

AUGUST 11, 2020

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, August 11, 2020, at 7:15 p.m. in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Commission members attending: Chris Jamrose, Murray Winn, Dale "Woody" Emmons, Chris Niedbalski, Matt Lentsch, Nick Troiola, and Dale Freeman. Absent: Chris Tordi and Kathleen White-Gadacz. In addition to members of the public, the following were also in attendance: Ken Prince, David Bent, Derek Spier, Christa Hill, and Kari Myers.

Mr. Lentsch explained the Rules of Procedure.

The Minutes of the July 14, 2020, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #20-12 A petition submitted by Mervin D. Lung Revocable Trust requesting to amend the Bercado Planned Unit Development, to allow for a mixed-use development to allow residential, commercial, and industrial uses, at vacant land **south of Vistula Road and west of Cedar Road**.
Continued from the August 11, 2020, meeting.

Jeff Johnson, partner with May, Oberfell, Lorber, 4100 Edison Lakes Parkway, Mishawaka, and Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, represented the petitioners.

Mr. Johnson said the proposed amendment would divide the parcel into 3 parcels with different uses. He said the developer approached the owner to purchase 20 acres for apartments and the owner was asked to proceed with a PUD amendment to provide revisions to the remaining 37 acres. This would be giving assurances to neighbors as to what the property could be used for.

Mr. Johnson said the amendment was developed and is before you this evening. The plan includes apartments on parcel A and uses for remaining 37 acres. He said Planning staff has recommended approval.

Mike Danch said as has been mentioned, they have been working on this property for about 2 years to get it to this point.

Mr. Danch said when the original development came in, they have reduced the overall apartments by 21% and reduced the density as a compromise with the neighbors. Some other things they have done, due to their concerns, was to shift the access and it was moved farther to the west. Access to parcel B was also shifted to line up with Ventura Drive to keep everything away from the single family residential. He said this was also done to keep traffic in mind.

Mr. Danch also said the location of the buildings have been shifted south and this moves buildings farther away from Vistula Road. There will also be landscaping and retention. He said the closest building to the single family homes is over 515' which was a concern for the residents. He said they won't have a direct view into the complex and moving the buildings south helps that.

Mr. Danch said other main concerns were the rest of the development and staff suggested bringing in the entire development and staff suggested the 14 acres at the northeast corner of the parcel closest to the neighborhood be left for single-family uses only and they did so trying to keep everyone in mind.

Mr. Danch said the south parcel C would be left as single family uses or C-1 or industrial uses. He said there would be access down to Lincolnway that is existing. Mr. Danch said staff suggested access to Cedar Road and they did it so that isn't a racing strip from Lincolnway to Vistula. They anticipate if single family will be dedicated streets and meet those requirements.

Mr. Danch said Engineering wanted improvements along Vistula Road and they will still be required to put in a decel lane all along the Vistula frontage. They would have emergency access for fire and ambulances and an additional tie-in from the west. He said there will be a sidewalk along the south side which was another concern of the neighbors. As part of their development, they have to provide the sidewalk and if Engineering finds other issues, the developer would have to abide by those as well.

Mr. Danch said drainage will be per Mishawaka standards and no run-off from their property to adjacent property. Landscaping will also be to C-1 standards as well as architectural standards. This will be an upscale development, not shoddy.

Mr. Lentsch asked Mr. Danch about the neighborhood meeting. Mr. Danch said working with John Piraccini, they met on Sunday afternoon here at City Hall and the meeting lasted about 2 hours. They went over everything and hoping to work out a compromise with the neighbors and most do not want the apartments.

Mr. Danch said Mr. Piraccini worked with Councilman Tony Hazen to make a change to the configuration of the apartments. He said the developer wants to keep them on the west 20 acres, and the neighbors wanted more restrictions placed on the property that what R-1 zoning allows. They only want single family homes and owner-occupied. Mr. Danch said they don't want nursing or assisted living, they only want single-family and they want the single-family along Vistula Road and apartments near Cedar Road. He said traffic patterns don't support that based on moving the complex. They did take a look at what they wanted to do, but the owners were not in favor it that.

Mr. Emmons asked if the developer attended the meeting on Sunday. Mr. Danch said it was Mr. Johnson, Noah Davey and himself. He said the point of the meeting was to come back to them and what they would be willing to compromise on. Mr. Danch said there were some emotions going on and not a consensus among all the neighbors. Some didn't want anything to happen and some had issues that they could live with. Mr. Danch said some of the issues were mostly that they don't want it and will fight it no matter what. He said if someone else comes in and wants to do something, they would fight that too.

Mr. Emmons said that's late in the game and he would want to meet with the constituents in the area and the owner. To him, he's off on the wrong foot. Mr. Emmons said he's not

saying you didn't do a good job, but it's a black mark that the developer doesn't show up. Maybe he shouldn't expect much if he doesn't show up at the meetings.

Noah Davey, 4100 Edison Lakes Parkway, Mishawaka, said just to add, the PUD was established in the 1970's and one allowed use was medium density residential and they are proposing ½ of that. He said on behalf of the Lung family, they are giving up the right to medium density residential to the east.

Opposition

James Parker, 645 Windy Cove Court, said he's been active in the meetings since the beginning and has been against this for many reasons. One reason being the developer has many black marks and has tried to sneak this past them.

Mr. Parker said he was one of those "emotional" people opposing this at the meeting on Sunday. He said another resident has a petition from the neighborhood from folks in River Isles who shares a drive with other apartments. He said he talked to the leaders of the complex and they felt out of the loop and most in that complex will sign a petition in opposition.

Mr. Parker said they wanted to make some concise changes to make it happen, but it didn't happen. He doesn't think it's good for the neighborhood and their neighborhood is a hidden gem. There are already 2 complexes there and the rest are single family homes and owner/occupied condos will fundamentally change the neighborhood forever. He said some people said if they were to do on 2A and 2B and folks might be more agreeable.

Mr. Lentsch asked Mr. Parker what he would see as an appropriate use for this property. Mr. Parker said he would like single-family homes or owner/occupied townhouses. A lot would be ok with that. He said his neighborhood has a lot of young neighbors and lots of young children and to put that much more traffic in that area would truly be a safety concern for the children.

Mike Matzke, 5305 Breezewood Drive, first of all thanked Mr. Emmons for bringing up the lack of engagement and this has left a bad taste in their mouths. He asked the Commission to vote against this project as it's not the best use of this land. He said there's a consensus among the residents and they are not in favor.

Mr. Matzke said he likes the sidewalks and decel lane and the best use along Vistula Road would be single-family and apartments better suited in the middle of the parcel or on the east side. He doesn't think that's the way to go and that's the consensus of the neighbors.

John Piraccini, 633 Windy Cove Court, said he's more of a realist and you are doubling the apartment project on the corner and the amount of units and the type has more ins and out with traffic and it is a massive change, but there is a trust factor with the developer. He said he has nothing against Danch or Noah, but the developer.

Mr. Piraccini said Councilman Hazen has given a lot of time and is frustrating trying to find some kind of compromise and eventually this land has to get developed. He said he doesn't love the apartments, but wants more controlled and that's the issue and a lot of neighbors don't want apartments.

Mr. Piraccini said Mr. Hazen and he talked and hoped to have a better meeting than Sunday and hoped they had something they could walk towards, but can't support as it sits. Mr. Piraccini said he asked them to withdraw and present some of these changes back and then

they could meet, even if they didn't have 100%. He said a lot of neighbors are understanding and they have an opportunity to give and take and no one is going to be totally happy.

Mr. Piraccini passed around a plan that he drafted and wanted to see if they can get some form of agreement. He said he didn't see why the apartments couldn't run that way. He thought that some of the neighbors could be behind that and they would like some concern of how that area progresses.

Mr. Piraccini said the trust factor is tough; the developer might cooperate, he might not. He said he knows of another of their development in Plymouth.

Mr. Piraccini said he does do residential for friends and he knows the market. He said in Penn Township, you can't buy a home, the prices are up with 10 people bidding. He said he thinks things have changed where single-family in Penn Township will be more and more attractive.

Mark Haab, 5306 Breezewood Drive, said he echoes what the previous neighbor said. A couple of years ago he canvassed the neighborhood about what they thought of it. He said a small percentage were in favor and would be willing to find a fair compromise.

Dominic Ball, 732 Riverpointe Place, said he gets it, that's a valuable parcel, but can anyone tell him how many apartment complexes there are in Mishawaka and what is the occupancy rate. He said his point is, do they want another apartment complex? He thinks what would help our community is single-family homes because right down the road you have nice subdivisions, but in Osceola. Those are the types of constituents you want, who grow roots and who shop here. Those are the types of homes you want and it's only going to benefit the City to have those single-family homes. Mr. Ball said that would be very appealing to put nice homes or modest homes there and create great demand for families to come to that parcel. There is retail nearby and so many drawing points and he thinks it would be a very great deal for the City and residents in the area.

Debbie Fox, 5117 Breezewood Drive, said they have been looking at apartments and there are hundreds of empty apartments in the City and what they need are single-family homes.

Patrick Kramer, 639 Windy Cove Court, said he has been there 27 years. He said it was an older neighborhood and he thinks Mr. Piraccini might have had the majority of the kids in the neighborhood and a lot of them have moved out and the neighborhood has been replaced with young families with lots of kids and is a draw with the schools and such. Mr. Kramer said they have had problems with cars buzzing through the neighborhood and safety factor is huge.

Mr. Kramer said when you have apartments and transient people coming through, the numbers of people that would be living across the way and would post more of a safety problem and higher crime problem and is opposed to it as it stands.

Rebuttal

Mr. Danch said some of the concessions were a reduction in the number of units, 21% reduction, moved the entrance closer to Bittersweet away from residential areas and for future development, shifted buildings farther south.

Mr. Danch said the whole point was to get traffic to Vistula then to Bittersweet rather than pushing traffic onto a county road and to Lincolnway where there is no signalized

intersection. He said Engineering will require upgrades to Vistula, a sidewalk along the south side.

Mr. Danch said they are limiting the uses at the northeast corner to just single-family uses as they said they wanted to see that use occur and they are providing that there. He said there could be some 60 homes at the 14 acre site ranging from \$170,000 to \$300,000. He said they talked about the apartments adhering to C-1 standards for architecture and landscaping.

Mr. Davey said by them giving up the right to multi-family, there are assurances to the neighbors of no further multi-family. The owner is the one giving the concession, not the developer and there is a difference in the price of the property. Mr. Davey said the owner is making a nice gesture by giving up the right to develop 18 acres and giving up the value of the land. That is important for folks to realize they are giving up their wealth.

Mr. Lentsch closed the Public Hearing on Petition #20-18.

Mr. Lentsch said the Commission makes their decisions based upon the findings of fact and planning staff has recommended approval based on the existing conditions.

Mr. Emmons said the Commission and Council look at their constituents, no matter what development they want, you have to take into consideration who lives there. They put their life savings into that and no matter the recommendation, it isn't set in stone. He said Mishawaka is made up of community and not a developer who doesn't live there or doesn't meet with the people. What kind of trust is that? He said to him, he looks out into the audience and looks at the people and they want the area for single family and he supports them.

Staff Recommendation

*Staff recommends **approval** of Petition 20-12 to amend a part the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage subject to the following conditions:*

Uses:

Parcel A

1. *Multi-Family Residential (Apartment Complex) with a maximum of 162 units*

Parcel B

1. *Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)*
2. *Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)*
3. *Churches*

Parcel C

1. *Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)*

2. *Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)*
3. *Churches*
4. *I-1 Light Industrial Uses*
5. *C-1 General Commercial Uses*

Separation Requirements:

1. *Any self-storage facility (mini-storage) located within Parcel "C" shall have a minimum separation of 30' between any storage buildings and adjacent school, park, church, hospital, and/or residentially-zoned property.*

Utilities:

1. *The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.*
2. *The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.*

Stormwater Management Infrastructure:

1. *The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.*

Landscaping/Screening:

1. *Landscaping/screening for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall be provided as required by the standards of the C-1 General Commercial Zoning District.*
2. *Any self-service storage facility located within Parcel "C" shall be screened from the adjacent residential property with a combination of a 7' high screen fence and evergreen screening as approved by the Planning Staff.*

Signage:

1. *One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for Parcel "A".*
2. *Signage for Parcels "B" and "C" shall conform to the sign standards of the most restrictive zoning district in which the land use would otherwise be permitted.*

Road Improvements/Right-of-Way Dedication:

1. *Road improvements along Vistula Road and Cedar Road shall be installed as determined by the Department of Engineering.*

2. *Additional right-of-way shall be required along Vistula Road, Cedar Road, and the connector road to Lincolnway East as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of each subdivision plat or separate deed of dedication document, if deemed appropriate.*

Lighting:

1. *All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.*

Architectural Requirements:

1. *Building materials and colors for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall comply with the C-1 General Commercial Zoning District.*

Pedestrian Access/Circulation

1. *A sidewalk shall be installed along the south side of Vistula Road within the dedicated right-of-way and along the entire property frontage with each phase of the development.*

Other:

1. *All other developmental standards not identified shall comply with height, area, and developmental regulations of the most restrictive zoning district in which the land use would be otherwise permitted.*

This recommendation is based on the following findings of fact:

1. *Existing Conditions – The subject parcel is vacant agricultural land located within an area of varying land uses including multi-family and single-family residential, commercial, industrial, and agricultural.*
2. *Character of Buildings – The character of the buildings within the surrounding area is mixed with multi-family and single-family residential buildings to the north, west, and east; a multi-tenant commercial strip center to the southwest; and industrial and medical offices to the south.*
3. *The most desirable/highest and best use – Because of the parcel's proximity to existing multi-family and single-family residential uses to the north, west, and east; commercial uses to the southwest; and industrial and medical uses to the south; the most desirable use for the property is for mixed uses as proposed. Furthermore, the Bercado Farms PUD shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor and outdoor facilities), and area shopping center (clothing, shoes, furniture, restaurants, etc).*

- 4. *Conservation of property values - The proposed PUD amendment should not be injurious to property values in the surrounding area. The proposed mix of land uses are compatible with and a logical extension of the adjacent existing uses. A majority of the property and proposed land uses are subject to landscaping/screening requirements.*
- 5. *Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identified medium density residential (apartment complexes & nursing Facilities) and industrial (manufacturing, warehousing, and distribution) as the preferred land use.*

MOTION: Nick Troiola moved to forward Petition #20-13 to the Common Council with a favorable recommendation. Chris Niedbalski seconded. With a vote of 4-3 (Winn, Emmons, Niedbalski), the Commission forwarded no recommendation.

PETITION #20-13 A petition submitted by Michael R. Portolese, Executor of the Estate of Antonio D. Portolese, requesting to rezone **619 Lincolnway East** from R-1 Single Family Residential District to C-3 City Center Commercial District.

Michael Portolese, 434 Calhoun St., Mishawaka, presented the petition. He said he is the executor of Antonio Portolese and they are trying to legally and rightfully sell the property, but it is zoned R-1 and has 5 apartments in it.

Mr. Lentsch closed the Public Hearing on Petition #20-13.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 20-13 to rezone 619 Lincolnway East from R-1 Single Family Residential District to C-3 City Center Commercial District. This recommendation is based upon the following findings of fact:*

- 1. *The City Center Commercial zoning matches other properties in the immediate vicinity and the use 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, staff feels that the most desirable use for this property is its historical multi-family use;*
- 3. *Because the parcel is located in a transitional area, the rezoning to C-3 City Center Commercial is a desirable use for this property;*
- 4. *Extending the zoning one more parcel east, providing a compatible zoning to the historic multi-family use 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 multi-family home is compatible and consistent with the higher density residential uses in the area.*

MOTION: Dale Freeman moved to forward Petition #20-13 to the Common Council with a favorable recommendation. Murray Winn seconded; motion carried with a vote of 7-0.

PETITION #20-14 A petition submitted by Michael R. Portolese, Executor of the Estate of Antonio D. Portolese, requesting to rezone **613 West Third Street** from R-1 Single Family Residential District to R-2 Two Family Residential District.

Michael Portolese, 434 Calhoun St., Mishawaka, presented the petition. He said he is the executor of Antonio Portolese and they are trying to legally and rightfully sell the property, but it is zoned R-1 and is being used as a duplex.

Mr. Prince read Letters of Remonstrance from Kim Guennel, 548 W. Third Street; Mark Salyers, 602 W. Third Street; Steve & Rita Bosse, 603 W. Third Street; and a letter from an anonymous resident of 600 block of W. Third Street.

Rebuttal

Mr. Portolese addressed the comments about police reports. He said both tenants are employees of his and one tenant has medical issues and was in pain. That's the only time police has been called to the apartment. He said the home has been an apartment since at least the 1950's.

Mr. Lentsch closed the Public Hearing on Petition #20-15.

Staff Recommendation

*The Planning Department recommends **approval** of Petition 20-14 to rezone 613 W Third from R-1 Single Family Residential District to R-2 Two Family District. This recommendation is based upon the following findings of fact:*

- 1. The R-2 Two Family zoning matches other properties in the immediate vicinity and the use 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, staff feels that the most desirable use for this property is its historical multi-family use;*
- 3. Because the parcel is located in a varied area, the rezoning to R-2 Two Family District is a desirable use for this property;*
- 4. Rezoning to R-2 Two Family District will have a favorable and stabilizing impact on the neighborhood as the use is not changing and,*
- 5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a multi-family home is compatible and consistent with the higher density residential uses in the area.*

MOTION: Murray Winn moved to forward Petition #20-14 to the Common Council with a favorable recommendation. Nick Troiola seconded; motion carried with a vote of 6-1 (Emmons).

PETITION #20-15 A petition submitted by Richard LaFree requesting to amend the Deer Run Planned Unit Development to allow an assisted living facility on lots 7 and 8.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioner. He said the contingent purchaser is looking to amend the PUD to allow an assisted living center at the northwest corner of Deer Run Drive and Fir Road.

Mr. Lang said the plan is for a single building with parking for visitors and residents. He said retention will be located at the rear.

Mr. Lang said it is a good use for the area and less of an impact than industrial and commercial uses.

In Favor

John Piraccini, 633 Windy Cove Ct., Mishawaka, said it's a good location and all the medical fields are there.

Mr. Lentsch closed the Public Hearing on Petition #20-15.

Staff Recommendation

*Staff recommends **approval** of Petition 20-15 to amend a part of the Deer Run PUD, being more specifically Lots 7 & 8 in the Deer Run Subdivision, Section Three, to allow for the development of a one-story assisted living facility subject to the following conditions:*

- 1 Permitted uses shall be amended to include a one-story assisted living facility and other accessory uses including but not limited to common dining, activity rooms, family rooms, and recreation spaces.*
- 2. Parking spaces shall be provided at a ratio of 1 space per 6 residential units, plus 1 space per employee at peak employment level, and 20 spaces for visitors.*
- 3. Overstory or understory trees shall be provided along Fir Road at a rate compliant with the C-1 General Commercial District.*
- 4. An existing tree row located along the north property line shall be maintained if within the property.*
- 5. Parking lot screening per the C-1 General Commercial District shall be provided along the east side of the parking area adjacent to Fir Road.*
- 6. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for the site.*
- 7. The extension of all utilities to the site shall be at the developer's cost and expense.*
- 8. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.*
- 9. Building setbacks shall be a minimum of 25' from the east property line along Fir Road, the south property line along Deer Run Drive, and the south property line, and 5' from the west property line.*
- 10. Pavement setbacks shall be a minimum of 10' from the east and south property lines, and 5' from the north and west property lines.*
- 11. Building materials and colors shall comply with the C-1 General Commercial District with the exception of allowing fiber cement board siding and trim materials on all buildings.*

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. Commercial and industrial uses more intensive than the proposed assisted living facility are currently permitted both within the portion of the PUD being amended and within vacant property in the PUD to the west and south.
2. *Character of Buildings in Area-* Very few buildings are located within the immediate area. A vacant athletic facility and the Preserve at Fir Road Road apartment complex are within the boundaries of the Deer Road PUD to the south. Low density single-family residential homes and undeveloped property are located predominantly along the east side of Fir Road.
3. *The Most Desirable/Highest and Best Use-* The proposed S-2 Planned Unit Development amendment for an assisted living facility is consistent with surrounding zoning classifications. The proposed use will be compatible with the existing and permitted land uses within the PUD.
4. *Conservation of Property Values-* The proposed zoning will not be injurious to property values in the surrounding area. A majority of the adjacent property is undeveloped with only a vacant athletic facility to the south and low density residential homes to the east. Higher intensive uses for the undeveloped portions of the Deer Run PUD are currently permitted.
5. *Comprehensive Plan-* The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential development. However, the presence of the existing apartments and the vacant athletic facility has profoundly changed the character of the area where low density residential development is no longer appropriate.

MOTION: Nick Troiola moved to forward Petition #20-15 to the Common Council with a favorable recommendation. Dale Freeman seconded; motion carried with a vote of 7-0.

REPLAT #20-06 A request submitted by Jack N. Wilkinson III and Alicia A. Wilkinson seeking approval of the one (1) lot Highland Village P.U.D. 12th Replat located at **1107 Gleneagle Drive**.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the applicants. He said they are combining the two lots to allow a garage addition.

Mr. Lentsch closed the Public Hearing on Replat #20-06.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for Highland Village P.U.D. 12th Replat. A revised and executed 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) of the City of Mishawaka Subdivision Control Ordinance.*

MOTION: Chris Niedbalski moved to approve Replat #20-06. Nick Troiola seconded; motion carried with a vote of 7-0.

REPLAT #20-07 A request submitted by Dale F. and Cheryl M. Szpisjak seeking approval of the one (1) lot Szpisjak Replat located at **3406 South Shore Drive**.

Ed Fisher, Fisher Land Surveying Services, 303 E. Third Street, Mishawaka, appeared on behalf of the applicants. He said two lots are being combined so there can be a secondary structure.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for "Szpisjak 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) of the City of Mishawaka Subdivision Control Ordinance.*

MOTION: Dale Freeman moved to approve Replat #20-07. Nick Troiola seconded; motion carried with a vote of 7-0.

PETITION #20-16 A petition submitted by AWT, Inc. seeking to annex and zone one (1) one acre parcel and one two (2) acre parcel adjacent to **1141 and 1241 East Twelfth Street** to I-1 Light Industrial District.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Petitioners. He said there are two industrial buildings and they are looking at an addition to merge the two together. Mr. Lang said it came to light that they did not annex the entire property and these two parcels are what didn't get included. This will clean up the lot and allow them to put on the building addition.

Mr. Lentsch closed the Public Hearing on Petition #20-16.

Staff Recommendation

Staff recommends approval of Petition 20-16 to annex and establish zoning to the I-1 Light Industrial District for property south of and adjacent to 1141 and 1241 E Twelfth Street. The property will be combined with adjacent property owned by the same property owner to create one legal lot of record. This recommendation is based on the following Findings of Fact:

- 1. Existing Conditions – The subject property is vacant industrial land in Unincorporated St. Joseph County, purchased by AWT, Inc. in 2016.*
- 2. Character of Buildings in the Area – The character of buildings and land uses located along Twelfth Street, between Merrifield Ave and Byrkit Ave are primarily industrial, with a few other commercial land uses.*
- 3. The most desirable/highest and best use –Because of the property's location adjacent existing industrial development, the most desirable use for the property is industrial.*
- 4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The combining of all property owned with a*

possibility for expansion of the existing adjacent industrial use is compatible with industrial and commercial uses.

5. *Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified this area as industrial, which is how it has developed.*

MOTION: Murray Winn moved to forward Petition #20-16 to the Common Council with a favorable recommendation. Dale “Woody” Emmons seconded; motion carried with a vote of 7-0.

PLAT #20-03 A request submitted by AWT, Inc., seeking approval of the one (1) lot AWT Minor Subdivision.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the applicant. He said this is the plat that follows up the previous annexation creating one parcel so they can build the addition between the two existing industrial buildings.

Mr. Lentsch closed the Public Hearing on Plat #20-03.

Staff Recommendation

Planning Staff recommends approval of the Preliminary and Final Plat for the “AWT Minor Subdivision” pending submittal of an executed plat for recordation. 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: Murray Winn moved to approve Plat #20-03. Dale Freeman seconded; motion carried with a vote of 7-0.

PETITION #20-17 A request submitted by Great Lakes Capital Management, LLC, requesting to amend the Grandview Phase II Planned Unit Development to allow a dumpster enclosure between a principal building and street only if the gate is not visible from Gumwood Road or SR 23/Cleveland Road; and reduce the minimum setback of the dumpster enclosure from 50’ to 25’ from Gumwood Road and SR 23/Cleveland Road.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, said the request is to allow a dumpster. He said originally, the building wasn’t going to include a commercial tenant, only residential, and Bar Louie signed on and they had to accommodate the need for the dumpster.

Mr. Huber said they are locating to an area closer to Gumwood and there is one dumpster location in that line of parking. They would note they will build significant screening gates and landscaping and the opening will not face Gumwood, but back to the building and would be most efficient for loading and unloading. Mr. Huber said he feels like they’ve done a nice job and asking for an exception for this location.

Mr. Emmons asked what the dumpster would be sitting on. Mr. Huber said it will be concrete or asphalt.

Mr. Lentsch closed the Public Hearing on Petition #20-17.

Staff Recommendation

Staff recommends approval of Petition 20-17 to amend the Grandview Phase II Planned Unit Development as follows:

Proposed Uses:

- 4. All loading docks, dumpsters, and ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall primarily constructed with materials matching the building materials of the principal building. Wood, including cedar, is permitted as a secondary material used in construction of the dumpster. One dumpster enclosure may be located between a principal building and street only if the gate is not visible from Gumwood Road.*

Building/Parking Sebacks:

- 1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road. A dumpster enclosure may be located a minimum 25' setback from Gumwood Road.*

All other previously approved development standards and conditions of approval per Ordinance 5434 and 5611 shall be adhered to. This recommendation is based upon the following findings of fact:

- 1. Existing Conditions – The subject property, located along Gumwood Road and Cleveland Road (S.R. 20), is partially developed with multi-family residential and commercial uses and with vacant land approved for the same uses. Existing similar multi-family residential and commercial developments are located to the north and across Gumwood Road to the east.*
- 2. Character of Buildings in Area – The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. The buildings north and west of the property are predominantly multi-family and single-family residential.*
- 3. The most desirable/highest and best use – Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, the most desirable use for the property is a transitional mix of commercial and residential uses. The additional proposed dumpster enclosure and location is appropriate to support the existing and future commercial development within the property.*
- 4. Conservation of property values – The proposed amendment will not be injurious to property values in the surrounding area. The dumpster enclosure will be constructed with high quality aesthetically appealing materials to match the main building. The adjacent berm will be raised and additional landscaping provided to screen the dumpster from the public right-of-way.*
- 5. Comprehensive Plan – Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general*

commercial uses along the Main Street (Gumwood Road extended) corridor. The proposed dumpster enclosure does not affect the permitted uses previously approved for the property.

MOTION: Chris Niedbalski moved to forward Petition #20-17 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 7-0.

PLAT #20-04 A request submitted by A&E Management, LLC, seeking approval of the two (2) lot Assisi Village Minor Subdivision located at **3025 Grape Road**.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of A&E Management. He said their client owns the senior care facility on Grape Road and they would like to build a 6 bedroom residence behind the current facility to allow for some senior care on site, full time.

Mr. Huber said they are requesting to subdivide the lot to have primary structures on 2 lots. He said they were granted a Use Variance earlier this evening by the Board of Zoning Appeals to allow the residential use on the lot. He said they have work to do on site design, but they wanted to start with the lots being legal.

Mr. Lentsch closed the Public Hearing on Plat #20-04.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for the "Assisi Village Minor Subdivision" pending submittal of a revised and executed plat for recordation. 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: Nick Troiola moved to approve Plat #20-04. Chris Niedbalski seconded; motion carried with a vote of 7-0.

PLAT #20-05 A request submitted by Christina Vigil and Mohamed Jojo seeking approval of the one (1) lot Mishawaka Avenue Minor Subdivision.

The Petitioners request the item be withdrawn.

MOTION: Dale Freeman moved to withdraw Plat #20-05. Murray Winn seconded; motion carried with a vote of 7-0.

DESIGN REVIEW:

DR #20-07 A request submitted by M J Investments, LLC, requesting a waiver from the Mishawaka City Design Review Ordinance Section 105-78 Architectural Features/Details to mount a Mini-Cooper with wall graphics on east wall at **101 East Mishawaka Avenue**.

Stacy Holdeman, Premiere Signs, 400 N. Main St., Goshen, IN, appeared on behalf of the applicant. She said the applicant is requesting to mount a car on the side of the building

and the wall will have graphics for tire tracks across the building. She said the concept was reviewed by Planning and they deemed it aesthetically appealing.

Ms. Holdeman said Mr. Becker has done some other architectural things in the city such as the helicopter on the roof of Hi-Ho Restaurant in Town and Country Shopping Center and a piano on the building at Shirks Piano on Edison Road.

Mr. Emmons said it looks like a billboard. Mr. Prince said this is the old Root Studio building at the southeast corner of Mishawaka Avenue and Main Street and it's actually a blank wall on the east side of the building.

Mr. Lentsch closed the Public Hearing on Design Review #20-07.

Staff Recommendation

Staff recommends approval of Design Review Waiver 20-07 to allow an automobile to be affixed to an exterior building wall with associated graphics at 101 E. Mishawaka Avenue. The proposed improvements will meet the intent of the design review ordinance while promoting design flexibility and creativity.

MOTION: Murray Winn moved to approve Design Review #20-07. Nick Troiola seconded; motion carried with a vote of 7-0.

Mr. Prince reminded everyone that next month's meeting will be held Wednesday, September 9 due to the holiday.

ADJOURNMENT: 9:00 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner