

FEBRUARY 10, 2015
PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA

A regular meeting of the Mishawaka Plan Commission was held Tuesday, February 10, 2015, 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, Ross Portolese, Nick Troiola, and Kathleen White Gadacz. Absent: Murray Winn, Don McCampbell, and Victor Kasznia. In addition to members of the public, the following were in attendance: David Bent, Ken Prince, Greg Shearon, Christa Hill, and Kari Myers.

Mr. Lentsch explained the Rules of Procedure.

The Minutes of the January 13, 2015, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #15-03 A petition submitted by LCS Realty LLC requesting to vacate public right-of-way, more specifically a portion of Cleveland Road in front of **227 East Cleveland Road, Granger.**

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of LCS Realty. He said this is located in front of the Belmont Beverage at Cleveland and State Road 23 and they are remodeling the vacant 4,000 sqft space to the east to expand their wine business. Mr. Lang said more parking would be needed as they hope to add wine tasting events.

Mr. Lang said he contacted County Engineering about the possibility of vacating the right-of-way, but was informed they had nothing to do with it. He then contacted the City and they were willing to work with them to vacate that portion of Cleveland as it has not been maintained as a City street. Mr. Lang said they would maintain a utility easement and have worked with Engineering to alleviate the drainage issues as the current site is being handled with drywells. He said they have worked with Ms. Jamrose to interconnect the drywells in case of overflow.

Mr. Lang said they would also leave an open area to allow access to the Phillips 66 station as customers use that access instead of having to drive out onto SR 23. This is a way for them to exit and use the stoplight to their advantage.

Mr. Prince asked Mr. Lang if the client was aware they need to maintain utility and cross-access easements across the entire area. Mr. Lang said yes.

Opposition

Jack Block, 6910 N. Main Street, said he had spoken with a lot of building owners and tenants in University Gardens and they are really concerned about access. He said there's real difficulty getting in and out of that corner at all times of the day, especially in

December. Mr. Block said his wife was in an accident at the gas station. Many use the light to turn onto Cleveland Road and use the driveway and that the road gets a ton of use. In fact, he was going to talk to the City about upgrading the road.

Mr. Block said to exit to Main Street from University Gardens you need to cross four lanes of traffic and many times it's impossible. He said his concern is addressing continuing access and wants to make sure the owner maintains the easement. Mr. Block said his concern is they would close the access at some point in the future.

Mr. Block said about 150 people work in the office complex and the widening of Main Street has made access to the complex very difficult. It will be even more difficult when development at the corner of Gumwood and State Road 23 gets underway.

Mr. Block said he isn't against Belmont Beverage expanding their business; this should have been addressed prior to expanding.

Mr. Lentsch asked Mr. Block if he was still against it with upgrades and access. Mr. Block said no, he just wants to make sure it stays public right-of-way. In five years circumstances may change.

Rebuttal

Mr. Lang said they are looking to be a good neighbor and will keep the road open and provide an easement with documentation. He said they can't do anything about the access across the Phillips 66 station, but can maintain an access easement across this property. Mr. Lang said the proposed upgrades will be an asset to the tenants located in University Gardens.

Ms. Gadacz asked if they were willing to do a legal easement. Mr. Lang said he didn't think it would be a problem. It's shown as an existing drive on the site plan and can set up as an easement and if a recorded site plan is recorded, it can be identified as an easement at that time.

Mr. Prince said the vacation would need to specify any easements.

Mr. Lentsch closed the Public Hearing on Petition #15-03.

Staff Recommendation

Staff recommends in favor of Petition 15-03, with the establishment of a cross-access and utility easement and, to vacate the portion Cleveland road north of 227 Cleveland Road and south of State Road 23. This recommendation is based on the following findings of fact.

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Adjacent properties have access off of State Road 23 and a cross access easement will be provided within the portion of vacated right-of-way.
- 3) The right-of-way to be vacated 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: Nick Troiola moved to forward Petition #15-03 to the Common Council with a favorable recommendation. Ross Portolese seconded; motion carried with a vote of 6-0.

PETITION #15-04 A petition submitted by Marc V. Campbell requesting to annex and zone property located to the **south of 226 South Elder Road** to I-2 Heavy Industrial District.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of Mr. Campbell. He said Mr. Campbell contacted him about a survey of his property; he owns two parcels at Elder Road and the railroad tracks. Mr. Lang said in the process of doing the survey they determined the north parcel property lines thru the middle of the building and may create legal issues in the future if the property were to be sold.

Mr. Lang said he sat down with City and County Planning and decided the best way to approach this would be to annex into the City with an industrial zoning. He said this allows the entire property to be properly zoned within the City and rectify the property line issue.

Mr. Lentsch closed the Public Hearing on Petition #15-04.

Mr. Prince read a Letter of Opposition from Linda Eckenberger, 323 S. Elder Road. However, he said she called and discussed the request with staff and no longer is in opposition to the request.

Staff Recommendation

Staff recommends approval of Petition #15-04 to annex approximately 1.05 acres located south of 226 Elder Road into the City of Mishawaka and zone to I-2 Heavy Industrial. This recommendation is based upon the following findings of fact:

1. *Existing Conditions- The subject parcel is currently located adjacent to industrial zoned property and the area to be annexed.*
2. *Character of Buildings – The character of the buildings located adjacent is industrial and there is currently an industrial building located on the property to be annexed.*
3. *The most desirable/highest and best use – Because of the existing adjacent I-2 Heavy Industrial zoning to the north of the property to be annexed, the most desirable uses for the property is the continuation of the existing industrial use.*
4. *Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding area, because the industrial use is consistent with the adjacent industrial uses located to the north. Property located to the south of land to be annexed is vacant woodland.*
5. *Comprehensive Plan- The proposed annexation is consistent with The Comprehensive Plan, created in 1990, which indicated industrial uses within this area.*

MOTION: Ross Portolese moved to forward Petition #15-04 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 6-0.

OLD BUSINESS
REPLAT #15-02

A request submitted by Pyramid Properties, Inc. and PKB Realty II, Inc. seeking approval of the First Replat of Pyramid Subdivision of Lot A, Lighthouse Minor Subdivision. *Continued from the January 13, 2015 meeting. Petitioner requests continuance to March 10, 2015 meeting.*

The Commission moved and approved the item be continued to March 10, 2015.

ADJOURNMENT: 7:20 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner