

PLANNING COMMISSION

May 16, 2019

The City of Portage Planning Commission meeting of May 16, 2019 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Four citizens were in attendance.

PLEDGE OF ALLEGIANCE:

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning, Development & Neighborhood Services; Michael West, Senior City Planner; and Randy Brown, City Attorney.

ROLL CALL:

Mr. Forth called the role: Patterson (yes); Corradini (yes); Stoffer (yes); Schimmel (yes); Joshi (yes); Pezzoli (yes) and Fries (yes). A motion was then made by Commissioner Patterson, seconded by Commissioner Joshi, to approve the role excusing Commissioners Baldwin and Harrell-Page. The motion was approved 7-0.

APPROVAL OF MINUTES:

Chairman Stoffer referred the Commission to the May 2, 2019 meeting minutes contained in the agenda packet. A motion was made by Commissioner Patterson, seconded by Commissioner Fries, to approve the minutes as submitted. The motion was unanimously approved 7-0.

SITE/FINAL PLANS:

None.

PUBLIC HEARING:

1. Final Report: Rezoning Application #18/19-6, 129 Boston Avenue. Mr. Forth summarized the May 10, 2019 final preliminary staff report regarding a request received from Attorney Joey Kejbou, on behalf of the property owner Jayesh and Neha Sharma, to rezone 129 Boston Avenue from R-1A, one family residential to OS-1, office service. Mr. Forth stated the applicant's intent for the rezoning, as outlined in the application materials, was to establish a small office at 129 Boston Avenue and establish a medical marijuana provisioning center at 5747 South Westnedge Avenue. Mr. Forth indicated that Mr. and Mrs. Sharma also own the two adjacent parcels to the west addressed as 121 Boston Avenue and 5747 South Westnedge Avenue, which currently function as one "zoning lot". Mr. Forth indicated the rezoning consideration was a land use issue involving further nonresidential zoning encroachment into the neighborhood and not whether or not a medical marijuana provisioning center would be appropriate at 5747 South Westnedge Avenue. Mr. Forth summarized previous rezoning considerations that have occurred along the east side of South Westnedge Avenue, between 2002-2013, and the adjustment that was made to the Future Land Use Map boundary between general business/residential land use with the 2014 Comprehensive Plan Update to achieve consistency and depth of commercial land use along the east side of South Westnedge Avenue. Mr. Forth summarized the staff recommendation and rationale to deny the rezoning request including the finding that the proposed OS-1 rezoning is not entirely consistent with the Comprehensive Plan, Future Land Use Map and adjacent zoning pattern; retention of the existing commercial/residential zoning pattern and boundary along the north side of

Boston Avenue represents an appropriate depth of commercial zoning (233 feet) along South Westnedge Avenue that can support viable commercial development/redevelopment; the recommendation is consistent with the 2002 and 2013 rezoning decisions and subsequent 2014 Future Land Use Map and will minimize negative impacts on the adjacent residential neighborhood; similar to other residential properties located adjacent to South Westnedge Avenue continued use of 129 Boston Avenue as a single family residence remains a suitable option for the property; there are numerous other vacant and/or underutilized office properties including 121 Boston Avenue (also owned by Mr. and Mrs. Sharma) that could accommodate the proposed office use; and redevelopment and redefining of the zoning lot comprised of 5747 South Westnedge Avenue and 121 Boston Avenue is also an option for the applicant and/or property owner to accommodate the proposed attorney office and medical marijuana provisioning center without the need to rezone 129 Boston Avenue.

Joey Kejbou (attorney representing Mr. and Mrs. Sharma) was present to support the rezoning application. Attorney Kejbou restated his intentions to establish a low intensity satellite office for his law practice at 129 Boston Avenue and also establish a medical marijuana provisioning center within the existing building located at 5747 South Westnedge Avenue. Attorney Kejbou indicated a current zoning transition of B-3 to R-1A exists between 121 and 129 Boston Avenue and the proposed zoning transition of OS-1 to R-1A between 129 and 205 Boston Avenue represents a lower intensity zoning/land use arrangement that would serve as a buffer to the interior neighborhood. Attorney Kejbou stated the intended use of 129 Boston Avenue would be a very low intensity satellite office for his law practice with only one person (himself) present at the site approximately 2-3 days per week. Attorney Kejbou indicated the property owner to the east at 205 Boston Avenue spoke in support of the zoning change at the May 2nd meeting. Attorney Kejbou stated he believes the requested OS-1 zoning is consistent with the Comprehensive Plan, Future Land Use Map and surrounding land use pattern.

Jay Sharma (owner of subject property) also spoke in support of the zoning change. Mr. Sharma indicated he has been a small business owner in Portage for the past 23 years and provided a brief history of his acquisition of 5747 South Westnedge Avenue, 121 Boston Avenue and most recently 129 Boston Avenue. Mr. Sharma discussed the difficulties of trying to secure a replacement tenant for Sleep Doctor within the southern approximate 5,600 square feet of 5747 South Westnedge Avenue since they vacated the premises in February 2019. Mr. Sharma indicated the proposed rezoning of 129 Boston Avenue to OS-1, office service represent a low intensity zoning classification that would have no impact on the adjacent neighborhood. Mr. Sharma also stated the adjacent property to the north has a greater depth of B-3 zoning from South Westnedge Avenue that encompasses approximately 75% of 129 Boston Avenue, if the zoning boundary was extended to the south.

The Planning Commission, staff and the applicant next discussed various aspects of the proposed rezoning request, along with the planned uses. Commissioner Schimmel asked why the existing commercial building at 5747 South Westnedge Avenue could not be demolished and a new building constructed to accommodate the proposed small office use and medical marijuana provisioning center. Mr. Sharma indicated this is an option, however, the building was constructed in the 1980s and is still a solid block structure. Mr. Sharma also stated that approximately \$400,000 was recently invested into the building for the former Sleep Doctor and current DXL Men's Apparel tenants. Commissioner Patterson asked for clarification on whether the intended use of the property should be a factor of consideration by the Planning Commission. Attorney Brown stated that the intended use can be considered, however, with the understanding that the applicant is not bounded by these representations and that any use that is allowed under the requested zoning district would be allowed at the site, if rezoned. Attorney Brown stated the primary rezoning consideration criteria is outlined in the staff report and includes consistency with the Comprehensive Plan, Future Land Use Map, development guidelines, surrounding land use/zoning pattern, traffic, environment and neighborhood impacts.

The public hearing was reconvened by Chairman Stoffer. One citizen (John Jures, 5058 Huntington Boulevard, Carmel, Indiana) spoke regarding the proposed rezoning. Mr. Jures indicated he was a commercial real estate broker in Michigan and Indiana and described the challenges with trying to market the vacant tenant space formerly occupied by Sleep Doctor at 5747 South Westnedge Avenue. Mr. Jures stated that demolition of the existing building and redevelopment of the site with a new building is an option, however, may be problematic given the existing lease agreement with DXL Men's Apparel. Mr. Jures discussed the trend in commercial real estate with the top three strongest tenants being associated with the food, fitness and medical retail industries. Mr. Jures indicated that a medical marijuana provisioning center is a high demand use that

would be a good fit in the vacant approximate 5,600 square foot tenant space. No additional citizens spoke regarding the proposed rezoning. A motion was then made by Commissioner Schimmel, seconded by Commissioner Corradini, to close the public hearing. The motion was unanimously approved.

The Planning Commission and staff next discussed various aspects of the proposed rezoning and planned uses including the existing building square footage/useable floor area and parking associated with the zoning lot comprising 5747 South Westnedge Avenue and 121 Boston Avenue, historical development of the site, past rezoning decisions in the area, changes made to the Comprehensive Plan/Future Land Use Map, depth of commercial zoning along South Westnedge Avenue and further encroachment of nonresidential zoning into the adjacent neighborhood and options currently available to the applicant/property owner to accommodate the proposed office use and medical marijuana provisioning center without the need for additional rezoning.

After additional discussion, a motion was made by Commissioner Corradini, seconded by Commissioner Fries, to recommend to City Council that Rezoning Application #18/19-6 be denied and 129 Boston Avenue remain zoned R-1A, one family residential. The motion concurred with the analysis and findings contained in the May 10, 2019 Department of Community Development staff report in that: 1) The proposed OS-1 rezoning is not entirely consistent with the Comprehensive Plan, Future Land Use Map and the adjacent zoning pattern and, if rezoned, may negatively impact the adjacent residences with increases in traffic (including neighborhood cut-through traffic), noise, lights, among others; 2) Retention of the existing commercial/residential zoning pattern and boundary along the north side of Boston Avenue represents an appropriate depth of commercial zoning (233 feet) along South Westnedge Avenue that can support viable commercial development/redevelopment. This recommendation is consistent with the 2002 and 2013 rezoning decisions noted above and the subsequent change to the 2014 Future Land Use Map, and will minimize negative impacts on the adjacent residential neighborhood; 3) Given [the size/configuration of the subject property](#) and location of the buildings, conversion of the existing dwelling to an office use as proposed by the applicant and construction of required off-street parking, loading/unloading area, among others may be problematic; and 4) There are numerous other vacant and/or underutilized OS-1 zoned properties throughout the city, including 121 Boston Avenue (also owned by Mr. and Mrs. Sharma) that could accommodate the proposed office use. Redevelopment and redefining of the zoning lot comprised of 5747 South Westnedge Avenue and 121 Boston Avenue is also an option for the applicant and/or property owner to accommodate the proposed attorney office and medical marijuana provisioning center without the need to rezone 129 Boston Avenue. Upon a roll call vote: Schimmel (yes), Joshi (yes), Corradini (yes), Stoffer (yes), Pezzoli (yes), Fries (yes) and Patterson (yes), the motion was unanimously approved 7-0.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Resolution Honoring Chairman Wayne Stoffer. Vice-Chairman Corradini read a Resolution honoring Chairman Wayne Stoffer for his ten years of service to the Planning Commission. A motion was then made by Commissioner Patterson, seconded by Commissioner Schimmel, to approve the Resolution. The motion was unanimously approved. Chairman Stoffer thanked staff, Attorney Brown and his fellow Commissioners for their assistance and support over the years and stated it has been an honor serving on the Planning Commission. Mr. Forth thanked Chairman Stoffer for his years of service with the City of Portage.

STATEMENT OF CITIZENS/COMMISSIONERS:

None.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning, Development and Neighborhood Service