

originals

**PLAN COMMISSION**

**-MINUTES-**

**Monday, February 7, 2022 - Commenced at 1:48 P.M. & adjourned at 3:00 P.M.  
City Council Chambers – Municipal Building**

Elkhart City Plan Commission was called to order by Tory Irwin at 1:48 P.M.

**MEMBERS PRESENT**

Dave Osborne- In person  
Ron Davis- In person  
Johnny Thomas- In person  
Tory Irwin- In person  
Mark Datema- In person  
Aaron Mishler- In person

**MEMBERS ABSENT**

Tom Shoff  
Don Walter

**REPRESENTING THE PLANNING DEPARTMENT**

Ryan Smith, Planner- In person

**LEGAL DEPARTMENT**

Absent

**TECHNOLOGY STAFF**

Matthew Riggs

**RECORDING SECRETARY**

Kayla Jewell

**APPROVAL OF AGENDA**

Motion to approve the amended agenda to table 22-X-04 until March 7, 2022 by Davis; Second by Osborne. Voice vote carries.

Motion to approve the amended agenda to table 20-Z-04 until March 7, 2022 by Mishler; Second by Davis. Voice vote carries.

Motion to approve the amended agenda with both amendments by Davis; Second by Datema. Voice vote carries

**APPROVAL OF MINUTES**

Motion to approve by Osborne; Second by Davis. Voice vote carries.

**APPROVAL OF PROOFS OF PUBLICATION**

Motion to approve by Osborne; Second by Datema. Voice vote carries.

**OLD BUSINESS**

**#22-SUB-01 PETITIONER IS KIRSTEN COY AND RAFAEL CARDENAS RAMOS**

**PROPERTY IS LOCATED AT COUNTY ROAD 6 WEST**

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a two-lot subdivision; a part of the Southwest 1/4 of Section 19, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana. This request seeks to split the property on an existing duplex, and establish a platted ingress-egress easement on Tract 2 serving Tract 1.

**STAFF ANALYSIS**

The petitioners each own part of a property containing a duplex; the units of the duplex are addressed to 1328 and 1334 County Road 6 West. Last year, the former owner of the property had a surveyor supply a survey showing a property split that divided the property into two parcels, splitting the duplex in two, and created an access easement on the driveway. The survey was recorded and both parcels sold to new owners.

The process was done without undergoing the required city processes, and staff holds that it was an illegal division; any property in the city that is subdivided must undergo review by our Plat Committee and Major Subdivisions must also be reviewed by the Plan Commission. Since the proposed split includes an access easement, the proposal is automatically a Major Subdivision and must be reviewed first by the Plan Commission.

Staff learned of the split prior to the sale of the properties and contacted the owner to notify her that she needed to submit applications. Several months passed without any application being submitted, and during that period the properties were sold. Staff has spent considerable time working with the current and former owners to have the appropriate applications submitted. The application we received was less than we would typically process, and the survey provided does not officially qualify as a plat. However, staff believed it was best to proceed with the process and review their application.

The proposed lots met the minimum requirements for parcels in the R-1 District, and the proposed access easement maintains access for both lots. However, the properties do not meet the minimum setbacks or the minimum frontage for the district, and the survey provided does not qualify as an official plat. The petitioners should receive variances for these deficiencies prior to the plat being approved by the Plat Committee.

#### **STAFF RECOMMENDATION**

The Staff recommends approval of the two-lot subdivision, a part of the Southwest 1/4 of Section 19, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

- 1) The lots meet the minimum lot area requirements for the DPUD R-1: Detailed Planned Unit Development to the R-1 Standards District;
- 2) The proposed request results in the creation of 44 lots as defined by the Zoning and Subdivision Ordinance.
- 3) The proposed subdivision will not compromise any existing development.

#### **CONDITIONS**

- 1) The applicants must submit an official plat.
- 2) The applicants must obtain a setback variance for both properties.
- 3) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.
- 4) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.
- 5) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.
- 6) The project must be reviewed and approved through the City's Technical Review process prior to the submission of the final plat to the Plat Committee.

Smith asks the Members if the case can be tabled until the end of the meeting due to the petitioner not being present.

Osborne makes motion to table the case until the end of the meeting; Second by Mishler. Motion carries.

#### **#22-Z-01 PETITIONER IS CEA PROPERTIES LLC AND CHARLES AURAND SOLE BENEFIT TRUST, STEVEN A AURAND TRUSTEE**

#### **PROPERTY IS LOCATED AT 1637 1643 1649 INDIANA AVENUE WEST**

Per Section 29.11.B, Map Amendments, a request to rezone the property located at 1637, 1643, and 1649 West Indiana Avenue from R-3, Two-Family Dwelling District to R-2, One-Family Dwelling District.

**STAFF ANALYSIS**

The petitioners own three residential properties comprising three single family dwellings on approximately 1.73 acres of land. The properties currently have split zoning, with R-3 to the north and R-2 to the south, and some of the structures on the properties cross property lines. They are in the process of cleaning up the property lines and rezoning; a minor subdivision application has been submitted simultaneously with this rezoning request, which will be reviewed by Plat Committee. The rezoning will make each parcel a single zoning district, and consolidate the zoning with a block of R-2 to the north, west, and south.

**STAFF RECOMMENDATION**

The Staff recommends **approval** of the rezoning request based on the following findings of fact:

1. The proposed rezoning is compatible with the Future Land Use map, which calls for the area to be developed with low density residential uses;
2. Current conditions and the character of current structures and uses in each district will not be impacted because the properties will continue to be used as single family dwellings;
3. The R-2 District does allow for the most desirable uses for which the land can be adapted;
4. The proposed rezoning will preserve the conservation of property values throughout the City because it will preserve the use of the property as single family dwellings;
5. The rezoning of the property to R-2, Single Family Dwelling District is compatible with the surrounding properties and does reflect responsible growth and development.

Smith states this is the same petition that was heard last month and the reason we are rehearing it is due to an objection to how it was advertised. Smith goes on to say the request is exactly the same.

Smith states there were 43 letters mailed, 1 returned in favor with no comments.

Irwin asks if the request was passed at the last meeting.

Smith replies yes.

Irwin asks if there are questions from the Members for staff.

Hearing none, Irwin opens for public comments in favor or opposition of the petition.

Irwin closes the public portion of the meeting.

Irwin calls for a motion.

Osborne makes motion to approve with a Do-Pass Recommendation to the Common Council; Second by Thomas. Motion carries.

Osborne- Yes

Davis- Yes

Thomas- Yes

Irwin- Yes

Datema- Yes

Mishler- Yes

**NEW BUSINESS**

**#22-SUB-03 PETITIONER IS IRON GATE I LLC  
PROPERTY IS LOCATED AT CR 24 AND SR 19**

Request: Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Hilltop Subdivision,' a seven (7)-lot subdivision; a part of the Southwest 1/4 of Section 19, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana.

**STAFF ANALYSIS**

The petitioners is requesting approval of a seven (7) -lot subdivision of land that is a portion of the Southwest 1/4 of Section 19, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana. The proposed subdivision is intended to be developed commercially, with shared access drives. The northwestern parcel is intended to be developed as a gas station and C-store; plans have already been submitted to Technical Review and construction is expected to commence this year.

The zoning for this property is B-2; it was rezoned to this district when it was annexed from the county last year. The layout of the subdivision meets the requirements of the subdivision ordinance. It would create four parcels to be developed commercially, as well as three outlots to be used for an access drive. A maintenance agreement for the access drive is pending. The drive may be dedicated as a public right-of-way at a later date.

**STAFF RECOMMENDATION**

The Staff recommends approval of the seven lot subdivision, to be known as 'Hilltop Subdivision,' a seven (7)-lot subdivision; a part of the Southwest 1/4 of Section 19, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, based on the following findings of fact:

- 1) The lots meet the minimum lot area requirements for the B-2, Community Business District;
- 2) The proposed request results in the creation of seven (7) lots as defined by the Zoning and Subdivision Ordinance.
- 3) The proposed subdivision will not compromise any existing development.

**CONDITIONS**

- 1) The approval is preliminary only. The applicant must submit the required application materials for Final Plat Approval to the Plat Committee as per Article 5 of the Subdivision Ordinance prior to the issuance of any permits for construction or sale of property.
- 2) Subsequent approvals may be required from the appropriate City Departments. Those approvals may include plans for water supply, storm water retention, sewage disposal, grading, roadway construction and other infrastructure prior to final plat approval.
- 3) Approval is tentative and shall be valid for a maximum period of twelve (12) months. The City Plan Commission may grant an extension upon written request. If the final plat has not been recorded within the time limit, the primary approval is null and void and the preliminary subdivision plan must be resubmitted for approval.
- 4) The project must be reviewed and approved through the City's Technical Review process prior to the submission of the final plat to the Plat Committee.

Smith states there were 9 letters mailed, 0 returned.

Irwin asks if there are questions from the Commission.

Irwin asks if this is preliminary approval.

Smith replies, yes it will go to the Plat Committee.

Irwin calls petitioner forward.

Crystal Welsh (303 River Race Dr. Goshen) introduces herself and states she is representing the petitioner. Welsh states this is the property that is included with the Casey's development that's currently far along in its process. She then goes on to say, the intention is to get the subdivision established and then take lot one which is the proposed Casey's lot through secondary platting. Welsh says, "Hopefully by the end of the week we'll have that plat submitted, but the rest of the property will go through secondary later on when the property owner figures out exactly how the roads will be done. There's still a little bit of negotiating on how the roads are that's why we've platted them right now as out lots so they'll be easily converted in a replat process to public right of way at a later date once the rest of the infrastructure design gets put into place since everyone been focusing on Casey's corner, the rest of the site isn't quite ready for secondary yet, but we will be doing that within the 12-month period."

Davis asks Welsh if this is located across the street from the 7-11.

Welsh replies yes.

Osborne asks about curb cuts (inaudible).

Welsh replies, "Those are the existing curb cuts as the property exists... There is one that goes to CR 24 which will probably be the main access. There's a right in, right out only on the Casey's lot and then there's a full access on the very southern that I think that's out lot C."

Osborne replies (inaudible).

Welsh replies, "No, those are existing and there isn't any anticipation we have since Casey has their own engineering company doing the site plan... There's every indication that the permit is permitted and approved through the state."

Irwin asks if there are additional questions for Welsh.

Irwin opens for public comments in favor or opposition of the petition.

Hearing none, Irwin closes the public portion of the meeting.

Irwin calls for a motion.

Osborne makes motion to approve with a Do-Pass Recommendation to the Plat Committee; Second by Davis. Motion carries.

Osborne- Yes

Davis- Yes

Thomas- Yes

Irwin- Yes

Datema- Yes

Mishler- Yes

**#22-X-03 PETITIONER IS NELSON B HOLDINGS LLC  
PROPERTY IS LOCATED AT 529 SOUTH SECOND STREET**

A Special Exception per Section 15.3, Special Exception Uses in the Central Business District (CBD), to allow a Bed and Breakfast home and Meeting Hall/Banquet Facility at 529 South Second Street.

**STAFF ANALYSIS**

The petitioners own the Winchester Mansion, located at the northwest corner of Second and Harrison Streets. The building is an 8,500 square foot facility that has recently been used commercially. The property is currently being used as living quarters; the new owners would like to combine uses at this property, for the second floor to be used as a residence and bed and breakfast, and the first floor to be used as an events center. Both of those uses require a Special Exception in the Central Business District.

The property is suited to the use. There are six bedrooms and three bathrooms on the second floor, and the first floor has been used commercially and can be converted to an events center. The building's context is primarily commercial. Unlike bed and breakfasts in residential districts, the commercial nature of the neighborhood means that concerns about traffic and noise should not become a hardship for neighboring properties. Additionally, the events center will add livelihood to the downtown evenings and weekends, which will be beneficial to the Central Business District. The property has a parking lot in the rear; there is also a large and underutilized parking lot across Harrison Street that can be used by guests.

**STAFF RECOMMENDATION**

Staff recommends approval of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected as this use will be compatible with its commercial surroundings;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because there will be little to no physical changes to the property;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Irwin asks if the special exception goes to the BZA.

Smith replies, yes.

Irwin asks if there are questions from the Commission.

Mishler states he believes it would be a good use of the existing property.

Irwin calls petitioner forward.

Phalene Leichtman and Christopher Baker (529 S Second St Elkhart) introduce themselves. Leichtman states the property was purchased back in September and would like to preserve the historical integrity of the building while creating a bed and breakfast. Leichtman believes it would be a benefit as there are many events happening through the downtown area. She goes on to say, there is also a small area where activities such baby and wedding showers can be held.

Irwin asks if there are additional questions for the petitioner and states he believes this is a great use of the property and a great location.

Mishler asks if there has been any outreach to the neighbors.

Baker replies there are not really any surrounding neighbors, but they have spoken to other business owners who all seem excited.

Irwin opens for public comments in favor or opposition of the petition.

Hearing none, Irwin closes the public portion of the meeting.

Irwin calls for a motion.

Mishler makes motion to approve with a Do-Pass Recommendation to the Board of Zoning Appeals; Second by Datema. Motion carries.

Osborne- Yes  
Davis- Yes  
Thomas- Yes  
Irwin- Yes  
Datema- Yes  
Mishler- Yes

**#22-SI-03 PETITIONER IS BCW Properties LLC  
PROPERTY IS LOCATED AT 2426 Cassopolis St.**

An appeal as per Section 26.4.2.B for a Development Plan, to vary from Section 24.9.D.2 which states that “all facades which face roadways... shall utilize corrugated metal for no more than twenty-five percent (25%) of the façade,” when located in a Development District, to allow three facades in a Development District to utilize corrugated metal for between 44 and 49% of the façade, variances of between 19 and 24%.

**STAFF ANALYSIS**

Last month, the Plan Commission decided that the two materials in question proposed for the new North End Cycle on Cassopolis Street should be considered corrugated metal and subject to the 25% façade restriction for primary facades in Development Districts.

The petition before you is requesting an exception to this standard for this specific building. The current elevations provided by the applicant show that the corrugated metal on all three primary facades take up more than the 25% allowed by ordinance; the total amount ranges from 44 – 49% of the façade. While the Plan Commission may consider such an exception to this standard, and it does not necessarily apply to other properties, in practice it would set a precedent for future applications.

The rationale for the design standards in Development District is to elevate the quality of new development in prime locations, to foster economic development and enhance the image of the city. For these reasons, the Zoning Ordinance encourages the use of façade materials that are superior in quality and worth in these areas.

There is nothing unique about this development that would warrant an exception to this standard when other developments have managed to meet it. The petitioner has stated that the project is running over budget with the addition of the masonry, and may be making a primarily financial decision; lack of funds could be considered a valid reason for a one-time exception. However, there does need to be some consideration of the impact on the corridor and what precedent it will set for future developments.

### **STAFF RECOMMENDATION**

Staff recommends denial of the request to vary from the Façade Standards in Development Districts for the property at 2426 Cassopolis Street. No rationale other than finances has been presented to staff that would establish a hardship for meeting the ordinance, and it would set a precedent for other developments to not adhere to façade standards in the future.

### **CONDITIONS**

A condition was added the petitioner is required to use option "B".

Smith states there were 8 letters mailed, 1 returned in favor with no comments.

Irwin asks Smith if the Plan Commission has made this exception for any other recent developments on Cassopolis.

Smith replies, none since he has been working for the city.

Irwin asks if there are questions for staff.

Hearing none, Irwin calls petitioner forward.

Tony Campanello (2426 Cassopolis St) introduces himself (inaudible). Campanello explains why the building was purchased and ordered ahead of time in regards to pricing and timeline (inaudible). Campanello passes out the three options for the proposed building materials (inaudible). He goes onto explain the differences between all three options (inaudible). Campanello shows an example of businesses that are close in proximity with materials that would replicate what North end Cycle would also have (Gurley Leep and Gates) (inaudible). He then states how by going with option A would help save on costs of the building it would provide offices for their employees and other necessary rooms (inaudible). Campanello begins to explain options B and C (inaudible). He steps back to grab the samples of metals that were brought (inaudible). Campanello states he wanted to offer three options, but would like option A the best and is best suited for their budget.

Irwin asks if there are questions from the Members.

Davis asks Campanello if they are leaning towards option A.

Campanello replies yes, but they are also open to using option B.

Davis asks if Meijer sold the old location of North End Cycle.

Campanello replies yes (inaudible).

Mishler asks Campanello if the photos that we provided of the other businesses were facing the roadway, rear or the sides.

Campanello replies the photo of Gates, the overhead doors, are facing the street.

Mishler asks if those businesses had to have exemptions for those building materials to be approved.

Smith states he does not have an answer, but can look into it.

Irwin asks when the ordinance was passed.

Smith replies, about 20 years ago.

Irwin asks Smith if the newer developments have met the ordinance requirements.

Osborne asks Campanello a question (inaudible).

Campanello replies (inaudible) and explains the brick edge around the building. He states this is privately owned business and to keep in mind how much money is coming in when comparing businesses such as Meijer.

Osborne asks Campanello the difference in costs between options A and B.

Campanello replies (inaudible).

Osborne states he would approve any of the options Campanello is providing, but would like some masonry around the front and sides of the building. Osborne states he is in favor of option B.

Davis replies (inaudible).

Campanello replies (inaudible).

Irwin states he is torn and understands the circumstances of this business being a "Mom and Pop" shop, however the ordinance was put into place to ensure Elkhart's commercial district won't have the look of prefabricated warehouses.

Campanello asks Irwin when ordinances change.

Irwin replies that he is unable to answer the question, but the development that have been recently added have met the necessary requirements.

Osborne replies to Irwin in regards to he agrees we should support the current ordinance; however, an exception should be made because of the type of building materials are being used more frequently for new developments.

Mishler states he is torn as well, but does agree option B is a great compromise.

Datema asks if future businesses will gravitate towards this type of building material.

Irwin replies future businesses would perhaps look towards this type of building material as well.

Campanello interjects and states the board has the authority to make an exception and change (inaudible).

Osborne states the board should accept the exception.

Datema asks Campanello to verify the percentages of building materials required and asks if there should be a change in the percentages allowed.

Irwin replies that is what they are discussing today.

Mishler states he is leaning towards option B, as North End Cycle would be willing to meet in the middle of the required ordinance and the newly proposed options.

Davis states he agrees.

Irwin calls for a motion.

Osborne makes motion to approve option B, with the masonry built up to the window sill level with the two sides (inaudible); Second by Davis. Motion carries.

Smith states the motion should be to approve the appeal and then add the condition that option B be adhered to.

Osborne makes a motion to accept the appeal (inaudible); Second by Davis.

Osborne- Yes

Davis- Yes

Thomas- Yes

Irwin- Yes

Datema- Yes



Mishler- Yes

Irwin calls for a motion to remove 22-SUB-01 from the agenda.

Datema makes a motion to approve; Second by Davis. Voice vote carries.

Smith asks to table the case until the March meeting.

Irwin calls for a motion to table 22-SUB-01 until March 7, 2022.

Osborne makes a motion to approve; Second by Davis. Voice vote carries.

Irwin calls for a motion to amend the agenda and appoint a new Plat Committee Member.

Mishler makes a motion to amend; Second by Osborne. Voice vote carries.

Irwin calls for a motion to appoint himself to the Plat Committee as the representative from the engineering department.

Osborne makes a motion to approve; Second by Mishler.

Osborne- Yes

Davis- Yes


Thomas- Yes

Datema- Yes

Mishler- Yes

**ADJOURNMENT**

Irwin calls for a motion to adjourn meeting. Osborne approves motion to adjourn and is seconded by Thomas. Meeting is adjourned and all are in favor.

  
Tory Irwin, President

  
Dave Osborne, Vice-President