

**PLANNING COMMISSION
MEETING MINUTES
December 21, 2016
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:04 p.m.

II. ROLL CALL

Present: H. Jugenitz, A. Bedogne, J. Talaga, M. Dunwoodie,
L. Dahl MacGregor, P. Hollifield

Absent: C. Zuellig (excused) T. Dennis (excused)

Staff: Beth Ernat, Economic Development Director
Bonnie Wessler, City Planner
Cynthia Kochanek, Associate Planner
Nan Schuette, Executive Secretary

III. APPROVAL OF MINUTES

Commissioner Bedogne moved to approve the minutes of November 16, 2016 with recommended changes by Chairperson Jugenitz on pages 1 and 2 (Support: M. Dunwoodie) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

None

V. PRESENTATION AND PUBLIC HEARING ITEMS

1. Special Nonconforming Status - 928 Frederick

This is a request for a non-conforming status of 0.15 acres on Frederick St between First and Orchard St, one block north of Parkridge Park. The structure has frontage on the north side of Frederick St. It is a two unit structure in 1,083 sq. ft. with a front porch running the length of the house and a shed to the northwest of the house.

The structure is currently zoned R-1, Single-Family Residential and the two units are nonconforming under the current zoning ordinance. The house was built in 1926 and at that time, the property was Class "B" zoning which allowed for dwellings for one or more families. The property was zoned R-2, for one and two family residential until 2015, when the most recent zoning ordinance went into effect. After research, records indicate there have been two units since at least 1984 and that a Certificate of Compliance/Occupancy (C/O) was issued to the property as far back as 1999. The property has a C/O from the Building that is valid through January 1, 2017 and is currently scheduled for a rental re-inspection on January 5, 2017. No special use permits or variances have previously been approved for this property.

There are no proposed changes to the site, the applicant is only pursuing the special nonconforming status in order to rebuild as a duplex in the event of a casualty.

Ms. Kochanek reviewed the criteria for nonconforming uses and conditions of approval.

Staff is recommending approval for 928 Frederick with a finding and conditions.

Commissioner Dunwoodie moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Patricia Horn-McGee, 925 Frederick – directly across the street from this property – doesn't have particular problems at this time, however, if this property was to burn down, it could be rebuilt as a two family unit and it is a very small lot. She also has concerns about the use and parking is also a problem. Staff stated there had been no enforcement on this property and asked to have it checked.

Lois Richardson, 1055 Jefferson - for years she lived at 926 Frederick and during that time, there were issues with that house. It is very small and agrees right now that particular area should not be rebuilt as a duplex. The rest of the homes in that block are single family. She agrees that parking is a problem. Staff needs to re-check the use and it could create issues.

Commissioner Dahl MacGregor moved to close the public hearing (Support: A. Bedogne) and motion carried unanimously.

Chairperson Jugenitz explained to the audience that regarding the number of residents in the unit – the current use would not be different than now; that is part of code enforcement and the size of the building would have to remain the same.

Commissioner Bedogne noted that in looking at this particular lot layout, it has a longer driveway than others and could accommodate 2-3 cars.

Commissioner Bedogne moved that the Planning Commission approve the Special Nonconforming Use permit for the duplex at 928 Frederick Street with the following finding and conditions:

Finding

1. The applicant substantially complies with Sec 122-206.

Conditions

1. Applicant to maintain the property in accordance with the Ypsilanti Property Maintenance Code in regard to vegetation/weeds at the foundation and in the gutters.
2. When the exterior lights at the sides of the structure are replaced or upgraded, they need to be dark sky compliant and conform with Sec 122-641.
3. If the structure needs to be rebuilt, the yard setbacks cannot be more non-conforming than what is currently on the site.
4. Secure/store the windows that are at the rear of the property.
5. Applicant to create a dedicated, enclosed storage area for the garbage receptacles.
6. The rental Certificate of Compliance & Occupancy must be successfully renewed within 3 months of this approval and maintained as prescribed by law as long as the structure is utilized as a rental/duplex.

The motion was supported by Commissioner Hollifield. A roll call vote was taken and carried unanimously 6:0.

2. Special Nonconforming Status - 914 N. Congress

Parcel 11-11-40-432-020 is 0.19 acres on Congress St between Elm and Summit Streets in the Normal Park area of the city. The structure has frontage on the north side of Congress St. The structure contains five units in 2,845 square feet with a wrap-around porch at the southeast corner of the house. There is a ~457 square foot, two car garage at the northwest corner of the parcel.

Currently zoned R-1, Single-Family Residential, the five units are nonconforming under the current zoning ordinance. The house was built in the late 1800s, at that time there was no zoning ordinance in effect for the City. When the first zoning ordinance went into effect for the City in 1925, the property was zoned Class A, which allows for one and two family residences. Research into the property history indicates that by 1922 there were at least two different last names listed in directories for this property. The property was already divided into five apartments by 1945 with permits granted from the building department in 1954 for work on a rental unit. In 1988, the planning department sent a letter to the owner of the property that recognized it "as a non-conforming use of six apartments." A file note from the building department states that there are currently 5 units, the basement unit was abandoned in 2000. No special use permits or variances have previously been approved for this property. The property has a Certificate of Compliance & Occupancy from the building department that is valid through March 1, 2018.

There are no proposed changes to the site, the applicant is only pursuing the special nonconforming status in order to rebuild as 5 units in the event of a casualty.

Ms. Kochanek added that there had been one enforcement issues on the property, which had been resolved. A low fence was recently added but could be moved to block the receptacles

from the view on Congress Street. Staff is recommending approval to the Planning Commission for this request with one finding and conditions.

Chairperson Jugenitz asked if it had been confirmed that a shower had been added to the efficiency apartment. Beth Ernat, Economic Development Director responded that she had not been able to confirm this at this point and asked the applicant to supply this information.

Commissioner Dahl MacGregor moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried.

Michael Gelletly, representing his daughter Christine Gelletly, who is out of the country at the present time. Stated that his only question is regarding the fence by the trash can – that fence is there because of raccoons – no problem screening front from view and asked if they could wait until spring to add it. The efficiency apartment does have a shower – hand sink is to be added.

Commissioner Dunwoodie moved to close the public portion of the hearing (Support: J. Talaga) and the motion carried unanimously.

Commissioner Dahl MacGregor moved that the Planning Commission approve the Special Nonconforming Use permit for the five unit multi-family use at 914 N. Congress St with the following finding and conditions:

Finding

1. The applicant substantially complies with Sec 122-206

Conditions

1. When the exterior lights at the rear are replaced or upgraded, they need to be replaced with fixtures that are dark sky compliant and conform to Sec 122-641.
2. The fence needs to be moved to the front of the garbage receptacle area to block the receptacles from view on Congress Street.
3. If the structure needs to be rebuilt, it cannot be more con-confirming in regards to the yard setbacks.
4. The rental Certificate of Compliance & Occupancy must be successfully renewed as prescribed by law and maintained as long as the structure is utilized as a rental property.

The motion was supported by Commissioner Bedogne. A roll call vote was taken and carried unanimously 6:0.

3. Special Nonconforming Status – 953 Sheridan

Parcel 11-11-40-137-004 is 0.16 acres on Sheridan St between Oakwood and Elm Streets in the Normal Park area of the city. The structure has frontage on the south side of Sheridan St. The structure contains two units in 1,512 square feet with an enclosed porch running the length of the front of the house. There are two accessory structures on the site. The one just to the southwest of the house is a 225 square foot, 1 ½ car garage and the other at the rear of the

property is a 2 ½ car garage in 452 square feet that is accessed by the public alley at the rear of the property.

Currently zoned R-1, Single-Family Residential, the two units are nonconforming under the current zoning ordinance. The house was built in 1932, at that time the property was Class “B” zoning which allowed for dwellings for one or more families. In 1975, the zoning for the property changed to R-1, Single Family Residential. It is unclear as to exactly when the property was converted to a duplex however it became part of the rental certification program for one and two-family units when the program started in 1997. No special use permits or variances have previously been approved for the property. The property has a Certificate of Compliance & Occupancy from the building department that is valid through September 1, 2017.

There are no proposed changes to the site, the applicant is only pursuing the special nonconforming status in order to rebuild as a duplex in the event of a casualty.

Ms. Kochanek reviewed the criteria and conditions for a nonconforming use. The property in question has been used as a duplex prior to the 1 and 2-family rental certification program 20 years ago. There are several other duplexes in the area and the proximity to EMU means that there are many multi-units in the area and there are no enforcement issues on the record. She added that staff is recommending approval with a finding and conditions.

Commissioner Bedogne asked about garbage cans and Ms. Kochanek responded that there is one garbage can on the west side but that it should be moved and hidden from view.

Commissioner Hollifield moved to open the public portion of the hearing (Support: L. MacGregor) and the motion carried unanimously.

Since there were no public comments, Commissioner Dunwoodie moved to close the public portion of the hearing (Support: A. Bedogne) and the motion carried unanimously.

Commissioner Talaga moved that the Planning Commission approve the Special Nonconforming Use permit for the duplex at 928 Sheridan Street with the following finding and conditions:

Finding

1. The application substantially complies with Sec 122-206.

Conditions

1. When the exterior lights on the structure are replaced or upgraded, they need to be dark sky compliant and conform with Sec 122-641.
2. If the structure needs to be rebuilt, the yard setbacks cannot be more non-conforming than what is currently on the site.
3. Applicant to create a dedicated, enclosed storage area for the garbage receptacles or store them in either accessory structure on site.
4. The rental Certificate of Compliance & Occupancy must be successfully renewed as prescribed by law and maintained as long as the structure is utilized as rental/duplex.

The motion was supported by Commissioner Bedogne. A roll call vote was taken and carried unanimously 6:0.

4. Zoning Text Amendment – PMD Production, Manufacturing and Distribution

B. Wessler, City Planner, gave some background information on the Bell and Kramer neighborhood. She stated that it is located SE of the intersection of Huron/Spring, one of the oldest neighborhoods in the city. To the west are two former gas stations and on the northwest is another former gas station. To the south is the former city landfill and there are parcels 4 other parcels owned by the city. The landfill was used from 1949 – 1967 for the city. There was a Phase I and Phase II report done in 2013 for the landfill due to the interest in installing a solar array. Phase I and II studies are done to determine if and how a site might be contaminated, usually prior to a sale or construction.

Ms. Wessler listed the various meetings and notifications that were done to communicate the proposed zoning for the city for the update of the city Master Plan – approximately 1600 letters were mailed to notify residents of meetings, although they were mailed first-class, and not registered mail. In 2014, in response to new information about the potential environmental contamination in the area of the former landfill, the Bell-Kramer neighborhood was rezoned industrial as part of the comprehensive, City-wide rezoning. This halted new residential construction and made existing residences nonconforming. This nonconformity has presented significant roadblocks to property sales, as loans on such properties generally cannot be underwritten. Residents have expressed a desire to return to residential zoning. City Council has also expressed a desire to remove the nonconformity issue to lighten the economic burden on residents/property owners, but is not interested in permitting new residential construction.

The most recent zoning classification prior to PMD for the area was R2, One and Two family residential, and had been R2 since at least 1967. The most similar modern zoning classification is CN-Mid, which is not a good fit for the character of the neighborhood.

After discussions with Council, rezoning the area to Neighborhood Corridor was rejected in favor of adding a clause to the nonconformities section of the ordinance that would allow one- and two-family residences to be rebuilt in case of a casualty. It should be noted that the Bell-Kramer neighborhood will not be the only properties affected; it will also be applied to a single family home at 311 Babbitt, west of Marsh Plating.

Ms. Wessler reviewed the various rezoning considerations.

City Council has recently directed staff by resolution to apply to the Planning Commission to amend the text of the zoning ordinance to allow single and two family homes to be built in the event of a fire.

Commissioner Hollifield asked if the houses that were already knocked down can they be rebuilt on these lots. Ms. Wessler responded that they could not.

Chairperson Jugenitz asked for an update on the next step of the environmental review and what we can expect and Ms. Ernat responded that the city is planning to install air quality monitoring points to the homes which analyze vapor and check air quality. Chairperson

Jugenitz asked about the time frame for that and Ms. Ernat responded we are hoping for the second week in January – takes approximately 30 days to analyze and release results at a city council meeting and possibly a follow-up meeting with residents.

Ms. Ernat added that the biggest concern is right now there is nothing to prohibit a sale but mortgage underwriters want to know that properties can be re-built. What we are bringing to the commission this evening is to allow these homes to be rebuilt, so that they can be underwritten. However, there is no statute that allows us to do environmental testing before a single-family residence can be rebuilt; we can only require a Phase I and II on commercial properties. Since we can't require these environmental assessments for single-family homes, and we have reason to suspect some sort of contamination, but don't know for sure whether there is or not, we would be remiss to allow new single-family construction.

Commissioner Bedogne asked which properties along Spring Street are zoned PMD. Ms Wessler replied that there are none; those properties on Spring are zoned NC.

Commissioner Bedogne confirmed that new single family residential could not be built under PMD; however, a rebuild could be done in PMD.

Commissioner Dahl MacGregor moved to open the public portion of the hearing (Support: M. Dunwoodie) and the motion carried unanimously.

Lee Tooson, 107 Middle Drive – stated that this situation reminded him of Water Street. It is his opinion that the residents of the Bell/Kramer are owed restitution for contaminants that were known by the city for many years. He gave background information on the history of the neighborhood when there had been a fire in the area and it was checked at that time for contaminants. There were all kinds of contaminants thrown in the dump at the landfill.

Erin Snyder, 129 Bell – does have a tenant at this time. She has owned the property since 2004 and is unable to sell because of the contamination. She was never been informed that she was living next to an adjacent landfill. It is her opinion that this should be zoned residential in the future. Everyone's property is worth zero. This text amendment would allow people to have value in their real estate again. Glad the city is doing something about the contamination. She hopes that we get back to residential zoning if no contamination is found.

Michael Simmons – 128 Bell – his parents lived on that street for over 40 years. This landfill has always been under discussion. The city has never taken responsibility for the landfill. He is glad of necessary steps being taken to ensure residents living in a safe and healthy environment. He learned of the contaminants from the newspaper and residents relocated. He agrees with the text amendment since it protects the property right now.

Cherissa LaMarr, 123 Bell – stated her parents have lived in the area since the 1960's. They are hardworking taxpayers. She wants PMD zoning taken out and removed completely and wants the city to clean the lot. She built her house in 2004 and should have sovereign control of her property. City has failed to protect residents.

Mr. Johnson, 132 Bell Street – people have health problems from the landfill.

Lee Tooson, 107 Middle – contaminants affected animals in that area.

Dan Carlson – renter – 129 Bell – was completely ignorant of the problems when he rented and moved in. Doesn't understand why the owner should not have correct R2 zoning.

Lois Richardson, 1055 Jefferson – Council Member for Ward 1. This particular area is in her ward. She is asking the commission to put their selves in the same situation. – what could happen to one person could happen anyone. She is asking to make these people whole and put yourself in their position.

Lee Tooson, 107 Middle – gave some final comments.

Commissioners had questions for staff regarding various zoning, to which Ms. Wessler responded explaining the various code requirements regarding the various types of areas where the use might require environmental assessment. PMD would prevent new single family being built in the Bell/Kramer area. The text amendment would not allow expansion of the footprint of the existing building.

Chairperson Jugenitz stated for those in attendance that the proposal that is currently on the table is, that for the time being, residences can stay where they are, be rebuilt as they are in their current footprint, and sheds, garages could also be built on that property as long as they were not used for human beings.

Chairperson Jugenitz summarized her thoughts by stating that her own priorities on making this decision on how to proceed includes the health and wellbeing of residents on Bell/Kramer and future residents; protecting the economic interest to ensure their homes continue to have value and maintain the integrity of the neighborhood. The proposal on the table succeeds in a number of ways, although she is not sure it is a long term solution, but it is a solution based on the information we have right now. She would be reluctant to have new people come in and build new homes, and the proposal on the table does that. She is open to revisiting the zoning in the future once we have a firmer grasp of the situation on contamination.

Commissioner Bedogne stated that what he has heard tonight is that this is a core neighborhood with a long history. He does not feel he can support this since he doesn't like changing text in an ordinance to accommodate a current situation. We designed these districts a few years ago and we never discussed having residential in a commercial zone when we were re-doing the Master Plan and possibly this was a mistake at the time. We never discussed having residential in an industrial zone. He would like it rezoned in a creative way that fixes all the problems and changing the text is not a good idea. We could delay the process – but doing wrong way to do it the quick way is not the right answer.

Chairperson Jugenitz asked how staff arrived at the proposal, which Ms. Wessler explained in detail on the various options they explored, including rezoning to NC, a rezoning to residential with a moratorium on new construction, developing a new zoning district, and other options. Commissioner Jugenitz spoke about the rezoning process of 2014.

Commissioner Dunwoodie stated that based on the history of the area, it might be more appropriate to think about this as industrial zoning on a residential neighborhood, not as

residences that happen to be in an industrial zone. He asked staff about the possibility of rezoning the area to NC, and exploring a “Nonconforming A” status designation for the duplex in the neighborhood. Ms. Wessler said that duplexes in NC would not be eligible for Nonconforming A, and that there would have to be a number of other changes in the ordinance to accommodate this and prevent new builds.

Commissioner Hollifield has issues with building with contaminants in the ground. The more he looks at this, the more it makes sense. It is one way for us to right a wrong; these people are being punished through no fault of their own. He is still in support of this – going in a positive direction.

Commissioner Dahl MacGregor doesn’t feel there isn’t any way to ensure follow-up on this and we should come up with a temporary solution until we have more information. This would start things moving in the right direction but she would like to have some accountability included that we are definitely going to look at this when we have more information. Ms. Wessler responded that we could re-visit the Master Plan, which the Planning Commission has the authority to do. Commissioner Dahl MacGregor added that this could be added as a finding.

Staff had further discussion prior to a motion on some of their concerns agreeing that we should incorporate some language that the Planning Commission work with staff to ensure a safe community, re-visit the Master Plan, and ensure notification to all residents in the Bell and Kramer neighborhood.

Commissioner Dunwoodie moved that the Planning Commission recommend approval of a rezoning that grants a Special Nonconforming Use status for all residences in PMD - Production, Manufacturing, Distribution, to City Council with the following findings:

1. This rezoning is consistent with the policies and guiding values in the Master Plan.
2. The properties that are proposed to be re-zoned can accommodate the requirements of the proposed zoning.
3. This rezoning more appropriate than rezoning to another district as it allows for control of new development while permitting the single and two-family homes to be rebuilt or repaired in cases of casualty.

The motion was supported by Commissioner Hollifield. A roll call vote was taken with a vote of 5:1. Commissioner Bedogne opposed.

Commissioner Dahl MacGregor moved that the Planning Commission direct staff to propose a workplan to create a sub-area plan for Bell/Kramer within 180 days (Support: A. Bedogne) and carried unanimously.

5. Zoning Text Amendments – Citywide

Ms. Wessler presented her staff report and reviewed proposed changes, which had been submitted for review by Giffels-Webster, a planning firm retained by the MEDC on behalf of the City, due to our standing as a Redevelopment Ready Community.

This review noted several areas of improvement. Many proposed changes were either stylistic or easily resolved; others, such as RLUIPA issues, require feedback. Our practice, more or less has been to equate religious uses with schools and private assembly. Giffels-Webster noted that oftentimes, they are tied to schools and/or theaters and/or catering.

See the staff report dated December 16, 2016 included in the Planning Commission packet dated December 21, 2016 on the city website.

Commissioner Dunwoodie moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Since there were no comments, Commissioner Talaga moved to close the public portion of the hearing (Support: L. Dahl MacGregor) and the motion carried unanimously.

Commissioner Bedogne moved to recommend to City Council to accept the proposed changes as recommend by staff (Support: P. Hollifield) and the motion carried unanimously.

VI. NEW BUSINESS

None

VII. OLD BUSINESS

None

VIII. FUTURE BUSINESS DISCUSSION/UPDATES

Ms. Wessler stated that two applications have been received for the January meeting.

IX. COMMITTEE REPORTS

1. Non-motorized Advisory Committee – December minutes

X. ADJOURNMENT

Since there was no further business, Commissioner Hollifield moved to adjourn the meeting (Support: M. Dunwoodie) and the motion carried unanimously. The meeting adjourned at 9:30 p.m.