

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

October 18, 2010

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday October 18, 2010 at 7:00 p.m. The meeting was called to order by President Emmons, and all were asked to stand for the Pledge of Allegiance.

Clerk Block's roll call showed the following;

Dale "Woody" Emmons 1st District Councilman – (President) Present

Mike Bellovich 2nd District Councilman – Present

Ross Deal 3rd District Councilman - Present

Marsha McClure 4th District Councilman - Present

Michael Compton 5th District Councilman - Present

Ronald Banicki 6th District Councilman – Present

John Gleissner, Councilman At Large – (Vice President) Present

Gregg Hixenbaugh, Councilman At Large – Absent

John J. Roggeman, Councilman at Large – Present

A quorum was obtained.

Others present; Deborah S. Block, City Clerk; Mary Ellen Hazen Chief Deputy I, and Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel.

The minutes from the October 6, 2010 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the City Plan Commission regarding recommendations from their October 12, 2010 meeting.

APPEAL NO. 10-34

An appeal submitted by Judy Pruski requesting a Use variance for 1802 West Sixth Street, to allow an auto body repair and maintenance shop in I-1 Light Industrial zoned property. **RECOMMENDED APPROVAL** with the following conditions:

- Use Variance shall be limited to automotive body repair and automotive maintenance shall be limited to indoors. No outside storage of vehicles, materials and/or vehicle parts will be permitted;
- A site plan shall be submitted to the Department of City Planning that adheres to the developmental standards of the C-4 Automobile Oriented Commercial District; including, but not limited to, legal description, off-street parking, interior layout of the buildings, exterior lighting, storm drainage system;
- A landscape plan that adheres to the requirements of commercial districts shall be submitted to the Department of City Planning;
- Freestanding Signage on the site is limited to one un-Illuminated monument style sign with a display area of no greater than four (4) high by eight (8) feet wide/32 square feet, and with a

total sign height not to exceed five (5) feet and with permits secured from Building and Planning Departments;

- Facade/wall signage is limited to three (3) with letter height not to exceed 12 inches and (10) square feet of display area; and;
- Temporary signage is prohibited.

PETITION NO. 10-18

A petition submitted by 1st Source Bank, Mary Spilliane, and Mary & Apos, LLC, requesting to annex and zone property at the northeast corner of Fir Road and Cleveland Road to S- Planned Unit Development to allow for a variety of residential and commercial uses. **RECOMMENDED APPROVAL**, with the following conditions;

Uses:

1. Permitted uses for all development blocks shall be limited to those uses identified in the C-1 (General Commercial) and C-2 (Shopping Center Commercial) zoning districts based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council. Other uses shall be considered by the Commission and Common Council as more details become available as part of the normal Planned Unit Development Plan revision process.
2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The proposed roadway connecting the Indiana Toll Road interchange at Capital Avenue to Fir Road shall be designed and constructed to an Edison Lakes Boulevard standard and in concert with the input of all adjacent property owners (or their successors in interest) including, the Golata property, Seggerman Property, Three Cousin's Property, and Memorial Hospital Property.
2. The developer shall create an association responsible for the perpetual maintenance of the private roadways, landscape medians, retention ponds, and other shared facilities. The construction of public infrastructure may be phased; modified, and/or reduced by the Planning Commission as part of any final planned unit development site plan submission should the use of Tax Increment Financing be restricted for the site.

3. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering in coordination with other applicable jurisdictions.
4. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. Private collector road connections shall be provided internally through the site as conceptually depicted on the planned unit development site plan. Private and public road connections to adjacent properties shall be made in concert with the required traffic impact study. Applicable private road connections/and or public roads shall be dedicated within easements or right-of-way as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.
2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided by the State along Capital Avenue and SR 23. A sidewalk connection shall also be made to Fir Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land, including those previously developed at the south west corner of the intersection of State Road 23 and Capital Avenue.

Stormwater Run-off/Utilities:

1. The type of storm-water facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed storm-water retention areas shall specifically include the volumes associated with proposed public and private road improvements.

3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Fir Road, SR 23, Cleveland Road, and Capital Avenue.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10'

shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided. A minimum 25' building setback from the Indiana Toll Road right-of-way shall be provided.

3. The maximum building height for the site shall be 70' within 500' of the right-of-way of the Indiana Toll Road. The remainder of the site shall be limited to a maximum of 48'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
2. For large shopping areas where shopping carts are utilized, Cart corral's shall be provided. Corral's be identified and removed from total number of parking spaces provided. Curbed landscape islands shall be provided to break up large pavement areas as determined by the Planning Commission as part of the review of any planned unit development site plan.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. *The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.*

- PETITION NO. 10-19** A petition submitted by the City of Mishawaka for Approval of an ordinance replacing the Flood Plain Ordinance of the City of Mishawaka, Indiana. **RECOMMENDED APPROVAL**
- PETITION NO. 10-20** A petition submitted by Olen D. Bixler (Deceased), Evelyn Bixler, and Gina Bixler requesting to annex and zone 54050 Fir Road to C-1 General Commercial District. **RECOMMENDED APPROVAL**
- PETITION NO. 10-21** A petition submitted by SEC Investments LLC requesting to annex and zone property located at the Southeast corner of Fir Road and Douglas Road to C-1 General Commercial District. **RECOMMENDED APPROVAL**
- PETITION NO. 10-22** Annex and Zone to C-10 Convenience Store – Filling Station with Car Wash and ATM Services – NW corner of Douglas and Fir. **RECOMMENDED APPROVAL**

The following proposed ordinances were given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2010-40

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2010

(Transferring Funds – Police Dept. \$65,000.00)
Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2010-41

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF THE ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2010

(Additional Funds – Controller - \$900,000.00)
Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2010-42

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE (Annex and Zone to S-2 PUD and Mixed Land Use Development 43.36 acres NE corner of Fir Road and Cleveland Rd.) Petitioner requesting 2nd Reading and Public hearing at the November 15th Meeting) Assigned to Land Use Planning Committee

Mr. Banicki, said he would like to make a motion per the petitioner's request to hear **PROPOSED ORDINANCE NO. 2010-42** at the November 15, 2010 meeting, with a second by Mr. Ross the motion carried.

PROPOSED ORDINANCE NO. 2010-43

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE
(Annex and Zone to C-1 for Future Retail Uses – 54050 Fir Road)
Petitioner requested 2nd Reading and Public hearing at the November 15th Meeting
Assigned to Land Use Planning Committee

Mr. Banicki, said he would like to make a motion per the petitioner's request to hear **PROPOSED ORDINANCE NO. 2010-43** at the November 15, 2010 meeting, with a second by Mr. Ross the motion carried.

PROPOSED ORDINANCE NO. 2010-44

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE
(Annex and Zone to C-1 for future retail uses – North of 54050 Fir Road)
Petitioner requested 2nd Reading and Public hearing at the November 15th Meeting
Assigned to Land Use Planning Committee

Mr. Banicki, said he would like to make a motion per the petitioner's request to hear **PROPOSED ORDINANCE NO. 2010-44** at the November 15, 2010 meeting, with a second by Mr. Ross the motion carried.

PROPOSED ORDINANCE NO. 2010-45

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE
(Annex and Zone to C-10 Convenience Store – Filling Station with Car Wash and ATM Services – NW Corner of Douglas and Fir Road)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2010-46

AN ORDINANCE REPLACING CHAPTER 121, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS "THE FLOOD CONTROL ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA
(Updated Flood Control Ordinance)
Assigned to Land Use Planning Committee

Clerk Block Read **RESOLUTION NO. 2010-21** opening it for public hearing.

RESOLUTION NO. 2010-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

1802 West Sixth Street, Mishawaka, Indiana

(Use Variance on I-1 Light Industrial zoned property 1802 W. 6th St. auto body repair and maintenance shop)

Jerry A. DeTurk, Attorney in fact for the owner Judy Pruski who lives in Texas, needs a variance to improve the appearance of this building for the contingent purchaser who would be requesting a variance for an auto body and maintenance shop at this location.

Mr. Deal asked what the plan was to improve this building. Mr. DeTurk stated there was a list of criteria they must meet and approved by the City Engineering Department, they have already taken down some trees and weeds and bring the electrical up to code. Mr. Deal asked if he was talking about improving the esthetics or just necessary improvements. Mr. DeTurk said they would be painting the outside of the building.

Mr. Emmons asked if the tenant lived in Texas. Mr. DeTurk said no the owner of the building lives in Texas the person who wants to purchase the building lives at Mishawaka and has his business at 2501 Lincolnway West he just needs a larger building. Mr. Emmons said the building at 1802 West 6th Street is a large building while talking with some of the neighbors they expressed a number of concerns, like what would the hours be? Mr. DeTurk stated 9 a.m. to 5 p.m. Monday through Friday. Mr. Emmons asked if there would be any night hours and would all work be done inside. Mr. DeTurk said no night work and everything would be done inside.

Mr. Emmons asked if there would be any painting done at this site. Mr. DeTurk said yes they would have a paint booth that would be inspected by the Fire Department and the Engineering Department before they open for business. Mr. Emmons asked if there would be a noise factor or any order. Mr. DeTurk said there shouldn't be it is non-existent at the site they are at now.

Question was called for at 7:29 p.m. on **RESOLUTION NO. 2010-21** with the vote being 8 to 0 in favor.

Clerk Block read **RESOLUTION NO. 2010-22** opening it for public hearing.

RESOLUTION NO. 2010-23

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING THE CITY OF MISHAWAKA DOWNTOWN NEIGHBORHOOD STABILIZATION PLAN, DATED OCTOBER 2010

(Approving a Downtown Neighborhood Stabilization Plan)1

Mr. Prince, City Planner stated this was a specific plan for 402 Lincolnway West the old Mishawaka Junior High School and they would be applying for a tax credit. He said they have been earning points towards their qualification and have hired a consultant as they have never done this before. Mr. Prince said this is a vacant boarded up building in the downtown area that has been a slowly deteriorating neighborhood since Uniroyal moved out.

Mr. Gleissner asked if there was any interest in the Bob Stevens Building at Beutter Park. Mr. Prince said if there should be someone interested in it he would announce it as soon as he heard.

Question was called for at 7:29 p.m. on **RESOLUTION NO. 2010-23** with a vote of 8 to 0 in favor.

UNFINISHED BUSINESS

Lieutenant Robert Sherburn, Mishawaka Police Officer delivered the Special Meeting Notices to the Council. Mr. Hixenbaugh was absent and his would be delivered to his home. The Special Meeting would be held on October 27, 2010 at 7:00 p.m. in City Hall Council Chambers.

NEW BUSINESS

Mr. Deal Reported his Neighborhood Watch Meeting would be Wednesday October 20, 2010, at 7:00 p.m., Twin Branch School, guest speaker would be John Gleissner regarding the history of Mishawaka.

Mr. Emmons reported his Neighborhood Watch Meeting would be Thursday October 21, 2010, at 7:00 p.m., St. Bavo School, guest speaker would be Dan Towner Mishawaka's Interim Superintendent.

Mr. Emmons stated School Board Interviews were set for Tuesday October 26, 2010 in the Council Conference Room in City Hall.

Mr. Roggeman congratulated the Mishawaka High School Football Team for completing the season with no defeats or ties. He said that was only the fifth time in Mishawaka High School history that has happened.

There being no further business to come before the Council, President Emmons adjourned the meeting at 7:35 p.m.

Deborah S. Block /s/

Deborah S. Block, City Clerk

Dale "Woody" Emmons /s/

Dale "Woody" Emmons, President Presiding Officer