

JULY 10, 2012

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, July 10, 2012, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Gary West, Dale "Woody" Emmons, Ross Portolese, Murray Winn, Don McCampbell, Carol Sergeant, Edward Salyer, and Rosemary Klaer. Absent: Matt Lentsch. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

Murray Winn explained the Rules of Procedure.

The Minutes of the June 12, 2012, meeting will be available at August 14, 2012, meeting.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #12-14 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to vacate the east/west alley north of Madison Street between N. Cedar Street and N. Pine Street.

Ken Prince, City Planner, appeared on behalf of the Redevelopment Commission. He said last month the Commission approved the Center for Hospice site plan. There will be a public street constructed from Cedar Street into Central Park and the existing north/south alley that serves the home on Cedar Street will be extended and connect to the newly created park street. He said the east/west alley is no longer useful and will provide more open space.

Mr. Winn closed the Public Hearing on Petition #12-14.

Staff Recommendation

The Staff recommends in favor of Petition 12-14 to allow for the vacation of an east/west alley located east of North Pine Street and north of Madison Street. This recommendation is based upon the following findings of fact:

- 1. The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.*
- 2. The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.*
- 3. The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;*
- 4. The proposed vacation will not hinder the use of any public way, utility or place.*

5. *This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.*

MOTION: Rosemary Klaer moved to forward Petition #12-14 to the Common Council with a favorable recommendation. Woody Emmons seconded; motion carried with a vote of 8-0.

PLAT #12-15 A petition submitted by the City of Mishawaka requesting approval of the one (1) lot Mishawaka Fire Station No. 4 Minor Subdivision.

Ken Prince, City Planner, appeared on behalf of the City of Mishawaka. He said the City has been in ongoing discussions with School City who owns the recreation area and the corner of the property has now been purchased and the larger property can now be subdivided. Mr. Prince said the purpose is to create a separate lot for the new fire station.

Gary West showed a rendering of the site and said the proposed Bennington Road extension will terminate with a turnaround at the north end of the property and said future plans consist of continuing Bennington to connect to the existing stub-street of Weston Drive in Norland Park.

Mr. Winn closed the Public Hearing on Plat #12-15.

Mr. Prince read a Letter of Remonstrance from Ken Nowacki, 913 Dashwood Ct.

Staff Recommendation

The Planning Department recommends approval of the Preliminary and Final Plat for the Mishawaka Fire Station No. 4 Minor Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.

MOTION: Ross Portolese moved to approve Plat #12-15. Don McCampbell seconded; motion carried with a vote of 8-0.

PETITION #12-16 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to rezone Fish Ladder Lane and a portion of Central Park from S-1 Extensive Open Space and Public Use District to C-3 City Center Commercial District.

Ken Prince, City Planner, appeared on behalf of the Redevelopment Commission. He said this portion of Fish Ladder Lane was inadvertently left off of a legal description and this will rectify the error.

Mr. Prince said Center for Hospice wants to use a small portion of park area for parking and they will provide double the area to add to Central Park. He said this petition brings the entire Hospice Campus into C-3 zoning.

Mr. Winn closed the Public Hearing on Petition #12-16.

Staff Recommendation

The Planning Department recommends approval of Petition 12-16 to rezone Fish Ladder Lane and a portion of Central Park from S-1 Open/Public Space to C-3 City Center Commercial. This recommendation is based on the following findings of fact:

1. *Existing Conditions - The properties proposed to be rezoned are located in an area of historically mixed uses. The proposed use, as a Center for Hospice campus, is low intensity that provides a nice transition between the adjacent single family homes and Central Park. The existing C-3, City Center, zoning district is located directly across the river to the south. Public infrastructure and connections to the downtown exist through the Mishawaka Riverwalk system and the proximity of the project to the Cedar Street bridge.*
2. *Character of Buildings – The existing buildings located in the area include a combination of one and two story commercial and residential structures. The proposed development includes a combination of one and two story commercial campus like buildings that will compliment surrounding uses and structures. The proposed C-3 City Center Zoning District has the most stringent qualitative development requirements of any City zoning district.*
3. *The most desirable/highest and best use - Because of the low intensity nature of the combined office and residential care facility, the proposed use compliments the surrounding residential and park uses. The development of the property is also limited based on the City's control of a portion of the property intended for development. City control insures that regardless of the underlying zoning, the site will be constructed for the intended use and is not speculative.*
4. *Conservation of property values - The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because the property will be developed with a low intensity combined office and residential care facility. The rezoning would allow for the redevelopment of the larger neighborhood that includes public infrastructure projects. The quality and investment in new construction will help insure that the adjacent property values are retained and possibly increased.*
5. *Comprehensive Plan – The properties were designated by the Mishawaka 2000 Comprehensive Plan as Open Space. The proposed rezoning is consistent with the 2000 Mishawaka Comprehensive Plan, created in 1990, because the property will be developed with a low intensity combined office and residential care facility, that will complement the surrounding park and single family residential uses.*

MOTION: Woody Emmons moved to forward Petition #12-16 to the Common Council with a favorable recommendation. Ross Portolese seconded; motion carried with a vote of 8-0.

PLAT #12-17 A petition submitted by John Joseph Coussens requesting approval of the one (1) lot Jireh Dining Douglas Road Subdivision.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Jireh Dining. He said the 3 acre plat is for Golden Corral and is part of the overall 30 acre annexation approved last month by the Plan Commission. Mr. Mosness asked for the Commission's approval subject to the Council vote on the annexation Monday night (July 16).

Staff Recommendation

The Planning Department recommends approval of the Preliminary and Final Plat for the Jireh Dining Douglas Road Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.

MOTION: Edward Salyer moved to approve Plat #12-17. Don McCampbell seconded; motion carried with a vote of 8-0.

PLAT #12-18 A petition submitted by Cressy Land Investments, LLC, requesting approval of the one (1) lot Davita Trinity Place Minor Subdivision.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Cressy Land Investments. He said the property is for a proposed medical use and this will create a separate 2 acre parcel and will be located off of the newly constructed Trinity Place behind WSBT Stations.

Mr. McCampbell asked if this facility will replace Nephrology, Inc. Mr. Mosness said this new center will be for kidney dialysis.

Mr. McCampbell asked if Nephrology will close their existing facility and open this. Mr. Mosness said this would be a new facility.

Mr. Winn closed the Public Hearing on Plat #12-18.

Staff Recommendation

The Planning Department recommends approval of the Preliminary and Final Plat for the Davita Trinity Place Minor Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.

MOTION: Ross Portolese moved to approve Plat #12-18. Carol Sergeant seconded; motion carried with a vote of 8-0.

REPLAT #12-19 A petition submitted by The Hospice Foundation requesting approval of the three (3) lot, six (6) outlot Center for Hospice Subdivision.

Ken Prince, City Planner, presented the replat on behalf of Hospice. He discussed the various parcels involved in the redevelopment effort; the old industrial properties on Cedar Street consisted of several parcels and a street will be built on those properties to Central Park from Cedar. He said Hospice will build a new single family home on another parcel on Cedar Street consistent with other homes in the area. Mr. Prince also said a small lot will have a sign and garden and will serve as main entrance to the Hospice Campus.

Mr. Prince said a house on Madison Street, torn down by the City, will be sold to Hospice and a sliver of the Moose Property will be sold to the City. He said this plat combines all in one piece and creates lots and alleys.

Mr. Winn closed the Public Hearing on Replat #12-19.

Staff Recommendation

The Planning Department recommends approval of the Preliminary Plat and Final Plat Center for Hospice (Plat #12-19) because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.

MOTION: Don McCampbell moved to approve Replat #12-19. Woody Emmons seconded; motion carried with a vote of 8-0.

DESIGN REVIEW:

DR #12-05

A request submitted by St. Joseph Bank and Trust Company (Key Bank), **401 Lincolnway West** requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-170 Exterior Signage Colors and Section 105-174 Signage Size Limitations.

Brian Steffen, Premiere Signs, 400 N. Main St., Goshen, appeared on behalf of Key Bank. He said the only real change to their sign program is an upsized logo on the building due to the re-design of their logo.

Mr. Emmons asked if they would have a freestanding sign. Mr. Steffen said they will remove the 18' pylon and install new 7' monument sign. He also said it will have a fabricated aluminum decorative shroud on the bottom and will sit in the same location as the existing sign.

Mr. Steffen also said that red is part of the question and red is Key Bank's color.

Mr. Winn closed the Public Hearing on Design Review #12-05.

Staff Recommendation

The Plan Staff recommends approval of Design Review Waiver 12-05 for Key Bank signage located at 401 Lincolnway West.

MOTION: Carol Sergeant moved to approve Design Review #12-05. Rosemary Klaer seconded; motion carried with a vote of 8-0.

DR #12-06

A request submitted by Rocco Zappia, on behalf of Yorktowne Management LLC, requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-174 Signage Size Limitations and Section 105-176 Signage Clutter for **102 Lincolnway East** to allow two (2) 3' X 4' vinyl signs to display food specials and thirty-one (31) 10" X 19" "Roc's" signs on building façade.

Rocco Zappia, Roc's Restaurant, 102 Lincolnway East, presented the request. He apologized for putting up the small signs. He said he didn't know they were not allowed without approval. Mr. Zappia said he doesn't see them as signs, but as decoration, and didn't mean any disrespect.

Mr. Zappia said the signs are metal, evenly spaced on the façade and will not rust. He also said he has gotten many positive comments about the signs.

Mr. Zappia also said he is requesting permission to put up two banners on either side of his entrance doors; one would be 3' X 4' and the other would be 4' X 3'. They would be mounted flat against the side of the building and there would be no flapping in the wind.

Mr. Emmons said he has no problem with businesses trying to promote themselves, but does have a problem with the vinyl signs. He asked if there was any way to encase in Plexiglas. Mr. Emmons said that should deter vandalism and would look more professional than a banner on the side of the building; especially since Mr. Zappia is located at the prominent four corners in town. Mr. Emmons said he's sure that Mr. Zappia wants something professional and thinks putting up a banner would downgrade his facility. He said the price of specials isn't going to change every day and if he would encase the banners in Plexiglas, he would have no problem with them.

Mr. Zappia said during a meeting with the City about signs, Plexiglas was never mentioned, but said he will do whatever the City wants him to do.

Mr. Emmons asked Mr. Prince if he had any objections. Mr. Prince said it's a personal choice. He said the City met with a number of downtown businesses and discussed the Design Review Ordinance and it doesn't permit banners, but that's what a waiver is for. The City has had banners and the question is what size is appropriate. He said 12 sqft is appropriate and that's what these would be.

Ms. Klaer said she thinks the building looks nice the way it is and isn't sure if it needs signs, but if Mr. Zappia thinks it would help. She also said sometimes you can put too much on the outside and it doesn't give the same classy effect.

Mr. Winn closed the Public Hearing on Design Review #12-06.

Staff Recommendation

The Plan Staff recommends approval of Design Review Waiver 12-6 for ROC's at 102 Lincolnway as submitted.

MOTION: Carol Sergeant moved to approve Design Review #12-06. Gary West seconded; motion carried with a vote of 8-0.

DR #12-07

A request submitted by Jayson Smith on behalf of Joe Grabill requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-169 Exterior Signage Materials, Section 105-170 Exterior Signage Colors, Section 105-171 Signage Form, Section 105-172 Window Signage, Section 105-173 Projecting Signage Clearance, Section 105-174 Signage Size Limitations, Section 105-175 Signage Quantity, Section 105-176 Signage Clutter, Section 105-177 Signage Lighting, and Section 105-178 Signage Style Considerations for **100 North Center Street (Sky Lounge)** to allow banners and uplighting on smokestack. *Request continuance to August 14, 2012 meeting.*

Mr. Winn said the Petitioner is requesting this item be continued to August 14, 2012. The Commission unanimously approved.

DR #12-08

A request submitted by Parwinder Kaur requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-170 Exterior Signage Colors and Section 105-171 Signage Form to permit a digital display for gas prices and the use the the color red at **302 South Main Street**.

Steve Depositar, Art Works Sign Co., 55581 Current Rd., Mishawaka, presented the proposed sign package for Rick's Gas.

Mr. Emmons asked if the sign panels on the side of the building (Tobacco, ATM, Lotto, etc) were illuminated. Mr. Depositar said no they will be illuminated by indirect lighting. Also, they fall within the letter size required in the Design Review Ordinance.

Mr. Emmons asked about the signage on the canopy covering the gas pumps. Mr. Depositar said the signage on the canopy was kept to a minimum and also contains a digital pricing sign.

Mr. Emmons asked how the price was changed. Mr. Depositar said it was done with a remote key fob.

Mr. Emmons asked if the sign flashed. Mr. Depositar said no.

Mr. Emmons asked what color the sign would be. Mr. Depositar said red on black background.

Mr. Emmons asked if there would be more signs that were shown. Mr. Depositar said no, not at this time.

Mr. Prince indicated by code, they were permitted to have window signs covering up to 25% of window area. What is being shown constitutes the permanent site signage.

Mr. Winn closed the Public Hearing on Design Review #12-08.

Staff Recommendation

The Staff recommends in favor of Design Review 12-08 to allow the digital, changeable gas price display, the green, blue and white color combination, and the two signs on the west wall.

MOTION: Don McCampbell moved to approve Design Review #12-08. Edward Salyer seconded; motion carried with a vote of 8-0.

DR #12-09

A request submitted by Mei Han on behalf of Cole Real Estate requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-170 Exterior Signage Colors and Section 105-174 Signage Size Limitations at **206 North Main Street**.

Steve Depositar, Art Works Sign Co., 55581 Current Rd., Mishawaka, presented the proposed sign package for Zing Japanese Fusion restaurant.

Mr. Emmons asked if the signs were illuminated. Mr. Depositar said yes, the “Zing” portion of the sign is brushed stainless with reverse halo lighting that when lit, will produce a nice glow. That sign will use blue LED. He said “Japanese Fusion” will be a typical channel letter design and the light box will encompass the corner of the building and will be internally illuminated.

Mr. Emmons asked if “Japanese Fusion” will be illuminated. Mr. Depositar said yes it will be internally illuminated.

Ms. Klaer asked if they will strictly serve Japanese food. Mr. Depositar said he thinks so, but hasn’t seen a menu.

Ms. Klaer asked if this was a chain. Mr. Depositar said he couldn’t answer that question.

Ms. Klaer asked how soon it would open. Mr. Depositar said the owners are anxious to open and work is progressing quite well; maybe in the next 2-3 weeks.

Mr. Winn closed the Public Hearing on Design Review #12-09.

Staff Recommendation

The Plan Staff recommends approval of Design Review Waiver 12-09 for Zing Japanese Fusion signage proposed for 206 North Main Street.

MOTION: Ross Portolese moved to approve Design Review #12-09. Rosemary Klaer seconded; motion carried with a vote of 8-0.

SITE PLAN:

SP #12-G A request submitted by Cressy Land Investments, LLC for final site plan approval of a 91,073 sqft Trinity Place Dialysis Center to be located on Trinity Place.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Trinity Place Dialysis Center. He said they are requesting approval of the final site plan and they have addressed Engineering and Planning comments.

Mr. Emmons asked if the applicant was aware of the landscape items. Mr. Mosness said yes and have provided revised drawings for landscaping. Mr. Prince said the revisions were acceptable.

Staff Recommendation

Provided the aforementioned is submitted and approved, Planning Department recommends that the Petitioner's request for the Davita Dialysis Center be approved. This recommendation is based on the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan Approval and is otherwise consistent with the intent of the Design Review Ordinance

MOTION: Carol Sergeant moved to approve Site Plan #12-G. Gary West seconded; motion carried with a vote of 8-0.

SP #12-H A request submitted by Jireh Dining, LLC for final site plan approval of a 11,088 sqft Golden Corral Restaurant to be located at the southeast corner of Main Street and Douglas Road.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Jireh Dining. He said they are requesting approval of the final site plan so Golden Corral can move forward, contingent upon Council approval of land annexation at Monday's meeting (July 16).

Staff Recommendation

Provided the aforementioned concerns are addressed, the Planning Department recommends approval of the Golden Corral site plan. This recommendation is based on the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan Approval.

MOTION: Don McCampbell moved to approve Site Plan #12-H. Edward Salyer seconded; motion carried with a vote of 8-0.

ADJOURNMENT: 7:48 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner