

MARCH 10, 2015

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, March 10, 2015, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Matt Lentsch, Ross Portolese, Murray Winn, Don McCampbell, Nick Troiola, Victor Kasznia, and Kathleen White-Gadacz. Absent: Gary West and Dale "Woody" Emmons. In addition to members of the public, the following were in attendance: David Bent, Ken Prince, Greg Shearon, Christa Hill, and Kari Myers.

Mr. Winn explained the Rules of Procedure.

The Minutes of the February 10, 2015, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

REPLAT #15-02

A request submitted by Pyramid Properties, Inc. and PKB Realty II, Inc. seeking approval of the First Replat of Pyramid Subdivision of Lot A, Lighthouse Minor Subdivision. *Continued from the January 13, 2015 meeting. Petitioner requests continuance to March 10, 2015 meeting.*

Mr. Prince indicated the surveyor hasn't been able to get in touch with the owner as he's been out of the country. The item will need to be refiled.

PETITION #15-05

A request submitted by the City of Mishawaka Redevelopment Commission requesting to rezone **502 West Sixth Street** from C-1 General Commercial District to R-1 Single Family Residential District.

Ken Prince, City Planner, appeared on behalf of the Redevelopment Commission. He said this property is the former Squad's 2nd Precinct bar/restaurant that the City acquired and demolished. Mr. Prince said they are requesting to rezone the property in order to build a single family home.

Mr. Lentsch asked if this will be a Habitat for Humanity home. Mr. Prince said yes, the City is actually evolving its First Time Homebuyer Program through Habitat. He said he isn't sure if it will be a one or two story home.

Mr. Winn closed the Public Hearing on Petition #15-05.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 15-05 to rezone 502 West Sixth 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 commercial zonings to the east and southeast of this property, but the neighborhood surrounding the property is primarily residential in nature, and its proposed 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 an commercial project, staff feels that the most desirable use for this property is single-family use;*
3. *Because the parcel is located in an area of residential uses, 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,*
5. *The City's Comprehensive Plan calls for general commercial but its proposed use as a single family home is compatible and consistent with the historic residential uses in the area.*

MOTION: Victor Kasznia moved to forward Petition #15-05 to the Common Council with a favorable recommendation. Nick Troiola seconded; motion carried with a vote of 7-0.

PETITION #15-06 A request submitted by Black Gold LLC requesting an amendment to the Highlands Development Planned Unit Development for signage at the **northwest corner of Jefferson Boulevard and Byrkit Avenue.**

Dennis Murphy, Darnell Properties. 510 W. Jefferson Blvd., Mishawaka, represented Black Gold LLC who purchased the corner to develop a convenience store. He said they are requesting a slightly larger sign to accommodate the overall development. Mr. Murphy said the sign will include space for additional tenants as time progresses, but will initially be a sign for the convenience store to display gas prices and the initial tenant.

Opposition

Phil Gleissner, 1321 Highland Village Drive, Mishawaka, said he feels strongly about the whole proposal. He said this was his first meeting and has the gas station been approved by the Plan Commission. Mr. Winn said yes, it's been approved.

Mr. Prince said the Planned Unit Development allowing the use was done in 2008 and the zoning has been in place for a number of years.

Mr. Gleissner said that's why he wanted to speak. He asked why we need another gas station. There one just down the street and two miles to the east on Jefferson. Mr. Gleissner said Mishawaka needs more affordable housing. A lot of people think you are sticking the gas station in their face by building it so close to houses.

Mr. Gleissner said for a long time this corridor has been mixed development and when are we going to look at the future. We don't know what kind of fuel we'll be using and what kind of fuel stations will be needed. Mr. Gleissner said too many have gone out of business and become car lots, which we don't need more of in Mishawaka. We need affordable housing.

Mr. Gleissner said our school system is losing students all the time. We can also use the additional taxes for houses and that whole area is nice for affordable development. He said you need to put a stop to capital development in that area and invest in our future.

Mr. Gleissner said he lives in Highland Village and the houses are nice and nicer than most in Mishawaka can afford. He said we need new blood and housing and this area is where it can be developed. He's lived here for 25 years and he's not arguing for where he lives but is arguing for those who don't have houses. A quick move on the sale of the property isn't going to help Mishawaka and may even chase people away.

Mr. Winn said this petition is about signage. If you have something against the sign, please come forward about that; otherwise we'll proceed.

Kay Green, 1807 E. Jefferson Blvd., said she agrees with Mr. Gleissner. Even a big sign at the corner is making it more commercial. She said there are nice buildings along the river and she understands there will be a walking bridge across the river.

Mrs. Green also said they were told there would be housing for senior citizens and a bakery. She asked if the convenience store would be open 24 hours. Will liquor be sold? Will there be tons of teenagers hanging out there. Mrs. Green said the sign is just another thing sticking out at the corner. She said no one was notified there would be a filling station going in.

Larry Green, 1807 E. Jefferson Blvd., said we have other problems that have never been taken care of. He said there are at least 11 signs along Jefferson saying "no trucks allowed". Where he lives, trucks are constantly back and forth at all hours of the day and night.

Mr. Green also said they'll be putting lights there and he thinks Jefferson is lit up enough. He said we have a nice street now and he doesn't want this in his neighborhood. He said he is sorry he wasn't here earlier to state his opposition to this and he's sure this room would have been full. Mr. Green said he hopes the commission will think about this.

Mr. Green said they were told in the beginning there would be small stores and a restaurant; an expensive restaurant. He's not sure what happened to that. Mr. Green since Jefferson has been widened, people are trying to keep their homes up; putting up fences, and we don't need to bring any kind of what South Bend has as far as corner filling stations.

Rebuttal

Mr. Murphy said as far as the shops, they're all planned. Right after they did the original PUD the market fell apart. He said they had a tenant all lined up, a meat market, but it wasn't financially viable.

Mr. Murphy said residents within 300' were notified. Tonight they are only asking for a little larger sign. It will be a local operator and he doesn't know if it's a 24 hour operation.

Mr. Winn closed the Public hearing on Petition #14-06.

Mr. Lentsch asked Mr. Prince to clarify that they were only voting on signage and the PUD that was approved in 2008 still stands. Mr. Prince said that's correct; only voting on signage.

Staff Recommendation

Staff recommends in favor of amending the Fields at Highlands PUD to allow the following in regards to the signage for Lot 1, Jefferson and Byrkit Minor Subdivision:

- 1. To allow the development sign and the individual out lot sign to be combined into a single sign.*
- 2. To allow this sign to have a maximum 135 square feet of display area to include name of the development, name/logo of fuel brand, LED price sign, and five additional business signs.*
- 3. To allow the overall height of this sign to be 13'6", consisting of a 3' base, 9' sign cabinet, and 1'6" architectural enclosure on top.*

This recommendation is based on the following findings of fact:

- 1. Existing Conditions – Even though the site is vacant, several uses including multi-family residential, office/retail spaces, a bank with drive-up window, and a convenience/fuel center have already been approved for the site.*
- 2. Character of Buildings in Area - The character of the buildings proposed within this development and the surrounding area is commercial and residential.*
- 3. The most desirable/highest and best use – Given the parcel's location on the corner, and potentially more utilized intersection, a centralized sign is the highest and best use.*
- 4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the uses are not changing and there are still conditions put on the signage.*
- 5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for residential uses and service commercial uses.*

MOTION: Matt Lentsch moved to forward Petition #15-06 to the Common Council with a favorable recommendation. Nick Troiola seconded; motion carried with a vote of 7-0.

PETITION #15-07 A request submitted by DF Properties LLP requesting to amend the Park Plus Planned Unit Development to permit childcare services at **235 West University Drive.**

Denise Cunningham, 51180 Bridlewood Circle, Granger, appeared on behalf of the request. She said they are requesting an amendment to the Planned Unit Development to allow hourly drop-in child care. She said their services would be temporary, no more than 4 hours, for the convenience of the community to allow individuals to go shopping, have date night, and attend meetings.

Mr. McCampbell asked what the hours would be. Ms. Cunningham said Monday thru Thursday 8:00 a.m. to 9:00 p.m., Friday thru Saturday 8:00 a.m. to 11:00 p.m., Sunday for birthday parties 2:00 p.m. to 5:00 p.m.

Mr. Lentsch asked if anything will be added to the exterior of the building. Ms. Cunningham said no.

Mr. Winn closed the Public Hearing on Petition #15-07.

Staff Recommendation

Staff recommends in favor of amending the Park Plus PUD to allow the following in regards to allowing hourly, drop in child care use in the shopping center on the south side of University Drive.

This recommendation is based on the following findings of fact:

- 1. Existing Conditions – The use will be located in an existing building with other commercial uses, including a restaurant and a hair salon.*
- 2. Character of Buildings in Area - The character of the buildings proposed within this development and the surrounding area is commercial.*
- 3. The most desirable/highest and best use – Because of the parcel’s location on University Drive, the most desirable use for the property is commercial.*
- 4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the hourly, drop-in child care does not put an increase on parking with drop/off pick up routines like a traditional child care would.*
- 5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.*

MOTION: Ross Portolese moved to forward Petition #15-07 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 7-0.

PETITION #15-08 A request submitted by Toscana Realty, LLC, requesting to amend the Toscana Park Planned Unit Development to permit a hotel with maximum height of 59’, and an additional freestanding monument sign located on Gumwood Road.

Brad Mosness, Abonmarche Consultants, 715 Lincolnway East, South Bend, appeared on behalf of Toscana Realty. He said he’s pleased to present a new project, a proposed Holiday Inn Express, to be located within the development. He said the building will be located just to the east of the new building currently under construction. It will be 4 stories and have 91 rooms.

Mr. Mosness said the first step is to request to amend the Planned Unit Development for the use as well as other things such as allowing four stories or 59 feet, which by the way is the same height as the Hampton Inn in Heritage Square. He said the amendment will allow adjustments to parking calculations, again similar to Heritage Square, an additional freestanding sign on Gumwood Road for the hotel; otherwise the hotel won’t have any frontage along Gumwood.

Mr. Kasznia asked where the additional sign will be located. Mr. Mosness said the exact location has yet to be determined and will work with the City for placement during final phase of site plan approval. He also said all parking will be in front and existing parking to the east can be used as well.

Opposition

Tom Eslinger, 7514 Toscana Court, said he lives in the development to the east of the hotel. He said he wants to go on record by saying that when Great Lakes Development added the apartments and they resolved any concerns they had about them and the neighbors came out in favor. He said he isn't opposed to the plan, but opposed to turning his street into a commercial parking lot. Mr. Eslinger said he's met with neighbors and perhaps a gate being added or fence being added. He said when Villa Macri has events, people park on his street and walk thru the neighbor's yard. A gate would help with parking. He said the street is 34' wide and doesn't allow for parking on both sides of the street and 2-way traffic.

Mr. Eslinger said there have been times when the apartment hires security and they don't allow commercial parking to spill over to the apartments and sometimes it's unsafe to be on their street.

Mr. Eslinger said they have concerns and would like to see this vote postponed until the developer can meet with the residents and address their concerns.

Mr. Prince read a letter of opposition from Del Lupa, 7526 Toscana Court.

Mr. Prince also said a letter of support had been received from Jerry Macri.

Rebuttal

Joe DeCola, 112 W. Jefferson Blvd., South Bend, said he appreciates the comments. He said he originally thought about placing it closer to Gumwood Road; where the new multi-tenant building is being built. He also said the hotel will face the retail to the south.

Mr. DeCola said there are many retail and commercial establishments along that corridor and doesn't think the hotel will cause any additional noise or traffic.

Jerry Macri said he has talked to some of the neighbors and his concern is if a hotel doesn't go there, then something else that might be noisier or more destructive, such as a sports bar or bowling alley. He said he appreciates the neighbors' concerns and his concern is also traffic.

Mr. Macri said when he closed the deal with Mr. Rans they discussed putting a gate across the entrance and may build three houses this year. Part of the fence is up on the north side and they plan on doing the south side as well. This project can accelerate that and it isn't too much to ask of Mr. Rans.

Mr. Macri said the hotel will have an Italian look and he believes Mr. Rans will do a great job of making it fit.

Mr. Macri said he's been dealing mostly with the Hampton Inn in Heritage Square and most of their action is during the week with business travelers and weekends are slowest, except for Notre Dame football weekends. During football weekends, they are parking everywhere. Those times you can't help, but if the residents had a gate, that would make them happy.

Mr. Winn closed the Public Hearing on Petition #15-08.

Mr. Troiola said he appreciates the comments about security as it is a valid concern. He said he hopes Mr. Rans does come through on that request and put up the rest of the fencing.

Staff Recommendation

Staff recommends in favor of amending the Toscana PUD to allow for a hotel located within the internal non-outlot portion of the PUD with the following amended PUD developmental stands/conditions:

1. The maximum building height for the hotel shall be limited to 59-feet.
2. The total number of parking spaces for the existing commercial uses may be reduced to 4 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development.
3. An additional free-standing monument sign may be installed along Gumwood Road for the identification of the hotel subject to Staff review and approval of a signage master plan for Gumwood Road which includes signage for the outlot parcels. Signage shall comply with the overlay signage district standards.

This recommendation is based upon the following findings of fact:

1. Existing Conditions- The proposal is in keeping with the existing area by maintaining commercial uses.
2. Character of Buildings in Area- The character of the buildings located in the Toscana Park PUD is commercial. The proposed facility will be commercial in nature.
3. The most desirable/highest and best use- Due to the presence of the commercial activity in the surrounding area, the most desirable/highest use is the proposed commercial use.
4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding commercial area.
5. Comprehensive Plan- This area was not identified within The Comprehensive Plan. However, the proposed is consistent with the commercial development of the area.

MOTION: Matt Lentsch moved to forward Petition #15-08 to the Common Council with a favorable recommendation. Vic Kasznia seconded; motion carried with a vote of 7-0.

DESIGN REVIEW:

DR #15-01

A request submitted by the City of Mishawaka Redevelopment Commission requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-76 Architectural Materials and Section 105-77 Architectural Colors for the **northeast corner of Main Street**

Jeff Ballard, Danch Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Petitioners, the City of Mishawaka and Taper Lock Credit Union. He said Taper Lock Credit Union wants to build a new 2-story facility want they would like to create something with aesthetic appeal and appeal to the residential area to the east.

Mr. Ballard said their plans show a larger percentage of steel siding and the building will have earth tone colors except for two areas. The materials used are a metal fabrication which allows for less maintenance; brick and stone veneers will add to visual textures. Mr. Ballard said the two accent colors are red and grey which off sets the other colors.

Mr. Winn closed the Public Hearing on Design Review #15-01.

Staff Recommendation

It is the Staff’s opinion that the proposed façade materials are appropriate given the architectural treatment of the panels in relation the entire building. The architectural metal panels are similar to those that the Commission approved for the Hospice facility next to Central Park. The Staff recommends approval of the Design Waiver because the proposed metal panels meet the intent of the Design Review Ordinance for providing aesthetically pleasing architectural materials.

MOTION: Ross Portolese moved to approve Design Review #15-01. Don McCampbell seconded; motion carried with a vote of 7-0.

**SITE PLAN:
SP #15-A**

A request from Black Gold Ventures LLC requesting Final Site Plan approval for a 4,654 sqft gas station/convenience store to be located at the **northwest corner of Jefferson Boulevard and Byrkit Avenue.**

Mr. Prince said it’s his understanding the Mr. Shearon and Mr. Murphy discussed outstanding issues regarding stormwater retention and the drive and it would be inappropriate to approve the site plan, so it’s being continued.

PRIVILEGE OF THE FLOOR:

Phil Gleissner, 1321 Highland Village Drive, asked how long PUD’s can go before they are retired or get rescinded; is there a time limit. Mr. Prince said there is no expiration clause for PUD’s; they run in perpetuity until they are changed.

Mr. Prince said the Plan Commission has the ability to initiate rezoning, but at what point do you do that when it’s already been approved.

ADJOURNMENT: 7:49 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner