

**NOVEMBER 13, 2012**  
**PLAN COMMISSION**  
**CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, November 13, 2012, 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 Portolese, Murray Winn, Don McCampbell, Edward Salyer, and Rosemary Klaer. Absent: Dale "Woody" Emmons and Carol Sergeant.

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Murray Winn explained the Rules of Procedure.

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The Minutes of the October 9, 2012, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PETITION #12-23** A petition submitted by Memorial Systems, Inc., to amend the Cass Road/East University Drive Planned Unit Development to allow for a residential care facility. *Continued from the October 9, 2012 meeting. Petitioner requesting withdrawal.*

Mr. Winn read a letter from the Petitioner requesting withdrawal. The Commission unanimously approved the request.

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**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 up lighting on smokestack. *Continued from the October 9, 2012 meeting. Petitioner requesting withdrawal*

Mr. Winn read a letter from the Petitioner requesting withdrawal. The Commission unanimously approved the request.

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**REPLAT #12-24** A request submitted by Highland Village, LLC, Jack M. Champaigne, and Michael S. and Stephanie A. Lehman seeking approval of the replat of Highland Village P.U.D.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioners. He said the plan is to increase the size of lots making it easier to fit some of the homes that they are being approached to fit into the size of the lots.

Mr. Lang said he has provided revised plans per Engineering's comments regarding an easement.

**In Favor**

Dennis Murphy, Prime Development, 510 W. Jefferson Blvd, Mishawaka, said the intent is to split one lot between two adjacent owners. He also said people are asking for bigger lots and in the past have replatted as necessary, so now they are taking the steps to enlarge as many as they can. Mr. Murphy said the interior lots will stay the same and they will now have a variety of lot sizes.

**In Opposition**

Jack Champaigne, 1315 Forest River Run, said his lot (26) and part of the lot next to him are included in the replat, but after studying the replat for a while and seeing construction on Lot 42 and that Lot 42 isn't going to be replat, the house under construction is about half of what the covenants say it should be. He said he doesn't know if this is the forum to address this item, but he has approximately \$1 million invested in his home and property.

Stephanie Lehman, 1107 Bellhaven Drive, said it doesn't look like Trossicks Trail will continue to be a thru street and she wants to make sure it remains a street and not be split into lots.

**Rebuttal**

Mr. Murphy said no streets will be changed in this replat. The infrastructure is in and it will stay.

Mr. Winn closed the Public Hearing on Replat #12-24.

**Staff Recommendation**

*Provided the required documentation requested by Engineering is provided, the Planning Department recommends that the Petitioners' request for preliminary and final Replat approval of Highland Village PUD 6<sup>th</sup> Replat be approved. This recommendation is based on the fact that the Plat meets all the requirements of Section 133-107 (Preliminary Replat) & Section 133-110 (Final Replat).*

**MOTION:** Don McCampbell moved to approve Replat #12-24. Edward Salyer seconded; motion carried with a vote of 7-0.

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**PETITION #12-25** A request submitted by Cressy Land Investments, LLC, requesting to rezone property located at the southwest corner of Day Road and Park Place from C-2 Shopping Center Commercial District to R-3 Multi-Family Residential District.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, represented the Petitioners. He said the request is to rezone the property to R-3 Multi-Family to allow for the construction of a senior housing facility for dementia and Alzheimer's patients. He said this is a 4 ½ acre parcel.

Mr. Ballard said earlier this evening the Board of Zoning Appeals approved a request for a reduction in the number of parking spaces. He said that standard applies more to a residential area than the facility that is proposed.

He said the developer met with The Forest Condo Association and they are in support of the project.

Matt Lentsch asked if the facility will have apartments or assisted living. He also asked what kind of care will be provided. Mr. Ballard said it will be assisted living and individual units with 24 hour care.

Dane Slabaugh, 16149 Waterside Drive, Granger, said the facility will be assisted memory care only. It will be a secure facility and the residents will not drive. The setup is basically like having your own room that opens up into a home. However, will not be set up to nursing level; it is assisted memory care and not necessarily a nursing classification. The patient isn't sick; only memory issues.

Michael Hardy, Barnes & Thornburg, 100 N. Michigan Street, South Bend, said he was representing The Forest Condo Association. The Forest is adjacent to this facility and they haven't had much time to look at any final site plan and what kind of effect this facility would have on their property. He said they have met with Cressy and the developer and as a result have been provided a lot of comfort regarding this development.

Mr. Hardy said some of the representations made by Cressy and the Developer: single story structure no higher than 35', use of minimally invasive dark-sky lighting directed away from the condos and only used where necessary and in consultation with the Association, 360 degree structure with no back and the building will have a residential look and feel. He also said dumpsters will be contained in a walled-off area looking similar to the exterior of the building and will not be left visible. The developer will work with the Association to ensure the rear tree line will be minimally disturbed and will install a berm according to mutually agreeable specifications.

Jim Cierzniak, 1518 Pine Top Trace, said his home is the first unit as you enter from Day Road and has been there seven years. He said he is delighted to have a project that looks like it belongs in the neighborhood and enthusiastically backs this project.

Mr. Winn closed the Public Hearing on Petition #12-25

### **Staff Recommendation**

*The Planning Department recommends approval of Petition 12-24 to rezone 4.50 acres located at the southeast corner of Day Road and Park Place from C-2 Shopping Center Commercial to R-3 Multi-Family Residential. This recommendation is based upon the following findings of fact:*

- 1. Given the property's close proximity to the adjacent residential uses and the existing R-3 zoning classification to the south, the R-3 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development.*
- 2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential for commercial*

development under the property's current zoning, staff feels that the most desirable use for this property is R-3 Multi-Family Residential use.

3. *Because the parcel is located adjacent to residential properties, the rezoning to R-3 Multi-Family Residential is a desirable use for this property;*
4. *R-3 Multi-Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by maintaining residential development in the area.*
5. *The proposed R-3 Multi-Family Residential zoning is consistent with the City's Comprehensive Plan which indicated Low Density Residential. Although, the proposed is for multi-family residential zoning, the proposed care facility is consistent with lower density residential uses. Furthermore, the R-3 zoning is consistent with the existing R-3 zoning to the south.*

**MOTION:** Matt Lentsch moved to forward Petition #12-25 to the Common Council with a favorable recommendation. Rosemary Klaer seconded; motion carried with a vote of 7-0.

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**PLAT #12-26** A request submitted by Cressy Land Investments, LLC, requesting approval of the one (1) lot JEA Trinity Place Subdivision.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, presented the Plat request. He said this request will create a 4 acre parcel for this memory care facility.

Mr. Mosness said earlier this evening the Board of Zoning Appeals approved a variance to allow for a reduction in total number of required parking spaces as the residents will not be permitted to have cars. He said this facility is classified as assisted living with private, semi-private, and shared units.

Mr. Winn closed the Public Hearing on Plat #12-26.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary Plat and Final Plat Center for the JEA Trinity Place Subdivision (Plat #12-26) because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.*

**MOTION:** Edward Salyer moved to approve Plat #12-26. Don McCampbell seconded; motion carried with a vote of 7-0.

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**SITE PLANS:**

**SP #12-1** A request submitted by Physicians Immediate Care for final site plan approval of a 4,105 sqft immediate care facility at 505 West Cleveland Road.

Patriac O'Neill, 111 S. Alpine, Rockford, Illinois, presented the Site Plan. He said an existing bank will be demolished and replaced with a single story urgent care clinic. He said the services offered are in the mid-grade range of \$250 - \$3,000 per visit. It's not an emergency room; but will be urgent care, workman's comp, chest colds, to broken arms.

Mr. O'Neill said the lot will be regraded and repaved to solve some pre-existing conditions. He said the facility will be ADA compliant and regrading will help solve the steep driveway and provide easy access from the banks and mall outer road.

Mr. Portolese asked who will own the building. Mr. O'Neill said Physicians Immediate Care LLC.

**Staff Recommendation**

*The Planning Department recommends that the Petitioner's request for final site plan for Physicians Immediate Care- Urgent Care Facility 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.*

**MOTION:** Ross Portolese Moved to approve Site Plan #12-I. Mr. West seconded; motion carried with a vote of 7-0.

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**SP #12-J** A request submitted by Mattress Firm for final site plan approval of a 4,800 sqft retail store at 221 West Day Road.

Ken Knuckles, Development Management Group, LLC, 4209 Gallatin Pike, Nashville, TN, said they intend to develop a single tenant retail unit; Mattress Firm. The site will be the 2<sup>nd</sup> lot next to Del Taco on Day Road. He said originally a drive-thru coffee business was proposed.

Mr. Knuckles said all adjacent parking, driveways, and utilities have already been provided to the parcel; so they will construct the new business where the coffee business was to be located. He said the parking is shared with Del Taco and will meet standards outlined in the zoning ordinance.

Mr. Knuckles said the only other issue staff brought to their attention was regarding the front building architecture. Mr. Knuckles said their building has an earth tone palette per their design requirements and the City has an issue with the amount of red brick on the front of the building which is their primary entrance. He said it's the amount of red brick which exceeds the city requirement of 1/3 of wall area. Mr. Knuckles said they have been working on alternatives based on the City's feedback.

Mr. Knuckles showed a depiction that he said he isn't pleased with that narrows the entry feature and interjects another brick color that is not part of their original submittal. He said it was his hope to talk to the Commission and explain why their original submittal is critical, but now knows a separate waiver submittal would be required.

Mr. Knuckles said he would like to request consideration of approval of plans contingent on working with staff to satisfy the design review requirements. He said Mattress Firm may come back and ask for a waiver, but ideally they would like to work at the administrative level for a solution. Mr. Knuckles asked for conditional approval with this item being the only one to be addressed.

Mr. Winn said that isn't a good idea. Mr. Prince said the Commission can approve what is being shown.

Mr. Lentsch asked about the timeline. Mr. Knuckles said they hope to commence construction in March and turn the building over to the tenant in June.

Ms. Klaer said she understands about the logo and doesn't think people in this area are going to care if the building is all red. She thinks people will be happy to see a store and won't know what your building in Nashville looks like. Mr. Knuckles said he doesn't disagree. He said most businesses strive to get their branding out there and there are instances where there are variations and they are happy to work with cities to come to a solution. Mr. Knuckles said in this instance, it's only the front and he's confident a solution can be found.

**Staff Recommendation**

*Provided the front building elevation is revised to comply with the Design Review Ordinance, the Planning Department recommends that the Petitioner's request for final site plan for Mattress Firm 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.*

**MOTION:** Matt Lentsch moved to approve Site Plan #12-J as amended. Ross Portolese seconded; motion carried with a vote of 7-0.

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**SP #12-K**

A request submitted by Cressy Land Investments, LLC, for final site plan approval of an Alzheimer's special care center to be located on vacant property located on the south side of Trinity Place adjacent to the west side of Juday Creek.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, presented the Site Plan. Mr. Mosness said he would be happy to answer any questions regarding the plans.

Mr. Prince noted for the record that they are showing parcels 1 and 2. Parcel 2 is simply a pond, but is not located in the City and is not required for stormwater retention on Parcel 1.

**Staff Recommendation**

*Petitioner's request for the Alzheimer Special care 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.*

**MOTION:** Don McCampbell moved to approve Site Plan #12-K. Edward Salyer seconded; motion carried with a vote of 7-0.

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**ADJOURNMENT:** 7:42 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner