REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

February 5, 2024

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, February 5, 2024 at 6:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Present: Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (A), Mr. Mammolenti (P), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Minutes for the Regular Meeting on January 22, 2024 were approved as received from the Clerk's Office.

Clerk Block read the following proposed ordinances by title and opened the public hearing.

PROPOSED ORDINANCE NO. 2024-02

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA
PUD Amendment to allow a Convenience Store with Gas Station & C-1 Parking Standards – Lot 2 of Capital & 12th PUD Minor Subdivision

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Steve Ruby, Abonmarche Consulting, spoke in favor of **PROPOSED ORDINANCE NO. 2024-02**. Mr. Ruby stated he was representing the petitioner, John Piraccini. Mr. Ruby stated the previous location here was a PUD that had sat vacant for a number of years and as some development began to happen, this opened an opportunity for other developers to come in and as a result, they were asking for the PUD to be amended to allow for a commercial convenience store and gas station at the location. Mr. Ruby stated they felt it fit with some of the context in the neighboring area and he provided the elevation to share with the Council. Mr. Ruby stated that would give them a little context as to what they were looking at as far as the look and feel of the building was concerned. Mr. Ruby stated he was happy to answer any questions.

Ms. Hahn asked if there would be a car wash. Mr. Ruby stated there would not be a car wash.

Mr. Banicki asked about access to this property and if it was just right off of 12th Street or if there was an access road that fed both this and the coffee place. Mr. Ruby stated there was an access road that fed both the coffee shop and this facility. Mr. Banicki asked then if it was not direct access where people could cut across multiple lanes and cause accidents. Mr. Ruby stated that was correct and there was basically a frontage road that had been established.

Mr. Mammolenti stated at one of the meetings, they heard a gentleman that represented the apartment complex just north of the property and he stated he had not heard any complaints but also admitted that in fact that he had not circulated the letter to his residents. Mr. Mammolenti asked if since that, he had any communication with that development or any other entity. Mr. Ruby stated they had not, and no one had reached out to them expressing any concerns based on what they presented at the previous meeting, and they did express during that meeting that they had the intention to meet all the screening requirements set forth by the ordinance as well as the PUD as well as the lighting requirements the city had. Mr. Ruby stated based on those things, they intended to meet the intent of any other development through there, similar to the current Scooter's facility as well.

Ms. Hahn asked how many fuel pumps they would have. Mr. Ruby stated that currently there were six islands for that. Ms. Hahn asked if there was one on each side. Mr. Ruby stated that was correct.

Mr. Hixenbaugh stated he appreciated the information and the renderings that he had shown to them but in the future in the interest of time, not only for the Council but for the members of the public that were there, if he could come prepared to either project those type of drawings or have enough copies so that they could all have one, he thought that would be appreciated. Mr. Ruby stated he understood. Mr. Hixenbaugh thanked Mr. Ruby.

Question was called for at 6:09PM for **PROPOSED ORDINANCE NO. 2024-02. Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Mrs. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5882**.

PROPOSED ORDINANCE NO. 2024-03

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA
PUD Amendment for increased Building Height (69', Reduced Parking Setback (6') and Pavement Drive Aisle Setback (0') and Outdoor/Open Space for Various Uses – Lot 1 & 2 of the Enclave at Grandview Manor Subdivision

Mr. Carroll reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Audra Sieradzki, Great Lakes Capital 7410 Aspect Drive Suite 100 South Bend, IN, spoke in favor of **PROPOSED ORDINANCE NO. 2024-03**. Mrs. Sieradzki stated she was presenting speaking about the same project as the prior meeting on January 22nd and they were asking the Council to consider some PUD amendments that would enable them to achieve the design that they were looking to do. Mrs. Sieradzki stated prior to that, she wanted to address the questions at the last council meeting that were asked specifically related to labor. Mrs. Sieradzki stated she went back and reviewed what they did with Phase I and Phase II with Phase I being completed in 2016 and Phase II was completed in 2022. Mrs. Sieradzki stated they worked with CRG Residential as their general contractor on both projects and they took the lead on final design, contract bidding and actual subcontractor engagement. Mrs. Sieradzki stated when they reviewed that, they were at about 40% to 50% of local labor, depending on how you looked at price, supply, materials, labor and overall contract. Mrs. Sieradzki stated they would be working with CRG Residential again and it really came down to qualifications and ability of labor for how they were able to engage them. Mrs. Sieradzki also followed up on the franchise agreement, their agreement with the hotel, which was also discussed at the prior council meeting. Mrs. Sieradzki stated they did have a signed franchise agreement, so the market and the location were both approved, and they would have their specific design bids, which came into their PUD amendment. Mrs. Sieradzki introduced Stephen Studer, who was present to get into those details.

Stephen Studer, Attorney with the law firm at Kreig Devault 4101 Edison Lakes Parkway Mishawaka, IN 46545, spoke in favor of **PROPOSED ORDINANCE NO. 2024-03**. Mr. Studer stated he was present that evening on behalf of Gumwood Acquisitions LLC, the developer of the Grandview development project. Mr. Studer stated specifically they were seeking four amendments to the current Grandview PUD in connection with the Phase III project. Mr. Studer stated each of them had a booklet he prepared and in Exhibit A, he went over the fact that Phase III of the Grandview project was a $175 million investment and their specific request related to the PUD amendments that they were requesting that evening. Mr. Studer stated one was to increase the building height to 69 feet for Block 200 and the rest of it would stay at 48 feet. Mr. Studer stated there were also two parking setbacks that had been requested by the city and they had agreed to those. Mr. Studer stated the next item was a use limitation and, in his presentation, there was a small area which was a public area next to the hotels and it was really a private space owned by the hotel, but it would be used by the public from time to time and the city needed to put some restrictions on that. Mr. Studer stated they were pleased to note that this petition came with a favorable staff recommendation and also a unanimous favor recommendation from the Plan Commission. Mr. Studer stated prior to that, meeting with the Plan Commission, they held a public meeting with the neighbors, and they sent out 25 individual invitations as well as publishing it in the newspaper. Mr. Studer stated they had two people show up, as well as some city representatives, and neither one of the neighbors rejected substantively the proposal and he noted that at the Plan Commission meeting, no one spoke against the petition. Mr. Studer stated in exhibit B page 4 of the handout, there was a yellow crosshatched area which was Block 200 and the only area they were seeking to go to 69 feet and all of the other remaining crosshatch areas would stay at 48 feet. Mr. Studer stated this height limitation was required by the hotel and the hotel was going to have a rooftop restaurant and as the city noted in a staff report, hotels had large lobbies and large ballrooms, so they needed the additional height from 48 feet to 69 feet because they also wanted to include a rooftop restaurant. Mr. Studer pointed out that even at 69 feet, they were still one half of the height of the water tower, which was immediately adjacent to them to the north, so they still were not very high in terms of the overall neighborhood height. Mr. Studer stated specifically, they wanted to see a rooftop restaurant and they needed the additional height for that. Mr. Studer stated in exhibit C, there was a linear depiction facing north and on the far west was the residential neighborhoods and they were about 75 feet from the property line. Mr. Studer stated then when you went all the way to the east, which was where they were looking at Block 200 with the height change, which was almost three football fields away from the neighborhood and as he said earlier, the neighbors had not raised any objections. Mr. Studer, so the first amendment had to do with the height increase, two of them had to do with setbacks and the fourth had to do with a green hashed area shown in the handout that was privately owned and it would generally be open to the public for kiosks that would sell coffee and things of that nature, for example. Mr. Studer stated although, there would be times the hotel may want to have a private event there, so they worked out language with the city that would allow them to keep it open to the public generally, even with it being privately owned, but at the same time the owners adjacent to the space could hold a private event there if they chose to do so. Mr. Studer stated there were pretty simple amendments, one with the height, two with the parking setbacks and the fourth one dealing with the limited green space. Mr. Studer stated he was happy to answer any questions.

Mr. Violi stated Mr. Studer said the 69 feet was still lower than one of the other buildings in the other phase and asked how high the other one was in the original phase. Mr. Studer stated all of the buildings had a height limitation of 48 feet and the water tower, which was where it would be adjacent to, was over 150 feet and they were essentially half of that. Mr. Studer stated kind of set the tenors of the heights but the rest of the development, besides Block 200, would stay at 48 feet.

Mr. Banicki inquired about trying to straighten out that little main street and asked if he knew if anybody on his side had contacted utilities or if that was the city's responsibility. Mr. Studer stated they dedicated land for that, so they told the city that they would make their land available to them at no cost for that, but he believed the communications were between the city and the utilities, but they were certainly willing to accommodate that.

Mr. Mammolenti stated he had a question regarding the activated green space as he said it would be open to the public and on a few occasions, it would be closed. Mr. Mammolenti asked how he planned to announce it being closed for that evening or for that particular event, so folks don't come out. Mr. Studer stated he did not think that the plans were finalized but it would be some type of fencing system that would say 'private event' around that outside area. Mr. Studer stated they wanted to allow it to be used for charitable events and those types of ticketed events that would also be private events. Mr. Studer stated there would not be any drive-throughs in the area and it would not be opened up just in general. Mr. Studer stated for example, you could not just walk up and say you wanted to rent the space and use it for your own party and they also, for instance, could not have tailgates there and it could only be used by the adjacent property owners and only for their events, but they could certainly use it for charitable events.

Mr. Hixenbaugh thanked Mr. Studer for the information and stated his question may be one that Mrs. Sieradzki could answer, but asked about discussion with regard to the parking facility that took place at the prior council meeting and whether it would be possible for the parking garage to have dedicated parking similar to what was done at The Mill across the street, in light of the city partnership involved in the project. Mr. Hixenbaugh stated if he had any information to share with regard to that question, great and if not, he would refer to Mrs. Sieradzki. Mr. Studer stated he did not have that information, but he was sure Mrs. Sieradzki would have that.

Mrs. Sieradzki stated, in response to that, they were working really hard to make the surface spaces available for the public and the design of the garage at that point had it fully enclosed, so for security reasons for the residents, it would be open for the residents and their uses only at that time. Mr. stated that sounded like there was not going to be any provision made for that same type of enhanced public accessibility to the garage that had taken place across the street there. Mrs. Sieradzki stated the way that the plans worked at that time was that it was a garage entrance, and you had a garage opener as a resident that got you into the garage and you also had access into the residential floors, so there was not a public corridor between the garage and the public spaces at that time. Mrs. Sieradzki stated if they needed to look at that again, they were open to doing that, but the intent was that the 300 spaces in the garage served the residents in a secure way so that the on-site parking could be available to the community. Mr. Hixenbaugh asked, to follow up on a point she made at the last meeting, she mentioned valet parking for those who were going to a treat at the hotel, particularly the rooftop component and asked if they would have to pay for the valet service or if that would be embedded as an amenity itself. Mrs. Sieradzki stated she followed up on that as well and if you were going to the rooftop restaurant, that cost would be included in the cost of their restaurant use. Mrs. Sieradzki stated if you were going to the hotel bar or the café, there would be a cost with that and there would be limited hours for the valet, so it would be focused on heavy weekend hours as they saw use. Mr. Hixenbaugh appreciated her being proactive in following up on that to anticipate his question.

Mr. Hixenbaugh stated the last thing he had with regard to Phase III, since now that there was going to be the public participation in it, his hope would be that she would work with her contractor to encourage an enhanced opportunity for local contractors to be involved. Mr. Hixenbaugh stated granted, that was a function of price and capability to be able to serve the needs of the construction process but again, this was different from Phase I and Phase II, given the public-private partnership and if local residents, particularly those in Mishawaka who the Council represented as part of that partnership, had an enhanced ability to be able to take advantage of those construction jobs that she referenced last time, that would be great. Mr. Hixenbaugh stated he was not looking for any set commitment that evening and it was not something he was going to be in favor of delaying this to try to further work through, but he was going to take it on faith, given she and the entity she represented and the good work they had done in Mishawaka, that they would try to look to nudge those numbers up so that there was a higher opportunity for local participation if at all possible. Mrs. Sieradzki stated absolutely, and they were 100% behind that and they appreciated the local labor market and liked to engage them as much as possible. Mrs. Sieradzki stated they were open to the Council and the city’s help with how they could get the message out and how they could come back before the Council to show them they had done that. Mr. Hixenbaugh stated he appreciated that as well and asked if there was anyone interested in furthering that conversation, if they should put them in contact with her. Mrs. Sieradzki stated absolutely, and they had a contact at greatlakescapital.com and it had been in all of their notices and press releases they had made, so they were happy to work to get that published. Mr. Hixenbaugh thanked Mrs. Sieradzki.

Mr. Banicki asked Ken Prince if he had heard any further responses or a first blush idea of whether that was something that was feasible or whether it was what it was and would stay the way it was. Mr. Prince stated for those that may not understand the background, AT&T had a vault located there when the road was expanded and pushed west. Mr. Prince stated they had a private easement on the property, and they investigated at the time if that vault could be relocated, and the cost was exorbitant at the time. Mr. Prince stated this went back to the mid-2010s of when the road project occurred, and it was his understanding that the cost at that time was about $1 million to relocate that vault. Mr. Prince stated they made a conscious decision at that time to engineer that section of road to veer around the vault and it was done to engineering standards. Mr. Prince stated in the last roughly 10 years, there had been three accidents associated with that and none of them included injuries and these were only indicated in the police reports received so more accidents may have occurred but the ones that involved the police report, there were only three. Mr. Prince stated in context, there were 18,000 trips a day recorded in 2021 going down that section of Gumwood and when multiplied by 365, that made roughly 6 million trips a year and multiply that by 10, that would be 60 million trips where they had only had three accidents associated with that bump-out. Mr. Prince stated as he indicated in his email, the right-in and right-out directly across to the east at Heritage Square was much more problematic and people disobeyed the restricted left-turn movement in that location and he believed there had been 15 accidents with 3 of which involving injuries in that location. Mr. Prince stated given context, their City Engineer had reached out to AT&T regarding that vault and that relocation and part of it was that they had the understanding that they needed to replace and upgrade their facilities over time, so their hope was that this was reaching end of life or they had some other reason to look at it and they could help incentivize them to relocate it. Mr. Prince stated at the end of the day, when they got a number, their hope was that they were not paying for the engineering for them to come back and tell them that their number was, for example, $3 million now to relocate it. Mr. Prince stated they hoped that they had a desire or need to relocate the vault and that they could incentivize them to relocate it out of the way and then they could modify the roadway to the appropriate section and pay those costs. Mr. Prince stated it took a considerable amount of time to put together and they did not have that answer as of yet.

Mr. Carroll asked if there was any way he could think of that the design around the vault would hamper any future development or any changes to the road. Mr. Prince stated he would call it a nuisance and an anomaly in terms of drawing it and it was not how they would like to do it but he did not think it disincentivized the construction of the property and in fact, that may be a better question to the developer and he was sure they would like it taken care of but he was not sure it was any negative in terms of the marketing of the property.

Question was called for at 6:028PM for **PROPOSED ORDINANCE NO. 2024-03. Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Mrs. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5883**.

NEW BUSINESS

Mr. Emmons made a reminder that the West End Neighborhood meeting would be on February 15th at St. Bavos at 7PM and their guest speaker would be Mishawaka Police Chief Ken Witkowski talking about enhancing the new Police scheduled that had been approved going from 8-hour shifts to 12-hour shifts and he would be advising the community on how that was working and why it was working and the benefits to the community. Mr. Emmons stated he hoped to have everyone there and as usual, West End Bakery would be providing donuts.

Mrs. Voelker announced there would be a 4th District meeting tomorrow night, Tuesday February 6th at 5:30PM in the Mayor's Youth Council room which was upstairs. Mrs. Voelker stated they would be discussing issues that had been occurring in the 4th District in multiple areas and one of her goals was to bring the 4th District together and introduce people who had been having similar problems and they would have some updates from Police, Code Enforcement and the Law Department but she was hoping they could foster some conversation on how they as citizens could improve their neighborhood.

ADJOURNMENT 6:30PM

Deborah S. Block /s/	Gregg A. Hixenbaugh /s/
Deborah S. Block, IAMC, MMC, City Clerk	Gregg A. Hixenbaugh, President