

ITEM NO. 2 RSO TO CN2; 0.8 ACRES; 4101 W 6th ST (MKM)

Z-14-00300: Consider a request to rezone approximately 0.8 acre from RSO (Single-Dwelling Residential-Office) District to CN2 (Neighborhood Commercial Center) District, located at 4101 W 6th St. Submitted by Doug and Berniece Garber, property owners of record.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

APPLICANT PRESENTATION

Ms. Berniece Garber said she had been renting the property for several years. She said when she purchased the property she was told it was the same zoning as across the street. She said there had been a restaurant come forward with interest in the site. She stated the City had changed the Comprehensive Plan for other development, such as the new recreation facility at Rock Chalk Park.

PUBLIC HEARING

Mr. LD Lawrence, 600 Prescott Drive, said he built his home 16 years ago when there was a veterinary clinic and was assured it would stay there. He said the back lot used to have a lot of mature trees but that now all he sees is an office building. He said the fence that was supposed to be constructed was not complete and that when he approached Mr. Garber about it he was told he was welcome to finish it for \$300. He expressed concern about vandals and the amount of foot traffic that comes through his yard and neighborhood. He said people had been living in the second story of the building.

Ms. Kim Bergmann, 601 Prescott Drive, said there was a lot of trash between the building and fence. She said if it became a restaurant there would have to be more lighting which she did not want. She opposed the project.

APPLICANT CLOSING COMMENTS

Ms. Garber said if additional lighting was added it would be directed toward 6th Street. She said she was not aware of any vandalism.

Mr. Doug Garber said Mr. Lawrence implied that the fence needed to be completed but that it was a drainage easement and was built the way it should be. He said the property owner to the west was probably in favor of the project and would probably be willing to sign a letter.

COMMISSION DISCUSSION

Commissioner Josserand said he asked the applicant, Ms. Garber, on the phone this afternoon if she was in the real estate industry and she indicated she was.

Commissioner Britton said normally the difficulty of neighborhood opposition was that there was support by the staff report. He agreed with the staff report that it did not comply with the Comprehensive Plan and how the city was being developed.

Commissioner Denney said he was usually the one to say a property owner should be able to do what they want with their property but in this case the intensity of CN2 zoning at that location would be a safety problem. He said the site abuts a residential area, not in the nodal plan for commercial development, and does not conform with the Comprehensive Plan.

ACTION TAKEN

Motioned by Commissioner Denney, seconded by Commissioner Graham, to follow the staff recommendation of denial for the rezoning request from RSO (Single-Dwelling Residential) District to CN2 (Neighborhood Commercial Center) District and forwarding it to the City Commission with a recommendation for denial based on the findings of fact found in the body of the staff report

Commissioner Graham agreed with Commissioner Denney's comments. She felt traffic would be an issue if it was rezoned to commercial.

Commissioner Kelly said he would support the motion. He stated the area was problematic in city planning because the property had residential behind it but was on a state highway across from commercial.

Commissioner Struckhoff said he would support the motion.

Commissioner Kelly asked about CN1 zoning.

Mr. McCullough said the vacant parcel to the west might set precedent. He said there were a number of vacant properties along 6th Street.

Commissioner von Achen said going west on 6th Street there was commercial on both sides of the street so she understood why someone would want to put commercial there. She said she would support the motion but wished the applicant could use the building.

Motion carried 9-0.