

AUGUST 10, 2010

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, August 10, 2010, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Matt Lentsch, Ross Deal, Ross Portolese, Don McCampbell, Carol Sergeant, and Edward Salyer. Absent: Gary West, Murray Winn, and Rosemary Klaer. In addition to members of the public, the following were also in attendance: John Gourley, Greg Shearon, Peg Strantz, and Kari Myers.

Don McCampbell explained the Rules of Procedure.

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

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #10-13 A petition submitted by the City of Mishawaka Redevelopment Commission to rezone **501 West Sixth Street** from C-1 General Commercial District to R-1 Single Family Residential District.

Greg Shearon, Senior Planner, City of Mishawaka, presented the Petition on behalf of the Redevelopment Commission. Mr. Shearon said the City plans to demolish the building and use the lot to build a new single family home as part of the City's First Time Home Buyer Program. He said the building is unsafe and has been condemned and will help revitalize the neighborhood. There is currently a new Habitat for Humanity home being built down the street.

Ross Deal said the lot appears to be small and the three other corners are commercial. He said he wondered about the marketability of the home. Mr. Shearon said there would be no marketability as the user would be the City's client, and not a lot for sale to the public. He said variances may be required for setback, but that will depend on the house to be built on the lot. Mr. Shearon also said that once you get past the corner, the rest of the neighborhood is residential.

Matt Lentsch asked if the size of the lot would permit a garage and driveway. Mr. Shearon said yes and while the plans haven't been finalized, the City typically builds homes with single car garages. He also said that the City wouldn't have purchased the property if a nice sized home couldn't be built.

Don McCampbell closed the Public Hearing on Petition #10-13.

Staff Recommendation

The Planning Department recommends approval of Petition 10-13 to rezone 501 West 6th Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

- 1. The property's proximity to R-1 Single Family Residential District zoned properties would be compatible to the area and provide a strong sense of single family residential;*
- 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 single-family use;*
- 3. Because the parcel is located within a residential neighborhood and consist of a small lot size that is not sufficient for commercial development, 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'*
- 5. The City's Comprehensive Plan calls for commercial development. However, the proposed R-1 Single Family Residential zoning is consistent with the existing prominent residential neighborhood.*

MOTION: Edward Salyer moved to forward Petition #10-13 to the Common Council with a favorable recommendation. Carol Sergeant seconded; motion carried with a vote of 6-0.

PETITION #10-14 A petition submitted by Richard LaFree requesting to amend the Deer Run Planned Unit Development from commercial and industrial uses to residential uses to permit the development of nine two-story multi-family apartment buildings with 132 units.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of the Petitioner. He said the Petitioner is requesting to amend the Deer Run PUD to permit an additional nine apartment buildings with a total of 132 units. He said that portion of the PUD currently permits commercial and industrial uses.

Mr. McCampbell asked if these apartments would be accessed from Deer Run Drive. Mr. Mosness said yes.

Mr. Shearon said staff has recommended two additional conditions of approval addressing permanent and temporary signage.

Mr. McCampbell asked if the Petitioner has seen the additional conditions. Mr. Mosness said yes.

Ross Portolese inquired if industrial was permitted. Mr. Shearon said yes. The original PUD called for industrial uses on this portion of the property, thus the amendment to permit additional residential uses.

OPPOSITION

Peter Agostino, 131 S. Taylor Street, South Bend, appeared on behalf of J.D. Smith and Mishawaka Auto Auction. Mr. Agostino said he and Mr. Smith have concerns about the sewer plan. Mr. Agostino said an easement agreement between Mr. Smith and Mr. LaFree limits the system to a 4" sewer pipe and the concern is that any additional development will overload the current system and become a health hazard.

Mr. Agostino also said the current 4" pipe is not installed within the granted easement and therefore Mr. LaFree cannot maintain or repair his system without trespassing on the Auto Auction property. Mr. Agostino said they are not opposed to the additional apartments, but it is important that the sewer be connected from Fir Road and that the appropriate size be installed.

Ross Deal said the sewer concerns will be addressed during the Final Site Plan approval stage prior to the project being allowed to move forward. Mr. Deal asked Mr. Agostino if he still objected to the project. Mr. Agostino said the Plan Commission stands in a position to impose the conditions of approval and asked what guarantee they have that the sewer concerns will be addressed prior to proceeding.

Mr. Deal said the guarantee is the staff report requires the issues be addressed prior to the project proceeding. Mr. Agostino said that the Petitioner is here and he can address those concerns. He said they have a right to know what their plan is for the sewer. What is the plan to address water coming off of the property? That needs to be addressed by this Commission.

Mr. Deal told Mr. Agostino if he has done business with this Commission in the past, he knows the City will not allow the project to fly by the seat of the pants, and said he took offense. Mr. Agostino said he wasn't suggesting that, but wants the water run off problem addressed.

REBUTTAL

Mr. Mosness said there are several options for the sewer and they will be reviewed in detail as part of Final Site Plan approval and would need the Engineering Department's approval at that time.

Mr. McCampbell closed the Public Hearing on Petition #10-14.

Matt Lentsch asked Mr. Shearon if tonight's vote was for land use only. Mr. Shearon said yes. The Petitioner will have to submit for final site plan approval and if the concerns are not addressed, it can be denied at that time.

Mr. Shearon noted a letter of opposition on behalf of J.D. Smith was included in the Commissioner's report.

Staff Recommendation

Staff recommends in favor of Petition #10-14 to amend the Deer Run Planned Unit Development to allow for (9) multi-family apartment buildings, 2-story, consisting of 132 units subject to the following conditions of approval:

- 1. The minimum building setback shall be 25 feet from all property lines.*
- 2. Landscaping shall be provided in accordance with the Commercial Landscaping Ordinance.*
- 3. Dumpsters shall be screened by a wall matching the building materials of the principle building*

The recommendation is based on the following findings of fact:

- 1. Existing Conditions- The amendment will not alter or negatively impact the existing conditions of the surrounding area because the proposed apartment use currently exists within the PUD.*
- 2. Character of Buildings in Area- The character of buildings within this area are medium to high density residential. The proposed will be consistent with the architecture of the existing apartment buildings, Phase 1, located to the southeast.*
- 3. The Most Desirable/Highest and Best Use- The proposed S-2 Planned Unit Development amendment for multi-family residential is consistent with surrounding zoning classifications and the proposed residential use will be compatible with the existing land uses within the PUD.*
- 4. Conservation of Property Values- The proposed zoning will not be injurious to property values in the surrounding area, because the multi-family residential use has already been approved as part of this PUD for parcels to the southeast, Phase 1.*
- 5. Comprehensive Plan- The Comprehensive Plan had identified this area for low density residential. However, the presence of the existing apartments and the Cheer Elite facility has profoundly changed the character of the area where low density residential development is no longer appropriate.*

MOTION: Ross Deal moved to forward Petition #10-14 to the Common Council with a favorable recommendation subject to the amended conditions of approval. Matt Lentsch seconded; motion carried with a vote of 6-0.

DESIGN REVIEW:

DR #10-03

A request has been submitted by Site Enhancement Services on behalf of Hall of Mishawaka, Inc, requesting a Design Review Waiver for **120 West McKinley Avenue**, to allow for architectural building colors that are deemed not appropriate in accordance with the Design Review Ordinance.

Charley Schalliol, Site Enhancement Services, 6001 Nimtz Parkway, South Bend, appeared on behalf of Hall of Mishawaka. Mr. Schalliol said the facility will be a Chrysler, Jeep, Dodge and Ram dealership. He said Chrysler mandates colors that dealers must use on their buildings. He also said the majority of the front building façade is windows and the entry tower will be attached to the building. Mr. Schalliol also said this request is not out of the norm for this area and other automotive facilities.

Staff Recommendation

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 has 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: Ross Portolese moved to approve DR #10-03. Carol Sergeant seconded; motion carried with a vote of 6-0.

ADJOURNMENT: 7:25 p.m.

Greg Shearon, Senior Planner

Kari Myers, Administrative Planner