

PLANNING AND ZONING COMMITTEE

APRIL 20, 2016

The meeting was called to order at 5:00 p.m. by Chairman Tim McCarthy. Committee members present were Tim McCarthy, Jonathan Smith and Becky Williams. Also present were Brody Walters, Planning and Zoning Administrator and Mark Easterling, City Inspector.

APPOINTMENT TO HISTORIC LANDMARKS COMMISSION

Mr. McCarthy moved to go into Executive Session to discuss the appointment of a public official. Ms. Williams seconded. It was agreed 3-0 to go into Executive Session at 5:01 p.m. The Committee returned from Executive Session at 5:13 p.m.

The Committee agreed 3-0 to recommend the appointment of Rick Butera to the Historic Landmarks Commission.

REQUEST FOR REZONING – 521 LOUISIANA AVENUE

Mr. Walters stated that Dr. Nick Nadaud, owner of 521 Louisiana Avenue (located at the northeast corner of Louisiana Avenue and Sixth Street), has requested rezoning of the property from R3 (Single Family Residential) to C1 (Neighborhood Commercial). A public hearing was held before City Council regarding this issue on April 5, 2016. The Planning Commission recommended approval of the rezoning request by a vote of 5-2.

Mr. Walters said that this property has been zoned residential as far back as he can see, but the use has always been commercial. Dr. Nadaud and his wife are both podiatrists and have relocated their business from Toledo to the Louisiana Avenue property. Dr. Nadaud said that he understands it is his ignorance that he didn't know about the zoning before he bought the building, but he was not aware of it until he wanted to change the sign at the business. Dr. Nadaud said that he has already invested \$70,000 in an x-ray machine. He said that his interest is not in ruining the neighborhood. He said that a similar situation existed at the corner of SR25 and Indiana Avenue and that property was rezoned to C1.

Ms. Williams asked Dr. Nadaud if this is a walk-in type business or if it is by appointment. Dr. Nadaud said that he does make appointments but he will also accept walk-ins. Mr. Smith said that at the public hearing there was mention of a potential tenant. Dr. Nadaud said that he has no interest in having a tenant now. Mr. Walters stated that the issue of a tenant was brought up at the public hearing as an example of a restriction that Dr. Nadaud may face in the future. He explained that Dr. Nadaud's business is permitted in the residentially zoned property because it is a legal non-conforming use. The Code says that continuance of legal non-conforming uses should not be encouraged. Mr. Walters said that there have been several attempts to rezone this property in the last several years and these attempts have resulted in Code amendments that attempted to loosen the restrictions of legal non-conforming uses. Mr. Walters recommended that a decision should be made about the future of this building rather than creating legislation that erodes the fundamental elements of zoning by allowing exceptions and exclusions for non-conforming uses.

Mr. McCarthy said that he has received comments from several neighbors and their concerns seem to focus on two issues: this is a residential neighborhood and they don't

want to be around commercially zoned property, and there is a lot of vacant commercial space available for use. John Lutz, 601 Louisiana Avenue, said that he lives across the street from the parking lot. His biggest concern is business expansion. He said that he would estimate five people per hour use the property and there has been no usage in the evenings or on weekends. He said with expanded uses there is a potential for increased traffic. He said that rezoning this property would take away the benefit and use of his property and will likely reduce his property value for the benefit of a property owner who purchased residential property and wants to use it for a business. He said that he doesn't want to disadvantage Dr. Nadaud, but he bought a non-conforming building.

Kathleen Furlick, 133 W. Sixth Street, asked if the property could be kept residential but Dr. Nadaud be given the sign that he wants. Mr. Walters said that if signage were the only issue we could get over that hurdle although it's not something he would recommend because it's not good policy, but there are other issues that Dr. Nadaud will face in the future.

Ms. Williams said that the Comprehensive Plan shows this property as residential and she is concerned with what could go there in the future. Mr. McCarthy said that he shares that concern. He said that the property that was rezoned at SR25 and Indiana Avenue is not comparable because the property across the street from that property is zoned commercial and across SR25 is a public use at the cemetery. The non-conforming use at 521 Louisiana Avenue has allowed the City to ratchet it down to keep the traffic modest. Mr. McCarthy added that he himself lives next to an office building and they are not a bad neighbor. They aren't there weekends or at night, but he is aware that it could change. He agreed that this hasn't been handled well over the years, but he has a fundamental problem with expanding the commercial use when there are so many commercial vacancies. He said he is hesitant to rezone this property and potentially introduce problems for the neighbors. Mr. Smith said that he understands that commercial zoning is only a block away, but this property is smack dab in residential and unfortunately we have to look at the future.

Mr. Lutz said that he doesn't have a problem with the doctor's office, but if Dr. Nadaud sold the property it would open it up to all the benefits of C1 zoning.

The Committee agreed 3-0 to recommend denial of the rezoning request.

There being no further business, the meeting adjourned at 5:56 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Timothy G. McCarthy". The signature is written in a cursive, flowing style.

Tim McCarthy, Chairman
Planning and Zoning Committee

Next meeting: Wednesday, May 18, 2016 at 5:00 p.m.