

**JANUARY 14, 2020**

**PLAN COMMISSION  
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, January 14, 2020, at 7:00 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Murray Winn, Dale "Woody" Emmons, Chris Niedbalski, Matt Lentsch, Chris Tordi, and Dale Freeman. Absent: Chris Jamrose, Nick Troiola, and Kathleen White-Gadacz. 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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Matt Lentsch turned the meeting over to Ken Prince, City Planner, for the election of officers.

**ELECTION OF OFFICERS:**

**MOTION:** Chris Tordi moved to nominate Matt Lentsch as President. Dale Freeman seconded; motion carried with a vote of 5-0 (*Lentsch*).

**MOTION:** Murray Winn moved to nominate Chris Tordi as Vice-President. Chris Niedbalski seconded; motion carried with a vote of 5-0 (*Tordi*).

**MOTION:** Murray Winn moved to appoint Chris Tordi to the Board of Zoning Appeals. Chris Niedbalski seconded; motion carried with a vote of 5-0 (*Tordi*).

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Mr. Lentsch explained the Rules of Procedure.

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The Minutes of the December 10, 2019, meeting, were approved as distributed.

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Conflict of Interest was not declared.

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**PUBLIC HEARING:**

**PETITION #19-16** A request submitted by Kevin Leach requesting to rezone **2228 Lincolnway West** from C-1 General Commercial District to R-1 Single Family Residential District. *Continued from the December 10, 2019, meeting.*

Mr. Prince stated for the record that this is officially a "non-actionable" item, meaning to be heard they would need to refile the petition. He said it isn't a denial, not a withdrawal, just not actionable based on lack of action by the applicant.

**MOTION:** Murray Winn moved to declare the item non-actionable. Chris Tordi seconded; motion carried with a vote of 6-0.

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**PLAT # 19-05**

A request submitted by Melissa A McKay and Robert Sherbun seeking approval of a two (2) lot McKay Merrifield Avenue Minor subdivision.

Terry Lang, Lang Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the applicants. He said the petition is to reconfigure two parcels.

Mr. Lang said one parcel is larger than the other and the desire of the owner to the north will acquire a portion of the parcel. There are two existing homes and all complies.

Mr. Winn said the plat shown makes it difficult to understand. He said it lists Alex Way to the north and Alex Way to the south which is actually Margaret Avenue. Mr. Lang said he would correct the plat.

**Opposition**

Mike Werner, 1812 N. Merrifield Ave., said he lives a few doors down. He said his main questions is are they building new buildings? If so, where, if so how would they access them?

Mr. Tordi said in the staff report it states no additional homes could be built, but accessory structures could be built.

Bonnie Dacker, 1113 Alex Way, said at the end of the lot there's a chain link fence. They have a privacy fence that goes back on the empty lot. Are they going to make the guy tear down the shed?

**Rebuttal**

Mr. Lang said there is another property owner to the east. There is a shed and whether the homeowner decides to move the shed and take down the fence is between the two owners. The shed and fences are between the owners to decide; either remove or replace.

Mr. Lang said there's only going to be the two owners there. They may decide for a new garage and they'll have to go through the approval process to get it built. He said he's not privy to anything new being built.

Mr. Tordi said to clarify, it does say in the staff report that no new homes will be built. Mr. Lang said yes that is correct, no new homes.

Mr. Prince said there are no plans for homes. There are two homes on two lots and there will be still one home on each lot. Mr. Prince said he knows the configuration and that it's highly unlikely. He said there's one home per lot and that's what it requires.

Mr. Prince said they could put accessory structures back there, but no home could be built.

Mr. Lentsch said what we've heard from Mr. Lang and Mr. Prince is they cannot build another home on those lots. Mr. Lang said to get sewer and water back there would be nearly impossible. They have no plans to build. No new home, but can be a garage or garden.

Mr. Lentsch closed the Public Hearing on Plat #19-05.

**Staff Recommendation**

*The Planning Department recommends **approval** of the Preliminary and Final Plat for the "McKay's Merrifield Avenue Minor". An executed plat must be submitted prior to being*

*recorded. This recommendation is based upon the fact that the subdivision plat 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:** Mr. Winn moved to approve Plat #19-05. Chris Tordi seconded; motion carried with a vote of 6-0.

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**PETITION #19-18** A petition submitted by Judy L Davis requesting to annex and zone property located at **54655 Fir Road** to C-1 General Commercial District.

Steve Murphy, 4202 Cottage Avenue, Mishawaka, said he is the contingent purchaser of the property and also a member of the Plaza at Phase III LLC, and the developer of the five office buildings on Day Road. He said they have been blessed at capacity and a couple of tenants wish to bring more people and we're bumping up parking.

Mr. Murphy said they see this land as two-fold; one additional parking behind the middle building and access to Fir Road which would be great at 5:00.

Mr. Lentsch asked if they had anything in mind for this. Mr. Murphy said parking is the immediate need. The middle building would have drive aisles next to the building and parking in the middle, retention on the left-hand side.

Mr. Lentsch closed the Public Hearing on Petition #19-18.

**Staff Recommendation**

*Staff recommends approval of Petition 19-18 to annex and establish zoning to the C-1 General Commercial District for a part of Lot 1 of Stephenson DeMeyer's Minor Subdivision located west of Fir Road and north of E. Day Road. The property is proposed to be utilized for the future expansion of the adjacent multi-tenant office development to the south known as The Plaza at Day and Fir.*

*This recommendation is based on the following Findings of Fact:*

- 1. Existing Conditions – The subject property is located along a moderately travelled section of Fir Road and north of a more highly travelled section of E. Day Road. Traffic volumes in the immediate vicinity are anticipated to remain consistent or increase due to the significant commercial and residential growth that has occurred in the northeast part of the City and Granger. The site, which is currently vacant, is adjacent to vacant land and a single family residence to the north, vacant land to west, a multi-tenant office development to the south, and single-family residences and a church to the east.*
- 2. Character of Buildings in the Area – The character of buildings and land uses located along the Fir Road and E. Day Road corridors vary greatly and include single and multi-family residential, institutional, commercial, and industrial land uses.*
- 3. The most desirable/highest and best use –Because of the property's location adjacent existing commercial development along the E. Day Road corridor, the most desirable use for the property is commercial. Although there are adjacent residential properties to the north and east, the adjacent commercial use to the south and the increasing traffic along E. Day Road makes commercial use the highest and best use of the property.*

4. *Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The proposed expansion of the existing adjacent multi-tenant office development is compatible with adjacent single-family residential and commercial uses.*
5. *Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, guided residential development within this area. More recent development patterns within the area, along with the increasing commercial development within the northern portion of Mishawaka, has altered developmental patterns from what once was a desirable location for residential development to more intensive commercial growth.*

**MOTION:** Chris Niedbalski moved to forward Petition #19-18 to the Common Council with a favorable recommendation. Dale Freeman seconded; motion carried with a vote of 6-0.

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**PETITION #19-19** A petition submitted by KTL Properties LLC requesting to amend the Gateway Plaza PUD to modify landscaping requirements.

The Petitioner is requesting to continue the item to the February 11, 2019, meeting.

**MOTION:** Murray Winn moved to continue Petition #19-19 to the February 11, meeting. Dale “Woody” Emmons seconded; motion carried with a vote of 6-0.

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**PETITION #19-20** A petition submitted by Nicholas John Sutherland requesting to rezone property located at 115 E Ninth Street, Mishawaka, Indiana, to R-2 Two-Family District.

John Pangani, Polack Realty, 3030 S. Michigan Street, South Bend, appeared on behalf of Nicholas Sutherland. Mr. Pangani said they weren’t getting any bites on the property due to its zoning and they finally managed to get a buyer who went to the bank and couldn’t only secure a loan if it’s rezoned to R-2.

Mr. Pangani said historically it’s use was R-2, but was rezoned by the City in 1981 to R-1. He said it’s historic use has been two-family and just want to get the zoning back.

Mr. Tordi asked if the house was set up for two units. Mr. Pangani said yes.

Mr. Tordi asked if the previous owners used as single family or two-family. Mr. Pangani said they are using as one family now.

Mr. Emmons asked how it’s divided up. Is there one bedroom in each apartment? Mr. Pangani said the upper level is one bedroom and the main level is two bedrooms. He said upstairs there is kitchen bathroom and bedrooms. The main entrance is the same and once you get into the house, you use a different entrance.

Mr. Tordi asked if the previous owners took down the barriers. Mr. Pangani said no, it’s still separated.

Mr. Lentsch closed the Public Hearing on Petition #19-20.

Mr. Tordi asked Mr. Prince how this went from R-2 to R-1? Mr. Prince said in 1982 the City had a proactive position on downzoning, so in 1982 was changed to R-1 and the use was made non-conforming. Normally what happens that historic use and you can't get money for a mortgage if the zoning isn't consistent with the use. If the zoning were denied, they would have to find someone to pay cash or sell as a single family home.

### **Staff Recommendation**

*The Planning Department recommends **approval** of Petition 19-20 to rezone 115 E. Ninth Street from R-1 Single Family Residential District to R-2 Two-Family Residential District. This recommendation is based upon the following findings of fact:*

- 1. The neighborhood surrounding the property to the south, west, and east is residential and its historic use as a two-family dwelling would be not be incompatible 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, staff feels that the most desirable use for this property is its historical two-family use;*
- 3. Because the parcel is located in an area of residential uses, the rezoning to R-2 Two-Family Residential is a desirable use for this property;*
- 4. Rezoning this property to its historic R-2 Two-Family Residential classification will not have an unfavorable and destabilizing impact on the neighborhood; and,*
- 5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a two-family home is compatible and consistent with the historic residential uses in the area.*

**MOTION:** Chris Niedbalski moved to forward Petition #19-20 to the Common Council with a favorable recommendation. Murray Winn seconded; motion carried with a vote of 6-0.

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### **DESIGN REVIEW:**

#### **DR #19-14**

A request submitted by Arkos Properties LLC, seeking a waiver from the Mishawaka Design Review Ordinance Section 105-169 Exterior Signage Materials, Section 105-170 Exterior Signage Colors, and 105-177 Signage Lighting at **117 Lincolnway West**.

Doug Merritt, US Signcrafters, 216 Lincolnway East, Osceola, appeared on behalf of Arkos Properties. Mr. Merritt said the sign addresses the pedestrian design requirements along Lincolnway and will provide site identification for those who park around Lincolnway West and Main Street and are looking to identify Arkos.

Mr. Lentsch closed the Public Hearing on Design Review #19-14.

### **Staff Recommendation**

*The Plan Staff recommends approval of Design Review Waiver #19-14 to install the Arkos Design blade sign at 117 Lincolnway West. The overall design of the sign fits into the fabric of the downtown.*

**MOTION:** Dale Freeman moved to approve Design Review #19-14. Chris Tordi seconded; motion carried with a vote of 6-0.

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**SITE PLAN:**

**SP #19-08** A request submitted by Marc Campbell seeking approval of a six (6) building Mini Storage facility at **217 S. Elder Road**.

Mr. Lang requested the item be continued to the February 11, 2019, meeting.

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**ADJOURNMENT:** 7:34 p.m.

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Kenneth B. Prince, City Planner

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Kari Myers, Administrative Planner