



Allentown

435 Hamilton Street
Allentown, Pa. 18101

Minutes - Final

City Council

Wednesday, December 15, 2021

6:00 PM

Council Chambers

Public Hearing - 1837 Linden Street

Roll Call

Present: 7 - Candida Affa, Cynthia Mota, Daryl Hendricks, Julio Guridy, Ed Zucal, Ce-Ce Gerlach, and Joshua Siegel

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Allentown City Council will consider for possible adoption an Ordinance amending the City of Allentown Zoning Map. The proposed amendment of which this Notice is a summary, proposes to amend the Zoning Map by rezoning parcel at 1837 W Linden Street (Parcel ID: 549648132820) from R-M (Medium Density Residential District) to B-3 (Highway Business District.)

City Council will consider the foregoing at a Public Hearing on Wednesday, December 15, 2021 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.

Mr. Julio Guridy stated that they have a Public Hearing and it is in regards to 1837 W. Linden Street. The purpose of the Public Hearing is to take public testimony on the possible adoption of an Ordinance amending the City of Allentown Zoning Code, proposing to amend the Zoning Map by rezoning parcel at 1837 W Linden Street (Parcel ID: 549648132820) from R-M (Medium Density Residential District) to B-3 (Highway Business District.) The Public Hearing was advertised in the Morning Call on November 29 and December 6. The proof of publication is incorporated into the official City Clerk's record. The President describes the procedure for the Public Hearing: 1. The Petitioner will give the presentation to Council 2. The purpose of the meeting is for comments from the public on the proposal. Members of the public may give statements in support or opposition to the proposal. 3. Time permitting, Council can ask questions, but we be also aware that the petition is on the Council agenda that follows and further discussion can take place there; and the Council meeting is scheduled to take place at 6:30 PM. The

purpose here is for Public Comment. 4. At the conclusion of all comments, the President of City Council states the record is now closed and the matter will be deliberated and voted on at tonight's regularly scheduled City Council Meeting.

Attorney Bill Malkames, 509 W. Linden Street, Allentown, PA, stated that he has a copy of a previous Zoning decision by which the present structure was constructed in accordance with this decision of the Zoning Hearing Board. It was Number 42433 which was rendered in 1984. The buildings have been in place ever since. If you look at the decision, and you look particularly at Item 18, it says and go to the decision of the Board on Page 4, it says that the board is of the opinion that the application is approved. The use of premises 1833 - 1847 Linden Street was previously approved for use of a two story - four unit office building which will never happen for the reasons set forth in a decision prior dated July 10, 1984. The time of the prior approval at the very corner of this intersection of 19th and Linden Street have a frontage of 40 feet on Linden Street. He stated that 120 feet was used at PPL Power and Light Company Power Station. This use has been discontinued. He stated that here is the important thing. Although it came at a residential district, this lot cannot be developed for residential use because of its small size and unusual typography. The lot represents the low point of the frontage on 19th Street northerly and the low point of the frontage along Linden Street easterly. Any residential development would require extensive grading, retaining walls along the north and east perimeters of the lot. Such the develop does not lend itself for residential use. Even though this property does not lend itself to residential use in a residential zone. He stated that they are asking that you change it to R-3. Business 3 is exactly across the corner. At the shopping center, it is St. Luke's and other facilities there. It is not bounded on either side by B-3 Zone, It is diagonally across the corner from the B-3 zone. Sometimes people say, well this might constitute spot zoning. Well, let me say this. I have a copy of a portion of the zoning map from the City of Allentown. The Zoning Map of the City of Allentown is like a gerrymandered thing. It has many, many small zones. All across the city. Many, many small zones and this zone is comparable to some of the other small zones. He stated that he has copies of that and would like to pass among Council.

Mr. Julio Guridy asked Attorney Malkames if he minds giving a copy to Council Attorney Charles Smith.

Attorney Bill Malkames stated that lastly in the application he prepared, he inadvertently assumed that this was an arterial street. In fact, it is a collector street. In fact, if you think in terms of being downtown and going to the west end there are three streets that can take you there. One is Linden Street, one is Hamilton and one is Tilghman Street. If this is not an arterial

street, it is certainly close to being an arterial street. He stated that with that he will call his next witness, unless Council has questions of him.

Mr. Julio Guridy stated go right ahead. Does anybody have any questions. Just wait a little bit.

Attorney Bill Malkames called Mr. Adams.

Mr. Mike Adams, N&I Summit, stated that he is a real estate broker.

Attorney Bill Malkames asked if Mr. Adams been engaged by the order of this property to find a user.

Mr. Mike Adams stated that he has not. He has been working on this property for about three years now.

Attorney Bill Malkames asked during that period of time did you find a user.

Mr. Mike Adams stated that they found a small user for the upstairs.

Attorney Bill Malkames asked other than that.

Mr. Mike Adams stated that they have 4,200 square foot of office space on the first floor of this building.

Attorney Bill Malkames asked how many square feet of space in the building do you have all together.

Mr. Mike Adams stated that the building is 8,400 square feet.

Attorney Bill Malkames stated that at the moment it is half empty.

Mr. Mike Adams stated that it is half empty.

Attorney Bill Malames asked in his efforts to find a user, what type of users have you found for this building.

Mr. Mike Adams stated that the type of users they found and had were several daycares. Three daycares have called about this space. We had some staffing agencies. We had a law firm. We had administrative offices for a nonprofit. A few have gone to other locations because of the situation.

Attorney Bill Malkames stated that the point of fact is that they have been interested enough to sign a lease.

Mr. Mike Adams stated that two of the daycares were strongly interested in it because of the location to schools and an apartment complex across the street. They thought that they could serve to community based on the location of the property.

Attorney Bill Malkames stated that based on your experience, the user most likely to want this building is a daycare.

Mr. Mike Adams stated yes. He would agree to that. Some of the users that we had, have said why don't we look at the zoning and there are other options in the area. There are a lot of office buildings around. They said it would be that they can get to this other building a lot faster than they can get into this building because of the situation that we had.

Attorney Bill Malkames stated that they can find this building especially attractive.

Mr. Mike Adams stated yes. We had two daycares that were very serious in the building and wanted to move into the building.

Attorney Bill Malkames stated that the owners previously went to the Zoning Hearing Board to have a daycare and was turn down. He asked Mr. Adams is there anything else they wish to add.

Mr. Mike Adams stated right and he was very disappointed.

Attorney Bill Malkames stated that was because of it being in the R-M zone rather than the B-3.

Mr. Mike Adams stated no. It has been a struggle in the market to find a tenant and they said we had two strong tenants and were very serious. He thought it was low impact for the market in that area. It is a great location and easy and accessible to the highway and to Hamilton Boulevard and Hamilton Street and location near a lot of commercial areas too.

Attorney Bill Malkames asked if there were any questions.

Mr. Julio Guridy asked if there were any questions.

Mr. Ed Zucal asked if this will be a daycare.

Mr. Mike Adams stated that was the strongest use so far, yes.

Mr. Ed Zucal stated that his question is if this is going to be a daycare, if

we approve this. He stated that it is. That is what she is shaking her head.

Ms. Mediha Abdulhay stated yes, they would love to sign the lease.

Mr. Mike Adams stated that they still have an interested party that wants to move in.

Mr. Ed Zucal asked if this daycare going to be a nonprofit in any way.

Mr. Mike Adams stated that they don't know. They are an established business.

Ms. Mediha Abdulhay stated that it is Marshall and Friends Daycare. They have an existing location in downtown Allentown. They are looking to expand. They are not a nonprofit.

Mr. Julio Guridy asked if there were any other questions or comments.

Ms. Cynthia Mota asked about what the Allentown Planning Commission said about this particular parcel.

Mr. Julio Guridy stated that his understanding that they have not approve it. He stated that he is not sure what they said about it.

Attorney Charles Smith stated that there is a letter with the materials that are posted. There is a letter from the Director of Planning dated November 17, 2021 where it is stated that the Commission voted to not recommend this map. That was the position of the Planning Commission and that is in your materials.

Ms. Cynthia Mota asked what about the Lehigh Valley Planning Commission which one.

Attorney Charles Smith stated that he is talking about the Allentown Planning Commission. There is a letter from Irene Woodward, the Director of Planning dated November 17, 2021. The Lehigh Valley Planning Commission also provided a letter which is part of your materials.

Mr. Julio Guridy stated that it is probably in your iPad.

Attorney Bill Malkames stated that he was at the Planning Commission meeting. It was a split poll and at least one member from the Planning Commission recommended it.

Mr. Julio Guridy stated that if you look at the map that you gave us with the

B-3. The other B-3 areas and he did notice that there were several B-3 areas here that are the same area. He is not sure there is one highlighted there. Right on Utica is this one. Utica and Green Street around there and there is one right around that. There is one on Washington Street and Sumner Avenue. There is one on 20th Street, St. Elmo and there is another one down by Cedar Crest Boulevard on the left had corner of the map. There are several spread around the area. He stated that he had no further questions for the witness.

Attorney Bill Malkames asked if Ms. Abdulhay is a member of the group that owns this property.

Ms. Mediha Abdulhay stated yes. She is one of the owners of Webster Place Associates.

Attorney Bill Malkames asked how long they owned this property.

Ms. Mediha Abdulhay stated that they became 100 percent owners of this property in May 2020. Prior to that Webster Place was a 30 percent owner in the building.

Attorney Bill Malkames stated during the period of time, how long has it been since you had vacancies on these properties.

Ms. Mediha Abdulhay stated that prior to May 2020, the entire building was occupied by St. Luke's hospital. They vacated this building in spring of 2020 and that is when they engaged Mike Adams and began looking for new tenants. They did have success with one tenant, Affordable Home Care. They are now occupying one of the four units. They are still looking to rent three of the remaining units. It has been a long journey trying to get this building to 100 percent occupancy. Obviously, it is very costly in the meantime. They are hoping to have success in modifying the zone so they can make this commercially viable piece of real estate.

Attorney Bill Malkames asked what is located in the B-3 zone which is diagonally across from your property.

Ms. Mediha Abdulhay stated that there is a B-3 zone and she believes it is occupied by hospitals.

Attorney Bill Malkames asked just the hospitals.

Ms. Mediha Abdulhay stated catty corner to their lot. Surrounding their building is a number of commercial uses. Phoebe Healthcare for example. A number of healthcare businesses are in the area. Of course, diagonally

across is the B-3 zone which has a diversity of different businesses.

Attorney Bill Malkames asked what efforts had she made to find a user for your building.

Ms. Mediha Abdulhay stated that they engaged N&I Summit. Our representative is Mike Adams who was just here speaking to all of them. They try to maintain a monthly pipeline of interesting tenants. They had a number of businesses come through and look at the space, but because it is so competitive right now for office space and the use of this office was primarily for medical practices previously. It would take some refurbishing to make this really suitable for office use and given the competition in the market, it really hasn't been that attractive for the diversity of businesses other than daycare which finds the layout and the way that the property is as is very attractive. It has been challenging because in the residential medium residential zone to be a daycare requires a special exemption which they tried to achieve with the Zoning Board. They were unable to get that approval because a daycare even with a special exception stipulates that it has to be associated with a religious institution. The daycare is simply not affiliated with churches or mosques or other institutions. That has not been viable to get a Zoning special exception because of that stipulation. She stated that she believes if it had been any other type of business, it would have been possible to get a special exception which is why they engaged Attorney Malkames and came up with the proposal to shift B-3 which is a more permissible zone. Infuse that real estate with some viability.

Attorney Bill Malkames stated at the Planning Commission some members at the Planning Commission expressed some concerns, not with respect to the daycare. There were some other uses that might be permitted in the B-3 zone. He asked if she has a copy of the decision and recommendation of the Allentown Planning Commission and attached to that is a schedule uses that are allowed in the R-M and the B-3 districts. He stated that everybody should have that. It is part of the packet. With the commercial uses that are allowed in the B-3 zone. Some of the people in the Planning Commission was concerned about those uses. How do you think that this building will be suitable for these uses.

Ms. Mediha Abdulhay stated that some of the uses that they were most concerned with were auto repair, gas station, and obviously some retail businesses that are perhaps less attractive to the nature of that community. The way that the building is outfitted right now, it would require significant overhaul. Demolition and rebuilding to be suitable the use cases they were most concerned about. It is really tradition office space and formally medical care space. That is not something that is really viable for any

owner of this building as it is.

Attorney Bill Malkames stated that this building is not readily convertible. For example: hotel or a funeral home.

Ms. Mediha Abdulhay stated that is correct. It is not suitable for those uses.

Attorney Bill Malkames stated if anybody reads these uses. The uses that this building will allow are very limited.

Ms. Mediha Abdulhay stated correct. She stated that her family has been in this area for many years. Over 30 years and we care a lot about the city of Allentown, but we also want to help develop this area. They are a responsible family and partnership that of course wants to provide services the community needs. We care a lot about the types of tenants that we would of course bring into the community. She knows that is just a statement, but it is true. Our interest is obviously is to make it a feasible investment, but to help maintain the fabric of that community as well with vital services that it might need. She thanked them for their time.

Mr. Julio Guridy thanked Ms. Ms. Abdulhay.

Attorney Charles Smith asked Attorney Malkames if he looked at other alternative zoning designations other than B-3. He stated that where he is going is were there a less dramatic change that would have permitted the use of the property as a daycare or is this the least change that can be made. Are there for example would a daycare be permitted in a zoning change in a less dramatic is what he is asking. Did you look at B-4, B-5 and any of the other ones.

Attorney Bill Malkames stated that they did not simply because.

Attorney Charles Smith stated tie it with the B-3. That is fair. He stated that he is just asking.

Attorney Bill Malkames stated that they always have a concern with the idea of spot zoning which he does not think spot zoning is here simply because the map of the city of Allentown.

Attorney Charles Smith stated that the reason you selected B-3 is because there are other properties in the proximity that are zoned B-3 and felt it was less challengeable as spot zoning.

Mr. Julio Guridy asked if there were any further comments.

Attorney Bill Malkames stated no. He asked if there was anybody in the audience interested in this case.

Mr. Julio Guridy asked if there were any comments from the dais on the testimony that you just heard. He asked if there were anybody from the audience/public.

Mr. Glenn Hunsicker stated that he is listening and just wondering. He has a couple of comments that you should consider. There are pockets all over Allentown with B-3. Do you want to continue this process. He stated that he does not know. It just gets worse. You would think if you have a zoning designation, you would try to stick with that to some degree. He does not know about the residence around it. He does not know how big this property is. You have to think about the overall scope of what you are doing here. It leave open to other people. It leaves open to B-3. Maybe you could modify B-3 and say it could only be used for that one thing and he is not sure if that is legal. He stated that they have to think about this more. He does not know how if there is parking available how does it infringe on the residents around there. Just because there is a B-3 across the street, he thinks he remembers that are has parking. They have a big parking lot in that area. He stated that he is not sure. He stated that he thinks that they have to consider that. If he was sitting on the Council, he would look at if they want continuing doing this in the city. If he buys a building and he can't make it go, he wants them to change the zoning. He stated that to him, it is unreasonable. He stated why is he there. He should have seen that two years ago two years when she bought this. You have to know what you are doing when you buy properties. He stated that they have to make the decision. He is just giving them his input. Those are the considerations. He stated that he thought of parking. He did not see any map layouts. You have the map of how many spots are there for that particular business. He stated for him, those are the main things.

Attorney Bill Malkames asked Mr. Hunsicker where does he live.

Mr. Glenn Hunsicker stated that he lives in south Allentown.

Mr. Julio Guridy thanked Mr. Hunsicker.

Attorney Bill Malkames asked if there was any other residents. If other residents do not appear and it was advertised, it would show that they support this application.

Ms. Candida Affa stated that Mr. Hunsicker brought up a good point. We are having problems with parking, schools and daycare centers. What do you have there for parking? How many cars? This is where we are having

problems.

Mr. Mike Adams stated that in the actual parking lot, there are 14 parking spaces. On Linden Street and 19th Street, there is all on-street parking. It is allowed. There are 14 spots.

Ms. Candida Affa stated for the daycare and for the people that work there.

Mr. Mike Adams stated for the daycare and for the low impact of the daycare was only going to be the people that are working there. People drop the kids off and they would leave. It wasn't really an impact on parking. It was really less impactful than an actual office. When St. Luke's was there, they had people in the offices staying there and going into the office just to see the doctors. That was more impact more than a daycare who drops off children, leaves in the morning to go to work, and comes back and picks their children up. It was less impact that he thought because you only have employees there parking, watching the kids and less people in and out all day.

Ms. Candida Affa stated that she thinks it is the opposite. If people are working there, they have those 14 spaces. When you have a school or a daycare center and this is what she is saying they are having a lot of problems with is pick up and dropping off. You are saying there are a enough on Linden, but we had problems on Linden Street. If you have an office building, those people have the lots. They are here all day. There is no one dropping off or the amount of children that are going to be there. If there are going to be 20 or 30, 15 or 20. There are going to be 20 cars picking up children. She stated that is her concern.

Mr. Mike Adams stated that on 19th and Linden Streets when he is there, there seems to be a lot of empty curb space. During the day, there are a lot of empty spaces.

Ms. Candida Affa stated that is the concern she has is picking up and dropping off which the city is really having a lot of trouble right now.

Mr. Julio Guridy asked if there was anybody from the public that would like to speak of this issue.

Mr. Ed Zucal asked Ms. Woodward what the concern was that she thought they should be denied or the Planning Commission thought it should be denied.

Ms. Irene Woodward stated that the recommendation was partially because the B-3 shouldn't be along an arterial. That is the

recommendation in the zoning code. Right now, it is speculative. With all of those uses, there is a potential there. We don't necessarily know that building will stay as is so the recommendation from the Planning Commission was there are a little too many unknowns. It wasn't facing an arterial so we recommended against it. That is too much of a potential intensive uses in that area.

Mr. Julio Guridy thanked Ms. Woodward and asked if there was anybody else.

Mr. Joshua Siegal echoed the comments by Attorney Smith. He asked Ms. Woodward if there was a potential zoning designation that might be in fact more appropriate perhaps they can utilize or address or do you feel that it should remain as is and that is the most sufficient zoning.

Ms. Irene Woodward stated that this came in as a Petition. She stated that they only responded on what the Petition was. She stated that they did not look at all the different areas. We just evaluated based on what was requested from the Petitioner. There are other potential zoning classifications. It depends on the end-users that they are looking for as well.

Mr. Julio Guridy stated that is a good point and he just wants to elaborate a little bit more on that. He is not sure if he should ask Mr. Malkames. Probably Mr. Malkames because you could probably only go by what is presented to you and what the request was. The request was to be zoned to B-3 and you felt that it was an inappropriate in that particular parcel.

Ms. Irene Woodward stated that is correct.

Attorney Bill Malkames stated that the Zoning Board on three separate occasions and decided it was not appropriately zoned in a residential district. They gave that finding in three separate occasions. Obviously, the Zoning Hearing Board on three separate cases they made a decision that this property was not appropriately zoned. That is what we are saying. It is not appropriately zoned. He does not know perhaps if it was another zoning district that you might consider that might be more amenable for this type of use. You might decide to go back and look at that. He stated that they might have to take into consideration that this property is not presently appropriately zoned.

Mr. Julio Guridy stated that in that case and that is what he is thinking. The issue is, you have behind on the north side of the building is Phoebe Homes, right? On the eastside of the building is Phoebe Homes as well he thinks. On the westside of the building, it is a hospital or Phoebe

Homes as well.

Mr. Michael Hanlon stated that the pictures are up there.

Attorney Bill Malkames stated that Phoebe people really have nothing to do with this property. In his opinion, it is basically an old folks home.

Mr. Julio Guridy stated that he can't really read what it says on the west side of the building.

Mr. Mike Adams stated that it is all part of Phoebe. Phoebe has an office building on the east side like you said. They have a little office building there.

Mr. Julio Guridy stated that across the street there was a multi-unit apartment. There is a parking lot and there is a strip mall somewhere around there. He stated that the parking belongs to St. Luke's.

Mr. Mike Adams stated that there pizza shops and things like that as well.

Mr. Julio Guridy stated that he is thinking that there has to be some kind of zoning that would allow what they want. Wouldn't you think.

Attorney Bill Malkames stated that they looked at B-3 simply because it is across the street. It is the most appropriate zone. If you look at see that there is another zone that might be appropriate. Obviously, there is a residential district. You can take a look at that if you want to. He asked them to have a chance to take a look at that before they take a vote. If you want to vote in favor of it, of course, you can do that tonight.

Mr. Julio Guridy stated that what he is hearing from his fellow Councilmembers, he is not sure that you are going to get a passing vote on it. He would rather give Attorney Malkames another opportunity to go back and look at it. if you can go back to Zoning and have them help you as opposed to just saying that you want to go with a B-3. He stated that he has seen the building. It is a beautiful building. He drives past there almost every day. It is a shame that it is empty or half empty. It is not a nonprofit. It is a business that actually brings funds to the city because it is a profit making. You are paying taxes on it. We should find a way to make it habitable.

Attorney Bill Malkames stated that there is another way to doing it. You can create another B-3 zone that would allow, for example the existing use and the daycare. He stated a sub-zone.

Mr. Julio Guridy stated that they cannot do that. That has to go back to the Zoning Board.

Attorney Bill Malkames stated that Whitehall Township does that all the time. B-1 B-2, B-3 and each one is a special use category.

Mr. Julio Guridy stated that they as Council could not do that tonight.

Attorney Bill Malkames stated that it is another possibility. The other possibility is to make it a B-3 and preserve an existing use, but also allow this as an additional use in that Special B-3 District which won't allow a tavern and some of the other uses that you might find objectionable.

Mr. Julio Guridy suggested to Attorney Malkames for him to go back to the drawing board.

Mr. Michael Hanlon stated the Planning Commission.

Mr. Julio Guridy stated that you do that and advised Attorney Malkames to come back. He stated that he does not want to put it to a vote and it fails.

Mr. Daryl Hendricks stated that he is reluctant to vote in favor of this because of the denial by the Lehigh Valley Planning Commission. He does not know how his colleagues feel about it.

Attorney Bill Malkames stated that he will also look at the opportunity to present an alternative. He stated like a B-3 Special Zone. Other municipalities do that.

Mr. Daryl Hendricks stated that you are in Allentown. This is not Whitehall Township.

Attorney Bill Malkames stated that maybe it is a good idea.

Mr. Daryl Hendricks stated that if Council get something that allows that recommendation then he would consider it.

Ms. Cynthia Mota stated to Mr. Guridy that it is a good suggestion. She thinks Attorney Malkames should go back and see what options you might have and work with the Planning Commission. She is reluctant to vote yes for this since the Allentown Planning Commission denied it and also the Lehigh Valley Planning Commission.

Mr. Julio Guridy stated that Council will not make a decision today. You can go back and work on it.

Attorney Bill Malkames accepted that and thanked them for their attention.

[15-4644](#)

Bill 100 Public Hearing, this evening
Amending the Zoning Map by rezoning parcel at 1837 W Linden St from
Medium Density Residential (R-M Zone) to Highway Business District (B-3
Zone).

Attachments: [Bill 100 1837 W Linden Street](#)

[1837 West Linden Street from Medium Density Residential R-M to](#)

[Highway Business District B-3 Rezoning](#)

[Letter from Malkames Law Offices regarding 1837 W. Linden Street](#)

[Rezoning](#)

[Description of 1837 W. Linden Street Rezoning](#)

[Indenture for 1837 W. Linden Street](#)

[ACPC - 1837 Linden Street](#)

[Staff Report ReZone 1837 W Linden revNov3](#)

[Legal Ad](#)

[1837 W Linden Street - Posting](#)

[1837 Linden Street - Rezoning Labels](#)

[Letter from Lehigh Valley Planning Commission regarding 1837 West](#)

[Linden Street](#)

ADJOURNED: 6:41 PM