

**OCTOBER 8, 2013**

**PLAN COMMISSION  
CITY OF MISHAWAKA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, October 8, 2013, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Gary West, Matt Lentsch, Dale "Woody" Emmons, Murray Winn, Don McCampbell, Nick Troiola, Edward Salyer, and Rosemary Klaer. Absent: Ross Portolese. In addition to members of the public, the following were also in attendance: Robert Beutter, 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 10, 2013, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PETITION #13-33** A petition submitted by William D. Morgan on behalf of the Estate of William R. Morgan requesting to rezone **3614 Lincolnway East** from C-1 General Commercial District to R-1 Single Family Residential District.

William Morgan, 3844 E. Third Street, presented the request. He said the property has been for sale for over two years and thinks it would be more interesting to people to buy with a house that's zoned residential.

Mr. Emmons asked who was living in the home. Mr. Morgan said it's rented out and being maintained.

Mr. Winn closed the Public Hearing on Petition #13-33.

**Staff Recommendation**

*The Planning Department recommends **approval** of Petition 13-33 to rezone 3614 Lincolnway East from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:*

- 1. There are commercial zonings with residential uses to the west and south of this property, but the neighborhood surrounding the property are used as single family dwellings, and its historic use as a single family dwelling 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, its relationship to surrounding properties, and the potential of development as an commercial 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 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 general commercial but its historic use as a single family home is compatible and consistent with the historic residential uses in the area.*

**MOTION:** Rosemary Klaer moved to forward Petition #13-33 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 8-0.

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**PETITION #13-35** A petition submitted by Crest Net Lease, Inc. a Delaware Corporation to rezone **4811 Grape Road** from C-1 General Commercial District to C-4 Automotive Oriented Commercial District.

Jeff Ballard, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the Petitioner. He said Chris Enright, Enright Architects, 390 Park Street, Birmingham, MI, was also attendance on behalf of Belle Tire.

He said Crest Net Lease, Inc. is currently the owner of the old Ryan's Steakhouse and the property has been vacant for a number of years. Mr. Ballard said the property is currently zoned C-1 General Commercial and the request is to rezone to C-4 to allow the property to be sold and used for an automotive maintenance facility, Belle Tire out of Michigan.

Mr. Emmons asked for an explanation of what services Belle Tire provides. Mr. Ballard said they are a high-end tire and auto parts retailer, and are heavy into suspensions and drive trains. He said the facility would have 10 employees and hours would be typical of similar retailers along the corridor. Belle Tire is a very good company out of Michigan with stores in Ohio as well.

Mr. Emmons asked about tire storage. Mr. Ballard said there would be no storage of tires or cars outside.

Mr. Emmons asked if the existing building would be demolished. Mr. Ballard said they would tear down the existing restaurant building and build the facility which would be state-of-the-art.

Ms. Klaer asked how soon construction would begin. Mr. Ballard once the sale of the property takes place, site plans can be drawn up and hopefully start construction in the spring.

Mr. Emmons asked if the building will be of high quality; what about landscaping? Mr. Ballard said the entire building exterior will be brick and cast stone and Danch, Harner will be the landscape architect for the project.

Mr. Ballard said there will be no outside storage or display of tires and there would be no vehicles parked overnight due to the type of work they do. He said they work on brakes and shocks. Mr. Ballard said tires are brought back to the corporate office for recycling and he said they understand there is a lot of concern about the visual aspects of the property.

Mr. Emmons asked about the 10 employees. Mr. Ballard said that's average for their facilities and they are full time employees.

Mr. Emmons asked about exterior lighting. Mr. Ballard said the parking lot will have lights and the building will also be appropriately lit.

Mr. Winn asked if they will do body work or engine repair. Mr. Ballard said no.

Mr. Emmons asked if they handle hazardous material. Mr. Ballard said no.

**Opposition:**

Bruce Huntington, Botkin & Hall, 105 E. Jefferson Blvd., South Bend, appeared on behalf of the Pesek Family who own Corndance Tavern located immediately adjacent to the property. He said he was here not to speak in opposition but to ask for consideration.

Mr. Huntington said the proposed site plan shows a connection to the Corndance parking lot and that's troubling. He said to allow that flow is trespass and they would prefer not to have parties from the tire store come thru their parking lot.

Mr. Huntington said he also had concerns about the hours of operation. He asked what is considered "similar" to other retailers. He said their principal opposition is the traffic flow onto the site and it's inconsistent with the restaurant property use. Mr. Huntington also said the Ryan's Steakhouse building sits farther back on the lot than does the proposed tire store and would like to see it moved farther back.

Mr. Prince said it's our procedure to ask for site access and they would be required to dedicate an access easement. This would potentially allow others to access the traffic signal at Edison Lakes Parkway from their property and we're trying to continue what has been previously established. He said they don't want everyone to have to turn back onto Grape Road to make connections.

Mr. Prince also said tonight we're only considering the property zoning. Up and down Grape Road there are numerous C-4 zonings; Coussens property to the north of this site, north of Meijer is Gurley Leep automotive complex, and C-4 uses are prevalent along the corridor and staff believes the requested rezoning is appropriate.

Mr. Prince said the required setback is 25' and the site plan shows a building setback of 40'. In this case, it's staff's job to determine if it meets code when the site plan is filed.

Mr. Huntington asked how they could permit traffic to come across the Pesek's property and bear the liability of those who are not invitees of the restaurant. He said he understands the planning concept, but the idea of permitting traffic across their property is inconsistent with how they wish to use their property.

Mr. Lentsch asked how do you know that a customer of the tire store isn't going to be a patron of Corndance Tavern? Mr. Huntington said they are not restaurant business invitees, but invitees of the tire store.

Mr. Lentsch said you can't rule out that they won't get their tires worked on and then drive to the restaurant. Mr. Huntington said the hours of operation may preclude that; and restaurant patrons may find the tire store parking inviting.

**Rebuttal:**

Mr. Ballard said the hours of operation will be Monday and Thursday, 8:00 a.m. to 8:00 p.m., Tuesday, Wednesday, Friday 8:00 a.m. to 6:00 p.m., Saturday 8:00 a.m. to 5:00 p.m. and closed on Sunday. He said the only conflict he sees would be the days they are open late.

Mr. Winn closed the Public Hearing on Petition #13-35.

**Staff Recommendation**

*The Planning Department recommends approval of Petition 13-35 to rezone the former Ryan's Restaurant site at 4811 North Grape Road from C-1 General Commercial to C-4 Automobile Oriented Commercial. This recommendation is based on the following findings of fact:*

- 1. Given the properties' location on Grape Road, commonly known as regional intensive commercial corridor, with similar automobile related uses scattered throughout; and*
- 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 the rezoning will allow a current vacant former restaurant use to be demolished and replaced with a new business. Automobile related commercial represents the highest and best use for this property;*
- 3. Because the parcel is located along a heavily traveled established corridor in the center of a regional shopping area with millions of square feet of commercial (Grape Road), the proposed C-4 zoning is appropriate and compatible with surrounding uses;*
- 4. The C-4 classification will have a favorable and stabilizing impact on the neighborhood, allowing for the replacement of a now vacant structure, conserving property values in the immediate and surrounding area by providing for the appropriate re-use of a longstanding commercial property;*
- 5. The proposed C-4 Commercial zoning, permits a wide range of General Commercial uses in addition to those in the Automobile oriented commercial district and is consistent with the City's Comprehensive Plan which indicates that general commercial is intended for this area.*

**MOTION:** Matt Lentsch moved to forward Petition #13-35 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

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**REPLAT #13-36** A request submitted by Marvin Ward seeking approval of the two (2) lot Ward's Replat of Lot 5A of the Replat of Powell Major Subdivision.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioner. Mr. Lang said the request is to split a large lot and divide into two

smaller lots because the owner has someone interested in one of the lots. He said Engineering has asked to install an additional sanitary sewer and they will do so.

Mr. Winn closed the Public Hearing on Replat #13-36.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Replat for Ward's Replat of Lot 5A in the Replat of Powell Major Subdivision. This recommendation is based on the fact that the Replat meets all the requirements of Section 158.50 – Section 158.60 (Subdivision Replats).*

**MOTION:** Edward Salyer moved to approve Replat #13-36. Matt Lentsch seconded; motion carried with a vote of 8-0.

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**PLAT #13-37** A request submitted by JSK Investment, Inc., seeking approval of the two (2) lot Holiday Inn – Candlewood Suites Minor Subdivision.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of JSK Investment, Inc. He said the parcel is 5.4 acres and it is being divided into two lots.

Mr. Lang said the Holiday Inn and conference center will be located on Lot 1 and Candlewood Suites will be located on Lot 2. He said easements will be created for stormwater management, access, and parking.

Mr. Winn closed the Public Hearing on Plat #13-37.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Plat for the Holiday Inn- Candlewood Suites Minor Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.*

**MOTION:** Nick Troiola moved to approve Plat #13-37. Dale “Woody” Emmons seconded; motion carried with a vote of 8-0.

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**PETITION #13-38** A petition submitted by Steve Palatinus on behalf of the Leonard C. and Loretta M. Norris Estate requesting to rezone **3919 Lincolnway East** from C-1 General Commercial District and R-2 Two-Family Residential District to R-2 Two-Family Residential District.

John Piraccini, Coldwell Banker Real Estate, appeared on behalf of the property owner. He said he needed to clarify that there currently aren't any plans to sell the property. He said the area is peculiar and years ago they did a comprehensive rezoning and kept the front part of the property commercial and R-2 zoning in the back. This is part of an estate and the bank is requiring the R-2 zoning in order to sell the property and allow someone to buy it and fix it up. The new owners would be able to get financing and the estate can dispose of the property.

Mr. Lentsch asked if the intent is for it to be a single family home. Mr. Piraccini said it is a single family home and they are going to fix it up and the son will live in it. At this time they are looking to purchase the parcel next to it.

**In Opposition:**

Robert Klein, 3912 E. Third Street, asked if there would be a curb cut on Lincolnway or on Third Street.

**Rebuttal:**

Mr. Piraccini said at this point, they will leave the curb cut as it is with no access on Third Street. If something comes up later on, that will come with a site plan, but no plans to do anything at this time but fix up the house.

Mr. Winn closed the Public Hearing on Petition #13-38.

**Staff Recommendation**

*The Planning Department recommends **approval** of Petition 13-38 to rezone 3919 Lincolnway East from C-1 General Commercial and R-2 Two Family Residential to R-2 Two Family Residential. This recommendation is based upon the following findings of fact:*

- 1. There are multiple uses in this neighborhood that include both commercial and low density residential uses. . This property's historic use as single family is compatible to the area and consistent with its history;*
- 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 historic use as single family, staff feels that the most desirable use for this property is its historic residential;*
- 3. Because the parcel is located in an area of residential properties, as well as commercial, , the rezoning of the entire property to R-2 Two-Family Residential is a desirable use for this property;*
- 4. The proposed rezoning of this property to an 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 will allow the property owners to make improvements as they deem necessary, by allowing for the continued financing from lending institutions; and,*
- 5. The City's Comprehensive Plan calls for General Commercial and Low Density Residential, and the historic use and proposed classification fits within the plan.*

**MOTION:** Matt Lentsch moved to forward Petition #13-38 to the Common Council with a favorable recommendation. Rosemary Klaer seconded; motion carried with a vote of 8-0.

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**DESIGN REVIEW:**

**DR #13-09**

A request submitted by Evil Czech Brewery and Restaurant requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-76 Architectural Materials for **3703 North Main Street**.

Todd Miller, Ancon Construction, 2146 Elkhart Road, Goshen, presented the request. He said the new owners, the Pesek family, are seeking to tear off the metal siding and put

horizontal metal siding and steel beams and add elements. He said they will keep the existing fluted block below and in order to make the building appear taller, they are adding a screen mesh on top. Mr. Miller said the whole design is modeled after Old Milwaukee Breweries and give an industrial look on the exterior of the building.

Mr. Miller said the beer barrel addition on the front will be used for private parties and banquets and they are also moving the entrance to the northwest corner of the building since parking is in the back.

Mr. Winn closed the Public Hearing on Design Review #13-09.

*The staff recommends in favor of a Design Waiver #13-09 to utilize metal, steel, and wood architectural materials as shown on the attached elevations. The materials are used in a manner that complements the architectural design of the building. The materials that will be utilized are of high durability and design especially for commercial architectural applications.*

**MOTION:** Don McCampbell moved to approve Design Review #13-09. Edward Salyer seconded; motion carried with a vote of 8-0.

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**SITE PLAN:  
SP #13-G**

A request submitted by JSK Investment, Inc., for final site plan approval of a 4-story Holiday Inn and banquet center, and a 4-story Candlewood Suites to be located in the 1200 block of Douglas Road.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, presented the site plan request. He said the plan reflects changes requested by Planning and Engineering. Mr. Lang said the plan should look like other facilities along Douglas Road

Mr. Prince said modifications to the sanitary sewer will require IDEM approval due to the length of the connection. He also said there was a stormwater concern to be addressed. Mr. Prince said it would be appropriate to consider pending modifications be submitted and satisfied before permits are issued.

Mr. Prince said Planning has not seen color and building materials and staff needs to verify they are compliant with the ordinance. He also said he understands they are pressing for approval due to weather and financing.

Mr. Emmons said this is a Holiday Inn and not a Holiday Inn Express. Mr. Lang said yes, it will be a Holiday Inn.

Mr. Prince also said the grease interceptor needs to be located and identified on the plan; not by brand but specifically the size and said for Mr. Lang to coordinate with Engineering.

Mr. West said they have added a 10' utility easement and it isn't shown on the plat. Mr. Lang said that will be added and shown on the plat prior to recording.

**Staff Recommendation**

*Provided building elevations are submitted and reviewed and site plan and sign refinements have been submitted. Staff recommends that the request for final site plan approval for Holiday Inn and Candlewood Suites facility be approved. This recommendation is based on*

*the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan Approval.*

**MOTION:** Matt Lentsch moved to approve Site Plan #13-G. Rosemary Klaer seconded; motion carried with a vote of 8-0.

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**ADJOURNMENT:** 7:41 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner