

DECEMBER 14, 2021

**PLAN COMMISSION
CITY OF MISHAWAKA, INDIANA**

The regular meeting of the Mishawaka Plan Commission was held Tuesday, December 14, 2021, 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, Sam Cressy, Chris Tordi, Dale Freeman, and Kathleen White-Gadacz. Absent: Nick Troiola. 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. Tordi explained the Rules of Procedure.

The Minutes of the November 9, 2021, meeting, were approved as distributed.

Conflict of Interest was not declared.

PUBLIC HEARING:

PETITION #21-18 A petition submitted by William Sinkovics seeking to amend the Bremen Highway North Planned Unit Development, **230 Ireland Road**, to allow for continued single family residential use with a new 3,072 sqft, 20' tall, accessory structure.

William Sinkovics, 230 Ireland Road, said he is getting the property back to residential and wants to put up a 48' X 60', 20' tall garage.

Mr. Tordi closed the Public Hearing on Petition #21-18.

Staff Recommendation

Staff recommends **approval** of Petition #21-18 to amend the Bremen Highway North Planned Unit Development (PUD), approved in 2008, to allow the continued residential use of the property and construct an oversized accessory structure. The recommendation is based on the following findings of fact:

1. *Existing Conditions – The property is currently a residential structure and will continue to be used as such.*
2. *Character of Buildings in Area – There are other residential properties in the immediate area south and west of the subject property.*
3. *The Most Desirable/Highest and Best Use – Due to the property's location near other residential properties its continued use as a single-family residence will be compatible with the existing adjacent land uses.*
4. *Conservation of Property Values – The proposed amendment will not be injurious to property values in the surrounding area because the use remains the same and the construction of the accessory structure represents an improvement in the area.*

5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential as currently exists to the south and west.*

MOTION: Dale Freeman moved to forward Petition #21-19 to the Common Council with a favorable recommendation. Chris Niedbalski seconded; motion carried with a vote of 8-0.

PETITION #21-19 A petition submitted by Sorce USA Realty, Inc., and King’s Buffet of Granger, Inc., seeking to amend the University Marketplace Planned Unit Development, **512 West Cleveland Road**, to allow for a storage facility.

Brody Glenn, 935 S. Main St., Greenville, SC, appeared on behalf of the Petitioner. He said they are a real estate developer and looking to buy this property and do two things. Do a QSR (quick serve restaurant) in the front part of the property and a 105,000 sqft limited-access climate control facility on the rear part of the property. Mr. Glenn said you will be able to pull through the building and it won’t resemble what you think of storage. Will resemble more like hotel or office use.

Mr. Tordi said staff is recommending approval, but a lot of information on usage, setback, stormwater and such that still needs to be addressed; are you familiar with these points? Mr. Glenn said yes, he’s the only point not clear is the right-turn lane. He said they produce very little in the way of trip generator and needs more clarification and will work with staff on that. They have no problem with the other items.

Mr. Winn asked if the building will have an elevator. Mr. Glenn, said yes and will be fully sprinkled.

Mr. Winn said he was curious if you can pull thru and is multi-storied, would hate to have to haul stuff up and down stairs. Mr. Glenn said you can load directly on and off the elevator.

Mr. Tordi closed the Public Hearing on Petition #21-19.

Ms. Jamrose asked if they knew who would be using the restaurant. Mr. Glenn said no, currently looking for a restaurant to go in there.

Ms. Jamrose asked for clarification that the right turn lane is for the restaurant use and will put it in when the restaurant goes in. Mr. Glenn said he thought as much. They will be happy to put in at that time.

Mr. Emmons asked if there would be any outside storage or all contained inside. Mr. Glenn said all storage would be inside and no access from the exterior of the building.

Staff Recommendation

*Staff recommends **approval** of Petition 21-19 to amend part of the University Marketplace Planned Unit Development (PUD) to allow a three-story self-storage facility and restaurant with drive-thru subject to the following conditions:*

Uses:

1. Permitted uses on Parcel A shall include a three-story self-storage facility.
2. Permitted uses on Parcel B shall include a restaurant with drive-thru facilities and all C-1 General Commercial permitted uses.
3. Freestanding off-premise signs (i.e. billboards) shall not be permitted.

Frontage:

1. Parcel A shall have 0' of frontage on a public right-of-way.

Building Setbacks:

1. Parcel A shall conform to the setbacks per the attached site plan with a 15' side setback to the west, a 25' side setback to the east, a 25' rear setback to the north, and a 25' front setback to the south.
2. Parcel B shall conform to the setbacks per the attached site plan with 25' setbacks from all property lines.

Dumpster Enclosure:

1. Minimum 5' setback from any property line.
2. Enclosure must be located behind the building for Parcel A.
3. Enclosure for Parcel B shall be located to the side of the building and screened from Cleveland Road.
4. A 25' sight triangle shall be provided at internal drive and road/ingress-easement intersections.

Parking:

1. Parcel A shall have a minimum of 15 parking spaces.
2. Parcel B shall have a minimum of 10 parking spaces per 1,000 sq. ft. of gross floor area.

Parking / Pavement Setbacks:

1. Parcel A shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west and north, 5' to the east, and 0' to the south along the common access drive between Parcel A and B.
2. Parcel B shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west, 5' to the east, 10' to the south from the additional right-of-way to be dedicated along Cleveland Road, and 0' to the north.

Landscaping and Screening:

1. Landscaping shall be provided as required per the C-1 General Commercial District for Parcel A and per the C-7 Auto-Oriented Restaurant Commercial District for Parcel B.
2. Landscaping may be eliminated along the common lot line between Parcel A and B to accommodate a shared access drive within an ingress/egress easement.

Utilities:

1. *The developer shall connect to the City of Mishawaka sanitary sewer and water, as directed by applicable codes, the City Director of Engineering, and the Manager of the Water 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.*

Grease Interceptor:

1. *A grease interceptor shall not be required for the proposed self-storage facility on Parcel A.*
2. *A grease interceptor shall be required for the proposed restaurant with drive-thru facilities on Parcel B.*

Lighting:

1. *All site lighting shall be limited to 25' in height. 90 degree cut-off fixtures shall be required for both pole and wall mounted fixtures.*
2. *A photometric lighting plan shall be submitted as part of the final site plan for each parcel.*

Signage:

1. *One multi-tenant sign shall be permitted on Parcel B to accommodate signage for both Parcels A & B.*

Right-of-Way Dedication:

1. *Additional right-of-way shall be required along Cleveland Road as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of the subdivision plat.*

Architectural Requirements:

1. *Building materials and colors shall comply with the C-1 General Commercial District for Parcel A and with the C-7 Auto-Oriented Commercial District for Parcel B. Fiber cement board siding and trim shall be considered an appropriate material for both Parcels A & B.*

Other:

1. *Parcel A shall conform to all other C-1 General Commercial District height, area, and development regulations unless otherwise noted above.*
2. *Parcel B shall conform to all other C-7 Auto-Oriented Restaurant Commercial District height, area, and development regulations unless otherwise noted above.*

MOTION: Kathleen White-Gadacz moved to forward Petition #21-19 to the Common Council with a favorable recommendation. Murray Winn seconded; motion carried with a vote of 8-0.

PETITION #21-20 A petition submitted by Barak Group, LLC, seeking to amend the Village at Harrison Creek Planned Unit Development to add two single family homes at the southeast corner of Harrison Road and Beacon Drive.

Terry Lang, Lang, Feeney & Associates, 715 S. Michigan Street, South Bend, appeared on behalf of the Barak Group. He said a representative of the Barak Group is also here as well.

Mr. Lang said this property was set aside by Portage Realty during the development and incorporated into the Village at Harrison Creek. Mr. Lang said it was retained as part of the parcel and the Barak Group picked it up.

Mr. Lang said he has been working with Planning and Engineering over the past year and we have come to the conclusion that two single-family homes would be the best use of the area and least impactful. He said the Barak Group is the developer of the Village at Harrison Creek and they have a track record of building a good quality home.

Mr. Lang said there was talk of multi-family and it's just not economical due to the size of the parcel and the traffic pattern.

Tom DeMester 12455 Adams Road, Granger, a representative of Barak Group presented a layout of the proposed homes. The small piece was recorded in error and listed as Lot 1. They have been maintaining that property and easement since they have owned it. He said when they contacted the Lot 1 people and they came to an agreement on the selling price and found an error. As they looked deeper and deeper, it wasn't cost effective and they came up with a plan.

Mr. DeMester said they are proposing two-story single family home, about 1,900 sqft, and designed to fit nicely in the development. He said they have been in the area for a long period of time and that's their hope for these 2 lots.

Mr. Tordi said the reason for the request is that you have built the 54 homes. Mr. DeMester said he lives in the villas and wouldn't do something that would harm his neighborhood; it's kind of a gateway to the neighborhood.

Mr. DeMester said there's a small retention area and there will be screening and landscaping to spec and new sidewalks on Beacon to replace the areas that are bad.

Mr. Tordi said it looks like Lot 2 is 50' across and is smaller. Mr. DeMester said yes.

Mr. Tordi said Lot 1 would have never been a house. Mr. DeMester said no, would have been added to the parcel. He said they thought about adding a cul-de-sac, but it wasn't feasible to add. The driveways will come out on Beacon.

Mr. Winn asked if they had any concern with the retention basin adjacent to the lot. Mr. DeMester said it's generally dry. There is some storm run-off, but generally dry; no standing water.

Opposition

Steve Hoffman, 1203 Pioneer Place, VP of the HOA, said he question was regarding the retention area, when it rains, it overflows. He said looking at the land, he doesn't mind the houses being there, but there has to be some kind of drainage and he's worried about the three houses to the right and they may flood. Mr. Hoffman said the retention pond overflows during a hard rain and the water has to go someplace.

Mr. Hoffman asked if these two houses would be in the HOA as well. Other than that, he has no problem.

Joshua and Viktoria Goldstein, 1111 Canoe Landing, said the line shown on the plan goes right through their fence and trees and are worried about damage to the trees and fence. They also had the following concerns and questions: Concerned about water coming into their yard; if there is a change in elevation, would that cause water to flow back to them; how far away would the new houses be to their house; would the new houses be able to see into their back yard; wanted clarification how big the back yards are from their fence; wanted to make sure their utilities wouldn't be damaged during construction; wanted to make sure utilities wouldn't connect through their yard; concerned about hours of construction of new homes; wanted to know how long the project would take to complete; concerned about noise levels during construction.

Joe Sanders, 1204 Pioneer Place, said he wanted to piggyback on the comments about the retention pond; that is preventing the flooding of their neighborhood. He said during the 2019 large rains their ponds were filling up very high and he would hate to have their basements flood. He also said there are a number of homeowners in the subdivision that do not have flood insurance. If their basements flood, do we file lawsuits against Barak or someone else?

Mr. Sanders asked where the driveways would be? Coming off of Beacon. Will the houses face west.

Mr. Prince read Letters of Remonstrance from Kyle Schwieterman, 1117 Canoe Landing Ct.; Mary Jester, 1202 Far Pond Circle; and Gary and Cynthia Blair, 1115 Warrington Court.

Rebuttal

Terry Lang said he did survey the property.

Mr. Lang said "Floodzone X" is for every piece of property in Mishawaka except along the river. It has the least impact, no hazard.

Mr. Lang said the Barak Group did a title search of this piece of property and at great expense to them. They wouldn't have proceeded if they weren't the owners.

Mr. Lang said the drainage has been brought to their attention and will increase the size of the basin to accommodate these two homes.

Mr. Lang said the homeowners to the rear (east) need to have a survey done of their property as the trees and fence are not on their property. The Planning Department

concerned setback and the fence is about 20' over on the Barak Group property and has been confirmed by survey.

Mr. Lang said HOA asked if the property would be Villas at Reverewood and fall under those guidelines and not Village at Harrison Creek.

Mr. Lang said construction usually works from sun-up to 5:00 p.m. Generally, when contractors work, roofers may start earlier due to heat. The completion date may be later due to material shortages.

Mr. Lang said utilities to these two homes will be new and brought to them. They will do a "locates" and make sure when basements are being dug that they won't be cutting anything underground that is there. And if found not in the appropriate easement, they will need to be moved. He said they have done a survey and everything asked by Planning and Engineering.

Mr. DeMester said regarding the timeline they would probably be built at the same time. He said if he could give a definite timeline he would. He said the average is now six months due to contractor and material shortages. It doesn't benefit them to have the property sit for a long time.

Mr. DeMester said regarding Lot 1, they were not aware of that easement not being in the HOA. They actually found out at the point of signing that their title company found the error in recording and that's when this fell apart. With Weiss in bankruptcy, they couldn't go to them.

Mr. DeMester said again, he's a resident of the neighborhood and has listened to the concerns of the neighbors. He said it's a win-win to keep the easement for snow removal and for the use of the HOA.

Mr. Tordi said the original PUD was for 54 homes and you built 54 and now you want to build 2 more. Mr. DeMester said this parcel was part of the original PUD and had to come back to amend to build the additional 2 homes.

Mr. Tordi closed the Public Hearing on Petition #21-20.

Ms. Gadacz said her concern is the water issue for the surrounding neighbors and doesn't feel enough research has been done.

Mr. Emmons asked if the 2 new homes will conform to the other 54 homes. Mr. DeMester said they will be larger; they will look separate and would be back-to-back with the other subdivision and they won't look like part of it.

Staff Recommendation

*Staff recommends **approval** of Petition 21-20 to amend the Village at Harrison Creek Planned Unit Development, to allow two additional single family homes with the lot frontage reduced to 50' for Lot 2.*

The recommendation is based on the following findings of fact:

- 1. Existing Conditions – The property is currently adjacent to other single family developments in the area.*

2. *Character of Buildings in Area – The development south of Harrison Road is exclusively residential. Some of the neighboring developments have smaller lots and villa style homes.*
3. *The Most Desirable/Highest and Best Use – Due to the property’s location in a single family area, the addition of two more homes would be compatible with the existing adjacent land uses.*
4. *Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area because the use is very similar.*
5. *Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for multi-family residential (apartment complexes and nursing facilities) which, even though these are single family homes, is reflected by the density of the smaller homes and lots.*

MOTION: Murray Winn moved to forward Petition #21-20 to the Common Council with a favorable recommendation. Dale Freeman seconded; motion carried with a vote of 7-1 (Tordi).

Mr. Prince said he wanted to add that the final vote will go before the Council in January. This request has nothing to do about drainage and they have to submit plans that meet city requirements.

PETITION #21-21 A petition submitted by VFW Mishawaka Post 360 seeking to rezone the northeast corner of Jefferson Boulevard and Maplehurst Avenue from R-1 Single Family Residential District to R-3 Multi-Family Residential District for eight (8) residential homes and accessory buildings. *The Petitioner is requesting item be continued to January 11, 2022, meeting.*

The Commission unanimously approved the request be continued to the January 11, 2022 meeting.

PLAT #21-14 A request submitted by Cleveland Road Holdings seeking approval of the one (1) lot “Caldera on Cleveland Minor Subdivision.”

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of the applicant. He said this request is to combine 6 parcels, about 6.5 acres, to accommodate a new multi-family development. He said part of the property was annexed in 2016 and the other part in 2020. Mr. Huber said given the changes in market conditions they plan to offer different floor plans.

Mr. Huber said they will make changes per Engineering comments. Sewer will be private and they have had discussions regarding right-of-way for sidewalks and are in the process of revising.

Opposition

David Moore on behalf of Granger Community Church said he isn’t sure if they were for or against the request. He asked how many units will be in the development. Where will

stormwater run off go? Is there any consideration of widening Cleveland Road due to increased traffic?

Rebuttal

Mr. Huber said the development will have about 80 units; it's 12 per acre and consistent with code. Water retention will be on site. It's also in the wellhead protection area.

Mr. Huber said in terms of widening Cleveland Road, they are providing some decel and accel lanes and will meet the requirements of the city.

Mr. Tordi closed the Public Hearing on Plat #21-14.

Mr. Prince said we don't have any immediate plans to widen Cleveland Road.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Plat for the "Caldera on Cleveland Minor Subdivision" pending submittal of an 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: Chris Niedbalski moved to approve Plat #21-14. Sam Cressy seconded; motion carried with a vote of 8-0.

REPLAT #21-03 A request submitted by Kirk and Susan Barron seeking approval of the one (1) lot "Autumn Trails Fourth Replat."

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd, South Bend, appeared on behalf of the applicants. He said they want to combine the two lots into one for a single-family home.

Mr. Tordi closed the Public Hearing on Replat #21-03.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for "Autumn Trails Fourth 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: Murray Winn moved to approve Replat #21-03. Kathleen White-Gadacz seconded; motion carried with a vote of 8-0.

SITE PLANS:

SP #21-08 A request for Final Site Plan approval from Cleveland Road Holdings LLC for an 80-unit multi-family residential townhome development on Cleveland road west of Fir Road.

Mike Huber, Abonmarche Consultants, 315 W. Jefferson Blvd, South Bend, on behalf of the applicant. He said he just presented the plat and this is the site plan. He said it's 80 units, about \$25 million investment, and working in a hot market right now and it's different than

what they usually do. Mr. Huber said it's a mixture of stacked flats and single level. The character and design will be contemporary style and material.

Mr. Huber said the developer will maintain ownership and operate as rentals.

Mr. Huber said they will continue to work with Engineering on sidewalks and right-of-way.

Mr. Emmons asked if it will be regular brick or laminated. Mr. Huber said it's going to be a stone product.

Mr. Emmons asked if the upper level would be wood. Mr. Huber said he isn't 100% sure, but thinks is more of a siding type of product.

Mr. Emmons said it looks like 4 X 8 sheeting. Mr. Huber said it is a higher end material for the project.

Staff Recommendation

Staff recommends that the request for final site plan for an 80-unit multi-family residential townhome development - 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: Dale Freeman moved to approve Site Plan #21-08. Chris Niedbalski seconded; motion carried with a vote of 8-0.

SP #21-09 A request for Final Site Plan approval from GLC-MAP McKinley Trust for a 9,289 sqft multi-tenant building at 422 W. McKinley Avenue. The applicant has requested the item be continued to the January 11, 2022, meeting. The Commission unanimously approved the request to continue.

SP #21-10 A request for Final Site Plan approval from Mervin D. Lung Revocable Trust for a 115,930 sqft self-storage facility on Cedar Road north of Lincolnway.

Greg Shearon, Danch, Harner & Associates, 1643 Commerce Drive, South Bend, appeared on behalf of the applicant. He said they are requesting final site plan approval for self-storage off of Cedar.

Mr. Shearon said there would be nine separate buildings and part of the project is to include an access drive on the north side of the property for future development. There will be access off of Lincolnway.

Mr. Winn asked if the building on the south end of the property climatized. Mr. Shearon said yes.

Staff Recommendation

*Staff recommends that the request for final site plan for the Cedar Road Self-Storage Facility 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: Murray Winn moved to approve Site Plan #21-10. Dale "Woody" Emmons seconded; motion carried with a vote of 8-0.

NEW BUSINESS:

Mr. Prince gave an update on staffing. He said earlier this year the Mayor asked to add capacity to Planning Department. He said his job has changed over time so between Redevelopment, Community Development, and Planning, there were once 12 people who did that. We were reduced to 7 and the Mayor said it's time to add a new position.

Mr. Prince said there is the need for managing larger projects such as new construction at Beutter Park, City Hall renovations, so the best avenue seemed to be moving some responsibilities. Ultimately, his position will be Executive Director, Derek Spier will be City Planner, and Christa Hill will be Senior Planner. He said we are currently in the process of interviewing a new Associate Planner to replace Christa's position.

Mr. Prince also would like for the Commission to reappoint staff. He said he will still attend meetings on occasion. The Commission unanimously approved of the requested staff changes.

ADJOURNMENT: 8:07 p.m.

Kenneth B. Prince, City Planner

Kari Myers, Administrative Planner