

RECORD OF ORDINANCES

Ordinance No. 3712

Passed: October 26, 2021

AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 154 OF THE CODE OF ORDINANCES OF WEST CARROLLTON: ZONING CODE, TO PERMIT MORE THAN ONE PRINCIPAL BUILDING ON A LOT IN CERTAIN ZONING DISTRICTS.

WHEREAS, an application has been filed by the City of West Carrollton proposing text amendments to Chapter 154: Zoning Code of the Code of Ordinances of the City of West Carrollton, Section 154.03.05(E), to permit more than one principal building on a lot in certain zoning districts; and

WHEREAS, a public hearing was held on September 2, 2021 by the West Carrollton Planning Commission, at which time all people who wished to testify gave their comments, and the Planning Commission unanimously recommends approval of the proposed amendments; and

WHEREAS, notification of a public hearing before the City Council regarding this matter was properly advertised in a newspaper of general circulation on September 16, 2021 in accordance with Section 154.08.01(D)(1) of the Zoning Code; and

WHEREAS, the proposal and meeting notice was posted on the City's website; and

WHEREAS, a public hearing was held by the West Carrollton City Council on October 26, 2021, at which time all people who wished to testify gave their comments; and

WHEREAS, Sections 154.05.05(C) of the West Carrollton Zoning Code specifies circumstances which justify amending the Zoning Code; and

WHEREAS, the City of West Carrollton has determined that adoption of the proposed amendments is in the best interest of the citizens of West Carrollton to preserve and enhance property values and protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, COUNTY OF MONTGOMERY, STATE OF OHIO:

SECTION I. That the City Council makes the following findings of fact with respect to the proposed amendment to the Official Zoning Map pursuant to case T-21-1, said findings of fact based upon criteria found within Section 154.05.05(C) of the Zoning Code:

- a) Situations have been encountered in the city in which Zoning Code Section 154.03.05, General Requirements, which permits no more than one principal building on a lot, limits the full and effective use of non-residential properties and the establishment of new businesses. It also would present an obstacle to the City's future plans to establish mixed-use development which will most certainly have more than one principal building on a lot. In addition, properties which contain

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business parks, multi-family residential complexes, and schools already contain multiple principal buildings on single lots, and this provision essentially designates those properties as non-conforming.

- b) Section 154.03.05(E) of the Zoning Code has two requirements: every structure must be located on a lot; and only one principal building is permitted on a lot "except as permitted" in certain specified zoning districts. The second element of this provision is in error, in that it is poorly written and subject to confusion in interpretation. This language would lead the reader to believe that language exists which permits more than one principal building on a lot in the zoning districts which are listed, but no such language is evident in the code. The conclusion is that the phrase "except as permitted" was intended to convey that more than one principal building is permitted in those multi-family residential and non-residential zoning districts.
- c) Section 154.03.05(E) of the Zoning Code would be amended to expressly prohibit more than one principal building on lots used for residential purposes in single-family residential districts, which is what is believed to be the intent of this provision. The amendments would make it clear that more than one principal building would be permitted on a lot in multi-family residential complexes and in non-residential districts such as mixed-use entertainment districts, business parks, etc. The "*used for residential purposes*" language which is proposed is important, in that it would exclude from this requirement non-residential uses which are permitted in single-family residential districts such as schools, churches, etc.
- d) The word "*entirely*" is proposed to make it clear that buildings must be located "entirely" on a lot, and may not straddle property lines.
- e) The proposed amendments can be justified on the grounds that the change is in conformance with the Comprehensive Plan of the city. The proposed amendments to the Zoning Code support the goal of the *2009 West Carrollton Sustainable Comprehensive Plan* to create additional flexibility in land use controls, thereby enhancing property values and facilitating private investment. The proposal also supports the overarching goal to stimulate economic development, including the retention and expansion of existing businesses and the re-use of vacant buildings and sites.
- f) The proposed amendments can be justified on the grounds of substantial or significant change in area conditions. Due to significant City investment as well as market forces, West Carrollton is experiencing significant redevelopment of property with the potential for even more significant development in the future. This development will likely take the form of mixed-use development which will need as much flexibility in land use controls as possible.

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- g) The proposal can be justified on the grounds that there is an error in the Zoning Code. The second element of this provision is in error, in that it is poorly written and subject to confusion in interpretation. The language would lead the reader to believe that language exists which permits more than one principal building on a lot in the zoning districts which are listed, but no such language is evident in the code. The conclusion is that the phrase "except as permitted" was intended to convey that more than one principal building is permitted in those multi-family residential and non-residential zoning districts. The proposed amendments are necessary to clarify the meaning of this provision.

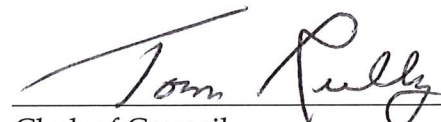
SECTION II. That Section 154.03.05(E) of the Zoning Code be and hereby is amended to read as indicated in Exhibit A, attached hereto.

SECTION III. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken 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 taken in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION IV. That this Ordinance shall take effect from and after the earliest period allowed by law.

Passed: October 26, 2021


Mayor

Attest: 
Clerk of Council

Effective Date: November 26, 2021

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CERTIFICATE

The undersigned, Clerk of Council of the City of West Carrollton, Ohio hereby certifies the Ordinance to be true and a correct copy of Ordinance _____, adopted on the _____ day of _____, 20____.

Clerk of Council

Dated: _____

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EXHIBIT A

AMENDMENT TO §154.03.05 GENERAL REQUIREMENTS.

EXISTING:

(E) Every building or structure constructed or placed on a lot in the city shall be located on a lot as defined in this chapter; and in no case shall there be more than one principal building on a lot except as permitted in the R-4, R-5, PUD, B-1, B-2, M-1, or M-2 Districts.

PROPOSED:

(E) Every building or structure constructed or placed on a lot in the city shall be located **entirely** on a lot as defined in this chapter; and in no case shall there be more than one principal building on a lot **used for residential purposes** ~~except as permitted in the R-4, R-5, PUD, B-1, B-2, M-1, or M-2 Districts~~ in the RE Residential Estate District, the R-1 Single Family Residential District, the R-2 Single Family Residential District, or the H Heritage District.