action is with City Council

HISTORY:

The alley in question has been an unnamed public alley since the surrounding property was developed.

ANALYSIS:

Proposed Name: Ivory Lane

Location: Mountain Road is off Kanawha Turnpike and Daverton Road near Charleston Acoustics.

Reason for the request: Name the alley for address and delivery purposes.

Required Petition: Yes, signed by all abutting property owners.

Comments from Addressing Coordinator: Proposed street name tentatively complies with the E911 Addressing System. Final approval is pending on the results of this bill's formal passing. There is another Ivory Lane with a Dunbar Zip-Code, so no fatal conflicts should arise.

RECOMMENDATION AND FINDINGS:

Staff recommends **approval** for the following reasons:

1. The required petition was duly filed on behalf of all abutting property owners to the alley; and
2. The proposed named complies with the E911 Addressing Regulations and should be approved pending it's approval by City Council.

MOTION AND VOTE: Cory Stout made a motion to approve Bill No. 7974. The motion was seconded by Quintie Smith and passed by a vote of 9-0.

4. Minutes of the September 7, 2022 MPC meeting

MOTION AND VOTE: Minutes to be amended to add members who were present. Quintie Smith made a motion to approve the minutes as amended from the September 7, 2022 meeting. The motion was seconded by Shannon Ferrari and passed by a vote of 9-0.

5. Announcements

No announcements.

6. Review of Rules of Procedure and Policy

Dan presented the Commission with the Rules of Procedure and Policy for the purpose of making sure all members of the Commission were aware of same.

On August 24, 2022, Dan attended an Ethics and Open Meetings training held by the city at the Civic Center regarding ex parte communication. Dan wanted to discuss this with the Committee to see if they wanted to adopt this and make it part of the Committee's Rules of Procedure and Policy.

Ex Parte means "one-sided". In quasi-judicial functions, (i.e., with the MPC voting on text amendments and rezonings) the meeting would be considered a hearing. It is really frowned upon having discussions with people outside the hearing on the matter that is coming before the body, especially if a member of the body is talking to the applicant and the applicant is providing information to the member that is not part of the record (packet). Your decision-making creates a record.

Aric Margolis took issue with this matter. He went on to say that names of the city committee/board members are listed as a matter of public record. The public has the right to call us and express to members whether they want the member voting for or against issues. Dan advised Aric that such conversation should take place at the hearing and anyone making contact outside of the hearing should be encouraged to attend. Members of committees /commissions /boards should not be influenced outside of the meeting. Such discussions should take place in the open at a public forum. The various committees/commissions/boards of the city need to avoid giving the appearance that decisions are being made behind the scenes ("back door politics") or that minds have already been made up.

Dan further stated that it is okay to discuss processes.

Further, group emails between enough individuals to form a quorum constitutes a meeting in a location that has not been advertised. Case in point, a developer who filed an application for rezoning and was denied, has submitted a FOIA for all the city's emails and correspondence relating to his rezoning and this rezoning.

7. Adjournment