

JUNE 8, 2021

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, June 8, 2021, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Murray Winn, Chris Niedbalski, Matt Lentsch, Chris Tordi, Dale Freeman, Kathleen White-Gadacz. Absent: Dale "Woody" Emmons and Nick Troiola. In addition to members of the public, the following were also in attendance: David Bent, Derek Spier, Christa Hill, and Kari Myers.

Mr. Lentsch explained the Rules of Procedure.

The Minutes of the May 11, 2021, meeting, were approved as presented.

Conflict of Interest was not declared.

PUBLIC HEARING:

PLAT #21-04 A request submitted by RUDRA Twenty-six, LLC, seeking approval of the one (1) lot "Rudra Lincolnway Minor Subdivision."

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Boulevard, South Bend, appeared on behalf of the applicant. He said Mr. Patel was also present.

Mr. Huber said this is to combine the two lots that were recently rezoned to match the C-1 zoning. The plat combining the lots is the next step in the process and we will be back next month for site plan approval.

Mr. Huber said it will be a small laundromat with 10 parking spaces and office. He said there were some comments by Planning and Engineering and they are good with that as they are using access on Byrkit.

Mr. Lentsch closed the Public Hearing on Plat #21-04.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Plat for the "RUDRA Lincolnway Minor Subdivision". An executed plat must be submitted prior to being recorded. This recommendation is based upon the fact that the subdivision plat 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: Dale Freeman moved to approve Plat #21-04. Chris Tordi seconded; motion carried with a vote of 7-0.

PETITION #21-07 A petition submitted by Triple "J" LLC requesting to amend the University Marketplace Planned Unit Development, **7207 Grape Road,**

Granger, (former J.C. Penney Home Store) to allow an automobile dealership and service center.

Chris Sotos and Steve Panko, Key Development Partners, 515 N. State Street, Chicago, IL, and Bob Rogacki, Ridgeland Associates, One Riverside Drive, Riverside, IL, appeared on behalf of the Petitioner, and said they were under contract to acquire the property and have a prospective tenant. Mr. Sotos said it is a high-end electric automobile, solar power, and renewable energy tenant and they are proposing to keep the existing building. The building section to the west will be demolished and all pavement will be repaired or a complete replacement. He said landscaping will be improved. He said staff asked to increase and create a hedgerow along the west side of the property.

Bob Rogacki, Ridgeland Associates, said the top elevation (shown on overhead) is existing and the lower one is what is being proposed. They will be adding doors and a canopy. The main building body will be grey, white around the entry with a red canopy. The intent is not to increase the height or sqft and will re-use as much as they can.

Richard Gerdeman, Wolpert, 1850 S. Myers Rd., Oakbrook Terrace, IL, said the existing site consists of asphalt pavement that has degraded and will replace and overlay as needed. He said there happens to be drywells there that may not be performing. If so, they will motify as necessary. Mr. Gerdeman said staff has recommended screening and they have no problem abiding by those conditions.

Mr. Winn asked what portion of the building will be showroom and what portion will be service. Mr. Sotos said a substantial amount will be service, approximately 24-25,000 sqft.

Mr. Winn said he assumes they will have exterior viewing of the vehicles. Mr. Sotos said there will be several inside of the building with other solar and electric accessories.

Opposition

Nathan Hoover, 52856 Timberland Drive, Granger, said he is concerned the property owners within 500' the west side being used for vehicular traffic. The fence behind him is translucent and is concerned about the environmental side of it. His bedroom faces the parking lot.

Kris O'Dwyer, 16590 Arthur Street, Granger, said her main concern as an auto dealership being in a residential area there are high lights. Her property borders the rear of the property and she doesn't want it lit up like the daytime and she would like that addressed.

Ms. O'Dywer said she is concerned about noise coming from the service area. She hears they mainly will be a few cars inside, but the night and lighting and noises that she is concerned with.

Rodney Waters, 52930 Timberland Drive, Granger said they live on the west end of the property. He said his bedroom will be 200' from the closest light. He said their back yard is dark and they love it; it is secluded and they love it. Mr. Waters said they have family and friends that come over and think it's a state park because it's so dark. He said they like to have campfires at night and the grandkids love it.

Mr. Waters says Gurley Leep looks like it's daytime during the night and thinks property values will drop drastically. Lights will draw more bugs and the winter snow will increase the intensity of the lights. They love their dark back yard. He said this isn't the place for a car lot. Mr. Waters said they have lots of wildlife and many of the night animals will

disappear with the light. He asked if there would be a wildlife study done before adding all of these lights?

Mr. Water said he's been there 11 years and J. C. Penney was a good neighbor and their lights stopped at 8:00 p.m. A retail business would be great. Cars bring in lots of people who want to steal cars.

Gillian Kruse, 52811 Timberland Drive, Granger, asked what will they do with the fluids from the cars? Where will they be going? She said they have a septic and well system and asked if they will dump it in the ground. Mrs. Kruse said her husband used to work at a truck stop and they used to throw their fluids under the rug. What will it do to their water table?

Mrs. Kruse asked if they would have so-called "machinery"? Will there be folks coming in at all hours of the night or will they be restricted to a certain time frame?

John Sparre, 52929 Timberland Drive, Granger, said when this was brought to light mailings went out to 300' and he made copies and canvassed the neighborhood. He said he passed out 20 copies and no one was in favor of it. He said the majority of them that live there enjoy the lack of street lights. It's an old growth forest area. The trees provide a lot of filtration of light and cools off their lots; trees produce oxygen.

Mr. Sparre said there is also an issue of attraction of people to the neighborhood and is relatively crime free and they certainly doesn't like the possibility of heavy truck traffic unloading vehicles. Trucks come and go at all hours of the night and cars being towed in make noise.

Mr. Sparre said solar power vehicles have reliability issues as well and they make a lot of noise. He also referenced a sleep study and people need proper rest. He said when there was a restaurant on the property, the neighbors would get woken up by garbage trucks at 4:00 a.m. and he thinks the whole commercial annexation of the property by the city disrupted the continuity of the neighborhood. Mr. Sparre said he thinks all of them would rather see housing go in.

Mr. Sparre said nationwide, there is a commercial real estate collapse. Elon Musk admitted there is little demand for electric vehicles and a lot of his money has come from federal money and he doesn't think it will be long lasted.

Mr. Sparre said people don't have money to put gas in new vehicles.

Mr. Sparre said it seems like many people didn't have knowledge of this.

Mr. Lentsch said advertising and notification is in compliance with state law and we actually go above and beyond state law by mailing notifications to property owners within 300', which is a courtesy.

Mr. Sparre said he enjoys getting up early and watching the sun rise. He thinks lights are ridiculously bright anymore. He also feels in the past several years that dealerships have been vandalized and something like this may bring questionable people around. Mr. Sparre said people will take test drives and look at their nice houses and maybe come back later to steal from them and they don't want this to bring bad people into their neighborhood.

Juel Kruse, 52796 Timberland Drive, Granger, said she wanted to comment they love this area and they don't need this. She said she is at the dead end and has lived there since 1974. Their daughter lives across the street and the son lives down the street. She said they have great neighbors and want to keep it that way.

Danielle Smith, 52900 Timberland Drive, Granger, said she just moved there 3 years ago. She said everything the others have said she agrees with. Light and noise pollution are a concern.

Rebuttal

Mr. Sotos first addressed the screening of the property. He said there is a fence on the northern border that will be maintained and replaced as necessary.

Mr. Sotos said there has been lots of discussion about landscaping and views. They have proposed adding a significant amount of landscaping. He said staff has asked to add a hedgerow along the east and they are not detracting from what is there now. It's a very old, vacant store.

Mr. Sotos said regarding lighting, the J.C. Penney store was open until 9:00 p.m. and it would not be unusual to be open later during lights and lights are on later after employees leave. He said this use will be closed by 7:00 p.m. so the replacing and adding new lights to be modern, they anticipate concerns will be less because hours in the evening will be less. All lighting will have 90 degree cut-off to avoid spillage onto neighboring properties.

Mr. Sotos said hours of operation are typically 8:00 to 5:00 or 8:00 to 7:00.

Mr. Sotos addressed questions about environmental impacts. He said there are no oils used, no transmissions; an environmental friendly use. In addition, there will be some delivery of parts and some retail product drop off, but that will be much less than what a typical J.C. Penney store would have which had consistent deliveries during the week. He said environmentally speaking, this is a much more favorable use than what was previously there.

Mr. Sotos said service is by appointment only and random cars will not be dropped off at all hours; it's not a showroom where folks drop in unannounced. He said these vehicles are high end and all these locations have very much improved exterior and interiors and relative to property values, they suspect by having a high end use replacing a vacant building he feels the neighbors will enjoy the enhanced site.

Mr. Sotos said there will be no fluids, no need to lube wheel bearings. He said if you are familiar with combustion engines with lubricants and such; these vehicles do not need such. There is no transmission so there is no need for oil changes.

Mr. Lentsch closed the Public Hearing on Petition #21-07.

Ms. Gadacz said her concern would be lighting at night. She asked if he was saying there are no lights at night as most car lots have lights on all night long.

Mr. Sotos said this is not a typical car lot where they sell cars out of their lot. There is typically a showroom to sell vehicles and solar power items. There will be modest lighting for safety and this will not have a brightly lit showroom.

Staff Recommendation

Staff recommends **approval** of Petition 21-07 to amend part of the University Marketplace Planned Unit Development (PUD) to allow an automobile dealership and service center subject to the following conditions:

1. Permitted uses shall be amended to include an automobile dealership and service center.
2. A 5' minimum pavement setback shall be maintained along all interior property lines where the existing pavement is 5' or greater from the property line.
3. A 0' pavement setback shall be permitted along all interior property lines to match existing conditions where pavement is 5' or less from the property line. The existing pavement can be replaced but shall not extend nearer to any adjacent interior property line.
4. Additional overstory or understory trees shall be provided along all property lines and within the interior parking lot landscape islands at rate compliant with commercial landscaping and screening regulations. New trees will not be required along property lines where the existing pavement prevents additional plantings.
5. Existing tree rows and opaque fence shall be maintained along the north property line north of the building and along the west side of the access drive from W. Cleveland Road. If sections of the fence are in disrepair, they shall be replaced or a new 7' high fence installed along the entire property line, if deemed appropriate.
6. A solid evergreen tree row shall be provided along the east property line extending south to Thrush Street.
7. One new freestanding sign shall be provided within the southeast corner of the property along Grape Road. Directional signage shall be permitted at the both the Grape Road and W. Cleveland Road access drives. All signage shall conform to the height and display area requirements for the C-4 Automobile Oriented Commercial District.
8. Freestanding off-premise signs shall not be permitted.
9. Public address systems shall not be permitted within the parking lot.
10. The extension of all utilities to the site shall be at the developer's cost and expense.
11. All site lighting shall be limited to 25' in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
12. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed three-footcandles as measured along property lines abutting residentially zoned property or at the residential property lines on the east side of Grape Road.
13. Building materials and colors shall comply with the C-4 Automobile Oriented Commercial District
14. Roll-up / vehicle access doors shall not be permitted on the east side of the building.
15. All other development regulations not specified shall adhere to the C-4 Automobile Oriented Commercial District.

The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently developed with a two-tenant commercial building, large parking area, and access drives to Grape Road and W. Cleveland Road. Adjacent uses include vacant property zoned for multi-family residential use and a single-family residence to the north; a building contractor's office and single-family residential houses to the west; a vacant restaurant and multi-tenant commercial building to the south; and a liquor and tobacco retailer, vacant land, and single-family houses to the east. The property is located at the northern edge of the Grape Road commercial corridor.

2. *Character of Buildings in Area – The buildings along the Grape Road and W. Cleveland Road corridors are primarily single and multi-tenant commercial/retail buildings including University Park Mall, a large regional shopping center. Low density single-family residential properties are located to the west, north, and east.*
3. *The Most Desirable/Highest and Best Use – Due to the property's location at the northern edge of a highly travelled commercial corridor, the most desirable use of the property is for continued commercial use. The proposed use is similar to those currently permitted on the property which include offices, retail shopping, churches, and a children's indoor/recreational activity center. With the existing and proposed landscaping, screening, and lighting requirements, the proposed use will be compatible with the existing adjacent land uses.*
4. *Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area based upon the conditions included in this amendment and the C-4 Automobile Oriented Commercial District development regulations. Currently, commercial land uses, including similarly intensive uses than those proposed, are permitted within the portion of the PUD being amended.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for general commercial development (retail sales and shopping centers) as currently exists to the south and east.*

MOTION: Dale Freeman moved to forward Petition #21-07 to the Common Council with a favorable recommendation. Chris Tordi seconded; motion failed with a vote of 4-3 (Winn, Niedbalski, White-Gadacz). The Petition is forwarded to the Council with *no recommendation*.

PETITION #21-08 A petition submitted by Smita Patel requesting to rezone part of **2754 Lincolnway East** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District to allow a restaurant with drive-thru.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd, South Bend, appeared on behalf of the Petitioner. He said this request is to rezone a portion of the lot next to Mishawaka Inn to C-7 to allow for a drive-thru restaurant use; about a one acre parcel. Mr. Huber said as noted, the restaurant is compatible with the neighboring uses and the comprehensive plan.

Mr. Huber said last year it was proposed to rezone for a gas station and that didn't happen. He said they have had significant discussion with INDOT for access and will be utilizing the existing shared access. Mr. Huber said they are working to shorten the median and committed to some traffic improvements as well.

Mr. Winn asked Mr. Huber if he knew if the access drive is state controlled because it goes back to the park. Ms. Jamrose said it not a Mishawaka road.

Mr. Winn asked what is the estimated number of vehicles per day thru the restaurant that will increase the use of that spot. Mr. Huber said he doesn't have that number off the top of his head, but will have it when they come back for site plan approval.

Mr. Lentsch closed the Public Hearing on Petition #21-08.

Staff Recommendation

Staff recommends in **favor** of rezoning Petition 21-08 to rezone approximately 1.09 acres located east of 2754 Lincoln Way East from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial to allow for the construction of a drive-thru restaurant. This recommendation is based on the following findings of fact:

1. *Existing Conditions – The subject property, which includes a large underutilized parking area for an adjacent hotel, is located along the highly travelled Lincoln Way corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include a hotel to the west; a park, fast-food restaurants, and a vacant commercial building to the south; and a multi-tenant strip center to the east.*
2. *Character of Buildings – The adjacent properties include several multi and single-tenant commercial buildings ranging in size from 2,300 sq. ft. to 43,500 sq. ft. The proposed drive-thru restaurant will be of similar character to these existing buildings.*
3. *The most desirable/highest and best use – Due to the property’s location adjacent to various commercial uses and being along one of the most heavily travelled corridors in the City, the most desirable use of the property is similar higher intensity commercial, retail, or restaurant use.*
4. *Conservation of property values – The rezoning should not be injurious to property values in the surrounding area. The proposed drive-thru restaurant is compatible with the adjacent existing and permitted land 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: Chris Niedbalski moved to forward Petition #21-08 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 7-0.

PETITION #21-09 A petition submitted by MOE AN, LLC seeking to annex and zone 19.2 acres south of Blair Hills and north of Autumn Ridge Subdivision to R-1 Single Family Residential for a proposed single-family residential subdivision.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Boulevard, South Bend, appeared on behalf of the Petitioner. He said this annexation request is surrounded by the city. There is single family use to the north and south and the developer is proposing this to be an extension of Autumn Ridge Subdivision to the north.

Mr. Huber said this last phase is about 35 homes as well as a significant portion to remain undeveloped as retention and buffer.

Mr. Huber said the developer has had neighborhood meetings with Blair Hills and Autumn Ridge and addressed concerns.

Mr. Winn asked if he knew if the northeast corner of the property will be cut down. Mr. Huber said the intent is to keep as wooded lots and they would like to maintain the wooded portion.

Opposition

Dale Deardorf had questions regarding the retention area and wooded area. He said they were not surprised by this and they do want to support the retention pond. He also said there is a dump area that needs to be cleaned up in the headwaters. He said he's in support and would like to be kept informed going forward.

Rebuttal

Mr. Huber said they told the neighbors they would be happy to meet with them again and will meet all Mishawaka standards constructing the retention basin. He said they are aware of the issues and they will be addressed.

Mr. Lentsch closed the Public Hearing on Petition #21-09.

