

MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM
March 18, 2005

CALL TO ORDER: Caleb Faux called the meeting to order at 9:00 am.

Commission Members Present:

Mr. Caleb Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Ms. Lemmie

Commission Members Absent:

Mr. Paddock, Mr. Tarbell

Community Development and Planning Staff:

Margaret Wuerstle, Lenny Adkins, Steve Briggs, Felix Bere, Jennifer Walke, Larry Ringer

Law Department:

Julia Carney

APPROVAL OF MINUTES

Submission of the minutes from the March 04, 2005 Planning Commission meeting for approval.

Motion: Mr. Mooney moved the minutes be approved as written
Second: Ms. McCray
Vote: All ayes (4-0), motion carries.

DISCUSSION ITEMS

ITEM #1 A report and recommendation on a zone change request for property currently covered under IDC #64 from CC-A (Community Commercial – Auto-oriented) to SF-6 Zone District in Hyde Park.

General Information:

Jen Walke, staff Planner, presented this item to the Planning Commission. IDC #64 is comprised of a single parcel located at 3649 Michigan Avenue. It is located between commercial and residential uses. IDC #64 was established concurrently with the adoption of the new Zoning Code in February 2004 because residents expressed concern over the Commercial Community- Auto (CC-A) zoning designation that replaced the T-zone that previously existed in the area.

On February 8, 2005 Council extended IDC #64 until August 13, 2005 to allow time for completion of a zoning study to determine the highest and best use of the property.

Conclusions:

The CC-A zoning designation permits uses that are not compatible with the surrounding residential uses. The current CC-A designation disregards the T-zone restrictions that prevailed for the past twenty years to preserve this parcel as a buffer between commercial and residential uses.

The zoning designation SF-6 upholds the current use of the property and halts the encroachment of the adjacent commercial uses onto Michigan Avenue.

Recommendation:

The Department of Community Development and Planning staff recommends that the City Planning Commission approve the zone change for IDC #64 in Hyde Park from CC-A to SF-6.

Motion: Mr. Mooney moved approval of the zone change recommendation.
Second: Ms. Hankner
Vote: All ayes (5-0), motion carries.

ITEM #2 A report and recommendation on a zone change request for property currently covered under IDC #63 from CC-A (Community Commercial – Auto-oriented) to RM 2.0 (Residential multi-family) Zone District in Hyde Park.

General Information:

Jen Walke, staff Planner presented this item to the Planning Commission. Under the old Zoning Code, the area was zoned R-4 T. IDC #63 was established when residents expressed concern over the CC-A designation that was adopted with the new Zoning Code in February 2004, because some of the uses permitted in a CC-A district are not compatible with the surrounding residential uses.

On February 8, 2005 Council extended IDC #63 until August 13, 2005 to allow time for a zoning study to determine the highest and best use of the property.

Community Response:

The Community Council supports the zone change for this property. Staff received 13 letters, and a petition containing 123 signatures in support of the zone change recommendation and one letter in opposition. Support came from many Hyde Park residents who are extremely concerned with preserving the residential component of the community. The opposition came from the owners of the residential parcel located in IDC #63 who feel their property is being devalued by a change from commercial to residential. Staff also received petitions in favor of the change.

At a Staff Conference, held on February 24, 2005, four residents spoke in favor of the change, and one opposed it. The opposition, again, came from the owners of the residential parcel located in IDC #63 who feel their property is being devalued by a change from commercial to residential (See Minutes, attached)

Conclusion:

The CC-A zoning designation permits uses that are not compatible with the surrounding residential uses. The less intense commercial designations CC-P or CN-P are also not compatible because they promote pedestrian-friendly development and IDC #63 is located along a railroad right-of-way. CN-M was not compatible because it mandates rear-access for vehicular traffic and drive-through uses. Rear access on this property would be off of the residential side street Rosella Avenue and the community is opposed to vehicular access off of Rosella Avenue.

The zoning designation RM 2.0 serves as a buffer between the existing commercial (CC-A) to the west of IDC #63 and the single-family uses that are located to the east and south of the area. An RM 2.0 zoning district exists to the north of the site and staff feel that extending the RM 2.0 district to include IDC #63 is the best and highest use of the area.

Recommendation: Department of Community Development and Planning staff recommends that the City Planning Commission approve the zone change for IDC #63 in Hyde Park from CC-A to RM 2.0.

Mr. Maxwell Bauer-Nilson spoke in opposition of the recommendation on behalf of his mother who is the owner of the residential lot with this IDC. He felt that the downzoning was a taking of his mother's property. He also stated that the amount of money being offered by the potential commercial developer of the site was more than any residential developer could offer for the property.

Mr. Mooney stated that it was not the Commission's responsibility to ensure that every property gets the highest dollar amount. The commission's responsibility is to allow a reasonable use of the property. The zone change to RM2.0 allows a more intense use than is currently existing on the property owned by Mr. Nilson's mother.

Julia Carney of the Law department stated that the Law Department did not support the change from commercial to residential zoning because the scaffolding company would become a nonconforming use. Margaret Wuerstle, Chief Planner pointed out that the scaffolding company would have nonconforming rights and could continue their use under the RM2.0 zoning. In addition, the owner would have substitution rights for similar uses as determined by a recent Planning Commission decision and an interpretation by the Law department that nonconforming uses had substitution rights. Therefore, the Commission would not be taking any existing rights away from the current owner.

Terry Hankner then questioned the City's practices, policies and procedures regarding interpretations. A discussion followed that indicated that there were no formal policies and procedures on interpretations. Ms. Lemmie advised Ms. Wuerstle that it was a staff responsibility to develop policies and procedures for interpretations. She directed Ms. Wuerstle to develop policies and procedures for handling interpretations and to bring a recommendation back to the Planning Commission.

The following individuals spoke in support of the recommendation, Lorraine Downing, Gary Wollenweber, Stan Messerly, Michael Patton and Carl Ubelacker.

Motion: Mr. Mooney moved approval of the recommended zone change.
Second: Ms. Lemmie
Vote: All ayes (5-0), motion carries.

ITEM #3 A report and recommendation on a proposed zone change 4840 Winton Road in the community of Winton Place.

Background:

Rodney Ringer, Sr. City Planner presented this item to the Planning Commission. On May 7, 2004 Michael Gerson of the Gerson Company Ltd., requested that staff rezoned his property from SF-6 Single-Family District to RM-2.0 Residential Multi-Family District. Changes to the zoning designation on this property were made as part of the Zoning Code Rewrite Project, which started in 1999. Properties were zoned according to the existing land use and parcel size. Upon adoption of the new Zoning Code staff was given the task of completing a land use/ zoning study of Winton Place. The applicant's property is located in the study area. The City Planning Commission (CPC) granted a zone change request for Mr. Gerson, which was supposed to be included in the Winton Place land use study. However, Mr. Gerson did not want to wait for the study to be completed, and asked the CPC to direct staff to process his zone change request immediately.

Community Response:

Two residents, Eileen Frechette, and Joe Quackmeyer, President of the Winton Place Community Council, attended the January 19, 2005 public staff conference and expressed their disapproval of the proposed zone change. The Winton Place Community Council presented a letter to staff at the public staff conference stating their disapproval of the proposed zone change request.

Conclusions:

Staff does not believe that there's a need for a zone change for the property located at 4840 Winton Road. The site has limited development potential according to the property owner and his use for the

property is unclear. The rezoning to RM-2.0 would permit other uses such as Transitional Housing Programs. Staff believes this could possibly have a negative impact on the existing residential areas. Staff also believes that the best use of the property remains single-family, because the site has a single-family land use and is surrounded by single-family uses to the South, East and West of the site. This area was also studied over a 4-year period as part of the City's Zoning Code Rewrite Project. At that time, City Council gave staff directions to increase single-family Districts throughout the City. This request also has strong opposition from surrounding property owners and the Winton Place Community Council.

Recommendations:

The staff of the Department of Community Development and Planning recommends that the City Planning Commission disapprove the zone change request for 4840 Winton Road from SF-6 Single Family District to RM-2.0 Multi-family District in the Community of Winton Place.

Michael Gerson stated that he owned this parcel and the two adjacent parcels. He bought this property in December 2003 and it was zoned for multi-family uses. Otherwise he would not have purchased this property. He planned to build 40-45 more units but never got that far because the zoning was changed to a single-family designation. He also stated that he had not received any notice regarding the zone change on his property.

Stanley Cohen, an engineer for the owner spoke in opposition of keeping the property zoned SF-6 stating that the site was too steep to develop for single-family residences.

Howard Mayors also spoke in opposition of the Staff recommendation stating that he was a 50% partner in the ownership of this property and the adjacent multi-family properties.

Joe Quackmeyer, President of the Winton Place Community Council spoke in support of the Staff recommendation. He explained that the Community Council is not opposed to development but wants to ensure that the character of the neighborhood is preserved. The neighborhood wants appropriate development and has heard no clear indication of how the owner will develop this property. In addition, Mr. Quackmeyer questioned the occupancy rate of the units Mr. Gerson owns currently. Mr. Quackmeyer stated that he was not convinced that there was a need for additional rental units.

Ms. Jacquelyn McCray left the meeting at 10:03 AM.

- Motion:** Ms. Lemmie moved to support the Staff report recommending denial of the zone change.
- Second:** Ms. Hankner
- Vote:** All ayes (4-0), motion carries.

ITEM #4 A report and recommendation on a zone change request for property at 2608 Euclid Avenue in the community of Corryville.

Background:

Felix Beer, Sr. City Planner presented this item to the Commission. On August 13, 2004, University Radiology Fund of Cincinnati (UFR)'s filed an application with Buildings and Inspections for a parking lot on a parcel adjacent to their existing medical office building. The parcel is zoned RMX which does not permit parking facilities. The OG-Office General zone district, in which the parent parcel at 2600 Euclid Avenue is situated, permits parking as an accessory use as a conditional use. The

matter was referred to the Zoning Hearing Examiner after the Director of Buildings and Inspections determined that the new parking lot could be developed as an accessory use for the medical office building at 2600 Euclid Avenue and upon obtaining a conditional use approval. A zoning hearing was required in order to make a determination as to whether a conditional use could be granted.

On September 9, 2004, the Zoning Hearing Examiner, after holding a public hearing, approved the conditional use at 2608 Euclid Avenue for construction of an accessory parking lot for the adjacent office building at 2600 Euclid Avenue. The approval was contingent on several items including the need to consolidate both parcels owned by the petitioner/owner as one parcel and that the petitioner initiate a zone change to bring the entire property under the OG zoning designation. The two parcels were consolidated on October 13, 2004. On November 17, 2004, URF petitioned for a zone change to consolidate the parcels into one zoning classification with the subject parcel changed from RMX-Residential Mixed District to OG- Office General District. The new parking lot is in place and is being utilized. However, the portion of the parking lot in the RMX district is nonconforming because parking, even as an accessory parking lot is not permitted in this district. For this reason, a new zone other than RMX and SF should replace the existing RMX zone on the subject property. Rezoning this property to OG will fulfill one of the conditions of the conditional use approval by the Hearing Examiner.

Community Response:

Although the Corryville Community Council supported the application for a conditional use to construct a parking lot at 2608 Euclid Avenue, it did not support the zone change from RMX to OG. On January 11, 2005, the Corryville Community Council discussed the proposed zone change and voted unanimously not to support the rezoning because of the concern from neighbors about commercial “creep”.

Three letters in opposition to the proposed zone change were received. Two letters, including one from the Corryville Community Council and another from Kay Weeks and Bruce Dornette, express lack of support for the rezoning. A third letter, written by Liberty Partridge states her desire for future development of the property to go through a zoning hearing process in order to assure compatibility of the new use to the surrounding area.

The zone change to OG is less restrictive than the existing RMX zone and is viewed as a threat to nearby residents who feel that the next owner of the property could put a use that would negatively impact the area.

Conclusions:

1. Available plans including the Corryville Urban Design Plan, Corryville-University Village Plan and the Coordinated Comprehensive Plan, Volume 2: Strategies for Comprehensive Land Use’s goals and objectives recommend specific uses including surface parking for the area.
2. The application to improve the site as a parking lot through a conditional use approval had support of staff and the community as revealed at the conference and correspondence.
3. The current zoning of RMX make the existing parking lot non-conforming.
4. The proposed Office General zone district (OG) will not have negative impacts on the area since the property to be rezoned is small (0.1329 acres) and is consistent with uses already in existence.
5. Staff has received three communications opposing the requested zone.
6. The Corryville Community Council does not support the zone change because some residents stated their opposition for the rezoning from RMX to OG.
7. The OG zoning district allows construction of parking facilities.

Recommendations:

The staff of the City Planning Department recommends that the City Planning Commission approve a

zone change for property at 2608 Euclid Avenue from RMX-Residential Mixed District to OG-Office General District.

Robert Mowry, representing University Radiology and Christine Patterson, attorney for University Radiology addressed the Commission in support of the Staff Recommendation. Kay Weeks spoke in opposition of the recommendation.

Motion: Mr. Ms. Hankner moved to approve the Staff report
Second: Ms. Lemmie
Vote: Ms Lemmie: Aye
Ms Hankner: Aye
Mr. Faux: Aye
Mr. Mooney: No

Three ayes, one nay (3-1), motion carries.

WALK-IN ITEM:

Subject: A report and recommendation on a lease with The Board of Education of the City School District of the City of Cincinnati for a part of the Bush Community Center in Walnut Hills.

Background:

Cincinnati Public Schools (CPS) is in the process of implementing a 10-year \$1 billion Facilities Master Plan to renovate or newly construct approximately 60 schools throughout the district.

The Board of Education has petitioned the City to lease a part of the Bush Community Center site for the construction of the new Windsor Douglass School. The Bush Community Center is located at 1025 Yale Avenue in Walnut Hills and is managed by the Cincinnati Recreation Commission (CRC).

The Cincinnati Recreation Commission approved the lease of this property at its October 19, 2004 meeting. This lease is in accordance with the 1993 joint use agreement between CRC and CPS in which CPS allowed the City to construct the new Mt. Washington Recreation Center on CPS property. This agreement has been used many times since then to facilitate cooperative property use and management endeavors between CPS and CRC, specifically at Bond Hill, Taft Elementary, Woodward, Hughes, Clifton, and other schools.

Throughout the implementation process of the CPS Facilities Master Plan, the City has strived to coordinate with CPS to ensure that the project moves forward quickly and smoothly, and in a way that enhances and protects the Cincinnati neighborhoods in which these schools are renovated and rebuilt. This lease is an example of these collaborative efforts.

Recommendation:

Staff recommended that the Planning Commission approve the lease with The Board of Education of the City School District of the City of Cincinnati for part of the Bush Community Center, which property is not needed for any municipal purpose during the term of the lease.

Motion: Ms. Lemmie moved to approve the lease
Second: Mr. Mooney
Vote: All ayes (4-0), motion carries.

Ms. Lemmie and Mr. Mooney left the meeting at 10:30 AM. Therefore, the quorum was lost.

OTHER BUSINESS

ITEM #5 The Steward Landing Project.

Since there was not a quorum, Mr. Faux suggested that this presentation by Steve Briggs, Sr. City Planner, be held until the next meeting. Ms Wuerstle asked Mr. Faux if it was the intention of the Commission to provide the developer of this project with formal comments or if the minutes of the meeting of March 4, 2005 sufficiently covered the concerns of the Commission. Mr. Faux responded that the March 4th minutes covered some of the Commission's concerns but may not be all of the Commission's concerns and that the Commission would not be providing any formal comments until the developer submitted a formal application for Concept Plan approval to the Commission.

Mr. Tim Burke of the law firm of Manley Burke stated that the minutes of the March 4th meeting indicate that the developer wants the concept approval without the formal process and that the Planning Commission should withhold decision until a formal request is submitted.

Mr. Faux agreed with Mr. Burke and stated that the Planning Commission wants Mr. Briggs to provide the presentation on the background information but that the Commission is not in a position to say "yes" or "no" to the concept plan. The Planning Commission has already given informal input. Mr. Faux then advised the developer to meet with the neighbors

Ms. Hankner suggested that we might want to consider having the neighborhood presentation at one of the Commission meetings with adequate notice to the neighborhood and Community Councils. This would prevent the developer from having to attend multiple meeting to inform the neighborhoods.

Gerry Kraus asked to speak on another topic. She wanted to know who enforces the Zoning Code in the City right-of-way. She stated that B&I won't enforce it and that the Police told her that they do not enforce it in the right-of-way. In her neighborhood there is a van selling food and other items in front of a house.

Julia Carney responded that the right-of-way is not City owned property and that the Law Department is researching this issue. Ms. Hankner requested that the Commission be provided with an update on this issue by the Law Department.

ADJOURN

The meeting was adjourned. A quorum was not present so no motions were made.

APPROVED BY:

Margaret A. Wuerstle, Chief Planner

Caleb Faux, Chairman
City Planning Commission

Date: _____

Date: _____