

PLAN COMMISSION
-MINUTES-
Monday, October 4, 2021 - Commenced at 1:45 P.M. & adjourned at 3:12 P.M.
City Council Chambers – Municipal Building

Elkhart City Plan Commission was called to order by Dave Osborne at 1:45 P.M.

MEMBERS PRESENT

Tory Irwin- Webex
Dave Osborne- In person
Ron Davis- In person
Tom Shoff- Webex
Johnny Thomas- In person

MEMBERS ABSENT

Brad Billings
Don Walter

REPRESENTING THE PLANNING DEPARTMENT

Ryan Smith, Planner- Webex
Nathan Hooley- Webex

LEGAL DEPARTMENT

John Espar, Deputy City Attorney- In person

TECHNOLOGY STAFF

Anthony Elkins

RECORDING SECRETARY

Kayla Jewell

APPROVAL OF AGENDA

Motion to approve by Thomas; Second by Shoff. Voice vote carries.

APPROVAL OF MINUTES

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

APPROVAL OF PROOFS OF PUBLICATION

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

ONLINE VOTING

Motion to approve by Irwin; Second by Thomas. Voice vote carries.

OLD BUSINESS

**20-Z-04 PETITIONER IS R&R PROPERTY LEASING
PROPERTY IS LOCAATED AT 309 STAINLESS DRIVE**

Per Section 29.11.B, Map Amendments, a request for an amendment to Zoning Commitment Document #2016-15221 established with the Elkhart County Advisory Plan Commission, which states that “Any future development must utilize Stainless Drive for access to the site. Access onto County Road 19 is not permitted.” The petitioner wishes to remove this stipulation to allow access to the property from County Road 19.

20-Z-04 was moved from the agenda. Motion to approve by Davis; Second by Irwin.

20-Z-04 was tabled for 60 days (until December 6, 2021 meeting). Motion to approve by Davis; Second by Thomas.

NEW BUSINESS

**21-X-08 PETITIONER IS PRAYSAYERS MINISTRIES - LEONARD D COOK AND JANET K COOK
PROPERTY IS LOCATED AT 2626 PRAIRIE STREET**

A Special Exception as per Section 4.3, Special Exception Uses in the R-1 District, to allow for the establishment of a private secondary educational institution at an existing religious institution.

STAFF ANALYSIS

Goodwill Industries has contracted with the Praysayers Ministries, which operates the River of Life Community Church at 2626 Prairie Street, to open an Excel Center at the existing facility. The Excel Center will provide high school education along with some college courses and professional certifications, along with free child care for their participants. Based on a conversation with Goodwill staff, the child care activity does not rise to the level of being classified as a daycare center under the Zoning Ordinance, nor are they required to acquire a child care license from the Indiana Family and Social Services Administration.

According to the Elkhart County Assessor's records, the church comprises approximately 53,000 square feet on a 5-acre lot, and was built in 1956. The school will operate using the existing church; no physical modifications are planned other than signage.

The church previously hosted another educational program, the Cornerstone Christian Montessori Academy, and the interior of the church is set up for a classroom format. It's common for churches, even in residential areas, to house similar institutional activities such as specialized schools or daycares, since the facilities are adequate and often left unused for the majority of the week. The church is located in a residential district with single family dwellings to the east. However, it's also bordered by a busy commercial area on the west, and traffic will primarily be coming to and from the church from Prairie Street and the entrance at the end of Carlton Avenue. Given its location, facilities, and established history as a church and school, its renewed use as a school is appropriate.

STAFF RECOMMENDATION

The Staff recommends approval of the special exception 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;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because there will be no physical changes to the property and the activity level will be similar to past uses;
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.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

The petitioner is not present.

Osborne calls for a motion.

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

**21-X-09 PETITIONER IS LEXINGTON BUSINESS CENTRE, INC
PROPERTY IS LOCATED AT VACANT LOT JR ACHIEVEMENT DR, PARCEL 20-06-05-432-006.000-012**

A Special Exception as per Section 15.3, Special Exception Uses in the CBD District, to allow for the establishment of a private park and recreation facility.

STAFF ANALYSIS

The petitioner owns the .37-acre landscaped vacant lot at the southwest corner of East Lexington Avenue and Junior Achievement Drive, as well as the multi-use building across Lexington Avenue to the north. Two of the tenants at the multi-use building have requested the use of the vacant lot for entertainment and social gathering purposes. The petitioner proposes to build a small band shell

and use the property for “weddings, music events, movie nights and other social activities.” The site would be an amenity to both local businesses and local residents as several high-density residential complexes exist within walking distance. Visitors from farther away would be able to access nearby private and public parking, and the owner/operator would need to adhere to all applicable noise, food, and beverage laws. The use is appropriate for its urban context and is likely to enhance rather than detract from its surroundings.

STAFF RECOMMENDATION

The Staff recommends approval of the special exception 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;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it is a small urban amenity;
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.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Carl Tiedermann (530 Lexington Ave) introduces himself and states he owns the Lexington Business Center and a few years back, Lex 530 Event Center was created and built. Tiedermann states they have been working with Excise for the new event center and following up on all the necessary precautions needed to open. (inaudible) He goes onto say they recently had an event which was successful and received a large attendance. Tiedermann says he hopes to be able to hold additional events such as weddings in the venue. (inaudible). He states there should not be a problem with parking and they received no noise complaints.

Davis asks if this is located across from the car wash.

Tiedermann replies, yes on the opposite end.

Osborne asks if the area will be fenced.

Tiedermann replies yes temporary fences, only when there are events.

Thomas asks if they plan to close down the streets when events occur.

Tiedermann replies, yes.

Irwin states he believes it is a good use of the area and commends him on working with everyone.

Osborne calls for a motion.

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

21-X-10 PETITIONER IS HANCOCK REGIONAL HOSPITAL DBA VALLEY VIEW HEALTHCARE CENTER PROPERTY IS LOCATED AT 333 WEST MISHAWAKA ROAD

A Special Exception as per Section 4.3, Special Exception Uses in the R-1 District, to allow for the establishment of a dialysis unit in an existing nursing home.

STAFF ANALYSIS

The petitioner owns and operates a nursing home on a 10-acre zoning lot located at 333 W. Mishawaka Rd. The facility comprises approximately 51,000 square feet and was built in 1984. The owner wishes to renovate approximately 1,000 square feet to install an

in-house dialysis facility. The dialysis facility will serve existing residents in need of dialysis, it will not be open to the general public or to external patients. The proposal follows a trend in nursing homes to provide such a service to their residents, giving them a convenient and secure option for a needed treatment which is common for a percentage of the senior population. No exterior changes are proposed, and no increase in traffic or noise is anticipated as a result of the renovation. Staff anticipates effects on adjacent properties to be minimal.

STAFF RECOMMENDATION

The Staff recommends approval of the special exception 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;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because the renovation will be interior and the service will be provided for existing residents
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.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Adam Panfil introduces himself and states he is the Chief Operating Officer of the dialysis company. He states he believes it is a great use for underutilized space and will provide a better living condition for those who are receiving dialysis.

Osborne asks if there are any additional questions.

Hearing none, Irwin calls for a motion.

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

21-Z-10 PETITIONER IS EPSILON V DEVELOPMENT

PROPERTY IS LOCATED AT VACANT LOT S NAPPANEE ST (IMMEDIATELY EAST OF 1440 S. NAPPANEE ST.)

Per Section 29.11.B, Map Amendments, a request to rezone the property located at Vacant Lot, Nappanee Street (immediately east of 1440 S. Nappanee Street) from B-1, Neighborhood Business District to B-2, Community Business District.

STAFF ANALYSIS

The petitioner owns a +/- .28-acre parcel on a two-parcel/.97-acre zoning lot that has been developed as a fast-food restaurant with drive-thru, originally built in 1985. The parcel to the west is zoned B-2, which allows restaurants with drive-thrus, and the parcel to the east is zoned B-1, which does not, making the parking lot on that parcel legal nonconforming until recently.

The restaurant recently suffered a fire casualty and is seeking to rebuild the restaurant. However, the casualty was greater than fifty (50) percent of the total cost of construction, meaning that the site has to rebuilt in a way that conforms to the current zoning district. While seeking to obtain permits to rebuild the restaurant, the owners consulted with staff to determine what their best option was to be compliant with the zoning ordinance; staff recommended a rezoning instead of a variance. It would consolidate the zoning lot into a single zoning district. The property to the east is zoned residential, however, it is across a street and is currently occupied with a religious institution which would be compatible with the commercial development.

STAFF RECOMMENDATION

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

1. The request is in keeping with the comprehensive plan, which calls for this property to be developed with commercial uses.
2. Current conditions and the character of current structures and uses in each district will not be impacted because it will re-establish an existing use for the lot.

3. The B-2 District does allow for the most desirable uses for which the land can be adapted since the site is located on a commercial corridor and will consolidate the zoning with the rest of the zoning lot.
4. The proposed rezoning will preserve the conservation of property values throughout the City because the property has already been developed commercially and has a street separating it from the nearest residential zone.
5. The rezoning of the property to B-2, Community Business District is compatible with the surrounding properties and does reflect responsible growth and development.

Smith states there were 18 letters mailed, 0 returned.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Matt Schuster (JPR) introduces himself and states he is available for any questions.

Davis asks if it is the Burger King.

Schuster replies yes.

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

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

Osborne calls for a motion.

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

**21-SUB-08 PETITIONER IS 1127 MILES AVE LLC., STEVEN K HAINES
PROPERTY IS LOCATED AT 1147 N MICHIGAN STREET**

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Auto Driveaway Subdivision - Replat Lot 2,' a one (1) lot subdivision; a part of the Southeast Quarter of Section 31, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana. The purpose of the plat is to vacate existing access and utility easements, and to create new utility easements.

STAFF ANALYSIS

The petitioner owns a vacant 25-acre parcel bordered by Randolph and Michigan Streets and Edwardsburg Avenue zoned for industrial uses. The parcel is planned to be developed with a 123,000 square foot industrial building, which has mostly passed the City's Technical Review. There is an existing access easement and a utility easements which will no longer be fully necessary once the site is redeveloped; those easements are proposed to be partially or fully vacated here. See the support drawing for more detail. The subdivision ordinance requires an application for a major subdivision when an easement of access is created, altered, or vacated.

The plat would also create two new utility easements for the proposed redevelopment. The City's engineering staff has approved the project and the location of the easements. The project will also connect a storm sewer to the adjacent Auto Driveaway, on which property a drainage easement shall be recorded.

STAFF RECOMMENDATION

The Staff recommends approval of the one (1) lot subdivision, to be known as 'Auto Driveaway Subdivision - Replat Lot 2', a part of the the Southeast Quarter of Section 31, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

- 1) The lot meets the minimum lot area requirements for the M-1, Limited Manufacturing District and M-2, General Manufacturing District;
- 2) The proposed request results in the partial or full vacation of existing Utility and Access easements and establish two new Utility easements as depicted on the preliminary plat;
- 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.

Smith states there were 35 letters mailed, 0 returned.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Crystal Welsh (Abonmarche) introduces herself and states the reason they are here today is for the utility in the access easement for the project. Welsh says they have recently gone to the Board of Works and have approved the release of the old and accepted the new, but they wanted to come to the Plan Commission first before it becomes official. Also, Welsh states the storm water discharge agreement is in place and has been submitted to Public Works and Utilities for their review and approval. Welsh states it is exciting to see this industrial area being reused for a job center for the community.

Davis asks Welsh if she agrees with the conditions that have been added.

Welsh replies, yes.

Osborne calls for a motion.

Davis makes motion to approve with a Do-Pass Recommendation with listed conditions; Second by Shoff. Motion carries.

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

21-SUB-09 PETITIONER IS EMERALD CHASE LAND DEVELOPMENT LLC, CONWAY HERSHBERGER, MEMBER PROPERTY IS LOCATED AT Henke Street (CR 106) and Hickory Lane

Per Article 4 of the Subdivision Ordinance, approval of a Preliminary Plat for a subdivision to be known as 'Boulder Run,' an 85-lot subdivision; a part of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana.

STAFF ANALYSIS

The petitioners is requesting approval of an 85-lot subdivision of land that is a portion of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana. The proposed subdivision is located adjacent to the Manor Estates subdivision, south of Henke Street/County Road 106 and east of Jeanwood Drive.

The zoning for this plot of land is R-1, which requires a minimum area of 9,500 square feet, which is met by each of the proposed lots. The zoning limits the development possibilities to single family residential. The developer is proposing three points of ingress and egress which will connect to existing rights-of-way at County Road 106/Henke Street, Manor Lane, and Barley Street.

Based on the review of the block layout, the proposal meets the requirements of the Subdivision Ordinance in terms of street width, layout, block length, and cul de sac diameter. Staff has relayed some concerns about a few of the lot layouts, specifically Lots 1, 2, and 13, to the petitioner. Their consultant has agreed to either revise the layout of these lots or provide a plot plan demonstrating how they may be developed according to code, which will be required prior to final submission to the Plat Committee.

The project has not yet been submitted for Technical Review, which will be required to review matters such as road design, landscaping, utilities, and drainage. Review and approval will also be required prior to submission of the final plat to the Plat Committee.

STAFF RECOMMENDATION

The Staff recommends approval of the 85- lot subdivision, to be known as 'Boulder Run,' a part of the West 1/2 of the Southwest 1/4 of Section 26, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, based on the following findings of fact:

- 1) The lot meets the minimum lot area requirements for the R-1, One-Family Dwelling District;
- 2) The proposed request results in the creation of 85 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.

Trotter states there were 126 letters mailed, 3 returned in favor, with comments. Comments were: "As long as Bedford Ct. remains a cul-de-sac", "please don't raise our taxes" (inaudible). There were 9 returned not in favor with comments. Comments were:

"I am not in favor of the petition at this public hearing: A.) you mailed your survey to owners in a 300' radius. B.) If you would have sent your survey to the 26 home owners, you would have received a resounding "not in favor". C.) Let me tell you why, you bring traffic from another subdivision to a one entrance-exit subdivision. D.) Our children use the closed subdivision to ride bikes and play. One of these children are deaf. E.) You would expose these children and home owners to traffic from a 85 lot subdivision and we all know it will bring more than traffic to Manor Estates. F.) If approved by the Planning Commission you are creating an unsafe situation for the children and handicap which I am one of."

"I oppose a street being continued South of Hickory Lane as there are many animals in that area"

"We have a baby and privacy was a huge reason we bought this property."

Osborne asks how many access points there will be.

Trotter replies, 3.

Osborne asks if there are questions from the Commission.

Hearing none, Osborne calls petitioner forward.

Crystal Welsh (Abonmarche) introduces herself and thanks the staff for all of their help on this project. Welsh states this is the first, large scale, residential single family development in the past 15-20 years. It will bring in 85 new single family homes. Welsh states there will be three entrance points and goes onto explain the details of those points. Originally, there were 95 units that were proposed however, the neighborhood preferred larger lots and larger homes so the developer went back and removed lots. Welsh states this petition does meet all the required subdivision requirements by the city's ordinances.

Davis asks what is the price range of the new homes.

Welsh replies they have not made the commitment, as there are many aspects that still need to be considered, but they are estimating the starting point to begin at \$250,000.

Davis asks if it would be compatible with the surrounding areas.

Welsh replies, yes the developer did a good job with the subdivision being built in the middle of two existing subdivisions.

Irwin asks if the roads that are being tied into, are they cul-de-sacs or (inaudible).

Welsh replies no, they are existing sub-streets.

Osborne asks if there will be new curbing.

Welsh replies, it will have all of the city's development standards.

Osborne asks if there are underground utilities.

Welsh replies, she believes that is the intention.

Osborne asks if the water retention areas would be fenced.

Welsh replies, the fence design is still underway.

Osborne asks if there are additional questions for the petitioner.

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

Vicky Creasy (Cornerstone Christian Montessori) introduces herself and states the property being developed is close to the school. Creasy states there have been multiple trucks and maintenance crews who have been using the school's property during school hours. She says they have had to ask them to leave as it is not safe for the children. Creasy says there is also a large drainage issue, in which there has been a flooding incident already and she is worried this will create an even larger problem for the school. She also states they have issues with children from the neighborhood destroying their playgrounds and fences. Creasy says her biggest concern is the parking lines for pick-up/drop-off along with the traffic which causes accidents. She also says she is concerned with the noise level.

Osborne states to Creasy, that on one hand they would like to welcome more students, but it sounds like the school does not want to deal with the things more students would be bringing with them.

Creasy replies, no we would always want to welcome more students and are working to expand their building.

Osborne asks if all children are being brought by car.

Creasy replies, yes there is no transportation offered.

Judy Johnson (1817 Woodland Dr.) introduces herself and asks if there is a 15' utility easement and what kind of impact this is going to have with drainage and utility assessment area.

Dennis Murphy (53634 Hickory Ln) introduces himself and states he is not in favor of this subdivision. Murphy states the Commission sent out a 300' radius survey of where the proposed exit to the subdivision will be and he says his subdivision has a single in and out exit already. He states the children play in the streets and exposing them to more roads, it would not be a good idea.

He also says he surveyed the 26 home neighborhood and no one is in favor. Murphy states he does not approve or understand the placement of the easements.

Lori Snyder (Berkshire Manor) introduces herself and states she understands everyone's opinions, but there is little land left that is good for single family homes and the developer who is creating this subdivision will do things the right way.

Dale Shrock (23913 Woodmont Dr) introduces himself and states he is not in favor. He states he moved into the subdivision over 20 years ago because of the smallness and minimal traffic. Shrock states, as mentioned previously the number of small children and animals who are playing outside, it does not make sense to open the neighborhood up to more traffic. Shrock believes this will allow for an increase of vandalism as well.

Osborne asks Welsh to answer additional questions.

Osborne asks if the access through an existing subdivision is necessary.

Welsh states from a planning perspective, it's a great idea. She goes onto say when the subdivision was originally platted, this was not a cul-de-sac because it was intended to connect to the section of the subdivision so therefore it was always intended to connect. Welsh goes onto explain how the access will work and it won't be cutting through the neighborhood. The traffic will have to head south and head back up towards the adjacent neighborhood.

Jeff Shaffer (Abonmarche) introduces himself and states he was able to meet and work with the original developer, the idea was always that development was intended to be 100 lots or so. He says the difference being if it were to be developed in the county or the city. Shaffer states, "Henke street has a traffic count of only 1900 cars a day, so there is a lot of capacity on Henke Street." Shaffer states he believes it is important for neighborhoods to be connected and will want to interact with each other.

Osborne asks Shaffer about the point that was brought about the utility easement.

Shaffer says they will be able to work with her, but the utilities are going to be in front of the houses. As far as drainage goes, it would not be located on the home owner's property.

Osborne asks if the electricity would be located underground.

Shaffer states from speculation, yes.

Welsh states this is still in need to go through Tech Review and all of the easements will have to be approved.

Creasy states there was a difference in timing for who received the survey and asks where the car count comes from.

Irwin and Welsh state the traffic count comes from AADT, Macog.

Osborne closes the public portion of the meeting.

Osborne asks if there is anything Irwin would like to add.

Irwin states he is favor of the petition and does understand the concerns, but to connect and form a neighborhood is the best use for the land.

Shoff states he is torn on how to vote.

Osborne calls for a motion.

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

STAFF ITEMS

21-SI-09

Endorsement of staff's decision to consider the installation of a rotational molding machine ancillary to the primary operation at the facility located at 1162 Fremont Court. The proposed use is by ordinance more intense than what is permitted in the base district.

STAFF ANALYSIS

Petitioner desires to install a rotational molding machine at the 1162 Fremont Court to allow them to produce on-site parts that are currently outsourced. The need arises because the vendors are back ordered and causing a delay in the supply chain. The equipment is more intense than what the base district allows however, considering the size of the building versus the size of the equipment proposed for the site – it is staff's opinion that the use does not rise to the level of a new use. It is 2% of the overall area of the building thus in staff's opinion – therefore an ancillary use of the building.

Staff is requesting the Plan Commission endorse the staff's opinion that the installation of the rotational molding machine is ancillary to the primary use and does not rise to the level of a Major Amendment to the existing Planned Unit Development.

Section 20.10.B – Major - Modifications to Approved Final Site Plans as a part of a Planned Unit Development list four (4) changes that constitute a major modification. Those four (4) changes are:

1. Change in the land area of the PUD;
2. Change in the density of use of the PUD;
3. Allow a use previously not permitted in the PUD; or
4. Constitute a change which, in the sole discretion of the Plan Commission, should be considered by the City Council as a new proposed development; shall be deemed a new application for the approval of a Planned Unit Development and shall follow the procedure previously set forth in this Section.

In looking at the standards above, the staff feels the intent of this language speaks to larger uses that would occupy land as a primary use. The request meets none of those thresholds and does not rise to the level of a new primary use, change the area of land or change the density of use.

Section 20.10.A – Minor – Modifications to Approved Final Site Plan as a part of a Planned Unit Development list two (2) changes that constitute a minor modification. Those two (2) changes are:

1. Modifications, such as minor relocation of a building, parking lot, or other site element, due to unforeseen site conditions, can be reviewed and approved by the Planning staff. An adverse decision by the Planning staff may be appealed to the Plan Commission as per 20.10.A.2 below.
2. All other modifications, except those deemed major as defined in 20.10.B below, shall be presented in writing to the Plan Commission. The Commission shall review and reject or approve the proposed changes without a public hearing.

The above standards relate to changes in site plans during the construction phase necessitating an amendment. Neither of which relate to the request today.

STAFF RECOMMENDATION

Staff requests the Plan Commission the support the idea the installation of the equipment does not rise to the level of a major change of the PUD and allow the project to move forward.

CONDITIONS

Should the Plan Commission choose to approve the above request, staff suggests they do so with one condition.

1. The machinery referenced in the above request be limited to the 2% of gross internal floor area. Any additions of machinery above 2% would necessitate another hearing and approval by the Plan Commission and may be considered a Major Amendment with appropriate conditions as required by the board.

Davis makes motion to approve with conditions; Second by Thomas. Motion carries.

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

Trotter asks if any members would be available for a special meeting. The members agree.

Irwin asks Trotter if BZA is set for the month, Osborne volunteers.

ADJOURNMENT

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

Tory Irwin- Yes

Dave Osborne- Yes

Ron Davis- Yes

Tom Shoff- Yes

Johnny Thomas- Yes

Tory Irwin, President

Dave Osborne, Vice-President

DRAFT