

JUNE 11, 2013

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, June 11, 2013, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Gary West, Matt Lentsch, Dale "Woody" Emmons, Murray Winn, Don McCampbell, Nick Troiola, Edward Salyer, and Rosemary Klaer. Absent: Ross Portolese.

Murray Winn explained the Rules of Procedure.

The Minutes of the May 15, 2013, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #13-05 A petition submitted by Jeffrey and Deborah Van Poppel to rezone **408 West Seventh Street** from C-1 General Commercial District to R-1 Single Family Residential District. *Continued from the May 14, 2013, meeting.*

Deborah Van Poppel, 713 Prism Valley Drive, Mishawaka, presented the Petition. She said they formerly lived at 408 W. 7th Street and when they tried to sell the home they found it was zoned commercial. The bank required it be rezoned to its proper designation.

Mr. Winn closed the Public Hearing on Petition #13-05.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 13-05 rezone 408 W. 7th Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:*

- 1. There are multiple zonings in the immediate vicinity and many of the structures are residential in use. This property's historic use as a single family dwelling would be compatible to the area;*
- 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 of development as a commercial project, staff feels that the most desirable use for this property is its historical single-family use;*
- 3. Because the parcel is located in an area of residential properties, the rezoning to R-1 Single-Family Residential is a desirable use for this property;*

4. *As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owner to sell the home; and,*
5. *The City's Comprehensive Plan calls for low density residential.*

MOTION: Matt Lentsch moved to forward Petition #13-05 to the Common Council with a favorable recommendation. Edward Salyer seconded; motion carried with a vote of 8-0.

PETITION #13-08 The City of Mishawaka Planning Commission has initiated an amendment of the City Municipal Code. Specifically, Chapter 105, the Design Review Development Plan Ordinance to allow for the placement of menu boards and banners within the C-3 City Center Zoning District only. Section 105-171 Signage Form has been proposed to be modified to allow both menu boards and banners. In addition, section 105-179 has been proposed to further clarify restrictions on the placement of menu boards. Section 105 has been proposed to be added to further clarify restrictions on the placement of banners."

Ken Prince, City Planner, presented the proposed amendment to the Design Review Ordinance. He said many who were on the Commission in 1999 remember the demolition of Uniroyal and the creation of the Design Review Ordinance for historic downtown which created a new set of architectural and design standards including signage.

Mr. Prince said since its adoption, he has heard from numerous businesses who say the ordinance is too restrictive. In 2002 he had numerous meetings with the Mishawaka Business Association (MBA) and discussed the intent of the ordinance and said he was open to modifications and asked the MBA to come up with some standards. Mr. Prince said he never received a response from them.

Mr. Prince said recently the Fourth Friday's committee which is comprised of a group of downtown businesses and wanted to request waivers for menu boards and banners to advertise events and he thought now would be the time to modify the ordinance so all businesses in downtown could benefit from the changes.

Mr. Prince said one provision is for banners on buildings and another provision is for menu boards. He said the banner modification is pretty simple. Mr. Prince said K-mart on McKinley used to have a huge banner that covered practically the whole east wall and because it was attached to the building it was ok. However, such a banner would not be appropriate for downtown.

Mr. Prince said the new provision for banners would limit size and placement and help preserve the integrity of downtown. It's more pedestrian oriented than Grape Road corridor, hence the reason for the different standard.

Mr. Prince said the second provision would be for menu boards. He said placement can be tricky because buildings are built up to the sidewalk and there is simply no room for placement of a freestanding sign; all signage has to be attached to the building, yet businesses want a nice way to advertise. Many businesses use an A-frame or easel type

sign. He said the question became how you allow businesses to put items in the right-of-way and not block the sidewalk. Mr. Prince said the only provision the ordinance asks is for the business to file for a Notice of Recognition of Encroachment and they also must take inside every evening. He said the Board of Public Works and Safety would review the requests and allow safe placement of the sign in an appropriate location.

Mr. Lentsch asked if businesses would have to get a one-time permit. Mr. Prince said it wouldn't be a permit, but a Notice of Recognition of Encroachment. That allows us to review and make sure placement isn't in the right-of-way. He said Stevie's is doing that now and they take the sign inside every evening. Mr. Prince said the notice is "one-time" and it is for one sign per location.

Mr. Troiola asked who would be responsible if someone should trip over the sign. Mr. Prince said he didn't know.

Mr. Winn asked if a business closed and another business came in, could they continue to put out a sign. Mr. Prince said he isn't sure if it's transferrable.

Mr. Emmons asked what size of banner could be displayed and how many. Mr. Prince said one per face.

Mr. Emmons asked how long the banners could remain. Mr. Prince said in perpetuity if kept in good repair.

Mr. Emmons said his concern is the smoke shops, like the ones on Mishawaka Avenue and on South Main and 8th Street, and downtown becoming like those. Mr. Prince said those businesses are zoned C-1 and the proposed revisions would apply to C-3 zoning only.

Mr. Winn closed the Public Hearing on Petition #13-08.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 13-08 to modify Chapter 105, the Design Review Development Plan Ordinance to allow for the placement of menu boards and banners within the C-3 City Center Zoning District only. This recommendation is based upon the following findings of fact:*

- 1. The proposed change in code relative to allowing additional temporary signs by right within the historic downtown does not contradict, or alter the City of Mishawaka 2000 Comprehensive Plan, or the Mishawaka River Center Master Plan;*
- 2. The proposed changes take into account the current conditions of the historic downtown and the character of current structures and uses by limiting the size and placement of signage;*
- 3. The proposed change does not alter or prohibit the most desirable use for which the land in each district is adapted;*
- 4. By allowing additional appropriate signage in the historic downtown, businesses may be able to better market goods and services which will ultimately help with the conservation of property values throughout the downtown; and*

5. *The proposed change will not hinder responsible development and growth of the City, and will aid in the City's desire to encourage additional investment in the Historic downtown.*

MOTION: Matt Lentsch moved to forward Petition #13-08 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

SITE PLANS:

SP #13-C

A request submitted by SEC Investment, LLC, for Final Site Plan approval for 34,453 sqft, three (3) unit, office development located at **1710 and 1802 Day Road.**

Terry Lang, Lang, Feeney & Associates, appeared on behalf of SEC Investments.

Mr. West said there were some details that were still lacking for stormwater and sewer and asked that the item be continued. Mr. Prince said he forwarded an email to Mr. Lang but he did not receive it in time. Mr. Lang requested the item be continued in order to make the necessary revisions.

MOTION: Mr. West moved to continue SP #13-C to the July 9 hearing. Rosemary Klaer seconded; motion carried.

ADJOURNMENT: 7:21 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner