



CITY OF WHEELING PLANNING COMMISSION

www.WheelingWV.gov

STAFF REPORT
DECEMBER 6, 2021

PROPERTY LOCATION: 150 North 17th Street
NATURE OF REQUEST: Zoning Amendment (R-1C to I-2)
APPLICANT: Edward Hinebaugh

BACKGROUND & ANALYSIS:

Edward Hinebaugh is seeking a change in the zoning classification of property he owns measuring approximately 175' x 120' at the west end of North 17th Street, on the south side. The property currently contains a dilapidated non-conforming structure most recently used as a warehouse along with vacant land. It is currently zoned R-1C Single Family High Density. The structure is under a "Raze or Repair Order" from the Building and Planning Department due to its dilapidated condition. A demolition permit has been issued and it is currently under contract.

If the zone change is approved, the applicant intends to build a 5,000 square foot warehouse, which would require site plan approval by the Planning Commission. The applicant has not specified the intended use or tenant of the warehouse, anticipated traffic, hours of operation, etc.

Section 1331.15 of the zoning ordinance regulating non-conforming uses and structures (attached), states, "(a) *INTENT. If, within the districts established by this Zoning Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the effective date of this Zoning Ordinance, but which do not conform to this Zoning Ordinance or future amendments, it is the intent of these regulations to permit these nonconformities to continue until they are removed or abandoned. Such uses are declared by this Zoning Ordinance to be incompatible with permitted uses in the districts involved. However, these regulations recognize the right of nonconformities to continue, but encourage such lots, uses, and structures to be brought into conformity with these regulations as soon as reasonable.*

The property is in close proximity to an existing I-2 district, separated by the walking path, and other non-residential uses. If approved, the nearby I-2 zone could be extended to include this property and would not constitute spot zoning. South of this property along the walking path is a multi-unit apartment building, an electric substation, and the city's water treatment plant.

The existing R-1C district only allows single family dwellings. The purpose of the residential zones is listed in §1335.01 and includes, "to provide for adequate daylight, ventilation, quiet, privacy, and recreational opportunities" and "to preserve the desirable character of existing neighborhoods".

The description of the I-2 General Industry district outlined in the zoning ordinance is "is a low-density district that allows light and medium industrial uses, also known as general industry, that conform to established performance standards. Commercial uses are also allowed. The I-2 district is perhaps the least restrictive zoning district and if approved could host nearly all commercial and industrial uses without having to reappear in front of the Planning Commission or City Council. As depicted on

COMMISSION MEMBERS

JEREMY WEST, CHAIR · THOMAS CONNER · RUSTY JEBBIA
HOWARD MONROE · DAVE PALMER · CHRISTINA SCHESSLER · WILLIAM SCHWARZ

STAFF: THOMAS CONNELLY, AICP

the attached “existing land use map”, the site is directly adjacent to and across the street from single family dwellings.

State code section 8A-7-8 states that prior to amending the zoning ordinance, the governing body with the advice of the planning commission, must find the amendment to be consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body, with the advice of the planning commission must find there have been major changes of an economic, physical or social nature within the area which were not anticipated when the comprehensive plan was adopted and that those changes have substantially altered the basic characteristic of the area.

COMPREHENSIVE PLAN:

The property being considered for a zone change is located in the “Urban Residential Core” land use area on the Future Land Use Map (Map 8) in the 2014 Comprehensive Plan (page 57, attached), which states, “*These neighborhoods have a broader mix of residential and nonresidential uses. It is a major goal of this plan to encourage the preservation of the city’s historic heritage as well as protect these neighborhoods that provide a mix of housing options, neighborhood commercial and office uses, and public services in highly walkable neighborhoods. Any infill development should be sensitive to the scale and massing of adjacent structures.*” It continues, “*Commercial and Office Uses in the Urban Residential Core Areas were constructed in an era when there was less separation of residential and nonresidential uses. This mixture of uses should continue with the following considerations:*”

