

**JANUARY 12, 2016**  
**PLAN COMMISSION**  
**CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, January 12, 2016, 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, Victor Kasznia, and Kathleen White-Gadacz. Absent: Ross Portolese, Don McCampbell, and Nick Troiola.

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Murray Winn turned the meeting over to Ken Prince, City Planner, for the election of officers.

**ELECTION OF OFFICERS:**

**MOTION:** Matt Lentsch moved to nominate Murray Winn as President. Victor Kasznia seconded; motion carried with a vote of 5-0.

**MOTION:** Victor Kasznia moved to nominate Matt Lentsch as Vice-President. Gary West seconded; motion carried with a vote of 5-0.

**MOTION:** Victor Kasznia moved to reappoint the Planning Staff for 2016. Dale "Woody" Emmons 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 January 12, 2016, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**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. *Continued from the December 8, 2015, meeting.*

Mark Hughes, 516 E. Mishawaka Avenue, said he bought the house in 2002 and it was zoned C-1 and the zoning wasn't an issue at that time. He said he wants to refinance and needs to have it rezoned.

Mr. Lentsch asked Mr. Hughes if he lived there. Mr. Hughes said yes.

Mr. Lentsch asked if he intended to stay there. Mr. Hughes said yes.

Mr. Winn closed the Public Hearing on Petition #15-39.

**Staff Recommendation**

The Planning Department recommends **approval** of Petition 15-39 to rezone 516 E. Mishawaka Avenue from the C-1 General Commercial District to the R-1 Single Family Residential District. This recommendation is based upon the following Findings of Fact:

1. While properties adjacent to the subject parcel fronting Mishawaka Avenue are zoned commercial, a majority of the existing structures along the Mishawaka Avenue corridor are currently used for residential purposes. Additionally, the properties to the north along Grove Street are occupied as single or two family residences. 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 primarily 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 continue to use the property as a single family residence; and,
5. The Comprehensive Plan for the City of Mishawaka indicates Low Density Residential (Single Family Homes) for this part of Mishawaka Avenue. Many of the properties along Mishawaka Avenue are, and in all likelihood will continue to be, predominantly residential in their use.

**MOTION:** Victor Kasznia moved to forward Petition #15-39 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 6-0.

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**REPLAT #16-01** A request submitted by Highland Village, LLC, seeking approval of the replat of Lot 73A to remove drainage easement.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the property owner. He said when the property was originally platted, it had a drainage easement for a pipe for drainage from Jefferson to the river. Mr. Lang said later, the City relocated where the outlet would be and the pipe never installed, but the easement remained on the lot.

Mr. Lang said there is a buyer who wants to build a home and the easement runs 2/3 of the way thru the lot and they want to be able to use the whole lot for their home.

Mr. Prince read a letter of support from Phil Gleissner, 1321 Highland Village Drive.

Mr. Winn closed the Public Hearing on Replat #16-01.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Replat for Highland Village P.U.D. 7<sup>th</sup> Replat pending minor revisions to the plat as discussed with the land surveyor. A revised plat must be submitted prior to being recorded. This recommendation is based on the fact that the Replat meets all the requirements of Section 133-107 (Preliminary Replat) and Section 133- 110 (Final Replat).*

**MOTION:** Kathleen White-Gadacz moved to approve Replat #16-01. Matt Lentsch seconded; motion carried with a vote of 6-0.

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**REPLAT #16-02** A request submitted by Barak Group, LLC, seeking approval of the replat of Lots 697, 698, 699, 700, and 701 in Reverewood Addition Phase 3, Section "T".

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of Barak Group, LLC. He said their intent is to take 5 lots and make into 4 larger lots for larger homes. Mr. Lang also said this stretch of road will be installed in the spring. He said they have 6 homes that are built in other phases and are looking to continue.

Mr. Winn asked Mr. West to clarify Engineering Department’s comments about moving Bennington Drive to the north. Mr. West said his concern is that 30 years of development in Reverewood and this is one of the final phases platted. Bennington will extend to Blackberry and Bennington is a collector street and will extend from Blackberry to Beacon and follow to traffic signal. His concern is that it might be better to offset the entrance 2-3 lots to the north for a dogleg to reduce the potential of people speeding in the subdivision. Mr. West said there isn’t another intersection where you can do an all-way stop and it just makes it difficult. He said he’s looking ahead to minimize that, but it doesn’t look like the developer is excited about it.

Mr. Lang said they took that into consideration. He said Rosemont was planned to go to Blackberry, but there’s no line of site. It becomes a line of site issue if you try to move it to the north. Where it is now, it’s about 1,000 feet from there. This developer has also picked up 75 acres south of Eller Ditch. He said access at that location will probably be better than try to have all traffic going back up Bennington to Blackberry and that was the consideration. Mr. Lang said it’s kind of a two way thing; better safety location and better access to 75 acres to the south. It will be easier to get to Blackberry and 12<sup>th</sup> Street.

Mr. Winn closed the Public Hearing on Replat #16-02.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Replat for Portage Realty’s Reverewood Addition, Phase 3, Section T, 1<sup>st</sup> Replat pending minor revisions to the plat as discussed with the land surveyor. A revised plat must be submitted prior to being recorded. This recommendation is based on the fact that the Replat meets all the requirements of Section 133-107 (Preliminary Replat) and Section 133- 110 (Final Replat).*

**MOTION:** Matt Lentsch moved to approve Replat #16-02. Dale “Woody” Emmons seconded; motion carried with a vote of 6-0.

**PETITION #16-03** A request submitted by John Ward requesting to rezone property north of 124 Cedar Road from C-1 General Commercial District to S-2 Planned Unit Development District for use as duplex residential units.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioner. He said this property was annexed into the City last year and zoned C-1 and that project as a commercial use died. Mr. Ward has been approached by a builder to put duplexes on the property. What was going to be a commercial strip center will be a series of duplexes with private street, an extension of water and sewer. Mr. Lang also said going from commercial use to residential use is a good thing for neighbors with noise being less of a concern.

Ms. White-Gadacz asked if they will be owner-occupied or rentals. Mr. Lang said at least one unit will be an owner and maybe rent the other side. He said the goal is to be on an individual lot sold as an individual unit.

### **Opposition**

Cynthia Bennett, 11908 Franklin Street, Osceola, said she lived there until her husband passed away. She asked if they put a sewer system in this development, will she have to go to a sewer system. Mrs. Bennett also asked if it would be noisy; she's concerned about what's going to happen since it's a quiet neighborhood.

Mr. West asked Mrs. Bennett what she meant by "noisy". Did she mean the neighbors or construction? Mrs. Bennett said both.

Mr. West said they will put sewer on the new site and it will be pumped along Cedar Road.

Mrs. Bennett asked if it will come into her yard. Mr. West said no.

Mr. West said with regard to construction, they can work from 7:00 a.m. to 6:00 p.m.

Mr. Kasznia said this will probably be more peaceful than the previous proposal and when completed will be a better fit for the neighborhood than commercial use.

### **Rebuttal**

Mr. Lang said the switch to residential will have less impact. The hours the neighbors will be home will probably be similar to hers.

Mr. Lang said as for sanitary sewer, it will be pumped from the site and will not affect anyone's well or septic and all will be contained on site and pumped to City sewer.

Mr. Kasznia asked who would be responsible for the sanitary sewer. Mr. West said it is developer's responsibility. They may have a homeowner's association and the street will be private with contractor's handling that.

Mr. Winn closed the Public Hearing on Petition #16-03.

### **Staff Recommendation**

*Staff recommends **approval** of Petition #16-03 to rezone approximately 2.7 acres located in the 57000 block of Cedar Road (north of 124 Cedar Road) from C-1 General Commercial to S-2 Planned Unit Development with the following PUD development standards/conditions:*

**Uses:**

1. *Uses shall be limited to two-family residential (duplexes) as identified in the petition for rezoning.*

**Sanitary Sewer:**

1. *The developer shall connect to City of Mishawaka sanitary sewer as directed by applicable codes and the City Director of Engineering. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.*

**Right-of-Way Dedication / Private Access Drive:**

1. *A 40' half right-of-way must be dedicated from the centerline of Cedar Road.*
2. *The private access drive (cul-de-sac) shall be designed as directed by applicable codes and the City Director of Engineering.*

**Parking:**

1. *Each driveway shall be a minimum of 25' in length from the edge of pavement to the façade of each garage.*

**Stormwater Management Infrastructure:**

1. *The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.*

**Pedestrian Access/Circulation**

1. *A sidewalk shall be installed along the east side of Cedar Road within the dedicated right-of-way to provide a pedestrian connection from the development extending southerly to the gas station/convenience store at the northeast corner of Cedar Road and Lincolnway East.*

**Other:**

1. *All other developmental standards not identified shall comply with the R-2 Two-Family Residential standards.*

*This recommendation is based on the following findings of fact:*

1. *Existing Conditions- The subject parcel is vacant land located within an area of existing residential, commercial/office, and agricultural uses.*
2. *Character of Buildings – The character of the buildings within the surrounding area is mixed with residential (north) and commercial/office (south and west).*
3. *The most desirable/highest and best use – Because of the parcel's proximity to both single-family residential uses to the north and east and commercial and office uses to the south and west, the most desirable use for the property is a higher density residential use. Such a use will act as a buffer between the adjacent commercial/office and residential uses.*

4. *Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because two-family residential is consistent and compatible with the adjacent land uses.*
5. *Comprehensive Plan - This specific property was not identified in the City of Mishawaka Comprehensive Plan as it was recently annexed. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan.*

**MOTION:** Victor Kasznia moved to forward Petition #16-03 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 6-0.

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**PLAT #16-04** A request submitted by Family Express Corporation seeking approval of the one (1) lot Family Express Minor Subdivision.

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of Family Express Corporation. He said a few months ago this property was rezoned to allow for a filling station, convenience store, and car wash. This request is to separate the property into their own lot. Mr. Shearon said they will be getting a reciprocal easement agreement and it will be shown prior to recording.

Mr. Prince asked Mr. Shearon if he saw the electrical easement. Mr. Shearon said yes.

Mr. Winn closed the Public Hearing on Plat #16-04.

**Staff Recommendation**

*The Planning Department recommends approval of the Preliminary and Final Plat for the Family Express Minor Subdivision pending revisions to the plat as requested by the Electric and Engineering Departments. A revised plat must be submitted prior to being recorded. This recommendation is based upon the fact that the subdivision meets all of the requirements of Section 133-73 (Preliminary Plat) and Section 133-76 (Final Plat) of the City of Mishawaka Subdivision Control Ordinance.*

**MOTION:** Kathleen White-Gadacz moved to approve Plat #16-04. Matt Lentsch seconded; motion carried with a vote of 6-0.

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**DESIGN REVIEW:**

**DR #16-01**

A request submitted by Smokestack Brew, 100 Center requesting a waiver from the following Mishawaka City Design Review Ordinance Sections to permit signage which does not comply with said Ordinance: 105-169 Exterior Signage Materials; 105-170 Exterior Signage Colors; 105-174 Signage Size Limitations; and 105-175 Signage Quantity.

Tony Gazzana, 3421 W. Sutton Drive, Mishawaka, appeared on behalf of Smokestack Brew. He said they have made considerable renovations inside and outside and this is the final exterior improvement. He provided two letters of approval from 100 Center Association and 100 Center Property Owner's Association.

Mr. Emmons asked what type of material the banners would be. Mr. Gazzana said they would be painted canvas that would have frames and be comparable to what would be on a billboard. It has a life expectancy of years without fading. It's a heavy vinyl that's printed.

Mr. Emmons asked if it would have a covering. Mr. Gazzana said no.

Mr. Emmons asked if it would withstand the weather as he didn't want it to look shabby. Mr. Gazzana said yes it would withstand the weather.

**Staff Recommendation**

*The Planning Staff recommends approval of Design Review Waiver #16-01 for Smokestack Brew located in the 100 Center to install a total of five (5) banners as requested.*

**MOTION:** Kathleen White-Gadacz moved to approve Design Review #16-01. Dale "Woody" Emmons seconded; motion carried with a vote of 6-0.

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Mr. Prince said Committee positions will be assigned at the next meeting.

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Mr. Prince said congratulations were in order for Christa and baby boy born on Jan 10.

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Mr. Prince also asked the Commission to keep Ross in your prayers as his family is going through a hard time.

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**ADJOURNMENT:** 7:35 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner