

ORDINANCE NO. 2019-45

AN ORDINANCE AMENDING THE CITY'S ZONING DISTRICTS MAP TO ALLOW A 3.191 ACRE PARCEL ON WEST WILLIAMS TO BE RE-ZONED FROM ITS CURRENT "INDUSTRIAL (I)" ZONING DESIGNATION TO "COMMERCIAL-DOWNTOWN (C-D)", AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent Planning Commission is recommending a proposed amendment to the City's Zoning Districts Map to allow a 3.191 acre parcel on West Williams to be re-zoned from its current "Industrial (I) zoning designation to "Commercial-Downtown (C-D)"; and

WHEREAS, if authorized, the Planning Commission added a condition requesting the authorization for the re-zoning include a covenant be recorded with the newly designated parcel requiring all future uses "whether the use is permitted or conditionally permitted, any parking plan for this parcel, on-site or off-site, must be submitted to and approved by the Planning Commission".

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kent, Portage County, Ohio, at least a majority of all members elected thereto concurring:

SECTION 1. That Kent City Council does hereby authorize the amendment to the City's Zoning Districts Map to allow a 3.191 acre parcel on West Williams to be re-zoned from its current "Industrial (I) zoning designation to "Commercial-Downtown (C-D)" as shown on Exhibit "A", attached hereto.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: April 17, 2019
Date

J. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: April 17, 2019
Date

ATTEST: Dawn Bishop
Dawn Bishop
Interim Clerk of Council

I, DAWN BISHOP, INTERIM CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. _____, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON _____, 20____.

DAWN BISHOP
INTERIM CLERK OF COUNCIL
(SEAL)



CITY OF KENT, OHIO

DEPARTMENT OF COMMUNITY DEVELOPMENT

DATE: March 26, 2019

TO: Dave Ruller, City Manager

FROM: Bridget Susel, Community Development Director *BS*

RE: Proposed Amendment to Zoning Districts Map

The City of Kent Planning Commission voted on February 5, 2019 to recommend to Kent City Council a proposed amendment to the City's Zoning Districts Map that if authorized by Council, will allow 3.191 acres to be re-zoned from its current "Industrial (I)" zoning designation to "Commercial-Downtown (CD)." The Planning Commission did add a condition to its recommendation requesting that if the amendment to the Zoning Districts Map is authorized by Council, the authorization for the re-zoning include a covenant be recorded with the newly designated parcel requiring all future uses *"whether the use is permitted or conditionally permitted, any parking plan for this parcel, on-site or off-site, must be submitted to and approved by the Planning Commission"* (approved minutes, 2-5-19 Planning Commission meeting).

Consideration of a geographic amendment to the Zoning Districts Map cannot be based on the removal or accommodation of any one specified use. The Planning Commission and City Council are required to evaluate all of the current uses and proposed changes in uses when deliberating a Zoning Districts Map amendment request. In order to ensure the members of Council have all of the information necessary for consideration of the proposed re-zoning amendment, staff has compiled the following information and attached it to this memo:

- List of requirements applicable to all applicants requesting a proposed amendment to the City's Zoning Districts Map, per Chapter 1111 "Zoning Amendments" of the City's Zoning Code, and staff's determination on if the applicant complied with the specified requirements;

- List of all permitted and conditionally permitted uses for the "Industrial (I) Zoning District," which are the current eligible uses that can be considered for development of the site;
- List of the permitted and conditionally permitted uses for the "Commercial-Downtown (CD) Zoning District," which are the uses that will be eligible for site development consideration if the amendment is approved.

As previously requested by Jen Barone in her March 11, 2019 memo, please schedule this item for consideration by the Land Use Committee. I will be attending the session in order to discuss the proposed re-zoning amendment request in greater detail and to answer any questions from members of Council as they evaluate the Planning Commission's recommendation on this matter.

Please let me know if you require any additional information in order to add this item to the April 3, 2019 Land Use Committee agenda. Thank you.

Attachment

Cc: Hope Jones, Law Director
Eric Fink, Assistant Law Director
Jen Barone, Development Engineer
Dawn Bishop, Interim Clerk of Council



CITY OF KENT, OHIO

DEPARTMENT OF COMMUNITY DEVELOPMENT

PLANNING COMMISSION CASE NO: PC19-002 PARCEL REZONING

APPLICANT: NYPANO Company LLC

SITE LOCATION: 200 West Williams Street

STATUS OF APPLICANT: The applicant is the owner of the property.

REQUESTED ACTION: The applicant is requesting the rezoning of a portion of the parcel from its current I: Industrial zoning classification to the C-D: Commercial-Downtown zoning classification.

CURRENT ZONING: I: Industrial

TRAFFIC: The parcel is accessed from West Williams Street.

SURROUNDING LAND USES: The property is surrounded by residential uses to the east, industrial to the south, and railroad tracks & the Cuyahoga River to the north & west.

APPLICABLE CODE SECTIONS: Chapters 1111, 1146, and 1155 of the Kent Codified Ordinances.

ANALYSIS:

The applicant is requesting a change in the City of Kent Zoning Districts Map in accordance with 1111.02(d) by rezoning of a proposed 3.191 acre parcel from its current I: Industrial classification to the C-D: Commercial-Downtown classification. According to the cover letter submitted by the applicant, the 3.191 acre parcel will be split from the current 15.2 +/- parcel to allow for commercial development due to its proximity to downtown.

Chapter 1111 of the Kent Zoning code specifies the process for requesting a zoning map amendment. The evaluation criteria is listed in 1111.03 and are listed below. Staff's evaluation of the fulfillment of these requirements is listed in green below each section.

- (a) For all applications, regardless of whether they are text amendments or zoning map amendments:
- (1) If application is initiated under Section 1111.02(d), application shall be submitted on forms made available by the Community Development Department.
 - (2) If application is initiated under Section 1111.02(d), the fee as specified in Section 1312.02(b) of the Kent Codified Ordinances. Payment of the fee is not refundable.
 - (3) Any and all information required by the Community Development Department and this Chapter of the Kent Zoning Code.

The requirements set forth in 1111.03(a) are procedural in nature. City Staff can affirm that these conditions have been met.

- (b) In addition to the requirements set forth in Section 1111.03(a), for applications involving the amendment of the City's Zoning Map including the amendment of zoning district boundary lines and/or the creation of new zoning districts:
- (1) In the event that the applicant is not the owner of the property / properties to be rezoned, and if the application is initiated under Section 1111.02(d), the applicant shall provide evidence of written authorization from the property owner(s) of the properties involved in the amendment that they have been authorized to pursue the map amendment or change on behalf of the property owner(s).
 - (2) A clear delineation on a map showing property lines, tax map, survey or other document which describes the parcel(s) to be included in the proposed amendment.

The requirements set forth in 1111.03(b)(1)&(2) are procedural in nature. City Staff can affirm that these conditions have been met.

- (3) A written description of the proposed amendment, including a specific indication of how the zoning map is to be amended, including but not limited to a description of the current zoning classification(s) of the properties to be amended, the proposed classification(s) of the properties to be amended and how the proposed rezoning does not constitute "spot" zoning.

The requirements set forth in 1111.03(b)(3) require a written description of the proposed amendment, including a specific indication of how the zoning map is to be amended, including, but not limited to a description of the current zoning classification(s) of the properties to be amended, the proposed classification(s) of the properties to be amended and how the proposed rezoning does not constitute "spot" zoning. The Law Department has reviewed the application. The application does speak to each of these issues. The applicant stated in the cover letter that the proposed rezoning would not qualify as "spot" zoning because the proposed zoning classification (Commercial-Downtown) is contiguous to the Commercial-Downtown zoning district to the north.

- (4) A written description of how the proposed amendment is consistent with any City Master Land Use Plan or other approved City plan as well as how the proposed change is beneficial to the subject property / properties, how the proposed change is beneficial to the City and surrounding neighborhood and how the proposed change will not negatively impact the surrounding neighborhood.

The requirements set forth in 1111.03(b)(4) require a written description of how the proposed amendment is consistent with any City Master Land Use Plan or other approved City plan as well as how the proposed change is beneficial to the subject property / properties, how the proposed change is beneficial to the City and surrounding neighborhood and how the proposed change will not negatively impact the surrounding neighborhood. The applicant states that goals set forth in the 2004 comprehensive plan, listed below, can be incorporated with new development.

- Encourages the development of Industrial properties in the district
- An enhanced and visually appealing secondary entry into the city via Mogadore Road by creating new development complimentary to the existing area and the associated new landscaping appurtenance related thereto
- Enhanced future tax receipts and associated revenues to the City
- Creates a safe "walkable" link corridor from the downtown area to the Post Office
- Creates a safer more pedestrian and vehicular friendly intersection at Franklin and Summit Streets
- Incentivizes future new development in the downtown district

The applicant stated numerous benefits to the City, including:

- Expanded economic growth
- Create safe pedestrian sidewalks
- Create employment opportunities
- Connect the district to the bike trails
- Facilitate economic opportunities for all of Kent's diverse residents
- Under the plan's "The Economy" section and listed as Goal #1 – Develop: "incentivizes that encourage continued investment in the Central Business District. Review zoning and building regulations to make changes beneficial to the Central Business District

- (5) If the application is initiated under Section 1111.02(d), a list of current property owners within and contiguous to and directly across the street from any part of the defined area to be amended or 500 feet from such area, whichever is greater, as well as the addresses of such owners which shall be those that appear on the County Auditor's Tax List or the Treasurer's mailing list.
- (6) If the application is initiated under Section 1111.02(d), a certified copy of each and every tax map page used to obtain the list of names of the property owners being submitted.

The requirements set forth in 1111.03(b)(5)&(6) are procedural in nature and are more accurately replaced by software contained within the Community Development office. City Staff will waive these requirements in favor of its more accurate database and resulting mailing list for notification.

- (c) In addition to the requirements set forth in Section 1111.03(a), for applications involving the amendment of the text of the Zoning Code, including amendments to existing chapters or the creation of new chapters:
- (1) A statement of the proposed text change in the regulations set forth in this Zoning Ordinance. This statement should reference the specific Section(s) of the existing code which are proposed to be amended along with the proposed wording to be added, modified or deleted as part of the amendment.
 - (2) A written description of how the proposed amendment is consistent with any City Master Land Use Plan or other approved City plan as well as how the proposed change is beneficial to the City and other land uses within the City.

The requirements set forth in 1111.03(c) do not apply to a zoning map change.

The Planning Commission and Kent City Council must consider that any of the uses, permitted or conditionally permitted, in the C-D District may be built on this parcel. The current I District uses and the uses for the proposed C-D District are included herewith:

CURRENT

I: INDUSTRIAL (Chapter 1155)

Permitted Uses

- (1) Parking lot and garage.
- (2) Plant Greenhouse.
- (3) Warehousing.
- (4) Wholesale establishments.
- (5) The following types of manufacturing, processing, cleaning, servicing, testing or repair activities which will not be materially injurious or offensive to the occupants of adjacent premises or the community at large by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards, glare or heat, or electromagnetic disturbances:
 - (a) Bakery goods, candy, cosmetics, pharmaceutical, toiletries and food products, except fish or meat products, sauerkraut, yeast and rendering or refining of fats or oils.
 - (b) Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, metal, shell, textiles, tobacco, wax, wood (where saw and planing mills are employed within a completely enclosed building), and yarns.

- (c) Pottery and figurines, using previously pulverized clay and kilns fired only with gas or electricity.
 - (d) Musical instruments, toys, novelties, rubber, metal stamps and other small rubber products.
 - (e) Electrical and electrical appliances, instruments and devices, television sets, radios, phono-graphs and household appliances.
 - (f) Electric and neon signs, billboards and other commercial advertising structures.
 - (g) Laboratories and processing -experimental, film or testing provided no operation shall be conducted or equipment used which would create hazards, noxious or offensive conditions.
- (6) The following uses, provided storage is within an enclosed building or an area enclosed on all sides by a solid masonry wall or a minimum six (6) foot solid, painted fence with openings no greater than fifteen percent (15%):
- (a) Building materials, sales yard and lumber yard including millwork when within a completely enclosed building.
 - (b) Contractor's equipment storage yard or plant, or storage and rental of equipment commonly used by contractors.
 - (c) Fuel, food and goods distribution station, warehouse and storage, but excluding coal and coke. Flammable liquids, underground storage only if located less than 300 feet from any R District.
 - (d) Public storage garage and yards.
- (7) The following uses may be conducted no closer than one hundred (100) feet of any R-District. Where the I District abuts upon but is separated from any R District by a street, the width of the street may be considered as part of the required setback:
- (a) Bag, carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
 - (b) Blacksmith, welding or other metal working shops, including machine shop operations of the tool, die and gauge types.
 - (c) Carpenter, cabinet, upholstery, sheet-metal, plumbing, heating, roofing, air conditioning, sign painting, painting and other similar establishments.
 - (d) Foundry, casting lightweight nonferrous metals, not causing noxious fumes or odors.
 - (e) Ice manufacturing and cold storage plant; creamery and bottling plant.
 - (f) Laundry, cleaning and dyeing plant.
 - (g) Repair services for machinery and equipment including repair garages and specialty establishments such as motor, body and fender, radiator, motor tune-ups, muffler shops, tire repairing sales and service including vulcanizing.
 - (h) Stone or monument works not employing power tools; or if employing such tools when within a completely enclosed building.
 - (i) Veterinarian hospital or clinic.
 - (j) Recycling Centers.
- (8) Accessory uses clearly incidental to the principal uses permitted on the same premises.
- (9) Signs as regulated by Chapter 1165.

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- (10) A residential efficiency apartment or 1 bedroom apartment not exceeding 800 square feet in total area may be permitted in an existing industrial building. The occupancy of such space is limited to the owner/operator of the bawdiness and their immediate family and may not be rented out to other individuals. Such use must meet all other building and fire code requirements and is required to obtain a zoning permit. No additional parking is required.

Conditionally Permitted

- (1) Governmentally owned and/or operated buildings and facilities subject to Section 1171.01(3), (7) and (9).
- (2) Truck or transfer terminals subject to Section 1171.01(45).
- (3) Oil and gas wells, drilling and operations necessary for their extraction, storage and skimming subject to Chapter 1173.
- (4) Soil removal or extraction operations for sand, clay, stone, gravel, coal and other natural resources subject to Section 1171.01(5),(12),(13),(15),(16),(17) and (20).
- (5) Public utility right-of-ways and pertinent structures subject to Section 1171.01(10).
- (6) Temporary buildings and uses incidental to construction work subject to Section 1171.01(17) and (24).
- (7) Any manufacturing, processing, cleaning, servicing, testing or repairs of materials, goods or products, provided such operations will not be materially injurious or offensive to the occupants of adjacent premises or community by reason of the emission or creation of noise, vibration, electrical or other types of interference, smoke, dust or other particulate matter, toxic and noxious materials, odors, fire or explosive hazards or glare or heat subject to Section 1171.01(26) and (42).
- (8) Junk yards and scrap yards subject to Section 1171.01(4), (16), (31) and (44).
- (9) Sanitary landfill site subject to Section 1171.01(1), (3), (4), (16), (31) and (43).
- (10) Crematories, conditionally permitted, subject to Section 1171.01(53).
- (11) Child Day Care Facilities as subject to Section 1171.01(1), (2), (3), (5), (9), (11), (17) and (54).
- (12) Recreational facilities subject to Section 1171.01(2), (5), (30), and (35).
- (13) Clubs, lodges, charitable, fraternal or social organizations, but expressly excluding fraternity and sorority houses.

Specially Permitted

- (1) Adult bookstores, adult motion-picture theaters and adult cabarets as restricted by Section 1171.01(49)

PROPOSED

C-D: COMMERCIAL-DOWNTOWN (Chapter 1146)

Permitted Uses

- (1) Establishments engaged in retail trade, such as those listed in Section 1141.02 (a) (3) as well as outdoor display areas subject to Section 1141.09 [Sections 1141.02(a)(3) and 1141.09 are provided below in blue.]

1141.02(a)(3) Establishments engaged in retail trade, such as:

- (a) Drug Store.
- (b) Book and stationery store.
- (c) Apparel store.
- (d) Florist.
- (e) Antique store.
- (f) Sporting goods store.
- (g) Jewelry store.
- (h) Optical goods store.
- (i) Furniture, home furnishings and office equipment and office supplies store.
- (j) Beverages including liquor.
- (k) Restaurant.
- (l) Gift shop.
- (m) Food sales, including supermarket.
- (n) Preparation and processing of food and drink to be retailed on the premises, such as bakery, meat market and delicatessen.
- (o) Sale of clothing and apparel; shoe and variety store; art, photo, stationery, notion, hobby, toy, book, music, floral, jewelry, gift sales and interior decorating offices.
- (p) Retail sale of hardware, paint, floor coverings, wall paper, materials and objects for interior decorating, auto accessories and repair of household appliances and bicycles.
- (q) Retail sale of furniture, appliances, drapery, carpeting and other major household articles.
- (r) Cultural, educational or religious facilities.

1141.09 OUTDOOR DISPLAY AREAS

Merchandise to be sold at retail on the premises may be displayed out-of-doors except that no such display areas shall be within fifty (50) feet of any residential district. Display areas shall be screened from abutting residential uses by landscaping sufficient to limit to a minimum all visual effects of such display area; such landscaped buffer shall be maintained in a neat and orderly fashion.

Open air markets, which have been specifically approved by the Planning Commission may operate under the conditions of such approval.

- (2) Eating and drinking establishments
- (3) Establishments engaged primarily in finance, insurance, and real estate
- (4) Establishments engaged in the provision of services to individuals and businesses
- (5) Hotels
- (6) Public buildings, such as:

- (a) Libraries
- (b) Post Office
- (c) Municipal, county, state or federal government buildings
- (7) Theaters, dance studios and schools, art galleries, and museums
- (8) Accessory uses clearly incidental to the principal uses permitted on the same premises
- (9) Wall signs, projecting signs, window signs, and temporary signs as defined in Section 1146.11 and as regulated by Chapter 1165
- (10) Multi-family residential
- (11) Clubs, lodges, fraternal, charitable or social organizations subject to Section 1171.01(3), (4) and (5).

Conditionally Permitted Uses

- (1) Churches and other buildings used for religious worship
- (2) Public and parochial schools
- (3) Governmentally owned and/or operated parks and playgrounds
- (4) Quasi-public, institutionally or organizationally owned and/or operated recreational, instructional and meeting facilities such as those developed and used by the YMCA/YWCA, Boy/Girl scouts or various fraternal or community service groups
- (5) Lodging and boarding house accommodations
- (6) Amusement and recreational uses, but excluding drive-in theaters
- (7) Radio or television broadcasting station
- (8) Carpenter, cabinet, upholstery, sheet metal, plumbing, heating, roofing, air conditioning, sign painting, painting and other similar establishments
- (9) Planned, integrated commercial developments
- (10) Drive-in banking facilities
- (11) Bed & Breakfast facilities
- (12) Open air markets
- (13) Clubs, lodges, fraternal, charitable or social organizations subject to Section 1171.01(3), (4) and (5).

Exhibit A
Ordinance 2019-45
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MEMORANDUM
DEPARTMENT OF COMMUNITY DEVELOPMENT
City of Kent

Date: March 11, 2019

To: Dave Ruller, City Manager

From: Jennifer Barone, Development Engineer *JB*

Re: Zoning Map Amendment
200 West Williams

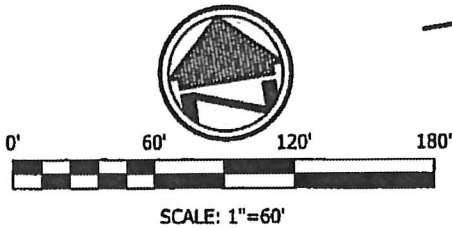
Copy: Hope Jones, Law Director
Melanie Baker, Service Director
Bridget Susel, Director of Community Development
James Bowling, City Engineer
Eric Fink, Assistant Law Director
Dawn Bishop, Civil Service
file

I hereby respectfully request City Council agenda time on April 3, 2019 for Council to consider a zoning map amendment to change a 3.191 acre parcel from I: Industrial to C-D: Commercial-Downtown.

On February 5, 2019 the Kent Planning Commission held a public hearing and discussed the proposed zoning change. The Planning Commission voted 5-0 to recommend that City Council amend the zoning map to change the parcels delineated on the attached map from I: Industrial to C-D: Commercial-Downtown with a covenant, "*Whether the use is permitted or conditionally permitted, any parking plan for this parcel, on-site or off-site, must be submitted to and approved by the Planning Commission.*" A copy of the proposed zoning map amendment area is attached.

A public hearing regarding this matter was advertised to be held prior to the April 3, 2019 prior to the Committee session. Please schedule this item for Land Use Committee review by Kent City Council.

PROPOSED LOT SPLIT EXHIBIT
STATE OF OHIO, COUNTY OF PORTAGE,
CITY OF KENT, BEING PART OF
ORIGINAL FRANKLIN TOWNSHIP LOT 12



BASIS OF BEARINGS

THE BASIS FOR BEARINGS FOR THIS SURVEY IS GRID NORTH OF THE OHIO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NAD83(2011).

L=525.37'
 R=1939.00'
 $\Delta=15^{\circ}31'27''$
 C LEN=523.76'
 BRG=N $35^{\circ}30'02''$ E
 T=264.30'

AKRON BARBERTON
 CLUSTER RAILWAY COMPANY
 O.R. 1169, PAGE 708

AREA
138,980 SQ. FT.
3.191 ACRES

NYPANO COMPANY, LLC.
 O.R. 1089, PAGE 884

- L1 - S $87^{\circ}59'03''$ W, 63.09'
- L2 - S $28^{\circ}58'37''$ W, 77.09'
- L3 - S $12^{\circ}17'22''$ W, 83.59'

NYPANO COMPANY, LLC.
 INSTR. 200222542
 DEED PROPERTY 1

L=176.99'
 R=60.00'
 $\Delta=169^{\circ}00'41''$
 C LEN=119.45'
 BRG=S $83^{\circ}44'04''$ W
 T=623.77'

L2 ISABEL M. L7
 FARNSWORTH-MERCER
 INSTR. #201121694

L3 THOMAS S. PIOTRKOWSKI
 INSTR. #200341999

N $43^{\circ}15'45''$ E
 84.22'

N $46^{\circ}44'15''$ W
 163.25'

90.00'
 S $89^{\circ}13'43''$ W

WILLIAMS STREET
 PLAT BOOK 33, PAGE 33

W. SUMMIT
 STREET 60'
 N $89^{\circ}39'52''$ E
 112.97' Obs.

P.O.B. &
 T.P.O.B.

DEED PROPERTY 5

S $17^{\circ}09'14''$ W 168.00'

FRANKLIN STREET 60'
 S $04^{\circ}16'44''$ E 274.93'