“Opportunity Areas” outlined in Map 10 of the Comprehensive Plan portray Warwood with the following bullet points:

- *Continue investment to maintain this stable residential neighborhood.*
- *Maintain and support existing businesses.*
- *Expand on existing parks and recreational facilities including access to the trail*
- *Reuse/redevelop brownfield sites for new light industrial/commercial uses*

The Future Land Use Plan is intended to serve as a guide for continued development and redevelopment within Wheeling. The user should take into consideration the recommendations and policies of the section, the character of the surrounding area as well as individual conditions of the site including, but not limited to the existing use of the site, natural topography, presence of flood hazard areas, traffic, surrounding uses, and similar conditions. In addition to the Future Land Use Plan, other sections of the Comprehensive Plan to consider include the Community Initiatives and Goals pages 38-47.

STAFF RECOMMENDATION:

Staff recommends referring the request to the Zoning Committee following the public hearing.

ATTACHMENTS:

Correspondence to the Commission
Petition for Zoning Amendment
Application for Zoning Certificate
Application Timeline
Site Photos
Zoning Map
Comprehensive Plan Map #2: Existing Land Use Map
Comprehensive Plan Map #8: Future Land Use Map
Zoning Code 1331.15: Non-conforming Uses

Tom Connelly

From: Beth Hinebaugh <bethhinebaugh@gmail.com>
Sent: Tuesday, October 12, 2021 3:22 PM
To: Tom Connelly
Subject: [EXTERNAL] Warwood property

Caution! This email is from an external source. Be careful with links & attachments.

Tom,

We are tearing down the old warehouse and will be building a new steel building in its place on the concrete slab that will be left. The building will be smaller, approximately 50x100.

Edward Hinebaugh

PETITION FOR ZONING AMENDMENT
WHEELING, WEST VIRGINIA

The undersigned, representing owner(s) of 50 % or more of the following legally described property, hereby petition the Council of the City of Wheeling for consideration of change in zoning district classification as specified below:

ADDRESS OR LOCATION 150 N. 17th Street Wheeling, WV 26003

LEGAL DESCRIPTION:

Subdivision Name Town of Warwood Section #4 Lot No. A. 384, 385, 386, 387
(if not available, attach copy of deed)

EXISTING USE Warehouse

PRESENT ZONING DISTRICT CLASSIFICATION R-1C Single Family Residential

PROPOSED USE Warehouse

PROPOSED ZONING DISTRICT CLASSIFICATION I-2 General Industry

SUPPORTING INFORMATION:

Attach a vicinity map showing your plans

PERSON ORIGINATING PETITION Beth Hinebaugh DATE 10/12/2021

Mailing Address 1308 Steenrod Ave. Wheeling Phone 304 281-1431

SIGNATURE(S) OF OWNERS

ADDRESS OF OWNERS

[Signature]

1308 Steenrod Avenue
Wheeling, WV 26003

FOR OFFICIAL USE ONLY
(Planning Commission)

Date Filed 10/12/21

Date of Notice in Newspaper 11/26/21

ZonAmend 8.03

ITEMS REQUIRED FOR A ZONING AMENDMENT



APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR THE USE, ERECTION, ALTERATION, OR REPAIR OF A BUILDING OR LAND

The undersigned applies for a Certificate of Zoning Compliance for the following, said certificate is to be issued on the basis of the information contained within the application. *The applicant hereby certifies that all information and attachments are true and correct.*

- 1. Address of Property: 150 N. 17th Street Wheeling, WV 26003
- 2. Name of Property Owner: Edward Hinebaugh
- 3. Name of Applicant: Beth Hinebaugh
- 4. Address of Applicant: 1308 Steenrod Avenue Wheeling, WV 26003
- 5. Applicant Phone: 304 281-1431 Owner Phone: 304 281-6784
- 6. Existing Use: Warehouse
- 7. Proposed Use: Same Other (describe): _____
- 8. Number of off-street parking spaces to be provided: _____
- 9. Number of off-street loading berths to be provided: _____

COMPLETE THIS SECTION BELOW FOR THE ERECTION, ALTERATION, OR ADDITION OF A STRUCTURE

Type of Improvement:

- New Building
- Addition
- Alteration / Repair

Residential:

Number of existing dwelling units: _____

Number of proposed dwelling units: _____

Existing Lot Dimensions: Width: _____ ft. x Depth: _____ ft. = lot area: _____ sq. ft.

Existing Principal Building:

Dimensions: Width: _____ ft. x Depth: _____ ft. = Total first floor area, including covered porches: _____ sq. ft.

Setbacks: Front: _____ ft. Rear: _____ ft. Side: _____ ft. Other Side: _____ ft. Height/Stories: _____

Existing Accessory Building: (garage, carport, shed, pool, etc):

Dimensions: Width: _____ ft. x Depth: _____ ft. = Total first floor area, including covered porches: _____ sq. ft.

Setbacks: Front: _____ ft. Rear: _____ ft. Side: _____ ft. Other Side: _____ ft. Height/Stories: _____

Proposed Construction:

Dimensions: Width: _____ ft. x Depth: _____ ft. = Total first floor area, including covered porches: _____ sq. ft.

Setbacks: Front: _____ ft. Rear: _____ ft. Side: _____ ft. Other Side: _____ ft. Height/Stories: _____

Applicant Signature: Beth Hinebaugh Date: 10/12/2021

Owner Signature: E Hinebaugh Date: 10/12/2021

Reset Form

Print Form



TIME LINE FOR ZONING AMENDMENT

First Contact Date Oct. 4, 2021

Petitioner Name H. Niebarg

Property Address 130 N. 17th St.

Application needed by Oct. 13, 2021

MEETINGS

DATE

City Council Referral to Planning Commission	<u>Oct. 19</u>
<input checked="" type="checkbox"/> Planning Commission - Public Hearing	<u>Dec. 13</u>
Zoning Committee	<u>Jan 4</u>
Planning Commission - Vote	<u>Jan 10</u> <u>Dec. 13</u>
Report Received by City Council	<u>Jan 18</u> <u>Dec 21</u>
Report Accepted/Approved by City Council	<u>Feb 1</u> <u>Jan 4</u>
City Council - 1 st Reading of Ordinance	<u>Feb 1</u> <u>Jan 4</u>
City Council - 2 nd Reading of Ordinance	<u>Feb 15</u> <u>Jan 18</u>

If the time line shown above in any way inhibits your project, please state the reason below and the Commission may consider voting following the public hearing:

Signature of Applicant





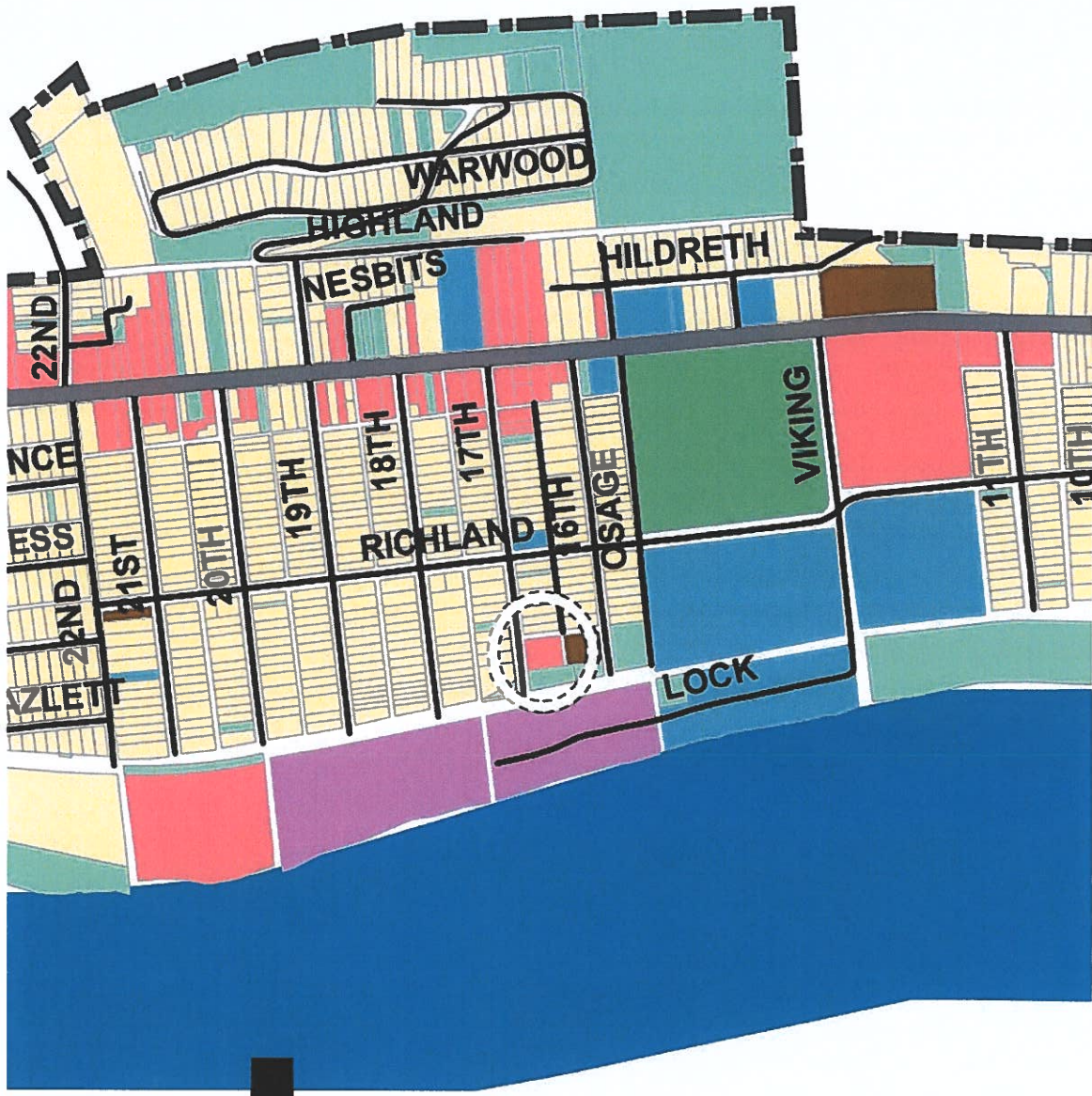
Zoning Map










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CITY OF WHEELING
BUILDING & PLANNING DEPT.



Land Use

-  Single-Family Residential
-  Multi-Family Residential
-  Commercial, Office, or Mixed Use
-  Industrial
-  Public or Institutional
-  Recreational
-  Vacant Land

Future Land Use

-  Conservation Development
-  Suburban Residential Core
-  Urban Residential Core
-  Mixed Residential
-  Multi-Family Residential
-  Mixed Use Development
-  Urban Mixed Use Development
-  Commercial / Office
-  Office / Light Industrial
-  Industrial Core
-  Parks and Recreation
-  Public and Institutional



1331.15 NONCONFORMING USES, LOTS, AND STRUCTURES.

(a) **INTENT.** If, within the districts established by this Zoning Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the effective date of this Zoning Ordinance, but which do not conform to this Zoning Ordinance or future amendments, it is the intent of these regulations to permit these nonconformities to continue until they are removed or abandoned. Such uses are declared by this Zoning Ordinance to be incompatible with permitted uses in the districts involved. However, these regulations recognize the right of nonconformities to continue, but encourage such lots, uses, and structures to be brought into conformity with these regulations as soon as reasonable.

(b) **NONCONFORMING LOTS OF RECORD.**

- (1) In any district in which residential dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Zoning Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. If the lot is dimensionally nonconforming with regard to yard requirements, a variance must be obtained from front, side, and rear yard requirements from the Board of Zoning Appeals. The lot shall comply with all other development standards for the district and with Section 1331.06.
- (2) Expansion or Reduction of Nonconforming Lots. Lots that fail to meet minimum width or area requirements may be expanded to include abutting lots under the same ownership. Lots that fail to meet minimum width or area requirements may not be reduced in width or area respectively.

(c) **NONCONFORMING USES.** Where a lawful use exists which, on the effective date of these regulations or subsequent amendment thereto, becomes nonconforming, such use may be continued so long as it has not been abandoned and remains otherwise lawful, subject to the following provisions:

- (1) No nonconforming use shall be changed into another nonconforming use.
- (2) No nonconforming use shall, if once changed into a conforming use, be changed back to a nonconforming use.
- (3) No nonconforming use shall be enlarged, increased, extended, or expanded.
- (4) No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use.
- (5) External evidence of a nonconforming use shall not be increased by any means whatsoever.
- (6) No nonconforming use shall be re-established if such use has for any reason been discontinued for a period of six months during any twelve-month period, except when government action impedes access to the premises. Discontinuance shall be deemed substantial or total cessation of activities with respect to the nonconforming use and/or substantial or total vacancy of the structure in which the nonconforming use was conducted. Such discontinuance shall be deemed abandonment, irrespective of whether an intent to abandon the nonconforming use may exist. Intent to resume a nonconforming use shall not confer the right to do so.
- (7) If a nonconforming use of land is ceased for any reason, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located.
(Ord. 12225. Passed 4-17-01.)
- (8) Any property found to be a public nuisance by City Council, which has a nonconforming status, shall lose its nonconforming status after three months.
- (9) Any property found to be a permanent public nuisance by City Council, which has a nonconforming status, shall immediately lose its nonconforming use status and revert to the land use permitted in accord with the Zoning Ordinance.
(Ord. 12746. Passed 12-2-03.)

(d) **NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on lot area, lot coverage, height, yards, floor area ratio, off-street parking, loading, or other dimensional requirements or characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful. Such a building or structure that is otherwise conforming in use shall be deemed to be dimensionally nonconforming. The following provisions apply:

- (1) Any nonconforming building or structure or portion thereof may be altered to decrease its dimensional nonconformity.
- (2) Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(e) **NONCONFORMANCE CREATED BY ZONING CHANGE OR OTHER AMENDMENTS TO THIS CHAPTER.** Whenever a zoning designation or the restrictions affecting property within a district shall be changed hereafter so as to render nonconforming a use, building, or structure then presently or theretofore legally existing, such use, building, or structure may nevertheless continue subject to the conditions set forth in this chapter. Said uses shall be deemed nonconforming uses and said buildings and structures shall be deemed dimensionally nonconforming. Nothing in these regulations shall require any change in the plans, construction, or designated use of a building for which a building permit was issued prior to the effective date of these regulations provided that such building permit has not expired when construction is commenced.

(f) **REPAIRS AND MAINTENANCE.** A nonconforming structure may be maintained, repaired, or altered but shall not be enlarged in any way that increases its nonconformity. Nothing in this Zoning Ordinance shall prevent the restoration to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

(g) **RECONSTRUCTION OF NONCONFORMING USES AND STRUCTURES.** Should a nonconforming structure or portion thereof, or a conforming structure with a nonconforming use be destroyed or damaged by any means to an extent where the cost of reconstruction exceeds fifty percent of the fair market value thereof at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Ordinance.

(h) **SPECIAL PERMIT USES.** Any use for which a special use permit is required as provided in this Zoning Ordinance shall not be deemed a nonconforming use, but shall be deemed a conforming use in such district.

(i) **AUTOMATIC SPECIAL PERMIT.** Any use in existence as of the effective date of this chapter which is by this chapter made a special permit use in the district in which it is located shall be presumed to have a special permit to the extent such use is legally conforming as of the date immediately prior to the effective date of this Chapter.