



Municipal Planning Commission
City Service Center – 915 Quarrier Street – Suite 6
Wednesday, September 6, 2023
3:00 P.M.

Members Present

Aric Margolis, Chair
Quintie Smith
Adam Krason
Shawn Taylor
Cory Stout
Lisa Fischer Casto
Mary Beth Hoover
JoEllen Zacks (Joined by phone @ Bill No. 8009)
Alice Hypes
Shannon Ferrari
Terri Allen, Mayor’s Designee (Joined @ Bill No. 8009)
J.D. Stricklen, Kanawha County Representative
Brady Campbell
Doug Hartley
Alex Zurbuch

Members Absent

Justin Marlow
Brady Campbell

Staff Present

Dan Vriendt
Chad Webb

1. Call to Order

Aric introduced Doug Hartley, a new member of the Municipal Planning Committee.

2. Unfinished Business - None

3. New Business

Rezoning: Bill No. 8005 - 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-6 district to a C-8 district, the parcel of land identified as 2417 Hampshire Drive, North Charleston District, Tax Map 16, Parcel 47 in the City of Charleston, Kanawha County, State of West Virginia.

Dan explained Bill No. 8005. The subject property is along Route 21, where there is a lot of commercial property and there is an equal amount of residential property. The Hampshire Drive property is a vacant lot. It is a consolidated lot, and he is requesting that it be rezoned. Aric asked if he owned the property beside him. Dan said he did not own the adjacent lot. He is wanting to do a small auto repair shop on that lot. Aric mentioned that the road is very narrow.

Dan further stated there are three houses on the road and a business. It is a narrow road, but a very lightly used road.

Chad presented the staff analysis and recommendation.

APPLICABLE CODE: Charleston Zoning Ordinance, adopted January 1, 2006, Article 29.

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 R-6. The petitioner seeks to construct a garage for a proposed auto repair shop on the property.

ANALYSIS:

Existing Land Use and Zoning: The parcel in question is currently zoned R-8 and currently consists of an empty residential lot.

Surrounding Land Use and Zoning: The parcel currently resides in a Rural Neighborhood – as defined by the future land use plan – with pockets of Traditional Neighborhood around the main thoroughfare through the area.

Current Zoning: The current R-6 zoning allows for limited multi-family structures, single family homes, and some limited educational uses.

Proposed Zoning: The proposed C-8 zoning allows for “a village concept” that seeks to provide “a mix of residential uses adjacent to and/or above commercial uses to increase the intensity of the activity in the area.” Looking at the increase in commercial uses to both the north and the south of the parcel in question, a C-8 zoning would conform to the proposed use of the land and wouldn’t breach the prohibition against spot zoning by further solidifying the area’s use as a village commercial corridor.

Compliance with the Comprehensive Plan: The comprehensive plan’s future land use map designates this property as being part of a Rural Neighborhood. The intent in these areas is to maintain the rural character of the area while having more “flexible” standards than what’s typical imposed in commercial areas and traditional neighborhoods. This expansion of the developing commercial area within a rural residential one conforms with this less restrictive intent.



Summary: Petitioner seeks to add further commercial activity to the village corridor region amongst rural neighborhoods. Such a change complies with the future land use map and the stated purpose of the proposed commercial zoning.

RECOMMENDATION AND FINDINGS:

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

1. The rezoning is consistent with the future land use map in that it complies with the area's designation as a rural neighborhood with relaxed development standards versus core neighborhoods and commercial nodes,
2. The rezoning allows for the development of further commercial uses in the area, and
3. The rezoning avoids spot rezoning by conforming the proposed commercial zoning to the surrounding development trends along the main artery of the area and maintains a confluence between the commercial and residential zones.

Aric asked if there was any knowledge as to why the petitioner was not present. Chad said he did not. Aric asked if Chad had received any calls about this rezoning. Chad said he had not received any calls from anyone concerning the rezoning.

Aric asked if anyone had any questions. Questions were asked by council and answered. One question pertaining to cars parked in the business's yard and if the neighborhood would have an issue with that. Aric and Dan both pointed out there would be fencing requirements to hide the cars from the view of residents in that neighborhood. Dan said if the car is having engine work, the ordinance provides that it can sit outside a fence. The code says if the car has body damage, it can only sit out for 48 hours. Otherwise, it must be behind the fence. The fence has to be opaque.

Aric said that when the MPC reviews a rezoning request, the review is supposed to take in every aspect of what could possibly go in a particular location. Anything that is approved in a C-8 can go in this location, regardless of the applicant's stated intentions. Therefore, the MPC looks at everything that can be permitted in a C-8 district for the purpose of determining if there is any permitted use for a C-8 that they do not want in that area.

A question was asked by a member of the MPC concerning parking requirements. Dan explained that the ordinance does have onsite parking requirements that are based on the size of the square foot and use of the building, which is in addition to any parking needed to conduct business.

Dan said there is three houses and a business that use this street. It is a substandard street but it has low utilization. It is not a dead-end street.

Aric closed the case and entertained a motion.

MOTION AND VOTE: A motion was made by Adam Krason to adopt Bill 8005. The motion was seconded by Quintie Smith and passed by a majority vote of 8-2.

Rezoning: Bill No. 8006 - 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 zoning the previously unzoned parcel to a R-4 district, that parcel of land identified as 2155 Presidential Dr, which is located at Loudon District 19, Tax Map 04, Parcel 181.7 in the City of Charleston, Kanawha County, State of West Virginia.

Chad presented the staff analysis and recommendation.

APPLICABLE CODE: Charleston Zoning Ordinance, adopted January 1, 2006, Article 29.

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 was previously unincorporated and is now in the process of annexation. Therefore, it does not have a previous zoning designation.

ANALYSIS:

Existing Land Use and Zoning: The parcel in question is currently unzoned and consists of a single-family home.

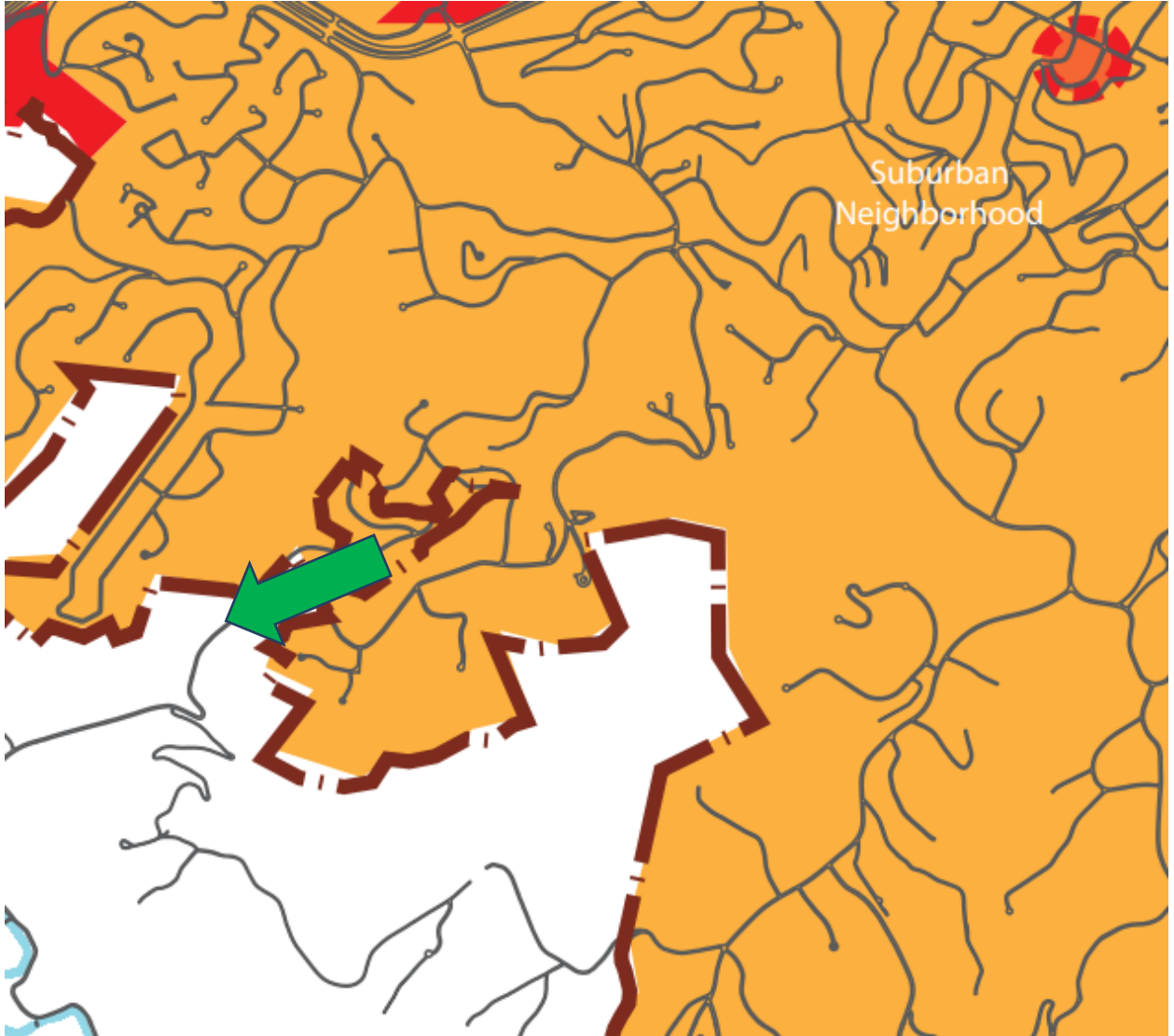
Surrounding Land Use and Zoning: The parcel is currently a single-family home, and the proposed zoning is R-4, which would make it the same as the surrounding single-family residences.

Current Zoning: As it has just been annexed, the parcel has no current zoning.

Proposed Zoning: The proposed R-4 zoning allows for the continued focus on single-family homes and the desirability of the surrounding neighborhood.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates this property as being part of a Suburban Neighborhood. The intent in these areas is

to preserve a predominantly contemporary single-family area with less focus on walkability and more focus on larger, non-square lots. The current residence at 2155 Presidential fully conforms with the surrounding character of the neighborhood and the intent of the Suburban Neighborhood land use.



Summary: Petitioner seeks to add this now annexed parcel into the zoning map by zoning it R-4. Such a zoning fully complies with the purpose of the zoning designation and the parcels place in the future land use map.

RECOMMENDATION AND FINDINGS:

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

1. The zoning is consistent with the future land use map in that it complies with the area's designation as a suburban neighborhood with a focus on single family homes and a more modern suburban character,

2. The zoning allows for the parcel to be cohesively incorporated into the existing zoning map, and
3. The rezoning avoids spot rezoning by conforming the proposed residential zoning to the development trends of the residential area surrounding it.

Aric closed the case and entertained a motion.

MOTION AND VOTE: A motion was made by Cory Stout to adopt Bill 8006. The motion was seconded by Doug Hartley and passed by a unanimous vote of 10-0.

Rezoning: Bill No. 8011 - 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 zoning the previously unzoned parcels to a R-2 district, those parcels of land located at Loudon District 19, Tax Map 08, Parcels 90.15 through 90.20 in the City of Charleston, Kanawha County, State of West Virginia.

APPLICABLE CODE: Charleston Zoning Ordinance, adopted January 1, 2006, Article 29.

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 were previously unincorporated and are now in the process of annexation. Therefore, they do not have a previous zoning designation.

ANALYSIS:

Existing Land Use and Zoning: The parcels in question are currently unzoned and consist of single-family homes and one empty developable lot.

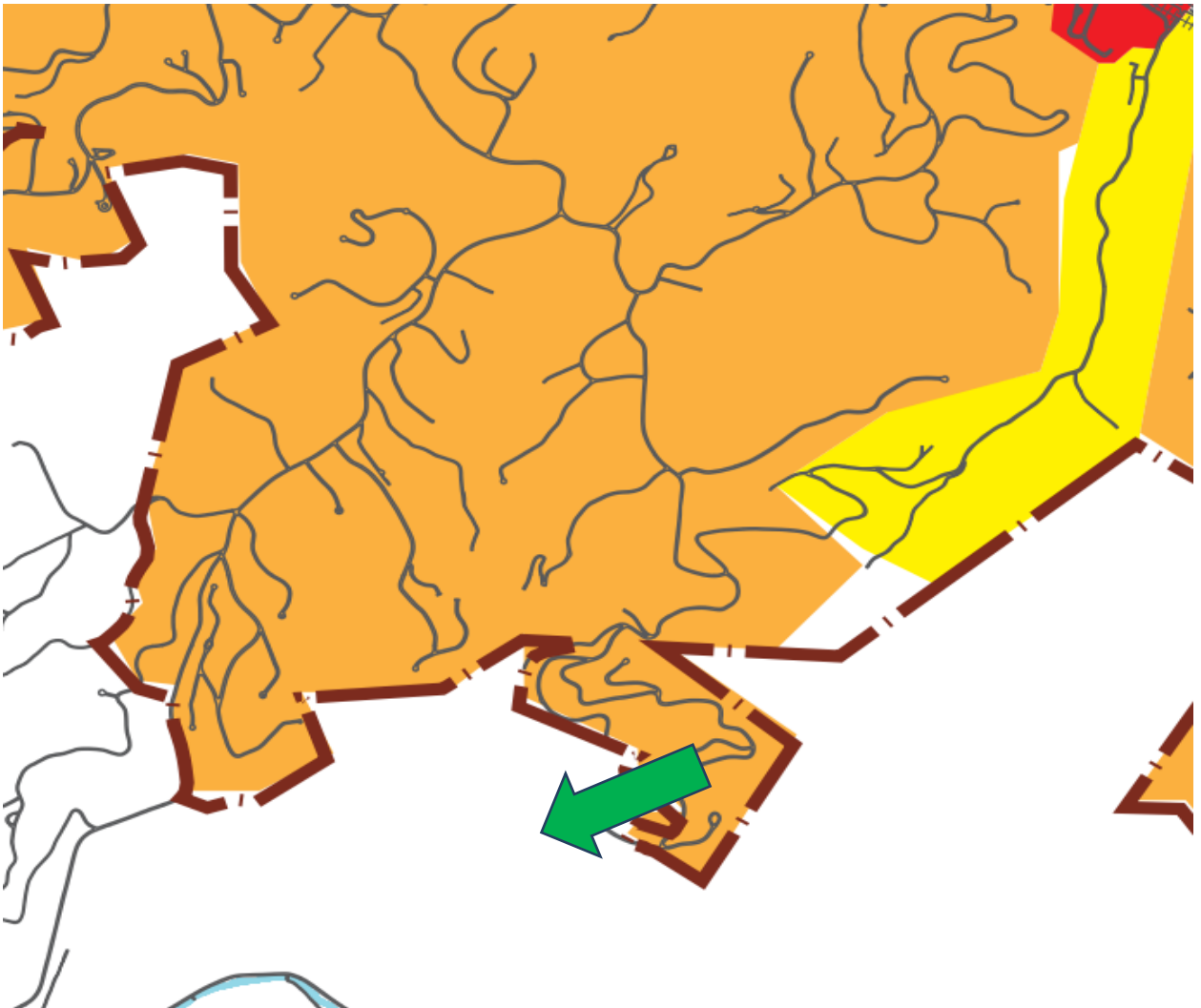
Surrounding Land Use and Zoning: The parcels are currently a part of a subdivided development, and the neighborhood consists of solely single-family homes.

Current Zoning: As it has just been annexed, the parcel has no current zoning.

Proposed Zoning: The proposed R-2 zoning allows for the continued focus on single-family homes and the desirability of the surrounding neighborhood.

Compliance with the Comprehensive Plan: The comprehensive plan's future land use map designates this property as being part of a Suburban Neighborhood. The intent in these areas is to preserve a predominantly contemporary single-family area with less focus on walkability and more focus on larger, non-square lots. The current residences at along Stonehenge Drive fully

conform with the surrounding character of the neighborhood and the intent of the Suburban Neighborhood land use.



Summary: Petitioner seeks to add these now annexed parcels into the zoning map by zoning it R-2. Such a zoning fully complies with the purpose of the zoning designation and the parcels place in the future land use map.

RECOMMENDATION AND FINDINGS:

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

1. The zoning is consistent with the future land use map in that it complies with the area's designation as a suburban neighborhood with a focus on single family homes and a more modern suburban character,
2. The zoning allows for the parcels to be cohesively incorporated into the existing zoning map, and
3. The rezoning avoids spot rezoning by conforming the proposed residential zoning to the development trends of the residential area surrounding it.

Aric entertained a motion.

MOTION AND VOTE: A motion was made by Cory Stout to adopt Bill 8011. The motion was seconded by Doug Hartley and passed by a unanimous vote of 10-0.

Text Amendment: Bill No. 8009 – A bill to amend the Zoning Ordinance of the City of Charleston, as amended, by updating section 3-070 relating to temporary construction fencing.

Mary Beth Hoover presented the reason behind the proposal for Bill No. 8009. Mary Beth stated that matter regarding temporary fencing, especially in the downtown area, was brought to the attention of herself and Chad Robinson.

Adam Krason suggested 90 days after construction is halted or no activity is concerned, temporary fencing shall be removed. Dan said the aforementioned 90-day period is a requirement of the Building Commission.

Aric asked delay on a job due to an unforeseen condition, such as a DEP requirement, influence this 90-day period. Dan said there is an existing provision that states that the maximum duration is 90 days or as other required by the Planning Director. This provision allows for latitude in granting an extension of the 90-day period due to unforeseen circumstances.

Adam Krason asked what the recourse was if the fence is not removed. Dan said it would be a zoning violation, which could be a \$300/per day fine or any other remedy necessary, including filing a lawsuit in circuit court.

JD inquired about the same requirement on residential structures in disrepair and require demolition. Could a lien be placed on the property? Dan said it would be an option of last resort. Dan said the city would pursue their options in court first.

Dan stated that, if this bill passes, the company would be put on notice that the fence has to come down and provide them with the language from the code that the site is supposed to be reclaimed.

Chad went over the staff's analysis and recommendations.

APPLICABLE CODE:

Charleston Zoning Ordinance adopted November 21, 2005, Article 3, Sec. 3-070.

STANDARD OF REVIEW:

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

HISTORY:

Before you today is a proposed text amendment to make the following change:

1. That Section 3-070(c)(2) of the Zoning Ordinance for the City of Charleston, as amended, is hereby amended to read as follows:

“In any zoning district, temporary construction fencing may be authorized to enclose an active construction site if necessary to protect materials and equipment, to prevent unauthorized entry to the site, or to mitigate a threat to public safety. The fence shall be removed when construction activity has been completed or discontinued or the hazard has been resolved. Maximum duration: 90 days or as otherwise required by the Planning Director.”

2. Correct the numbering of the following subsections of Section C.

ANALYSIS:

At the request of Council Members Chad Robinson and Mary Beth Hoover, we considered what would be the easiest solution for construction site managers and the City. The proposed change would allow for full temporary fencing around construction sites for the purpose of securing equipment left on site. Such an accommodation would be in the best interest of both the city and the citizens involved in such construction jobs because it still limits temporary fencing from being left up permanently and provides the level of security necessary.

RECOMMENDATION AND FINDINGS:

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

1. The proposed change to temporary uses suits both the city and residences best interests and
2. Puts no substantial burden on the city from effectively enforcing its zoning ordinances.

MOTION AND VOTE: A motion was made by Adam Kraus to adopt Bill 8009. The motion was seconded by Quintie Smith and passed by a unanimous vote of 10-0.

4. Minutes of the August 9, 2023 MPC meeting

MOTION AND VOTE: A motion was made, seconded and passed by a unanimous vote to approve the minutes from the August 9, 2023 MPC meeting.

5. Announcements

6. Adjournment