

**NOVEMBER 13, 2018**  
**PLAN COMMISSION**  
**CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, November 13, 2018, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Matt Lentsch, Dale "Woody" Emmons, Don McCampbell, Murray Winn, Chris Tordi, and Kathleen White-Gadacz. Absent: Nick Troiola and Dale Freeman. 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 9, 2018, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PETITION #18-30** A petition submitted by John A. and Jayne L. Piraccini requesting to rezone vacant property near the **northwest corner of South Elder Street and Norton Court** from R-1 Single Family Residential District to C-1 General Commercial District.

John Piraccini, 633 Windy Cove, Mishawaka, said he bought the property in early 2007 from the Prickett estate. He said it was zoned C-1 and he rezoned the 6 lots to R-1, but the builder backed out as the property is expensive to develop. Mr. Piraccini said he's been trying to sell it as residential and every developer he talked to couldn't make it work mostly because of sewer and water lines. He said recently Habitat for Humanity looked at the property and was under contract, but they couldn't make it work. You can only get a certain price for homes there and can't put \$15,000.00 to \$20,000.00 into utilities.

Mr. Piraccini said a broker came to him with this proposed use and thought it would work and had him meet with Planning staff. He said it's low impact, would need one water and one water cut and it would reduce cost vs. residential.

Mr. Piraccini said he always tried to maintain the property and would mow as much as city requested. He said he's exhausted all avenues for residential development.

Mr. Piraccini said Jason Roth contacted him about relocating his business from Elkhart. He said he has about 5 employees and has been in business since 2013. Mr. Roth's business is an electrical contractor with security systems and doesn't deal with high tension lines. Mr. Piraccini said traffic is always brought up in any rezoning case and he respectfully doesn't think that a business that will only be open during the week will have as much impact as 5 or 6 residential homes that would generate 3-4 times the traffic as this business would generate. There would be little or no traffic during the weekend and week nights.

Mr. Piraccini said Mr. Roth hasn't submitted a site plan and whatever the City wants them to do, he will do. He said he's only going to build one building and has no plans for the rest of the land, but he wants to sell it all.

Mr. Piraccini said he wants to emphasize he has spent a good deal of time trying to sell the property as residential and hopes the Commission can appreciate what he is up against and would work with the neighbors along Elder. He said he has told Mr. Roth he cannot have outside storage, will have to pave the parking lot and have brick on the building (showed a preliminary elevation).

Mr. Tordi said the conceptual drawing shows a 3,500 sqft building and 20 parking spaces with no outside storage. Mr. Piraccini said yes, that is correct. He said Mr. Roth's business specializes in business fire and security systems and has no need for heavy equipment.

### **Opposition**

Elaine Hahaj, 120 S. Elder Street, said the building would be directly across the street from her and said the building looks awfully tall and big to be facing a residential street. She said six neighbors would be affected by this and face the commercial building. Ms. Hahaj said there's no guarantee another building wouldn't be built.

Ms. Hahaj said with the many homes in the area of Elder and Norton and at present there is so much traffic and it's a residential street. She said they are concerned about the traffic.

Ms. Hahaj said other residential streets in Twin Branch area don't have commercial buildings. They would be facing this warehouse and would reduce the value of their homes and also their resale value would go right down. She said she was told there was potential the other lots would be sold to commercial builders. Ms. Hahaj said Mr. Piraccini has said no, but who knows?

Ms. Hahaj said it's dangerous with heavy traffic coming across the railroad tracks, school buses line the street, and trains sometimes stop for hours. She said when that happens people turn around in their driveways to go back to Lincolnway. Also, the vet entrance to Lincolnway is short and they've had several close calls. Ms. Hahaj said she was told the cut would be 150' from the borderline from this company and that would be too close to Lincolnway. She said at the present time, they often can't pull out of their driveways.

Ms. Hahaj said they are also concerned about Twin Branch School, the park, and splash pads as there are a lot of families that walk the area. She said students get off buses and another driveway is another potential for kids to be hit. She has a petition she has submitted that Elder Road residents have signed and she said she can't believe those lots can't be sold for residential. Their homes aren't that low income that new houses can't sell.

Kyle Wright, 126 S. Elder Street, said he's lived in the neighborhood for about four years and since they moved in, his home value has gone up. He said the street behind him has a lot more families on it and those kids cut thru yards and alleys to get to the park or the ice cream store and are always in danger of being hit. Mr. Wright said Ace Plumbing is located on the other side of the tracks and they can't see the kids and the road is very dangerous. He said trains now park for hours on the tracks and he has difficulty backing out of his driveway.

Mr. Wright said the property in question has not been kept up and the sidewalks haven't been taken care of. He said if the plumbing is an issue for residential, then how can it not be for commercial. He also said the curb cut from the veterinarian is close to the intersection and this would make it worse. He's only trying to make the neighborhood better for families.

Mr. Emmons asked Mr. Wright about his concern about added traffic. Mr. Emmons said if those lots were developed for residential you would have far more traffic than the commercial development; more traffic with more curb cuts, more parking on the street, than you would have with one building. Mr. Emmons said to Mr. Wright that his philosophy that more traffic with this building isn't correct.

Mr. Wright said if it's similar to Ace Plumbing, they work around the clock. Mr. Emmons said this isn't that type of business; it's 8-5 and a light use. They have no heavy trucks, no trucks, and very different than a plumbing type of business. Mr. Emmons said he understands their concerns, but you can't overemphasize things that may not be correct.

Shaina Wright, 126 S. Elder Street, said they moved in 2016 and right now it's residential. She said she understands there would be more traffic with residential, but would hope they would make it their neighborhood and be respectful of neighbors. Mrs. Wright said there's no guarantee that the business won't add on in the future. She said it isn't her problem Mr. Piraccini needed the investment, well she said it is, but it's not the right choice for the neighborhood.

Mr. Prince said Ms. Hahaj submitted a petition signed by 15 individuals in the area.

### **Rebuttal**

Mr. Piraccini said to go over a few points, he understands where the neighbors are coming from. He said he doesn't agree that traffic will be an issue and be more dangerous to the neighborhood. He said the development will be built to City standards and they will submit a site plan.

Mr. Piraccini said the sewer is the difference it's more economical for a developer with one cut for water and one for sewer vs. residential it would be 5 cuts for sewer and 5 cuts for water. He also said the market will only bear so much of an expensive house.

Mr. Tordi asked about the site plan, would landscaping and building materials have to be approved. Mr. Piraccini said the building would be one story, 3,500 sqft. He said Mr. Roth will meet whatever landscaping is required by the city.

Mr. Piraccini said with or without this building, kids will continue to come across to the park.

Mr. Emmons asked about the height of the building. Mr. Piraccini said the doors may be 10' to 14', but right now this request is only for zoning and not site plan. That will come later.

Mr. Emmons asked about the height of the houses across the street. Mr. Piraccini said one story, maybe two.

Mr. Piraccini said whatever the City requires parking wise, they will meet it. There will be very little traffic on the weekend and at night.

Mr. Winn closed the Public Hearing on Petition #18-30.

### **Staff Recommendation**

*Staff recommends in **favor** of Petition 18-30 to rezone 0.87 acres located at the northwest corner of South Elder and Norton Ct. from R-1 Single Family Residential to C-1 General Commercial District to allow an electrical contractor's office and warehouse.*

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

1. *Existing Conditions – The properties adjacent to the north and west of the properties to be rezoned are zoned C-1 General Commercial.*
2. *Character of Buildings – The character of the buildings in the block bounded by Lincolnway East, Elder St., Notrton Ct., and Charles St. are commercial in nature.*
3. *The most desirable/highest and best use –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 of this site as a commercial project, staff feels that the most desirable use for this property is commercial.*
4. *Conservation of property values – The rezoning should not be injurious to property values in the area. The Lincolnway East and Bittersweet intersection is a mix of commercial uses, therefore, C-7 Automobile Oriented Restaurant Commercial uses are compatible with the existing uses along the corridor.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, identifies the front +/-120 feet along the south of Lincolnway East as commercial. This is appropriate given the high traffic volume of the Lincolnway corridor. There are several other properties along Lincolnway East where the commercial activities extend beyond that front 120 feet, therefore it still meets/does not conflict with the goals of the Comprehensive Plan.*

**MOTION:** Matt Lentsch moved to forward Petition #18-30 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; with a vote of 4-3, no recommendation was forwarded.

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**DESIGN REVIEW:**

**DR #18-06**

A request submitted by Vision Properties LLP requesting a waiver from the Design Review Ordinance Section 105-76 Architectural Materials and Section 105-80 Roof Materials for **328 South Main Street**.

Dwayne Trump, i-tech Builders, Wabash, IN, appeared and presented the request. He said the owners are remodeling the building and would like to put up steel siding. The designer is proposing horizontal steel above the brick and also dimensional shingles along the roof line. Mr. Trump said they will be a taupe color or grey, but earthtone. There will be brick below and horizontal steel above.

Mr. Emmons said the City has specs and it states what is inappropriate and companies come in and what to put inappropriate materials on their building. He said he expects the guidelines to be followed and people come in every month; we have guidelines for a reason. Mr. Emmons said if you want to build a building, then build what the City expects.

Mr. Winn asked Mr. Trump if they were creating a new roofline. Mr. Trump said yes, they will put in a pitched roof and are trying to modernize the building. He said some of the guidelines have been around a long time and the steel is modern and what many builders are going with.

Ms. Gadacz said personally, she thinks the current design is ugly and what is being proposed is much nicer and said yes, the design review ordinance does need some updating.

Mr. Winn closed the Public Hearing on Design Review #18-06.

**Staff Recommendation**

*Staff recommends approval of Design Review Waiver 18-06 to allow Architectural Materials of steel siding and Roof Materials of fiberglass shingles. The Plan Commission has approved similar waiver requests for other commercial/retail buildings to allow for design flexibility and to encourage a diverse rather than uniform appearance.*

**MOTION:** Kathleen White Gadacz moved to approve Design Review #18-06. Matt Lentsch seconded; motion carried with a vote of 6-1 (Emmons).

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**DR #18-07**

A request submitted by Roger Hartman requesting a waiver from the Design Review Ordinance Section 105-76 Architectural Materials for **1209 East McKinley Avenue.**

Emily Crouch, Zaremba Group, 14600 Detroit Avenue, Lakewood, OH, presented the request. She said they are asking for a design waiver, but aren't really breaking any rules. She said they are meeting the 2/3 requirement for visible façade, but would like to use a fake brick which was used on the new building on Lincolnway West. She said fiber cement board isn't explicitly identified as an appropriate material.

Mr. Lentsch asked if it was the same design as the location on Lincolnway. Ms. Crouch said yes, same materials and look.

Andrew Rossell, AR Engineering, LLC, 4664 Campus Drive, Kalamazoo, MI, said there might be a few differences here as it's a different prototype, but materials are similar and will very much like the Lincolnway location.

Mr. Tordi asked if the building material ratio will be the same. Ms. Crouch said yes, the waiver was for use of the fiber cement material and they are meeting the 2/3 requirement. The right and left elevations aren't really visible from the right-of-way, but they understand the intent of the ordinance and this gives a nicer look from those sides.

Mr. Rossell said the property has been vacant for many years and although this isn't a standard prototype, this should fit nicely with the adjacent properties.

Mr. Winn closed the Public Hearing on Design Review #18-07.

**Staff Recommendation**

*Staff recommends approval of the Design Review Waiver 18-07 to allow fiber cement panels and prefinished metal wall panels as appropriate exterior architectural materials. The proposed fiber cement panels are a high quality, durable, and sturdy material that meets the intent of Design Review requirements, while the metal wall panels will be used on less than one-third of each applicable building façade. The Plan Commission has approved several Design Waivers for other projects, including the Dollar General on Lincoln Way West, that have utilized fiber cement lap siding or board.*

**MOTION:** Chris Tordi moved to approve Design Review #18-07. Don McCampbell seconded; motion carried with a vote of 6-1 (Emmons).

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**SITE PLAN:**  
**SP #18-1**

A request submitted by Roger Hartman seeking approval for a 9,100 sqft Dollar General Store at 1209 E. McKinley Avenue.

Andrew Rossell, AR Engineering, LLC, 4664 Campus Drive, Kalamazoo, MI, said they are requesting final site plan approval for 9,100 sqft Dollar General Store which will be a sideways prototype. Mr. Rossell said there will be two access points; one from McKinley and one from shared access to the east. He said they received a variance in July for the number of parking spaces as they don't have need for a lot of parking spaces in busiest times.

Mr. Rossell said the general circulation would use McKinley as main point of access. He said one semi delivers once a week and box trucks deliver grocery items. Mr. Rossell said on the west elevation there are two at-grade loading doors and deliveries will be made thru those doors. He said the dumpster will be in the rear and will be enclosed with a brick enclosure.

Mr. Rossell said Planning had other comments and they have addressed them and sent in for review. He also said they have received comments from other departments and are in the process of working on those and they don't anticipate anything to be an issue.

Mr. Emmons said the dumpster doesn't meet the standards and he doesn't see what has been changed. Mr. Rossell said the updated plan he just showed meets code and will be brick as required by the Design Review Ordinance.

Mr. Winn said he remembers the discussion from the Lincolnway location regarding fir truck turn radius. Mr. Prince said that was a special consideration because of the layout of that site and that is not an issue on this property.

**Staff Recommendation**

*Staff recommends that the request for final site plan for Dollar General - a 9,100 sq. ft. retail building - be **approved**. A revised plan set addressing all departmental review comments shall be provided prior to recordation of the plans or issuance of any permits. 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 #18-I. Don McCampbell seconded; motion carried with a vote of 6-1 (Emmons).

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**ADJOURNMENT:** 7:55 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner