

Municipal Planning Commission

Hearing and meeting: Wednesday November 7, 2018, at 3:00 p.m. in the Conference Room of the City Service Center, 815 Quarrier Street.

Members Present

Aric Margolis, President
Rod Blackstone
Margo Teeter
Mary Jean Davis
Chad Robinson
Jesse Forbes
Adam Krason
Shawn Taylor
Lex Williamson
Dallas Staples
Lisa Fischer-Casto
Deanna McKinney

Members Absent

Reverend Braxton Broady
Teresa Moore
Christi Smith
J. D. Stricklen

Staff Present

Dan Vriendt
John Butterworth

Call to order – Aric Margolis

New Business:

Rezoning: Bill No. 7797 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 C-10 General Commercial District to UCD Urban Corridor District, those certain parcels of land located at 609 & 611, 613, 615, and 617 Tennessee Avenue and 707 & 709, 711, and 713 & 715 Bigley Avenue being Charleston West District, Map 27, Parcels 104, 105, 106, 107, 225, 226, 227, 228, 238, 239, 240, and 241 Charleston, West Virginia.

MR. BUTTERWORTH: This was kind of a staff initiated somewhat sort of rezoning. You'll see in your packets, on the back of the third page, there's a petition for support of the rezoning. I'm sorry, I actually made the wrong copy for you. The Linn, LLC, owner of 611 Tennessee did sign it. I can put the most recent one in there. I apologize. It was a bit like herding cats getting a bunch of people to sign a petition. All these folks are owners of the real property that's described except for the building located at 711 Bigley Avenue, Mi Cocina De Amor restaurant. The owner of that property, I spoke to them on a few occasions. They were not interested in signing the petition but were not in opposition per se; they just wanted to see how it played out, I guess, is how they described it. Not opposed, but didn't want to sign the petition.

The other chunk of property that's not represented on the petition is the building located across the street from Mi Cocina which is the old Kelly's Men's Shop, a building that's been long, long vacant. Even when the retail shop was open. It's a two and a half, three-story building that's got significant water damage to the front façade. That building, and then there are three parcels just towards the Go Mart that are also included. The new purchaser of that property, we had a meeting with them on a few occasions now and we brought up the rezoning that was kind churning through the mill in this area and they suggested that they would be interested in signing onto it as well.

Those are the people involved, the property owners involved. If we want to look at the staff notes, it is a rezoning request for a whole series of parcels on Map 27, Parcels 104, 105, 106, 107, 225, 226, 227, 228, 238, 239, 240, and 241. It is a legislative change so it will proceed from here to Planning Committee and then on to Council. The existing land use in the area, all these properties are currently zoned C-10, which is our General Commercial District. They're developed, as you can see there. Kinship Goods, Mi Cocina, like I mentioned, the new Mea Cuppa coffee bar, and the former Kelly's Men's Shop building. I think everyone is fairly familiar with the area; it's the Elk City Historic area, a variety of commercial and mixed uses in that area.

The difference between C-10 and UCD is a fairly nuanced one. UCD is much more pedestrian oriented in its development standards; it requires the front façade to be oriented directly up to the street. It does have a limited number of uses compared to C-10, but they are much more oriented towards the pedestrian scale. Drive-throughs are not permitted or maybe perhaps as a conditional use. More limitations on bars and nightclubs; those are by conditional use within the UCD. It provides the city with a little bit more ability to craft applications for bars and nightclubs as they move through the Board of Zoning Appeals.

The reason that this all actually came up, as a bit of history, is that January Wolfe, owner of January's Academy of Arts, would like a blade sign, the kind like Elk City Records has that sticks straight out from the building that hangs over the sidewalk. They're not permitted in the C-10 zoning district; they are in the UCD. That's what started this off. This would achieve her end of wanting to enhance her front façade in that way. It's my understanding that some other properties involved are also interested in doing

that sort of pedestrian level signage. The UCD district also provides more flexibility for parking standards compared to C-10 for existing developed buildings. It helps promote the redevelopment and reuse of these older buildings in a historic district.

With that being said, you can see compliance with the Comprehensive Plan. This area is listed as both Main Street and Downtown Transition. This is a logical fit to better craft the area around that.

RECOMMENDATION AND FINDINGS:

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

- The rezoning is consistent with the future land use map which designates this property as “Main Street” or “Downtown Transition”.
- The rezoning from C-10 to UCD would allow for flexibility in redevelopment of existing buildings with relaxed parking standards and enhanced signage standards.
- Pedestrian-oriented development guidelines, provisions, and uses in the UCD will support the comprehensive plan’s goal of a vibrant mixed-use neighborhood node within and around the Elk City Historic District.

MR. BUTTERWORTH: With that, I’d be happy to answer any questions.

MR. MARGOLIS: Any questions from the Commission? (No response.) Anybody to speak in favor of the application? (No response.) Anybody to speak in opposition to the application? (No response.) Seeing and hearing none, I’ll close the case and entertain a motion.

Motion and Vote: On motion of Adam Krason, seconded by Lisa Fischer Casto, the Commission voted 12-0 to approve the rezoning application.

Rezoning: Bill No. 7798 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 PMC Professional Medical Campus to C-8 Village Commercial District, that certain parcel of land located at the corner of 33rd and MacCorkle Avenue SE being Kanawha City District, Map 18, Parcels 89 Charleston, West Virginia.

MR. MARGOLIS: Is the applicant here?

MS. OFSA: Joyce Ofsa with the law firm of Spilman, Thomas & Battle representing Charleston Area Medical Center, CAMC, who is the applicant here today. We’re asking to rezone basically a strip. It’s technically property that had been donated to the City by CAMC when CAMC several years ago created the new entrance to CAMC. The 33rd Street was relocated from MacCorkle to the hospital. This area that we’re seeking today to have rezoned was green scape entrance and it was the end of CAMC’s property so they donated it to the City at the time of the rezonings that occurred on that project. Subsequently, CAMC acquired property on past that, Dr. Dagmar’s building. There was a dog wash, there were several little businesses in there. The City agreed to convey it back to CAMC. We have a plat that should be included in your materials; I have a large one here.

(Indicating.) This was what this block looked like. This is 33rd Street, 34th. This piece is essentially a combination of green space and now part of the parking lot that CAMC uses this for. It had buildings, those were taken down. It’s been used for parking for several years. The green space area that we’re seeking, it’s only now green space in part, but we’re seeking to have it rezoned because we now have a property, a block of property that is PMC and it’s the only PMC on this side of 33rd. The rest is C-8. In fact,

all the way down to the bridge is C-8 and it wraps on around the corner. Behind it is some R-4, there are some residences.

We are asking to have the opportunity to develop this to a higher use. They don't need to use this as staff parking any longer because the medical inn across MacCorkle has come down and they have space for parking on that side of MacCorkle. They have the opportunity to lease this entire block for development for a Starbucks restaurant. However, the Starbucks restaurant has to have a drive-thru and since this block is now owned by one owner, CAMC, and duly zoned part PMC and part C-8, the PMC is the more restrictive, it does not permit automatically a drive-thru with a restaurant use. The C-8 does. So, we're asking to have this strip rezoned to be in keeping with the balance of the block. In fact, the balance of the entire length of properties along MacCorkle, until you get to the bridge. This will permit us to enter into a lease for the development of a Starbucks that meets all City Code requirements and Department of Transportation requirements as well. That's why we're here today. Thank you.

MR. BUTTERWORTH: Ms. Ofsa covered the existing land use.

Surrounding Land Use and Zoning: The surrounding areas include general commercial uses including restaurants, retail, and office style business uses. To the north is the R-4 zoning district developed as single-family homes. To the West is the CAMC Memorial Hospital complex zoned PMC. To the south is MacCorkle Avenue and the CAMC Cancer Center zoned C-10. To the east are general commercial businesses zoned C-8.

Current Zoning: The PMC district allows for a range of commercial campus-style uses including assisted living facilities, conference center, industrial services establishment, laboratories, and as a conditional use permit heliport, animal hospital, among others.

Proposed Zoning: The C-8 district allows for a wide range of commercial uses including professional office, personal service, all classes of dwellings, and as a conditional use permit, shopping centers, bar/nightclubs, and gambling establishments, among others.

Compliance with the Comprehensive Plan: The comprehensive plan describes this area as a retail core district and that it specifically calls for the area around the hospital to be a retail node. Rezoning from C-8 to allow for more corridor-oriented businesses would be definitely in keeping and compliant with the comprehensive plan.

RECOMMENDATION AND FINDINGS:

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

- The rezoning is consistent with the future land use map which designates this property as "Mixed Use Corridor".
- The rezoning from PMC to C-8 would allow for consistent redevelopment of the site under one zoning district and removing conflict from two zoning districts being present on the site.
- The PMC district is tailored to institutional and campus style development on large lots.

Redevelopment on this small site does not fit this model and would be unnecessarily hampered by these provisions.

- Rezoning to C-8 allows for redevelopment in pursuit of the comprehensive plan's "Core Retail" node along MacCorkle Avenue, one of Charleston's main corridors.

MR. MARGOLIS: Just to reiterate what we were talking about before, this was C-8 before the realignment of 33rd Street. I'm not a hundred percent sure, but all that juggling sort of put it in the PMC?

MR. BUTTERWORTH: I believe the PMC zoning occurred all when it was under the ownership of CAMC. Yes, C-8 was the dominant zoning district on the corridor.

MR. VRIENDT: (Indicating.) The PMC district before stopped right here at the old 33rd Street. When they expanded the campus into the residential area, it took the PMC district all the way over to the right of way line. If you remember, there's some buffering, some hills, some moundings, some landscaping in here. We took the PMC all the way to the right of way line to protect that buffering. Then, CAMC came back and said, well, we bought this parcel, we'd like to use some of this land because it's not doing anything. This is just a leftover from when 33rd Street was realigned. It was C-8 before.

MS. TEETER: Was it part of the approval, the buffer, at the time it was approved?

MR. VRIENDT: You can see right here the buffer starts right here. That is still right of way. The buffer came all the way down through here.

MS. TEETER: It just wasn't part of the approval?

MR. VRIENDT: Just this little piece right here which will remain.

MR. MARGOLIS: The buffering was for the residential; we didn't care about the commercial piece of property that was there.

MR. BUTTERWORTH: The conveyance of the property back to CAMC has already occurred.

MR. MARGOLIS: Any other questions of the Commission for staff?

MS. DAVIS: If this is going to be a Starbucks, what's the buffering for the neighborhood? Right now, it's a parking lot. It's not like traffic is going in and out all hours of the day, and the light is not affecting the neighborhood. Is there a buffering between the parking lot and the residential homes?

MR. VRIENDT: There's nothing required and it's really the same as the alley that separates the rest of Kanawha City. There's the commercial and the residential and really the alley is the buffer. We do have the requirements that say that light can't escape their property so there are protections in that.

MR. MARGOLIS: Any other questions? (No response.) Is there anybody here to speak in favor of the application? (No response.) Is there anybody here to speak in opposition to the application? (No response.) Hearing and seeing none, I'll close the case and entertain a motion.

Motion and Vote: On motion of Chad Robinson, seconded by Mary Jean Davis, the Commission voted 12-0 to approve the rezoning application.

Resolution No. 132-18 – Granting Kanawha County Public Library an Easement for use of air rights over Quarrier Street to construct and connect a Skybridge for pedestrian foot traffic between the building owned by Kanawha County Public Library, on the West side of Quarrier Street and the South side of Capitol Street, and the City's Municipal Parking Garage No. 6 on the East side of Quarrier Street in the City of Charleston, West Virginia upon certain terms and conditions and also granting Kanawha County Public Library certain rights to parking spaces in the City's Municipal Parking Garage No. 6.

MR. MARGOLIS: Is the applicant here to speak?

MR. DRIGGS: Good afternoon. I'm Jody Driggs at Silling Architects in Charleston, West Virginia. We're the project architect team with HBM Architects out of Cleveland, Ohio, serving the Kanawha County Public Library project. I think everyone is familiar with the concept, the project we rolled out publicly in October of last year and are progressing through to be under construction early to mid-2019. The parking garage is a great asset to the library. It, being a library, it's primary perceived problem with maintaining its current location downtown was the perceived problem of parking. So, the exploration and design of this pedestrian bridge crossing Quarrier Street and connecting to the public parking garage is really kind a part of the project that makes it make a lot of sense to remain in the downtown and be an adaptive reuse and expansion of the historic library. We are respectfully these air rights in order to construct a pedestrian bridge to allow for safe, secure, and convenient access into the downtown library.

MR. MARGOLIS: Any questions from the Commission? (No response.) John?

MR. BUTTERWORTH: As Mr. Driggs said, this should all be very familiar. At last month's MPC hearing, you all heard Bill 7794, which was closing a portion of Quarrier Street and receiving a piece of Summers Street right of way for the supports and the lobby that will support this skybridge. Given recent conversations that we've had with the City Attorney's Office -- Dan and I have talked about this many times over the last several days -- we certainly are going to recommend approval of this proceeding at this point. The only change that I would make to the staff notes is that we're recommending approval contingent on the business terms that the City Manager's Office and the Transportation, Parking & Traffic Department need to reach with the library. I'll describe what I mean by that.

Normally, an air rights application or resolution is simply saying this property owner can use this area over a public street. In this case, this agreement wraps in some provisions for attaching to the public parking garage and for reservation of certain parking spaces and different things like that. Those specific details of exactly how to tie in to the building and exactly which spaces and how many are things that are still being hashed out with the City Attorney's Office and the City Manager and the TPT Department. I think we would recommend approval of the air rights pending settlement of some of the business terms that can be presented fully at the public hearing at Planning Committee.

SPEAKER: This is probably outside of our realm, correct?

MR. BUTTERWORTH: Yes. That's why the City Attorney's Office felt very comfortable saying, yes, this can proceed. Because this is kind of a hybrid agreement, those are things that are really not in the Planning Commission's purview anyway.

MR. VRIENDT: We have a meeting scheduled for Friday where both sides are going to sit down.

MR. KRASON: Even if we approve it and they didn't work out those details, it still couldn't be constructed. Our approval is just for the air rights.

MR. BUTTERWORTH: Correct. With that, the recommendation is the Planning Department recommends approval pending the resolution of the business terms.

RECOMMENDATION AND FINDINGS:

The Planning Department recommends **approval** for the following reasons:

1. Conveyance of air right as described in the agreement will not impede or disrupt vehicular or pedestrian flow along Quarrier Street.
2. Legal access provided by city rights-of-way will not be adversely affected.
3. Conveyance of air right as described in the agreement will allow for the improvement of a critical public institution within the downtown core.

MR. MARGOLIS: John, in the past people that have done this have had to get appraisals of the value of the air rights and all of that and wasn't that waived because this is a public entity?

MR. BUTTERWORTH: We're still trying to nail that down. I think one of the conversations that we're going to have on Friday is, with the property swap, we're receiving a great deal more property from the library than we're giving them. So, it might be that that valuation can just be said, yes, here's what it is.

MR. MARGOLIS: Also, in the past, language in there for inspections of the bridge over time because you've got people underneath. Is that language in there?

MR. BUTTERWORTH: Yes, that's been on the table the whole time.

MR. VRIENDT: The sidewalk area they're giving to us on Summers Street appraises for much more than an air rights easement. A lot of times air rights easements will appraise at 25 percent of land fees, so I think we can easily demonstrate the City is coming out ahead.

MR. MARGOLIS: Any questions from the Commission? (No response.) Staff? (No response.) Anybody here to speak in favor of the application? (No response.) Anybody here to speak in opposition to the application? (No response.) Seeing and hearing none, I will close the case and entertain a motion.

Motion and Vote: On motion of Mary Jean Davis, seconded by Dallas Staples, the Commission voted 12-0 to approve the application.

Approval of the October 3, 2018, Meeting: On motion of Adam Krason, seconded by Chad Robinson, the Commission voted 12-0 to approve the Minutes.

MR. VRIENDT: Things are improving and looking up on the Elk City area and for Kelly's Men's Shop. It's looking very positive that something is going to happen there. Things are continuing to look up.

MS. DAVIS: Ms. Shaffer, I see that you're here and we've been talking about your neighborhood. I just wondered if you had anything you wanted to say?

MR. SHAFFER: I would like to see a plan closer. I'm at 3308 Noyes. The buffer zone are the trees, the evergreens that I helped to plant. The roses that are there by the steps I also helped to plant after seven of the evergreens got burned by the smokers from sitting on the steps with their cigarettes. I think the buffer zone has been good beside my house. I'm trying to put in place exactly where you're looking on the other side of that buffer zone, the hospital.

MR. VRIENDT: We can sit down with you after the meeting and go over the plans with you.

MS. SHAFFER: That sounds good. Thank you.

MR. KRASON: I reached out to Dan earlier this week or two weeks ago. The development that Stricklen developed at the top of the hill, when we approved it, we had required green space be left at the corner there. I think in the end we just required that it remain green space but the City never took any ownership of it because there was concern about having to maintain trees and such there. I think in the future we should be more cognizant of what the result of those decisions might be. There's a real opportunity to have a nice little community park there.

Adjournment.