CITY OF BURTON

BURTON CITY COUNCIL MEETING

JANUARY 18, 2016

AGENDA

Council Chambers	Public Hearing	6:30 PM

4303 S. CENTER ROAD
BURTON, MI 48519

I. ROLL CALL

II. STAFF PRESENT

III. PRESENTATION

IV. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Burton City Council. I would ask each individual to give their name and address for the record and to limit their comments to three (3) minutes and to speak on the topics germane to City business.

V. COUNCIL DISCUSSION

1. ZC # 316 - Gary Ashley 3413 Bristol Rd. Burton, MI 48529 and Dennis Depifanio 3822 Woodland Dr. Metamora, MI 48455 requests a zoning change from C-2 General Business to M-1 Light Industrial on the following described parcel: being located at 4396 S. Dort Hwy. as follows: 59-32-400-029 described as: N 200 FT OF S 1325 FT OF E 328.75 FT OF SE 1/4 SEC 32 T7N R7E 1.52 A

AGENDA ITEM (ID # 2082)

DOC ID: 2082

ZC # 316 - Gary Ashley 3413 Bristol Rd. Burton, MI 48529 and Dennis Depifanio 3822 Woodland Dr. Metamora, MI 48455 requests a zoning change from C-2 General Business to M-1 Light Industrial on the following described parcel: being located at 4396 S. Dort Hwy. as follows: 59-32-400-029 described as: N 200 FT OF S 1325 FT OF E 328.75 FT OF SE 1/4 SEC 32 T7N R7E 1.52 A

ATTACHMENTS:

- 15-67.ZC 316 (PDF)
- Gary Ashley Letter (PDF)
- Planning Minutes 1-12-16 (PDF)

City of Burton

Building Department
4093 Manor Drive
Burton, MI 48519
(810) 742-9230

DATE FILED : 12-14-15
FEE PAID : $600.00
RECEIPT NO :
CHECK NO: 480
RECEIVED BY: AA
sent notice to BV 12-14-15.

PETITION FOR ZONING CHANGE

SPR 15-67
CASE NO. 316

TO: CITY OF BURTON PLANNING COMMISSION Jan 12th 2016

We the Owners, Contract Purchasers, Optionees and Leaseholders of the hereinafter described property do hereby petition your Honorable Body to rezone property described as:

N 200ft of S 1325 FT of E 328.75ft of SE 1/4
SEC 32 T7N R7E 1.52A.
59-32-400-029

Located at: 4396 S. Dort Hwy. Burton Mich. 48529
(address of property to be rezoned)

and change the zoning district classification from C-2 to M-1 for the purpose of Redevelopment option and such other uses permitted by the proposed zoning district.

ALL OWNERS, CONTRACT PURCHASERS, OPTIONEES AND LESSEES OF THE LAND PROPOSED FOR REZONING SIGN HERE:

Name	Address
Mary H. Ashley	3413 Bristol Rd Burton MI 48520
Dennis Dispirito	3812 Woodland Dr. Metamora 4841

WE, THE UNDERSIGNED PROPERTY OWNERS OR PURCHASERS LOCATED IN THE PROXIMITY OF THE ABOVE DESCRIBED LAND, DO HEREBY CONSENT TO THE ALLOWANCE OF THE ABOVE PETITION:

NAME	ADDRESS	LOT# - SUBDIVISION	DATE
Mary H. Ashley	Same		12-14-2015
Dennis Dispirito	Same		

Attachment: 15-67.ZC 316 (2082 : ZC# 316)

www.avery.com
1-800-GO-AVERY

59-33-300-014
SOROC LB LLC
3020 AIRPARK DR SOUTH BLDG
FLINT MI 48507

59-32-400-030
DSB GOLF LLC
3761 COOLIDGE HWY
TROY MI 48084

59-33-552-011
SOROC LB LLC
3020 AIRPARK DR SOUTH BLDG
FLINT MI 48507

59-32-400-029
DEPIFANIO, DENNIS
3412 E BRISTOL RD
BURTON MI 48529

59-32-400-041
DELDUCA DON L & ELLA E
4420 S DORT HWY
BURTON MI 48529

59-33-300-013
D&D SE MICHIGAN LLC
4463 S DORT HWY
BURTON MI 48529

OCCUPANT
4312 S DORT HWY
BURTON, MI 48529

OCCUPANT
4349 S DORT HWY
BURTON, MI 48529

OCCUPANT
4396 S DORT HWY
BURTON, MI 48529

Attachment: 15-67.ZC 316 (2082 : ZC# 316)

AVERY® 5160®

BURTON

Attachment: 15-67.ZC 316 (2082 : ZC# 316)

Case No. 316

TO THE RESIDENTS OF THE CITY OF BURTON

PLEASE BE NOTIFIED there will be a public hearing of the Burton City Planning commission on Tuesday January 12, 2016 at 5:00 p.m. at the Burton City Hall, 4303 S. Center Road Burton, Michigan.

The following change of zoning will be considered:

Case No. 316

Gary Ashley 3413 Bristol Rd. Burton, MI 48529 and Dennis Depifanio 3822 Woodland Dr. Metamora, MI 48455 requests a zoning change from C-2 General Business to M-1 Light Industrial on the following described parcel: being located at 4396 S. Dort Hwy. as follows:

59-32-400-029 described as:
N 200 FT OF S 1325 FT OF E 328.75 FT OF SE 1/4 SEC 32 T7N R7E 1.52 A

If you are interested you may attend the meeting and be heard.

/s/ Teresa Karsney

Prepared by:

Amber Abbey,
Deputy Planning Official

Attachment: 15-67.ZC 316 (2082 : ZC# 316)

Burton City Council (regarding rezoning)

To: Burton City Council,

This letter is in regards to the rezoning of property at 4396 S. Dort Hwy., Burton Mi. We purchased this property approximately 25 years ago, during this time it has been leased over the years to: Motor home sales company, a mobile home sales company, a semi diesel truck repair company, two auto repo companies and two towing companies. As you can see, all of the companies needed outside parking and storage in their day to day business. Each time a new company leased the property we would have to go back in front of the ZBA to obtain a variant. The application process may take from six to eight weeks for approval and at a cost of approximately $600.00 per variants. Over the years we have lost several potential tenants because of the time it takes to get approval.

We have a large piece of property and a large service building and also an office to accommodate numerous types of businesses. The property has a commercial grade fencing and a large gate facing Dort Hwy. for safe entry and exiting.

As you know there are numerous businesses that have industrial zoning in our immediate area. I feel a new zoning would increase our opportunities in tenants, as this property has been sitting empty for over a year. At this time, I have a potential tenant who is interested in leasing the property and is awaiting approval of this zoning change. After speaking with Amber at the city, I don't feel there should be a problem. If so, feel free to call or email me.

Respectfully,

Attachment: Gary Ashley Letter (2082 : ZC# 316)

Gary Ashley
810-625-8332
garyashley21@hotmail.com

Sent from my iPad

Attachment: Gary Ashley Letter (2082 : ZC# 316)

CITY OF BURTON

BURTON PLANNING COMMISSION MEETING

JANUARY 12, 2016

MINUTES

Council Chambers | **Regular Meeting** | **5:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Chairman Robert Walls at 5:00 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Greg Kray	Alternate Commissioner	Excused	
Ellen Ellenburg	Councilwoman	Excused	
Robert Walls	Chairman	Present	
Kevin Burge	Commissioner	Present	
Robert Centilli	Commissioner	Present	
Mary Ann White	Commissioner	Present	
Robert Johnson	Commissioner	Present	
Tom Gorang	Commissioner	Present	
Deb Walton	Vice-Chairman	Present	

C. STAFF PRESENT

D. APPROVAL OF MINUTES

1. Planning Commission - Regular Meeting - Dec 8, 2015 5:00 PM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOVER:	Robert Johnson, Commissioner
SECONDER:	Tom Gorang, Commissioner
AYES:	Walls, Burge, Centilli, White, Johnson, Gorang, Walton
EXCUSED:	Kray, Ellenburg

E. PUBLIC HEARING

1. SPR #15-67 / ZC# 316

By: Gary Ashley
3413 Bristol Rd.
Burton, MI 48529

Dennis Depifanio
3822 Woodland Dr.
Metamora, MI 48455

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

Re: 4396 S. Dort Hwy.
Burton, MI 48529
59-32-400-029

For: Rezone from C-2 General Business to M-1 Light Industrial

Mr. Richard Hamilton of Flint stated he is here on behalf of Mr. Ashley and Mr. Depifanio. They have owned this rental property for a long time. Over the years, it has had a number of different uses. They currently have a deposit from an organization that wants to use the property for the purpose of storage of repossessed vehicles. The property has been used for the past few years by a number of different tenants for uses probably beyond the scope of the C-2 zoning classification however, looking at the adjoining properties and the property across the street, the use is intensive and consistent. For the past two tenants, they have been required to seek a variance from the Zoning Board of Appeals. This is a more permanent recognition of an appropriate use for the property. This variance would eliminate the need for repeat variances and would classify the property more consistently with the neighboring properties.

Ella Delduca of Burton owns the property next door that has a house on the property where her daughter and grandsons reside. She stated they have brought in wreckers and beat up cars. She doesn't think the rezoning is a good idea. It is noisy and a nuisance. Her grandson is in High School and has to hear this all night. Her daughter has MS and it disturbs her sleep. There is also a residence across the street. She doesn't believe Dort Highway should be heavy industrial yet; maybe when her daughter is gone or the property all around it is heavy industrial.

Mrs. Abbey stated the property owner is requesting the variance because they have had tenants attempt to come in but didn't want to deal with the variance processes so they have withdrawn leasing the building because of that. In 2009 and 2013 there was a variance approved for the towing company. Both of these uses are industrial. They are not asking for general industrial. This is for light industrial. Semi truck parking or uses of that nature still will not be allowed within the M-1 zone. This should alleviate some issues of concern. They will be repossessing vehicles from people who have failed to pay so these vehicles will be in good condition. They are not storing junk or crashed vehicles. These are the uses this specific tenant is proposing. Not every tenant that comes in will have this use. He has had a hard time getting tenants to come into this building. This is an industrial area. To the east side of the road it is all zoned M-1 industrial. There is an industrial business to the South of them as well as a residential home. The administration recommends approval.

Mr. Burge asked if there have been complaints regarding noise or trash in this area from the Police Department or code enforcement.

Mrs. Abbey stated she can't answer that without asking the police department.

Mr. Cenitlli asked if there was other M-1 uses in the area.

Mrs. Abbey said yes, on the east side of Dort Highway. The golf course is north of it. South of that is an industrial business with a residential home, Delduca Welding.

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

Ms. White asked how long they have owned this property.

Mr. Hamilton stated he believes since the 1980's. Mr. Ashley also owns the collision shop and the storage facility by the creek on Bristol Road in Burton.

Mr. Burge stated Mr. Hamilton has been a representative of the City of Burton for a long time. In your position, have you seen any code enforcement issues or Police action in this area?

Mr. Hamilton stated none that he can recall; not in the 35 years he was involved in that type of activity.

Mr. Burge stated if there has been no trouble in the area, he would like to recommend approval of this action.

Mr. Walls said repo businesses do a large part of their activity at night time which means they will be delivering repossessed vehicles to the business for storage at night. So, tow trucks will be dropping off vehicles and making noise at 3:00 in the morning. If we approve this for the M-1 light, can we set hours of operation?

Mrs. Abbey stated if you express your time frame concern to me I can set that trough the administrative approval. If they want to dispute it, they would appeal it through the Planning Commission. There is a Police enforced noise ordinance; anytime there is a reasonable nuisance to the adjoining property owner they can call to have it enforced. You can put time restrictions for the uses on as part of your rezoning as well.

Mrs. Walton asked how long Delduca has been in business there.

Mrs. Delduca stated since 1941.

Ms. White asked if they will have to put up privacy fencing if it was rezoned.

Mrs. Abbey stated rezoning has nothing to do with a fence requirement. There is always a privacy fence requirement between residential and commercial uses. If you want to require a six foot privacy fence along the property line, it is up to you.

Ms. White stated a six foot privacy fence doesn't eliminate the noise.

Mrs. Abbey said time restrictions will help with the noise. We will have to hope the resident calls and our Police Department enforces it.

Mr. Centilli asked if the City approves of this.

Mrs. Abbey stated yes, she recommended approval.

Mr. Centilli asked if this property has been vacant for a couple years.

Mrs. Abbey stated the last variance was in 2013 and he wasn't in there for too long. She would say it has been vacant for about two years.

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

Mr. Gorang asked if approved tonight, does this automatically go into effect?

Mrs. Abbey said it will go to City Council for a second hearing on January 18th at 6:30 PM.

Mr. Johnson asked the Delduca's normal business hours.

Mrs. Delduca stated 9:00 AM to 5:00 PM Monday through Saturday. Closed on Sunday.

Mrs. Abbey clarified with the Board that this is only a recommendation and this will go to City Council at the Public Hearing on Monday January 18th at 6:30 PM.

Mr. Walls asked if they will know it was turned down here.

Mrs. Abbey said yes, they get a copy of your minutes.

Mr. Hamilton said a motion was made to approve and it did not carry. What you really need to do is have a motion to recommend denial and have another vote so you have taken an affirmative action. What has really happened is you haven't taken an action yet.

Mr. Walls stated he understands and as an Attorney representing Mr. Ashley and Mr. Depifanio, if that would make you happy then he would be happy to accept a motion to recommend a denial of the request. He asked Mr. Hamilton if that was correct.

Ms. Boggs stated it is unnecessary to make another motion for denial. However, it is completely up to the board.

Mr. Walls said normally he would say not to do this but considering the customer is asking for it and it doesn't change the vote, he has no problem with it. This is only for procedural reasons. He asked Mr. Burge to restate the motion as a denial.

Mr. Walls asked for the opinion of the administration.

Mrs. Abbey stated she believes if an attorney is telling us we should do it maybe it would be a good idea. It is your choice.

Mr. Slattery said he concurs. It is probably unnecessary but it wouldn't hurt. It is being recommended by the customer who is an attorney so it is probably a good idea.

Mr. Walls said the customer realizes it is still going to be turned down. Mr. Hamilton has informed us of the proper way to do this in his opinion. The result will be the same and no litigation will come of it. He is just recommending that the commission turn down the request.

Motion to approve and send to City Council to rezone from C-2 General Business to M-1 Light Industrial.

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

RESULT:	**FAILED [3 TO 4]**
MOVER:	Kevin Burge, Commissioner
SECONDER:	Robert Centilli, Commissioner
AYES:	Burge, Centilli, Gorang
NAYS:	Walls, White, Johnson, Walton
EXCUSED:	Kray, Ellenburg

2. Motion to Deny Site Plan Review # 15-67: Rezone from C-2 General Business to M-1 Light Industrial.

RESULT:	**CARRIED [5 TO 2]**
MOVER:	Kevin Burge, Commissioner
SECONDER:	Mary Ann White, Commissioner
AYES:	Walls, White, Johnson, Gorang, Walton
NAYS:	Burge, Centilli
EXCUSED:	Kray, Ellenburg

F. APPROVAL OF RFP

1. Master Plan RFP

Approve and authorize the Request for Proposal for the City of Burton Master Plan.

Mrs. Abbey stated at the last meeting she got some ideas about what the board was looking for. The consultants preferred a formal RFP (Request for Proposal) so she developed an RFP. She welcomes any suggestions. She hopes to send this to the consultants tomorrow if we make action tonight. We are hoping to have them back by February 2nd. It will be on the agenda for the February 9th meeting. If you would like to do interviews or have the consultants here to answer questions, we can do it at that time.

Mr. Walls stated he thinks the consultants should be here.

Mrs. Abbey asked if the board would like the consultants to do presentations or to just be available to answer questions.

Mr. Walls said he would like them here to answer questions.

Ms. White would like the consultants to give a small five minute presentaion. The RFP is very thorough but she would like a brief presentation to refresh our memories from the last meeting.

The board agreed to a five minute presentation.

Mrs. Abbey stated there is an evaluation criteria which is what you should be using to determine your choice. Cost is a consideration but you should also look at their

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

understanding of the project, the approach, the overall work plan, outreach and their experience. You don't necessarily just go for the lowest cost because you may get a lesser product.

Mr. Gorang said he especially likes the section that outlines activities for getting community involvement. He will be looking closely at this with each proposal.

Mrs. Abbey stated that was something that the board expressed concern with and that was the main reason for having this in the RFP.

Mr. Gorang said Mrs. Abbey did an excellent job putting the RFP together.

Mr. Walls acknowledged Councilman Smith. He asked if he would like to make a comment.

Mr. Smith thanked the Planning Board on behalf of City Council. He said the Council is very excited about this master plan. We appreciate your work on this and we will support you in any way we can. Thank you for your help.

Motion to approve and authorize the Request for Proposal for the City of Burton Master Plan.

RESULT:	**CARRIED [UNANIMOUS]**
MOVER:	Robert Johnson, Commissioner
SECONDER:	Deb Walton, Vice-Chairman
AYES:	Walls, Burge, Centilli, White, Johnson, Gorang, Walton
EXCUSED:	Kray, Ellenburg

G. AUDIENCE PARTICIPATION

None.

H. ADMINISTRATIVE SITE PLAN REVIEW

1. SPR #15-56

   By: Dollar Express Store, LLC.
   7520 E. Independence Blvd. Suite 100
   Charlotte, NC 28227

   Re: 1181 Bristol Rd. Burton, MI 48529

   For: Retail sales

2. SPR #15-57

   By: Esphen Scott
   1096 N. Center Rd. Suite 120

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

3. SPR #15-58

By: Gary Hubley
1096 N. Center Rd. Suite 119
Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

4. SPR #15-59

By: Daniel Barton
1096 N. Center Rd. Suite 110
Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

5. SPR #15-60

By: Michael Jarrett
1096 N. Center Rd. Suite 111
Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

6. SPR #15-61

By: Andrew Spencer
1096 N. Center Rd. Suite 112
Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

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7. SPR #15-62

   By: Raymond Powell
   1096 N. Center Rd. Suite 101
   Burton, MI 48509

   Re: 1096 N. Center

   For: Wholesale Automobiles

8. SPR #15-63

   By: Jerry Drudi
   4463 S. Dort Hwy.
   Burton, MI 48529

   Re: 4463 S. Dort Hwy.
   Burton, MI 48529

   For: Used Car Sales Lot

9. SPR #15-64

   By: Jeffrey Mayer
   3260 N. Henderson Rd.
   Davison, MI 48423

   Re: 3063 Kleinpell St.
   Burton, MI 48529

   For: Office for Trucking Company

10. SPR #15-65

   By: Goodwill Industries of Mid Mi, Inc.
   501 S. Averill Ave.
   Flint, MI 48506

   Re: 2188 S. Center Rd. Burton, MI 48519

   For: Change from retail to office

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

11. SPR #15-66

By: KT Java
4190 E. Court St.
Burton, MI 48509

Re: 4190 E. Court St. Burton, MI 48509

For: Coffee Shop

12. SPR #15-68

By: Sean Hudson
1096 N. Center Rd. Suite 121
Burton, MI 48509

Re: 1096 N. Center

For: Wholesale Automobiles

13. SPR #15-69

By: Atanas Zelevarouski
5506 Lapeer Rd.
Burton, MI 48509

Re: 5506 Lapeer Rd. Burton, MI 48509

For: Building to be used for storage only

14. SPR #15-70

By: Lynnda Squires
5118 Hartland Dr.
Flint, MI 48506

Re: 1350 N. Belsay Rd.
Burton, MI 48509

For: Child Care

I. BOARD DISCUSSION

Mr. Burge stated items two through seven under Administrative Site Plan Review are all the same address. Are they all different owners with this project?

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)

Mrs. Abbey said this is the old shooting range. They will have an office and each individual wholesale dealer in the office has to hold a license so they have to obtain zoning approval. These are administrative approvals so they have been approved by me. They are on the agenda for your knowledge not action.

Mr. Walls asked how many wholesale businesses we are going to have in Burton. It seems popular lately.

Mrs. Abbey stated it is very popular right now.

Mrs. White said we approved the location on Davison Road and Covert Road. The agreement was they would have a privacy fence between the residential home and the business and the cars would be parked behind the fence. They currently have no fence and the cars are stacked out to Davison Road.

Mrs. Abbey will go check it out.

Mr. Johnson said the Fire Department had a call to that address and there was close to 300 cars packed to the fences on all four walls and only one entrance/exit.

Mrs. Abbey said they are supposed to keep isle ways. She will contact them.

Mr. Johnson asked regarding the former shooting range on Center Road, is the plan for them to store vehicles in the customer lot or behind the building?

Mrs. Abbey said the intent was for them to park behind the fence for security purposes but it is their choice.

Mrs. Walton stated Elite Auto at the corner of Bristol Road and N. Grand Traverse Street has vehicles hanging over the sidewalk. They now have cars parked on the grassy area.

Mrs. Abbey will pass this information on to the Code Enforcer.

The next regularly scheduled meeting will be held on Tuesday, February 9, 2016 at 5:00 p.m.

Meeting was adjourned at 5:48 PM.

Attachment: Planning Minutes 1-12-16 (2082 : ZC# 316)