

OCTOBER 12, 2010

PLAN COMMISSION  
CITY OF MISHAWAKA, INDIANA

A regular meeting of the Mishawaka Plan Commission was held Tuesday, October 12, 2010, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Gary West, Matt Lentsch, Ross Deal, Ross Portolese, Murray Winn, Don McCampbell, Edward Salyer, and Rosemary Klaer. Absent: Carol Sergeant. In addition to members of the public, the following were also in attendance: John Gourley, Ken Prince, Greg Shearon, and Peg Strantz.

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Murray Winn explained the Rules of Procedure.

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The Minutes of the September 14, 2010, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PLAT #10-17** A petition submitted by Richard LaFree seeking approval of the five (5) lot plat of Deer Run Subdivision, Section Three.

Mr. Winn read a letter from the Petitioner requesting the item be continued to the November 9, 2010 meeting.

**MOTION:** Rosemary Klaer moved to continue Plat #10-17 to the November 9, 2010 meeting. Gary West seconded; motion carried with a vote of 8-0.

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**PETITION #10-18** A petition submitted by 1<sup>st</sup> Source Bank, Mary Spillane, and Mary & Apos, LLC, requesting to annex and zone property at the **northeast corner of Fir Road and Cleveland Road** to S-2 Planned Unit Development to allow for a variety of residential and commercial uses.

Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, represented the Petitioners. Mr. Danch said he is requesting approval for the annexation and zoning of property that is located mainly at the northeast corner of Fir and Cleveland Roads.

Mr. Danch said they are requesting to bring this property into the City for future development similar to the Golata property which was annexed in 2008. Mr. Danch said they agree to the conditions of approval outlined in the staff report.

Mr. Danch said a diagram was submitted outlining the different proposed uses. He said after meeting with Mr. Prince, they agreed to limit those uses to C-1 General Commercial and C-2 Shopping Center Commercial uses. He said at some point in time during marketing, they would come back to the City for final site plan approval. He also said it's very important that the owners of this property and the adjacent property owners work together because there is going to be a dedicated right of way from the Toll Road interchange through the Golata

property and through this property out to Fir Road, as well as internal circulation. There will also be a traffic study conducted to determine traffic impact.

Mr. Danch said this development will all be on City water and sewer and will be extended to the site.

Mr. Danch said the Petitioners would like the City's approval to move ahead to work with the City and the adjacent owners.

Matt Lentsch asked if there were any contingent users or developers for this property. Mr. Danch said nothing specific yet. He said with the current market conditions it makes sense to move forward and get it into the City, get the PUD zoning designation so they can market the property. It's much easier to get all the standards for the property established up front.

### **Opposition**

Robert Riggs, 52939 Fir Road, said he wants to know how and why Mishawaka wants to come out to St. Joseph County and Harris Township and try to annex our property. He said he doesn't think the City has authorization to do it. He wants someone to explain to him how it can be done.

Ross Portolese asked Mr. Riggs if he was worried the City would annex his property. Mr. Riggs said the City is annexing Bobick's already. He said once the City gets moving along, they'll try and annex all of them.

Mr. Portolese said someone has to petition the Commission to be annexed. He said the City cannot automatically annex you.

Mr. Riggs wants to know why the City is pursuing this property. Mr. Portolese said the property owners are requesting to be annexed into the City.

Murray Winn said the City did not approach them; the property owners approached the City.

Mr. Lentsch said it was a voluntary annexation. It's not Mishawaka seeking them out; they came to us.

Mr. Riggs said he just wanted to know why the City was trying to move out into his area. He wanted to know why all of a sudden Mishawaka wants to come out there. He said Mayor Rea tried to get his foot in the door out there several years ago and that fell through. The City doesn't belong out there. He said the City will be running water and sewer out there and why should he have to spend \$3,000, \$5,000 to tap into their system. Mr. Riggs said he doesn't want condos or a hotel or whatever else across the street from him and he said he's against it.

### **Rebuttal**

Mr. Danch said as the Commission indicated, no one else is being annexed into the City due to this request. It's a voluntary annexation by the property owners. Mr. Danch said Mr. Riggs property isn't going to be taken in by the City of Mishawaka by anything that is done here. He said there is going to be substantial landscaping between Mr. Riggs property and this property.

Mr. Winn closed the Public Hearing on Petition #10-18.

### **Staff Recommendation**

*Staff recommends in favor of Petition # 10-18 to annex and establish zoning for a 43.36 acre property to allow for the construction of a mixed use commercial development as a planned unit development, subject to 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 stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.*
2. *Proposed stormwater 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.*

*This recommendation is based on the following findings of fact:*

1. *Existing Conditions-* *The subject parcel is located adjacent to Cleveland Road and Fir Road, two arterial roadways. Significant retail shopping areas have been proposed and developed on the north side of the City in reasonable proximity to the site. The site has been marketed and directed by multiple government entities to commercial oriented development for many years.*
2. *Character of Buildings in Area-* *The area is predominantly undeveloped. A scattering of commercial development has occurred in the area with a few remnant single family homes. The single family homes will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.*
3. *The most desirable/highest and best use-* *Because of the parcels' location and the significant commercial development on the north side of the City, serving as a regional area of commerce, combined with the proximity of the Indiana Toll Road, Capital Avenue, Fir Road, Cleveland Road, and SR 23, makes the most desirable use for the property a heavy mix of intensive commercial and professional office and service uses.*
4. *Conservation of property values-* *The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The proposed extension of City infrastructure will actually add value to adjacent properties.*
5. *Comprehensive Plan-* *This specific property was guided as existing Commercial in the joint Comprehensive Plan Amendment prepared jointly by both St. Joseph County and the City of Mishawaka, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services.*

**MOTION:** Matt Lentsch moved to forward Petition #10-18 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

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**PETITION #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.

Greg Shearon, Senior Planner, said the proposed ordinance will replace the current Flood Plain Ordinance. He said by law, in order to continue with the flood insurance program, the maps and ordinance need updating to comply with the regulations. The first step is getting the new ordinance passed by the City and then submitted FEMA for their approval.

Mr. Lentsch asked Mr. Shearon if he was the current Flood Plain administrator. He said yes.

Mr. Prince said it needs to be adopted by January to continue in the program, so it's important to act in a reasonable time.

Mr. Winn closed the Public Hearing on Petition #10-19.

#### **Staff Recommendation**

*The Department of Planning, Building, and Community Development is requesting approval of the adoption of a new Floodplain Ordinance and Floodplain Maps. The City of Mishawaka participates in FEMA's National Flood Insurance Program. The National Flood Insurance Program (NFIP) is a Federal program enabling property owners in participating communities to purchase insurance as a protection against flood losses in exchange for State and community floodplain management regulations that reduce future flood damages. To remain in the program, the Federal government requires that certain items be adopted. The City has worked with FEMA and the Indiana Department of Natural Resources (IDNR) to fulfill these requirements.*

*The first requirement is the completion and adoption of a Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM). Over the past few years, the staff has work with FEMA and IDNR to prepare these plans through community meetings and meetings with FEMA and IDNR. As a result of the aforementioned process, revisions to the 1981 flood maps have been made, including updating the City limits on the maps, and certain areas around Juday Creek have been revised. FEMA has completed the new FIS and the FIRMs for the City of Mishawaka and the surrounding area. The new maps are a huge improvement from the 1981 maps with a smaller scale (larger map) and an overlay on top of aerial photography.*

*The second requirement is the adoption of a new floodplain ordinance that spells out the regulations found in Title 44 of the Code of Federal Regulations (44 CFR) Section 60.3. The staff has worked with the State officials and utilized a model ordinance provided by the State that complies with the mentioned Federal Regulations. This new ordinance will replace the entire existing Floodplain Ordinance. The new ordinance includes the establishment of a floodplain manager for the community, regulations regarding building in floodway and floodplains, flood preventative measures for individual homes as well as subdivisions, and procedural process for submitting flood certificates and other administrative processes. Greg Shearon from the Planning Department currently and will continue to serve as Floodplain Administrator for the City.*

*The effective date of the new Flood Insurance Study, Flood Insurance Rate Maps, and Ordinance must be adopted prior to their effective date of January 6, 2011. A letter from*

*FEMA outlining these requirements and effective date has been attached to this report. A pamphlet has also been included outlining the process for adopting Flood Insurance Rate Maps.*

**MOTION:** Ross Portolese moved to accept Petition #10-19. Rosemary Klaer seconded; motion carried with a vote of 8-0.

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**PETITION #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.

Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Petitioners. Mr. Danch said this Petition and the next Petition are basically together.

Mr. Danch said this request is for the south property. He said there is not a contingent purchaser at this time, but staff suggested zoning to C-1 and once the property is sold, the zoning and other developmental issues will be in place.

Mr. Danch said they will work with the Engineering Department on access issues. He said this is a comprehensive type planning and outlines items the developer needs to do such as allow cross access easements so if any additional property comes in along Douglas Road or to the south on Fir Road the number of drives can be limited.

Mr. Danch said both Fir Road and Douglas Roads are becoming arterial roadways with high traffic counts, it made more sense to go to a commercial classification here. As you move away from the intersection, you would look to more office-type uses which are softer uses and work better with the closer residential uses.

Mr. Winn closed the Public Hearing on Petition #10-20.

### **Staff Recommendation**

*Staff recommends in favor of rezoning Petition #10-20 to annex and zone approximately 1.62 acres located at 54050 north Fir Road into the City of Mishawaka with a zoning of C-1 General Commercial. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions – Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located at the intersection of two arterial roadways within an area that continues to develop with commercial uses. Traffic is intended to increase along both corridors. A convenience store has been proposed for the opposite (northwest) corner of the intersection.*
- 2. Character of Buildings – The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.*
- 3. The most desirable/highest and best use – Because of the parcels location and the existing commercial development along the Douglas and Fir Road corridors, the most desirable use for the property is commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of the properties undesirable for residential purposes.*
- 4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.*
- 5. Comprehensive Plan – The properties on the east side of Fir Road are guided by the Comprehensive Plan amendment performed jointly by the City and St. Joseph County that was adopted in 2003. At the time, a conscious decision was made not to guide*

*existing developed properties such as these. The large open undeveloped area behind this parcel to the south and east (with no frontage on Douglas and Fir Roads) was guided as a future professional office park. Given the location of this parcel at the intersection of two arterial roadways, although not guided by the Capital Avenue Plan, the redevelopment of these "frontage properties" was inevitable and will likely be determined by the market in a piece meal fashion. The hospital and other commercial developments have altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.*

**MOTION:** Don McCampbell moved to forward Petition #10-20 to the Common Council with a favorable recommendation. Ross Deal seconded; motion carried with a vote of 8-0.

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**PETITION #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.

Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Petitioners. Mr. Danch said this is the second parcel and would be developed along with the property in the previous petition to have cohesive site development for commercial uses.

Mr. Winn closed the Public Hearing on Petition #10-21.

#### **Staff Recommendation**

*Staff recommends in favor of rezoning Petition # 10-21 to annex and zone approximately 2.40 acres located at 54050 north Fir Road into the City of Mishawaka with a zoning of C-1 General Commercial. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions – Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located at the intersection of two arterial roadways within an area that continues to develop with commercial uses. Traffic is intended to increase along both corridors. A convenience store has been proposed for the opposite (northwest) corner of the intersection.*
- 2. Character of Buildings – The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.*
- 3. The most desirable/highest and best use - Because of the parcel's location and the existing commercial development along the Douglas and Fir Road corridors, the most desirable use for the property is commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of these properties undesirable for residential purposes.*
- 4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.*
- 5. Comprehensive Plan – The properties on the east side of Fir Road are guided by the Comprehensive Plan amendment performed jointly by the City and St. Joseph County that was adopted in 2003. At the time, a conscious decision was made not to guide existing developed properties such as these. The large open undeveloped area behind this parcel to the south and east (with no frontage on Douglas and Fir Roads) was guided as a future professional office park. Given the location of this parcel at the intersection of two arterial roadways, although not guided by the Capital Avenue Plan, the redevelopment of these*

*"frontage properties" was inevitable and will likely be determined by the market in a piece meal fashion. The hospital and other commercial developments has altered developmental patterns from what was once a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.*

**MOTION:** Ross Portolese moved to forward Petition #10-21 to the Common Council with a favorable recommendation. Matt Lentsch seconded; motion carried with a vote of 8-0.

**PETITION #10-22** A petition submitted by Douglas Road Associates, LLC, requesting to annex and zone property located at the northwest corner of **Fir Road and Douglas Road** to C-10 Filling Station Commercial District.

Daryl Knip, Abonmarche Consultants, 750 LWE, South Bend, represented the Petitioners. He said they are requesting to annex approximately 5.3 acres and zone C-10 to allow a filling station, car wash, ATM uses as well as C-1 uses.

Mr. Knip said the development would have City water and sewer according to City development standards and they feel is consistent with recent commercial development along Douglas Road.

Mr. Lentsch asked if this was similar to the previous requests in that the zoning was being prepared in anticipation of a future user. Mr. Knip said yes.

### **Opposition**

Larry Clymer, 53956 Fir Road, said he lives across the street. He said there's a creek that runs through there and goes down by WSBT and the hospital. He also said he thinks they're opening themselves up to a lawsuit if there's ever a spill because the groundwater isn't that deep out there and any spill will get into the groundwater. He wonders why they are considering a gas station at this location when there are a number close by. Why not a dentist's office?

Gary West said he's been on the Plan Commission for over 25 years and one of things he tries to tell people is don't ask us to start saying you can only have 2 restaurants, 2 fast foods; you have to let the market decide what they need. He said these petitions are brought to us with potential developers that have done a market study and analysis as to the highest and best use of the property. That is evaluated to see if it fits within our master development plan and we are in agreement with them as far as some of those developments. Mr. West said if it weren't compatible with the plan for the area, it wouldn't be approved. But you don't want to start asking governmental people to regulate how many gas stations and then we're all in a pickle. We let the market dictate.

Mr. West said there are specific guidelines with landscaping, stormwater management and traffic control. It isn't for the City to dictate what goes in there; it's up to the owner of the property. They've done their study, they feel confident they know what the developmental guidelines are going to be, how much it's going to cost to develop.

Sandy Sienicki, 56214 Currant Road, said she lived her whole life up near that corner. She said her only concern is the creek, it's a protected creek, and what happens if there's a spill. She hopes the Commission will consider that when considering a gas station for this corner.

### **Rebuttal**

Mr. Knip said he understands the value of Juday Creek and said underground storage tanks are now double-walled with monitoring between the walls and they also highly recommend fuel separators and containment to be constructed when the site is developed.

Mr. Knip said they are trying to get the site ready to market and the C-10 zoning also allows C-1 uses so if the market dictates something different, it will allow those uses.

Mr. Winn closed the Public Hearing on Petition #10-22.

### **Staff Recommendation**

*Staff recommends in favor of rezoning Petition # 10-22 to annex and zone approximately 5.33 acres located at 54050 Fir Road into the City of Mishawaka and zone to C-10 Filling Station Commercial. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions- Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located at the intersection of two arterial roadways within an area that continues to develop with commercial uses. Traffic is intended to increase along both corridors. An annexation and request for C-1 General Commercial zoning has been proposed for the opposite (southeast) corner of the intersection.*
- 2. Character of Buildings – The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.*
- 3. The most desirable/highest and best use – Because of the parcels' location and the existing commercial development along the Douglas and Fir Road corridors, the most desirable use for the property is commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of these properties undesirable for residential purposes.*
- 4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.*
- 5. Comprehensive Plan- The Comprehensive Plan, created in 1990, guided residential development within this area. Recent development patterns within the area, along with the increasing commercial development within the northern portion of Mishawaka, including the hospital development, has altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.*

**MOTION:** Matt Lentsch moved to forward Petition #10-22 to the Common Council with a favorable recommendation. Gary West seconded; motion carried with a vote of 7-1 (*McC Campbell*).

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### **SP #10-G**

A request submitted by Fraternal Order of Eagles Aerie 2083 for final site plan approval of a 49,287 SF 3-story senior living facility located in the **900 block of South Merrifield Avenue.**

Mike Danch, Danch, Harner & Associated, 1643 Commerce Drive, South Bend, represented the applicant. He presented the final site plan for phase I of the senior citizens apartment facility.

Mr. Danch said the building will be 3 stories and have 51 units, access to be directly from Merrifield Avenue and this phase will have 38 parking spaces. He also said an access point is

being developed between this site and Kroger to the south to allow residents to walk to the store.

Mr. Winn asked if they plan to break ground soon. Mr. Danch said he thinks construction will start in the spring of next year.

Mr. West asked if the building will be brick. Mr. Danch said he thinks most of it will be brick, but there will also be some stucco and limestone accents as well.

**Staff Recommendation**

*The Planning Department recommends approval of Site Plan 10-F for a 3-story senior citizen apartment facility because it meets the requirements of Sec. 137-35 Final Site Plan Approval.*

**MOTION:** Ross Deal moved to approve Site Plan #10-G. Edward Salyer seconded; motion carried with a vote of 8-0.

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**ADJOURNMENT:** 7:38 p.m.

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Kenneth B. Prince, City Planner

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Peg Strantz, Associate Planner