

JUNE 14, 2022

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, June 14, 2022, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Murray Winn, Dale "Woody" Emmons, Sam Cressy, Chris Tordi, Dale Freeman, and Kathleen White-Gadacz. Absent: Chris Niedbalski and Nick Troiola.

Mr. Tordi explained the Rules of Procedure.

The Minutes of the May 10, 2022, meeting, were approved as distributed.

Mr. Cressy declared a Conflict of Interest on Petition #22-05. No other Conflicts were declared.

PUBLIC HEARING:

PETITION #22-03 A petition submitted by Evan Forslund requesting to rezone **1816 West Sixth Street** from I-1 Light Industrial District to R-1 Single Family Residential District. *Continued from the May 10, 2022, meeting.*

Evan Forslund, 1816 W. Sixth Street, said he bought the property in March and his plans are to fix it up and either rent it or sell it. He said he has been talking with the City and utilities about what needs to be done to make it happen. Mr. Forslund said he met with Code Enforcement on site and they have a long list of things that need to be done. He said it's his 5th house in Mishawaka and trying to get this property back to residential.

Mr. Tordi asked if he had started any renovations. Mr. Forslund said he started cleaning out the house. He said in the pictures are his friends helping him out. He said there were homeless people living in it and they have come back. Mr. Forslund said the City won't let him turn on the utilities until it's rezoned.

Mr. Tordi asked how many houses he has done. Mr. Forslund said five.

Ms. Gadacz asked if he knew the zoning before he purchased it. Mr. Forslund said yes.

Mr. Emmons asked why he was interested in buying it as it's in a commercial and industrial area. Why would you want a residential zoning there? Mr. Forslund said he did some research before he bought it and this isn't the only house along Sixth Street that's up against industrial and those are used as residential.

Mr. Emmons said he is against spot zoning; that is taking a building that is zoned commercial or industrial that is zoned I-1 and turn into residential sandwiched in between. He said you want to turn it into a rental and we won't know what we have.

Mr. Forslund said he understands this property has had issues in the past and those issues are not his.

Mr. Emmons said there is residential across the street, but not across the tracks. He said the best thing to do is tear it down and add a walkway between the buildings.

Mr. Emmons said there's nothing against you, but if you rent out the house there will be problems and he doesn't think it's a fit. There is a customer next door that is doing a great job, but for 12 years previously they weren't. We need to keep it that way.

Mr. Forslund said it was constructed as a house.

Mr. Emmons said it's zoned industrial and can't be used as residential because of the zoning.

Mr. Forslund said there are other houses along the street that are up against industrial buildings.

Mr. Emmons said he would not be in favor of the request.

Ms. Gadacz asked what the house was being used as before. Mr. Forslund said it has been vacant for several years. It's a house, but zoned as industrial and as long as it has the industrial zoning, it has no use.

Mr. Emmons said the people who rain Piepers lived there and they were nothing but problems to the neighborhood and City.

Mr. Forslund said he has limited knowledge of the property before March.

Opposition

Jack Niver, 1809 W. Sixth Street, said he lives across the street and is 100% against it. He said he spent a lot of time cleaning up yards. Before it was a slum area and it still looks like a slum area and they've done nothing to improve it but tear the inside out. He sees no purpose, but condemn it and tear it down.

Gregor Petkov and Jason Vandezande, 1802 W. Sixth Street, said they are 100% against it. They said they have photos and a situation with the house. They said they have nothing against Mr. Forslund, but have issues with the property.

Mr. Vandezande said the building was used for many years as a construction office and might have been used as residential at one time. He said he had tried to buy it. The overhang hangs over on his property and water comes off the house right into his building. He also said he can't do any maintenance on the building because of the closeness of the house. Mr. Vandezande said he doesn't have anything against Mr. Forslund, but more work than just cleaning has been done at the house and doesn't want that next to them. He said he isn't sure who would buy it and end up with a lower class due to a low selling price.

Ms. Gadacz asked if the zoning wasn't approved, what is going to happen to the building. Mr. Petkov said he doesn't know as he doesn't own it, but they had a signed offer from the original owner and they tore it up and sold it for less money.

Mr. Emmons asked Mr. Petkov and Mr. Vandezande if they could get the property, would they tear it down. They said yes.

Rebuttal

Mr. Forslund said in his eyes there is no industrial use for the property. If you were to walk thru the building, it is in rough shape, but would be easy to fix up.

Mr. Tordi asked if you could address the overhang and drainage issues. Mr. Forslund said the gutters are probably not functioning. You can move the water into the yard, but right now it's probably just going down the wall.

Mr. Forslund said he is willing to work with Mr. Petkov and others. In his eyes, if it stays industrial, he doesn't see how anyone would want it.

Mr. Tordi asked him to elaborate. Mr. Forslund said it's a house that zoned industrial and said there's nothing industrial about the house as it was constructed as a house.

Mr. Emmons said you are right, it is a house. The owners of the building wants to tear it down and have parking for their employees.

Mr. Prince said staff has identified its non-conforming issues. If you own a house along the railroad tracks and the Zoning Ordinance used to allow residential uses in I-1. What's different is if they live along the tracks they can continue to live there. Mr. Prince said it has lost its non-conforming status; that's why you need to rezone.

Mr. Prince said this is only about the zoning of the property and nothing about the owners. Tonight's decision is only about zoning.

Opposition

Elizabeth Miller, 1802 W. Sixth Street, said if they allow residential there, and as a mother, she wouldn't want her children that close to a manufacturing facility. It's close to the train tracks. She wondered how they could fence in the yard so close to the building.

Mr. Tordi closed the Public Hearing on Petition #22-03.

Mr. Tordi asked Mr. Emmons why he was so opposed to the request. Mr. Emmons said when he was a kid, it was Wagner Steel and they used the house as an office for many years and when they closed it was tossed back and forth between businesses. He said the house has been a deterrent in the neighborhood and is not suitable as a house due to the closeness to the adjacent business.

Mr. Emmons said they have a tenant in the building who is a good neighbor and all the neighbors are 100% for that business as there were a lot of problems with the previous tenant. What these folks want to do is expand to make it feasible for their employees to have off-street parking and the neighbors love that. He said if the request is denied, that company can buy the house and use for their facility. That's the best use for it.

Mr. Tordi said they don't own it. Mr. Emmons said they are looking to purchase it. We are doing the neighbors a disservice by letting to go back to residential. We have enough rentals in the area and they have a business who wants to grow and maintain the integrity of the area.

Mr. Tordi said if we vote no and he keeps it, he can't do anything with it. Mr. Emmons said he didn't understand why would you want a residential building crammed up against an industrial building and doesn't think it fits there.

Ms. Gadacz said she had mixed feelings about it; especially being so close to the building, but she also knows that Mr. Forslund does good work with his buildings.

Mr. Cressy said ideally he would like to see it torn down and used as industrial. He said his concern was if that doesn't happen long term it could cause problems.

Staff Recommendation

The Planning Department recommends **approval** of Petition #22-03 to rezone 1816 West Sixth 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. The neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 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 and its relationship to surrounding properties, staff feels that the most desirable use for this property is a 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 industrial because of its proximity to the railroad tracks, however, rezoning to residential would be compatible and consistent with the historic residential use of the property.

MOTION: Dale "Woody" Emmons moved to forward Petition #22-03 to the Common Council with an unfavorable recommendation. Murray Winn seconded; motion carried with a vote of 6-1 (Jamrose).

PETITION #22-04 A petition submitted by Michael A. Young requesting to rezone **1023 West Sixth Street** from C-1 General Commercial District to R-2 Two Family Residential District.

Michael Young, 1023 W. Sixth Street, said this property has had mixed uses. He said he bought the property with his mother several years ago after being in the military. It was converted into a beauty shop and she lived in the adjoining house. He said she's now retired from the beauty shop world and he lives in New Jersey for work and they decided to convert the beauty shop and furnish as living space. He was sad to see the beauty shop go, but rezoning from the perspective of resale.

Mr. Young said his mom and her husband will continue to live there and he would use the front portion as a place to stay when he's in town and also for family. He said it would be a better use to rezone to R-2 as it's kind of set up as two units.

Mr. Emmons said looking at the building, you are going to make it multi-family. Mr. Young said it would that have potential. There's just a door between the two units.

Mr. Emmons asked if it was his intention to have an entrance on Sixth Street and an entrance on Cleveland. Mr. Young said there is a door on Sixth and one on Cleveland and it's confusing when people deliver. There is a door on Cleveland that would remain.

Mr. Emmons asked if they intended to do a lot of remodeling. Mr. Young said not a lot is needed.

Mr. Cressy asked if they would rent out the second unit or have it be an airBNB? Mr. Young said no, there is enough family that can make use of it and they have no goal of renting.

Ms. Gadacz asked why they were rezoning to R-2. Mr. Young had originally submitted as R-1, but going through the process it was suggested to rezone to R-2. He said there are two kitchens and a doorway between the two, so it is set up as two units. Mr. Young said the whole value or benefit comes when time to sell. It's a great idea for a mother-in-law suite.

Mr. Emmons asked if it needed to be divided. Mr. Spier said not necessarily, but has the ability. This zoning establishes it as two units. He also said there is adequate off-street parking for both units.

Mr. Young said during busy beauty shop days there could be 7 or 8 cars there.

Mr. Winn asked if it was set up with 2 electrical systems and 2 water systems. Mr. Young said it has one hot water boiler, but believes it has 2 electric meters and one gas meter. He said they may need to put in another water heater.

Mr. Tordi closed the Public hearing on Petition #22-04.

Staff Recommendation

*The Planning Department recommends **approval** of Petition #22-04 to rezone 1023 W. Sixth Street from C-1 General Commercial District to R-2 Two Family Residential District. This recommendation is based upon the following findings of fact:*

- 1. The neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-2 would not be incompatible to the area as there are scattered R-2 sites in the vicinity;*
- 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 a commercial project, staff feels that the most desirable use for this property is a two-family use;*
- 3. Because the parcel is located in an area of residential uses, the rezoning to R-2 Two-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-2 Two-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 and its rezoning to residential would be compatible and consistent with the historic residential uses in the area.*

MOTION: Dale Freeman moved to forward Petition #22-04 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 7-0.

PETITION #22-05 A petition submitted by South Bend Indoor Soccer, Inc. requesting to amend the Cass Road/East University Drive Planned Unit Development

to allow a climate controlled self-storage facility within the existing building at **1435 University Drive Court, Granger.**

Alex Gauthreaux, 1211 S. White Chapel Blvd., Southlake, TX, appeared on behalf of the Petitioners. He said they are interested in converting about 83,000 sqft into self-storage. The hours would be 6:00 a.m. to 10:00 p.m. and the office would be staffed 10:00 a.m. to 6:00 p.m. Monday thru Saturday. Mr. Gauthreaux said the use wouldn't generate any more traffic than the previous use.

Mr. Gauthreaux said they would add an access to the north side of the building and add signage along the interstate. He also said they would be maintaining the rest of the building and exterior as is. They will update the landscape and give it a cleaner look.

Mr. Emmons asked what would be store there. Mr. Gauthreaux said it would be approximately 615 units, 5' X 5' to 10' X 30, for public use.

Mr. Emmons asked if there would be vehicles stored there. Mr. Gauthreaux said no.

Mr. Emmons asked about commercial products. Mr. Gauthreaux said any hazardous materials are against their rules.

Mr. Emmons asked if anyone would be there. Mr. Gauthreaux said management would be on site from 10:00 a.m. to 6:00 p.m. The office would be closed on Sunday, but individuals could access their units.

Mr. Emmons asked if it would be fenced in. Mr. Gauthreaux said they had not planned on it as only people with access could get in.

Mr. Tordi asked about outdoor storage. Mr. Gauthreaux said storage only inside the building shell.

Mr. Tordi closed the Public Hearing on Petition #22-05.

Staff Recommendation

*Staff recommends **approval** of Petition 22-05 to amend part of the Cass Road/East University Drive Planned Unit Development (PUD) to allow a self-storage facility subject to the following conditions:*

- 1. No outdoor storage shall be permitted.*
- 2. Additional landscaping shall be provided (where necessary) in all areas, compliant with the minimum landscaping and screening regulations (Section 137-815).*

The recommendation is based on the following findings of fact:

- 1. Existing Conditions – The property is currently developed as an indoor recreational center. Other uses on University Drive Court are office design studio, a law office, hotel, dental office, retail, and self storage. The property is located at the eastern edge of the University Drive commercial corridor.*
- 2. Character of Buildings in Area – The buildings along the University Drive corridor are primarily single and multi-tenant commercial/retail.*
- 3. The Most Desirable/Highest and Best Use – Due to the property's location at the eastern edge of a cul-de-sac, the most desirable use of the property would be to add self storage as an additional use.*

4. *Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area. Currently, a range of commercial & industrial land uses, are permitted within the PUD being amended.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, did not include University Drive past the intersection with Main Street, (service commercial) or north of the Toll Road (low density residential). This area has developed as mainly retail but also has religious, multi-family and office uses.*

MOTION: Murray Winn moved to forward Petition #22-05 to the Common Council with a favorable recommendation. Dale Freeman seconded; motion carried with a vote of 6-0 (Cressy abstained).

PETITION #22-06 A petition submitted by the City of Mishawaka, through its Board of Public Works & Safety, and Calet Partnership requesting to rezone three (3) located between Front Street and First Street from I-1 Light Industrial District and I-2 Heavy Industrial District to C-3 City Center Commercial District.

Ken Prince, Executive Director of Planning and President of the Board of Public Works & Safety, said three parcels are vacant that the City acquired which are remnants from the Uniroyal days. The parcels on the west side of Hill will be used for street widening and they also have a development agreement for apartments. He said they are asking to rezone these parcels to match the surrounding zoning which is required for the apartment site and will also allow for future development.

Mr. Tordi closed the Public Hearing on Petition #22-06.

Staff Recommendation

The Planning Department recommends approval of Petition 22-06 to rezone several properties located on N. Mill Street between W. Front Street and W. First Street from I-1 Light Industrial and I-2 Heavy Industrial to C-3 City Center Commercial. This recommendation is based upon the following findings of fact:

1. *Existing Conditions – The parcels are currently vacant partially serving as a temporary contractor staging area for the nearby city construction projects. The Mill at Ironworks mixed-used development is located to the north.*
2. *Character of the Buildings – The adjacent properties are primarily vacant with the exception of a large mixed-use building to the north and an apartment building and restaurant to the south.*
3. *The desirable/highest and best use – Because the parcel is located within the downtown area, the rezoning to C-3 City Center Commercial is a desirable use for this property. All of the adjacent parcels are also zoned C-3 permitting various commercial and residential uses.*
4. *Conservation of property values – As opposed to the range of potential industrial development that could occur with its current zoning, rezoning these properties to the C-3 City Center classification will have a favorable and stabilizing impact in the area, conserving property values in the immediate and surrounding neighborhood.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within these properties. The proposed C-3*

City Center Commercial zoning is consistent with the Comprehensive Plan and the overall development plan for the downtown area.

MOTION: Dale Freeman moved to forward Petition #22-06 to the Common Council with a favorable recommendation. Sam Cressy seconded; motion carried with a vote of 7-0.

PETITION #22-07 A petition submitted by Balaji Hospitality Group LLC and Smita V. Patel requesting to rezone **2754 Lincolnway East** from C-1 General Commercial District and C-7 Automobile Oriented Restaurant Commercial District to R-3 Multi-Family Residential District.

Steve Ruby, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of the Petitioners. He said they are seeking to rezone to R-3 to allow for a residential apartment building department. Mr. Ruby said it's currently the Mishawaka Inn and they are looking to invest in the building and a possible phase 2 new building for apartments.

Mr. Ruby said some of the improvements would include landscaping, fire pits, and other amenities for residential use. The site is adjacent to Dunkin Donuts and there are lane improvements currently taking place along Lincolnway. Access in and out of the site will be improved and it will get a much needed face lift.

Mr. Tordi asked Mr. Ruby to elaborate on the legacy building. Mr. Ruby said they intend to remodel into 60 single units and some potential double units and suites. It will have gym features, gathering spaces similar to apartment complexes being built.

John Piraccini, 633 Windy Cove Court, Mishawaka, said it will be an approximately \$1.5 million investment into the existing building. It will receive a significant face lift; nice façade treatment and will definitely change the look.

Mr. Tordi asked if construction of the new building will happen at the same time. Mr. Piraccini said probably a later phase.

Mr. Freeman asked if there were concerns from neighbors about run-off flows. Mr. Ruby said no concerns to his knowledge and they will be addressing stormwater as per City requirements.

Mr. Ruby said there is a buffer along the ditch and they are trying to make an amenity space along the river.

Mr. Piraccini passed out renderings of the facility. He said this will be developed by The Barak Group who has done a lot in the City. The current building will get about \$1.2 million in improvements; everything will be gutted. It will have mostly one bedroom units and they are doing in phases to get this started and producing tenancy. There will be about 106 units total. He said it's a strong commitment from the developer.

Mr. Piraccini said it's kind of downsizing, this area in the east end, you see the retail come and go and it's starting to pick back up and residential will feed into that growth. It's been a long time. He said they have been working with Planning and Engineering to make the site as feasible as possible. They have done studies and there's a bit of flood plain in the back corner and they are making sure elevations are right.

Mr. Cressy asked who will be developing it. Mr. Piraccini said The Barack Group and they have done a lot of development in the area.

Mr. Tordi closed the Public Hearing on Petition #22-07.

Staff Recommendation

Staff recommends in **favor** of rezoning Petition 22-07 to rezone an approximate 3.89 acres area located at 2754 Lincoln Way East from C-1 General Commercial and C-7 Automobile Oriented Restaurant Commercial to R-3 Multi-Family Residential District to allow for a multi-family residential apartment complex. This recommendation is based on the following findings of fact:

1. *Existing Conditions* – The subject property, which includes a hotel and large underutilized parking area, 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 St. Joseph River public access site to the west; a park and two fast-food restaurants, one currently under construction, to the south; and a restaurant with drive-thru, currently under construction, and 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 37,700 sq. ft. The proposed conversion of the existing approximate 43,500 sq. ft. hotel into an apartment building and adjacent construction of a new similar sized apartment building will vary in character from the existing adjacent commercial structures.
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 continued commercial or medium density residential use (i.e. apartment complexes).
4. *Conservation of property values* – The proposed rezoning should not be injurious to property values in the surrounding area. The R-3 Multi-Family Residential zoning will not permit future commercial use of the property as currently allowed in the existing C-1 General Commercial zoning. Investment in an existing dilapidated property and construction of a new apartment building could potentially spur further investment in the area in addition to the two restaurants currently under construction.
5. *Comprehensive Plan* – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. However, the proposed multi-family (medium density) residential use is consistent with and will not be out of character with the adjacent commercial use.

MOTION: Dale “Woody” Emmons moved to forward Petition #22-07 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 7-0.

DESIGN REVIEW:

DR #22-09

A request submitted by SCM 10X Mishawaka I, LLC, seeking approval of a Design Review Waiver from the Mishawaka Design Review Ordinance Section 105-76 Architectural Materials at **5126 North Main Street**. Continued from the May 10, 2022, meeting.

Nick Otto, ID Studio 4, 6201 Campus Circle Drive, Irving, TX, said the request is for a new restaurant and building materials for the rear that exceed the 1/3 limit of unacceptable materials. He said this is simply to allow accepting the increase of that volume. Mr. Otto said it’s only slightly over the allowed amount at 44%; and the material is hardy siding.

Mr. Emmons said he likes the restaurant you are proposing, but is concerned about the amount of materials you are proposing that are not approved. He asked why they were putting such a large amount of non-approved materials.

Mr. Otto said the materials are part of their prototypical design and part of Salt Grass branding. He said the design was created for all of their restaurants, specifically it's just a request for the rear or east elevation. The other elevations are far under the amount allowed. Specifically, the rear elevation is where the maintenance room and trash enclosures are located and faces away from Main Street.

Mr. Emmons said he was concerned about the amount of stucco used on the building. Winters here are not conducive to that material. Mr. Otto said it is under the amount allowed by ordinance and not necessarily in question. It's just one side that is over the limit with hardy board.

Mr. Tordi closed the Public Hearing on Design Review #22-09.

Staff Recommendation

Staff recommends approval of Design Review Waiver 22-09 to allow stucco and fiber cement board as appropriate exterior architectural materials. The material is durable and sturdy and has been approved in several previous waiver request. The variety of materials meet the intent of the underlying ordinance. The Plan Commission has approved waiver requests for architectural materials on other commercial/retail buildings to allow for design flexibility and to encourage a diverse rather than uniform appearance.

MOTION: Kathleen White-Gadacz moved to approve Design Review #22-09. Dale Freeman seconded; motion carried with a vote of 6-1 (Emmons).

ADJOURNMENT: 8:03 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner