



Culver Plan Commission Meeting Minutes

December 20, 2022

Summary of Council Actions:

Items	Motion Made By	Seconded	Vote (For – Against - Abstained)
Motion to approve the November 2022, minutes.	Mr. Samuelson	Mr. Strati	8 – 0 – 0 Approved
Motion to open Public Hearing – 2022-P-100272 – Application filed by Mirar Custom Homes to approve rezone the property located at 415 Lake Shore Drive from a C-2 zone to a PUD (Planned Unit Development). The petitioner requests a primary and secondary review of the PUD and asks the Plan Commission to approve the rezoning pending the approval of variance of development standards for a PUD, which will be scheduled for a BZA hearing at a later date.	Mr. Samuelson	Mr. Strati	7 - 0 – 0 Approved
Motion to close Public Hearing – 2022-P-100272	Mr. Samuelson	Mr. Strati	6 - 0 – 0 Approved
Motion to Approve 2022-P-100272 – Application filed by Mirar Custom Homes to recommend	Mr. Samuelson	Mr. Strati	7 - 0 – 0 Approved

rezoning the property located at 415 Lake Shore Drive from a C-2 zone to a PUD (Planned Unit Development) conditioned upon approval by the BZA.

Motion to open Public Hearing – 2022-P-100179 – Application filed by Bonine Properties Trust Agreement to approve rezoning the property located at 114 Lake Shore Drive, Culver to R-2 from R-1 to reflect long time use of the property as a duplex.

Motion to close Public Hearing – 2022-P-100179

Motion to recommend the Town Council approve 2022-P-100179 – Application filed by Bonine Properties Trust Agreement to rezone the property located at 114 Lake Shore Drive, Culver to R-2 from R-1 to reflect long time use of the property as a duplex.

Motion to open Public Hearing – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 to R-2, special use for a duplex to reflect the R-2 duplex usage.

Motion to close public hearing.

Mr. Samuelson

Mr. Strati

7 – 0 – 0 Approved

Mr. Fox

Mr. Samuelson

7 – 0 – 0 Approved

Mr. Samuelson

Mr. Miller

5 – 2 – 0 Approved

Mr. Samuelson

Mr. Strati

7 – 0 – 0 Approved

Mr. Miller

Mr. Osborn

7 – 0 – 0 Approved

Motion to recommend the Town Council approve – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 to R-2, special use for a duplex to reflect the R-2 duplex usage.	Mr. Samuelson	Mr. Miller	6 – 1 – 0 Approved
Motion to open Public Hearing – 2022-P-100281 – Application filed by Steven and Karen Heim to approve rezoning the property located at 217 S. Ohio Street, Culver from R-1 to R-2 to reflect the current usage of a two-family home	Mr. Samuelson	Mr. Strati	7 – 0 – 0 Approved
Motion to close public hearing.	Mr. Samuelson	Mr. Strati	7 – 0 – 0 Approved
Motion to recommend the Town Council approve – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 to R-2, special use for a duplex to reflect the R-2 duplex usage.	Mr. Samuelson	Mr. Strati	6 – 1 – 0 Approved
Motion to Adjourn	Mr. Gut	Mr. Samuelson	7 – 0 – 0 Approved

1. Call to Order

President Barry McManaway called to order a regularly scheduled meeting of the Culver Plan Commission at 6:30 PM on December 20, 2022, at the Culver Town Hall and via Microsoft Teams.

2. Roll Call

Mr. Fox conducted roll call. The following members were present: Barry McManaway, Andy Strati, Don Fox, Joel Samuelson, Chester Gut (remote), Dan Osborn, John Miller, and Bob Cooper (remote) along with Town Manager Ginny Munroe. Wayne Bean was absent.

3. Pledge of Allegiance

Led by Mr. McManaway.

4. Approval of November 2022 Minutes

Mr. Samuelson moved to approve the minutes. Mr. Strati seconded. The motion was approved 8 - 0-0.

5. Motion to open Public Hearing – 2022-P-100272 – Application filed by Mirar Custom Homes to approve rezone the property located at 415 Lake Shore Drive from a C-2 zone to a PUD (Planned Unit Development). The petitioner requests a primary and secondary review of the PUD and asks the Plan Commission to approve the rezoning pending the approval of variance of development standards for a PUD, which will be scheduled for a BZA hearing at a later date.

Mr. Samuelson moved to open the public hearing. Mr. Strati seconded. The motion was approved 7–0–0. (Bob Cooper was unable to vote remotely on this motion for technical reasons having to do with his computer connectivity.) The public hearing opened at 6:37.

Mr. McManaway clarified that there are no significant changes to the proposal since Mirar was last before the Commission in the fall.

Town Manager Ginny Munroe said Mirar had submitted a complete set of plans to include elevations and drainage. In response to a question from Mr. McManaway, Mr. Knuth appeared on behalf of Mirar and said the Lake Shore Drive height was about 25 feet and the back of the townhouses had an elevation of just under 28 feet. There are 12 parking spaces on the property. Some of these are garages. Some are surface spaces. Mr. Knuth said that there had been some rearrangement of traffic flow to address neighborhood concerns for cars to come off of Coolidge and exit on Lake View. Mr. Osborn ask why the traffic flow through the parcel would be one way. Mr. Knuth said Coolidge was one way, and while there could be two-way traffic through the parcel, one way was better to address neighborhood concerns. Mr. Samuelson asked if a speed bump was desirable. Mr. Knuth said the natural elevation change of the street approaching Lake View was sufficient to calm traffic.

Ms. Munroe then read into the record several letters from members of the public and an attorney representing some residents concerning this project. These letters are attached to the minutes. Ms. Munroe also clarified that this is considered to be a new matter, not a second public hearing continued from the fall.

Mr. McManaway asked the public to be respectful in their comments.

Mr. Jeff Mansfield 222 Lake View Street addressed the Commission. Mr. Mansfield noted that he was providing copies of letters previously read into the record and the decision from the Marshall

County Court. He asked if this is a primary and secondary review of the PUD. Mr. McManaway clarified that tonight was only a primary review. Mr. Mansfield said he felt the matter could not be heard until October 2023.

Town Attorney Jim Clevenger said that the one period Mr. Mansfield referred to from the Ordinance refers to where the Plan Commission denies a PUD. In this instance, the Commission had not done that. The presiding Judge had vacated the Plan Commission's October 2022 recommendation on the plan.

Mr. Mansfield said the Plan Commission needed to consider what could be built under C-2 Zoning and that the Plan Commission needed to make findings of fact. Mr. Mansfield asked why this project is being considered as a PUD and not R-2. Mr. Mansfield said the planned PUD actually has a 0 foot setback and not 5 feet because when you measure from projecting balconies and stoops, there is 0 setback. Mr. Mansfield provided information about potential sight lines from side street entering Lake View. Mr. Mansfield asked the Plan Commission to deny the PUD.

Ms. Ann Banfich 16125 Dogwood Lane Plymouth appeared before the Commission on behalf of her mother Marilyn Banfich, who wishes to buy one of the townhomes. She read a letter supporting the project, which is attached to the minutes.

Mr. Tom Yuhas, 430 State Street appeared before the Commission to voice his support for the project. Those views are reflected in a letter that is attached to the minutes.

Mr. Doug Famer, 225 Lake View appeared before the Commission. He noted that 18 people who live in the immediate area have written to oppose the project.

Ms. Tracy Gordon, 221 Lake View appeared before the Commission to voice her opposition to the project. She said that Lake View Street is a "drag strip" with speeding cars. She is also concerned the project does not have adequate parking. She is not opposed to development but would like to see a single family home.

Sarah Jones, 416 Harding Court, representing the builders, Mirar Custom Homes, appeared and said they had worked hard to make the plan compatible with the neighborhood and to keep traffic and parking off of the southern end of Coolidge. She noted that there are two parking spaces for each unit. Also, a majority of potential buyers who have expressed interest in buying are older people, who want to live in Culver fulltime and have a zero maintenance home and be able to walk to the park and the Farmers Market. She said it had been suggested that while C-2 and PUD could have been considered, it was suggested that PUD was a better way to go. She noted that at least two people who signed a letter opposing the project had verbally expressed their support.

Dean Jones, 416 Harding Court, on behalf of Mirar Custom homes said the front "balconies" were merely decorative railings.

Mr. Knuth addressed the sight line issue. He said that the plan had exceeded what was required as for sightlines. He also addressed drainage. The prior structure on the parcels was nearly all impervious surface, and this project had grassy spaces and exceeded what was required for green space. He felt the drainage requirements had been exceeded.

Mr. Russ Mason, 530 Forest Place, appeared via Teams. He said he supports the project, and as to affordable housing, single family use would make for even more expensive housing. As the former town building commission, he said he had always opposed the C-2 zoning of the parcels in

question, and there were all sorts of undesirable uses that could result if the parcels were not made residential.

Lindy and Bob Derevic, 230 Lake View Street appeared via Teams to oppose the project. Ms. Derevic does not think that with other commercial properties available, the parcels would attract any commercial interest.

Ginny Munroe, 618 Academy Road, appeared as member of the public and addressed the PUD versus C-2 issue. She said that the current zoning would have allowed apartments above commercial spaces, but that PUD better fit the current Comprehensive Plan and Stellar Plan that both call for a variety of housing types. She said the builder also didn't want a commercial use in that space because the developer didn't want to cause more traffic. She doesn't see nearly the same traffic concerns with residential PUD as with C-2.

Jan Farmer said she doesn't see a three level townhome as senior living. She asked if the property were in a TIF if that would benefit the Town. Ms. Munroe said the TIF would benefit the Town.

Ms. Jones clarified that the units are actually two levels and some potential residents will be installing lifts.

6. **Motion to close Public Hearing – 2022-P-100272 – Application filed by Mirar Custom Homes to approve rezone the property located at 415 Lake Shore Drive from a C-2 zone to a PUD (Planned Unit Development). The petitioner requests a primary and secondary review of the PUD and asks the Plan Commission to approve the rezoning pending the approval of variance of development standards for a PUD, which will be scheduled for a BZA hearing at a later date.**

Mr. Samuelson moved to close the public hearing. Mr. Strati seconded. The motion was approved 6–0–0. The public hearing closed at 7:46 PM. Mr. Gut could not vote for technical reasons related to Teams. Bobby Cooper had to leave the meeting early on Fire Department business.

Mr. Miller asked about the “balconies.” Mr. Jones reiterated that they were just decorative railings. The distance from the foundation of the buildings to the sidewalk is five feet as proposed.

Mr. Osborn said his in-laws, who are in their mid-80s are interested in one of the units, that he had conferred with the Town attorney about whether that created a conflict of interest for him. He reported that the attorney's view was that Mr. Osborn had no conflict because he had not financial interest at stake.

Given the procedural history of this case, Mr. Fox asked for clarification about the form of a motion to approve the project as a PUD. Mr. Cleavenger said any motion to approve should be conditional on subsequent approval by BZA, and then the matter would come back to the Commission.

Mr. McManaway said he felt there was adequate parking for the project, and he was not concerned about traffic given that there were only six townhomes. He went on to note that there could be some undesirable options under the current C-2 zoning. There would be nothing the Plan Commission could do to prevent an undesirable C-2 use. Member of the public Mr. Farmer then engaged on what the required setbacks might be for a C-2 use.

Mr. Strati asked about the process for a Plan Commission vote. It was agreed that the required process would be a motion to approve contingent upon subsequent BZA approval. If the BZA

approved, then the matter would come back to the Plan Commission for a final vote on whether to recommend the Town Council approve re-zoning of the property to PUD.

Mr. Samuelson asked about covenants, and Ms. Munroe read the guidelines for PUD covenants.

- 7. Motion to Approve 2022-P-100272 – Application filed by Mirar Custom Homes to approve rezone the property located at 415 Lake Shore Drive from a C-2 zone to a PUD (Planned Unit Development) conditioned upon approval by the BZA hearing at a later date.**

Mr. Samuelson made the above motion to approve. Mr. Strati seconded. The motion was approved 7-0-0. Mr. Cooper was no longer part of the hearing because he was called to a fire.

- 8. Motion to open Public Hearing – 2022-P-100179 – Application filed by Bonine Properties Trust Agreement to approve rezoning the property located at 114 Lake Shore Drive, Culver to R-2 from R-1 to reflect long time use of the property as a duplex.**

Mr. Samuelson moved to open the public hearing. Mr. Strati seconded. The motion was approved 7-0-0. The public hearing opened at 8:10 PM.

Jennifer Lutrell 1209 Lincoln Street and realtor for Rosalie and Jim Bonine appeared before the Commission. The building at issue has been operated as a triplex since 1979, which pre-dates the current zoning of the parcel. Ms. Lutrell said the property is for sale as a triplex and assurance is needed that such use would be lawful.

Ms. Munroe read a letter from some neighbors who oppose the re-zoning. The letter is attached to the minutes.

Ms. Lutrell and Ms. Bonine said that the apartments had provided starter homes for many residents including school teachers.

Mr. Rich West 319 East Jefferson Street asked if the building went from R-1 to R-2 if there would be a safety inspection. Mr. McManaway said he didn't think so. Ms. Lutrell said that if there was remodeling, then there might be an inspection.

Mr. Tom Wylie 425 Lake Street appeared to oppose the rezoning because he doesn't want the building to become an R-2 and possibly an Airbnb.

Mr. Richard Lutrell 1209 Lincoln Street said that anyone who moved in after 1979 was on notice that this was a multi-family use structure, and he doesn't understand how someone could object.

Mr. Wylie said that his concern is more about what could happen in the future rather than the current use.

Mr. Brad Smintana 421 North Plymouth appeared via Teams. He said the current structure doesn't conform to current R-1 or R-2 zoning. Mr. McManaway said that lot size and setbacks were not germane to the issue of re-zoning.

William Smintana 411 Lake Street said he looked at the building to possibly buy it, and in his opinion the structure was not built as multi-family residence.

Rosalie Bonine 710 Red Sunset Ave said the building began life as a single family residence but had been added onto as a doctor's office and later a business. Ms. Lutrell said it is not accurate to say everything around the structure is R-1.

Mr. Kevin Berger 8886 State Road 17 Plymouth asked whether the re-zoning and re-sale of the property would mean that any building ordinance violations were mooted.

Mr. Fox said some of the public opposition was aimed at building ordinance issues and not land use, which is the what is within the jurisdiction of the Plan Commission.

9. Motion to close Public Hearing – 2022-P-100179 – Application filed by Bonine Properties Trust Agreement to approve rezoning the property located at 114 Lake Shore Drive, Culver to R-2 from R-1.

Mr. Fox moved to close the public hearing. Mr. Samuelson seconded. The motion was approved 7-0-0. The public hearing closed at 8:42 PM.

There was discussion about what might happen if a new owner sought a building permit to remodel the building.

Mr. Fox said he supports the re-zoning because the Bonines are trying to do the right thing and make right a use that has existed for 43 year, which pre-dates the Zoning ordinance.

Mr. Gut observed that any re-building would be subject to R-1 if the lot is not re-zoned.

10. Motion to recommend the Town Council approve the Application filed by Bonine Properties Trust Agreement and rezone the property located at 114 Lake Shore Drive, Culver to R-2 from R-1.

Mr. Samuelson made the motion. Mr. Miller seconded. The motion was approved 5-2-0.

11. Motion to open Public Hearing – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 special use to R-2 to reflect the R-2 duplex usage.

Mr. Samuelson moved to open the public hearing. Mr. Strati seconded. The motion was approved 7-0-0. The public hearing opened at 8:57 PM.

Mr. Gut asked if the re-zoning were not approved if it would revert to R-1. Mr. McManaway said it would not. Ms. Jennifer Luttrell said that the special use was granted by the BZA within the past year. Ms. Luttrell said they purchased the property in 2021 from Pam Baker, who had operated it as a duplex for many years.

Ms Munroe said she had received no letters on this request from the public.

Member of the public Sally Ricciardi noted that the property had been used as a duplex for many years.

Mr. Russ Mason questioned whether an R-1 special use was allowed under the Zoning Ordinance.

- 12. Motion to close Public Hearing – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 to R-2, special use for a duplex to reflect the R-2 duplex usage.**

Mr. Miller moved to close the public hearing. Mr. Osborn seconded. The motion was approved 7-0-0, and the hearing was closed at 9:05 PM.

- 13. Motion to recommend the Town Council approve – 2022-P-007 – Application filed by Richard and Jennifer Luttrell to approve rezoning the property located at 810 S. Main Street, Culver from R-1 to R-2, special use for a duplex to reflect the R-2 duplex usage.**

Mr. Samuelson moved to approve the motion. Mr. Miller seconded. The motion was approved 6-1-0.

- 14. Motion to open Public Hearing – 2022-P-100281 – Application filed by Steven and Karen Heim to approve rezoning the property located at 217 S. Ohio Street, Culver from R-1 to R-2 to reflect the current usage of a two-family home.**

Mr. Samuelson moved to open the public hearing. Mr. Strati seconded. The motion was approved 7-0-0. The public hearing opened at 9:07.

Karen Heim, 217 S. Ohio Street appeared before the Commission. There is an addition to the house that was used by a prior owner as a day care and another owner as a mother-in-law suite. Ms. Heim said there is a connection with the addition/apartment where her daughter now lies through the laundry room to the main house. Ms. Heim would like to close up that access and clean up the zoning to reflect the current use as a two family building.

Mr. Samuelson asked about parking. Ms. Heim said there are two cars operated by the current residents, and there is plenty of parking.

Ms. Munroe said there had been no letters received on this property.

- 15. Motion to close Public Hearing – 2022-P-100281 – Application filed by Steven and Karen Heim to approve rezoning the property located at 217 S. Ohio Street, Culver from R-1 to R-2 to reflect the current usage of a two-family home.**

Mr. Samuelson moved to close the public hearing. Mr. Strati seconded. The motion was approved 7-0-0. The public hearing closed at 9:11 PM

- 16. Motion to recommend the Town Council approve 2022-P-100281 – Application filed by Steven and Karen Heim to approve rezoning the property located at 217 S. Ohio Street, Culver from R-1 to R-2 to reflect the current usage of a two-family home.**

Mr. Samuelson made the motion. Mr. Osborn seconded. The motion was approved 6-1-0.

- 17. TRC Report and Building Commissioner's Report**

Ms. Munroe provided the TRC report. Ms. Munroe said there had been an inquiry about tiny homes at the old trailer park.

18. Old Business

No old business was discussed.

19. Citizen Input

None other than noted above.

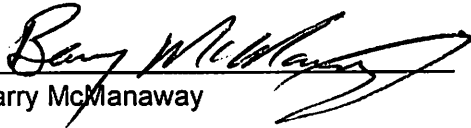
20. Member Concerns

None other than noted above.

21. Motion to adjourn

Mr. Gut moved to adjourn. Mr. Samuelson seconded. The motion was approved 7-0-0, and the meeting adjourned at 9:20 PM.

Minutes approved by:

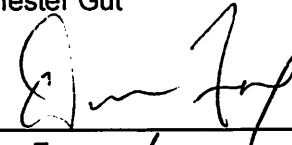


Barry McManaway

Robert Cooper

Chester Gut

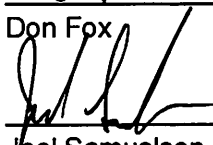
Wayne Bean



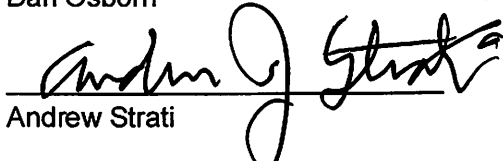
Don Fox



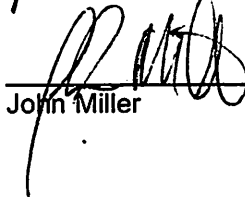
Dan Osborn



Joel Samuelson



Andrew Strati



John Miller

Ginny Munroe

From: Bob Darovic <darovicr@yahoo.com>
Sent: Tuesday, December 20, 2022 4:21 PM
To: Ginny Munroe
Cc: Lindy; Shan Farmer; Doug Farmer; jeffreydmansfield@gmail.com; matthew.h.nagel@gmail.com; darovicr@yahoo.com; Susy Northrop
Subject: 415 Lakeshore Drive - Dec 20th Plan Commission Meeting Opposition Letter

Hi Ginny-

We are requesting the following letter to be read at the Plan Commission meeting tonight, so it will be on record.

Please confirm that you received this email.

Thanks,
Bob Darovic

Dear Planning Commission, Board of Zoning Appeals, and Town Council:

This letter is mainly from residents that were notified by mail of the proposed development at 415 Lakeshore Drive. These residents all live within 300 feet or in the immediate proximity to the proposed development. We are the families that will have a direct impact and will be forced to deal with the daily consequences of this development. We are all asking you to **DECLINE** the application for a Planned Unit Development.

We agree that this property would best suit a residential development, but it needs to be a reasonable and responsible plan. The current plan of 6 townhome units on a third of an acre is simply unreasonable. This could potentially add 20-24 additional residents without providing ample parking and creating a poor traffic flow on Coolidge and Lakeview Streets. There is minimal greenspace, which is supposed to be natural open space, not just squares of grass. This development will not benefit the current neighborhood which is currently all single family homes and will only increase congestion and traffic on our streets and not to mention that parking will become nonexistent for our residents.

The dangerous site lines of this development are a huge concern for our children and our neighborhood bikers and walkers. Coolidge and Lakeview streets are an access point for joggers and dog walkers to the lakefront path. The blind corners with no visibility are setting up the perfect area for a deadly car or golf cart accident.

Even after reviewing the storm water report, there are still concerns for our neighborhood. This site plan has no place for rainwater to drain on site and will

continue to overload the existing storm sewer and exacerbate the current flooding of the street at the bottom of Coolidge where the bike path is located. The rain water needs to be absorbed on the property, not dumped down the hill adding additional rain water to the surrounding streets.

The architecture does not fit in with surroundings, with completely flat roofs being 25 feet high and only being 5 feet from the sidewalk. There needs to be more reasonable and consistent set backs that are more similar to the properties already in this area.

We would like to see a reasonable development in this area that would benefit our single family neighborhood. We do not need all these townhomes packed into this small lot. It would seem more appropriate to have homes that have outside green space, patios, and attached garages like the current single family zoning that is on all four sides of this property. These units do not allow for their residents to be outside and enjoy our quiet neighborhood.

This development does not meet the stated goal of attracting young families who are year round to support local businesses. These families would want outdoor living space for their children, which this development does not currently offer.

We don't want to lose the small town charm we have all come to know and love about Culver. Our neighborhood currently looks out for each other by receiving packages, lending a hand, or bringing in trash cans. The owners of these townhouses would most likely be investment properties resulting in numerous Airbnb rentals that are not invested in our community.

We ask that you vote No to this PUD tonight and ask the developer to come back with a reasonable plan more fitting for our neighborhood.

Sincerely,

Bob and Lindy Darovic -
230 Lakeview Street
Jeff and Kathy Mansfield -
222 Lakeview Street
Susan and Andrew Northrop -
404 Lakeshore Drive
Matthew and Caitlin Nagel -
221 Coolidge Court
Doug and Shan Farmer -
225 Lakeview Street
Betsy and Colin MacNab -
216 Lakeview Street
Rusty and Kim Kerns -
215 Lakeview Street

Bill and Cheryl Rhodes -
228 Lakeview Street
Tracy and Adam Gordon -
221 Lakeview Street
Dan Nagel - 416 Lakeview Street
Yvonne Shepherd - 427 Lakeview Street
Doug and Kris Bernhardt -
421 Lakeview Street and
415 Lakeview Street
Chris Nickell -
411 E. Washington Street - Unit 6
Dan Slyh and Carrie Gillis -
322 Lakeshore Drive
Lindsay and Bill Wheeler -
411 E. Washington Street - Unit 12
Ed and Barb Behnke -
321 E. Washington Street

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

To Whom It May Concern,

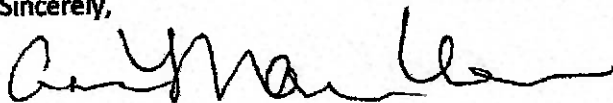
Please consider voting yes for the proposal concerning the townhomes at 415 E Lakeshore Drive.

This type of housing is the perfect fit for the area and will provide much needed alternative housing for the town of Culver, while increasing the tax base. The 6 unit building is an appropriate size for the property and will not be obtrusive to the neighborhood. The fact that there are 12 parking spaces available on site will lessen parking issues for area residents.

There are many commercial properties in town currently sitting vacant. The fact that 415 Lakeshore is already zoned commercial could potentially add to this already troublesome problem. Not to mention that commercial businesses operating at this location would bring an abundance of noise, traffic, and congestion to the area.

We would highly recommend the Plan Commission, Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,



19795 16th Rd
Culver IN 46511

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

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Sincerely,

DICK BRANTINGHAM
1071 WEST SHORE DR.
CULVER, IN

Town of Culver
Culver Plan Commission, Culver Town Council, Board of Zoning Approval

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Sincerely,

Tony Brantingham
1071 West Street
Culver,

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

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464 State St
Culver, IN. 46511

Town of Culver

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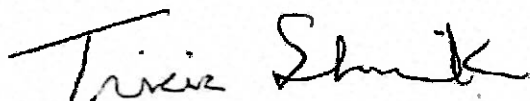
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There are many commercial properties in town currently sitting vacant. The fact that 415 Lakeshore is already zoned commercial could potentially add to this already troublesome problem. Not to mention that commercial businesses operating at this location would bring an abundance of noise, traffic, and congestion to the area.

We would highly recommend the Plan Commission, Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,


525 E LAKESHORE DR
CULVER, IN 46511

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

To Whom It May Concern,

Please consider voting yes for the proposal concerning the townhomes at 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission , Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,

Patricia Shunk
521 E Lakeshore DR
CULVER, IN, 46521

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

To Whom It May Concern,

Please consider voting yes for the proposal concerning the townhomes at 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission , Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,

Kelly Rogers

167 North Terrace Drive
Culver, Indiana 46511

Town of Culver

Culver Plan Commission, Culver Town Council, Board of Zoning Approval

To Whom It May Concern,

Please consider voting yes for the proposal concerning the townhomes at 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission , Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,

John Rogers
167 North Terrace
Culver, IN, 46511

From: Fritz and Julie Steck
1290 East Shore Drive
Culver, IN 46511

To: Town of Culver
Culver Plan Commission

Re: Townhome on 415 East Lakeshore Drive

To Whom It May Concern,

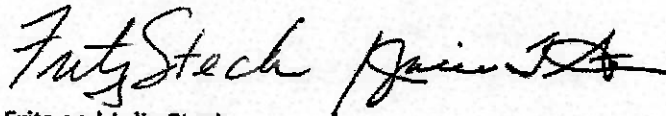
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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fritz and Julie Steck".

Fritz and Julie Steck

**Town of Culver
Culver Plan Commission**

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

*Clair Heise
1766 E. Shore Dr
Culver, In 46511*

Town of Culver
Culver Plan Commission

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,



SHIRLEY AMOND
432 SCHOOL STREET
CULVER, IN 46511

Town of Culver
Culver Plan Commission

To Whom It May Concern,

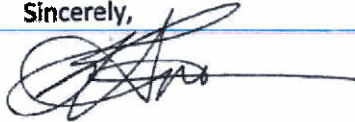
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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,



Kim Arnold-Wright
432 SCHOOL STREET
CULVER, IN 46511
4-6-22

Town of Culver
Culver Plan Commission

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Thomas Fritz

559 E Jefferson St
Culver, IN 46511
4/5/22

Town of Culver
Culver Plan Commission

To Whom It May Concern,

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

4-6-22
ALLEN FRITZ
328 E JEFFERSON
CULVER IA. 46511

Town of Culver
Culver Plan Commission

To Whom It May Concern,

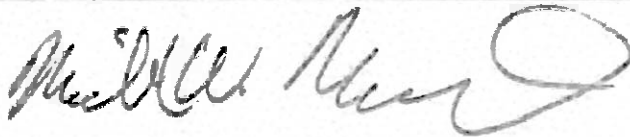
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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,



MICHAEL W. MADISON
1059 W. SHORE DR.
CULVER, IN 46511

Town of Culver
Culver Plan Commission

To Whom It May Concern,

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,



Richard N. Wade, Jr

1500 East Shore Drive

Culver, IN

46511

Town of Culver
Culver Plan Commission

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Please consider voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Jenny Egan

1814 East Shore Drive
Culver, IN
46511

Town of Culver
Culver Plan Commission

To Whom It May Concern,

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Weldon Eggen
1814 EAST SHORE DRIVE
Culver, IN 46511



From: Marilyn Banfich mbanfich@me.com
Subject: Another letter of support
Date: April 17, 2022 at 7:58 PM
To: Ginny Munroe gmunroe@townofculver.org, Tracy Fox tracy@foodnutritionpolicy.com

Hi Ginny and Tracey
 Just got this one in. Please add to the support letters!
 Marilyn

Sent from my iPhone

Begin forwarded message:

From: "debsears enchanted-gardener.com" <debsears@enchanted-gardener.com>
Date: April 17, 2022 at 6:44:04 PM EDT
To: Marilyn Banfich <mbanfich@me.com>
Subject: condo letter

Marilyn,
 Here you go!
 Good luck!

Deb

**Town of Culver
 Culver Plan Commission**

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Deb Sears
 319 E Jefferson
 # 137
 Culver, Ind
 47521

From: Marilyn Banfich mbanfich@me.com

Subject: One more letter of support!

Date: April 19, 2022 at 12:03 PM

To: Sara Jones sara@mirarcustomhomes.com, Ginny Munroe gmunroe@townofculver.org, Tracy Fox tracy@foodnutritionpolicy.com

MB

Town of Culver
Culver Plan Commission

To Whom It May Concern,

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Kathryn A. Deasborn
50 West Shore Dr.
Culver, In. 46511

From: **bret Henricks** bretdhenricks@gmail.com
Subject: **Townhouse letter**
Date: **Apr 9, 2022 at 6:31:23 PM**
To: mбанfich@me.com

**Town of Culver
Culver Plan Commission**

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes o

**This type of housing is the perfect fit for the area and will provide much nee
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that commercial businesses operating at this location would bring an abund
congestion to the area.**

We would highly recommend the Plan Commission rule in favor of the zonir

Sincerely,



*Henricks
728 East Stone Dr*

COWER IN 4/651

Sent from my iPhone

April, 2022

Town of Culver
Culver Plan Commission

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Sincerely,

Shaun Fitz
328 E. Jefferson St.
Bayside Condominiums
Culver, IN 46511

Town of Culver
Culver Plan Commission

To Whom It May Concern,

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Sincerely,

Anna & JR Spitznogle
319 E. Jefferson St. #212
Culver, IN
46511

Town of Culver
Culver Plan Commission

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We would highly recommend the Plan Commission rule in favor of the zoning change for this project.

Sincerely,

Mary Catherine McBride
1059 W. Shore Drive
Culver, IN 46511

From: Lauth, Bob BLauth@lauth.net @
Subject:

Date: April 7, 2022 at 12:50 PM

To: Marilyn Banfich banfichint@aol.com, Marilyn Banfich mbanfich@me.com

BL

Here you go. Good luck!
Best,

Bob

Town of Culver
Culver Plan Commission

To Whom It May Concern,

Please considering voting yes for the proposal concerning the townhomes on 415 E Lakeshore Drive.

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Sincerely,



Robert LAUTH
920 EAST SHORE DR
Culver, IN

Town of Culver
Culver Plan Commission, Culver Town Council, Board of Zoning Approval

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Sincerely,


Carol Zeglis

From: Marilyn Banfich mbanfich@me.com

Subject: **Re: Proposed Townhouses on Lakeshore Drive, Culver**

Date: **Apr 10, 2022 at 9:32:33 AM**

To: **Mark Damore** thelakehousegrille@gmail.com

Thank you so much Mark!

We have lunch reservations next Saturday!

Hope to see you then!

Best

Marilyn

Sent from my iPhone

On Apr 10, 2022, at 8:50 AM, Mark Damore <thelakehousegrille@gmail.com> wrote:

Good morning Marilyn,

I absolutely support basically all proposed improvements throughout our great town for many of the reasons you included in your letter.

I am familiar with this project and do believe it will be done right.

Usually I try and avoid formally picking a side on any issues that seem to create a divide like this one, simply because of the risk of losing guests. Sadly, you and I both know how fickle the public can be and would easily chose not to dine at my restaurant simply because they do not like my opinion. However, in this instance the contention has seemed to elevate to a new level and it is clear that you may need as many voices as possible. My hope is those opposed will be satisfied with the adjustments or at the very least accept the potential benefits of growth, all of which will certainly be better than former rotting building or the current mud.

You have my support, best of luck!

Mark Damore JR.
20277 Sage Rd
Culver, IN 46511

The Lakehouse Grille
Owner

Sent from Gmail Mobile

Town of Culver
Culver Plan Commission, Culver Town Council, Board of Zoning Approval

To Whom It May Concern,

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We would highly recommend the Plan Commission , Culver Town Council and the Board of Zoning Approval rule in favor of the zoning change for this project.

Sincerely,


Carol Zeglis

Ginny Munroe

From: Ginny Munroe
Sent: Tuesday, December 20, 2022 9:00 AM
To: Barry McManaway; Bobby Cooper III; Chester Gut; Dan Osborn; Joel Samuelson; John Miller; Strati, Andrew; Wayne Bean; Don Fox; Don & Tracy Gmail
Cc: Jim Clevenger; Karen Heim; Melshen, Andrew; Dan Adams; John Crist; Bill Githens; William Cleavenger; Rich West; Bill Hamm; Sally Ricciardi
Subject: FW: 415 Lakeshore proposed development

Another letter regarding 415 Lakeshore Drive.

From: Sue McInturff <diva.culver@yahoo.com>
Sent: Monday, December 19, 2022 1:34 PM
To: Ginny Munroe <gmunroe@townofculver.org>; Karen Heim <kheim@townofculver.org>; bearrea@sbcglobal.net; Bill Githens <bgithens@townofculver.org>
Subject: 415 Lakeshore proposed development

Dear Plan Commission, BZA, Town Council members,

I am writing to support the proposed Mirar Custom Homes development at 415 Lakeshore Dr.

I live two blocks from the proposed development and do not believe it will cause any negative outcome for me or the other neighbors. I lived there when City Tavern was still in existence and there was traffic to and from that restaurant. But it never caused congestion or traffic problems for myself or other residents that I am aware of.

Culver needs more housing. Being a business owner, we need more residents to shop and eat if we are to maintain our businesses.

In addition, I am certain if this housing development doesn't go in, there will be someone else who buys the property for a commercial endeavor which will cause constant in and out traffic likely more than this housing development.

Please vote yes for this project!

Thank you.

Susan McInturff

430 Harding Ct

Culver, IN 46511

Ginny Munroe

From: Cheryl O'Brien <obrien22.25@gmail.com>
Sent: Sunday, December 18, 2022 7:41 PM
To: Ginny Munroe
Subject: Please Read at 12/20/22 Plan Commission Meeting



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender obrien22.25@gmail.com

Culver Planning Commissioners,

I am writing to state my opposition to the proposed development at 415 Lakeshore. I am in full support of the development of this space and look forward to it becoming a productive use of space.

I don't believe a structure that will house this many individuals and cars is the right thing for this space. The increased traffic and parking is not what we need to maintain the small town feel of Culver which is why so many of us have purchased homes in this community. The thought of a development with no outdoor living space goes against what this community is about - enjoying the beauty of this wonderful part of Marshall county.

I would love to see housing that assists in the growth that is needed in Culver, ideally something that would support young families or the Culver Academy staff.

I am confident that the planning commission will make a decision that supports the desires of the community and the growth of our town.

Cheryl O'Brien
461 State Street

Ginny Munroe

From: peggy K <thekemmlers8@gmail.com>
Sent: Thursday, December 15, 2022 7:56 PM
To: Ginny Munroe
Subject: Mirar project
Attachments: Screen Shot 2022-12-15 at 12.02.32 PM.png

Subject: Please Read at 12/20/22 Plan Commission Meeting

Dear Culver Planning Commissioners,

I am writing to state my opposition to the proposed development at 415 Lakeshore due to the following reasons/concerns: (pick what fits your thoughts from below or add your own words/reasons why you chose to have a home in Culver).

- There are too many units and residents in this Chicago row-house style of building, which doesn't fit well in the residential neighborhood and small-town feel of Culver.
- It doesn't fit the look, feel, and pace of the Culver lake lifestyle with no outdoor, community living space
- The year-round young family residents Culver is trying to attract cannot afford these units starting at \$450K
- The year-round young family residents Culver is trying to attract would want outdoor living space for kids to play and to be part of the community
- This will pose safety hazards with limited sight-lines, noise, traffic, parking hassles and commotion too close to the park and festivals.
- The lake front path access down Coolidge is designed for dog-walkers and runners and is not designed for 20+ residents overflow parking and traffic.
- This will pose a safety hazard for all pedestrians, but particularly for the boys/girls club kids who walk down Lakeshore to the park, crossing the side streets daily.
- These units do not allow a sense of community and will likely be purchased for AirBNB or weekend use which wouldn't support the struggling local businesses year-round
- These units will only be attractive to investors, not full time year-round residents as they are not affordable. They also have no outdoor living space to become part of the neighborhood and community
- These units are not affordable for attracting academy faculty (top employer) and their families.
- I am in favor of using this space for development but this large big-city structure with 20+ cars and residence is too much!


- Here are the recent results of the town of culver survey - the *top 10!*



Respectfully,
Peggy Kemmler

Ginny Munroe

From: Meg Burk <mburk@flexp.com>
Sent: Friday, December 16, 2022 1:25 PM
To: Ginny Munroe
Subject: Please consider

 IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender mburk@flexp.com

Dear Culver Planning Commissioners,

I am writing to state my opposition to the proposed development at 415 Lakeshore due to the following reasons/concerns: (pick what fits your thoughts from below or add your own words/reasons why you chose to have a home in Culver).

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- The year-round young family residents Culver is trying to attract would want outdoor living space for kids to play and to be part of the community
- This will pose safety hazards with limited sight-lines, noise, traffic, parking hassles and commotion too close to the park and festivals.
- The lake front path access down Coolidge is designed for dog-walkers and runners and is not designed for 20+ residents overflow parking and traffic.
- This will pose a safety hazard for all pedestrians, but particularly for the boys/girls club kids who walk down Lakeshore to the park, crossing the side streets daily.
- These units do not allow a sense of community and will likely be purchased for AirBNB or weekend use which wouldn't support the struggling local businesses year-round
- These units will only be attractive to investors, not full time year-round residents as they are not affordable. They also have no outdoor living space to become part of the neighborhood and community
- These units are not affordable for attracting academy faculty (top employer) and their families.
- I am in favor of using this space for development but this large big-city structure with 20+ cars and residence is too much!

Thank you,



Meg Dinwiddie Burk

Sales Support Manager

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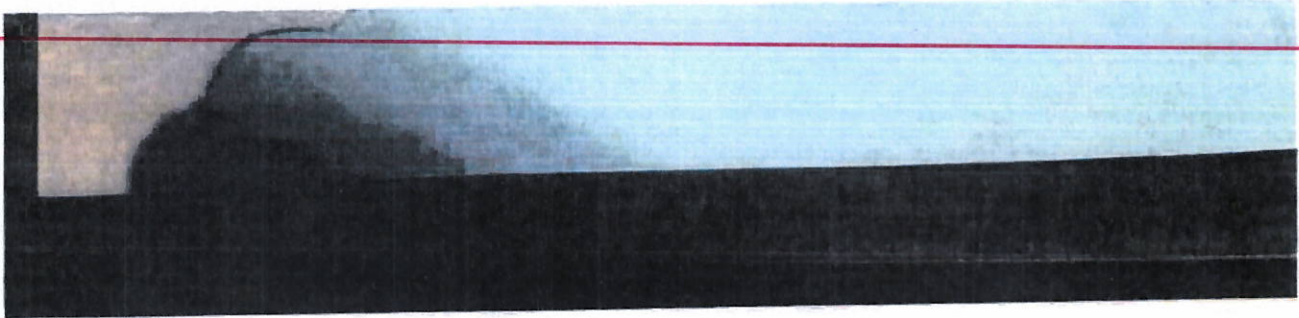
6075 Lakeside Blvd Indianapolis IN 46278

From: Marianne Rice mar6157@yahoo.com
Subject: Re: Proposed Townhouses on Lakeshore Drive, Culver
Date: April 8, 2022 at 3:21 AM
To: Marilyn Banfich mbanfich@me.com



Speaking on behalf of my husband and myself we are supporting the zoning change in support of the Townhouse project. A nice Townhouse Complex would make a great addition to the Town of Culver. Culver is a special community and we are excited to welcome new people to the community.
Sincerely,
Scott and Marianne Rice
owners at the Culver Cove, unit 141

Sent from my iPhone



Robert L. Lauth
Chairman
Lauth Group, Inc.
317-609-3345
www.lauth.net

Since 1977, Lauth has been building business facilities for its clients to lease or own throughout the United States, making it one of the nation's leading development and construction firms.

Ginny Munroe

From: David Sem <dsem@satx.rr.com>
Sent: Sunday, December 18, 2022 2:31 PM
To: Ginny Munroe
Cc: 'Leigh Ann Sem'
Subject: Please Read at 12/20/22 Plan Commission Meeting



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender dsem@satx.rr.com

Dear Culver Planning Commissioners,

We are writing to state our opposition to the proposed development at 415 Lake Shore due to the following reasons/concerns:

- We purchased our house in Culver (607 N. Plymouth) solely based on the fact that we love the small-town charm of the city which has remained largely intact despite significant growth and media exposure. Chicago style row-houses do not integrate well with Culver as a whole, especially on Lake Shore Drive – directly across from historic, single family residences.
- Row-houses, built right up to the sidewalk definitely do not support the Lake lifestyle and scene on Lake Shore Drive.
- Traffic on Lake Shore would be negatively impacted with ingress/egress from these units in addition to already limited parking along that stretch.
- Why would the town encourage more congestion so close to the lakefront and park, especially during summer with parades and festivals?
- Tall, multi-level units would essentially form a 'wall', blocking off the view and sense of openness coming down to the lakefront from the neighborhoods up on Academy and College streets.
- We understand the cost of these units could be in the neighborhood of \$450,000:
 - The year-round young family residents Culver is trying to attract would be priced-out of these units
 - will likely be purchased for AirBNB or weekend use which wouldn't support struggling local businesses year-round
 - will only be attractive to wealthy investors, not full time year-round residents
 - not affordable for attracting academy faculty (top employer) and their families
- There are too many units and residents in this Chicago row-house style of building, which doesn't fit well in the residential neighborhood and small-town feel of Culver.
- It doesn't fit the look, feel, and pace of the Culver lake lifestyle with no outdoor, community living space
- We are in favor of using this space for development but this large big-city structure with 20+ cars and residence is too much

We hope you will listen to the taxpayers and residents of this town. Chicago-style rowhouses are not a good fit in Culver.

Sincerely,

David and Leigh Ann Sem

Ginny Munroe

From: Barich, Raubyn <Raubyn.Barich@culver.org>
Sent: Tuesday, December 20, 2022 9:59 AM
To: Ginny Munroe
Subject: Re: 415 Lakeshore

I'm fine w reading to commission and BZA! Thx for checking! R

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From: Ginny Munroe <gmunroe@townofculver.org>
Sent: Tuesday, December 20, 2022 8:56:46 AM
To: Barich, Raubyn <Raubyn.Barich@culver.org>
Subject: RE: 415 Lakeshore

CAUTION: This email originated from outside the organization. Do not reply, click links, or open attachments unless you recognize the sender.

Thanks, Raubyn. I'd love to see it.

Do you want me to pass on this note to Plan Commission and BZA. I usually read all letters into the meeting minutes but also check with people first.

From: Barich, Raubyn <Raubyn.Barich@culver.org>
Sent: Tuesday, December 20, 2022 7:48 AM
To: Ginny Munroe <gmunroe@townofculver.org>
Subject: 415 Lakeshore

Morning,

So opposed to this development! Too crowded. Bad idea. Poor Coolidge Street will never hold up. The lot should hold one (maybe two) bungalow type homes for the neighborhood. You know what happens when they put too many rats in small spaces in science experiments! I just see so much unrest in the future from too many people if this goes through!

Merry Christmas! Gonna be cold! Stay warm! Please come see 303 North Main in spring! We are starting to get close to moving in! We've worked every day since June of 2021!

Take care! Happy Healthy Holidays! Raubyn

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Jeff Mansfield <jeffreydmansfield@gmail.com>

415 Lakeshore Drive - Dec 20th Plan Commission Meeting Opposition Letter

Bob Darovic <darovicr@yahoo.com>

Tue, Dec 20, 2022 at 3:21 PM

To: Ginny Munroe <gmunroe@townofculver.org>

Cc: Lindy <lindyann13@yahoo.com>, Shan Farmer <shan_farmer@yahoo.com>, Doug Farmer <dougfarmer12@yahoo.com>, Jeff Mansfield <jeffreydmansfield@gmail.com>, Matt Nagel <matthew.h.nagel@gmail.com>, Bob Darovic <darovicr@yahoo.com>, Susy Northrop <susynorthrop@att.net>

Hi Ginny-

We are requesting the following letter to be read at the Plan Commission meeting tonight, so it will be on record.

Please confirm that you received this email.

Thanks,
Bob Darovic**Dear Planning Commission, Board of Zoning Appeals, and Town Council:**

This letter is mainly from residents that were notified by mail of the proposed development at 415 Lakeshore Drive. These residents all live within 300 feet or in the immediate proximity to the proposed development. We are the families that will have a direct impact and will be forced to deal with the daily consequences of this development. We are all asking you to **DECLINE** the application for a Planned Unit Development.

We agree that this property would best suit a residential development, but it needs to be a reasonable and responsible plan. The current plan of 6 townhome units on a third of an acre is simply unreasonable. This could potentially add 20-24 additional residents without providing ample parking and creating a poor traffic flow on Coolidge and Lakeview Streets. There is minimal greenspace, which is supposed to be natural open space, not just squares of grass. This development will not benefit the current neighborhood which is currently all single family homes and will only increase congestion and traffic on our streets and not to mention that parking will become nonexistent for our residents.

The dangerous site lines of this development are a huge concern for our children and our neighborhood bikers and walkers. Coolidge and Lakeview streets are an access point for joggers and dog walkers to the lakefront path. The blind corners with no visibility are setting up the perfect area for a deadly car or golf cart accident.

Even after reviewing the storm water report, there are still concerns for our neighborhood. This site plan has no place for rainwater to drain on site and will continue to overload the existing storm sewer and exacerbate the current flooding of the street at the bottom of Coolidge where the bike path is located. The rain water needs to be absorbed on the property, not dumped down the hill adding additional rain water to the surrounding streets.

The architecture does not fit in with surroundings, with completely flat roofs being 25 feet high and only being 5 feet from the sidewalk. There needs to be more reasonable and consistent set backs that are more similar to the properties already in this area.

We would like to see a reasonable development in this area that would benefit our single family neighborhood. We do not need all these townhomes packed into this small lot. It would seem more appropriate to have homes that have outside green space, patios, and attached garages like the current single family zoning that is on all four sides of this property. These units do not allow for their residents to be outside and enjoy our quiet neighborhood.

This development does not meet the stated goal of attracting young families who are year round to support local businesses. These families would want outdoor living space for their children, which this development does not currently offer.

We don't want to lose the small town charm we have all come to know and love about Culver. Our neighborhood currently looks out for each other by receiving packages, lending a hand, or bringing in trash cans. The owners of these townhouses would most likely be investment properties resulting in numerous Airbnb rentals that are not invested in our community.

We ask that you vote No to this PUD tonight and ask the developer to come back with a reasonable plan more fitting for our neighborhood.

Sincerely,

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222 Lakeview Street

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SNYDER MORGAN FEDEROFF & KUCHMAY LLP

ATTORNEYS AT LAW

Stephen R. Snyder*
Randall L. Morgan
Scott M. Federoff**
Jason M. Kuchmay
James A. Federoff***
David D. Cornwell***

200 West Main Street
Syracuse, Indiana 46567
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Facsimile: 574-457-2056
www.smfklaw.com

Fort Wayne Office
4211 Clubview Drive
Fort Wayne, Indiana 46804
*Registered Civil Mediator
**Also Admitted in South Carolina
***Of Counsel

December 13, 2022

Ginny Munroe, Culver Plan Commission
via Email: gmunroe@townofculver.org

Re: Mirar Custom Homes Rezoning Petition

Dear Ginny:

I have been provided with a copy of the notice dated November 21, 2022 indicating that a hearing will be conducted by the Culver Plan Commission on a request to rezone 415 Lake Shore Drive from C-2 to PUD. The notice indicates that the petitioner is requesting both primary and secondary review of the PUD and for approval pending approval of a variance from development standards as may be approved at a future BZA hearing.

Section 7-040-D-c prohibits the Plan Commission from considering site development plan applications for a period of one year following denial by the Plan Commission. The judgment entered by Judge Palmer on October 25, 2022 concludes that the application of Mirar should be denied by the Culver Plan Commission. That denial was entered October 25, 2022 which would prevent refiling of the same petition until October 26, 2023.

I am not able to present at the December 20th hearing but have instructed my clients to submit a copy of Judge Palmer's order to make it a record in this matter. If the Plan Commission determines that it will proceed with the pending application, I would suggest it should be handled as an entirely new matter with no consideration being given to the prior hearing unless the entire record of the prior proceedings is made a part of the record in this matter. Even then, remonstrators should be entitled to present whatever statements in favor or opposition of the project even if they would be repetitive of what was stated at the first hearing.

Ginny Munroe, Culver Plan Commission

December 13, 2022

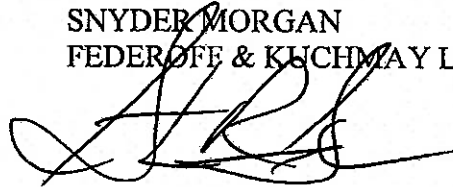
Page 2

Because the notice indicates the Plan Commission will be considering both primary and secondary approval, this appears to be contrary to Judge Palmer's order which indicates that secondary approval cannot be granted until such time as the Board of Zoning Appeals were to approve any required variances from the PUD development standards. From a practical standpoint, Judge Palmer's order can be read to require BZA approval of variances from development standards prior to any consideration of a rezoning from C-2 to PUD even if any primary approval were granted.

Please present this letter to the Plan Commission at the December 20th hearing so it can be made a part of the record of the pending matter.

Very truly yours,

SNYDER MORGAN
FEDEROFF & KUCHMAY LLP



Stephen R. Snyder
srs@smfklaw.com

SRS/kke

cc: James Clevenger, Esq.
jclevenger@whwclaw.com

STATE OF INDIANA
COUNTY OF MARSHALL

IN THE MARSHALL CIRCUIT COURT
CALENDAR TERM 2022

JEFFERY D. MANSFIELD,
TRUSTEE MATTHEW
HOWARD NAGEL,
ANDREW A. NORTHROP,
SUSAN J. NORTHROP,
ROBERT P. DAROVIC and
LINDY A. DAROVIC
Petitioners

CAUSE NO:
50C01-2205-MI-30

FILED
October 25, 2022
IN OPEN COURT
MARSHALL CIRCUIT COURT
RE

v.

TOWN OF CULVER PLAN
COMMISSION and MIRAR
CUSTOM HOMES
Respondents

**ORDER REVERSING CULVER PLAN
COMMISSION RECOMMENDATION**

This matter came before the Court on October 4, 2022, for oral arguments on the Petition for Review filed on May 9, 2022, regarding the Culver Plan Commission's decision of April 19, 2022, to recommend approval of a Petition for Rezoning.

The Petitioners appeared in Court by counsel, Stephen Snyder. The Respondent Town of Culver Plan Commission appeared in Court by counsel, James Clevenger. The Court heard the arguments of counsel and took all matters under advisement. Having now reviewed the Record of Proceedings (including two videos available on YouTube and a supplement to the record of seven photographs), the written and oral arguments of counsel, and the law,

the Court finds and rules as follows:

FINDINGS:

1. The developer, Respondent Mirar Custom Homes, wishes to construct a six-unit residential townhome structure at 415 Lakeshore Drive in Culver.
2. A previous commercial structure on this property pre-dated and did not conform to the current C-2 zoning requirements as to setback distances.
3. The property has been cleared and vacant for more than one year and is currently zoned C-2 for commercial use. The Culver Zoning Ordinance in Article Eight, Section 080 provides that any previously non-conforming use on land that is vacant for at least one year must conform to the current zoning regulations if it is rebuilt.
4. In order to construct the residential townhome units, the developer requested the Town rezone the property from C-2 to a PUD (Planned Unit Development) District.
5. The developer filed their application to rezone the property from C-2 to a PUD District on March 22, 2022.
6. On March 24, 2022, the Technical Review Committee approved recommending to the Culver Plan Commission that the property be rezoned to a PUD District.
7. The Culver Plan Commission held a public hearing on the rezoning request

on April 19, 2022.

8. The Petitioners, affected parties and owners of real estate adjacent to the proposed project, attended the public meeting and objected to the proposed project.
9. Following the receipt of public input, the Plan Commission voted to recommend to the Culver Town Council the property be rezoned from C-2 to a PUD District.
10. The public hearing and recommendation from the Plan Commission was a secondary review under IC 36-7-4-1509.
11. This court has jurisdiction to review a secondary review decision of a plan commission pursuant to IC 36-7-4-1016.
12. Based upon a written letter from the Plan Commission, the Culver Town Council accepted the recommendation and rezoned the property to a PUD District on May 24, 2022, via Ordinance 2022-003.
13. Article Five of the Town of Culver Zoning Ordinance controls PUD Districts. This Article also requires PUD projects to comply with the development and use standards within Article Three of the Zoning Ordinance.
14. Article Three of the Zoning Ordinance provides for setback distance standards in all zoning districts. For PUD's it specifies setbacks of fifty feet in front, twenty-five feet in the rear and fifteen feet for side yards.

15. The drawings for the proposed townhouse structure reviewed by the Plan Commission show setbacks of only five feet on the east, west and north sides of the building and only three feet, six inches on the south side. These setbacks do not meet the current Zoning Ordinance development standards for a PUD and no variance has been applied for nor approved by the Culver Board of Zoning Appeals.

16. IC 36-7-4-918.5 provides that only a Board of Zoning Appeals may approve variances from such development standards. To aid in any judicial review of a BZA decision the statute requires the BZA to issue a written determination and findings of fact that 1) the approval will not be injurious to the public health, safety, morals and general welfare of the community, 2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, and 3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This written determination and factual findings facilitate the process of judicial review.

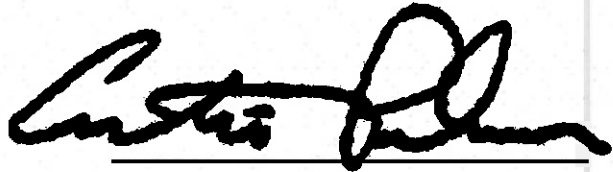
17. The Plan Commission argues the Record of Proceedings shows that deviations from the development standards and the possible impacts on nearby property values were discussed at the public hearing and therefore BZA review would be unnecessary. However, Indiana law does not permit Plan Commissions to grant variances of development standards.

18. The Plan Commission's recommendation of approval letter to the Town Council fails to make any reference or any written findings pertinent to the factors set out in IC 36-7-4-918.5 and paragraph 14 above. This failure to include written findings of fact impedes the process of judicial review.
19. A number of other possible violations of the PUD development standards arguably exist in the current plan with regard to street sightlines, building height, parking spaces, landscaping plan, etc. These issues have likewise never been before the Culver Board of Zoning Appeals.
20. The Court also has due process concerns with the procedure employed by the Plan Commission in their public hearing of April 19, 2022. It was specifically stated at the beginning of the hearing the developer would be given "as much time as they needed" to present their proposal but any opponents would be limited to four minutes of time.
21. The Court would suggest such due process concerns could be alleviated by setting equal, reasonable time limits on both sides of the issue.
22. The April 19, 2022, approval recommendation of the Culver Plan Commission was not in accordance with the law, was made in excess of their statutory jurisdiction and authority, and without observance of procedure required by the law.

THEREFORE, THE COURT ORDERS the Culver Plan Commission's April 19, 2022, secondary approval of the PUD plan submitted by the developer should be

vacated and the developer's application should be denied by the Culver Plan Commission pending consideration of any required variances of the Culver Zoning Ordinance Development Standards by the Culver Board of Zoning Appeals.

SO ORDERED, as of the date
file-stamped on page 1.

A handwritten signature in black ink, appearing to read "Curtis Palmer", written over a horizontal line.

Curtis Palmer, Judge
Marshall Circuit Court

5

Planned Unit Development

050 Specific Content of Plans (cont.)

- b. Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.
 - c. Location of all utility lines and easements.
 - d. Stormwater Management Plan
 - e. A final detailed landscape plan, in conformance with Article 6-140, Landscaping Standards of this Ordinance.
 - f. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.
3. If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Primary Plan Review, is required where platting is to be done concurrent with the Secondary Plan Review.
 4. Projected construction schedule.
 5. Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.
 6. **Guarantee of Performance for Completion of Improvements**
A bond or other guarantee acceptable to the Town shall be provided for all required improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities which shall become public, and may include other facilities or improvements as may be specified in the Primary or Secondary Plan Review. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of one hundred ten (110) percent of the estimated cost of the improvements.

060 Review Considerations

- A. In their consideration of a Planned Unit Development Primary Plan, the Technical Review Committee in its report to the Plan Commission, the Plan Commission in its recommendation, and the Culver Town Council in its decision, shall consider as many of the following as may be relevant to the specific proposal:
 1. The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning

objectives of the Town of Culver.

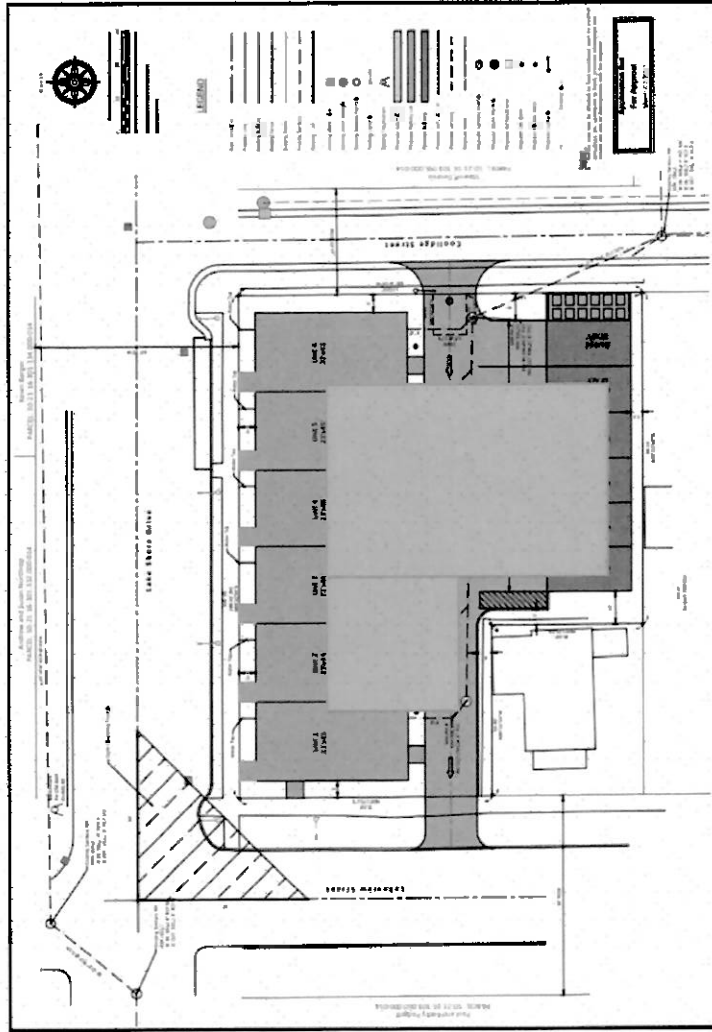
2. The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.
3. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, complete street design, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.
4. The proposal will not be injurious to the public health, safety, and general welfare.
5. The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment.
6. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.
7. The desirability of the proposed plan to the Town of Culver's physical development, tax base and economic well-being.
8. The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.
9. The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

070

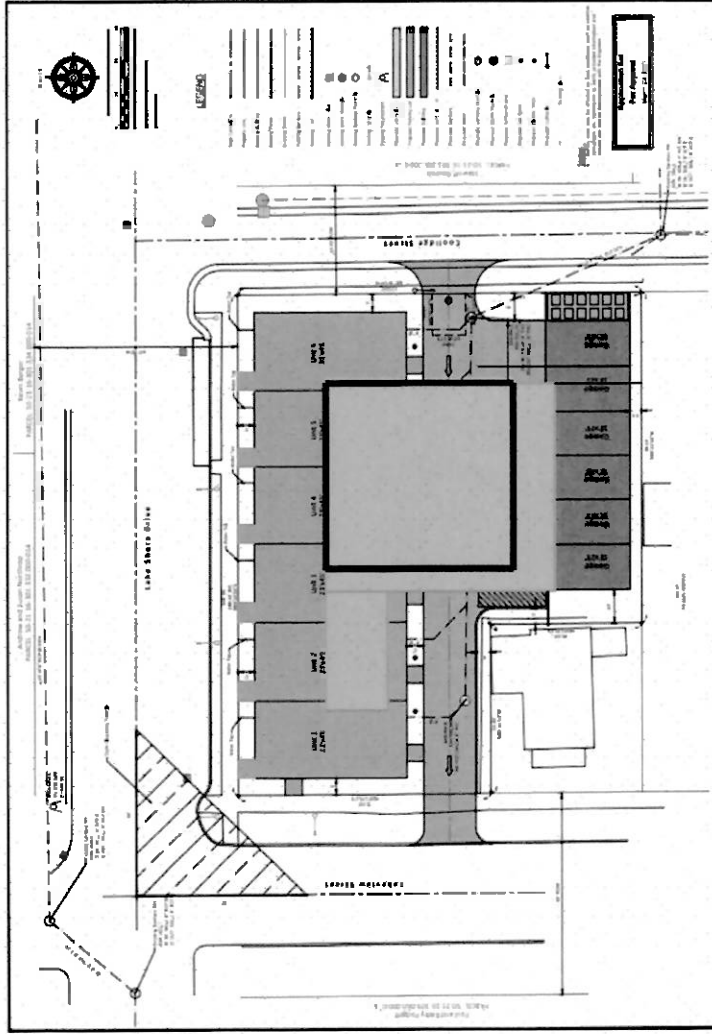
Changes in the Planned Unit Development

- A. **Changes Requiring New Primary Plan Review**
Changes which alter the concept or intent of the Planned Unit Development including but not limited to:

(cont.)



- C2 Zoning:**
- Front Yard 25'**
- Rear Yard 15'**
- Side Yard 10'**
- Side Yard on Street 25'**
- Lot Width 100'**
- Min Lot Area 21,780 Sq ft.**
- Lot area is 15,526 Sq Ft.**
- Max lot coverage 60%**



R2 Zoning: Lake Shore as Front.

Front Yard 25'

Rear Yard 25'

Side Yard 10'

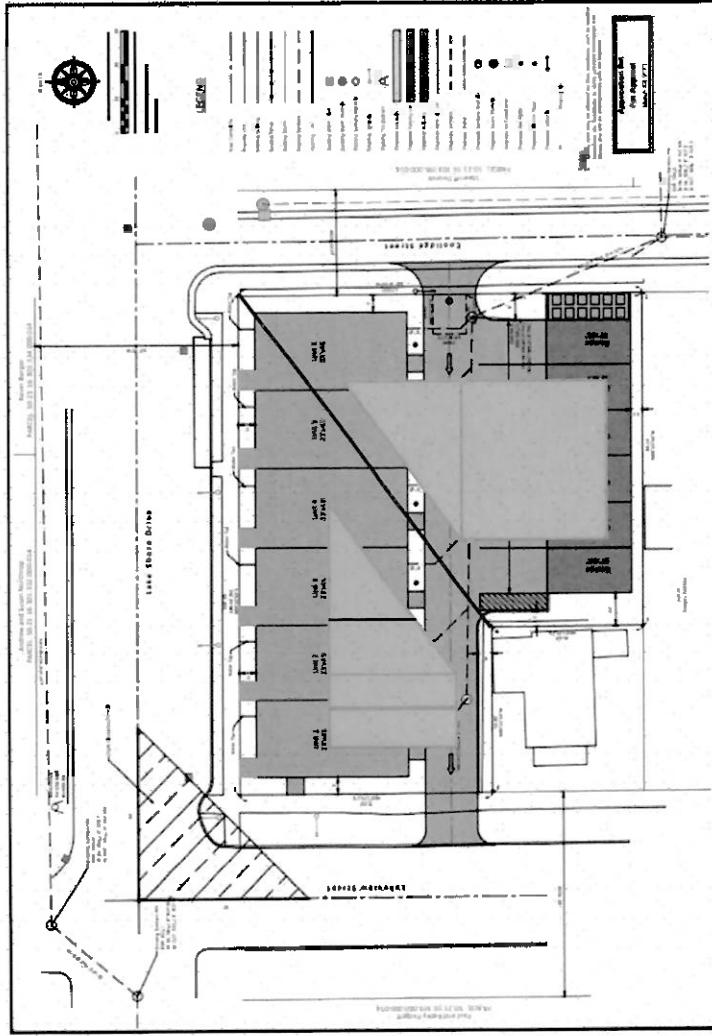
Side Yard on Street 25'

Lot Width 75'

Min Lot Area for 6 units: 6000 + 12,500 (2,500 per additional unit) 18,500 Sq ft.

Lot area is 15,526 Sq Ft – Only 4.8 units allowed per code

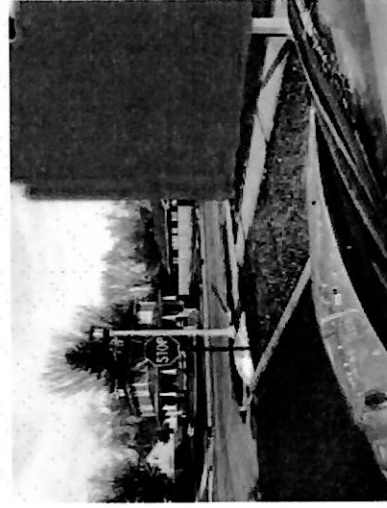
Max lot coverage 50%



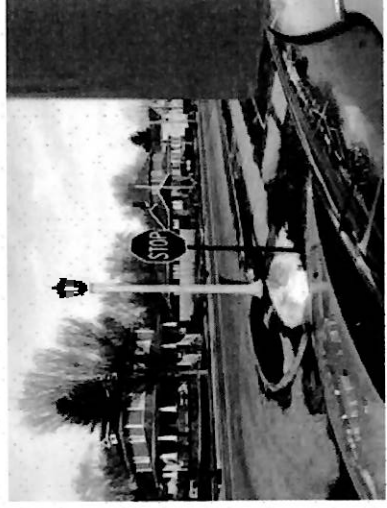
R1 Zoning:
Front Yard 25'
Rear Yard 25'
Side Yard 10'
Side Yard on Street 25'
Lot Width 75'
Min Lot Area 7500 Sq ft.
Max lot coverage 50%

Corner Visibility Impact

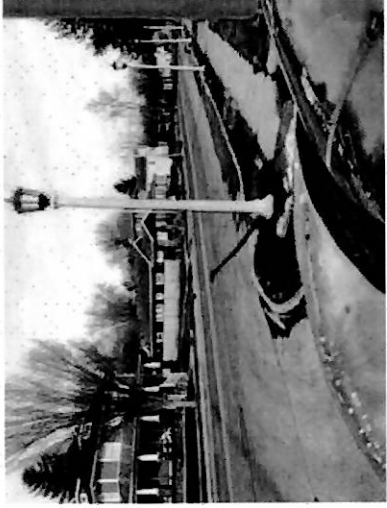
25' from Sidewalk



At Sidewalk



Blocking Sidewalk



My name is Marilyn Banfich

My address is 16125 Dogwood Lane Plymouth, Indiana

My husband and I would like to buy one of the proposed townhouses at 415 Lakeshore.

Our family has had one or more residences in Culver since 1953

We would be permanent tax paying citizens and would be actively involved in the civic life of the community.

I am a small business owner and have successfully furnished many family homes and businesses in Culver.

We are asking you to pass the zoning change from commercial to residential so that the project can get underway and so that my husband and I can add to the Culver community in a positive way.

We support Mirar Builders and their vision to improve downtown Culver.

Thank you

The Culver Planning Commission,

I am Tom Yuhas. I reside at 430 State St. in Culver.

I am here to voice my support for the changes to the zoning status of the 415 Lakeshore Dr. property.

I have two reasons for my supporting this change.

First, as you are well aware, this Commission had previously approved the request for the property to become a PUD. However, due to policy and procedural discrepancies the initial change was overruled by the Courts. Now that the process is in accordance with Indiana State Statute the approval should be granted as requested since the project has not changed from the previous appeal.

Secondly, this property is in the TIF District and would remain so as a PUD. The vast increase in appraised value of the completed project would be a positive impact to the Culver Redevelopment Commission.

For these two reason I ask that you approve the zoning change to a PUD.

Thank you for your time and consideration,

Thomas E. Yuhas, DDS, MS

415
114 Lakeshore Dr.

December 16, 2022

Town of Culver
Plan Commission

Attn: Ginny Munroe
Culver Town Manager/ Interim Building Commissioner

Re: **Petition No. 2022-P100179 - Neighboring Property Opposition**

To whom it may concern,

We the neighboring property Owners to 114 Lake Shore Drive (parcel number 502116301269000014) oppose the petition filed (Petition No. 2022-P100179) to rezone the property from R-1 to R-2.

In the petition notification to rezone the property, it is noted that the property has been operating as a duplex in violation of the building code/zoning for several decades. Violation of the building code/zoning without penalty for an extended period should not be justification for approval to rezone. If the rezoning is considered and approved, it will become precedent setting that operating in this manner is acceptable.

The building on the property was constructed as a single-family residence. In recent years, it has been operated as a triplex (three units), not a duplex (two units), as alluded to in the proposal to rezone. In their current state, these subdivided units would likely not pass any current building code requirements (firewalls, egress, independent furnaces, etc.) and create a hazardous and unsafe living environment.

The last concern is that with a property zoned as R-2, allowing the operation of a duplex, the multifamily rental or ownership will detract from the value of the neighboring properties. In addition, there is a high likelihood that if allowed, this building will become a rental property in one form or another and the turnover could be frequent.

As long-standing members of this community, we request that this property remains R-1 as currently zoned and appreciate the consideration in this manner.

Sincerely,

Neighboring Community

- Parcel 502116301264000014 - 409 N Lake Street, Culver, IN - Reynita Gaige
- Parcel 502116301260000014 - 411 N Lake Street, Culver, IN - William D Smetana
- Parcel 502116301255000014 - 413 N Lake Street, Culver, IN - Stephen & Joann Callahan
- Parcel 502116301258000014 - 425 N Lake Street, Culver, IN - Thomas & Susan Wiley
- Parcel 502116301258000014 - 421 N Plymouth, Culver, IN - Brad Smetana
- Parcel 502116391263000014 - N Plymouth Street, Culver, IN - William D Smetana
- Parcel 502116999930000014 - 204 Lakeshore Drive, Culver, IN - Brian & Trinny Brown
- Parcel 502116303047000014 - 109 Lakeshore Drive, Culver, IN - Richard & Denise Einecker

BRIAN BROWN 204 EAST LAKE SHORE DRIVE

PROPERTIES IN OPPOSITION TO REZONING



Marshall County, IN

Map Search Results More

502116999993000014

Property Requesting to Rezone

PLYMOUTH ST

E LAKE SHORE DR

LAKE ST

100 ft

POWERED BY esri

119917.84, 2175659.54

BONINE PROPERTIES TRUST AGREEMENT 4-15-11
114 LAKESHORE DR

TOWN OF CULVER
574-842-3140
Plan Commission

NOTICE OF HEARING

Petition No: 2022-P100179

DATE OF HEARING: December 20, 2022

TIME OF HEARING: 6:30PM

Date: November 21, 2022

PLEASE TAKE NOTICE:

Notice is hereby given that a petition has been filed by Bonine Properties Trust Agreement to approve rezoning the property located at 114 Lakeshore Drive, Culver, IN 46511. The parcel number is 502116301269000014. The property is currently zoned R-1. The property owners would like to rezone it to R-2 to reflect the usage of the property as a duplex, which has been in use for several decades.

Copy of this notice has been sent to the petitioner and to the owners of properties affected by the petition. A hearing upon this petition will be held on December 20, 2022, at 6:30 PM in the Town Council Conference Room of the Town Hall, 200 E. Washington Street, Culver, IN 46511.

Information on this matter may be obtained at the Culver Town Hall or by calling 574-842-3140. Written objections to the proposed changes filed with the Plan Commission will be considered, and oral comments concerning these will be heard. This hearing may be continued from time to time as may be found necessary.

This meeting will allow for electronic and telephone participation via Microsoft Teams. A link and call-in number will be available one week prior to the meeting and included in the final agenda. For information on how to view or call into meeting, please contact the Culver Town Hall at 574-842-3140.

Ginny Munroe
Culver Town Manager/Interim Building Commissioner

~~I did not say a word about
the matter for time~~