

Ordinance No. O-2009-51

An Ordinance amending the Village Zoning Ordinance and Zoning District Map by adding a Mixed Use District within Original Lot 58.

Whereas, on December 7, 2009, at its regular meeting, the Planning Commission recommended that Council amend the Village Zoning Ordinance and Zoning District Map by adding a mixed use district, with the text as set forth in this ordinance and the location as shown on attached Exhibit A (“proposed amendment”); and

Whereas, in accordance with Zoning Ordinance § 1147.01, on December 22, 2009, Council, by resolution, fixed the time, date, and place of the public hearing on the proposed amendment and directed the Village Fiscal Officer to publish and send the notices described in Zoning Ordinance § 1147.01 (see attached resolution); and

Whereas, Council caused notice of the proposed amendment and the time and place of the public hearing to be published in the Record Courier, a newspaper of general circulation in the Village, once a week for three consecutive weeks (see attached affidavit); and

Whereas, on January 22, 2010, 32 days before the public hearing, Council caused written notice of the public hearing to be sent by first class mail to the property owners within, contiguous to and directly across the street from the affected parcels; and

Whereas, on January 22, 2010, January 29, 2010, and February 5, 2010, 32 days after the date of the first publication of notice in the Record Courier, Council held a public hearing on the proposed amendment; and

Whereas, at first reading of this ordinance, Council caused a copy of this ordinance (with all attachments, including Exhibit A) to be filed in the office of the Village Fiscal Officer for public examination; and

Whereas, Council has considered the recommendation of the Planning Commission and after the public hearing desires to amend the zoning ordinance and map as recommended.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Windham, Portage County, Ohio, the majority or more of its members concurring:

SECTION 1: That Village Zoning Ordinance, Part Eleven, Title 5, Zoning Districts and Regulations, be, and hereby is, amended by adding Chapter 1184, Mixed Use District, with the text that follows:

Chapter 1184 Mixed Use District

1184.01 Purpose

This district provides for a variety of personal services, recreation, government, and community uses intended to serve the entire community and within walking distance of neighboring, established residential and commercial districts. This district intends the grouping of these uses into common facilities that will provide adequate parking and the safe flow of vehicular and pedestrian traffic.

1184.02 Permitted Principal Uses.

The following principal uses are permitted within this district:

- (a) Personal services;
- (b) Restaurants, cafés, and food courts;
- (c) Libraries;
- (d) Professional and administrative offices;
- (e) Non-commercial recreational facilities;
- (f) Places of worship; and
- (g) Public offices, meeting halls, and safety facilities.

1184.03 Permitted Accessory Uses.

The following accessory uses are permitted within this district:

- (a) Signs in accordance with the commercial sign regulations in Chapter 1191.
- (b) Any use that is clearly incidental and subordinate to the principally permitted use.

1184.04 Conditionally Permitted Uses.

Subject to Chapter 1149, the following uses are conditionally permitted in this district:

- (a) Child or Adult daycare facilities;
- (b) Retail facilities;
- (c) Any use similar in nature to a use permitted in this district (but not a conditionally permitted use), pursuant to the following standards shall be considered by the planning commission in determining whether a use is similar to a permitted use and if so, conditionally permitted within this district:

(1) The nature, predominant characteristics, and intensity of the proposed use in relation to those uses listed as permitted in this district; and

(2) The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with those uses listed as permitted in this district.

If the planning commission determines that the proposed use is a similar use, then such use will be deemed to be conditionally permitted and subject to the conditional use procedures set forth in Chapter 1149.

1184.05 Site plan review.

Uses permitted or conditionally permitted in this district shall be subject to site plan review under Chapter 1167. During such review, the planning commission shall address all issues relative to parking and area requirements.

SECTION 2: That the present Village Zoning Ordinance, Part Eleven, Title 5, Zoning Districts and Regulations, section 1161.01 is hereby repealed.

SECTION 3: That a new section of the Village Zoning Ordinance, Part Eleven, Title 5, Zoning Districts and Regulations, section 1161.01 is hereby enacted with the text that follows:

1161.01 CLASSIFICATION AND ABBREVIATION.

The Village is hereby divided into districts or zones as follows:

- O-C Open Space and Conservation District
- R-1 Residential District
- R-2 Residential District
- R-3 Residential District
- R-4 Residential District
- C-1 Local Commercial District
- C-2 General Commercial District
- LI Light Industrial District
- I Industrial District
- MU Mixed Use District

SECTION 4: That the reference contained in the Village Zoning Ordinance, Part Eleven, Title 5, Zoning Districts and Regulations, Chapter 1161.03 Zoning Districts Map, shall from this time forward refer to the zoning map as set forth in attached **Exhibit B**, which map is hereby enacted as the Zoning Districts Map for the Village of Windham.

SECTION 5: That this ordinance is adopted pursuant to the Village's home rule powers under Article XVIII, Section 3 of the Ohio Constitution and is expressly intended to supercede any provisions of the Ohio Revised Code in conflict with its provisions.

SECTION 6: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were accepted in an open meeting of this Council, and that deliberations of this Council and any of its committees that resulted in such formal actions were in meeting open to the public, in compliance with Section 121.22 of the Ohio Revised Code.

SECTION 7: That this ordinance shall take effect and be in full force from and after the earliest period allowed by law.

First Reading: December 22, 2009

Second Reading: January 26, 2010

Third Reading: February 23, 2010

PASSED IN COUNCIL this 23rd day of February, 2010.

Vote of Council: Ayes: Mr. Snyder, Mrs. Barrett, Mr. Garrett, Mrs. Meszaros, Mrs. Miranda, Mrs. Rininger. Nays: None.

ATTEST:

APPROVED:

Lloyd Billman, Fiscal Officer

Robert Donham, II, Mayor

I hereby certify that the above Ordinance was duly published by public posting at predesignated posting places.

Lloyd Billman, Fiscal Officer

APPROVED AS TO FORM:

Thomas Reitz, Solicitor