

**MINUTES OF THE REGULAR MEETING OF THE  
MICHIGAN CITY PLAN COMMISSION  
JUNE 27, 2023**

The Michigan City Plan Commission held their regular monthly meeting in the Common Council Chambers, City Hall, 100 E. Michigan Boulevard, Michigan City, Indiana, on Tuesday, June 27, 2023, at 6:00 p.m. local time; the date, hour, and place duly established for the holding of said meeting. This meeting also being available via Zoom and streaming live on My Michigan City, Indiana Facebook. Access LaPorte County Media hosted Zoom.

Note: Public had the option to attend, participate, and/or observe the meeting via Zoom, Facebook, or calling in.

**CALL TO ORDER**

President Lawrence Zimmer called the meeting to order at approximately 6:02 p.m.

**ROLL CALL**

Associate Planner Kyle Anthony-Petter called the roll with attendance noted as follows:

**Present:**

Ross Balling (via Zoom – audio/video), Bryant Dabney (in person), Daniel Granquist (in person), Fred Klinder (in person), Philip Latchford (in person), Geraldine (Gigi) McCabe-Miele (in person), Rose Tejada (in person), Lawrence Zimmer (in person) – 8

**Absent:**

One vacancy – 1

**Staff Present:**

Planning Director Skyler York (via Zoom – audio); Associate Planner Kyle Anthony-Petter (in person); Attorney Steven Hale (in person); Administrative Assistant Debbie Wilson (in person)

**POLICY OF CONDUCT AND PROCEDURES**

The Policy of Conduct and Procedures for the Michigan City Plan Commission states that the Commission is composed of nine persons. By statute, five must vote affirmatively to approve a petition. Thus, whenever less than a full board is present, the petitioner may wish to continue his/her hearing. Anyone wishing to speak on a petition or to the board in general at the end of the meeting may do so by approaching the speaker's roster and giving his/her name and address. Comments should be addressed to the Plan Commission, not to a petitioner or remonstrator or others in the audience. The Plan Commission vote is based on the evidence presented.

**APPROVAL OF AGENDA**

The chair entertained a motion for approval of the agenda as presented.

***Motion made by Commissioner Klinder – seconded by Commissioner Dabney approving the June 27, 2023, agenda as submitted. The roll was called, and the vote taken: (Ayes) Commissioners Balling, Dabney, Granquist, Klinder, Latchford, McCabe-Miele, Tejada. Zimmer – 8; (Nays) None – 0. With a vote of 8 ayes and 0 nays, the MOTION CARRIED.***

**APPROVAL OF MINUTES**

The chair entertained a motion for approval of the minutes of the regular hybrid meeting of May 23, 2023.

***Motion made By Commissioner Granquist – seconded by Commissioner Tejada accepting the minutes of the regular hybrid meeting of May 23, 2023, as submitted. The roll was called, and the vote taken: (Ayes) Commissioners Balling, Dabney, Granquist, Klinder, Latchford, McCabe-Miele, Tejada – 7; (Nays) None – 0; (Abstain) Commissioner Zimmer – 1. With a vote of 7 ayes, 0 nays, and 1 abstention, the MOTION CARRIED.***

**PETITION(S)**

The chair noted the only petition on the agenda, P-100-23: Request by Dale and Sheila Moyer for Rezoning from R3B to CBD1 to restore the commercial portion of the property back to its original state to create a space for a new business, located at 124 W. 11<sup>th</sup> Street.

Dale and Sheila Moyer (in person) came forward to address the Commission regarding their petition. Mr. Moyer stated they are residents at 1520 E. 8<sup>th</sup> Street, Michigan City, Indiana. He said they are the owners of the building at 124 W. 11<sup>th</sup> Street, and they desire to have it rezoned from R3B to CBD1 (back to its original status). Giving a history of the building, Mr. Moyer stated they believe it was built in the late 1800's. It was a home in the beginning and subdivided into four apartments at some point in the World War I or II era. In the 1950's a storefront was built onto the front of it (on 11<sup>th</sup> Street, contiguous to the property). For a number of years, it was a place where one would go to buy a bus ticket, called All-Ways Travel. Mr. Moyer said they purchased the building in March 2022. Three out of the four apartment units are now occupied. They desire to have the commercial portion of the building rezoned so they can hopefully bring in a business into Michigan City to occupy that space.

The chair called for the Planning Department report and the Attorney report.

Mr. York read the staff report (attached hereto and made a part of this record [1]), noting that #5 in the findings will be changed because it should be "mixed-use" rather than "residential". In reading his report, Mr. York cited I.C. 36-7-4-603 for items which the

Plan Commission shall pay reasonable regard to in considering a request for rezoning, and he reviewed the 14 findings, one of which acknowledges that this requested change in zoning is not considered spot zoning as CBD1 zoning is found in the same block as this location. Staff recommended forwarding the rezoning request to the Common Council with a favorable recommendation.

Mr. Anthony-Petter read Department reports into the record, Sanitation Department: "The Michigan City Sanitary District takes no exception to this request." Arber Himaj, Engineer – Sanitary District; and Fire Department: "Fire has no issues with this request." Jeffery Bruder, Fire Marshal.

Attorney Hale read his report (attached hereto and made a part of this record [2]). Attorney Hale advised Commissioners that he had the opportunity to review the notice documentation that was provided by the Petitioners and found that the documentation is adequate and meets the requirements, so the Plan Commission is free to consider the matter this evening. In reviewing his report, Attorney Hale cited I.C. 36-7-4-602(c)(1), which allows owners of property to initiate a change in zoning designation. The Plan Commission must follow the procedure set out in I.C. 36-7-4-602(c). Following a public hearing, the Plan Commission shall certify to the Common Council the request to rezone the property with either a favorable recommendation, an unfavorable recommendation, or no recommendation. In addition to any recommendation, a Petitioner may be required by the Plan Commission to make a commitment. Attorney Hale also noted in his report the materials submitted by the Petitioners.

Attorney Hale pointed out that he provided Commissioners with a proposed Common Council Ordinance which he authored. He said it is his opinion that the Plan Commission is better off if he undertakes such an ordinance rather than leaving it to the Petitioner. Attorney Hale advised that the Commission is not required to follow it and they are not required to send it along to the Common Council with their recommendation; however, he asked that the Commission vote on that after they vote on the main issue.

Commissioner McCabe-Miele pointed out that she did not see the next door neighbor on the list of notices.

Mr. Moyer stated that the next door neighbor would be Christian Nault.

Attorney Hale stated that he remembers the name is on the list.

Commissioner McCabe-Miele asked if it is sufficient that the records indicate people were notified, or if they need to respond.

Attorney Hale replied, stating that the Plan Commission requires that a Petitioner provide notice to the property owners. As part of providing a Certified Return Receipt

Mailing, there is a Certified Mail Receipt (green/white receipt) which will have the name and address of the person it is being sent to, and the Petitioner should always have it dated/time stamped by the Post Office. Also, as part of providing a Certified Return Receipt Mailing, a green card is attached to the addressed envelope, and the Post Office delivers that envelope to the party at the address listed. Attorney Hale said he checks that all the Certified Mailing Receipts are appropriate and have been sent to everyone in an appropriate time and that everyone within 300' of the property has been issued a mailing from the Post Office. He said he cannot make anyone pick up their mail, respond, or sign a green card. He said it is common that there are people that refuse it, do not pick it up, or there is some other issue with delivery by the Postal Service. Because of that, Attorney Hale stated that he has adopted the rule that he must have the Certified Mailing Receipts to prove that the Petitioner followed the requirement and sent notice, although he cannot be assured that everyone actually received it. There will not be a green card for every property. In this case, Attorney Hale stated that he has green cards for all but a small number of owners, and he has envelopes that were returned by the Post Office for a few of them as well.

In sending approval to the Common Council, Commissioner McCabe-Miele asked if the Plan Commission is in essence saying they believe it complies with zoning.

Attorney Hale replied that the Plan Commission is acknowledging that they approve the request but said he would not describe it in that it fits with the zoning. He said the Plan Commission's job is to determine if the standards have been met and approve of the rezoning and ask that the Common Council also approve it.

Commissioner McCabe-Miele pointed out that during Mr. York's report, the Planning Department did not consider this to be spot zoning. She said a lot of codes do not allow a property to be changed if it is not adjacent to the zone it wants to be, although, she commented that she did not see a problem with it because of the past nature of the building and the neighbors not objecting to it.

Mr. York responded to Commissioner McCabe-Miele's comments, giving a history of how they arrived at the request for rezoning. He stated that he talked to the Moyer's and suggested that he would be willing to support a rezoning of the building next door as well because it is the same situation being a house with a storefront. Unfortunately, the Moyer's were moving faster than the next door neighbor. He said he believes back in the day this should have been CBD1 to the edge of Washington Street. Leaving it like it is takes a use away from them by not zoning it CBD1 since the corner of Franklin/11<sup>th</sup> is zoned CBD1. Mr. York explained that the Moyer's originally were going to seek a variance, but a variance is granted on one use, so they would have had to determine what specific use they were asking for, and that is all it would ever be. They would have to seek a variance for everything they wanted to do differently. Mr. York stated that rezoning is a better way to handle the situation, even though it is much more

complicated than a variance. It is a cleaner way to grant them the use they need so they can seek out the best fit for that small space.

Commissioner McCabe-Miele addressed Mr. Moyer asking if their architect has suggested making the space accessible for people with disabilities. Referring to the details in the drawing, she said the restroom would not comply.

Mr. Moyer replied that it has not been addressed yet, as the work done so far on the building has only been on the exterior (windows, facia, doors, platform for signage). They paused the work until they came before the Plan Commission, then they will pursue the permits for the interior work.

Commissioner Zimmer pointed out that this building is in the Historic District.

Mr. Anthony-Petter clarified that it is not in the Historic District; the boundary ends on the north side of 11<sup>th</sup> Street.

Commissioner Zimmer inquired into the parking situation and if the Plan Commission needs to address that.

Mr. York replied that it will not be known until the use is specified. He said he believes the residential parking is handled. Parking for the commercial use would be calculated at the time of determination; the parking is tied to the use. He said to also keep in mind that there is parking, there will be future parking, and eventually there will be a parking garage. He said the use might cater more to commuters, but that is not known at this time. He said this is why the Moyer's paused construction and came before the Plan Commission for the rezoning because they have not determined what the use will be yet.

Commissioner Granquist commented that it is not a direct function of the rezoning request.

Mr. York acknowledged that was correct. He said that will come later when Mr. Anthony-Petter reviews it for the use.

Commissioner Klinder commented about the address being 124 W. 11<sup>th</sup>, which is what the house address is. With the business being attached to the house, he asked if just a portion of 124 could be rezoned, or if the house and business is being rezoned.

Mr. York responded, stating that the whole thing would be rezoned. He added that it is not a traditional mixed-use, but it would basically go back into a mixed-use building. It is not traditional in that it is not stacked with commercial on the ground floor and residential above. It grew from a house into a mixed-use rather than commercial into a

mixed-use. Mr. York said even though it is not traditional, he believes this zoning class is what fits it best.

Mr. York added that he has also talked to the Moyer's about the possibility of keeping the 124 address on 11<sup>th</sup> Street, and because the residential portion functions more from Washington Street, give them a Washington Street address to distinguish between the business and the residents. Although, he said that is entirely up to the Moyer's if they want to do that.

Commissioner Granquist commented that a lot of times the addresses are a function of the Postal Service to determine.

Mr. York acknowledged that was correct.

The chair opened the hearing to public comments.

Joe and Laura Condon (in person) came forward to address the Commission. Mr. Condon stated that they live at 1015 Washington Street, Michigan City, Indiana. Ms. Condon said that Hutchinson Mansion in the neighborhood is owned by Marquette School, and they also have a residential hall. They house about 35 students each season. Ms. Condon said she is very welcoming to new businesses into our community; however, she asked that whatever business is put in there be appropriate for the neighborhood and not something that would attract unwanted (liquor store, vape shop, etc.). Ms. Condon acknowledged they did receive the letters, although none of the neighbors responded, so that is why they are at the meeting tonight. She said she is the voice to say that yes, they welcome it and are excited about it, but asked that they please take the neighborhood into consideration when determining the business use.

Mr. Moyer responded, stating that they are completely aligned with them. They have no desire for a vape shop, tattoo parlor, liquor store, etc. If given approval, Mr. Moyer said they would operate within the parameters. He said the list seems to be fairly open in terms of the types of businesses, but they are thinking of something that would be helpful for the community, retail, coffee shop, or something like that.

Ms. Moyer added to comments, acknowledging that they have three (potentially four) tenants that live right there and they completely respect that their front steps are right around the corner from the business door. She said their tenants are very important to them and they have been there longer than the business. Ms. Moyer said the tenants are aware of what they are trying to do, and they all support it. She indicated that they gave their word to their tenants that it is not going to be anything in bad taste.

After listening to the Moyer's, the Condon's felt assured and all shook hands. The Moyer's thanked the Condon's for their support.

There being no further public comments, the chair closed the public portion of the hearing.

The chair entertained a motion on the petition.

***Motion by Commissioner Granquist – seconded by Commissioner Tejeda approving Petition P-100-23 by Dale and Sheila Moyer for Rezoning from R3B to CBD1 to restore the commercial portion of the property back to its original state to create a space for a new business, located at 124 W. 11<sup>th</sup> Street, and forwarding a favorable recommendation onto the Common Council. The roll was called, and the vote taken: (Ayes) Commissioners Balling, Dabney, Granquist, Klinder, Latchford, McCabe-Miele, Tejeda, Zimmer – 8; (Nays) None – 0. With a vote of 8 ayes and 0 nays, the MOTION CARRIED.***

The chair entertained a motion on the proposed ordinance.

***Motion by Commissioner McCabe-Miele – seconded by Commissioner Tejeda approving the proposed Ordinance and forwarding it onto the Common Council for their consideration with a favorable recommendation. The roll was called, and the vote taken: (Ayes) Commissioners Balling, Dabney, Granquist, Klinder, Latchford, McCabe-Miele, Tejeda, Zimmer – 8; (Nays) None – 0. With a vote of 8 ayes and 0 nays, the MOTION CARRIED.***

Commissioner Dabney stated that he would sponsor the Ordinance.

**NEW BUSINESS / OLD BUSINESS**

(None)

**PUBLIC COMMENTS**

(None)

**COMMISSIONER COMMENTS**

(None)


**ADJOURNMENT**

The chair entertained a motion to adjourn.

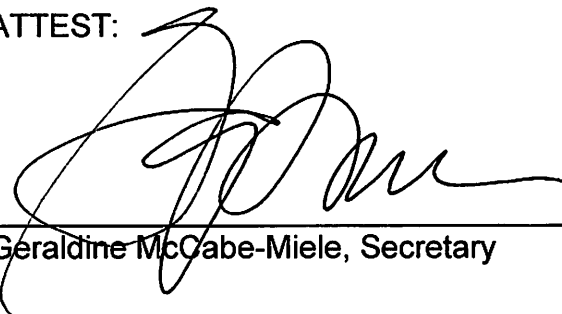
Motion by Commissioner Tejeda – seconded by Commissioner Dabney. With no further business to come before the Commission, President Zimmer declared the meeting adjourned at approximately 6:40 p.m.

**ATTACHMENTS**

1. P-100-23 Staff report
2. P-100-23 Attorney report

  
\_\_\_\_\_  
Lawrence Zimmer, President

ATTEST:

  
\_\_\_\_\_  
Geraldine McCabe-Miele, Secretary



## MICHIGAN CITY PLAN COMMISSION

June 27, 2023

**Case # P-100-23 --124 W 11<sup>th</sup> Street Rezoning****Request**

Rezoning of property from present R3B Multi-Family Residential to CBD1 Central Business District

**Staff Analysis**

The property in question is an existing structure that started out as a larger house and over time was expanded to create a store front addition facing onto 11<sup>th</sup> Street. The structure in question has been used as mixed use although it is not your traditional mixed-use structure. The Storefront has been vacant and underutilized while the residential use has remained. The current owner is looking to activate the existing storefront in a manner that will contribute to the downtown and the neighborhood. The owner has also made significant investments to the structure in anticipation of opening a small commercial space at the location.

*According to Indiana Code 36-7-4-603, in considering a request for a rezoning the Plan Commission shall pay reasonable regard to:*

- (1) the comprehensive plan; (MC 2040 Comprehensive Plan and County Land Development Plan)*
- (2) current conditions and the character of current structures and uses in each district;*
- (3) the most desirable use for which the land in each district is adapted;*
- (4) the conservation of property values throughout the jurisdiction; and*
- (5) responsible development and growth.*

**Staff makes the following findings:**

1. That the Petition concerns a request to rezone a 5000 Sqft lot with an existing mixed-use structure;
2. That the Real Estate consists of an existing 5000 Sqft lot and existing mixed-use structure
3. That the Real Estate is currently zoned as R3B Multi Family Residential; and,
4. That the Petitioner requests that the Real Estate be re-zoned to CBD1 Central Business District; and,
5. That the requested change in zoning will be consistent with the Michigan City Comprehensive Plan which labels this property as future suburban mixed-use, which consists of single family and multifamily zoning; and,
6. That the requested change in zoning will be compatible with the conditions and character of current structure and uses in the neighborhood and surrounding area; and,

7. That the requested change in zoning will provide for the most reasonable uses for which the Real Estate is adapted and the proposed land use will not have an adverse effect on surrounding property; and,
8. That the requested change in zoning will not be injurious or detrimental to the surrounding property values and will further the conservation of property values throughout the neighborhood; and,
9. That the requested change in zoning will promote orderly and responsible community growth and development and will not adversely affect the community; and,
10. That the Real Estate, as well as its location in an area with a mix of commercial, retail, and residential uses and zoning, are suitable for the proposed use and zoning change; and
11. That the requested change in zoning is not "spot zoning" which will confer a special benefit on a relatively small tract without commensurate benefit to the community. CBD1 zoning found in the same block as this location; and,
12. That the requested change in zoning will not disrupt or destroy any neighborhood plan; and,
13. That the requested change in zoning will better promote and facilitate the development of the Real Estate and the preservation of property values, environment and uses in the surrounding neighborhood; and,
14. Furthermore that this location had previously been a commercial/retail use and over the years had become vacant and abandoned due to disinvestment in the surrounding area. The recent investment in the South Shore Station and Double Track System less than a block away has generated new interest in commercial and retail uses in the vicinity.

#### **Staff Recommendation**

Planning Staff has reviewed the proposed request for the rezoning and recommends forwarding Petition P-100-23, requesting rezoning of 124 W. 11<sup>th</sup> Street from R3B to CBD1 to the Common Council with a favorable recommendation.



Skyler York, Planning Director

Attorney Report

Petition No.: P-100-23  
 Petitioners/  
 Applicants: Dale and Sheila Moyer  
 Owner: DSM 124 LLC  
 Request: Rezoning from current R3B to CBD1  
 Location: 124 West 11th Street, Michigan City, Indiana

Indiana Code 36-7-4-602(c)(1) allows the owners of property to initiate a change in zoning designation (amending a zoning map). The Petitioners herein have petitioned the Michigan City Plan Commission to rezone this property from R3B Mid-Rise Multiple Family Residential District to CBD1 Downtown Core District.

The Plan Commission must follow the procedure set out in Indiana Code 36-7-4-602(c), and, following a public hearing, certify the proposal to the Michigan City Common Council for its passage of an ordinance establishing the new zoning designation (if the Council approves the change). See Indiana Code 36-7-4-604 for the requirement of a public hearing and the notice requirements.

In considering the rezoning request, the Plan Commission "shall pay reasonable regard to": the comprehensive plan; current conditions, and current structures and uses, in the zoning district; the most desirable use for the property; the conservation of property values throughout the city; responsible development and growth; the topography, soil conditions and physical features of the Property; the request will not confer a special benefit on a small parcel "without commensurate benefit to the community" (i.e. no spot zoning); and the neighborhood plan. See Indiana Code 36-7-4-603 and Section 30.07 of our Zoning Ordinance for these decision criteria.

Following the public hearing, the Plan Commission shall certify to the Common Council the request to rezone the Property:

- (1) with a favorable recommendation; or,
- (2) with an unfavorable recommendation; or,
- (3) with no recommendation.

See Indiana Code 36-7-4-605(a)(3) and Section 30.04 of our Zoning Ordinance.

In addition to any recommendation, a Petitioner may be required by the Plan Commission to make a commitment. See Indiana Code 36-7-4-1015 and Section 30.08 of our Zoning Ordinance regarding commitments.

The record in this matter includes:

1. Materials submitted by Petitioners include:
  - (a) Instructions for Filing a Petition before the City of Michigan City Plan Commission.
  - (b) Petition For Rezoning signed by DSM 124 LLC, Dale M. Moyer and Shelia Moyer.
  - (c) Signed Michigan City Plan Commission Public Hearing Notice Requirements.
  - (d) A copy of the Petitioner's proposed Notice of Public Hearing (date is wrong).
  - (e) Affidavit of Service.
  - (f) Commercial Space Renovation drawing prepared by Kenneth Munguia Arellano dated 07/29/2022 including current building layout with dimensions, elevations, floor plan, and mechanicals (4 pages).
  - (g) Survey Location Report prepared by Thate-GLE dated 12/08/21.
  - (h) Written description of the restoration of the commercial portion of the Property.
  - (e) Beacon Overview of the general area (but does not outline area to be rezoned, but showing the zoning designations.
  - (i) Legal Description of the Property marked Exhibit A.
  - (j) Second Beacon Overview of the Property.
  - (k) List of Names and Addresses of surrounding property owners (2 pages).

2. Materials reviewed by the Planning Department staff.
3. Planning Department Staff Report.
4. Attorney Report.
5. Any materials to be submitted at the Public Hearing

Respectfully submitted,

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Steven A. Hale