

**JUNE 9, 2015**

**PLAN COMMISSION  
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, June 9, 2015, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Dale "Woody" Emmons, Murray Winn, Don McCampbell, Nick Troiola, Victor Kasznia, and Kathleen White-Gadacz. Absent: Gary West, Matt Lentsch, and Ross Portolese. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Greg Shearon, Christa Hill, and Kari Myers.

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Mr. Winn explained the Rules of Procedure.

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The Minutes of the May 12, 2015, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PETITION #15-14** A petition submitted by Richard P. and Debra M. Dresser requesting to vacate 114.5' of the east/west alley north of **615 South Byrkit Street**.

Debra Dresser, 615 S. Byrkit, Mishawaka, presented the Petition. She said she owns two lots and the alley separates them and it gets to be a problem with people going thru that shouldn't be there. Mrs. Dresser said Mr. Lancaster is the only one that's impacted by her request and no one else on the alley has a garage or driveway off the alley. (She provided a letter from Mr. Lancaster and it was included in the packets to the Commissioners.)

Mr. Winn closed the Public Hearing on Petition #15-14.

Victor Kasznia asked Mr. Prince if there will be any requirement to block the alley. Mr. Prince said it would be their prerogative if they want it closed or not.

**Staff Recommendation**

*Staff recommends in favor of Petition 15-14 to vacate a portion of east-west alley between South Byrkit Avenue and Campbell Street. This recommendation is based on 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. Adjacent properties will still have access to property via the alley off of Campbell Street.*

- 3) *The right-of-way to be vacated 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:** Nick Troiola moved to forward Petition #15-14 to the Common Council with a favorable recommendation. Victor Kasznia seconded; motion carried with a vote of 6-0.

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**PETITION #15-15** A petition submitted by M. J. Investments, LLC, requesting to rezone **101 East Mishawaka Avenue** from C-1 General Commercial District to C-3 City Center Commercial District.

Ed Fisher, Fisher Land Surveying Services, 303 E. Third Street, Mishawaka, appeared on behalf of the Petitioner. He said this is the Root Studio building and C-3 zoning better suits the property than C-1. Mr. Fisher said someone wants to put a microbrewery in the facility.

Mr. Troiola asked how many parking spaces are located on the property. Mr. Prince said in the 20's.

Mr. Troiola asked if that was ample parking for the use. Mr. Prince said ample is questionable and nothing has been worked out with Mr. Becker regarding additional parking.

Mr. Prince said C-3 zoning requires no off-street parking and if the rezoning is approved, then no variance would be required. He said when the Design Review Ordinance was adopted in 1999, it stated a new use would be required to provide ample parking; and parking is critical.

Mr. Emmons asked if a microbrewery would fall under the same guidelines as a bar. Mr. Prince said if they are serving food, that's the distinction. He said something like Applebee's could go in; he said it's the nightclub, cabaret that's a controlled use in C-1 which has separation requirements. Staff suggested the C-3 zoning.

Mr. Emmons asked if they would have to have a liquor license. Mr. Prince said they would be allowed to apply for the reduced fee Riverwalk license as it does fall within the area.

Mr. Emmons asked if they have to abide by State law if they were brewing their own beer. Mr. Prince said there may be a separate license for brewing, but the City has no control over issuing of the liquor licenses.

Ms. White-Gadacz asked if they were planning to just brew beer or brew and serve. Mr. Prince said brew and serve.

Mr. Emmons asked what the hours of operation would be. Mr. Fisher said he didn't know. Mr. Prince said we don't control the hours of business, but he thinks it's 2:00 or 3:00 a.m.

## **Remonstrance**

Merna Holloway, 203 E. Mishawaka Avenue said she had questions relating to parking. She asked Mr. Prince to repeat and specifically address where the alley has been closed to accommodate the balcony; and it appears the alley now turns thru the parking lot.

Mr. Prince said Mr. Becker owns the two parking areas and an easement was dedicated thru the parking lot and anyone can travel thru it. He said they have about 28 parking spaces to serve the business. He said it was his understanding that they are having discussions with the owners to the east, but he's not aware of any agreement.

Mr. Prince also said they have had discussions with Mr. Becker about expanding the parking area to the south and would like for him to consider that. He said the brew pub is a great use, but are also concerned about the parking and are working on additional parking.

Ms. Holloway said she had no objection, just the questions about parking.

Brian Linson, 203 E. Mishawaka Avenue, asked if the alley was one way or two way. Mr. Prince said he doesn't know of any alleys that are designed to be one way or the other. He said it's not meant to carry much traffic.

Mr. Linson said people from that establishment would come east and go between their building on Sarah Street and he wouldn't want that much traffic. Mr. Prince said he would suggest working with the American Legion and come forward with a request to make it one-way and could then change the ordinance, but you can't do that without physically changing the ordinance.

Mr. Emmons said there was discussion that they couldn't come in or out on Main Street. He said the issue was more delivery of beer and they were going to change some posts to allow movement of the trucks.

Mr. Troiola asked if there have been any reported issues. Mr. Prince said that's reported to Engineering and he personally hasn't heard of anything.

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

## **Staff Recommendation**

*The Planning Department recommends approval of Petition 15-15 to rezone 101 E Mishawaka from C-1 General Commercial District to C-3 City Center Commercial District. This recommendation is based upon the following findings of fact:*

- 1. There are commercial zonings at all four corners of this intersection, and the proposed use as a microbrewery and cabaret 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 commercial;*
- 3. Because the parcel is located in an area of commercial uses, with its proximity to the river, and location of the building on the lot, rezoning to C-3 City Center Commercial is a desirable use for this property;*

4. *Rezoning this property to the C-3 City Center Commercial classification will have a favorable 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, therefore, rezoning is compatible and consistent with the City's Comprehensive Plan.*

**MOTION:** Victor Kasznia moved to forward Petition #15-15 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 6-0.

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**PLAT #15-16** A request submitted by School City of Mishawaka requesting approval of the two (2) lot Twelfth Street Subdivision.

Daryl Knip, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of School City. He said School City doesn't have use for this property and are splitting it off to see if there's a market for it.

Mr. Winn closed the Public Hearing on Plat #15-16.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Plat for the Twelfth Street Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.*

**MOTION:** Kathleen White-Gadacz moved to approve Plat #15-16. Don McCampbell seconded; motion carried with a vote of 6-0.

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**PLAT #15-17** A request submitted by School City of Mishawaka requesting approval of the two (2) lot Hums Elementary School Subdivision.

Daryl Knip, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of School City. He said the next two (2) items go together and the intent is to create two parcels.

Mr. Knip said this request is a plat of Hums School that School City owns. The school would be on one lot and the park on the other. Mr. Knip said Kline Street runs thru the middle and is unimproved and road right-of-way.

Mr. Winn closed the Public Hearing on Plate #15-17.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Plat for the Hums Elementary School Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.*

**MOTION:** Dale "Woody" Emmons moved to approve Plat #15-17. Nick Troiola seconded; motion carried with a vote of 6-0.

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**PETITION #15-18** A petition submitted by School City of Mishawaka requesting to vacate an unimproved Kline Street lying south of Northland Park and north of Harrison Street.

Daryl Knip, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of School City. He said this request vacates unimproved Kline Street that runs thru the above mentioned property.

Mr. Winn closed the Public Hearing on Petition #15-18.

**Staff Recommendation**

*Staff recommends in favor of Petition 15-18 to vacate a and release utility rights of a portion of Kline Street running north/south located between the Norland Park Subdivision and Twelfth Street/Harrison Road. This recommendation is based on 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 street 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:** Victor Kasznia moved to forward Petition #15-18 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 6-0.

**ADJOURNMENT:** 7:25 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner