

MAY 15, 2018

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, May 15, 2018, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Dale "Woody" Emmons, Don McCampbell, Murray Winn, Nick Troiola, Chris Tordi, Dale Freeman, and Kathleen White-Gadacz. Absent: Matt Lentsch. In addition to members of the public, the following were in attendance: David Bent, Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

Mr. Winn explained the Rules of Procedure.

The Minutes of the April 10, 2018, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #18-12 A petition submitted by Brittany Conard requesting to rezone **1111 Webster Street** from I-1 Light Industrial District to R-1 Single Family Residential District.

Brittany Conard, 3617 Vistula Road, Mishawaka, said she has accepted an offer on the house and the buyer is requiring it be rezoned to R-1 so they can close on the property.

Mr. Emmons asked if Ms. Conard would live there. Ms. Conard said no, she's selling it.

Mr. Winn closed the Public Hearing on Petition #18-12.

Staff Recommendation

*The Planning Department recommends **approval** of Petition #18-12 to rezone 1111 Webster Street from I-1 Light Industrial 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 an industrial 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 industrial 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 identifies the area as Industrial, but its historical use as a single family home is not inconsistent with the Plan.*

MOTION: Dale Freeman moved to forward Petition #18-12 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

PETITION #18-13 A petition submitted by James J. and Joyce L. Vance requesting to rezone **421 South Capital Avenue and 501 South Capital Avenue** from C-1 General Commercial District to R-1 Single Family Residential District.

Jim Vance, 71093 Dawn Drive, Union, MI, said his mother passed away a few weeks ago and his father last year. He has Power of Attorney.

Mr. Vance said the property was Vance Refrigeration for 50-60 years and they want to convert them back to single family residential as financial institutions are not loaning money on residential uses zoned commercial. Felt it would be easier to sell.

Mr. Prince read a Letter of Remonstrance from Dale Kilgore (no address provided).

Mr. Winn closed the Public Hearing on Petition #18-13.

Staff Recommendation

*The Planning Department recommends **approval** of Petition #18-13 to rezone 421 S. Capital Avenue and 501 S. Capital Avenue to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:*

1. *The zoning in the immediate vicinity is R-1 and the structures are residential in use. The two properties historic uses as single family dwellings would be compatible to the area;*
2. *Use and value of the area adjacent to the properties 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 these properties are their historical single-family use;*
3. *Because the parcels are located in an area of residential properties, the rezoning to R-1 Single-Family Residential is a desirable use for these properties;*
4. *As opposed to the range of potential commercial development that could occur with their current zoning, rezoning these parcels 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 homes; and,*

5. *The City's Comprehensive Plan identifies the area as Low Density Residential and their historical use as single- family homes is consistent with the Plan.*

MOTION: Don McCampbell moved to forward Petition #18-13 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 8-0.

PETITION #18-14 A petition submitted by the Donald and Patricia Cressy Foundation requesting to rezone vacant land **west of and adjacent to 906 West Edison Road** from C-1 General Commercial District to C-4 Automotive Oriented Commercial District.

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Cressy Foundation and their request to rezone property east of 1030 W. Edison Road from C-1 General Commercial to C-4 to allow for a stand-alone car wash facility. He said the property has been vacant for years and several years ago Family Express opened a site at the corner and Cressy is ready to move forward with development of this property.

Mr. Freeman asked if it was the same owner as Family Express. Mr. Shearon said no, the owner is Cressy Foundation and a different entity.

Opposition

Raphael Omerza, Corporation Counsel, Family Express, Valparaiso, IN, said when they entered into an agreement with Cressy the property was intended for C-1 uses and the access was put in based on C-1 uses. He said by rezoning to C-4 all uses having a higher volume and the results would overburden this access easement. They never anticipated this much traffic.

Mr. Omerza said the second issue they have is a safety concern generated by the use of this property. He said when the easement agreement was contemplated, it was agreed to move traffic to the north of the property. Mr. Omerza said they have a strong tendency to believe there will be a traffic bottleneck and when drivers encounter a situation that is difficult, they will find a different route. Now you have a safety concern with the bottleneck and feel consumers will have trouble getting into the store.

Mr. Omerza said the third issue is the 30' wide easement and it's not a blanket easement. He said the reality is that folks will come out and take a right and not go to the north, but cut through their property to get to an exit.

Mr. Troiola said he finds it interesting he would think they would find more traffic means more business, but he gets it.

Ms. White Gadacz asked if the easement was the only access point. Mr. Omerza said it's the only one he is aware of. There is access to the north of the property. He said they believe the first issue by changing the zoning to a much higher traffic volume creates an overburden of the easement and that is really valid.

Ms. White Gadacz asked Mr. Omerza if Family Express has a car wash. Mr. Omerza said yes they do.

Rebuttal

Mr. Shearson said regarding the comment about the use being higher traffic, being zoned C-1 almost any commercial development could go there that would have much higher use than a car wash. He said look at Portillo's, they have more than this facility.

Mr. Shearon said as far as easements go, when Family Express came in, the easements were established to allow safe entry and exit onto Edison Road. There is only a "right-in" between the two properties and will go to car wash or Family Express and most likely exit to the east onto Edison. He said he talked to the client and if it makes any difference, they would be willing to mirror the site plan so that the car wash is on the east side of the property.

Mr. Prince said the fundamental point beyond the use in terms of the overall circulation in the development, any traffic coming from the north will be directed through Family Express and not the transportation system. He said if you mirror the site, wouldn't you provide access point in the middle?

Mr. Shearon said that's a site plan question and can look at during that process. He said the way that stacking is needed, that amount is needed for that.

Mr. Prince asked couldn't you flip the entire site and put only access on top?

Ms. Jamrose asked if customers got out of their car while car is being washed. Mr. Shearon said no, the customer stays in the car.

Mr. Winn closed the Public Hearing on Petition #18-14.

Mr. Tordi asked, in Mr. Prince's opinion, is the entrance/exit easement overburdened. Mr. Prince said he doesn't want to get into a site plan issue when it's a zoning issue. He said he doesn't think C-4 overburdens it, but does think Family Express has a point about how easements were laid out. Even if the zoning goes through, the developer needs to address the issues.

Mr. Prince said Family Express had an opportunity to exclude certain uses from going in next to them when the easements were negotiated and they didn't do that. He said in short, staff is recommending in favor of the rezoning, but needs certain items addressed.

Staff Recommendation

*Staff recommends in **favor** of rezoning Petition 18-14 to rezone approximately 1.5 acres located east of 1030 W. Edison Road from C-1 General Commercial to C-4 Automobile Oriented Commercial to allow for the construction of a carwash facility. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions – The subject property consists of a vacant parcel of land located near the intersection of W. Edison Road and Hickory Road. These arterial roads are highly travelled corridors providing major north-south and east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include a vacant parcel zoned for commercial use to the north, a recently developed convenience store with gas station and car wash to the west, a government office and commercial/retail use to the south, and a bank to the east.*
- 2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial.*

3. *The most desirable/highest and best use – Because of the parcel's location and the existing commercial development along W. Edison and Hickory Road, the most desirable use for the property is commercial.*
4. *Conservation of property values – The proposed rezoning should not be injurious to property values in the area. The proposed carwash facility use and other permitted C-4 Auto Oriented Commercial uses are compatible with the adjacent existing uses.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.*

MOTION: Kathleen White-Gadacz moved to forward Petition #18-14 to the Common Council with an unfavorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 7-1 (Jamrose).

REPLAT #18-15 A request submitted by the Foundation for the Center for Hospice & Palliative Care, Inc., seeking approval of the three (3) lot Center for Hospice Subdivision First Replat.

Mike Wargo, Chief of Operations for Center for Hospice Care, said they own the property located at the corner of Comfort Place and Cedar Street. He said as part of their development agreement with the City several years ago, they agreed to construct at least one residential home to be sold to someone at some point in the future. Mr. Wargo said they are ready to move forward and have done the investigation and have concluded they could build 2 homes and they believe they can increase the value of the neighborhood by doing so.

Mr. Wargo said they have done their investigation and they concluded they could build two homes and want to build the two story home first and at some point, a ranch style home on the lot near the corner. The third parcel, right near the corner, is for the Center for Hospice Care sign.

Mr. Wargo said that Chris Chockley with Jones Petrie Rafinski is here to answer any questions regarding the replat.

Mr. Emmons asked if the two-story home would be the first to be built. Mr. Wargo asked Mr. Emmons to think about the homes that are there now. The single story home will have a higher roof line.

Mr. Emmons said they were changing the aspect of the neighborhood and thinks the one story home will be wart in the neighborhood and thinks it's wrong; perhaps a story and a half home would work better.

Mr. Wargo said Helman Secrist has been their architect for the whole project and they have a lot of experience in designing homes that will fit into the fabric of the area. He said from a look standpoint, most homes in the area were built in the 1920's and they want to fit into the fabric of the neighborhood.

Mr. Emmons said he thinks you need to keep with the landscape of the neighborhood. He asked Mr. Wargo if he had spoken with the neighbors. Mr. Wargo said yes, they had a

neighborhood meeting and shared plans and showed renderings of the proposed homes. He said they were in agreement and comfortable with what they were going to do. They saw the renderings and liked them. Mr. Wargo said one negative comment was they would drive up property taxes as they are looking at homes being likely higher than what you would ordinarily expect in that neighborhood and they may open up development along Cedar Street and would like a triangle area like near Notre Dame where the old motor pool area was.

Mr. Emmons asked about the price point. Mr. Wargo said an appraisal came back using comparable properties in the neighborhood and have \$325,000.00 for the two-story and doesn't really have a number for the one story, but less than \$300,000.00, but more in the \$260,000.00 range.

Mr. Wargo said those appraisals were based on comparable homes selling around the Mishawaka area and a lot of older homes that may have gone for much higher than planned. He said when looking at new homes there aren't a lot of comps except for higher end homes. Mr. Wargo said they don't think someone would pay that, but it is what a bank would be willing to loan.

Chris Chockley, Jones Petrie Rafinski, 325 S. Lafayette Blvd., South Bend, said one of the things he wanted to mention was that prior to this meeting they met with the Board of Zoning Appeals and were approved for setback variances so the homes would fit within the fabric of the neighborhood. Side yard setbacks were approved for 3', but face to face would be 10'. They'll also have 18' behind the garages to park cars.

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

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for the "Center for Hospice Subdivision First Replat" pending minor revisions to the plat. A revised plat must be submitted prior to being recorded. This recommendation is based upon the fact that the replat meets all of the requirements of Section 133-107 (Preliminary Replat) and Section 133-110 (Final Replat) of the City of Mishawaka Subdivision Control Ordinance.*

MOTION: Don McCampbell moved to approve Replat #18-15. Chris Tordi seconded; motion carried with a vote of 8-0.

SITE PLAN:

SP #18-B A request submitted by Gumwood Acquisitions, LLC, seeking final site plan approval of Grandview – Phase II.

Brian McMorro, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Gumwood Acquisitions, LLC. He said they came before the Commission in January to amend the Planned Unit Development.

Anson Keller, architect with DKGR, 10 W. Market Street, Indianapolis, said they were trying to develop a modern aesthetic and created depth in the façade by bumping some parts out, using brick on lower stories and a variety of other materials to break up the face. He said the design will be very welcoming and modern especially with the use of the materials.

Mr. Keller said the eastern building will include retain and some structured parking underneath some of the apartments. The restaurant will have a rooftop deck area and a mezzanine level.

Mr. McCampbell asked if the parking would be for residents only. Mr. McMorrow said they have a mixed parking plan that will support both. He said there will be some private garages and some, but not quite enough for every single unit on eastern building, however, parking is more than adequate for use of the site.

Mr. McMorrow said what they have tried to do with the design, in a north/south direction that will connect Phase 1 with entry feature of the south. It aligns with Heritage Square signalized intersection. They will also fill in any gaps in the sidewalk that comes down from Granger.

Mr. McMorrow said they will work with Engineering on the grease traps. Also working with them on details in particular that will do away with underground water retention, but will have a surface amenity.

Mr. McMorrow also said they are working with the Water Development and they think it will be a win-win proposition. He said they'll relocate water main from the wellfield and work with Water to construct an east/west connection.

Mr. McMorrow said they have had an opportunity to review the balance of comments and should be revising and resubmitting within the next few days.

Staff Recommendation

*Staff recommends that the request for final site plan for phase two of the Grandview PUD – a mixed-use development consisting of two (2) three-story and two (2) four-story buildings with 178 residential units, 18,800 sq. ft. of commercial/retail space, and enclosed parking - be **approved**. A revised plan set addressing all departmental review comments shall be provided prior to recordation of the plans. This recommendation is based on the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan approval.*

MOTION: Kathleen White-Gadacz moved to approve Site Plan #18-B. Nick Troiola seconded; motion carried with a vote of 8-0.

ADJOURNMENT: 7:50 p.m.

Kenneth B. Prince /s/
Kenneth B. Prince, City Planner

Kari Myers /s/
Kari Myers, Administrative Planner