

Council met in **PUBLIC HEARING** on January 26, 2009, at 7:30 P.M. in Council Chambers with President Maurer presiding. Members present: Anderson, Avant, Dippel, Judge, Megyes, Silva, Soyars, and Suboticki. The purpose of the Public Hearing is to discuss a **zoning map amendment for 546 Snyder Avenue from C1 (Convenience Commercial) to C2 (Neighborhood Commercial)**.

Mr. Stefan, Assistant Planning Director, said a Public Hearing was held before the Planning Commission on January 21, 2009 regarding a zoning map amendment for 546 Snyder Avenue to allow for the opening of a drive through establishment. Mr. Morad Fares and property owner Neehad Ouri are requesting a rezoning change to allow for a drive through establishment, along with his convenience store, at the site. He said the site was previously a legal non-conforming drive through operation that lost its legal non-conforming status after being closed longer than six months. He said the building was built in 1961 and was able to accommodate the drive through facility. He said the business is currently open and is zoned appropriately to allow for his convenience store to be in operation as a walk-up business. He said Mr. Fares and Mr. Ouri are requesting this zoning change to make full use of the building according to the way it was constructed. He said according to the zoning and land use table, the property is primarily surrounded by Residential Multi-Family, some Residential Single-Family, and some other Commercial properties.

Mr. Stefan said the Findings of Facts: Times and conditions are continually changing and zoning and land use regulations are often under review. He said this parcel would be harmonious with other zoning classifications surrounding this parcel. He said by allowing the drive through establishment, there does not seem to be any negative effect that would occur to the environs. He said commercial use is compatible with residential use as long as the medium transitional buffering is enforced. He said currently there is buffering in place. Mr. Stefan said it is Supported by Trend of Development. He said the parcel has been a vacant and under-utilized parcel in the City for some time. He said the new owner and lessee have invested in the rehabbing of the current building and have done what the Building Commissioner has asked them to do to the interior in order to be able to make it a walk through convenient store, so there is no reason to believe that they would not continue to do the same thing. Mr. Stefan said it is Consistent with City Plans. He said the proposed classification is in harmony with the objectives of the Barberton Growth Plan and other applicable city plans adopted by City Council. He said the economic development plan suggests the importance of retaining and creating businesses and jobs in Barberton. He said commercial zoning is more desirable along entrance corridors. He said by definition, C-2 Districts are intended to provide moderately close-to-home locations for frequently patronized consumer retail establishments. He said the establishments generally provide convenience goods, which is what the location would be doing. Mr. Stefan said it Furthers Public Interest by allowing for the building's intended use. He said it is understood that the continued use and the rehab of the building will take place. He said it always furthers public interest to rehab blighted and under-utilized buildings. Mr. Stefan said regarding Public Services: State Route 619 is a primary artery into the City of Barberton from the south and Snyder Avenue is the main connector from the east to the west. He said by allowing the establishment of the drive through on this property, an increase of volume will occur; however, it does not appear to be significant enough to require any upgrade in public services. He said the projected traffic level by the business would not appear to change any level of service at that intersection.

Mr. Stefan said along with this rezoning, a conditional use permit would be needed that would have to go into effect also.

Mr. Stefan said on January 21, 2009 the Planning Commission respectfully recommended to City Council that Parcel #01.11935 be rezoned from C1 (Convenience Commercial) to C2 (Neighborhood Commercial) per Section 1310.02 of the Barberton Development Code. He said CUP is also required. He said Planning Commission unanimously approved that, so it is pending the outcome of Council's legislation in two weeks.

Mr. Avant asked if the entrance and exiting of the property for the drive through is all on 619. Mr. Stefan said that issue is addressed under the conditional use permit. He said the building owner is required to give them a site circulation plan. He said because of the way the parking is going to need to come in for what space is available, he is going to need to have 45-degree angle

parking. He said because of that, there will not be a turnaround area. He said there will be an entrance off of Snyder Avenue, but not an exit back onto Snyder Avenue. He said the northernmost curb cut on Fifth Street will also be an entrance only to allow for traffic to come in and sit at a 45-degree angle. He said the southernmost curb cut along Fifth Street will be an entrance and an exit -- and there is plenty of space for that to occur. He said the owner will have to do posting of signage and everything along with that which will need to be approved by the Planning Department prior to issuing the conditional use permit.

Mr. Avant asked if the vehicles would enter from the northern entrance. Mr. Stefan said that is correct. Mr. Avant said there will be a chance for stacking there. Mr. Stefan said they are required to have five stacking spaces. He said that is why the entrance was changed to the rear of the facility. He said to enter his drive through, you would actually enter from the west side of the building and go through to the east. He said the five stacking spaces, of which 100 feet is needed, will begin at the rear entrance of the building and continue around the back of the building, along the south side of the building up to where other vehicular traffic comes in. Mr. Avant said he thought Mr. Stefan said they would be exiting on the north entrance off Fifth Street. Mr. Stefan said it would be south, the southernmost curb cut would be the exit. Mr. Avant said there would be a double entrance there -- one for parking and one for the drive through. Mr. Stefan said he will still have the walkup business.

President Maurer said this is not going to be the old configuration where you would come off Fifth Street and exit from the rear, then head south and back down. Mr. Stefan said you will have to travel around the building, enter through the "rear" of the building or the western side of the building along the fence line, and then drive through. He said you will exit that side. President Maurer said it would essentially be like the Circle K on Fifth Street. Mr. Stefan agreed. President Maurer said this is so close to the intersection of Fifth Street, he is concerned with the people coming in from Fifth Street and heading west on Snyder Avenue, who would be making a left-hand turn that close to the intersection. Mr. Stefan said that is why they gave the northernmost Fifth Street curb cut because that is also an entrance and they would be able to continue through the light at Fifth Street going south and turn in with traffic. President Maurer asked Mr. Todd, Safety Director, if he had an opportunity to look at the traffic flow. Mr. Todd said he has not.

Mr. Judge said anytime you have a convenient store/gas station/drive through, there is a strong possibility of having loitering or loud music, as we have had some of these issues at gas stations. He asked if there would be any regulation or signage to try to stop this. Mr. Stefan said there was nothing from their aspect; there has been nothing presented. Mr. Judge asked if there were any requirements. Mr. Fares, seated in the gallery, said he would not want loitering or loud music; he would not want to be a disturbance to the area. He said he will post his own signs.

President Maurer asked Mr. Fares if he had all his licenses in order from the State. Mr. Fares said he did.

Mr. Stefan said as was stated, they are open for walkup business and have actually been open for the last two weeks. He said the only thing this will do is to allow them to utilize the building as it was built to be utilized.

President Maurer again asked if there were any other questions regarding this public hearing.

There were none.

President Maurer said hearing no questions or comments, this public hearing was closed.

Adjourned 7:42 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council