

PLANNING COMMISSION MEETING

June 9, 2011

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Fitzgerald called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Mr. Andrew Eade, Ms. Christine Shoop, Mr. David Komjati, and Chairman Thomas Fitzgerald. Absent was Mr. Brian Temming. Also present were, City Manager Rita McMahon, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Chairman Fitzgerald asked for additions or corrections for the Planning Commission Meeting of April 14, 2011. There being none, he asked for a motion. Motion by Mr. Komjati, seconded by Ms. Shoop, to approve the Planning Commission Meeting Minutes from April 14, 2011 as submitted. All members present said "aye". Motion carried.

NEW BUSINESS: (Public Hearing Items)

Chairman Fitzgerald asked the secretary to read the notice for Rezoning Application No. 64-11.

Rezoning Application No. 64-11

Location: Chestnut Street – 15 parcels located south of the RR tracks, north of Cedarbrook Drive.

From: B-2 General Business District to an R-1 Single Family Residential District

The City of Painesville is requesting a change in the zoning classification of the following Permanent Parcel Numbers: 15-C-035-0-00-022-0 (304 Chestnut Street), 15-C-035-0-00-023-0 (298 Chestnut Street), 15-C-035-0-00-024-0 (294 Chestnut Street), 15-C-035-0-00-025-0 (286 Chestnut Street), 15-C-035-0-00-026-0 (280 Chestnut Street), 15-C-035-0-00-027-0 (276 Chestnut Street), 15-C-035-0-00-028-0 (270 Chestnut Street), 15-C-035-0-00-029-0 (262 Chestnut Street), 15-C-035-0-00-031-0 (248 Chestnut Street), 15-C-035-0-00-032-0 (240 Chestnut Street), 15-C-035-0-00-033-0 (230 Chestnut Street), 15-C-035-0-00-034-0 (224 Chestnut Street), 15-C-034-0-00-036-0 (219 Chestnut Street), 15-C-034-0-00-034-0 (223 Chestnut Street), and 15-C-035-0-00-002-0 (Chestnut Street rear). These parcels are considered to have preexisting nonconforming uses, which means the current use does not match the current zoning designation. The proposed change is from the current B-2 General Business District to an R-1 Single Family District. The rezoning will bring the zoning of the properties into compliance based on their current use.

Chairman Fitzgerald indicated the goal of this rezoning is to preserve and strengthen the already prominent residential character of these two neighborhoods, and to stop the potential of creeping commercialization along Chestnut Street. He asked if the City had anything additional to add.

Mr. Schaedlich gave a presentation on the background of the City's zoning districts. He explained how the zoning was a pyramid style. Pyramid style zoning meant residential districts were residential; however, there could be residential uses built in the business districts, and business and residential uses in the manufacturing districts. This created a mix of uses in certain areas. Mr. Schaedlich explained that over time this was changed. The most recent changes were done in 1984 and 1992, which were major changes in the code. The City went to exclusive zones where residential, business, and manufacturing were only allowed in the appropriately zoned areas. This created a number of non-conforming uses.

Mr. Schaedlich stated the formal process of identifying non-conforming properties within the City of Painesville was initiated by a series of Administrative Appeals that were filed with the Board of Zoning Appeals (BZA) beginning with the January, 2010 meeting. That Appeal heard at the January meeting was filed because of the property owner being notified through Code Enforcement that their duplex, located in an R-1, Single Family Residential District was nonconforming and had lost its nonconforming status as the result of the fact that one of the units had not been occupied in more than twelve months. The property could now only be used in conformance with the guidelines of the R-1, Single Family Residential District.

It was explained that at the BZA meeting, the owner of the property countered that the property was purchased as an investment rental property, and that she had no knowledge that the duplex property was nonconforming, or that she could lose the use of the property as a duplex. The BZA members were concerned that the City could be creating a financial hardship on the property owner and wanted to know if the City notified owners of nonconforming properties and apprised them that the

use of the property could be lost and the new use had to be in conformance with the current zoning. The BZA was told that the City did not inform property owners that their property was nonconforming or that the nonconforming use could be in jeopardy. The City typically notified owners after the nonconforming use was lost. The BZA felt uncomfortable with this process and asked City staff to devise a process to identify and notify owners of nonconforming properties.

Mr. Schaedlich explained that Staff began the actual process of identifying nonconforming properties in the summer of 2010. Several sources of information were used in the process. Code Enforcement records, LakeGIS data, Lake County Auditor data and City utility records were used. Where there was uncertainty, field verification was done. A solid database was developed that was probably ninety percent (90%) complete. This database is continually fine-tuned as new information becomes available.

Once this information was obtained and verified, the City's GIS staff mapped the nonconforming uses so identified. Once mapped, the zoning district map was overlaid on the parcel map. The result was that, in some areas, the pattern of nonconforming uses suggested that it made sense to rezone some of these areas to better reflect the existing use of the property. This decision was made with the knowledge that these nonconforming uses were well entrenched and the likelihood of them being redeveloped into conforming uses was low.

Mr. Schaedlich continued by showing the Commission the map of the area being discussed. He showed how the area being rezoned already contains single-family residential uses and those fifteen homes are well established. The likelihood of those properties being changed into commercial uses is small.

He stated that the staff also reviewed this change with the Comprehensive Plan to be sure that any rezoning would be in conformance with the recommendations of the Plan. The request to rezone this area does not conflict with the recommendation made in that Plan.

Mr. Schaedlich concluded by asking if there were any questions on this request. Chairman Fitzgerald asked if the change in the zoning classification would affect the tax rate on the homes. Mr. Schaedlich replied the property taxes are based on the use of the property, not the zoning. He did explain that if the use were to be changed to a commercial use the property would be taxed at a different rate.

Ms. Shoop asked if the zoning change included the Atwell property. Mr. Schaedlich responded the commercial properties would be left at their current zoning classification of B-2 General Business District.

Chairman Fitzgerald asked if there was a down side to this rezoning. Mr. Schaedlich indicated this does not have a down side. There is no need for commercial development in this area. The area has commercial uses within one-mile; Mentor Avenue shopping district, Downtown area. This area does not warrant having a creeping commercial district into a residential area. Having the zoning match the use should alleviate any issues for homes that are sold in the future since the lending industry looks at this closer than it has in the past.

Chairman Fitzgerald indicated since the Commission has no other questions or comments he would open the Public Hearing to the audience. He stated that anyone wishing to speak should state their name and address for the record.

Mr. Angelo Cimaglio, 477 Owego Street, stated he grew up in this neighborhood. He is concerned about the open lots in the rear portions of the area being discussed. The area is having drainage issues currently and he feels the change in zoning will cause someone to build more homes. He believes that additional homes will only make drainage worse for the area. Mr. Cimaglio stated he would like that vacant lot to be left as B-2 unless there is a guarantee the lot will not be developed with homes.

Ms. Linda Cicconetti, 231 Chestnut Street, stated she is next to the area under discussion. She stated the last time it rained the street flooded to the point where cars were driving on her sidewalk and treelawn. She explained that the area in the back of her property is always wet and flooding. Ms. Cicconetti stated that if the area Mr. Cimaglio talked about were developed, they would have more issues with flooding. She stated she does not have an issue with the zoning change, just with development of the area that is not developed.

Mr. Komjati commented about the area Mr. Cimaglio mentioned. If the property were to stay business, a business or commercial use could be developed on the lot. He stated that would still cause

flooding problems. There was discussion about the vacant lot and how it could be accessed and the possibility of development there.

Ms. Shoop asked how the lot is accessed now. Mr. Schaedlich showed on the map the various properties surrounding that lot that are owned by the same owner. There are several areas where the owner has access to the lot. Mr. Schaedlich indicated the City does have Storm Water Regulations put in place for new development that would address the drainage concerns. Ms. Shoop stated that if the owner wanted to develop the area as residential he could do that just by requesting a rezoning. She commented that as a homeowner she would rather have the site developed residential rather than commercial. There was discussion about the site and the potential of development. Ms. Shoop indicated she did not see the advantage of leaving this parcel out of the rezoning and keeping it as a commercial district.

Chairman Fitzgerald asked if there were any other comments. Mr. Brian Avsec stated he owns Chestnut Mini Storage at 220 Chestnut Street. He commented that he believes the zoning change is a good idea. He has some concern regarding the properties directly adjacent to his property. He explained that prior to his purchase of the property, an expansion was done and a retention basin was enlarged. Mr. Avsec explained that he had considered approaching the homeowners to purchase the rear portions of their property to expand his current property. If the zoning were changed on those lots, it would make it more difficult for him and limit his options. Mr. Avsec mentioned that he too noticed the flooding on the street and believes having the ability to expand the catch basin would be beneficial.

Chairman Fitzgerald inquired about the lots Mr. Avsec talked about. The lots are very deep and narrow. Ms. Shoop asked how this would work, the lots are divided in half and if Mr. Avsec was to purchase them, would he be able to do this? Mr. Schaedlich indicated Mr. Avsec would need to come back and request a rezoning of those parcels if he were to purchase them.

Chairman Fitzgerald asked if there were any other comments. There being none, he asked for a motion. Motion by Mr. Komjati, seconded by Ms. Shoop, to favorably recommend Rezoning Application No. 64-11 on Chestnut Street from B-2 General Business District to R-1 Single Family Residential District. On roll call, Mr. Komjati, Mr. Eade, Ms. Shoop and Chairman Fitzgerald answered "yes". Motion carried.

Rezoning Application No. 65-11

Location: Stage Avenue – 11 parcels located near SR 2

From: M-2 Industrial District to an R-1 Single Family District

The City of Painesville is requesting a change in the zoning classification of the following Permanent Parcel Numbers: 15-C-023-0-00-015-0 (130 Stage Avenue), 15-C-023-0-00-016-0 (140 Stage Avenue), 15-C-023-0-00-009-0 (Stage Avenue-Vacant), 15-C-023-0-00-017-0 (156 Stage Avenue), 15-C-023-0-00-008-0 (164 Stage Avenue), 15-C-023-0-00-007-0 (170 Stage Avenue), 15-C-023-0-00-006-0 (176 Stage Avenue), 15-C-023-0-00-023-0(190 Stage Avenue), 15-C-023-0-00-004-0 (200 Stage Avenue), 15-C-023-0-00-003-0 (216 Stage Avenue), 15-C-023-0-00-002-0 (246 Stage Avenue). These parcels are considered to have preexisting nonconforming uses, which mean the current use does not match the current zoning designation. The proposed change is from the current M-2 Industrial District to an R-1 Single Family District. The rezoning will bring the zoning of the properties into compliance based on their current use.

Mr. Schaedlich explained in this particular instance, numerous parcels on the north side of Stage Avenue were identified as having split zoning on their parcels. The front half of the parcels are zoned R-1, Single Family Residential and the back half are zoned M-2, Heavy Manufacturing. The split zoning on these parcels does not make sense because there is no possibility that the back portions of these lots could be used industrially. All of the parcels are used residentially, as either single family or duplexes. The duplexes would retain their nonconforming status under the R-1 zoning.

Mr. Schaedlich stated this is Neighborhood #3 in the Comprehensive Plan. The area is a mix of single family residential; multi-family residential, commercial and major industrial uses, such as Avery Dennison. This area begins at Newell Street along the south side of State Route 2 the southern part of the interchange with Richmond Street is also in the neighborhood. The CSX Railroad tracks form its southern boundary. The rear portions of lots that are zoned M-2 are generally vacant. The rear portions of the lots should be rezoned from M-2 to R-1 so that the lots are all one zoning classification and reflect their current use. There is sufficient land area zoned M-2 to the rear of these lots that would allow industrial development to occur.

Mr. Schaedlich indicated that he did speak with one property owner on this rezoning. There is

someone present to speak on behalf of that property owner regarding the proposed change. He explained that they own the large industrial parcel at the rear of the lots along with a few lots that have the split zoning currently.

Chairman Fitzgerald asked if this was an older neighborhood. Mr. Schaedlich indicated the majority of the homes were built between 1930 and 1940. The surrounding area, Button Avenue and Newell Street, is primarily residential. The main concern is to rezone the back portions of the lots that have homes located on them.

Ms. Shoop inquired about a previous request for the large area of land for a potential condominium development. Mr. Schaedlich indicated that he was told that an application to rezone that area to R-2 Multi-Family had been submitted a few years back. The application was never approved.

Chairman Fitzgerald asked if the property owners wanted to sell the rear portion of their lot is there a minimum size the lot would need to be kept at. Mr. Schaedlich indicated under the current R-1 Zoning these lots are narrower than what is required; and he believes the lots are currently at the minimum square footage requirement of 10,000 square feet. The property owners would not be able to reduce the lot size to less than 10,000 square feet.

Ms. Shoop inquired about the lot between 140 and 156 Stage Avenue. Is that parcel wide enough to use as a road to access the rear parcel? Mr. Schaedlich indicated the lot is only 50-feet wide so it could only be used as a private drive since 60-feet is necessary for a public street drive entrance.

Chairman Fitzgerald asked if there were any comments or questions from the audience. Mr. William Perkins, 216 Stage Avenue, stated that he was not allowed to build a garage or put in an access drive on his property. Mr. Schaedlich indicated the City has a regulation that industrial property cannot be accessed through residential. Mr. Perkins commented about an access drive to the rear lot where there is a gas well along with concrete storage, road grindings, and construction waste. There was discussion regarding the access to the area and the property with the gas well. Mr. Lewis indicated the City does not regulate gas wells. Any issues with the gas well should be directed to the Ohio Department of Natural Resources.

Ms. Diane Pintel indicated she is an employee of Air Gas Great Lakes. She asked if this rezoning change has any impact on their property. The response was no, it does not since Air Gas is not within the area requesting a zoning change.

Mr. Benjamin Aveni, 41 East Erie Street, indicated he is representing WW Construction Company. They own the rear industrial zoned property along with the lot between 140 and 156 Stage Avenue. There is concern that if that lot which has the split zoning were changed to R-1 it would not be consistent with the other parcels that are owned in the area. Mr. Aveni stated they are asking that no action be taken in regards to these parcels owned by WW Construction, in addition they would like to have the vacant lot on Stage be zoned M-1 to be consistent with the property in the rear. There were questions about the use of the property and the use of that lot as a drive access. Mr. Aveni indicated there are no plans for the property at this time due to the location of the gas well. He indicated they would like to have their holding consistent with each other so whatever the future development of the property it will all be the same.

Ms. Shoop asked for clarification of the regulation of no access to industrial property through a residential district. Does this mean only residentially developed property or residentially zoned property. Mr. Schaedlich indicated it applies to the zoning of the property. Ms. Shoop asked if the property in question was zoned completely R-1 then he cannot do anything with the property, he will have to come back to the Commission. Mr. Schaedlich indicated he has the same issue with it only being one-half zoned industrial. There was continued discussion regarding the access to the rear property and the potential development of that land without access. Ms. Shoop commented that she did not feel it was fair to make it all residential.

Mr. Lyons asked if this was the only access to the property. Mr. Aveni explained there were other parcels surrounding the large parcel that give them access to the site. He asked that no action be taken on their property until such time they can come back later to address the development of the area. Mr. Lyons asked when the owner purchased the property. Mr. Aveni indicated it was purchased around 1992. Mr. Lyons stated it would seem the property was purchased with the limited access at that time.

Mr. Lyons asked that this rezoning request be tabled. He indicated that he would like to look at Mr. Aveni's request from a legal standpoint to see what impact it would have to leave this parcel alone in its current situation. This would give us a better understanding of this request. There does not seem to be any urgency to this request. It would be best to look at the access to this property to find out how limited it may be.

Chairman Fitzgerald stated if there were no other comments or questions, there needs to be a motion to table this request. A motion was made by Ms. Shoop, seconded by Mr. Komjati, to table Rezoning Application No. 65-11 for Stage Avenue to allow further review. On roll call, Mr. Eade, Ms. Shoop, Mr. Komjati and Chairman Fitzgerald answered “yes”. Motion carried.

Rezoning Application No. 66-11

Location: 825 Bank Street - PP# 15-B-020-0-00-007-0

From: B-2 General Business District to an R-2 Multi-Family District.

The City of Painesville is requesting a change in the zoning classification of the following Permanent Parcel Number: 15-B-020-0-00-007-0 (825 Bank Street). The parcel is considered to have a preexisting nonconforming use, which means the current use does not match the current zoning designation. The proposed change is from the current B-2 General Business District to an R-2 Multi-Family District. The rezoning will bring the zoning of the property into compliance based on its current use.

Mr. Schaedlich explained that this request only involves one parcel of land. This parcel is at the Five Points Intersection of South State Street (State Route 86), Bank Street (State Route 84), and Cumings Road. The northern and southern triangle sections of this intersection have been zoned B-2, General Business since 1960. In 1960, the B-2, General Business District allowed residential uses and continued to do so until the Zoning Code update of 1984 when B-2 became exclusively commercial in nature. The 8-unit Johnson Apartment building was issued a building permit in 1984, just before the 1984 Zoning Code changes were adopted. The apartments are going to be there for a long time. This area is known as Neighborhood #11 in the Comprehensive Plan. Rezoning the apartments to R-2, Multi-Family would make the property conforming because it is being used as multi-family. The property can also be attached to the River’s Edge Condominium Property across the street to the east, which is already zoned and used as R-2.

Chairman Fitzgerald asked if there were any comments or questions. There being none, he asked for a motion. Motion by Ms. Shoop, seconded by Mr. Eade, to favorably recommend Rezoning Application No. 66-11 for Bank Street from B-2 General Business District to R-2 Multi Family Residential District. On roll call, Ms. Shoop, Mr. Komjati, Mr. Eade, and Chairman Fitzgerald answered “yes”. Motion carried.

ADMINISTRATIVE REPORT:

Temporary Structure and Uses: The City of Painesville was granted the placement of a construction trailer at the former Lake East Hospital site (10 East Washington Street) in accordance with Section 1141.07 (c) on April 8, 2010 with the stipulation the trailer be removed by May 1, 2011. The City of Painesville is requesting a six-month extension of their permit for the trailer.

Mr. Schaedlich explained that the trailer was placed there for the demolition of the hospital. The demolition was to be completed by February 2011. He stated that due to the fact the contractor is behind, an extension of the temporary structure permit for the trailer should be granted for 6-months.

There being no other comments or questions, Chairman Fitzgerald asked for a motion. Motion by Ms. Shoop, seconded by Mr. Eade, to grant a six-month extension for the placement of the construction trailer at the former Lake East Hospital site. On roll call, Mr. Komjati, Mr. Eade, Ms. Shoop and Chairman Fitzgerald answered “yes”. Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

ADJOURNMENT

There being no other items to come before the Planning Commission the meeting was adjourned.

Lynn M. White, Secretary

Thomas Fitzgerald, Chairman