

## FAIRMONT PLANNING COMMISSION

The regular meeting of the Fairmont Planning Commission was held on July 5, 2018 at 6:00 p.m. in the Public Safety Building located at 500 Quincy Street.

President Straight called the meeting to order at 7:00 p.m. and asked for a roll call of members.

### ROLL CALL OF MEMBERS

#### **MEMBERS PRESENT**

Commissioner Yann  
Commissioner Majic  
Commissioner Greene  
Commissioner Parker  
Commissioner Wean  
President Straight

#### **MEMBERS ABSENT**

Commissioner Carpenter  
Commissioner Blickenstaff  
Commissioner Richardson

Commissioner Greene motioned to excuse Commissioners Carpenter, Blickenstaff and Richardson from the meeting. Commissioner Parker seconded the motion.  
Motion carried 6-0.

### CITY STAFF

City Planner – Sandra Scaffidi  
Senior Staff Assistant - Maria Cipolla

### PLEDGE OF ALLEGIANCE

Commissioner Yann led the Commissioners in the Pledge of Allegiance.

### APPROVAL OF MINUTES

Commissioner Parker motioned to approve the minutes from May 16, 2018.  
Commissioner Greene seconded the motion.  
Motion carried 6-0

### PUBLIC HEARING FOR July 5, 2018

1. Michael Properties Group LLC is requesting a rezone of the property located at 812, 814 ½, and 820-820 ½ Ridgely Avenue from Neighborhood Residential to Main Corridor Commercial.

President Straight: Is there anyone to speak in favor of this request?

Travis Michael, from Michaels Properties, LLC, stated it has always been used as a commercial property and has no other use. He has a possible tenant from Morgantown.

President Straight: Is there anybody else to speak against?  
There were none.

President Straight asked for the staff report from the City Planner, Sandra Scaffidi.

City Planner, Sandra Scaffidi: the property is located in Neighborhood Residential zoning area, which does not allow commercial businesses. The applicant has a garage that he feels cannot be used without major renovations, because it was constructed to be a garage. This structure is in a highly residential area. The applicant had/has a tenant who wishes to use the building for a commercial use (detailing automobiles or from operating a cleaning business base of operations. The geography is relatively flat and the area is hidden from plain sight. It appears that the garage was originally attached to a dwelling on Ridgely Avenue as an accessory structure but was creatively subdivided over the years where as it now serves as an accessory structure on its own lot. The last business license that was issued for this property was in 2009. Even if it was grandfathered in at the time the zoning was put in place, the non-conforming use no longer retains its grandfather status. Because of that, it cannot be a commercial property. It no longer meets the requirements indicated in our code

book for a non-conforming use so we cannot say it has been a commercial property all that time. It does not have its grandfather status. A key component of the 2005 Comprehensive Plan recognizes the need for safe, clean and affordable rental housing serving people of all economic classes. The plan further recognizes the need to strengthen residential neighborhoods. I think we should continue to do so.

According to the Planning and Zoning Code (Section 8.10.4), the Planning Commission shall make a recommendation and present its findings and report to the City Council on requests for rezoning:

- a) The need and justification for the proposed amendment (*the area's character has not effectively changed. The character remains with primarily single family and multi-family residential housing*);
- b) The effect of the proposed amendment on the property, the surrounding property and the City as a whole (*The neighborhood residential zoning district allows the structure to be rehabilitated into a rental housing facility. The establishment of a rezone to Main Corridor Commercial is not necessary except for the use of the property as it relates to commercial enterprises*);
- c) Whether those changes have substantially altered the basic characteristics of the area (*No substantial changes have been made that have altered the basic characteristic of the area*);
- d) Whether there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted (*There have been no substantial changes to the area since the Comprehensive Plan was adopted that would qualify the applicant's property to be rezoned. Even the replacement of the Fourth Street Bridge has not caused a substantial change to the area*).
- e) Whether those changes have substantially altered the basic characteristics of the area (*The area's character has not been substantially altered. No new commercial structures have been introduced to the area*).
- f) Whether the proposed amendment should be adopted; and
- g) Whether all notice requirements have been met (*All notice requirements have been met*).

Staff recommends denying the application for the proposed rezoning and instead retaining the existing zoning of Neighborhood Residential. The proposed rezoning is unorderly and inappropriate. The rezoning would only benefit one property owner and not the greater good of the City. Should the desired use of the property change, the applicant can revisit his request through the Planning Commission. When the City revises the Comprehensive Plan, the Commission can address changes in zoning for this property; if it is determined it is necessary, at that time.

**Commissioner Yann:** If the Comprehensive Plan is revised, is there a certain amount of time he has to wait to reapply?

**Sandra Scaffidi:** He would have to wait one year, unless there are substantial changes to the petition.

**The Commissioner and the City Planner, Sandra Scaffidi, had a detailed and thorough discussion on this rezoning request. Sandra Scaffidi read the definition of abandoning a non-conforming use for the Commissioners as well.**

**Commissioner Yann** made a motion to table the request so that the City could look into the property tax situation for this property.

**Commissioner Majic** seconded the motion.

**Commissioner Parker** requested more discussion time before a final vote is made. Sandra reread the definition of abandoning a non-conforming use.

**Commissioner Parker:** It (the City's ordinance) states the word 'shall' twice. I don't think the tax issue is relevant. The lack of a business license determines the issue, I believe, on the grandfathering issue not the rezoning issue.

**President Straight:** We have a motion on the floor to table the request. Can I have a roll call vote on that motion?

**Maria Cipolla:** Commissioner Parker – No.  
Commissioner Wean – No.  
Commissioner Greene – No.  
Commissioner Yann – Yes.  
Commissioner Majic – Yes.

**Motion carried 3-2 not to table the rezoning request.**

**President's Straight's vote was not necessary.**

**Commissioner Greene:** I will make a positive motion to approve the request for a rezone. I then intend to vote against my motion for purpose of clarity.

**Commissioner Parker** seconded the motion.

**President Straight:** Can I have a roll call vote?

**Maria Cipolla:** **Commissioner Parker – opposed**

**Commissioner Wean – No.**

**Commissioner Greene – No.**

**Commissioner Yann – Yes.**

**Commissioner Majic – Abstain.**

**Maria Cipolla:** The request to rezone is denied 3-1 with **Commissioner Majic** abstaining. **President Straight** did not vote.

### **PUBLIC HEARING TO SET FOR August 15, 2018**

**Clean Metal, LLC dba 3 Rivers Iron & Metal** is requesting a right-of-way abandonment between **Parcels 3-3-277; 3-3-289; 3-3-276; 3-2-251; 3-2-256; 3-2-252** located on and/or near Virginia Avenue.

**President Straight:** Do I have a motion to set this public hearing?

**Commissioner Greene** motioned to set the public hearing.

**Commissioner Yann** seconded the motion.

**Motion carried 6-0**

### **NEW BUSINESS**

**City Planner, Sandra Scaffidi** will present the **Comprehensive Plan to the Planning Commission to move forward with the adoption process.**

**Sandra Scaffidi:** We are closer to approving the Comprehensive Plan. The biggest issue was we neglected to include a present land use map in the original Comprehensive Plan. It is all in our Comprehensive Plan now. Additionally, the major change we added was to goal number five; the Connectivity portion of our conversation. We have received information from the National Rail Trail Conservancy. They have completed an amazing document that provides routes through Fairmont and the whole state connecting Pittsburgh, Pa to Parkersburg, WV. We wanted to include that in our Comprehensive Plan. We did that on page 117. We also added additional information talking about the economic benefits of having a rail trail and that was added to the Comprehensive Plan. Those are our major changes. It now complies with section 8A of the State Code. We do have a timeline, but I wanted to ask your permission first before I made this official. We need to have thirty days between this meeting and our next public hearing for the Comprehensive Plan. We have 29 days until the next meeting on August 15<sup>th</sup>. I would like to, if all of you agree, is move the meeting from August 15<sup>th</sup> to August 22<sup>nd</sup>. That is the following Wednesday. This way we don't have to wait another month.

**Commissioner Greene:** That is the first day of school in Marion County.

**President Straight:** We will have to make a motion to move the public hearing we just set from August 15<sup>th</sup> to August 22<sup>nd</sup>.

**Commissioner Greene:** I make a motion we move the meeting to August 22<sup>nd</sup> instead of August 15<sup>th</sup>.

**Commissioner Wean** seconded the motion.

**Motion carried 6-0.**

**Sandra Scaffidi:** It has been recommended to us, by the West Virginia Law Clinic that we have a public hearing before we have our regular Planning Commission meeting for the Comprehensive Plan. At seven o'clock we will have a public hearing for the Comprehensive Plan. We will open it and close it after people speak. We will then start our Planning

Commission meeting immediately after. That is what was recommended to us. So we will have two meetings. The first meeting will be short. I will send the timeline out to all of you. Thank you to everyone coming.

**CITIZENS PETITION (For items not listed on the agenda)**

**Citizens must register in advance with the recording secretary.**

**None**

**OTHER BUSINESS**

**Commissioners Comment:**

**Commissioner Parker:** I want to thank Sandra [Scaffidi] and Maria [Cipolla] for good communications. For some reason, I could not find the June meeting on our calendar. I thought I missed it and didn't realize. I called Maria because I was concerned that I missed the meeting. She assured me I hadn't and helped me get my calendar straight. Then we got two packets in advance. I appreciate that. I think you both do a nice job of communicating those things. I hope everyone is having a nice summer.

**Commissioner Majic:** I appreciate you both as well.

**Commissioner Wean:** Same here.

**Commissioner Greene:** Same.

**President Straight:** I know where that property is and what it can be. I hate to see that property go by the wayside. I know that area very well. Maybe later on, we could take a look at it with the Comprehensive Plan and see what we can do. We have to protect our neighborhoods though. We have to follow the book, whether you agree with it or not. You have to lay your feelings aside.

**Staff Updates:**

**Sandra Scaffidi:** Thank you and hope everyone had a Happy Fourth of July.

**ADJOURNMENT**

**President Straight** asked for a motion to adjourn.

**Commissioner Greene** motioned to adjourn.

**Commissioners Yann** seconded the motion.

**Motion carried 6-0**