

SPECIAL MEETING
TOWN OF WAYNESVILLE PLANNING BOARD
AUGUST 29, 2005
MONDAY - 5:30 P.M.
TOWN HALL

The Planning Board held a special meeting on Monday, August 29, 2005. Members present were Don Stephenson, Dan Wright, Rex Feichter, Lee Bouknight, Gary Sorrells, Patrick Bradshaw, and Marty Prevost. Also present were Planning Director Paul Benson, Land Development Administrator Byron Hickox and Deputy Town Clerk Freida Rhinehart. Chairman Rex Feichter called the meeting to order at 5:30 p.m.

Rezoning Text Amendment - South Main Street - Martha June Setzer and Patrick Bradshaw

Staff Report:

The requested amendment is as follows:

All "Institutional and Civic" uses, "Business, Professional and Personal Services" uses, and "Retail Trade and Food Services" uses permitted in the Hazelwood Neighborhood District (as listed in Section 154.113) must be located at the intersection of at least two (2) public streets **or be located on properties abutting South Main Street between Mississippi and Virginia Avenues.**

Mr. Bradshaw is planning to purchase a property located at 1210 South Main Street within the Hazelwood Neighborhood District for use as a professional office. At present this district allows commercial and office uses only on properties located at the intersection of two public streets.

There are 21 properties within the Hazelwood District that abut South Main Street. Only two of these properties are in nonconforming use, the property at 1210 A. Main and nearby property at 1170 S. Main; both are "grandfathered" for office use. Out of the 21 properties, 12 are adjacent to intersections and could be used for commercial use, however at this time none of these corner properties are in commercial use.

There are six properties included in the area of the proposed amendment: two of these are permitted commercial use because they are located at public street intersections (although both are currently in residential use), the two listed above have "grandfathered" commercial uses, and two are in residential use.

Recommendation:

The staff recommends that the ordinance remain unchanged for the following reasons:

Changing the permitted uses for a single block of South Main Street within the Hazelwood Neighborhood District is difficult to justify on any broader planning principal. It is somewhat arbitrary, and provides benefits to a relatively small

portion of the district not enjoyed by other similarly situated properties within the district.

The proposed ordinance amendment would open the subject properties to a range of commercial uses wider than the existing grandfathered professional offices. This could lead to a chain effect of making other properties in the vicinity, including the existing single family residences directly across from the subject area, less desirable for residential use.

The proposed amendment is not supported by the Land Development Plan which indicates planned land use for this area to be low to medium residential.

Patrick Bradshaw who represented property owner Martha June Setzer did not sit as a member of the Planning Board for this agenda item since he has a financial interest in this proposed rezoning.

Mr. Bradshaw stated that Mr. Benson explained the realities of the Hazelwood Neighborhood District in his Staff Report. The property on South Main Street is grandfathered for commercial uses unless the square footage is expanded which might result in an expansion of the non-conforming use of the building. Bradshaw Engineering is growing and Mr. Bradshaw does not foresee a change in this trend. His questions regarding not being granted the zoning text amendment are:

- Could Bradshaw expand the size of the building? If they expand beyond 75% of the market value of the building, the structure would have to be brought into compliance. Also, if a 6-month lapse occurs in the commercial use of the building, the grandfathering would be lost.
- Would just the simple grandfathering of the uses be enough to carry his business into the future at this location?

It is not Mr. Bradshaw's intent to stretch the ordinance. Within 200 ft. in either direction of this building are commercial uses. Also, the character of South Main Street lends itself to commercial uses with an average traffic flow of almost 10,000 vehicles per day.

Mrs. Setzer stated that she purchased the property in 1972 and it has housed several different commercial uses. She moved her business out on July 1 of this year in order to accommodate another business at this location. She would very much like for Mr. Bradshaw to be able to purchase the building.

Rex Feichter said that the property has served as a variety of different businesses.

Mr. Bradshaw pointed out that the entire section between Mississippi and Virginia Avenue have commercial uses. Also, the lending institution wants to assure that the building will be able to continue as a commercial use.

The reasons that the zoning text amendment is being requested only for the properties abutting South Main between Mississippi and Virginia Avenues are:

- They are not asking for any use that is not ordinarily permitted in the Hazelwood Neighborhood District.
- The topography in this area lends itself to commercial uses.

Marty Prevost stated that lending arrangements could be worked out with the lending institution without a text amendment. Ms. Prevost does not want to change the ordinance since she feels it is arbitrary.

Don Stephenson said that he feels that a change would be arbitrary as well and it seems that we seem to be dealing with the same issues at every meeting. The Planning Board is attempting to be consistent.

Mr. Bradshaw asked if the proposed text amendment is any more arbitrary than the current ordinance which permits commercial uses on the corners of the intersections.

Rex Feichter pointed out that when the Land Development Standards were being created that the intent was to allow some limited commercial uses in the Hazelwood Neighborhood District.

Ms. Setzer indicated that of the 23 land parcels in this district, only 8 parcels are actually residential.

Mr. Bradshaw stated that the commercial uses in the Hazelwood Neighborhood District are all very light. There is nothing large scale such as a fast food restaurant. Therefore, he feels that the same uses as on the corners could be used between the intersections.

Gary Sorrells moved, seconded by Lee Bouknight, to approve the requested zoning text amendment.

The motion failed with Sorrells and Bouknight voting "yea"; Stephenson, Wright, Feichter, and Prevost voted "nay".

Rezoning Request - Russ Avenue - From Dellwood Neighborhood District (D-ND) to Russ Avenue (RA-TC)

Paul Benson explained that it is the job of the Planning Board to give recommendations to the Board of Aldermen. Since there was no motion at the last meeting on the Gibson/Hightower rezoning request, after studying the ordinance, the staff is asking the Board to take a vote.

Mr. Benson further stated that there are already limited commercial uses in the Dellwood Neighborhood District for all properties facing on Russ Avenue. Mr. Gibson requested high density commercial uses available in the Russ Avenue Town Center.

Rex Feichter stated that any time a property is located on a main thoroughfare, there will be requests for higher commercial use. The best way to reduce the number of requests is to adhere strictly to the Land Development Standards.

Marty Prevost moved, seconded by Dan Wright, to reject the request for the rezoning from Dellwood Neighborhood District to Russ Avenue Town Center. The motion carried. Gary Sorrells abstained from voting due to a conflict of interest. All others voted "nay".

Other Business

Paul Benson told Planning Board members that the next meeting will include discussion of ordinances requiring street trees for businesses that face on town streets. The current ordinance states that the Town will provide street trees. With the new HVO project, the Town agreed to purchase half the street trees. The 12 trees which the Town purchased cost \$4200. The Public Works budget cannot handle such costs for private development. Fred Baker, Public Works Director, has requested an amendment to delete the provision that the Town must furnish street trees and transfer this responsibility to the developer. The staff will send a report on this matter prior to next month's meeting.

Adjournment

With no further business, the meeting adjourned at 6:10 p.m. by consensus.

Rex Feichter, Chairman
Freida F. Rhinehart, Secretary