Staff Recommendation

Staff recommends approval of Petition 21-09 to annex and establish zoning as R-1 Single Family District for the 19 acres property north of Autumn Ridge Subdivision. This recommendation is based on the following Findings of Fact:

- 1. Existing Conditions – The subject property is vacant land in Unincorporated St. Joseph County, owned by the same developer at Autumn Ridge Phase 3.*
- 2. Character of Buildings in the Area – The character of buildings and land uses located west of Bremen Highway between Dragoon and Fulmer are primarily residential, with a few commercial land uses south of Fulmer.*
- 3. The most desirable/highest and best use – Because of the property's location adjacent existing residential developments, the most desirable use for the property is residential.*
- 4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The expansion of the subdivision is compatible with the existing surrounding residential uses.*
- 5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified this area as low density residential, which is how it has developed.*

MOTION: Murray Winn moved to forward Petition #21-09 to the Common Council with a favorable recommendation. Chris Tordi seconded; motion carried with a vote of 7-0.

PETITION #21-10 A petition submitted by Kenneth Bechtold requesting to annex and zone **16996 State Road 23** to I-1 Light Industrial District for a proposed storage facility.

Mike Huber, 315 W. Jefferson Boulevard, South Bend, appeared on behalf of the Petitioner. He said this property fronts SR 23 and the parcels to the east are owned by LLC's and not necessarily single-family homes. There is multi-family development to the south and self-storage to the south.

Mr. Huber said they are not bringing any additional intensity to the area. The use isn't put-off by the toll road nearby. Staff says it may be cost prohibitive to run sewer and asked to removed the office option. He said they may work on various options with local owners. If it comes to it and they can't solve it, we will look at.

In favor

Phillip Corporon, 17072 SR 23, just down the street. He said when he read the notice, he questioned the continuity and he said Mr. Huber cleared it up.

Mr. Corporon said he is concerned about the maintenance of the site and keeping it clean in nature. There is open property to the north and south and various offices and others along 23 and they are mostly retired or other folks. He said he is for it as long as it is maintained well and doesn't affect property values going forward.

John Piraccini, 633 Windy Cove Court, Mishawaka, said he represents the buyers. He said they did try to purchase the property to the north and it's double the cost and isn't feasible.

Mr. Lentsch closed the Public Hearing on Petition #21-10.

Staff Recommendation

*Staff recommends in **favor** of Petition 21-10 to annex, establish zoning, and approved a preliminary site plan for property located on the east side of S.R. 23 south of the Indiana Toll Road (16996 S.R. 23 and adjacent vacant parcel). The property is proposed to be zoned I-1 Light Industrial District for a self-storage facility. This recommendation is based on the following Findings of Fact:*

- 1. Existing Conditions – The subject property is located along a heavily travelled section of S.R. 23 serving as the major gateway into Mishawaka and South Bend from the northeast part of St. Joseph County. Traffic volumes in the immediate vicinity are expected to remain consistent due to the existing commercial and residential development in northern Mishawaka and St. Joseph County. The property, which currently includes a vacant single-family house and large wooded area, is adjacent to a single family residence to the north; vacant land, single-family residences, and a real estate office to the west; vacant land to the south approved for residential use; and vacant land to the east.*
- 2. Character of Buildings in the Area – The character of buildings and land uses located along the S.R. 23 corridor between Douglas Road and Cleveland Road vary greatly and include commercial, medical, office, and single-family residential land uses. Over the last several years, single-family houses have been razed to accommodate commercial growth.*
- 3. The most desirable/highest and best use – Because of the property's location along a heavily travelled mixed use corridor, the most desirable use for the property is commercial, office, or other non-single family residential use. Although adjacent residential properties are present to the north and west, residential use is not the highest and best use for an existing and transitioning commercial corridor.*
- 4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the light industrial regulations is required to adequately screen the adjacent residentially occupied or zoned properties.*

5. *Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed self-storage facility is reasonably consistent with adjacent and changing land uses along the S.R. 23 corridor.*

MOTION: Kathleen White-Gadacz moved to forward Petition #21-10 to the Common Council with a favorable recommendation. Dale Freeman seconded; motion carried with a vote of 7-0.

ADJOURNMENT: 8:04 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner