

JUNE 8, 2010

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, June 8, 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 Portolese, Murray Winn, Don McCampbell, and Rosemary Klaer. Absent: Ross Deal, Carol Sergeant, and Edward Salyer. In addition to members of the public, the following were also in attendance: Ken Prince, Greg Shearon, and Kari Myers.

Murray Winn explained the Rules of Procedure.

The Minutes of the May 11, 2010, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #10-10 A petition submitted by Dennis Pregel and McKinley House of Bounce LLC requesting to rezone **406 East McKinley Avenue (northeast corner of McKinley and Division)**, from R-1 Single Family Residential District to C-1 General Commercial District.

James Masters of Nemeth, Feeney, Masters & Campititi, 211 W. Washington Street, South Bend, represented the Petitioners. Mr. Masters said Mr. Pregel owned the original 40 acres that has been developed in this area known as "Wildflower Cove." It is currently zoned R-1 Single Family except for the approximately 60' portion along McKinley that is zoned C-1. The commercial strip along McKinley is too small for any type of commercial use. The north 20' of the property that abuts residential will remain R-1 Single Family to act as a buffer between the commercial and residential uses.

Mr. Masters said the plan is to develop two commercial uses on the site. The east side is to be purchased and used by McKinley House of Bounce as a children's entertainment facility and other allowed commercial uses and will be developed first. The north 20' will remain a landscape buffer and will continue across to extend the full width of the properties. The west side will be reserved for other commercial development. A site plan will be submitted.

Mr. Masters said the properties to the east, west, and south of this parcel are zoned commercial which is consistent with McKinley having developed as a commercial corridor and this request is consistent with the existing commercial uses adjacent along McKinley.

Ross Portolese asked what kind of children's entertainment facility this will be. Mr. Masters said the House of Bounce is a facility where kids can jump and play around in ball pits.

Matt Lentsch asked if it will be a membership type of program. Mr. Masters said no, more of a place for birthday parties and receptions and such.

Murray Winn said it looked as if the building itself is approximately 60'-80' from the north property line which is a substantial distance from the residential properties. Mr. Masters said that is correct. The building is approximately $\frac{1}{4}$ of the area of the entire parcel. The retention area is located at the north end of the property.

Mr. Masters also said at the recommendation of the Planning Department, internal roadways were developed to keep the egress and ingress from McKinley Avenue to a minimum. There will be a right-in only on McKinley and customers will not be able to exit back on to McKinley; they will need to exit onto Division Street.

Rosemary Klaer asked how many people would be employed there. Mr. Masters said approximately 10.

Ms. Klaer asked how many children could be at the facility at any one time. Mr. Masters said approximately 60-100. This place will be like a pizza place where they have games for the kids. The facility lends itself to birthday parties. It is inside only; everything will be contained within the building.

Mr. Portolese asked what the hours of operation would be. Mr. Masters said probably 10:00 a.m. to 9:00 p.m.

Don McCampbell said the site plan shows 49 parking spaces for 100+ people. Mr. Masters said the parking will be whatever the Planning Department says it needs to be. The site plan is preliminary, so it may change.

Ms. Klaer asked if food will be served. Mr. Masters said they will serve pizza; children's food and will be catered in. If you were going to have a party there, they would arrange to have it brought in.

Mr. Portolese asked if there will be a kitchen on the premises. Mr. Masters said he didn't think there would be a kitchen. They are not making pizzas on site; they're not cooking food on site. If there's a party there, they will have it catered in and served there, but it isn't a restaurant.

Mr. Prince said a distinction that has to be made is they are asking for a specific zoning, which is C-1 General Commercial. C-1 permits a restaurant, retail shops, and House of Bounce is just one of the things that could be permitted in that district. Regarding parking, the ordinance requirement is one parking space for every 250 sf, or 4 per 1,000, and they would be required by ordinance to have 24 parking spaces. They are going to build parking commensurate with their needs for the facility. If they don't build enough parking, they are only hurting themselves.

Ms. Klaer asked if this was a chain. Mr. Masters said the company owns a few others, but is not a franchise.

OPPOSITION

David Wenger, 436 Pregel, asked someone to clarify the buffer zone. Mr. Wenger said he is concerned with noise. He said older folks live on Pregel and he said at 10:00-10:30 there might be a lot of noise at that time and some people want to sleep. He's wondering if the buffer zone is a noise reduction zone; a bunch of thick bushes or trees?

Mr. Wenger also had parking concerns. If it isn't sufficient, will there be room to add more or will people park on the street?

Mr. Wenger said there is a school back there and a lot of traffic and he doesn't know what the hours of this establishment would be. He said these were questions that need to be more thoroughly answered.

Pamela Righetti, 430 Pregel, asked what kids will be going here? She said there weren't that many kids in her neighborhood. She also had concerns about the garbage and wondered where it will go. Ms. Righetti wanted to know how the area would be policed. She said she also wondered about the other retail businesses that might be going in. She said she heard through the grapevine that it might be fireworks sales and that does not appeal to her. She said it's a nice neighborhood and doesn't want to see any commercial going in.

REBUTTAL

Mr. Masters said there are always concerns when something new is going in and he said the neighbors have legitimate reasons to come and ask questions. He said you don't want to get too tied in to what this particular business is because C-1 General Commercial and the type of business going in there can change.

Mr. Masters said there are trees in the north 20' buffer area. Those were put in when the property was developed by Mr. Pregel. Mr. Masters said one of the property owners to the north cut down some of those trees without Mr. Pregel's permission. That is the intent of the buffer.

Mr. Master said there is commercial development along McKinley Avenue and the proposal is consistent to what exists; across the street, down the street, and to the east.

Mr. Masters also indicated that they are showing twice as much parking as what is required for the square footage of the building. He said he doesn't think parking will be an issue here. As for garbage, the garbage will go where everyone else's garbage goes. The City requires trash and garbage pick up and it will be picked up like everyone else's.

Mr. Masters said the neighbors have legitimate concerns, but he thinks part of it is because this property has remained undeveloped for so long and there might be some commercial development and things are going to change a bit.

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

There was a question from someone in the audience saying they heard that this might not be the business that's going in.

Mr. Winn said Mr. Prince indicated when the zoning is changed, we're not zoning this specifically for House of Bounce, but zoning for C-1 General Commercial has a rather long list of permitted uses and it does include a dry cleaner, bank, retail business including fireworks sales. Mr. Prince said it does not permit a drive thru restaurant, automotive repair, doesn't permit anything outside of the building.

Staff Recommendation:

Staff recommends in favor of Petition 10-10 to rezone property located at the northeast corner of East McKinley Avenue and Division Street from R-1 Single Family Residential to C-1 General Commercial. This recommendation is based on the following Findings of Fact:

1. *The proposal is consistent and compatible with the existing conditions of the area. The property is located along McKinley Avenue, a heavily traveled corridor.*

2. *The character of the buildings in this area and along McKinley Avenue is predominantly commercial and the proposed zoning will allow for development consistent with the surrounding uses.*
3. *The proposed zoning is a desirable use for the property because it is consistent with other established commercial uses along McKinley Avenue and will allow for the expansion of an existing property that is currently zoned for commercial uses (the front 60-feet along McKinley Avenue).*
4. *The proposed zoning will not be injurious to property values in the surrounding neighborhood, because a mix of commercial uses already exists within the area, and required buffering provisions contained within the City of Mishawaka Zoning Ordinance will protect the single-family residences located immediately to the north and west of the site.*
5. *The property is identified as Low Density Residential and General Commercial in the Comprehensive Plan. The Comprehensive Plan identifies the front portion of this site along McKinley Avenue as General Commercial. The property to be rezoned is associated with this parcel that is identified as Commercial in the Comprehensive Plan. Because of this association and the close proximity to these existing commercial properties, this rezoning meets the intent of the Comprehensive Plan for Commercial properties within this particular neighborhood.*

MOTION: Matt Lentsch moved to forward Petition #10-10 to the Common Council with a favorable recommendation. Gary West seconded. There were not sufficient votes to take action on the motion, vote of 4-2 (Portolese, Klaer against). The Petition was forwarded to the Common Council with *no recommendation*.

ADJOURNMENT: 7:25 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner