

Council met in **PUBLIC HEARING** on Monday, June 1, 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 was to discuss a **zoning map amendment to the Barberton Development Code regarding 1158, 1164, and 1170 Wooster Road West (Barberton Wheel Alignment).**

Ms. Sheridan, Planning Director, said a zoning map amendment request came before the May 20, 2009 Planning Commission for the rezoning of 1158, 1164, and 1170 Wooster Road W. She said the three parcels are located across the street from Nick's Pizza, the Mexican restaurant, the funeral home -- that particular area. She said Mr. Andrew Koncz requested that the rezoning be changed from C-2 (Neighborhood Commercial) to C-4 (Highway Commercial) so that he can have a used car dealership and outdoor storage. She said the Planning Commission did not recommend this rezoning based upon the Findings of Fact as presented at the Planning Commission meeting. She said the Planning Commission believes that this request is not compatible with the environment in that area. She said C-4 Districts are located at the end of each corridor. She said in 1996 there was a citywide zoning map amendment and at that time Planning Commission and City Council felt that it would be better to keep C-4 Districts on the outskirts of the city because they tend to cause environmental nuisance. She said they would also be out of the residential districts and away from the concentrated consumer retail which the Code references. She said should these parcels be rezoned C-4, various businesses like wrecking services, gas stations, mini-warehouses, and adult uses such as skilled arcades and sexually oriented businesses, fuel storage, truck stops -- things of that nature -- could go there now or in the future should Mr. Koncz sell the property or if something would happen to him. She said the Planning Commission decided that a C-4 zoning would not be compatible with the environment on Wooster Road.

Ms. Sheridan said the Planning Commission looked at the Trend of Development. She said in 1996, the parcels were zoned C-2 because C-2 is technically called Neighborhood Commercial. She said Neighborhood Commercial Districts are intended to provide moderately, close-to-home locations for frequently patronized consumer retail and service establishments that provide convenience goods and services in a limited selection of comparison goods. She said C-2 Districts are intended for businesses to draw patrons mainly from the neighborhood and not from a larger area like a C-4 District. She said the trend in development does not support a C-4 zoning map amendment change for that area.

Ms. Sheridan said the Planning Commission then looked at this request regarding it being consistent with city plans. She said they found that the current classification of C-2 is in harmony with the objectives of the Barberton Growth Plan and other city plans adopted by City Council since 1972, and rezoning these parcels would not seem to be consistent with any objective in the Comprehensive Plan or anything approved by City Council or Planning Commission. She said they consider this rezoning to be spot rezoning.

Ms. Sheridan said the next issue was if the request furthered public interest. She said the Planning Commission looked at the definition of how the Ohio Supreme Court defines "spot zoning," which is the "singling out of a lot or small area for discriminatory or different treatment from that accorded to surrounding land which is similar in character." She said the Supreme Court also states that rezoning is only justified when it is done in furtherance of a general plan, properly adopted for and designed to serve in the best interest of the community as a whole and not for the benefit of a particular individual or group. She said Planning Commission feels that this rezoning appears to only benefit a particular individual or group and not the City as a whole, so they decided that this request does not further public interest.

Ms. Sheridan said the Planning Commission looked at the issue of public services and they found that they are available at the site.

Ms. Sheridan said in summary the Planning Commission made a motion that the zoning map amendment *not* be considered and the parcels remain C-2. She said included in the packets that were passed out are pictures of the parcels. She said on page 6 you will see that the applicant has already put his auto sale sign up on the parcel and that there are cars, motorcycles, lawn mowers and power washers for sale.

Ms. Sheridan said that concludes her report, but Mr. Koncz is here and he would like to address City Council this evening.

Mr. Andrew Koncz said he would like to do a small car lot. He said he has a car lot next to him and he could put a car lot three blocks away by city ordinance. He said he feels there is something wrong with the C-4 -- a person should not be able to do all of that. He said there should be some kind of agreement that states if he has a car lot and if the car lot goes away, it would go back to C-2. He said that would protect the city. He said at night and on the weekends, he would put everything inside so that it looks good. He said as far as spot zoning, he understands that this was done in other places in the city, a couple around the Lake. He said this should be considered and there should be some way to get around this C-4, maybe a C-2 with a condition to permit used car sales. He said it was a car lot before. He said he would be selling three or four cars and a couple of motorcycles with his motorcycle repair business.

Mr. Silva asked if this could be done with a conditional use permit. Ms. Sheridan said if the zoning map amendment is approved, Mr. Koncz would have to go back to Planning Commission and get a conditional use permit to sell cars outside. She said in addition to the zoning map amendment, he would still need a conditional use permit.

President Maurer 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 7:48 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council