

MAY 11, 2010

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, May 11, 2010, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Gary West, Matt Lentsch, Ross Deal, Ross Portolese, Murray Winn, Don McCampbell, Carol Sergeant, Edward Salyer, and Rosemary Klaer. In addition to members of the public, the following were also in attendance: John Gourley, Ken Prince, Peg Strantz, and Kari Myers.

Murray Winn explained the Rules of Procedure.

The Minutes of the April 13, 2010, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

DESIGN REVIEW #10-02 A request submitted by Gates Automotive Group requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-76 Architectural Materials and Section 105-77 Architectural Color and Textures for **636 West McKinley Avenue**.

Rick Slagle, Majority Builders, 62900 US 31 S., South Bend, appeared on behalf of Gates Automotive Group. He said Gates on McKinley Avenue are undergoing an extensive building renovation and they are requesting approval to use the Chevy blue and Chevy silver colors on the building.

Matt Lentsch asked if Chevy dictates the colors. Mr. Slagle said yes.

Murray Winn closed the Public Hearing on DR #10-02.

Staff Recommendation

The City typically stays clear of approving buildings that consists of metal paneling and consisting of silver and blue coloring, due to that fact that they stand out more than surrounding buildings and potential for glare from the sun. The specific color selection in the Design Review Ordinance was created to create a sense of unity amongst the various commercial buildings. As with other car brands, Chevy is very specific in the style of buildings they construct and want to keep consistency throughout all their buildings and that a potential variance from Chevy's architectural standards could be a deal breaker for this proposed project.

The City has seen several of these types of requests involving car dealerships and the corporate architectural standards that are placed on their building. Although the staff many times have concerns about and disagree with some of these corporation standards, we also realize the limitations that it puts on the local dealer and have in the past recommended approval provided other ordinance standards such as landscaping along the frontage is adhered to.

MOTION: Matt Lentsch moved to approve Design Review #10-02. Ross Deal seconded; motion carried with a vote of 9-0.

REPLAT #10-06 A request submitted by Konnie A. Sampson seeking approval of Highland Village P.U.D. Sampson's Replat of Lot 10 of Highland Village P.U.D., also known as **1133 Highland Village Drive**.

Terry Lang, Lang Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the petitioner. Mr. Lang said Ms. Sampson purchased the home and wants to take the existing deck area located at the rear of the house and replace it with a 3-season room. He said there will still be the deck-type construction on the lower level and will allow water to pass through if necessary. The request is to release a small section of the drainage easement for the room.

Ross Deal asked if the room would be accessed from the 2nd level. Mr. Lang said yes.

Mr. Winn closed the Public Hearing on Replat #10-06.

Ken Prince read a letter of support from Prime Development Corporation.

Staff Recommendation

The Planning Department recommends that the Petitioners' request for preliminary and final Replat approval of the Highland Village Sampson's Replat be approved. This recommendation is based on the fact that the Plat meets all the requirements of Section 133-107 (Preliminary Replat) & Section 133-110 (Final Replat).

MOTION: Rosemary Klaer moved to approve Replat #10-06. Don McCampbell seconded; motion carried with a vote of 9-0.

PETITION #10-07 A petition submitted by David Talos requesting to rezone **514 West Marion Street**, from I-1 Light Industrial District to R-1 Single Family Residential District.

David Talos, 514 West Marion Street, said he wanted to rezone his property in case he wanted to sell it in the future.

Mr. Lentsch asked if the home was a single family residence now. Mr. Talos said yes.

Mr. Lentsch asked if he lived there and did he plan to continue living there. Mr. Talos replied yes to both questions.

Mr. Winn closed the Public Hearing on Petition #10-07.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 10-07 to rezone 514 West Marion 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. *Eight out of the ten developed lots on this block have residences on them. This property's proximity to the long established Battell Park area, and its historic use as a single family dwelling are 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,*
5. *The City's Comprehensive Plan calls for low density residential so the rezoning is consistent with the historic residential uses in the area.*

MOTION: Edward Salyer moved to forward Petition #10-07 to the Common Council with a favorable recommendation. Carol Sergeant seconded; motion carried with a vote of 9-0.

PETITION #10-08 A petition submitted by David Talos and Douglas and Gail McDonald requesting to vacate the north/south alley located **between 514 West Marion Street and 512 West Marion Street.**

David Talos, 514 West Marion, presented the request. He said he would like to put up a fence for his kids and animals. He said the area is not being used as an alley and not used for trash pick up.

Mr. Lentsch asked what kind of animals he had. Mr. Talos said dogs.

Mr. McCampbell asked if there was an east/west alley. Mr. Talos said no, that property is owned by the railroad.

Mr. Winn closed the Public Hearing on Petition #10-08.

Staff Recommendation

Staff recommends in favor of Petition 10-08 to allow for the vacation of the 14' wide north/south right of way extending 210' north from West Marion. This recommendation is based on the following findings of fact:

1. *The vacation will not hinder the growth or orderly development of the neighborhood.*
2. *Both of the petitioners/adjacent property owners have homes that front on Marion Street. The alley right of way has never been improved or used as right of way. Vacation of the right of way would not be an inconvenience.*
3. *The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;*
4. *The proposed vacation will not hinder the use of any public way, utility or place.*

5. *This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.*

MOTION: Matt Lentsch moved to forward Petition #10-08 to the Common Council with a favorable recommendation. Ross Deal seconded; motion carried with a vote of 9-0.

REPLAT #10-09 A petition submitted by Terry and Rebecca Parker seeking approval of the replat of Lot 14, Highland Village P.U.D. into Lot 14A Highland Village P.U.D. 4th Replat.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan St., South Bend, represented the Petitioners. He said he originally presented this replat to the Commission approximately a year and a half ago, but there was a problem with the deed. That issue has now been resolved and the request is to move the property line.

Mr. Winn closed the Public Hearing on Replat #10-09.

Staff Recommendation

The Planning Department recommends that the Petitioners' request for preliminary and final Replat approval of the Highland Village PUD 4th Replat be approved. This recommendation is based on the fact that the Plat meets all the requirements of Section 133-107 (Preliminary Replat) & Section 133-110 (Final Replat).

MOTION: Ross Portolese moved to approve Replat #10-09. Don McCampbell seconded; motion carried with a vote of 9-0.

SP #10-D A request submitted by Scott Robertson for final site plan approval for a 11,900 sf office/retail building and 21,120 sf office/warehouse facility to be located at the **northwest corner of McKinley Avenue and Maplehurst Avenue.**

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan St., South Bend, appeared on behalf of the applicant. He said the proposal is for a combination of office/retail on the site. There will be 2 buildings with parking on the south side of the south building and between the 2 buildings; retention will be located on the north portion of the property.

Mr. Lang said they are in agreement with Planning comments. He said they have received comments from Engineering and are still working out the details. There will be a single entrance off of McKinley and one from Maplehurst and the property will be served with sewer and water.

Mr. Deal asked if Maplehurst north of McKinley is adequate to serve this property. Mr. Lang said the Auto Auction generates more traffic than will probably be generated by this site. He said most people will probably enter the site from the McKinley access.

Mr. Deal asked Gary West if he foresaw a need in the near future for improvements to Maplehurst. Mr. West said the developer will be responsible for upgrades to the street per City standards. The upgrades should extend at least past their driveway. He also said a decel lane will be required on McKinley to get people off of the main road. Mr. West said there was a whole typewritten page of comments and he can understand why they didn't get them all incorporated into their plan, but they will have to upgrade both access points.

Mr. Lang said the Auto Auction upgraded about a year and a half ago and they weren't required to extend a portion of any of that. Maybe everyone could sit down together and work out how the whole road should be improved. Mr. West said he believed the City asked, but the Auto Auction is located in the County and it was anticipated they would annex into the City. Mr. West said it was a matter of leverage and when they stay in the County, the City doesn't have much leverage. Mr. Lang asked if the Auction had City water and sewer. Mr. West said yes.

Mr. West said there were a significant amount of details to be worked out as far as the fact that the retention basin extends into the adjacent property. When details aren't provided, then Engineering can't approve the plan that doesn't clarify that. He said if Mr. Lang wanted to table the item until the next meeting, then details can be worked out before then. Mr. Lang said he doesn't want to delay it, but wasn't able to incorporate all revisions into the plan prior to tonight's meeting. Mr. West said as long as he understands that all details will need to be worked out before it can go forward.

Mr. Lentsch asked Mr. Lang if he felt confident that all details could be worked out. Mr. Lang said yes. Mr. Prince said an Improvement Location Permit would not be issued until everything was resolved and Engineering approved the plan.

There was some discussion regarding the location of the drive-thru for an end tenant and traffic flow and stacking on the site.

Mr. West asked if rezoning was necessary for a drive-thru. Mr. Prince said he thought it was approved as part of the original plan, but wasn't sure. He also said he thought it was all speculative but wouldn't be a McDonald's or Wendy's which would require a C-7 zoning.

Staff Recommendation

Provided a revised site plan is submitted addressing the outstanding items, the Planning Department recommends approval of Site Plan 10-D for a multi-tenant and flex-space development because it meets the requirements of Sec. 137-35 Final Site Plan Approval.

MOTION: Ross Deal moved to approve Site Plan #10-D. Matt Lentsch seconded; motion carried with a vote of 9-0.

SP #10-E A request submitted by Cancer Partners, LLC, for final site plan approval for a 25,500 sf building addition at **301 East Day Road**.

Mark Reinhard, Engineering Resources, Inc., 9835 Auburn Rd., Ft. Wayne, represented the applicants. Mr. Reinhard said the property in question is the former Dr. Del Pilar building and the intent is to renovate the existing building and expand to the south with a 25,000 plus square foot addition. He said the use will be an innovative cancer care treatment center. He said the renovations will take place this summer and hopefully be complete by late summer.

Mr. Reinhard said the Board of Zoning Appeals approved variances for parking, setback and for the use of temporary PET imaging trailers earlier this evening. He said Mr. Rans also owns the vacant property to the east and they will be creating additional parking there and connecting to the existing lot.

Mr. Lentsch asked if would become a hospital providing services 24/7. Joseph Gagliardi, Executive Officer with Cancer Care Partners said there will be 7 beds used primarily for observation and it could be 24 hours depending on the illness of the patient. Patients with

more serious conditions could be transferred to either Memorial or St. Joseph Regional Medical Center.

Mr. Lentsch asked what the trailers would be used for. Mr. Gagliardi said one of the trailers would house TOMO radiation therapy while under construction. When the construction has been completed inside the hospital, the trailers would be removed permanently from the site.

Mr. Lentsch asked what types of services would be provided at the center. Mr. Gagliardi said medical, radiation, surgical oncology, urology, ear-nose-throat, and other sub specialties specifically for cancer treatment. There will not be any surgery at the center. Outpatient surgery will be performed at the South Bend Clinic, who is a partner, and will do inpatient surgery at one of the major hospitals.

Mr. West asked about the traffic pattern. He said it appears there's an entrance on this side. Is that for ambulances to come in? Mr. Reinhard said they are still in discussions with the Planning and Fire on how that south drive is going to work.

Mr. West asked if they were building additional parking on the east adjacent lot. Mr. Reinhard said yes.

Staff Recommendation

Provided a revised site plan is submitted addressing the outstanding items, the Planning Department recommends approval of Site Plan 10-E for a 25,500 square foot addition to an existing medical office building because it meets the requirements of Sec. 137-35 Final Site Plan Approval regarding Final Site Plan Approval.

MOTION: Ross Deal moved to approve Site Plan #10-E. Edward Salyer seconded; motion carried with a vote of 9-0.

ADJOURNMENT: 7:37 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner