

TO: Keith Muehlfeld
FROM: Richard G. Hayman
SUBJECT: PB Planned Business Districts
DATE: August 4, 1980

After discussing Zoning Lots, Lots of Record and more than one building on a lot with you, I still feel that the Zoning Code covers every lot within the City limits and that no lots are exempt from the Zoning Code.

Hogrefe's have again come in with another controversial question. The first question we discussed was if they could erect a storage building on their lot on the south side of 424 behind Anthony Wayne Restaurant. The lot fronts on 424 to the east of the Restaurant and is zoned "Planned Business." There are four residential dwellings on the property which would be legal non-conforming uses. Three of the dwellings are occupied and one is vacant because of a fire.

Residential Dwellings are not a permitted use in a Planned Business district, except by Special Use Permit and then only as planned apartment developments.

Because residential dwellings are not permitted, they then would be a legal non-conforming use.

Under Section 151.31, Page 34 of the Zoning Code, Subsection (D) it says, "No building shall be erected upon any premises which is used for non-conforming purposes." I am assuming any premises would mean any zoned lot within the City Limits.

If the lot has three occupied dwellings on it that are non-conforming under the zoning district and there are no other uses on the lot, how, under Section 151.31(D) can we allow them to erect a commercial warehouse on the property before it is subdivided or before the non-conforming use is discontinued.

Problem #2: On the north side of 424 there is a junkyard. The Norfolk & Western Railroad runs parallel with 424 about 220 ft. off 424. Canal Street also runs parallel with 424 between the railroad and 424. The distance from Canal Street to the railroad is about 180 ft. The property between the railroad and Canal Street is zoned "Planned Business". There is a residential dwelling on it and part of the junkyard. There is also a sign advertising auto parts for sale. The junkyard and residence is not a permitted use in Planned Business Districts, making both non-conforming uses. Hogrefe's have now asked to erect a small building at the west end of this lot and put in a U-Haul business and used car lot. This would make four uses on the lot, two of them non-conforming.

The way I interpret the Code, is that no matter how large the lot, if it has a non-conforming use, no other conforming or non-conforming use can be established, except within an existing building.

Section 151.25 One principal building per lot.

Every building hereafter erected shall be located on a lot of record unless otherwise specified for planned developments. In no case shall there be more than one principal building and its accessory buildings, located on one lot, except as otherwise provided in this Code for a planned development, conditional or special use.

This section tells us that only one building (and I assume they're talking about the principal use) can be built on a lot. How then can more than one use be put on a lot, or more than one building be put on a lot without, either approval by a special use permit or a subdivision.

We made TLR get a Special Use Permit for the roller rink and movie theatre, for two buildings on a lot and the only difference between this and Hogrefe's is the size of the lots.

My interpretation of the Code would require Hogrefe's to subdivide the lots on both sides of 424 because the existing uses are non-conforming. Under Section 151.31 non-conforming buildings and uses, there is no provision for Special Use Permit, but they could appeal my decision to the Board of Zoning Appeals.

RGH:dd