

**CITY OF CLARKSTON
PLANNING COMMISSION MINUTES
October 21, 2019**

CALL TO ORDER: 6:00 P.M., Clarkston City Hall, Chairman McCroskey
Staff: Kevin Poole

ROLL CALL: McCroskey, Flerchinger, Rowland, Absent – Gilbertson, Filler
Motion to excuse Vice Chair Gilbertson and Commissioner Filler – Flerchinger, Second –Rowland,
Approved 3-0.

AGENDA CHANGE: None

APPROVAL OF MINUTES:
Meeting minutes for 9/16/2019 were reviewed. Moved to approve as submitted –Rowland, Seconded –
Flerchinger, Approved 3-0

PUBLIC HEARING: None

REGULAR BUSINESS: None

WORK SESSION: None

UNFINISHED BUSINESS:

- A. Review of decision on ZC-2019-03, 917 Chestnut St. – Bring off the table.
Motion to bring off table -Flerchinger, Seconded – Rowland, Approved 3-0

PWD Poole stated that the Commission has one of two decisions to make. Tho either uphold their original decision for the zone change from R2 to NC or to deny the requested zone change based upon the city attorney’s opinion. Chairman McCroskey asked that City Attorney Richardson provide the Commission a synopsis of his opinion letter.

City Attorney Richardson stated he tried to find a way for the Commission to show this was not an illegal spot zone. It came down to there was no clear public benefit for the zone change, just a private benefit for the church. He said the rationales presented to him regarding changing the zone from R2 to Neighborhood Commercial zone do not meet the requirements for a public benefit so he still maintains it is an illegal spot zone. He stated that the Commission may or may not accept his opinion. He provided his opinion to the Commission at the direction of city council. The Commission reviewed the opinion letter from City Attorney Richardson regarding ZC-2019-03 and spot zoning.

Chairman McCroskey asked if there was anyone in the audience that wanted to speak to this issue.

Fr. Richard Root, 1007 10th St. Clarkston, WA. He stated that spot zoning is allowed if it is consistent with the municipality’s comprehensive plan. He felt that the P&Z Commission has reviewed all documents and has made a decision to approve the zone change based upon consistent application of the comprehensive plan and zoning ordinances. Fr. Root said that the city attorney stated the church would like to sell the property and obtain the highest value possible and the zone change would enhance the value. He said the church has already reduced the asking price by \$200,000. The church is only asking for a fair market value. The city attorney also stated that the church is the only one to benefit from the zone change. The zone change would have allowed a past potential buyer to use the building as it has been used for the past 30 years. If Union Gospel Mission bought the property, they could set up a soup kitchen and homeless shelter without a zone change because they are a church. He doesn’t think the surrounding neighborhood would benefit from that

kind of use. Mr. Richardson had stated that the property could be used as a duplex or triplex. The parking requirements and size of the building would be a detriment to that kind of development. There is a public benefit because with the zone change and sale, the property would be put on the property tax rolls. Also a vacant building is not beneficial to the public. A counseling center or small professional office is the best use for the property. Other allowed uses in an NC zone would not be as beneficial to the residential neighborhood. The traffic flow from a small office/counseling center would not be detrimental to the surrounding neighborhood or the school which is across the street.

Chairman McCroskey asked Mayor Lawrence to relay to the Commission some of the concerns that city council had on the zone change. Mayor Lawrence stated the main concern the city council had was that it was spot zoning and there was a consensus there may be spot zoning. They wanted the P&Z Commission to review their decision to make sure they were not spot zoning.

Chairman McCroskey asked PWD Poole if he had anything else to add to the discussion. He stated that the Commission was provided with all the reference materials needed at the last meeting to make a decision. They have the RCW's, WAC's referencing spot zoning, plus he said the Comprehensive Land Use Plan and Zoning ordinances provide the definitions and direction for a decision regarding if this is illegal spot zoning or not and if Neighborhood Commercial is arbitrary and capricious. He felt that the Commission has taken a lot of time in defining what is Neighborhood Commercial in the Comprehensive Land Use Plan and the Zoning ordinance. Those are the two guiding documents to base your decision.

City Attorney Richardson added that the city council did not think the Findings of Fact, Conclusions of Law from the Commission did not have a proper findings to show the public good or benefit. He recommended that if the Commission upholds their decision, they should provide an amended Findings of Fact to substantiate the public good so the city council can consider it in a different light.

Commissioner Flerchinger stated he would hate to be a block for something that will be good for the community. The city attorney could not find any loop holes so he feels that they should send their original decision back to city council.

Commissioner Rowland said he agreed with Commissioner Flerchinger. The Commission complied with the Comprehensive Plan and the Zoning Ordinance. This should now be the city councils decision.

Chairman McCroskey said one of her concerns was with spot zoning that there is this one piece of commercial property with residential all around it and no other commercial development will happen. Traffic will be an issue for ingress and egress to the property and it is across from the school. She stated that during the first comprehensive plan, the Commission was concerned about spot zoning. They did not want to change the complexion or feeling of the neighborhood. She can see the concern that this could be spot zoning. The Commission needs to either uphold their decision or decline the zone change request. Chairman McCroskey asked PWD Poole if that was a good summary.

PWD Poole stated that regardless of what the property is zoned, the parking requirements are going to be the limiting factor on use of the property.

Chairman McCroskey asked Fr. Root if he felt that parking would be limiting use of the property. Fr. Root replied that the only party that was interested in the property would have used it like the church. They have had no other party interested because of the zoning issue. So he is unaware of parking issues.

Chairman McCroskey asked if QBH is still interested in the property after they have acquired the property on 6th St. Fr. Root stated no one else has expressed an interest in the property.

Chairman McCroskey stated that the issue with the property is parking regardless of the zone. So the question before the Commission is do you change the zoning, is this spot zoning? City Attorney Richardson cannot find a reason to justify the zone change, he considers this spot zoning. It is not consistent with the Comprehensive Plan, it does not meet the objectives of the Comprehensive Plan. That is the legal opinion. The Findings may have to be amended. PWD Poole stated that he would have to review language in the Comprehensive Land Use Plan and Zoning ordinance. Those are the two documents he uses for drafting the Findings.

Chairman McCroskey asked Mayor Lawrence if the council's concern was only spot zoning or was parking part of it? Mayor Lawrence stated that parking and traffic was part of their concern.

Chairman McCroskey asked if there was a motion. Commissioner Rowland moved that they remand the original decision to approve the zone change back to council. Seconded by Commissioner Flerchinger. Chairman McCroskey asked if he considered this spot zoning. Commissioner Rowland said it is no different than the zone change they just did on 6th Street and Highland from R1 to NC zone. Vote 2-1. Motion carried.

Discussion ensued about the next steps of the process. PWD Poole read CMC 17.90.080 Recommendations and Decisions to the Commission. Consensus of Commission was that PWD Poole will draft a letter from the Commission to the City Council on the decision.

COMMUNICATIONS:

- A. From Public:** None
- B. Written:** None
- C. From Planning Commission:** None
- D. Staff Reports:** PWD Poole distributed an article on small homes and new version of Title 17 Zoning.
- E. Next meeting to be determined.**

ADJOURNMENT:

Motion to adjourn by Commissioner Rowland, seconded by Commissioner Flerchinger
Vote to adjourn 3-0, meeting adjourned at 6:32 p.m.


Margo McCroskey, Chairman