

**NOVEMBER 10, 2015**  
**PLAN COMMISSION**  
**CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, November 10, 2015, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Matt Lentsch, Dale "Woody" Emmons, Ross Portolese, Murray Winn, Don McCampbell, Nick Troiola, Victor Kasznia, and Kathleen White-Gadacz. Absent: Gary West. In addition to members of the public, the following were also in attendance: David Bent, Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

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Mr. Winn explained the Rules of Procedure.

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

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Conflict of Interest was not declared.

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**PETITION #15-29** A petition submitted by Douglas Road Associates, LLC, requesting to rezone the **northwest corner of Douglas Road and Fir Road** from C-1 General Commercial District to C-10 Filling Station Commercial District. *Continued from the October 13, 2015, meeting.*

Mr. Winn said the public hearing has been closed on this item, but new information has come to light. There will be a presentation by the Petitioner and if there are new questions that we have not already heard, we will limit public input to items not already covered.

Stephen Studer, Krieg Devault, 4101 Edison Lakes Parkway, Mishawaka; Mike Danch, Danch Harner & Associates, 1643 Commerce Drive, South Bend; George Cressy, and representatives from Family Express were in attendance.

Mr. Studer said last month's meeting was continued in order to meet with the Juday Creek Task Force. He said they did meet on November 6 and spent nearly 90 minutes going over the project. He said they talked about how this site is upside of the floodplain and is on the border of the floodplain.

Mr. Studer said they spent time looking at the tank issue and concerns about small spills were raised by the Task Force. He said one thing they proposed and discussed is a stormceptor system that takes everything on site and takes to a pre-treatment system to separate oil, gas, and water, and puts water into the drainage system. Mr. Studer said they have done this in West Lafayette. He said they provided the Task Force with technical data and a film presentation of what this does.

Mr. Studer said the discussion focused mainly on mechanical issues and they will follow all state and local regulations. He said the cold water retention system used by Lowe's and Princess City Plaza is old technology. This will be state-of-the-art and the stormceptor system is extra protection; everything goes to this system. It's checked every six months and Karl Kopec with Mishawaka Wastewater said they may check the device to make sure all is working properly.

Mr. Studer said there were no major objections from the Task Force and he hoped they have answered the questions regarding environmental issues. He said the meeting with the Task Force was very positive and they issued a summary. They concluded that more precise information on the depth of the water table is needed to properly design on-site stormwater infrastructure and that the maintenance of this

infrastructure is highly crucial in protecting the water quality of Juday Creek. Mr. Studer said that Mr. Kopec wanted to inspect the system and he said they welcome that and they have every right to do so.

Mr. Studer said they will continue to work with the Engineering Department on the details.

Mr. Prince said an email had been received from Isaak Walton League summarizing their comments about the proposed station. They had concerns about tank installation below the groundwater table; dewatering of the site for tank installation; monitoring of the tanks; and expressed they would prefer that a gasoline station not be constructed at this location (their email is attached for reference).

Joe Grabill, 202 Lincolnway East, Mishawaka, said he has no relationship with either the buyer or seller, but has extensive experience as a commercial realtor and a member of the Brownfield Task Force. He said the environmental controls at this site are second to none and far exceed what's required for this site. Mr. Grabill said he grew up on Juday Creek and his kids play in the creek and he wouldn't hesitate to allow his kids to play in the creek after the facility is built.

Mr. Winn closed the Public Hearing.

Mr. Emmons said he and Councilman Banicki went to Valparaiso to tour one of the developed stations and will say their operation is second to none. He said he has never seen a convenience store run as efficiently. He said all precautions are taken and employee training is unbelievable. Mr. Emmons said you don't know you are at a gas station as it's designed like a bank. All employees go through the same training.

Mr. Emmons talked about the double-walled tank system and how they're monitored, friendly employees, no high school students as employees, very family-oriented.

Mr. Lentsch said he's glad for the extra time taken and that sometimes a delay of a month is worth it to cover all bases. He said if you look at the Plan Commission's record, we're friendly to business; understanding, and we do what we can to help businesses.

Mr. Lentsch also said he's glad for the input from the Juday Creek Task Force and also glad that Councilmen Emmons and Banicki could make a site visit. He said he'd be supporting the request.

### **Staff Recommendation**

*Staff recommends in favor of rezoning Petition # 15-29 to rezone approximately 1.56 acres located at the northwest corner of the intersection of Douglas and Fir Roads to C-10 Filling Station Commercial. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions- Although the area was platted and developed decades ago with a tract of single family homes, the subject parcel is located at the intersection of two arterial roadways within an area that continues to develop with commercial uses. Traffic is intended to increase along both corridors. The southeast corner of this same intersection is currently zoned C-1 General Commercial and is also requesting to expand with an additional annexation.*
- 2. Character of Buildings – The character of the buildings within the surrounding area is single family residential, but the area continues to redevelop for commercial purposes.*
- 3. The most desirable/highest and best use – Because of the parcels' location and the existing commercial development along the Douglas and Fir Road corridors, the most desirable use for the property is commercial. Although there are surrounding residential properties, the increasing traffic along the corridors, makes the long term use of these properties undesirable for residential purposes.*
- 4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding neighborhood, because higher impact commercial uses already exist in close proximity to annexation area.*
- 5. Comprehensive Plan- The Comprehensive Plan, created in 1990, guided residential development within this area. Recent development patterns within the area, along with the increasing commercial development within the northern portion of Mishawaka, including the St. Joseph*

*Regional Medical Center development, has altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth. Residential development is no longer desirable within this area and comprehensive plans must be reevaluated as development trends change over the years.*

**MOTION:** Matt Lentsch moved to forward Petition #15-29 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 8-0.

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**PLAT #15-34** A petition submitted by Browning Real Estate Properties, LLC, seeking approval of the one (1) lot Bayer Healthcare at Beacon Parkway Subdivision. *Continued from the October 13, 2015, meeting.*

Mr. Winn read a letter from the Petitioner requesting this item be continued to the December 8, 2015, public hearing. The Commission moved and approved the request.

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**PETITION #15-31** A request submitted by Great Lakes Capital requesting to amend the Toscana Park Planned Unit Development to modify the previously approved sign program.

Mr. Winn read a letter from the Petitioner requesting this item be continued to the December 8, 2015, public hearing. The Commission moved and approved the request.

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**PETITION #15-37** A request submitted by Jeffery F. Butler to rezone **2102 North Byrkit Avenue** from C-4 Automobile Oriented Commercial District to R-1 Single Family Residential District.

Kevin Swanson, 2102 N. Byrkit Street, said he's lived in the house since 2013. He said they have been buying the property on land contract and have invested nearly \$30,000 in it and found out it was zoned C-4 when they tried to get it in their name.

Mr. Swanson said they love the house and have fixed it and the yard up and decorate for the holidays. He said it's something they have wanted all their lives and want to abide by our rules. Mr. Swanson said he's lived in Mishawaka for 30 years and paid rent for 27 and it's time to buy a house and he plans on living the rest of his life there.

Mr. Winn closed the Public Hearing on Petition #15-37.

### **Staff Recommendation**

*The Planning Department recommends **approval** of Petition 15-37 to rezone 2102 N. Byrkit Avenue from C-4 Auto Oriented Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following Findings of Fact:*

- 1. While three properties to the north of the subject parcel are zoned commercial, a majority of the existing structures along Byrkit Avenue and adjacent to the east and south are single family residential in use. Additionally, the properties to the west within the Oak Grove Mobile Home Park are single family residential in nature. Therefore, the continued use of the site 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 history as a single family residence, staff feels that the most desirable use for this property is its continued 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 types 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 will allow the property owner to sell the property; and,*
5. *The Comprehensive Plan for the City of Mishawaka indicates Low Density Residential (Single Family Homes) for this area of N. Byrkit Avenue. The properties along this portion of N. Avenue are, and in all likelihood will continue to be, predominantly residential in their use.*

**MOTION:** Kathleen White-Gadacz moved to forward Petition #15-37 to the Common Council with a favorable recommendation. Victor Kasznia seconded; motion carried with a vote of 8-0.

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**SITE PLAN:**  
**SP #15-E**

A request submitted by Browning Real Estate Properties, LLC, seeking approval of the 60,000 sqft Bayer Healthcare Office Building on Beacon Parkway. *Continued from the October 13, 2015, meeting.*

Mr. Winn read a letter from the Petitioner requesting this item be continued to the December 8, 2015, public hearing. The Commission moved and approved the request.

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**ADJOURNMENT:** 7:27 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner