

OCTOBER 11, 2011

PLAN COMMISSION  
CITY OF MISHAWAKA, INDIANA

A regular meeting of the Mishawaka Plan Commission was held Tuesday, October 11, 2011, 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: David Bent, Ken Prince, Greg Shearon, Peg Strantz, and Kari Myers.

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Murray Winn explained the Rules of Procedure.

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The Minutes of the September 13, 2011, meeting, were approved as distributed.

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Ross Portolese declared a conflict of interest on DR #11-08. He indicated Mr. Zappia was his nephew, but he would be voting.

Commissioners Lentsch, Deal, Sergeant, and Salyer declared a conflict of interest on DR #11-07. They indicated they were all members of First United Methodist Church, but would be voting.

No other Conflicts of Interest were declared.

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**PUBLIC HEARING:**

**PLAT #11-16**

A request submitted by the City of Mishawaka seeking approval of the four-lot Main-McKinley Subdivision. *Continued from the September 13, 2011 hearing. Petitioner has requested to continue to November 15, 2011 hearing.*

Mr. Winn said the Petitioner has submitted a request to continue the item to November 15, 2011, hearing.

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**PETITION #11-23**

A petition submitted by Garrison Holladay Heritage Square Delaware, LLC, requesting a to amend the **Heritage Square** Planned Unit Development to allow for six (6) potential users in Building 1200 located on Outlot "C"; and to allow for the dumpster enclosure for Building 1200 on Outlot "C" to be visible above the existing landscape mound adjacent to S.R. 23.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of the Petitioners and he said Manette Tepe of Holladay Properties was here as well. He said they are requesting to amend the PUD to allow more potential tenants in the building to be located on Outlot C.

Ken Prince said the east/west connection with CVS has been removed and the updated site plan (shown on the overhead) reflects that.

Mr. Winn closed the Public Hearing on Petition #11-23.

### **Staff Recommendation**

*Pending that a revised plan addressing the outstanding comments is received, staff recommends in favor of Petition #11-23 to amend the Heritage Square PUD to allow for a (6) multi-tenant building and to allow dumpster enclosure to be visible from State Road 23, with all previous PUD conditions of approval and requirements being applicable. 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 multi-tenant use currently exists within the PUD and the location of the dumpster is consistent with the location and visibility from State Road 23 of adjacent outlots within the PUD.*
- 2. Character of Buildings in Area - The character of buildings within this area are commercial. The proposed building will be consistent with the architecture of the existing commercial buildings.*
- 3. The Most Desirable/Highest and Best Use - The proposed S-2 Planned Unit Development amendment for the multi-tenant building is consistent with surrounding zoning classifications and 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-tenant commercial use has already been approved as part of Phase 1 of the Heritage Square PUD.*
- 5. Comprehensive Plan - The area is not specifically identified in the Mishawaka 2000 Comprehensive Plan. However the proposed is consistent with the commercial development in the area.*

**MOTION:** Ross Portolese moved to forward Petition #11-23 to the Common Council with a favorable recommendation. Gary West seconded; motion carried with a vote of 9-0.

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### **DESIGN REVIEW:**

#### **DR #11-07**

A request submitted by First United Methodist Church, **201 E. Third Street**, requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-171 to allow the use of an electronic digital display sign with automatic changing images and copy.

Randy Whiteman, Art Works Sign Company, 55581 Current Road, Mishawaka, appeared on behalf of First United Methodist Church. He said the church is requesting to replace the existing sign with an electronic message sign.

Mr. Deal asked if the sign will have a scrolling feature or have movement. Mr. Whiteman said staff doesn't want animation. He said the copy is made up of little lights that flash. He said the church doesn't intend to flash images. Also, he said, the message can scroll across the sign. It's a message center and they intend to make use of the technology and they will be broadcasting the words of the church.

Mr. Deal said his concern is that it will be a distraction as the sign will be placed on a heavily traveled street and there are enough distractions. Mr. Whiteman said he doesn't believe it will

be a distraction and there is a limited amount of time to view the message. He said they have been asked to limit the message change to 8 seconds which is about the amount of time it takes for a car to pass. Mr. Whiteman said there is no valid proof that such signs are distracting. There are many signs such as this across the US and he doesn't believe there is a study proving these signs cause accidents.

Mr. Prince said staff has four conditions that make it replicate what Burkhart has done on Grape Road relative to how often the message changes and the intensity of the sign.

Mr. Deal said he doesn't believe that's comparing apples to apples. It is a much different location.

Mr. Whiteman said an example would be the new sign recently installed at the Humane Society. It's the same sign but much smaller.

Ross Portolese said St. Anthony's Church on Jefferson and Ironwood in South Been has a similar sign and he passes by daily and he doesn't think it's distracting.

Mr. Prince said we should ask if the church has agreed to staff recommendations. He also said he thinks the Humane Society sign would be inappropriate in the downtown district. Mr. Prince said this would benefit the church and help convey messages to the community, provided the four conditions are met.

Mr. Whiteman said the dimming is done automatically where it's brighter during the day and dims during the evening.

Mr. Prince asked if the sign can be controlled. Mr. Whiteman said yes and he thinks most messages stay up longer than 8 seconds. He said he isn't trying to create a fireworks display on the corner; they won't be putting cartoons on the sign.

Mr. Prince said the distinction is that a single transition from one stagnant message to another stagnant message. Mr. Whiteman asked about the image of a waving flag. Mr. Prince said it's the waving motion they find objectionable.

Dennis Rhoades, Secretary to the Board of Trustees, said he has been spearheading this project and they are willing to work with the City on this. He said he thinks the sign at St. Anthony is glaring and they certainly don't want that, but they want to get their church messages out without having to use banners. He said the existing sign is old and he wants to bring it into the 21<sup>st</sup> Century.

Mr. Whiteman said the large gothic church is probably the most prominent building in the City. The problem is as members get older and younger members are harder to convince to become members. This group has grown up with computers and the internet and the church needs to increase their youth membership and they don't read the banners on the building.

Mr. Rhoades said if they aren't able to draw in younger members, then it's possible that in 20-25 years the church may close it's doors due to lack of members and they were hoping to use the sign as a tool to get church messages out to the public.

Mr. Deal asked Mr. Rhoades if it would be reasonable to assume that if the sign is approved and there are objections raised, would the church be willing to work with the City. Mr. Rhoades said most definitely they would work with the City. He said they have been kind enough to work with them on their renovation program.

Ms. Sergeant said her concern that the message would scroll and she wants to make sure it doesn't roll. Mr. Whiteman said they have agreed the message wouldn't scroll.

Mr. Lentsch asked Mr. Rhoades if he was agreeable with all staff recommendations. Mr. Rhoades said yes.

Mr. Winn closed the Public Hearing on Design Review #11-07.

#### **Staff Recommendation**

*The Plan Staff recommends approval of Design Review Waiver 11-07 to permit a digital/automatic changing display to be installed in an existing sign at the northeast corner of E. Fourth and Church Streets, and to permit replacement of twelve (12) existing informational/directional signs at 201 East Third Street. The Staff also considers the digital display is appropriate provided:*

1. *the sign shall not flash,*
2. *there shall be at the least an eight (8) second time interval between each successive display frame,*
3. *the sign shall not have animated movement,*
4. *the sign shall have dimming capacity, transitioning from daytime to nighttime.*

*Staff will work with the applicant regarding these issues.*

**MOTION:** Ross Portolese moved to approve Design Review #11-07 subject to conditions of approval. Don McCampbell seconded; motion carried with a vote of 9-0.

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#### **DR #11-08**

A request submitted by Rocco Zappia, on behalf of Yorktowne Management LLC, requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-174 Signage Size Limitations for **102 Lincolnway East** allow an oversize projection sign and building letters that exceed 18" in size.

Rocco Zappia, owner of Roc's, presented the request. He said he has cleaned up the Old Yorktowne Center sign and have reinstalled it. He said it's a strong, secure sign.

Mr. Zappia said he also plans to install a set of channel letters on the building. They will be illuminated, subtle, not bright or obnoxious.

Mr. Winn closed the Public Hearing on Design Review #11-08.

#### **Staff Recommendation**

*The Plan Staff recommends approval of Design Review Waiver 11-8 for ROC's at 102 Lincolnway East for 24 inch channel letters on the building and a projecting sign with an eight (8) foot height and 19 inch letters.*

**MOTION:** Matt Lentsch moved to approve Design Review #11-08. Carol Sergeant seconded; motion carried with a vote of 9-0.

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#### **SITE PLAN:**

##### **SP #11-C**

A request submitted by Garrison Holladay Heritage Square Delaware, LLC, requesting approval for a 9,566 sf restaurant and retail building on Outlot "C" at **Heritage Square**.

Brad Mosness, Abonmarche Consultants, 750 Lincolnway East, South Bend, presented the request. He said the owner's representative; Manette Tepe was also in attendance.

Mr. Prince said the Planned Unit Development was amended earlier in the meeting. He said the reason they have asked for the site plan tonight as well is that they have a tenant who is looking to go into, specifically Dunkin Donuts, and even if the Council chooses not to approve the amendment, they can still have two tenants in the building, just not the six they are requesting.

### **Staff Recommendation**

*The Planning Department recommends approval of Final PUD Site Plan 11-C for a 9,566 square foot multi-tenant building because it meets the requirements of Sec. 137-35 Final Site Plan Approval.*

**MOTION:** Don McCampbell moved to approve Site Plan #11-C. Edward Salyer seconded; motion carried with a vote of 9-0.

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### **NEW BUSINESS**

#### **SP #11-D**

A request submitted by the City of Mishawaka requesting approval for a 13,754 sf Fire Station #4 to be located west of Hums Elementary School on Harrison Road.

Mr. Prince said this site plan is for the replacement of Fire Station #4 to be located on Harrison Road and the Commission approved last month for annexation and zoning and the Common Council will vote on this next week. He said it should have been on the agenda this month and was inadvertently combined with the administrative site plan for Mishawaka Furniture parking rehabilitation and he apologizes for the confusion. He suggested the Commission take five minutes, if needed, to review the staff report and he also said the City's consultants were here to answer questions.

Mr. Prince said if the Commission was not comfortable approving the site plan at this meeting and continued it to the November meeting, then they lose one month of the construction season.

Mr. Winn asked the Commission members if they needed additional time to review the staff report. No one indicated they required the time and Mr. Winn indicated there was no need for a recess.

Eric Beaulieu, DLZ, presented the request on behalf of the City of Mishawaka. He said the new facility is to be built on Harrison Road west to Hums Elementary School on property recently acquired by the City. He said it includes approximately 14,000 sqft of new construction of a single story fire station with three bays for vehicles. It will also have a training conference room that can also be used for community events. Mr. Beaulieu said the fire trucks will access the station via a new extension of Bennington Drive and there will be no direct entry onto Harrison Road. He indicated the north parking lot is for staff and the lot to the east is for visitors.

Mr. Deal asked how close the west property line is to this facility. He said he was wondering if it could have been shifted slightly to the west so not to take as much of the park as it does.

Mr. Prince said the plan shows 180 ft. He said what impacts that is the connection with Bennington Drive.

Mr. Deal asked why the path that Bennington follows north of 12<sup>th</sup> Street can't be altered and configured differently so not to take so much of the park. Mr. Beaulieu said it's a possibility and has been considered in discussions with the Planning and Engineering Departments. He said there are benefits with aligning the extension including a stoplight to allow pedestrian crossing.

Mr. Deal said he isn't arguing the crossing. He said that once Bennington crosses 12<sup>th</sup> Street, can it go in a more westerly direction so as not to shave off so much of the park. Mr. Beaulieu said some of the property to the west is to be used for stormwater retention.

Mr. Prince said they thought Hums School would be interested in having the increased distance for stacking and currently the school doesn't want the connection between the extension of Bennington and their drive.

Mr. Deal said he is thinking the future of Hums Park is up in the air

Gary West said during original discussion they were impacting the park by nearly 3 acres. Now they are impacting the park by one acre and he shares the same concerns. He said the original plan cut through the football field and also impact the baseball field. This layout has resolved those issues. Mr. West said he would love to be farther to the west, but the traffic people said they are as tight as they want to be. This road could be extended at some point in the future to a stub street into Norland Park and it needs the capability of being a local street and not just a drive in.

Mr. West said this is the third version and the site is very compact. He said they are in discussions with School City and would like to make a presentation to the school board in pursuing this and the ultimate goal is to protect their recreational facility. Mr. West said the intent is to relocate the restroom facility and the volleyball court and also can retain the integrity of the facilities. Also included is a fence on the north side of Harrison to keep balls from rolling out into the road and to keep participants from running into the road as well.

Mr. West said as a footnote, he appreciated Mr. Prince putting this item on the agenda. Bids were opened and the Board of Public Works and Safety has issued an "intent to award" resolution meaning the consultant has reviewed the bids and the bidder needs to move forward in obtaining the necessary bonds and insurance. He said the Common Council needs to take action on a lease and subject to approval; the Board of Public Works and Safety may be in a position on October 18 to make the award.

Mr. West said they will hold a preconstruction meeting and issue a notice to proceed the week of October 24 which gives three additional weeks and that could be critical. He said there are subsurface issues that need replacing with suitable soil and that can be done and some of the foundation and superstructure up before the weather turns bad; the three weeks are quite critical.

### **Staff Recommendation**

*The Planning Department recommends approval of Site Plan 11-D for a municipal fire station because it meets the requirements of Sec. 137-35 Final Site Plan Approval.*

**MOTION:** Matt Lentsch moved to approve Site Plan #11-D. Carol Sergeant seconded; motion carried with a vote of 9-0.

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Ken Prince said the November meeting will be held November 15, 2011, due to City Hall being closed for the General Election.

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**ADJOURNMENT:** 7:46 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner