

**DECEMBER 8, 2015**

**PLAN COMMISSION  
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, December 8, 2015, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Matt Lentsch, Murray Winn, Don McCampbell, Nick Troiola, Victor Kasznia, and Kathleen White-Gadacz. Absent: Gary West, Dale "Woody" Emmons, and Ross Portolese. In addition to members of the public, the following were also in attendance: Ken Prince, Derek Spier, Christa Hill, and Kari Myers.

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Mr. Troiola moved to adopt the 2016 Rules of Procedure, 2016 meeting calendar, and fee schedule. Mr. McCampbell seconded; motion carried with a vote of 6-0.

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Mr. Winn explained the Rules of Procedure.

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The Minutes of the November 10, 2015, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**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. *Continued from the November 10, 2015, meeting.*

Garry Potts, Professional Permits, 2319 Lincolnway East, Mishawaka, appeared on behalf of Great Lakes Capital and Burkhart Advertising. He said they are requesting to amend the PUD to update the overall sign plan to provide consistent design standards over the 30+ acre development. This will include removal of the existing "Toscana Park" identification sign.

Mr. Potts said over the years, tenants have contacted the owner asking for a multi-tenant sign. He said currently only the Residences to the north are identified and this solves the issue and brings continuity to the development.

Mr. Potts said the sign design is antique brick with aluminum panels. The internal signs are non-illuminated and have 3D vinyl for greater visibility. A great deal of time and energy went into the design of the sign program.

Mr. Lentsch said staff recommended denial. Mr. Potts said staff denied the original submittal, but is recommending approval of the amended sign package.

Mr. Kasznia asked how durable the vinyl is. Douglas Merritt, Professional Permits, 2319 Lincolnway East, Mishawaka, said the vinyl has a 5-year life span, is durable, and Great

Lakes Capital will change out the material if it becomes faded. The cabinets are powder-coated and have a greater life-span.

Mr. Lentsch asked Mr. Prince if we are looking to approve with the conditions outlined in the staff report. Mr. Prince said yes and the Petitioner has agreed to them.

### **Staff Recommendation**

*Staff recommends denial of the original PUD Amendment submittal, however can recommend **approval** of the amended submittal of Petition #15-31 to amend the Comprehensive Sign Program for Toscana Park Planned Unit Development as per the following conditions of approval:*

1. *Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 30+ acre site) and to otherwise further the intent of this chapter as follows. All freestanding signage shall otherwise be designed as per the applicable City requirements.*
  - a. *A maximum of four (4) monument type signs may be located along Gumwood Road, provided the minimum separation between signs shall be 150 linear feet. The maximum standard for area and height calculations for monument signs shall be further restricted as follows: the maximum sign area shall be limited to a maximum of 60 square feet with a maximum length of any sign not to exceed 12 feet.*
  - b. *One freestanding identification/development sign for the entire planned unit development (not just for one tenant/occupant) may be permitted in addition to the aforementioned monument signage to be located at the main entrance to the development on Gumwood Road. Size shall be limited to a maximum of 12 feet in height and 96 square feet in area.*
  - c. *All freestanding signs shall have a masonry base.*
2. *Temporary signs, including those in windows, shall be prohibited for all outlots regardless of proposed use.*
3. *Internal directory kiosks may be placed strategically around the center to help customers locate businesses and retailers.*
4. *Freestanding sandwich boards may be placed internally in the development, but shall not be placed where readable from Gumwood Road.*
5. *Animated/electronic reader boards shall be prohibited for all parcels.*

*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 sign program is comparable to other developments along Gumwood Road.*
2. *Character of Buildings in Area - The character of buildings within this area is commercial and the number of proposed signs along Gumwood Road would not be uncharacteristic within the general vicinity.*

3. *The Most Desirable/Highest and Best Use - The proposed amendment for signage use within the PUD is not inconsistent with surrounding zoning classifications.*
4. *Conservation of Property Values - The proposed amendment will not be injurious to property values in the surrounding area, because the similar sign programs have been approved for Heritage square to the south and Grandview multi-use development to the west.*
5. *Comprehensive Plan - The Comprehensive Plan had identified this area for general commercial and is consistent with the goals, objectives, and policies of the Comprehensive Plan.*

**MOTION:** Matt Lentsch moved to forward amended Petition #15-31 to the Common Council with a favorable recommendation subject to the outlined conditions of approval. Victor Kasznia seconded; motion carried with a vote of 6-0.

**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 November 10, 2015, meeting.*

Brian McMorrow, Abonmarche Consultants, 750 Lincolnway East, South Bend, appeared on behalf of Browning Real Estate Properties.

Mr. McMorrow said he has had ongoing conversations with Planning and Engineering concerning a roadway needed to serve the property. He said after discussions with Engineering, the hatched area shown on the plan will be 60' ROW and built in accordance with City standards. It's required due to the median break at the Bayer site.

Mr. McMorrow said the Petition is for the Plat as amended and subject to further review from the Engineering Department. He said if approved, closing could occur by year end and Browning could take title to it and develop.

Mr. Winn closed the Public Hearing on Plat #15-34.

**Staff Recommendation**

*Provided the road dedication is addressed, the Planning Department recommends approval of the Preliminary and Final Plat for the Bayer Healthcare at Beacon Parkway Subdivision because it meets the requirements identified within the City of Mishawaka Zoning Subdivision Control Ordinances.*

**MOTION:** Nick Troiola moved to approve Plat #15-34. Don McCampbell seconded; motion carried with a vote of 6-0.

**PETITION #15-38** A petition submitted by Robert C. Leiz requesting to rezone **128 South Home Street** from R-1 Single Family Residential District to R-2 Two-Family Residential District.

Linda Smith, Cressy & Everett Real Estate, 332 N. Ironwood Dr., South Bend, appeared on behalf of Robert Leiz. She said Mr. Leiz is requesting to rezone the property to R-2. It's been a duplex since 1950 per the Polk Directory and he has a tenant that's been there for 20 years. Ms. Smith said when Mr. Leiz purchased the property he was able to get FHA

financing, but cannot sell the house with the R-1 zoning. Ms. Smith said the property has been taxed as a duplex; all utilities are separate.

Ms. Smith said the home was built in 1910 and used as a duplex since 1950, but isn't sure when the change occurred.

Mr. Lentsch asked if there were any code violations. Ms. Smith said no, it's up to code and has been inspected.

Mr. Prince read Letters of Remonstrance from Thomas Pascoe, 125 Helen Ave.; Stacey Sherfick, 128 Helen Ave.; and, Mary DeCoudres, 129 Helen Ave.

### **Rebuttal**

Ms. Smith said regarding the trees, the utility company looked at it and they said it was fine.

Ms. Smith said the same tenant has been there for 25 years and she doesn't know what the remonstrators are talking about.

Ms. Smith said regarding the comment about the owner being out of state, the home is owner occupied. He isn't out of state.

Ms. Smith said she assumes the fireworks happened on the 4<sup>th</sup> of July. Also, the home has not been poorly maintained. There isn't a lot of parking on Home Street and folks tend to park in the alley.

Ms. Smith said the problem is the owner will not be able to sell the home with the current zoning unless he finds a purchaser with cash. She said his family is growing and needs something larger.

Mr. Kasznia asked if the home was for sale. Ms. Smith said yes.

Mr. Kasznia asked if they had a buyer lined up. Ms. Smith said yes, hence the need for rezoning.

Mr. Kasznia asked if it was owner occupied. Ms. Smith said yes and he's kind of stuck with a property he can't do anything with and he doesn't want to turn into an investment property.

Ms. White asked how difficult would it be to turn the house back into single-family. Ms. Smith said very difficult as they have separate entrances and everything is separate. She said she just doesn't see how it would happen.

Ms. White asked if she knew why the neighbors would think the owner lived out of state. Ms. Smith said has no idea as he's lived there for 8 years.

Mr. Lentsch asked if it was owner-occupied. Ms. Smith said yes it's an owner-occupied duplex and the tenant has been there for 25 years.

Ms. White said to clarify the code that it can remain as is as long as it isn't vacant for 6 months or more. Mr. Prince said yes, that is correct.

Ms. Smith said the neighborhood hasn't changed much at all over the years. This is an income producer, but he can't get his asking price if we don't change the zoning. She said the neighborhood is 30% rentals with 62% being owner occupied. 43% of residents move every 5 years.

Mr. Winn closed the Public Hearing on Petition #15-38.

### **Staff Recommendation**

*The Planning Department recommends approval of Petition 15-38 to rezone 128 S Home Street from R-1 Single Family Residential to R-2 Two-Family Residential. This recommendation is based upon the following findings of fact:*

- 1. Existing Conditions: The house has functioned as a two family dwelling for over 50 years, so there would be no change to the area.*
- 2. Character of Buildings: 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 history of this site, its relationship to surrounding properties, staff feels that the most desirable use for this property is to continue the two family residential use;*
- 3. Most Desirable Use: Given the history of this site, staff feels that the most desirable use for this property is to continue the two family use as R-2 Two Family Residential;*
- 4. Conservation of Property Values: Rezoning this property to the R-2 Two Family Residential classification will match the existing use and taxing of the property, which should not adversely affect property values in the immediate neighborhood; and,*
- 5. Comprehensive Plan: The City's Comprehensive Plan calls for low density residential, however, adding one legal unit does not significantly increase the units per acre; therefore, rezoning is compatible with the City's Comprehensive Plan.*

**MOTION:** Don McCampbell moved to forward Petition #15-38 to the Common Council with a favorable recommendation. Victor Kasznia seconded; motion carried with a vote of 6-0.

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**PETITION #15-39** A petition submitted by Mark Hughes requesting to rezone **516 East Mishawaka Avenue** from C-1 General Commercial District to R-1 Single Family Residential District.

No one appeared to present the Petition. The item is continued to the January 12, 2016, meeting.

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**PETITION #15-40** A petition submitted by J. D. Enterprises and Janco Engineered Products, LLC, requesting to vacate a 20' X 20' area of public right-of-way adjacent to **1217 East Seventh Street**.

Peter Giczewski, Janco Engineered Products, LLC, 1217 E. 7<sup>th</sup> Street, Mishawaka, presented the Petition. He said they are in the process of purchasing the property and they discovered that there's a 20' X 20' area of the building that was somehow built on City right-of-way and they need to have it vacated.

Mr. Winn closed the Public Hearing on Petition #15-40.

**Staff Recommendation**

*Staff recommends in favor of Petition 15-40 vacating a 20'x20' portion of E. 8<sup>th</sup> Street located west of Campbell Street at the northwest corner of the western terminus of E. 8<sup>th</sup> Street. 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 the adjacent property to be transferred to the contingent purchaser for continued use for industrial purposes. The vacated area includes an existing building and fence encroachment into the public right-of-way.*
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. All of the adjacent properties along E. 8<sup>th</sup> Street will continue to have access to the public right-of-way.*
- 3) The street 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:** Matt Lentsch moved to forward Petition #15-40 to the Common Council with a favorable recommendation. Victor Kasznia seconded; motion carried with a vote of 6-0.

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**DESIGN REVIEW:**  
**DR #15-07**

A request submitted by Fresh Thyme Farmers Market, 5518 Grape Road, Mishawaka, requesting a waiver from the Mishawaka City Design Review Ordinance 105-108 Mechanical Equipment and 105-116 Dumpster/Utility Services Areas to utilize a 6' black cedar fence with horizontal slats in lieu of constructing the enclosure to match the exterior of the building.

T.J. Swanson, Architects Forum, 8555 N. River Road, Indianapolis, appeared on behalf of Fresh Thyme. He said Fresh Thyme has several dumpsters and trash compactors located at the back of their building and the Design Review Ordinances requires they conceal mechanical equipment. Mr. Swanson said they propose to utilize a stained cedar decorative fence.

Mr. Kasznia asked Mr. Prince about the requirements. Mr. Prince said it needs to be brick, but that comes into play more for new construction and the fence is probably a better fit for the area. He also said that if another furniture store had gone in the space formerly The Room Place, it would have been grandfathered; the change of use prompted the requirements.

Mr. Winn closed the Public Hearing on Design Review #15-07.

**Staff Recommendation**

The Staff agrees this is a suitable material to screen the dumpster, truck dock and loading areas, and meets the intent of the Design Review Ordinance standards by updating the site and recommends approval of the Design Waiver.

**MOTION:** Victor Kasznia moved to approve Design Review #15-07. Nick Troiola seconded; motion carried with a vote of 6-0.

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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 November 10, 2015, meeting.*

Brian McMorrow, Abonmarche Consultants, 750 Lincolnway East, South Bend, presented the site plan. He said the Petitioner is requesting for approval to develop the site in accordance with the site plan.

Mr. McMorrow said they are requesting approval subject to final Engineering review on some of the roadway details as they must design temporary cul de sac that will exist at the end of the road.

Mr. Prince said there are some details that need to be addressed and can be addressed after approval. He said we will not issue any permits for construction until such details have been worked out. Mr. McMorrow said the client is aware of that condition.

**Staff Recommendation**

*Provided the revised site plan submitted on 12/2/15 addresses all of Engineering’s comments, Staff recommends that the request for final site plan for Bayer Healthcare 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 #15-E subject to Engineering comments being addressed. Don McCampbell seconded; motion carried with a vote of 6-0.

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**ADJOURNMENT:** 7:37 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner