

MAY 15, 2013

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Wednesday, May 15, 2013, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Matt Lentsch, Dale "Woody" Emmons, Ross Portolese, Don McCampbell, Nick Troiola, Edward Salyer, and Rosemary Klaer. Absent: Gary West and Murray Winn. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, and Kari Myers.

Matt Lentsch explained the Rules of Procedure.

The minutes of the April 9, 2013, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #13-05 A petition submitted by Jeffrey and Deborah Van Poppel to rezone **408 West Seventh Street** from C-1 General Commercial District to R-1 Single Family Residential District.

No one appeared to present the petition. The Commission unanimously approved to continue the petition to the June 11, 2013, hearing date.

PETITION #13-06 A petition submitted by Kevin Scott and Mary Lou Stevens to rezone **617 Lincolnway West** from C-6 Linear Office Commercial District to R-1 Single Family Residential District.

Mary Lou Stevens, 617 Lincolnway West, presented the petition. She said they want to refinance the house and have been advised to rezone to R-1. She said even though residential is permitted in C-6, it's hard to refinance commercially zoned property.

Ross Portolese asked if she was living there. Mrs. Stevens said she has lived there 21 years and planned to continue living there.

Mr. Lentsch closed the Public Hearing on Petition #13-06.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 13-06 rezone 617 Lincolnway West from C-6 Linear Office Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:*

1. *There are multiple zonings in the immediate vicinity and many of the structures are residential in use. This property's historic use as a single family dwelling would be compatible to the area;*

2. *Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is its historical single-family use;*
3. *Because the parcel is located in an area of residential properties, the rezoning to R-1 Single-Family Residential is a desirable use for this property;*
4. *As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owners to sell the home and make improvements as they deem necessary; and,*
5. *The City's Comprehensive Plan calls for general commercial but the rezoning is not inconsistent with the residential uses in the area.*

MOTION: Ross Portolese moved to forward Petition #13-06 to the Common Council with a favorable recommendation. Edward Salyer seconded; motion carried with a vote of 7-0.

PETITION #13-07 A petition submitted by Phyllis J. Cleland to rezone **317-319 East Eleventh Street** from R-1 Single Family Residential District to R-2 Two Family Residential District.

Lance Cleland, 1410 Green Grass Drive, Osceola, appeared on behalf of his mother, Phyllis Cleland. He said the home was built as a duplex. They have a pending sale and the loan company will not close on the property unless it's zoned for two family. He said that's the reason for the request.

Mr. Emmons asked if he would live there. Mr. Cleland said no, it will be a rental.

Mr. Emmons asked if the home would be sold to an individual or to a rental company. Mr. Cleland said the potential purchaser is an investor.

Mr. Emmons asked if he knew of the investor's track record. He said he has a problem with out-of-state buyers coming in and not taking care of the property. Mr. Emmons said he has a big problem with an investor already and he doesn't think he can support this request.

Mr. Lentsch asked if there have been any issues with the property. Mr. Cleland said no.

Mr. Lentsch asked if there have been any Code Enforcement issues. Mr. Cleland said no and they actually built a nice garage and are updating the electric. He said his parents have owned it for over 20 years and it's always been a rental property.

Mr. Emmons said his problem is with who is taking it over. He said he doesn't want a slumlord. Mr. Cleland said he doesn't know the background of the buyer. He said his parents are retired and want to liquidate.

Mr. Emmons said he feels he should look out for the neighbors.

Mr. Lentsch closed the Public Hearing on Petition #13-07.

Mr. Troiola asked if there was a way to find out who is buying the property. Mr. Prince recommended that after the vote this evening, Mr. Cleland research and provides the potential buyer's information before the Common Council meeting. Mr. Cleland said he could have the investor call Mr. Emmons. Mr. Emmons said he would rather meet them in person.

Mr. Prince said he understands Mr. Emmons point, however, tonight we are looking at the property from a zoning standpoint and that's what the Commission is charged with.

Mr. Lentsch said the Commission needs to determine if the request for rezoning is appropriate.

Mr. McCampbell said he drove by the home and this isn't the only property in the neighborhood that is a duplex and he sees no reason why it shouldn't be rezoned to R-2.

Mr. Emmons said he just wants more facts. He said in the past, buyers have promised the world and they don't maintain the properties.

Mr. McCampbell said his feeling is that if we don't change the zoning then they can't sell the house because no finance company will lend money on it.

Mr. Emmons said he would support the rezoning until it comes to Council and he has information from Mr. Cleland or the purchaser. He said Council has the final say and they have been burned in the past.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 13-07 to rezone 317 and 319 East 11th Street from R-1 Single Family Residential to R-2 Two family residential. This recommendation is based upon the following findings of fact:*

- 1. There are multiple uses in this neighborhood that include both commercial and low density residential uses. . This property's historic use as a duplex is compatible to the area and consistent with its history;*
- 2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the historic use as a duplex, staff feels that the most desirable use for this property is its historical two family residential;*
- 3. Because the parcel is located in an area of residential properties, as well as commercial, and other two family structures, the rezoning to R-2 Two-Family Residential is a desirable use for this property;*
- 4. The proposed rezoning of this property to an R-2 Two- Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owners to sell the home and make improvements as they deem necessary, by allowing for the continued financing from lending institutions; and,*

5. *The City's Comprehensive Plan calls for Low density residential, and the historic use and proposed classification fits within the plan.*

MOTION: Don McCampbell moved to forward Petition #13-07 to the Common Council with a favorable recommendation. Nick Troiola seconded; motion carried with a vote of 7-0.

NEW BUSINESS:

Mr. Prince said we have a new group in Mishawaka doing Fourth Fridays and they have submitted a package of information requesting banners and A-frame signs in conjunction with events. He said if you see signs go up, they will come before the Commission in June and if you have any concerns to contact him.

Mr. Prince also said the City is working on preparing applications for two electronic readerboards near Front and Main entering the River Center development, and also for Battell Center. He said details have not been worked out. The size of the signs will be similar to the sign at First United Methodist Church.

ADJOURNMENT: 7:17 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner