

**CITY PLANNING COMMISSION MINUTES**  
**May 9, 2018**



TYPE: Regular Meeting  
PLACE: City Building, City Council Chambers  
TIME: 6:00 P.M.

MEMBERS                    Mike Friedman                    John Langhorne                    Gary Gross  
PRESENT:                    Paul Nenni                    Joanne Mejias                    David McCauley-  
Myers

STAFF  
PRESENT:                    Mayor Larry Mulligan, Jr. (City Council Representative)

OTHERS  
PRESENT:                    Bob Gage

Ms. Mejias called the meeting to order at 6:00 pm and the roll was called. Mr. Friedman led the Planning Commission in the Pledge of Alliance.

**APPROVAL OF PREVIOUS MEETING MINUTES**

Ms. Mejias introduced the acceptance of the April 11, 2018 meeting minutes and asked if there were any needed amendments. Ms. Mejias noted the following changes: public hearing title be changed from “Emerald Way” to “Central Avenue Zone Change” and to add the additional comments that were made by staff on page 3. A motion was made to approve the March 11, 2018 meeting minutes with the noted change. The board unanimously approved the minutes. Todd Moore had an excused absence for the meeting.

**PUBLIC HEARING: MAP AMENDMENT CASE:**  
**R-4P ATTACHED RESIDENTIAL ZONING DISTRICT TO B-1 NEIGHBORHOOD**  
**BUSINESS DISTRICT**

Ms. Mejias introduced the case and asked for staff report.

Ashley Combs (City Planner) presented the case.

Ms. Combs presented the staff report using a PowerPoint presentation.

Ms. Combs presented that the request was for zone changes by the City of Middletown for a request for zone changes by applicant Bob Gage for a total of three (3) properties located on the southwest corner of Roosevelt Boulevard and Bonita Drive, Parcel IDS Q6542065000055, Q6542065000199, and Q6542065000200 from R-4P Attached Residential Zoning District to B-1 Neighborhood Business District. Per the Butler County Auditor the properties are a total of 0.689 acres. If approved, the applicant is proposing to build a 7,500 sq. ft. retail store. The Planning Commission’s recommendation will be forwarded to City Council for final review and decision.

MS. Combs noted that the applicant is requesting a zone change from R-4P Attached Residential Zoning District to B-1 Neighborhood Business District to allow for the

construction of a retail store.

Ms. Combs displayed a zoning map and noted the properties are surrounded by R-4P Attached Residential (residential/funeral home/offices) to the North, R-4P Attached Residential (residential apartments) to the East, R-4P Attached Residential (offices) to the West, and R-4 Attached Residential (residential homes) to the South.

Ms. Combs explained that per the Middletown Development Code, retail sales and services are prohibited in the R-4 residential zoning district. Retail sales and services are permitted in the following zoning designations: O-1 Office District, O-2 Office Park, B-1 Neighborhood Business District, B-2 Community Business District, B-3 General Business District, I-1 Industrial Park District, I-2 General Industrial District, BC-I Business Center Interchange District, UC-C Urban Core Central District, and UC-S Urban Core Support District.

Ms. Combs pointed out that the property is surrounded by R-4 and R-4P Attached residential that allows for residential and professional office uses. If this zone change is approved, this would be considered spot zoning due there being no other B-1 Business District zoning adjacent to the site. According to the American Planning Association the use of spot zoning is not considered to be a good planning practice and does not encourage positive development. Also if this zone change is approved it could potentially set a precedent for future zone change requests in the city.

Ms. Combs explained that the Master Plan identifies this property as a part of the “Mid Central Development Opportunity Area”. Per the opportunity map, this property is identified as “neighborhood preserve and enhance”. It is important to note that the City’s Master Plan was adopted in 2005 and per the American Planner’s Association a Master Plan should be updated every 5 years to ensure goals are being met and to set new goals. The City’s Master Plan is currently in the early stages of being updated. The Master Plan updated kicked off in late February 2018 and the plan is expected to be adopted by the end of 2018/early 2019.

Ms. Combs noted that per the Planning and Zoning Ordinance requirement for legal notice for Map Amendments, meeting notice letters were sent to all property owners within 200 feet of the property regarding the zone change request and the following question/comment was received.

1. Anonymous: Thank you for notifying me of the proposed zoning amendment. We have owned the professional buildings for over thirty years. We are also a client of some of the surrounding professional businesses. These properties are zoned for residential and professional businesses. I am concerned that rezoning the vacant land to retail will diminish the value of the current properties. I ask that the planning commission retain the current standard. Thank you for your time.

She explained that two other calls were received that were in opposition to the zone change proposal due to the concerns of lowered property values and that the property is intended for a professional use that will complement the surrounding office uses.

Ms. Combs stated that the Economic Development Department had the following

comment: The Economic Development Department is not in favor of the requested zone change. This area is a mix of residential and professional office uses. This zone change does not meet the intent of the development code nor the master plan. Retail uses are permitted in many other zoning districts throughout the city. If approved, this zone change would create a spot zone.

Ms. Combs concluded her staff report presentation.

Chairman Joanne Mejias asked the commission if there were any questions for staff. With there being no questions for staff, Mejias opened the public hearing and asked for anyone to come forward that wanted to speak in favor of the project.

Applicant Bob Gage came forward to speak for the project. Mr. Gross sworn in Mr. Gage.

Mr. Gage explained the zone change request and how the site was selected. He noted that Dollar General is a long-time business and that if approved store would sign at least a 30 year lease on the store location. Mr. Gage said he'd be happy to answer questions. The commission had no questions for the applicant.

Ms. Mejias asked if anyone else wanted to speak for the project. Seeing none, she asked if there was anyone wanting to come forward to speak against the project. Seeing none, Ms. Mejias closed the public hearing.

Chairman Mejias asked if there were any final questions for staff. Seeing none, Ms. Mejias asked for staff recommendation.

**Map Amendment Map Amendment Case #3-18 Staff Recommendation :**

Ms. Combs stated that based on the staff report provided, Planning staff recommends denial of Map Amendment Case #3-18 for the rezoning of three (3) properties located on the southwest corner of Roosevelt Boulevard and Bonita Drive from R-4P Attached Residential Zoning District to B-1 Neighborhood Business District. She added that the request will be heard by City Council on June 19, 2018.

Ms. Mejias asked for a motion following staff's recommendation. A motion was made and seconded to accept staff's recommendation of denial for map amendment case #3-18. The motion was passed unanimously through roll call.

**PUBLIC HEARING: TEXT AMENDMENT CASE:**  
**MIDDLETOWN DEVELOPMENT CODE AMENDMENTS**

Ms. Mejias introduced the case and asked for staff report.

Ashley Combs (City Planner) presented the case.

Ms. Combs presented the staff report using a PowerPoint presentation.

Ms. Combs presented that the request for text amendments by the City of Middletown for the Planning & Zoning Development Code. The Planning Commission's recommendation will be forwarded to City Council for final review and decision.

**Planning & Zoning Fee Schedule:**

Ms. Combs explained that at this time the City of Middletown has some of the lowest zoning fee schedules in both Butler and Warren Counties respectively. In many cases, Middletown’s fees are less than half for new construction in the city. She pointed out that there is a need to amend the zoning fee schedule to better align it with those of surrounding communities. Please see the attached spreadsheets for the current and proposed fee schedule in relation to those of surrounding communities.

The Middletown Planning and Zoning Fee Schedule is behind in two major categories:

- Fee Costs
- Breakdown of Permits

Ms. Combs noted that aside from cost, the overall breakdown of permits in the city is lacking. Modern zoning fee schedules will differentiate between a new use and a new construction (for example), with a particular project costing more if it requires more review. The recommended fee schedule proposes to amend this by further breaking down the fee schedule to charge more for requests that require more staff time to review.

**Fences**

Ms. Combs explained that since the implementation of the new zoning code, staff have received over 10 requests for new fences and have had issues pertaining to the new required 25 foot setback from existing fences. Surrounding communities (Monroe, Beavercreek, Trenton, Mason, and Liberty Township) do not have this setback requirement.

Ms. Combs presented that staff proposes the setback from other fences requirement to be removed from the code. At the last Board of Zoning Appeals meeting held on May 2, 2018, the board granted a 0 ft. setback for a new fence.

Current Code: 1208.06 FENCES, WALLS, AND HEDGES: B: General Requirements:

- 9) Fences and walls shall not be installed in places where the fence or wall will run parallel to another fence or wall that is located within **25 feet** of said fence or wall, whether on the same lot or an adjacent lot.

**R-1/R-2: Agriculture (Livestock) & Greenhouses/Nurseries**

Ms. Combs explained that in the new code the use of agriculture (livestock) and greenhouses/nurseries are not a permitted use in the R-2 zoning district. In the previous zoning code agriculture (livestock) and greenhouses were permitted in the R-2 district and there were no issues. Staff proposes to move “R-2” into the column with “R-1”, there would be no change aside from allowing the R-2 zoning district to have livestock and greenhouses if their land is large enough per code requirements.

Current Code: 1204.09 USE-SPECIFIC STANDARDS: B: Agricultural Uses:

(1) Agriculture (Livestock), Riding Academies, or Stables:

A. The minimum lot area shall be five acres.

B. All structures, pens, or corrals housing animals shall be set back a minimum of 200 feet from an adjoining lot line, except where animals are kept in soundproof air conditioned

buildings, in which case the building shall be set back a minimum of 100 feet from an adjoining lot line.

C. Fencing shall be provided to enclose any activities related to livestock, including grazing.

D. Sanitation facilities and/or waste disposal shall be approved by the applicable health department.

(3) Greenhouses and Nurseries:

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales. Greenhouses and nurseries that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land. Greenhouses and nurseries are permitted in the R-1 District only when associated with an agricultural use.

### **Industrial Uses and Services (Uses)**

Ms. Combs presented that the East End is a premier location for new development in the City. It is important that all new manufacturing and production uses be reviewed and approved by the Planning Commission. Staff proposes that “manufacturing and production” be changed from being principally permitted to being a “conditional” use that requires commission review.

Industrial Uses and Services (Use Category) Definition:

The industrial uses use category is comprised of use characterized by the manufacturing, processing, fabrication, packaging, or assembly of goods. Use types also may include those uses that involve the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products.

### **City Council Voting (Text & Map Amendments)**

Ms. Combs presented that staff requests that the minimum vote of City Council members be changed from four to three and no longer require a “super majority” to approve Planning Commission decisions.

Chapter 1226: Review Authority and Procedures 1226.03: Code Text and Map Amendments: Current Code: (4) Step 4 - City Council Review and Decision:

- D. City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission. City Council shall not alter or make a decision that varies from the Planning Commission without a concurring vote of a minimum of four members of City Council.

### **BC Center Residential Uses**

Ms. Combs explained that staff requests that the following residential uses be permitted in the BC-F, BC-O, and BC-R zoning designations:

- Dwelling, Multi-Family (Apartment Building with 9-12 units)
- Dwelling, Multi-Family (Apartment Building with 4-8 units)
- Dwelling, Multi-Family (Attached up to 4 units)
- Dwelling Units above Non-Residential Uses

Ms. Combs presented that staff envisions the East End that could welcome developments similar to the Greene or Liberty Center that offer residential living with retail/office uses. Please see attached principally permitted uses table (highlighted for your reference).

### **Churches in Strip Center Developments**

Ms. Combs presented that staff has had many issues with churches locating in business/office parks and strip centers. There are issues with parking and traffic generated for the surrounding businesses. Staff proposes that “religious places of worship” a conditional use in the O-1, O-2, B-1, B-2, and B-3 zoning districts and require review and approval by the Planning Commission. Please see attached principally permitted uses table (highlighted for your reference).

### **Historic Districts (Certificate of Appropriateness)**

Chapter 1226: Review Authority and Procedures: 1226.08: Certificate of Appropriateness (COA): Historic Districts & Historic Landmarks:

Ms. Combs explained that staff proposes that certificates of appropriateness only be required for structures located in the Highlands Historic District, South Main Historic District, or a structure that is designated on the National Registrar. Currently the Historic Commission reviews certificate of appropriateness applications for properties located in the UC-C downtown zoning district. Staff feels this is inappropriate due to many buildings downtown not being considered historic.

### **Mixed-Use Buildings (With Residential Uses)**

Ms. Combs explained that staff proposes that “the gross floor area of dwellings shall not exceed 50 percent”.

Chapter 1204: Zoning Districts and Use Regulations: 1204.09: Use-Specific Standards: Mixed-Use Buildings (With Residential Uses): 7:

B. The gross floor area of dwellings shall not exceed 40 percent of the gross floor area of the entire mixed use building in the B-1, B-2, and B-3 Districts.

### **Permit Time Limit:**

Staff proposes a 6 month time period for issued permits.

### **Typos**

Throughout the code City of Middleton needs to be changed to City of Middletown.

### **Text Amendment Case #1-18: Staff Recommendation**

Ms. Combs stated that based on the staff report provided, Planning staff recommends approval of Text Amendment Case #1-18 for the various amendments pertaining to review fees, accessory structures, uses, procedures, and definitions. She added that the request will be heard by City Council on June 19, 2018.

Ms. Combs concluded her staff report presentation.

Chairman Joanne Mejias asked the commission if there were any questions for staff.

The commission discussed the fee question and asked if staff had looked at other surrounding community fees for comparisons. Ms. Combs addressed that staff spoke with

the City of Mason, City of Beavercreek, City of Trenton, City of Monroe, and Franklin Township. The commission expressed that they do understand the need for increased fees and wanted to be sure that we are being competitive and not pushing away new development.

The commission discussed the gross floor area for mixed-used and decided to propose that “the gross floor area of dwellings shall not exceed the gross floor area of the entire mixed use building in the B-1, B-2, and B-3 Districts” rather than just 50%.

The commission discussed the historic commission boundaries. The concern of the commission was that the boundaries of the historic commission are defined. Ms. Combs noted that the commission would still over-see the South Main Historic District, Highlands Historic District, and Urban Core Historic District. Ms. Combs noted that any district historically designated or any historically designated structure will be reviewed by the Historic Commission.

With there being no other discussion or questions from the commission, Ms. Mejias asked for a motion following staff’s recommendation. A motion was made and seconded to accept staff’s recommendation of approval for all of the proposed text amendments and fee schedule. The motion was passed unanimously through roll call. Ms. Combs noted that the Text Amendments public hearing will be at the City Council meeting on Tuesday, June 19, 2018.

Ms. Combs pointed out that if applications are received, the next Planning Commission meeting will be held on Wednesday, June 13, 2018.

**NEW/OLD BUSINESS**

There was no new or old business to report to the commission.

**ADJOURNMENT**

With no further business for Planning Commission, a motion was made and seconded to adjourn at 6:45 PM. The motion passed unanimously.

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Joanne Mejias  
Chair

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Ashley N. Combs  
Secretary to Planning Commission