

MAY 10, 2016

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

A regular meeting of the Mishawaka Plan Commission was held Tuesday, May 10, 2016, 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, Jr., 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.

Mr. Winn explained the Rules of Procedure.

The Minutes of the April 12, 2016, meeting, were approved as presented.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #16-12 A petition submitted by KLT Properties, LLC, requesting to amend the Gateway Plaza Planned Unit Development located at the **northwest corner of Bremen Highway and US 20 Bypass**, to allow the parcel to be developed independently from previous PUD that included multiple parcels, and architectural building standards for the self-storage facility shall only apply to the eastern most Building #3. *Continued from the April 12, 2016, meeting. Petitioner requests the item be continued to the June 14, 2016, meeting.*

The Petitioner requested the item be continued to the June 14, 2016 meeting. The Commission unanimously approved the request to continue.

PETITION #16-16 A petition submitted by RKG Holdings L.L.C. requesting to rezone **3837 Lincolnway East** from R-2 Two Family Residential District to C-4 Automobile Oriented Commercial District.

Richard Gerver, Karen Gerver, and Matt Gerver, owners of RKG Holdings, LLC, presented the petition. They said they purchased the property about 2 years ago and have a car lot on the property and also own the green house that is used for residential. They received a Use Variance to permit the residential use. Matt Gerver said they have acreage in the back that is flat and zoned R-2. There is no access to that property from Third Street.

Matt Gerver said they received a violation notice from the City because they had cars parked on the property and were told they could not do so. Mr. Gerver said he goes to car auctions within a 200 mile radius and buys cars to either put on the lot or get ready for auction. He said they have 3 acres of land that is useless to them and they bought this property hoping to expand the business.

Mr. Lentsch asked Mr. Gerver what they have done to address staff's concerns. Matt Gerver said they have no done anything yet; they didn't think the notice was a big deal. They are going to put up a fence and going to expand parking area by putting down nice crushed limestone or crushed asphalt, but they stopped those plans until they hear what the City wants them to do.

Mr. Prince said to clarify the reason they are here; the front part of the property is zoned C-4 and the back is zoned R-2 and they are parking cars on the R-2 part of the property.

Mr. Prince said the second issue is making improvements to the property. Cars must be parked on hard surface; concrete or asphalt; cannot be crushed stones or crushed asphalt. The only item before the Commission this evening is the zoning issue.

Matt Gerver asked if they only way they could make it work would be hard surface. Mr. Prince said yes, all car lots have hard surface. Mr. Gerver said they couldn't afford that.

Mr. Prince suggested going forward with the rezoning and set up a meeting with Planning to figure out what will work.

Mr. Lentsch asked if they were willing to make the improvements. Mr. Gerver said yes, they will put up a nice privacy fence. He said the neighbors were friendly and haven't complained about the cars parked on the grass. Mr. Gerver also said they have 100' of woods on three sides of their property and it's not like cars are parked next to houses. He said they are willing to put up a privacy fence, but they can't afford pavement with drainage; that would be thousands and thousands of dollars.

Mr. Emmons asked if they repaired cars there. Mr. Gerver said some, but mostly it's just a holding lot.

Mr. Emmons asked what kind of work was being done outside. Mr. Gerver said no work is done outside but they send the cars to a couple of shops for the repair work.

Mr. Emmons asked if they were junk cars. Mr. Gerver said no, all are drivable.

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

Staff Recommendation

The Planning Department recommends approval of Petition 16-16 to rezone the northern 380' of Lots #2 and 3 Ward's Subdivision, property located at 3837 Lincolnway East from C-4 Automobile Oriented Commercial and R-2 Two-Family Residential to C-4 Automobile Oriented Commercial. This recommendation is based upon the following findings of fact:

- 1. Given the property's close proximity to commercially zoned property and adjacent to C-4 zoned property, the C-4 zoning would be compatible with the surrounding commercial properties uses in 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, staff feels that the most desirable use for this property is the C-4 Automobile Oriented Commercial*

3. *Because the parcel is located adjacent to commercial properties along heavily traveled corridors, the C-4 zoning classification would be compatible and is a desirable use for this property;*
4. *C-4 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding the automobile commercial use that currently exists on the property.*
5. *The proposed C-4 Automobile Oriented Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along the Lincolnway East corridor.*

MOTION: Ross Portolese moved to forward Petition #16-16 to the Common Council with a favorable recommendation. Victor Kasznia seconded; motion carried with a vote of 6-2 (*Lentsch, Emmons*).

REPLAT #16-17 A petition submitted by Bokhart Properties, LLC, and Charles and Sherry Raven seeking approval of the one (1) lot Dodge Manufacturing Company Addition Raven's Replat.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioners. He said the purpose of the replat is that the Ravens have a purchase agreement for the vacant lot next to them that's owned by Maurice Bokhart. Mr. Lang said they are proposing to add on to their garage and in doing so, the building would sit across the property line and they need to replat both lots into one.

Mr. McCampbell asked if the big double gate would be on the new property. Mr. Lang said the gate will remain and they would provide an easement.

Opposition

Shelby Peck, 116 W. 6th Street, said she lives next door to the Ravens and they have an adjoining driveway; they get along well. She said they have lived in collaboration for 44 years and they've been good neighbors. Ms. Peck said she's concerned about the amount of traffic they larger garage may encounter.

Ms. Peck said because of their driveway situation, sometimes friends and relatives of the Raven's park in her half of the driveway. She said the Raven's nephew works in the garage a lot and there's noise and commotion. She said if they build on to the garage that's going to create more traffic. Ms. Peck also said that the nephew has a large work truck parked on the lot and over the weekend there may be 5-6 cars parked on the lot and is concerned it would turn into a parking lot.

Ms. Peck said the Raven's have been wonderful neighbors and she hopes they can work this out.

Maurice Bokhart said to correct Mr. Lang the gate is permanently closed and with the property being sold to the Raven's, it will not be used. He said the Raven's have been using the lot for about 10 years and undesirables would cut thru the lot and that's not something they want to encourage in the neighborhood. Mr. Bokhart said since he's acquired the property, the gate has been locked and he will not need the access.

Rebuttal

Mr. Lang said with the extension of the garage to the west, the doors will be located on the west side of the new addition and the existing drive will be abandoned. He said the Raven's will inform friends and relatives to use the new drive on the west side to be a good neighbor. They'll still use the existing drive to get into the existing garage, but anything additional will use the west side. Mr. Lang said common shared drives were common in the 1920's, but with today's big vehicles, it's inconvenient.

Mr. Winn closed the Public Hearing on Replat #16-17.

Staff Recommendation

The Planning Department recommends approval of the Preliminary and Final Replat for the Dodge Manufacturing Company Addition Raven's Replat. 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).

Additionally, the Engineering, Building, Fire, Electric, and Water Departments have reviewed and approved the replat providing no comments.

MOTION: Don McCampbell moved to approve Replat #16-17. Nick Troiola seconded; motion carried with a vote of 8-0.

PETITION #16-18 A petition submitted by Ari Lambridis requesting to rezone **2419 Lincolnway West** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

Nick Scarlatis, 5405 W. 127th Street, Crestwood, IL, appeared on behalf of Ari Lambridis. He said the property is the Gyros King and the lot is completely developed with building and paved area. He said Mr. Lambridis has been there for some time and wants to put some money into in and improve it in positive ways.

Mr. Scarlatis said improvements will be made to the site and the building. He said the building will have new colors and they'll also make improvements to the inside of the building. Mr. Scarlatis said a drive-thru window will be added and they need to rezone the property to C-7 to allow for the drive-thru window.

Mr. Scarlatis said they'll be adding plenty of landscaping, curbing, ornamental and privacy fencing. They'll also add landscaping around back by the drive-thru window and change the two-way drive to a one-way driveway.

Mr. Scarlatis said in front they'll add outdoor dining and patio plants so it will be a pleasant experience for those dining outside. They will also re-do the parking lot. The building will get an updated look. He said the reconfigured parking lot will include a handicapped accessible space near the building entrance, parallel parking to the south of the building, and angled parking to the east of the building due to the adjacent access drive becoming one-way.

Mr. Scarlatis said these will all be positive improvements to the site and hopes other businesses will make improvements to their businesses as well.

Mr. Emmons said he is very familiar with this area. He said you're planning on the drive-thru off of Russell and you don't have a lot of land to come and park. Mr. Scarlatis said the

window will be on the east side of the building and you'll be able to exit both ways onto Lincolnway West.

Mr. Emmons said the area is very congested and there's a short distance between the driveway and the light. He said he can see exiting to the east, but he said he wouldn't cut across traffic to exit to the west. Mr. Scarlatis said the only ones that will go out on Lincolnway are drive-thru customers and those in the angled parking. He said they can add a "right turn only" sign.

Mr. Emmons said that doesn't seem like it's feasible. Mr. Prince said it's a similar set up to that of Wendy's on McKinley. The proximity to Grape and Liberty is similar and if it's too congested, you go right and circle back around. He said in a perfect world we would never approve this, but we're working with them.

Mr. Scarlatis said right now it's a two way entrance. It will be nothing new; it's already there. He said they would be reducing the people coming in that entrance.

Mr. Emmons said you are increasing the traffic as you don't have the window now and if you are enhancing the business with a drive-thru, more people will come in. He said he doesn't like it and it's just his opinion.

Mr. Winn closed the Public Hearing on Petition #16-18.

Staff Recommendation

Staff recommends in favor of Petition 16-18 to rezone property located at 2419 Lincoln Way West from the C-1 General Commercial District to the C-7 Automobile Oriented Restaurant Commercial District to allow the addition of a drive-thru window for an existing restaurant. This recommendation is based on the following findings of fact:

- 1. Existing Conditions – The site is currently developed, occupied with an existing restaurant, and located within the Lincoln Way West commercial corridor adjacent to several commercially-zoned properties. The adjacent properties are used for office, retail, and single-family residential to the north; used automobile sales to the west; the railroad and industrial to the south; and single-family residential to the east.*
- 2. Character of Buildings in Area – The character of the adjacent buildings vary greatly including a prior single-family residential house converted into an office use, a tobacco retailer, single-family residential, a used automobile business, and industrial.*
- 3. The most desirable/highest and best use – Due to the property's location along Lincoln Way West, which is primarily a commercial corridor with limited single-family uses, the most desirable use for the property continues to be commercial. The rezoning will allow for the addition of a drive-thru and redevelopment of an existing restaurant use.*
- 4. Conservation of property values – The proposed rezoning to allow the addition of a drive-thru will not be injurious to property values in the surrounding area. Further improvements to the exterior building façade and parking lot, additional landscaping, and fencing and screening will further conserve, or potentially increase, the adjacent property values.*
- 5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, approved in 1990, guided general commercial uses along this portion of the Lincoln Way West corridor.*

MOTION: Victor Kasznia moved to forward Petition #16-18 to the Common Council with a favorable recommendation. Don McCampbell seconded; motion carried with a vote of 7-1 (*Emmons*).

**DESIGN REVIEW:
DR #16-04**

A request submitted by Barak River Rock LLC requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-171 Signage Form, Section 105-174 Signage Size Limitations, and Section 105-175 Signage Quantity, for 100 block of West Mishawaka Avenue.

Randy Whiteman, US Signcrafters, 216 Lincolnway East, Osceola, IN, appeared on behalf of Barak River Rock, LLC. He said multi-use complexes where folks can live in a building with retail and restaurants are gaining in popularity, unfortunately this trend comes into conflict with design review.

Mr. Whiteman said two entrances for the apartments (River Rock) and space for two, possibly three restaurant or commercial spaces and all need signage. Included in the packet are four different types of signs that future tenants could choose to be installed on the building; ranging from internally illuminated letters, sign cabinet, etc.

Mr. Whiteman said a waiver is required due to the number of signs, total characters of all signage, and possibly mounted on canopies above the entrances. This waiver will allow future tenants flexibility, but limiting the clutter.

Mr. Lentsch asked if they were giving approval to go ahead with the signage and if something else came up they would have to be in compliance. Mr. Prince said it's intended to be a blanket approval. He said the Design Review Ordinance was written to mimic downtown and this building is an entire city block. Mr. Prince said when the ordinance was written, we had no idea one building would take up a city block.

Mr. Prince said this proposal mimics the design review ordinance for one sign per tenant. He said this approval gives tenant's flexibility, but the distinction here is there are multiple tenants over an entire city block. He also said that we can't say another design review won't come in.

Mr. Lentsch asked that any other signage would have to meet these parameters. Mr. Whiteman said yes, it's a beautiful building and the architect will not allow a substandard sign to be installed on the building. There will be multiple layers of protection.

Mr. Winn said that sign #4 has the potential of being illuminated by LED's and asked if it would flash. Mr. Prince said an electronic message sign wasn't requested and if they wanted one, they would have to come back.

Mr. Emmons asked if they knew who the tenants were and if the signs would be lit by neon. Mr. Prince said the tenants would have the four shown options to choose from.

Mr. Emmons asked if the signs would "float" or flash. Mr. Whiteman said no, they aren't asking for that and the owner doesn't want that type of sign.

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

Staff Recommendation

Staff feels that due to the expansiveness of the River Rock Apartment project, the proposed signage shown in attached Exhibits 1-4 are appropriate.

MOTION: Matt Lentsch moved to approve Design Review #16-04. Victor Kasznia seconded; motion carried with a vote of 8-0.

SITE PLAN:
SP #16-D

A request submitted by Chase Properties LTD seeking approval of a 4,000 sqft multi-tenant retail building to be located on an outlot within Wilshire Plaza Shopping Center.

Joshua Lyons, GPD Group, 520 S. Main Street, Akron, OH, appeared on behalf of Chase Properties. Mr. Lyons said they are looking to develop new space within the existing Wilshire Plaza along Grape Road. He said it will be a 4,000 sqft building for two tenants.

Mr. Lyons said earlier this evening they were granted variances due to some hardships because of internal property lines; mainly parking setbacks due to dissimilar property owners.

Mr. Lyons said there is an existing right-in entrance from Grape Road and they'll be in alignment with that and it doesn't make sense to realign the setback. He said there was also an overall parking space request as they are deficient by 35 spaces for the entire parking field, but the 1,407 spaces provided for the center is more than adequate.

Mr. Emmons asked if they have provided an updated plan. Mr. Lyons said yes.

Mr. Winn asked where the entrance to the building would be. Mr. Prince said on the Grape Road elevation.

Staff Recommendation

Provided a revised site plan is submitted addressing the Planning, Engineering and Electric Department comments, staff recommends that the request for final site plan for the proposed 4,000 sq. ft. multi-tenant retail building (SP 16-D) 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 #16-D. Don McCampbell seconded; motion carried with a vote of 8-0.

ADJOURNMENT: 7:52 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner