



Allentown

435 Hamilton Street
Allentown, Pa. 18101

Minutes - Final

City Council

Wednesday, June 21, 2023

6:00 PM

Council Chambers

Public Hearing

Roll Call

Present: 7 - Candida Affa, Cynthia Mota, Daryl Hendricks, Ed Zucal, Ce-Ce Gerlach, Natalie Santos, and Santo Napoli

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Allentown City Council will consider for possible adoption an Ordinance amending the Zoning Ordinance of the City of Allentown by allowing an elementary or secondary school in the I2 and I3 districts as a special exception use if the subject lot is immediately adjacent to or directly across the street from a Residential zoning district and another Institutional Use, providing for a repealer clause, a severability clause, and an effective date.

City Council will consider the foregoing at a Public Hearing on Wednesday, June 21, 2023 at 6:00 PM in Council Chambers, 435 Hamilton Street, Allentown, PA 18101. Copies of the full text of this Ordinance are available to any interested party for examination and copying at cost at the City Clerk's Office or for inspection during regular business hours at the offices of this newspaper and the Lehigh County Department of Law. City Council may adopt this amendment to the Zoning Ordinance at the regularly scheduled Council Meeting at 6:30 pm immediately following this Public Hearing.

Ms. Cynthia Mota stated that the purpose of this meeting is to take testimony on an ordinance amending the Zoning Ordinance of the City of Allentown by allowing an elementary or secondary school in the I2 and I3 districts as a special exception use if the subject lot is immediately adjacent to or directly across the street from a Residential zoning district and another Institutional Use, providing for a repealer clause, a severability clause, and an effective date. The bill is scheduled for a final vote at the Council Meeting that follows this public hearing. City Council's Community and Economic Development Committee met on Wednesday, May 10, 2023, on the proposal. The petitioner explained the zoning proposal submitted. The committee forwarded the bill unfavorably pending the zoning rewrite, which the draft public review copy is scheduled to be prepared by October. The Allentown Planning Commission forwarded the bill with no recommendation.

Mr. Michael Hanlon stated that the Public Hearing was advertised in the Morning Call on June 5 and June 12th. Again: The purpose of the meeting is for comments from the public on the proposal. Members of the public may come up to the podium and give statements in support or opposition to the proposal, please state your name, address and your interest in the petition.

15-5761

Bill 23

Amending the Zoning Ordinance of the City of Allentown by allowing Elementary or Secondary School in an I3 zoning district if the subject lot is immediately adjacent to or directly across the street from a residential zoning district, and providing for a repealer clause, a severability clause, and an effective date.

Attachments: [Bill 23 Zoning Amendment](#)

[ACPC Action](#)

[Referral Letter from Mike Hanlon regarding Bill 23 - Allowing Elementary or Secondary School in an I3 zoning district Merged Envelopes](#)

[The Morning Call Ad 7438458](#)

[Rezoning Posting - 2268 S 12th Street](#)

[Lehigh Valley Planning Commission Letter regarding Elementary Schools in I2 and I3 Districts](#)

[Exhibit Submitted by Attorney Szczesny](#)

[Exhibit Submitted by Attorney Szczesny Part II](#)

[Exhibit Submitted by Attorney Szczesny Part III](#)

Attorney Loren Szczesny, Fox Rothchild on behalf of the School District, stated for the purpose of the Public Hearing to present or raise issues on behalf of the School District with respect to the Ordinance that is being proposed in the view of the school district the proposed ordinance to allow elementary and secondary in the I2 and I3 industrial districts is simply not good planning. He discussed why the school district felt that it is inadequate. He has with him Tom Smith who is the Executive Director of the Facilities from the school district and a Certified Planner Thomas Camitta who they asked to take a look at the ordinance. He has comments and a report.

Mr. Thomas Camitta provided Council his background with one month shy of 50 years in the profession. The last 50 years, he worked for 133 municipalities. His firm today represents 26 municipalities. He explained his certifications as a Planner, Congress for new Urbanism (accredited), registered landscape architect 1991. He talked about reviewing and commenting on Zoning Ordinances.

Attorney Loren Szczesny presented Mr. Camitta as an expert and Land Planner. He stated to Mr. Camitta that he was asked by the Allentown School District to take a look at the proposed Ordinance and if he did so. He asked if he had an opportunity to set down his comments or thoughts with respect to the proposal. He showed a document they submitted to Council. He went over with Thomas Camitta the documents on the proposed rezoning. He asked Mr. Camitta what were your comments.

Mr. Thomas Camitta stated that he reviewed the text of the ordinance and visited the site and looked at the current Zoning regulations. In the interest of time, he briefly summarized the Planner's Analysis. He stated that they are here because of the amendment. If the subject lot is immediately adjacent or directly across the street from a residential zoning district for institutional use. There were some previous comments raised on April 11 about spot zoning. It is his understanding when he went past the site, there is a sign that says opening up in September. They must have some great confidence. It is in the I-3 District and adjoining the daycare center on the adjoining lot. The city of Allentown Planning staff already determined that there were seven sites to which this amendment could apply. Six of them were in I-3 and one is in I-2. Currently, the ordinance requires 20,000 square feet for a school, where as the City Council knows the minimum lot area for the I-2 and I-3 is 10,000 square feet. In the current ordinance it is a statement of community objective. Sadly, the text amendment does not comport with those objectives. It talks about text amendment and ordinance consistent with the Comprehensive Plan. In order to be complete, we have to look back at the purposes and the statement of intent of the whole ordinance to determine the extent to which the amendment complies or not. He talked about the buffer strip. Sadly, there are not standards pertaining to pick up and drop off areas fencing, lighting, playground areas, sidewalks or crosswalks. There is a sidewalk in front of the building that hopes to have the Charter School. It is his opinion that the amendment in front of Council will be a horrible precedent. The standards are incomplete for the reuses that are described. That there should be if you are going to allow primary and secondary schools in industrial districts. There should be the creature comforts for the children. The proposed STEAM use will comply with the text amendment. He talked about the residential district being there for 50 to 100 years. The question is if the daycare center will always be there. The text amendment tends to apply to other properties. It seems to be targeted specifically to the STEAM. It is inconsistent with Allentown Vision 2030. Municipality Planning Code when it was recently amended, they said that Zoning Amendment and Comprehensive Plans needs to be consistent. To promote I-2 and I-3 districts where they are permitted. The amendments are silent to tweaking those words to enable schools. Someone can find a different site to create a school. He never seen an amendment like this.

Attorney Loren Szczesny asked did you find anywhere in your review that the current Zoning Ordinance in terms of the number of districts that a school uses allow is deficit or inadequate.

Mr. Thomas Camitta stated that he did not find that. He stated that 13 of the 18 districts already allow schools and that is a fact.

Attorney Loren Szczesny stated that they either allow by special exception or permitted by right.

Mr. Thomas Camitta stated that is correct.

Attorney Loren Szczesny asked Council if there were any questions for Mr. Camitta.

Ms. Cynthia Mota stated no.

Mr. Tom Smith stated thanked Council for allowing him to address them this evening in regards to Agenda Item, Bill 23. Amending the Zoning Ordinance with the city of Allentown by allowing an Elementary and Secondary School to be placed in an I-2 and I-3 Zoning District. He offered the following: The city of Allentown establishing Zoning laws and Zoning permits used to regulate the use of land. As such, the city wanted to limit the use of the amount of land used for industrial zones and did so to protect residential and commercial neighborhoods from factories, industrial manufacturing and power plants along with their inherit risks for spills, waste, accidents, smoke, emissions, and traffic and other types of pollutants. As such primary and secondary schools are not permitted. Uses in the I-3 industrial district no by right via conditional use or via special exception. The zoning district stated purpose is to provide areas suitable for a wide variety of industrial and related uses with controls necessary for ensuring sound industrial development. Permitted uses in the I-3 district include chemicals, manufacturing, mixing or bulk storage that is extremely hazardous, ammunition, fireworks, explosives, pharmaceuticals, testing labs, trucking terminals, warehouses, paints, varnishes, distribution, industry, laundries, recycling, processing centers, mental products, paving and roofing materials. As a representative for a major stakeholder of the city of Allentown, he attended and participated in the development and review of the Allentown Vision 2030 Comprehensive and Economic Development Plan and nowhere in the Plan did it suggest a Zoning change to permit primary and secondary schools in an I-2 or I-3 District. The Plan however acknowledges sidewalks and bus routes and gaps making south Allentown largely automobile dependent. it does highlight the fact that south Allentown provides a living wage manufacturing

jobs and space for businesses to grow. It does highlight creating economic opportunities and increasing the tax base as key to the plants success and it does highlight south Allentown as an important employment hub and high tax contributor per square foot. He asked why would the city of Allentown wants to allow children to be located in an industrial environment, increase already heavy traffic, and potential lose tax contributions and potentially manufacturing employment space by allowing a school. As such, he asked Council to disallow the amendment.

Attorney Loren Szczensy stated that for a point of clarification on the Agenda for the Allentown City Council meeting. Your regular meeting that starts at 6:30 PM, when it makes reference to the proposed ordinance under the legislation history, it indicates that the Community and Economic Development Committee forwarded this proposal without recommendation. As the vice president said at the beginning, the Community and Economic Development Committee did take action. They did take a vote and the motion was to forward this proposal to Council unfavorably due to the Code rewrite at the end of October.

Ms. Cynthia Mota stated that members of the public can come up to the podium and give testimony.

Mr. Michael Hanlon stated that he has Mr. Vanluvanee.

Attorney John Vanluvanee, Eastburn and Gray, stated that he is an attorney in East Doylestown. He stated that he and Mr. Comitta know each other very well. He stated that he has been practicing law one year longer than Mr. Comitta has been Planning. He has been doing land use work all that time. It is important to respond to a couple of comments. He reminded everyone that the school district has a history of opposing Charter Schools. The application made in regards to this site that the school district recommended did not approve and that is on an appeal. They have a vested interest to try to convince you not to pass this ordinance. He suggested that they look at it objectively as your staff did. He stated that their Land Planner Charlie Schmehl written a good number of the Zoning Ordinances in the Lehigh Valley. He had a conflict tonight and could not be here to try to match credentials with Mr. Comitta, but he thinks most of them know he would be a fair adversary for Mr. Camitta and matching his CV very affectively. He stated in regards to the comments, Charlie prepared an ordinance amendment which they then filed. Following that submission, there were a series of meetings between representatives and his client, Mr. Schmehl and your staff. The city's staff. As a result of that, the original amendment was (the original application) was amended in February of this year based on to incorporate the recommendations of the staff with whom Mr. Schmehl and his client had met to discuss this amendment and it was

expanded s a result of that to include the I-2 and the I-3 district. It was also amended to include a requirement that it be an institutional use. That was not in the original draft. He called their attention to the Staff Report, dated April 3, 2023. He assumes they have confidence in their staff and if you do, you will see the Report contradicts some of Mr. Comitta's comments. He went through the Report regarding the Comprehensive Plan and Spot Zoning. He stated that Mr. Comitta stated that he never has seen an ordinance like this. He stated that he finds it hard to believe. You have in your Zoning Ordinance a use called Adaptive Reuse and has been applied many times. It is the same concept. Uses have to be consistent. This amendment deals with the same kind of thing. You know what uses are here. This is not a blank canvas. This area is developed. The question is it compatible or does it make sense. They made applications to use it as a trucking terminal. His client will pursue this use in the event that they don't have the opportunity to pursue this use. This is the preference. It is clearly responsible legislation. It is nothing in the staff report to say it is inappropriate. You staff worked with his client and Mr. Schmehl to work on the ordinance that is in front of Council.

Mr. James Kacer, 2244 S. Poplar Street, thanked to School District for correcting the error related to the May 10th meeting. They recommended not to support this Bill because of the Zoning rewrite. He stated that he has a packet. He thanked the lawyer of Mr. Atiyeh for making that presentation. He talked a lot about appropriateness. He asked why would we create a carve out or spot zone for somebody who flagrantly ignores our Zoning laws. He spoke about a Cease and Desist on this with a \$500 per day fine that was appealed. You will see on March 23rd, it was a denial by Zoning on his appeal. he received this from a Right to Know. We have a man that wants us to accommodate him, but he ignores our Zoning Laws. The last page, he is operating a Trucking Terminal on the site. A truck rolled off his property and landed on his property at 130 feet away, across 12th Street, between two parked cars and miraculously did not hurt anyone. He is still going along operating this Trucking Terminal against our Zoning laws and doing it poorly. Why would want to do anything to accommodate him. It does not make sense. Why wasn't Zoning Cease and Desist wasn't taking care of at that time after the appeal was denied by Zoning.

Ms. Cynthia Mota stated that now, the record is now closed.

ADJOURNED: 6:32 PM