

FEBRUARY 14, 2017

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, February 14, 2017, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Matt Lentsch, Dale "Woody" Emmons, Murray Winn, Don McCampbell, Nick Troiola, Dale Freeman, and Kathleen White-Gadacz. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

Mr. Winn explained the Rules of Procedure.

The Minutes of the January 10, 2017, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PLAT #17-04

A request submitted by Terry L. Seggerman seeking approval of the one (1) lot "The Reserve at Watermark" subdivision. *Continued from the January 10, 2017, meeting.*

Daryl Knip, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of the petitioners, Watermark Residential and the Seggermans. He said this is a one-lot subdivision that dedicates additional right-of-way on Fir Road and easements for watermain throughout the site.

Mr. Troiola asked about traffic control. Is there anything long-term we can do? Ms. Jamrose said it isn't a concern due to changes in the site plan.

Mr. Winn closed the Public Hearing on Plat #17-04.

Staff Recommendation

The Planning Department recommends approval of the Preliminary and Final Plat for the Reserve at Watermark Subdivision. This recommendation is based upon the fact that the subdivision meets all of the requirements of Section 133-73 (Preliminary Plat) and Section 133-76 (Final Plat) of the City of Mishawaka Subdivision Control Ordinance.

MOTION: Nick Troiola moved to approve Plat #17-04. Matt Lentsch seconded; motion carried with a vote of 8-0.

PETITION #17-05

A petition submitted by the City of Mishawaka and Habitat for Humanity of St. Joseph County requesting to rezone **850 and 858 East Fourth Street, 851, 852, 853, 854, 856, 858, 860, and 862 East Third Street, and 119 and 121 South Merrifield Avenue** from C-1 General Commercial District to R-1 Single Family Residential District.

Ken Prince, City Planner, appeared on behalf of the City and Habitat for Humanity. He said the properties were systemically acquired by the City over time and some had businesses on the lots. He said they were bought for the potential of a tunnel project and then builds for Habitat. Mr. Prince said Habitat has plans to build on a lot on 4th Street and the City thought now was an appropriate time to rezone all of the properties to R-1 which is the best use for these lots.

Mr. Lentsch asked if there is a timeline. Mr. Prince said the 4th Street build will be the first home for this year and the other properties will be held until such time if a tunnel project is done as they will need room for equipment staging.

Mr. Winn closed the Public Hearing on Petition #17-05.

Staff Recommendation

The Planning Department recommends **approval** of Petition 17-05 to rezone nine vacant parcels of property located within the 800 block of E. 3rd and E. 4th Street and the 100 block of S. Merrifield Avenue from C-1 General Commercial to R-1 Single Family Residential. This recommendation is based on the following findings of fact:

1. *Existing Conditions – The subject properties are located within a predominantly single-family residential area with limited adjacent multi-family and commercial uses.*
2. *Character of the Buildings in the Area – A majority of the existing buildings in the area are single-family residential structures with limited multi-family and commercial structures located along Lincoln Way East to the north and S. Merrifield Avenue to the east.*
3. *The most desirable/highest and best use - Because the parcels are located in an area consisting of primarily single-family residences, the rezoning to R-1 Single-Family Residential for the proposed and future single-family residential development is the most desirable and best use.*
4. *Conservation of property values - As opposed to the type of commercial development that could potentially occur with the current zoning classification, rezoning the parcels to the R-1 Single-Family Residential District to permit single-family residential use will have a favorable and stabilizing impact on the neighborhood and will conserve property values in the immediate and surrounding residential neighborhood.*
5. *Comprehensive Plan - The proposed R-1 Single Family Residential zoning is consistent with the City's Comprehensive Plan which indicated Low Density Residential for this area. The proposed R-1 Single Family Residential zoning classification is consistent with the existing residential uses in the area.*

MOTION: Dale Freeman moved to forward Petition #17-05 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

PETITION #17-06 A petition submitted by Margaret B. Conner requesting to rezone **1128 West Dragoon Trail** from R-1 Single Family Residential District to R-3 Multi-Family Residential District.

Courtney Figg, Quarles & Brady LLP, 135 N. Pennsylvania Street, Suite 2400, Indianapolis, IN, attorney for AHEPA who is the contract purchaser of the property. She said Todd Jensen, the rep from the developer, is also here to answer questions. Ms. Figg said they are requesting to rezone the property from R-1 to R-3 to develop an affordable assisted living facility for seniors 62 and older.

Ms. Figg said her client is a non-profit Indiana corporation and not new to affordable housing. They have 93 properties in 22 states, one in Mishawaka, Penelope 60, and Ahepa 100 in South Bend. She said this is not what is being considered for this site as this is affordable assisted living with tax credits. Ms. Figg said it does not involve HUD plus it's different because of the assisted living services offered. She said they are interested in Mishawaka due to its proximity to their other two facilities. This would be a good place for them to transition to assisted living if needed.

Ms. Figg said they currently have two facilities under construction; one in Indianapolis and one in New Albany. She said the preliminary site plan shows 136 units and probably 3 stories which would be permitted under R-3. Ms. Figg said given there is some slope on the site, there may be differentiated walk-out extra floor due to grade.

Ms. Figg said the facility will be limited to 62 and older and the average age would be 82 upon entrance; mostly elderly folks living there.

Ms. Figg said a tax credit application would be submitted within the next few months as the development process moves along.

Mr. Lentsch asked if it would be for low or mixed income. Ms. Figg said exclusively low income.

Mr. Lentsch asked if it would be a medical or social model and would they be handling medications. Ms. Figg said there will be medical assistance, but no prescribing, only reminders or assistance. She also said there would be no medical care but will have services to provide transportation to pharmacies to residents who need it.

Mr. Lentsch asked one they get tax credits approved, how long before construction begins. Ms. Figg said it's about a two month process until it's determined if the credits are issues. She said it could be two or three months after that until closing and then a year for construction. They hope to close over the summer and complete construction next year.

Mr. Lentsch asked what the chances were for getting the tax credits. Ms. Figg said if they meet the requirements, typically they are allocated. She said Ahepa has done this model and they feel their chances are strong and want to get in quickly before more changes occur. Ms. Figg also said they've met with the Housing Authority about their intentions.

Mr. Freeman asked if the plan would falter if all 136 units couldn't go in. Ms. Figg said the model considers 136 units and they are willing to adjust as plans progress. She said they probably wouldn't go higher than 136; it wouldn't make sense. Ms. Figg said this is early and they have been working with their engineers and architects as to how it will fit on the site.

Mr. Emmons asked about entrances to the property; Logan or Dragoon. Ms. Figg said at one time, they had shown an entrance off of Dragoon, but it isn't workable. She said they were looking at an entrance off of Logan and the entrance to Marion High School's athletic facility and they'll continue to work on this for the site plan.

In Favor

Mark Kirzeder, Principal Marion High School, 1311 S. Logan Street, thanked them for contacting Marion High School and said they also presented their plan at the school board meeting.

Mr. Kirzeder said the safety of their nearly 700 students is his first concern. He said the athletic facilities across the street house their athletic events and as the drive enters off of Logan there is no sidewalk, no pedestrian zone, and will have increased traffic from the employees. Mr. Kirzeder said they have students who walk to the athletic fields from school.

Mr. Kirzeder said the topography is sloped down toward the entry drive, an almost 60' differential from Dragoon to the athletic fields. He said water off the hill always has been an issue and wanted to point out that whatever drainage be addressed so no more water be dumped onto the athletic fields.

Mr. Kirzeder said timing is also an issue for the program as fall is a busy time for their programs. He also said weekends can be busy and limited accessibility is a concern and they are willing to work to operate with their timing in mind.

Mr. Kirzeder said parking is an issue for them at this location. He said when they host other Catholic schools from across town, parking fills up their lot onto the drive and almost spills onto Dragoon. He doesn't want them limiting the parking they have. Mr. Kirzeder also said that traffic on that roadway is going to be increased and who then is responsible for maintaining the driveway?

Mr. Kirzeder said they do have that roadway gated off so no one can access the fields over the weekend and will need to be relocated closer to the athletic fields. He said a clear understanding will be needed of who would be responsible for the costs.

Mr. Lentsch asked Mr. Kirzeder what were their safety concerns. Mr. Kirzeder said they were concerns for pedestrian and also what adults are going to be around the students. It's fine as long as employees aren't coming and going into their facilities.

Mr. Lentsch asked if the property belonged to Marion. Mr. Kirzeder said no, it doesn't.

Mr. Winn closed the Public Hearing on Petition #17-06.

Mr. Lentsch said he thinks it's an exemplary use for this vacant property. On top of that, the proposal is well done and we need affordable senior assisted living.

Staff Recommendation

*Staff recommends in **favor** of Petition 17-06 to rezone approximately 6.21 acres located at 1128 W. Dragoon Trail from R-1 Single Family Residential to R-3 Multiple Family Residential to allow for the construction of a 136 unit assisted living facility. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions – The subject property, located at the northeast corner of W. Dragoon Trail and S. Logan Street, is primarily undeveloped agricultural land with a single-family house and an accessory structure/barn. The adjacent roadways are lesser travelled corridors providing north-south and east-west access throughout the City of Mishawaka. Adjacent land uses include Marian High School to the west, City-owned vacant property and a capital improvements staging area to the north, Marian High School athletic fields to the east, and Sisters of St. Francis convent and Franciscan Alliance corporate offices to the south.*

2. *Character of Buildings – The adjacent properties include a limited number of existing buildings that are visible from the public right-of-way. Marian High School is visible to the west while small recreational structures and associated facilities are visible to the east. The buildings on the Sisters of St. Francis property to the south cannot be viewed from the street due to the severe change in elevation and it being heavily wooded.*
3. *The most desirable/highest and best use – Due to the property's location adjacent to various low intensity land uses, including a private school, recreational fields, convent, and corporate offices, the most desirable use of the property is a similar low intensity commercial or residential use.*
4. *Conservation of property values – The rezoning should not be injurious to property values in the area. The proposed assisted living facility and other permitted uses in the R-3 Multiple Family Residential District are compatible with the adjacent existing uses.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided industrial development within this property as an extension of the industrial zoned land to the north. However, industrial use is not ideal due to the existing adjacent uses. Since the proposed assisted living facility is less intensive than an industrial use and residential in nature, it is more compatible with the adjacent land uses and does not conflict with the goals and objectives of the Comprehensive Plan.*

MOTION: Matt Lentsch moved to forward Petition #17-06 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 8-0.

PETITION #17-07 A petition submitted by KLT Properties, LLC, requesting to amend the Gateway Plaza Planned Unit Development for various conditions for development and waiver from architectural building materials.

Tony Zappia, 52582 State Road 922 North, South Bend, appeared on behalf of KLT Properties and Todd Veldman requesting to amend the Bremen Highway Planned Unit Development. He said unlike the past two petitions, there has been a significant change. Mr. Zappia said they met with neighbors on two occasions, the City, County Engineer, and talked with reps of State and went back to the drawing board to redo. He said Mr. Veldman is reaching into his pocket and purchasing properties included in the original PUD as well as the self-storage site.

Mr. Zappia said the biggest change since 2014 is access. He said the applicant is proposing a plan to both provide short term and long term access to the self-lock storage site and other sites located within the PUD. Mr. Zappia said they are proposing to use the access drive dedicated by INDOT until a permanent road can be built. They have a proposal for a solution to provide access to the signal at Meijer at realign Elmwood Avenue to provide access to the signal.

Mr. Zappia said by way of history, the PUD was originally approved in 2006 and is at the northwest corner of Bremen Highway and US 20 Bypass and extends north to Elmwood Avenue. He said the PUD consisted of 9 properties and the original preliminary site plan showed commercial outlots along Bremen Highway and strip retail to the rear. He said the self-storage was proposed along the bypass.

Mr. Zappia said the market has spoken and 11 years have passed and nothing has happened. He said reason #1 is the market, and reason #2 being the difficulty of the access issue to satisfy all and that's why they have this proposal. Mr. Zappia said the petition includes the self-lock storage to be developed independently from the other parcels and would allow the facility to be built without signatures of other property owners within the PUD. He said they are also asking for a variance from the architectural standards for the units, but the office would comply.

Mr. Zappia said as previously discussed, one of the hurdles was providing access on something owned by INDOT. He said the City and developer have said they are willing to improve and maintain the access road and the developer expects to spend between \$30,000 and \$50,000 to improve the road until full access is developed. Mr. Zappia said the Planning Department has provided a detailed report and they concur with their recommendations. He said because of the high volume of traffic and high tension wires makes the parcel suitable for a self storage facility. He said the adjoining property is residential and zoned for commercial and the self lock storage will provide transition between the residential and commercial. Mr. Zappia said the highest and best use for the property is in fact self lock storage in light of their location near the high tension wires. Mr. Zappia said the property values will not be diminished and follows the 2000 Comprehensive Plan.

Brian McMorrow, Abonmarche Consultants, 750 Lincolnway East, South Bend, said in short, the first step is to make improvements to the north/south road, widen it to 20' and resurface it so they can accommodate traffic to the facility on an interim basis. He said they would also propose to install signage at the "T" intersection with Elmwood that

would require motorists to make the left turn. He said they could be placed to effectuate the move. He said on the outbound sign they could also add "no left turn" giving enforcement authority to monitor the movements. Mr. McMorrow said the details need to be worked out in advance or they will not happen.

Mr. McMorrow said the area in purple (shown on graphic) is the area to be acquired by the developer and then utilized for the ultimate reconfiguration of road network. He said when that happens, the balance of Elmwood Avenue to Bremen Highway would be eliminated. Also, once the internal gateway drive is constructed, access to the facility would be provided there. That's the phasing of road improvements.

Mr. Lentsch asked if the developer was willing to follow Staff's recommendation to a "T"? Mr. McMorrow said yes.

Mr. Lentsch said including access. Mr. McMorrow said yes, that's correct.

Opposition

Doug Grall, 16191 Elmwood Avenue, said the residents who oppose the amendment, there are lots of residents who couldn't attend, and everyone on that road in that area is opposed. He said Mr. Veldman has been involved since 2014 and this started in 2006. He said the developer sold everyone on the idea that the parcels would be marketed as one deal. Mr. Grall said the residents agreed and everyone was satisfied. He said the City extended water and sewer and then the developer ran out of money and then people got stuck in the PUD and were limited to what they could do with their home and the City got stuck with a large bill for sewer and water.

Mr. Grall said he hasn't had time to review the latest staff report and what he's seeing is they are asking to go ahead with making zero changes and what they are saying is in the future will continue to do this.

Mr. Grall said the plans say "by City". Is the City prepared to spend the money at this time? How much are they going to contribute? He said he doesn't think it's a good plan to start with as it doesn't separate and protect the current residents; there are no barriers and doesn't isolate Elmwood Avenue and will only increase traffic. Mr. Grall said they rarely see police and signage will not help.

Mr. Grall said that road isn't wide enough to accommodate 2-way traffic. He said Veldman was aware of the PUD before purchasing the property and he's getting tired of coming back. He said no one is opposed to the storage units; they are just not getting the separation that was promised to them 10 years ago. Mr. Grall pointed to the "green road" on the overhead and said if the developer did purchase those properties that would give them direct access to the light at Meijer and separates residential and commercial as originally planned. He said the very original planned before 2006 called for a road straight thru to Ireland Road yet somehow that road disappeared and a cul-de-sac appeared and INDOT was not happy. That road doesn't support two way traffic. Mr. Grall said an incident will happen. It's a poor plan with no teeth.

Mr. Lentsch asked Mr. Grall if he had read the conditions of the PUD. Mr. Grall said he hasn't looked at it too closely, but what he's seeing is it looks like they can build without details being worked out. No one has expressed interest to go on Bremen Highway.

Mr. Lentsch asked what is the mistake. Mr. Grall said a temporary solution.

Mr. Lentsch asked what if the access road was widened. Mr. Grall said the problem is Elmwood Avenue is 16' wide and was not intended for heavy traffic. He said the county has no plans to improve the road.

Mr. Grall said last time they were told that the County had approved it, but a neighbor had a letter from Jessica Clark and they didn't support the project. He said some residents want the road blocked and some don't, but will do it. He said no one is opposed to the storage units. What he isn't hearing is anyone willing to commit to pay for this before it happens.

Mr. Grall said the way it reads it he doesn't see a commitment; we'll work out the details later; that's why the other two owners gave up because they saw the difficulty. He said he's lived there since he was 8 years old and the problem is there's no way to separate the two uses using that road. He said if you go 100' to the east, it's a piece of cake and it involves multiple owners.

Richard Finney, 16150 Elmwood Avenue, said there are three families that get out and walk and it would be appreciated if it were separated.

Dennis Pynaert, representing his parents who live within the PUD, said they have been involved since the beginning and there have been two meetings and they never got a notice of this meeting. He said nothing has changed. They

say significant changes, but nothing has changed. Mr. Pynaert said they will still use Elmwood Avenue. He asked how sewer will get back to the self-storage facility. He said no one is stepping up to pay for this.

Dan Delgado, 16251 Elmwood Avenue, is a professional civil engineer with Lawson-Fisher and he just received the staff report and has a few issues. He said this was mentioned previously that he had an email from the County Engineer and their position has not changed and they were not in favor of it and he hasn't seen anything to show they are in favor.

Mr. Delgado said one of the things is that Elmwood Avenue is a county road, the access road is INDOT road and reading thru the information but doesn't see anything about the county road. Mr. Delgado said the City could annex Elmwood Avenue up to the access road; wasn't that the original plan, but he doesn't read it here. He said if they did that, it would take the county out of the equation.

Mr. Delgado said the second issue is the request to amend the previously approved PUD. He said the first phase must also address the reconfiguration of Meijer Drive and Elmwood Avenue and they understood that would be developed at some point. Mr. Delgado said when there's a full page of things they are amending the most significant would be the closure of Elmwood Avenue, but he doesn't see the word closure on the page and he hasn't seen a statement saying it would be closed. He said the change he sees is the closure won't happen and that's the thing that got it approved in the first place. That hasn't changed.

Jeff Zumbrun, 16362 Elmwood Avenue, said some things have changed on Elmwood Avenue. There is a 3' wide ditch and no shoulder for the 16' wide road. He said there will be rental box trucks that are going to be driving down the road and not sure if they could pass one another. Mr. Zumbrun said they already have a sign that says "no outlet" and that has not stopped traffic.

Christy Steif, 16490 Elmwood, said she doesn't want Elmwood Avenue to be a Michigan Street in South Bend with a stop light being put in too late.

Frank Unruh, 3717 Bremen Highway, said they have proposed putting the access in at the light for quite some time. He said he's had conversations with Planning and they indicated they don't intend to put that in at this time. How long will it be before it's done? Mr. Unruh said when it's done, all the traffic that comes in there will be heading toward Phil Pynaert's house. He said when the first developer came out and bought up the properties, the City went ahead and put in sewer and water and then skipped town. Mr. Unruh said the first thing the City did was put a lien against his property and he can't have the deed to his property because the City has a lien on it. He said he's paid for his property for 40 years and when the PUD went in they were promised those things would go away, but it has not gone away. How much more is he going to be stuck with? He just can't afford it. Mr. Unruh said legally, it seems the City will end up stealing his property and he can't do a thing about it. He also said he didn't know about the lien for over eight years.

Mr. Unruh said at one point, Mr. Veldman said they proposed to the residents and property owners that they should pay 25% of the infrastructure cost to develop the property back there saying it would be to their advantage; he can't afford it. He said he asked Mr. Veldman if they would get 25% of his profits and he said no. Mr. Unruh said he has no inclination to pay anything and others feel the same way. Like others have said, nothing has changed except a little color on the map.

Mr. Lentsch asked Mr. Unruh what he meant about paying to put it in. Mr. Unruh said Mr. Veldman is saying the City will pay. But the City is saying not now, maybe at some point in the future. How long before it's done so he can go ahead and put in buildings, use the road, and nothing will change because people won't use the light because it won't be developed.

John Fralish, 59590 Ireland Trail, said he lives near the intersection of Elmwood Avenue and Ireland Trail. He said the issue is the traffic going down Elmwood. Like others have said, there's no way a sign is going to stop box truck traffic from going down Elmwood Avenue. Nothing has been worked out as to a permanent plan. Mr. Fralish said it seems like if approved, they can go forward with no proposed timetable for years, putting in this permanent infrastructure and it doesn't solve anything.

Mr. Fralish said they need to separate, close Elmwood Avenue, or come off of Bremen Highway which is designed for commercial traffic. There's a reason it was approved the way it was. He said it took a significant amount of effort to get the Sheriff's office to get Rieth-Riley to not go down Elmwood Avenue and use Bremen Highway instead as they were disregarding the "no trucks allowed" signage. Mr. Fralish said the road is in poor condition and that will be a problem during construction season. He said the traffic needs to come in off Bremen Highway or separate it and he doesn't see it any other way.

Dennis Pynaert, Goshen, said you can blame his folks for this going on and they once owned 90% of this property. He said he's heard all changes this and that and they haven't done anything they've said they would do. No changes since 2006. Mr. Pynaert said you keep saying there are significant changes, but there are no significant changes.

Mr. Pynaert said the couple of people in the PUD that are for it because they're buying their property. That's the garbage they are getting and that's why they are upset and others are too. If they aren't doing the simple things, how can they do the big things? Mr. Veldman said he's going to spend \$30,000 on road improvements, Mr. Pynaert said he would spend that much on a parking lot. He said let's get this off the books. If it's developed, then good.

Tom Myers, on behalf of Don Renfrue, 16312 Elmwood Avenue, said once that development happens, that will be the only property to get access from the INDOT road. A 6' fence with evergreens on the east side of the access road to screen the residential property and proposing to use that road for access, going by the residential houses, is ridiculous to think trucks going down that road. Signs will not keep trucks out. No where to go but right.

Mr. Myers said someone mentioned sewer and water for the office and that's an expense. Obviously, they know the conditions; it was a voluntary annexation. They all agreed the properties would be sold and developed together. He said the City was required to provide services due to it being voluntary. Mr. Myers said he feels for these people.

Mr. Myers said they wanted the City to get the road from INDOT and they would do the improvements and then they wanted the City to deed the road to them after improvements. He said the property on the west side of the access road is narrower than the other lots. Once the development is done, the State would be willing to turn over to be part of that property which would have more land value. He said maybe Mr. Veldman should get the assisted living folks to buy up some of that land and make it work for everyone.

Robert Wiley, 16276 Elmwood Avenue, said this is the dumbest thing he has ever seen. There are kids playing there and riding bikes. He said he moved there 40 years ago; it was safe, you could walk your dog. Mr. Wiley said he's the type of person that if he sees something he really wants, he keeps asking and that's what they are doing. They won't wear down. Mr. Wiley asked if anyone had talked to the State about access and what they can do? Maybe explain to them and see if anyone can help? No they haven't done that.

Rebuttal

Mr. Zappia said his client met with the County Engineer who is not in favor of closing Elmwood Avenue. He said what he has heard today is that two residents from within the PUD are in opposition and the others are from the County and that's not an issue for the City to resolve, but something for them to work out.

Mr. Zappia said there will be a development agreement that would be open for public access. INDOT has provided the City with a 15 page agreement regarding the access road. The self-storage units are not a traffic generator and the road will get maybe 25 cars per day.

Mr. Zappia said Mr. Veldman has acquired the property to move the project along and will meet City requirements. He said the residents concern is with the County and traffic and this issue isn't unique to the City. This happens with City growth when it abuts the County and everyone has to try to work together.

Mr. Troiola asked Mr. Zappia what the big theme is; we're one community. Mr. Zappia said they don't want the project.

Mr. Troiola said to give them what they wanted. Mr. Zappia said they have worked with them since 2016 and they don't want it. He said they have listened and staff is recommending approval for the project.

Mr. Lentsch asked Mr. Zappia to go over the changes that have been made. Mr. Zappia said there is a list of conditions.

Mr. McMorrow said the most significant difference is INDOT willing to work out an agreement to transfer the road. Their clients contract to purchase the land necessary to extend Meijer Drive; those are critical and add to the developer's agreement with the City with timelines and steps. He said the process and steps that have been missing can finally happen.

Mr. Lentsch asked what is the timeline. Mr. McMorrow said the process will follow after this. He said they need to go to the Redevelopment Commission and Board of Public Works and Safety and will continue to work with Planning. All will be public hearings. This is just the first step to hammer out those details.

Mr. Troiola asked Mr. Prince if he had been in contact with the County. Mr. Prince said the issue is when INDOT created the access, it wasn't done well. He said then they had a developer who was disingenuous, then the recession

and then the market fell out. Mr. Prince said we've been dealing with these properties for over a decade and there is no one developer who will take them all. It won't happen.

Mr. Prince said yes, he contacted Jessica Clark via email and relayed the plan and asked for her input on a temporary and permanent access. He said from a Planning standpoint he feels Elmwood Avenue should be continued. He said he has no objections if the County said to close it off. Mr. Prince said we've indicated a willingness to contribute to the process but can't do without amending the PUD and there's no point to develop an agreement and this is the first step. He said he believes improvements will be greater than \$250,000 and they have to identify sewer and see how it works with the other parcels. Mr. Prince said the access will protect Pynaert's property and he can live there forever, but makes it valuable in the future. He said this plan creates potential for further development

Mr. Prince said for whatever reason, they couldn't work out access from the adjacent neighbors and the agreement would be to spend \$30,000 to \$50,000 for improvements for a temporary access that serves no future purpose other than to provide a better driveway for those who live there. He said when the storage unit goes in, they will have to provide landscaping. Mr. Prince said the neighbor's issues are the access and they need to determine if it's appropriate. If it doesn't happen, then will wait for a developer to come along and develop the whole thing.

Mr. McCampbell asked if all this is being done, will the lien against Mr. Unruh's home go away. Mr. Prince said he doesn't know as we don't let that happen anymore. He said now when property is annexed, the onus is on the developer and in this case the developer made the commitment, utilities were installed, and he sold the City a bill of goods. That's why the lien went against the properties. He said there were hard feelings involved. It didn't start with the City, but we made it worse. Mr. Prince said it wouldn't happen in the future, but can't address what happened in the past.

Mr. Unruh said he might as just as well walk away from his property because it's gone. Mr. Prince said he understands his point; it isn't right how it happened.

Mr. Unruh said he can't do anything with his property and wasn't told that the lien goes up 5% every year. Ms. Jamrose said others are also stuck with the bill. She said it "sunsets" within 15 years and it's getting close to that time now.

Mr. Winn closed the Public Hearing on Petition #17-07.

Staff Recommendation

Staff believes that although the short term access is not ideal, we believe the overall plan as presented serves both the long term public and private interests and should be approved at this time subject to the following conditions. These conditions shall both modify and be in addition to the conditions of the original planned unit development:

1. *The self-storage component of the PUD shall be permitted to proceed as the first phase of the planned unit development without the approval and written consent of all property owners within the Planned Unit Development subject to the completion of following prior to starting construction:*
 - A. *The Developer of the self-storage component shall provide design development level drawings of the proposed extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the Developer's petition, subject to the review and approval of the City of Mishawaka Director of Engineering. The drawings need to identify the right-of-way necessary for the completion of the project including grading, utilities, storm drainage, and other associated improvements.*
 - B. *The Developer shall obtain and dedicate all necessary additional right-of-way and easements to allow for the extension of Meijer Drive and re-alignment of Elmwood Avenue as depicted in the developers petition.*
 - C. *The Developer shall prepare and submit a development agreement proposal for the review and approval of both the City of Mishawaka Redevelopment Commission and the City of Mishawaka Board of Public Works and Safety. The agreement shall include the estimated timing and phasing of the road re-alignment as well as the acquisition, use, and improvement associated with using the current INDOT created access road currently located in unincorporated St. Joseph County. This agreement shall be approved at the sole discretion of the City of Mishawaka Redevelopment Commission and Board of Public Works and Safety. This condition is in no way intended to commit or bind either the Commission or the Board relative to any matter contained herein.*
 - D. *If temporary access is provided to the self-storage component, as part of the development agreement or other legal instrument, the developer shall waive any legal or implied right to the land associated with the temporary access drive once the permanent access as proposed is extended to the north property line of the developer's site.*

2. *The Architectural standards for the PUD shall only apply to the office component of the self lock storage. The storage units may be constructed out of all metal siding and roofing, but shall meet all other applicable architectural standards.*

Staff recommends the approval of Petition #17-07 to amend the Bremen Hwy/Gateway Plaza PUD subject to the staff recommended conditions. This recommendation is based on the following findings of fact:

1. *Existing Conditions - The subject parcel is located on Bremen Highway at the intersection of the US 20 By-Pass. The high volumes of traffic, high tension electric wires and the lack of immediate access make this parcel suitable for a self-lock storage use.*
2. *Character of Buildings in Area - The character of buildings surrounding the parcel are currently residential in nature. The area adjacent to Bremen Highway is zoned for higher intensity commercial uses. The proposed self-lock storage units will provide for a transitional use between the residential and more intensive commercial uses planned for along Bremen Highway.*
3. *The most desirable/highest and best use – With the property’s location along the US 20 By Pass and high tension power lines, the most desirable use for the property is a low intensity commercial or industrial storage use.*
4. *Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed development site will be disconnected from the adjacent residential uses long-term both by access and by screening with landscaping and fencing.*
5. *Comprehensive Plan- This property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan, the proposed self-lock storage use is reasonably consistent with that guided use.*

MOTION: Matt Lentsch moved to forward Petition #17-07 to the Common Council with a favorable recommendation. Dale “Woody” Emmons seconded; motion carried with a vote of 5-3 (Winn, McCampbell, Troiola).

PETITION #17-08 A petition submitted by Habitat for Humanity of St. Joseph County requesting to rezone two (2) vacant lots adjacent and **east of 1612 Lincolnway East** from C-1 General Commercial District to R-1 Single Family Residential.

Brian McMorrow, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Habitat for Humanity. He said earlier this evening at Board of Zoning Appeals they approved a front setback variance for Habitat to develop these properties for future homeowners. This request is to change the zoning to residential.

Mr. Winn closed the Public Hearing on Petition #17-08.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 17-08 to rezone two (2) lots adjacent to 1612 Lincolnway East 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 of this property, but the neighborhood surrounding the property is primarily residential in nature, and its proposed use as two single family dwellings 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 low density residential which is compatible and consistent with the historic residential uses in the area.*

MOTION: Don McCampbell moved to forward Petition #17-08 to the Common Council with a favorable recommendation. Mr. Troiola seconded; motion carried with a vote of 8-0.

SITE PLAN:
SP #17-A

A request submitted by Waterman Residential seeking approval of the "Reserve at Watermark" multi-family apartment complex located at 53555 Fir Road. *Continued from the January 10, 2017, meeting.*

Daryl Knip, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Watermark Residential. He said they are asking for final site plan approval and have been working with Engineering and Planning on the details; particularly on the decel lanes and access.

Staff Recommendation

*Staff recommends that the request for final site plan for The Reserve at Watermark – a multiple family residential apartment complex consisting of 29 apartment buildings with 290 apartment units, a club house, and maintenance/dog wash building - 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: Dale "Woody" Emmons moved to approve Site Plan #17-A. Don McCampbell seconded; motion carried with a vote of 8-0.

OLD BUSINESS:

Mr. Prince said last month the Commission voted 4-4 on Design Review #17-01 which was the mural on Mr. Nicholas's wall. He said Counsel has indicated we could consider the item with a motion to renew. Mr. Prince said his personal preference is that every petition deserves an up or down vote. Right now the Commission has one vacant seat and asked if they would be willing to renew or continue to the next meeting.

ADJOURNMENT: 8:50 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner