

NOVEMBER 10, 2020
PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA

The regular meeting of the Mishawaka Plan Commission was held Tuesday, November 10, 2020, at 7:00 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, Chris Tordi, and Kathleen White-Gadacz. Absent: Dale Freeman. 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. Tordi explained the Rules of Procedure.

The Minutes of the October 13, 2020, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PLAT #20-06 A request submitted by LCM Realty XI LLC seeking approval of the one (1) lot Lippert Components at Byrkit Avenue Minor Subdivision.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Boulevard, South Bend, IN, appeared on behalf of the applicant. He said the Commission previously approved the site plan and this is the replat that goes along with it.

Mr. Huber said they are adding additional right-of-way for sidewalk and sanitary sewer work and said this is an opportunity to work with the city to clean up the plat for easement and right-of-way.

Mr. Tordi closed the Public Hearing on Plat #20-06.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for the "Lippert Components at Byrkit Avenue Minor Subdivision". 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 #20-06. Dale "Woody" Emmons seconded; motion carried with a vote of 8-0.

PETITION #20-21 A petition submitted by Smita V. Patel to rezone **2754 Lincolnway East** from C-1 General Commercial District to C-10 Filling Station Commercial District. *Petitioner requests this item be continued to the December 8, 2020, meeting.*

The Commission unanimously approved the item be continued to the December 8, 2020, meeting.

PETITION #20-22 A petition submitted by John M. Palmer requesting to rezone **2316 Lincolnway West** from C-1 General Commercial District to R-1 Single Family Residential District.

John Palmer, 3040 Springbrook Drive, South Bend, IN, said the building was a home to begin with many years ago. He said to be honest, it's been an office for a while, but would be best suited to go back to residential use.

Mr. Palmer said it's in good shape with 2 bedrooms, bathroom, and full kitchen with vinyl siding.

Mr. Emmons said it is a nice home and looked vacant when he drove by and asked if anyone was living there. Mr. Palmer said he was just cleaning it up now.

Mr. Tordi closed the Public Hearing on Petition #20-22.

Staff Recommendation

*The Planning Department recommends **approval** of Petition #20-22 to rezone 2316 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:*

- 1. There are commercial uses south of the property, but the neighborhood surrounding the property, mainly to the north, is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;*
- 2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;*
- 3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;*
- 4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,*
- 5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with the historic residential uses in the area.*

MOTION: Chris Niedbalski moved to forward Petition #20-22 to the Common Council with a favorable recommendation. Kathleen White-Gadacz seconded; motion carried with a vote of 8-0.

PETITION #20-23 A petition submitted by Graber Group LP, Larry & Freda Scheibelhut, Dennis & Karen Culp, Mary Lou Seltzer, and Thomas Scheibelhut requesting to rezone **119 West McKinley Avenue, 2219 North Main Street, 2205 North Main Street, vacant land adjacent to and north of 2205 North Main Street, and 2201 North Main Street**, from C-7 Automobile Oriented Restaurant Commercial District and R-1 Single Family Residential District to C-10 Filling Station Commercial District.

Peter Agostino, 131 S. Taylor Street, South Bend, attorney for the petitioners, said they are under contract to sell the properties for a convenience store/gas station. He said staff did a thorough job in their staff report as to the character of the neighborhood. Mr. Agostino said staff has requested they commit to a fence and a landscape plan and they will submit a commitment if they receive a favorable approval.

Mr. Tordi said engineering had comments that needed addressed and wanted to make sure they are taken into consideration. Mr. Agostino said he believes they have been taken into consideration and are working on a final site plan.

Mr. Prince said the engineering comments are site plan questions and it puts the developer on notice that these are items that need to be addressed.

Mr. Prince read Letters of Remonstrance from Jill Meiser, owner of 117 W. Russ Avenue and Joan Scheibelhut and Jane Scheibelhut, 2116 N. Main Street.

Mr. Tordi closed the Public Hearing on Petition #20-23.

Mr. Troiola asked if there were any laws requiring a curb cut on Russ Avenue. Mr. Prince said it's about providing access. He said one thing we said originally when widening Main Street there would be no curb cut to Main Street. There are many businesses along Russ that have access.

Ms. Jamrose said they were deliberate about designing Main Street and this is consistent with what they envisioned years ago. Tonight, we are just considering the zoning.

Ms. Gadacz asked about hours of operation. Mr. Prince said they would have the ability to be open 24 hours. The current C-7 zoning doesn't restrict hours and both zonings would have the ability to operate 24 hours a day and is not a matter we consider with traditional zoning.

Staff Recommendation

*Staff recommends in **favor** of rezoning Petition 20-23 to rezone approximately 1.09 acres at the southwest corner of W. McKinley Avenue and N. Main Street (119 W. McKinley Avenue and the adjacent four parcels to the east) from C-7 Auto Oriented Restaurant Commercial and R-1 Single Family Residential to the C-10 Filling Station / Car Wash to allow for the construction of a convenience store with gas pumps. This recommendation is based on the following findings of fact:*

- 1. Existing Conditions – The subject property consists of a restaurant and four vacant parcels at the southwest corner of W. McKinley Avenue and N. Main Street. These roads are highly travelled corridors providing major north-south and east-west access through the City of Mishawaka and South Bend. Adjacent land uses include an automobile sales and service business and pharmacy to the north, an auto parts*

retailer to the west, single-family residential houses to the south, and restaurant with drive-thru to the east.

2. *Character of Buildings – The character of the buildings in the area are predominantly commercial and single-family residential.*
3. *The most desirable/highest and best use – Because of the property's location and the prior and existing commercial uses, the most desirable use of the property is commercial. Although single-family residential properties are adjacent to the south across W. Russ Street, the high traffic volumes along W. McKinley Avenue and N. Main Street make long term use of the current residentially zoned properties undesirable for residential purposes. Furthermore, a large portion of the property is currently zoned for commercial use.*
4. *Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area as the existing C-7 Auto Oriented Restaurant Commercial zoning classification permits commercial uses on a majority of the property. Landscaping and screening will be required per the C-10 Filling Station / Car Wash Commercial District to adequately buffer the proposed use from the adjacent residential properties.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.*

MOTION: Nick Troiola moved to forward Petition #20-23 to the Common Council with a favorable recommendation. Matt Lentsch seconded; motion carried with a vote of 7-1 (Emmons).

SITE PLANS:

SP #20-09

A request for Final Site Plan approval submitted by JRMC Properties, Inc., for a 26 unit, 15,098 sqft assisted living facility at the northwest corner of Fir Road and Deer Run Drive.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the applicant. He said he has been working with Planning and Engineering on the requirements. Mr. Lang said there is one comment from Engineering regarding the site plan address all drainage putting inlet structures into the water table. He said he would work with them on it.

Ms. Jamrose said Mr. Lang had proposed swales, but they don't transport water; you end up with standing water.

Mr. Lang said he would do his best to accommodate that.

Staff Recommendation

*Staff recommends that the request for final site plan for the Bliss Residential Assisted Living Facility – a one-story 15,098 sq. ft. assisted care facility with 26 units - be **approved**. A revised plan set addressing all departmental review comments shall be provided prior to recordation of the plans and issuance of any improvement location permit. 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 #20-09. Chris Niedbalski seconded; motion carried with a vote of 8-0.

SP #20-10 A request for Final Site Plan approval submitted by RH Line LLC for a 7,747 sqft medical office at 52000 block Fir Road, north of Cleveland Road (annexed earlier in 2020).

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the applicants for approval of a dental office located along Fir Road.

Mr. Shearon said the property was recently annexed into the City. He said the property consists of two lots. The first phase will be a dental office and the existing house on the upper part will be removed within two years and then proposed retail development will go on that property.

Mr. Shearon said they have addressed all site plan comments and if any are outstanding, will get them addressed.

Mr. Shearon said there is access off of Fir Road to be shared between this development and the future retail. Drainage will be conveyed into a retention basis. He said a subdivision plat will be submitted next month with easements, drainage, etc.

Mr. Shearon said building elevations consist of hardy cement board and they will be back next month to request a design waiver. He said they want to create a residential feel and they decided on hardy lap siding to give a wood siding feel.

Mr. Troiola said it is worth nothing that there are several open items that need to be addressed.

Staff Recommendation

*Staff recommends that the request for final site plan for Dr. Klauer (TMJ & Sleep Therapy Centre) – a one-story 7,474 sq. ft. medical office - be **approved**. A revised plan set addressing all departmental review comments shall be provided prior to recordation of the plans and issuance of any improvement location permit. This recommendation is based on the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan approval.*

MOTION: Chris Niedbalski moved to approve Site Plan #20-10. Kathleen White-Gadacz seconded; motion carried with a vote of 8-0.

ADJOURNMENT: 7:32 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner