

AGENDA

Monday, November 19, 2018

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

November 07, 2018

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their November 13, 2018 meeting.

A letter from the City Plan Commission regarding recommendations from their November 13, 2018 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2018-29 Rezone from R-1 to C-1 Proposed Electrical Contractors Office and Warehouse - Northwest corner of S. Elder St. and Norton Ct.

P.O. NO. 2018-30 Amending the Building Code - Schedule of Fees

8. Resolutions

R2018-23 Motor Fuel Budgeting Program for 2019

R2018-24 Developmental Variance to allow accessory structures (max 3 trailers) for commercial storage Dick's Sporting Goods - 4520 Grape Rd

R2018-25 Developmental Variance to allow Outside Storage and Gravel Parking area for proposed Fence Contractor Vacant Parcel North of 55260 Fir Rd

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

P.O. NO. 2018-27 Vacation of Public Right of Way a portion of Madison and Pine Streets - Center for Hospice and Palliative Care, Inc. **(Petitioner Requesting Amendment)**

12. New Business

13. Adjournment

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
November 07, 2018

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday November 07, 2018, at 7:00 p.m. The meeting was called to order by President Mammolenti all were asked to stand for the Pledge of Allegiance.

 Roll Call.

Present: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.

Minutes for the Regular Meetings of October 08, 2018, October 15, 2018 and Special Meeting October 22, 2018 were approved as received from the Clerk's Office.

Clerk Block read the following the following Appeals and Petition to the council, who referred them to the Board of Zoning Appeals and City Plan Commission for their recommendations

Appeal No. 2018-36 Developmental Variance to allow accessory structures (max 3 trailers) for commercial storage- Dicks Sporting Goods - 4520 Grape Road

Appeal No. 2018-38 Developmental Variance to allow outside storage and gravel parking area for proposed fence contractor - Vacant Parcel North of 55260 Fir Rd

Petition No. 2018-30 Rezone from R-1 to C-1 proposed Electrical Contractors Office and Warehouse – Northwest corner of S. Elder St. and Norton St.

A Public Hearing on Vacation 2018-01 required by State Statute a portion of Madison and Pine Street – Center for Hospice and Palliative Care, Inc. and Robert and Patricia Goeller.

Chris Chockley, Landscape Architect explained the Center for Hospice was requesting to vacate portion of N. Pine Street and Madison Street and Comfort Place. He said the Center for Hospice was proposing to construct a parking lot, access drives, and sidewalks within both vacated right-of-ways and adjacent lots at the northeast corner of Pine and Madison Streets. Mr. Chockley said the portion of Madison Street would be reconfigured to a one-way street between Cedar Street and north-south alley to the west. He mentioned Mike Wargo spoke and met with nearby neighbors about the residence concerns regarding parking. Mr. Chockley said they agreed to allow the neighbors to park in the additional parking space after hours and weekends. He continued to say some of the neighbors requested the agreement in writing. Mr. Chockley expressed the Center for Hospice was not interested in the parking business and they were unsure how they would manage the neighbors parking in the lot.

Mrs. Voelker questioned the vacation of Madison Street and how they would identify the neighbors using the parking spaces. Mr. Chockley explained Madison Street would be reconfigured to a one-way street between Cedar street and the alley, which would be where they

add the angled parking space. He went on to say they were discussing hang tags, but it was not for certain.

Erica Campbell, 301 Edgewater Drive, Larry and LaFaye Simon, 532 N. Pine Street and Dr. Jojo, 527 N. Pine Street expressed their concerns regarding limited parking near their homes and the reconfiguring of Pine and Madison Streets. The Residence expressed they felt the Center for Hospice was taking over their neighborhood. They asked why two homes were being built on the corner of Cedar Street and Comfort Place instead of parking spaces. The residence also expressed when the Center for Hospice first came in, they were under the impression it would not be multi stage development. The N. Pine Street Residence expressed they were not notified and they heard about the project in the local newspaper.

Mr. Deal asked Ms. Campbell was her home at one point for sale. Ms. Campbell replied yes. She explained with limited parking in front of her home she was having difficulty selling.

Mr. Compton expressed both sides would be taken in consideration. He continued to say the administration and hospice had all the answers to the residents' concerns and questions. Mr. Compton expressed they should postpone the proposed vacation and parties should work things out and listen to citizens.

Mrs. Voelker said the Center for Hospice held meetings and the Cedar Street Residence were notified. She also recalled when the Center for Hospice bought the property, it was planned as a multi stage project.

Public Hearing for **Vacation 2018-01** was closed at 7:29PM

Cliff Zenor, Advisory Member of the Historic Preservation Commission Presented the preserved Main Jr. High Center Court Gym Floor to Mishawaka Historical Museum

Allen Grzeskowiak, Advisory Member of the History Preservation presented awards to Eagle Scout Ben Balderas, Pete DeKever, and Daan Witkamp for being instrumental and making this project so successful.

Mr. Zenor thanked the Mayor, Planning Department and the Boys Scout of troop 111 for their participation and tireless effort for this important preservation.

Mayor Wood expressed this was important to him as his father played on the Main Jr. High Gym Floor. He expressed this was a true community treasure. Mayor Wood went on to express his sadness for the passionate and talented Cliff Zenor resignation from the Historic Preservation Committee. He said Mr. Zenor did many things throughout his terms since 2008; he did a lot for the community; to promote it and expand his passion to him and Pete Dekever of historic preservation and the history of Mishawaka. Mayor Wood continued to say Mr. Zenor was a true public servant; he did it for the passion and love for his community. He expressed the City would miss Mr. Zenor dearly. Mayor honored Mr. Zenor with a Proclamation and a Key to the City.

Cliff Zenor thanked the Mayor and Council for the honor. He expressed his enjoyment being a part of the commission, watching it change and grow. Mr. Zenor said it was deep in his understanding of this community. He said he was not from Mishawaka but there were members of the Historic Commission who were native Mishawakacans, they had historic preservations deep in their hearts. He made the comment the city was in good hands.

Members of the Council thanked Mr. Zenor for everything he's done for the city and Historic Preservation Committee. They said it was always their favorite night when Mr. Zenor came to present, he always gave a little bit of history they did not know. They also thanked all that were involved. Mrs. Voelker expressed she enjoyed working with Mr. Zenor on the HPC. She appreciated and admired Mr. Zenor determination on HPC.

Clerk Block read the following Resolutions in entirety and was opened for public hearing.

RESOLUTION NO. 2018-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA RECOGNIZING AND THANKING THE LOCAL MEMBERS OF THE MABAS DIVISION 201 TECHNICAL RESCUE TEAM FOR THEIR ASSISTANCE IN NORTH CAROLINA DURING AND FOLLOWING HURRICANE FLORENCE

Fire Chief Bryan Woodward thanked the Council, City Clerk and Mayor for the recognition. He said the State of North Carolina called and requested for these men assistance during and after the hurricane. Chief Woodward said that request showed how renowned their talent was. He continued to say these men were some of the best instructors in the country. Mr. Woodward said the State of North Carolina got the best of the best. He said on the behalf of the five Fire Chiefs, they have often said the best resource they had was their people. Chief Woodward thanked the fire Fighters for a job well done.

Members of the Council thanked the Fire Fighters for their service. Mr. Deal mentioned he had the opportunity spend some time at Fire Station No. 1 and had the chance to watch a video of their time in North Carolina. He said he was impressed with the conditions the men worked under and the task they performed was nothing short of heroic. Mr. Deal continued to say he agreed with Chief Woodward, the city was very blessed to have the talent and ability and level of commitment from their first responders.

Question was called for at 8:05 P.M. for **RESOLUTION NO. 2018-21**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.**

RESOLUTION NO. 2018-22

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA HONORING MISHAWAKA FIRE FIGHTERS JOE VOGEL, NICK PONSLER AND STEVE NEWLAND FOR THEIR ASSISTANCE IN NORTH CAROLINA AND FLORIDA FOLLOWING HURRICANES FLORENCE AND MICHAEL

Assistant Chief David Ray thanked City Clerk Block for recognizing the three Fire Fighters. Chief Ray said as the resolution stated Vogel, Ponsler and Newland used their own personal vacation time and at their own expense to help their fellow citizens. He continued to say they go above and beyond of what a normal Fire Fighter did. Assistant Chief Ray said for these guys to do what they did was an honor for the Mishawaka Fire Department and the City of Mishawaka.

Mayor Wood said these Fire Fighters actions were very heroic and it represented the City of Mishawaka very well. He continued to say anytime any of the city's neighbors whether it was near or far was at the time of need, Mishawaka was always there to answer the call. Mayor Wood said it was the Mishawaka way and he could never be more honored to work with people who take their public service so seriously not only for their community with the world class service they knew and expect but they represent it all across the country. He continued to say the report he receives back from around the state always came back that their men always served in an exemplary fashion and in a way that would make all of Mishawaka's citizens proud. Mayor Wood congratulated the Mishawaka Fire Fighters and all the neighboring communities for their service.

Mr. Tanner and Mr. Mammolenti thanked the Fire Fighters for their selfless service and going above and beyond to pursue higher rank, training and to assist people in the most tragic circumstances.

Questioned was called for at 8:14 P.M. for **RESOLUTION NO. 2018-22**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.

Clerk Block read the following ordinance by title and was opened for public hearing.

PROPOSED ORDINANCE NO. 2018-24

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

(Res C-1 to C-4 for Car Wash 4405 & 4415 Grape Rd.)
(Assigned to Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be presented to the council as a whole. This is signed by the entire committee upon a second by Mr. Tanner motion carried.

Brian McMorrow, Abonmarche Consultants, Inc. spoke on behalf of the property owner Garatoni Holdings and Contract purchaser and Developer Johns Auto Spa. Mr. McMorrow went on to discuss they were requesting a rezone from C-1 to C-4 for the proposed property for a state of the art car wash facility. He continued say although the property seemed to be an attractive site there would be a number of challenges that made it difficult to develop. Mr. McMorrow said the site sat adjacent to Juday Creek below the flood elevation and there were a number of easement that crisscrossed the property. He mentioned they met with the Plan Commission on two separate occasions and they commission expressed concerns regarding a car wash adjacent to an Assisted Living Facility may not be the right fit. Mr. McMorrow said they met with the Property Manager and Executive Director of Tanglewood Trace with detailed plans of the architecture they were proposing, fencing, and enhanced landscaping that would provide setbacks and a visual residence that may live on the corner units. He continued to say the Plan Commission also expressed concerns regarding noise, the adjacency to Juday Creek and water quality to Juday Creek. Mr. McMorrow said they would work with Tanglewood Trace as a good neighbor. He said as far as the noise concern, the state of art car wash was no louder than a traditional air conditioning condenser unit. Mr. McMorrow went on to say the car wash water that is used within the facility was cleaned and recycled, no of the water would go into the storm sewer system. He said all the water would be contained in-house, the tanks for the recycled water would be under ground and sealed with gaskets. Mr. McMorrow said the commercial facility would be much like the any of the other uses that were permitted. Mr. McMorrow also mentioned they would manage storm water in the same way and they would meet all the other published codes and standards in the zoning ordinance.

Members of the council expressed the same concerns of the Plan Commission. They also expressed they did not see any plans for the proposed facility. Members of the council questioned if any testing had been done on the property as far as traffic and groundwater studies and the possibility of contaminating Juday Creek. They also questioned the compatibility with the surround properties.

John Wyant, Wyant Properties LLC said they had the same facility in Nappanee. He explained the recycling system consisted of 6 concrete tanks made to protect the environment that would separate the debris and oil out of the recycled water. Mr. Wyant continued to say the vacuum sealed tank system was clean out 3 times a year by a third-party vendor. He also mentioned the chemicals used for the car wash were environmental friendly. Mr. Wyant said the tank would be buried 3 feet down and 5 feet in depth and they need to raise the elevation 8 feet. He mentioned there would be a monitor system monitoring the water levels. Mr. Wyant went on to discuss the traffic concerns; he said the car wash would have two lanes of at 80 feet long for 10 to 12 cars waiting. He said the car wash could was 200 in an hour, there was no self-service washing.

Members of the council expressed they could not make an accurate decision without seeing the plans for the proposed facility.

Mr. Banicki asked Council Attorney Mike Tripple the time constraints of when action needs to be taken. Mr. Tripple said 90 days after the Plan Commission. Mr. Banicki made a motion to

continue PROPOSED ORDINANCE NO. 2018-24 to the December 03, 2018 meeting second by Mr. Canarecci motion carried.

Mr. McMorrow said they would provide traffic data, the plans, the specks for the cuts on the recycling system and they would measure groundwater on the property.

PROPOSED ORDINANCE NO. 2018-25

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

(Rez I-1 to R-1 2051 E. LaSalle)
(Assigned to Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Angela Whitfield spoke on behalf of her daughter who was the petitioner. She said her daughter was the property owner and was needing to sell. Mrs. Whitfield continued to say for bank purposes the property need to be rezoned to R-1.

Questioned was called for at 8:54 P.M. for **PROPOSED ORDINANCE NO. 2018-25** 
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti. Thus, it becomes **ORDINANCE NO. 5630**

PROPOSED ORDINANCE NO. 2018-26

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

(Rez C-1 to R-1 418 E. Mishawaka Ave.)
(Assigned to Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Amanda Dorman, owner of the property said they were currently zoned C-1 and they would like to be rezoned to R-1. She continued to say it was a single-family home and they pay taxes that reflect the commercial zoning of the property. She said they tried to sell their home last year; the sell did not fall through because of the zoning.

Question was called for at 8:57 P.M. for **PROPOSED ORDINANCE NO. 2018-26**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti. Thus it becomes **ORDINANCE NO. 5631**

PROPOSED ORDINANCE NO. 2018-27

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF
THE CITY OF MISHAWAKA, INDIANA.**

(Vacation Right-of-way portion Madison & Pine Streets)
(Assigned to Land Use Planning Committee)

Mrs. Voelker reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Compton motion carried.

Ken Prince, City Planner felt with the comments that were made earlier for the vacation hearing it was imperative he speak about the process they went through. He said over 10 years ago they were looking at Central Park and the long-term planning of how all the pieces would be put together. Mr. Prince continued to say when Hospice came to the city, they felt this site was perfect, but they asked hospice to acquire some property and work with The Mouse Lodge that was there at the time, and extend road connection and the Riverwalk. He said along the way with the Mayor Wood’s direction and the councils involvement they spent 6 million dollars on Central Park to make that an amenity they felt was an asset and increase property values. He said every step along the way with proposals that impacted the neighborhood they asked that Hospice to hold public meetings and invite the neighbors to those meeting and as a part of this process they held over 10 public hearings. Mr. Prince went on to say Comfort place was developed because they felt that a separate access to Central Park was essential to the project knowing what was going to happen. He continued to say given the partnership they had with Center for Hospice, they came to him to say they would love to see beautiful homes along Cedar Street, instead of Industrial mix because it would be the lowest impact use they could do on that property. Mr. Prince explained they divided the property on the corner of Cedar and Comfort Place into two separate lots, and there would only be two homes on that property. He mentioned they had residual property left on Alice Street, Hospice agreed to put in the Hospice Symbol garden in which they maintain. Mr. Prince said everything was all a part of the development agreement process. He said he understood change was difficult, but he could honestly say the city only dealt with willing buyers and willing seller situations. Mr. Prince continued say they were able to work with hospice and obtain the property on a freewill transaction. He went on to say they had no desire to acquire any property to the Pine street area. Mr. Prince stated when they did Central Park they worked with the Center for Hospice to expand the area for the park, they did not reduce the area. He said he wanted to give history for the public to understand the process the city went through to get to this point. Mr. Prince said this hearing was another step of the process and they were happy to have the feedback. He stated they notified everyone in 300 feet of the property, which was required. Mr. Prince said hospice held a meeting regarding

this vacation and went through multiple iterations of how the transportation pattern might work before they submitted it to the city.

Residence Bob Goeller and Kathy McCleery expressed their support for the vacation. They felt the vacation would reduce traffic flow from the park and the two homes would be a beautiful addition to the neighborhood.

Michael Wargo represented Center for Hospice and reiterated Mr. Prince Statements about the ongoing process since they came into Mishawaka and their vision. He said this project would bring 100 new jobs to the downtown area. Mr. Wargo stated they were a non-for-profit organization and they paid their employees who lived, worked and shop in Mishawaka. He said at the finish of this project they would have invested 20 million dollars and as a nonprofit organization the positive net gain they receive from the work they do, they reinvest in the community to charities, bereavement services which was offered to anyone in the community regardless of any connection to hospice care, they had a life transition center which was located on the campus. Mr. Wargo commented they love Central Park, they had no interest in moving into Central Park and they loved what the city had done and the investment that was made there. He also made the comment that hospice had no interest in Pine Street, they felt they had the campus they need moving forward and care for patients for a long time. Mr. Wargo went on to say they care for over 2,000 patients every year, most of them were in their homes or extended care facilities but when patients need to be more aggressively managed, they take them to the inpatient units which was currently under construction. He stated their biggest concern was safety which was the primary reason why they were proposing Pine and Madison Streets be vacated for not only for the families arriving to the facility but for the neighborhood as well. Mr. Wargo mentioned there has been a number of accidents in the area and they wanted to do what they could to reduce accidents for the safety of everyone. He shared with the council the plans for the facility in which they had been working on for 8 years.

Residence Erica Campbell, Dr. Jojo and Larry and Lafaye Simon echoed their comments and concerns from the **Vacation 2018-01 Public Hearing** regarding parking.

Mr. Deal expressed this was a difficult decision to make. He continued to say how could they decide who gets the greater weight; they had people who have invested their lives in the community and neighborhood verses giving to someone who brought a great investment and enhanced the resource for the community. Mr. Deal said he would like for the Center for Hospice to continue to demonstrate being a good neighbor and work out the parking issue since that seem to be the main and only concern.

Mr. Wargo said they made an agreement with the neighbors to use the parking space but there was no regulation in place at the time. He also mentioned they agreed to maintain and plow the alley.

Mr. Banicki questioned the parking lot west of the alley. Mr. Wargo explained that parking lot would be for the Raclin inpatient facility for the families of the patients.

Mr. Tanner questioned the angled parking spaces. Chris Chockley, Architecture Engineer explained because of the proximity of the facility near Central Park there was an agreement with city and hospice for overflow parking. He continued to say the 7 additional parking spots were

generated based on the vacation of Madison and what could they get in that space. Mr. Tanner expressed he did not see the net gain when the space was currently public and available for anyone in the public to use.

Mr. Compton asked would Center for Hospice maintain the paved alley. Mr. Wargo replied yes, they would extend it as a part of their landscape maintenance agreement as well as Madison Street. Mr. Compton also questioned the maneuverability through the alley for emergency vehicles. Mr. Prince said they configured the alley to allow maneuverability for emergency vehicles.

Mrs. Voelker thanked Mr. Wargo and Center for Hospice for all their hard work and service.

Mayor Wood said there were a lot of statements and hospice demonstration of being a good neighbor was very evident and was certainly a great community partner to the city. He continued to say he knew better than most what use to be on the property as his family owned home that overlooked the site since 1949. Mayor Wood stated they put 5 million in Central Park and would continue to invest in the park. He continued to say they also had no interest in acquiring N. of Pine Street. Mayor Wood said they did not do thing because they were easy, they did it because it was the right thing to do. He continued to say the plan was nothing new other than the vacation of the road. Mayor Wood said they did things transparent and upfront and with neighbor's support. He said he really appreciated hospice and was confident they could work issues out with the neighbors.

Mr. Prince determined the issue of the parking needed to be resolved, he requested to continue **PROPOSED ORDINANCE NO. 2018-27** to the next meeting.

Mr. Canarecci made a motion to continue **PROPOSED ORDINANCE NO. 2018-27** to the November 19, 2018 meeting upon a second by Mr. Tanner motion carried.

PROPOSED ORDINANCE NO. 2018-28

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

(Rez 209 N. Cedar St and 602, 608 & 612 Madison St. from R-1 to C-3)
(Assigned to Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mrs. Voelker motion carried.

Chris Chockley, Architecture Engineer explained they were requesting for parking for the Center for Hospice facility immediately to the south and west of subject lots north of Madison Street , between Pine Street to the west and the first north-south alley between Pine and Cedar Street. He continued to say this would also include the extension of the Riverwalk to Cedar Street.

Mr. Canarecci asked were the proposed lots currently vacant. Mr. Chockley replied yes, except for the house they were currently using as a construction office which would be demolished after construction.

Question was called for at 10:08 P.M. for **PROPOSED ORDINANCE NO. 2018-28**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.** Thus, it becomes **ORDINANCE NO. 5632**

NEW BUSINESS

Mr. Tanner congratulated Mr. Canarecci on his election to the St. Joseph County Council.

Mr. Woody Emmons announced the First District Neighborhood Meeting at St. Bavo's would be November 15, 2018 at 7:00PM. The speaker would be newly elected Joe Canarecci, District H Councilman.

Mr. Bellovich announced on Sunday November 11, 2018 at 4:00PM at City Hall, Mishawaka would be honoring World War I Veterans.

ADJOURNMENT 10:13 P.M.

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Matt Mammolenti /s/
Matt Mammolenti, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

November 14, 2018

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2018

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
November 13, 2018, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above referenced date at which time the following Use Variances were considered:

APPEAL #18-36 An appeal submitted by IRC Princess City Plaza, L.L.C. requesting a Use Variance for **4520 Grape Road (Dick's Sporting Goods)** to allow up to three temporary storage structures.

The Board, with a vote of 4-0, recommended approval, subject to the following:

1. Installation of a 6' vinyl fence in a color to match the building on the east side of the containers.

APPEAL #18-38 An appeal submitted by Robert L. Miller requesting a Use Variance for vacant land north of **55260 Fir Road** to allow outside storage area for a proposed fence contractor.

The Board, with a vote of 3-1, recommended denial. If approved, the Use Variance would be subject to the following conditions:

1. An Administrative Site Plan shall be submitted.
2. Gravel areas shall be limited to a screened outside storage area identified on the site plan.
3. No vehicles shall be parked/stored on an unpaved surface.
4. No known hazardous materials shall be stored on site.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Tammy Ortman, Esq.
Michael Huber

STAFF REPORT

Location: 4520 Grape Road (Dick's Sporting Goods)

Date: November 13, 2018

Appeal: 18-36

Prepared By: CH

GENERAL INFORMATION

Applicants: Princess City Plaza LLC/Dick's Sporting Goods

Status: Property Owner/Tenant

Request: Use Variance for outside storage

Zoning Classification: S-2 Planned Unit Development

Lot Size: 17.09 Acres

Applicable Regulations: Section 137-326 C-2 Uses
Section 137-42 (4) Board of Zoning Appeals**SPECIAL INFORMATION**

Area Development Pattern:	North:	C-1 General Commercial (Lowe's)
	South:	C-1 General Commercial (restaurants)
	East:	C-1 General Commercial (restaurants)
	West:	S-2 Planned Unit Development (Kohl's)

Thoroughfare: Main Street

School District: South Bend Community School Corporation

Public Utilities: All public utilities are available and existing.

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies the area splits the area between Grape and Main as General Commercial and Service Commercial.

ANALYSIS

Princess City Plaza stretches from Grape to Main, north of Day Road. The Dick's Sporting Goods is the second tenant west of Main Street.

Storage in accessory buildings is not allowed in commercial districts per Section 137-302 (5) c. Outside storage is only permitted as a conditional use in I-2 Heavy Industrial.

Late in 2016, the Planning Department noticed an increase in the number of businesses using temporary storage containers on a more permanent basis. Those businesses were contacted and asked to remove the storage containers by June of 2017. Aerial photography indicates storage containers have been located at this site since the store opened in 2005.

The Appellant is requesting to keep three storage containers (reduced from six) in order to provide immediate pick up for their large items like kayaks, basketball goal systems, and exercise equipment. In an attempt to lessen the site from the traveling public along Main Street, the Appellant has agreed to

install a 6' vinyl fence in a color to match the building on the east side of the containers. The fence would begin at the corner of the building and extend north no more than 30' to keep a 24' drive aisle open for delivery and emergency vehicles to access the rest of the shopping center.

If the variance is approved, an Improvement Location Permit will need to be issued before the installation of the fence.

All pertinent City departments have reviewed and approved the request. The Building Department commented no hazardous materials allowed in the storage containers. The Fire Department performed an inspection.

RECOMMENDATION

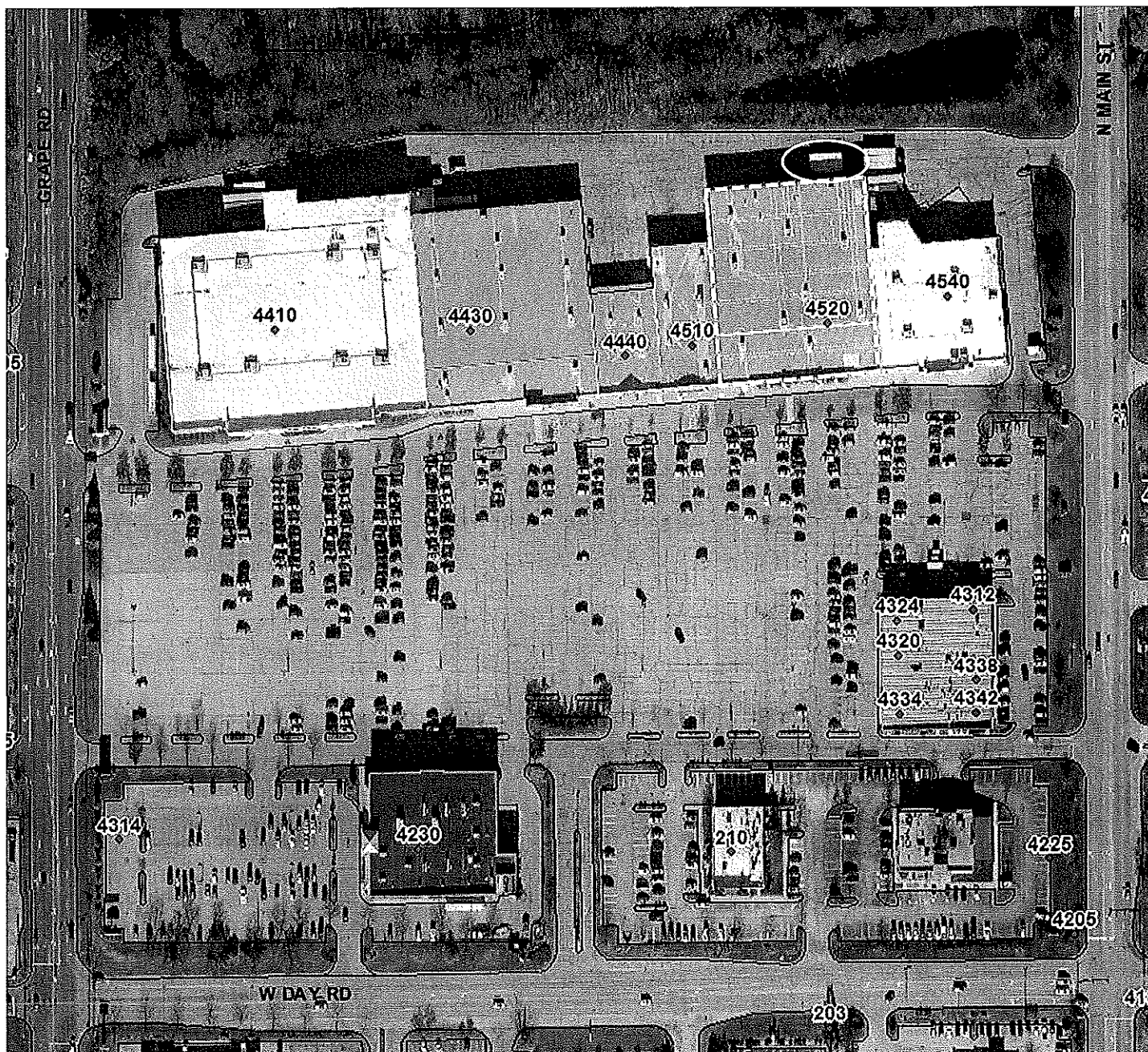
The Staff recommends in favor of Appeal 18-36, a Use Variance to allow outside storage in three existing containers for property located at 4520 Grape Road, subject to installing a 6' vinyl fence in a color to match the building on the east side of the containers.

This recommendation is based on the following reasons:

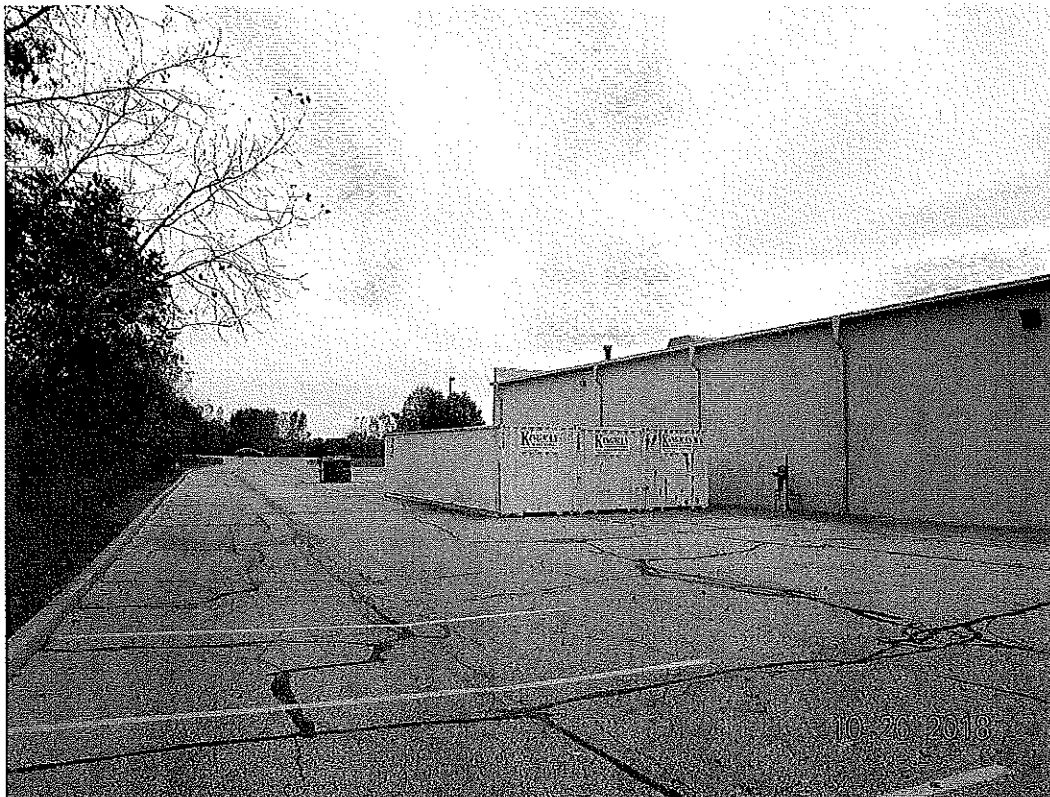
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the adjacent commercial or residential uses.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because a fence is being added to help screen the view of the containers.
3. The need for a variance arises from the large scale size of the merchandise sold at this location, and the lack of storage space indoors.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use for the shopping center by allowing the more intense uses of that district.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General and Service Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Photographs of Site, Petition, Location Map



White Dashed Line = Dick's Sporting Goods tenant space
 Yellow Circle = area of outdoor storage (3 storage containers)



A view of the storage containers from inside the site.



A view of the storage containers from the Main Street driveway

STAFF REPORT

Location: V/L North of 55260 Fir Road & South of RR Tracks

Date: November 13, 2018

Appeal: 18 -38

Prepared By: CH

GENERAL INFORMATION

Applicant: Robert L. Miller/Abonmarche Consultants

Status: Property Owner / Agent and Consulting Engineer

Request: Use Variance for outside storage area
Developmental Variances from hard surface to gravel in the parking area and storage area

Zoning Classification: I-1 Light Industrial District

Lot Size: 8.17 acres

Applicable Regulations: Section 137-42 / (4) Board of Zoning Appeals – Use Variance;
Section 137-42 / (5) Board of Zoning Appeals – Developmental Variance;
Section 137-587 / I-1 District – Height, area and developmental regulations

SPECIAL INFORMATION

Area Development Pattern: North: R Residential (Unincorporated St. Joseph County)
South: R Residential (Unincorporated St. Joseph County)
East: I-1 Light Industrial (Multi-Tenant)
West: R Residential (Unincorporated St. Joseph County)

Thoroughfare: Fir Road

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: No sanitary sewer available

Comprehensive Plan: Industrial (Manufacturing, Warehousing and Distribution)

ANALYSIS

The Appellant, has a contingent purchaser, Milestone Fence, looking to relocate their primary business operation to this site. The Use Variance being requested is for an outside storage area and a Developmental Variance from hard surface to gravel in the parking area and storage area.

The I-1 District Business related activities specifically states: *Outside storage of raw materials, finished products, or other incidental materials are prohibited.* Outside storage is only permitted as a conditional use in I-2 Heavy Industrial.

If the use and developmental variances are approved, an administrative site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

All pertinent City departments have reviewed the requests.

The Engineering Department provided the following comments:

1. Will not support gravel parking request.
2. No sanitary sewer available currently. City would allow septic system be install or sewer be extended.

The Appellant's consultant was investigating a sewer easement.

The Electric Department requests a 5' electric easement starting at the northwest corner of the property going east approximately 1450 feet. This could be recorded as a separate document or included on a deed of dedication on the site plan.

RECOMMENDATION

The Planning staff recommends approval of Appeal 18-38 to allow a Use Variance for outdoor storage and the Developmental Variance for a gravel storage area subject to the following conditions:

1. An administrative site plan shall be submitted.
2. Gravel area shall be limited to a screened outside storage area identified on the site plan.
3. No vehicles shall be parked/stored on an unpaved surface; and
4. No known hazardous materials shall be stored on site.

The Planning staff recommends denial of the Developmental Variance for a gravel parking area and/or driveway.

This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the storage area will be over 300' from Fir Road, behind the proposed building;
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 because the proposed use is consistent with the existing industrial properties within the area;
3. The need for the variance arises from some condition peculiar to the property in that the items to be stored would require a much larger building be constructed..
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would allow the more intense uses of that district which may not be appropriate for this area.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

ATTACHMENTS

Aerial Photograph, Photographs, Appeal, Site Plan, Location Map



Red Line = Mishawaka City Limits
White Dashed Line = Property Boundary



A view from the northwest corner of the property (railroad spur to north)



A view of the site from the road (railroad spur in the background left)



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

November 14, 2018

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2018

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
November 13, 2018, Public Hearing
Certification of Proposed Ordinance

Honorable Members:

A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed ordinance was considered:

PETITION #18-30 A petition submitted by John A. and Jayne L. Piraccini requesting to rezone vacant property near the **northwest corner of South Elder Street and Norton Court** from R-1 Single Family Residential District to C-1 General Commercial District.

The Commission, with a vote of 4-3 in favor, forwarded *no recommendation* due to a lack of five (5) votes.

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed ordinance regarding the above matter.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: John Piraccini

STAFF REPORT

Location: V/L at the Northeast corner of S. Elder and Norton St.

Date: November 13, 2018

Petition: 18 30

Prepared By: CH

GENERAL INFORMATION

Applicant: John and Jayne Piraccini

Status: Property Owner

Request: To rezone from R-1 Single Family Residential to C-1 General Commercial District to allow an electrical contractor office and warehouse.

Zoning Classification: R-1 Single Family Residential District

Lot Size: 0.87 acres

Applicable Regulations: Section 137-300 thru 137-303 / C-1 General Commercial District
Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Lincolnway Veterinary Clinic)
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: C-1 General Commercial and R-1 Single Family (Lincolnway Veterinary Clinic)

Thoroughfare: S Elder Street

School District: School City of Mishawaka

Township: Penn Township

Public Utilities: All utilities are available and will be extended/connected to and relocated through the site at the expense of the developer.

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identified this area as General Commercial.

ANALYSIS

The Petitioners, John and Jayne Piraccini, are requesting to rezone an 0.87 acre parcel of land located at the northwest corner of S. Elder and Norton Ct. from R-1 Single Family Residential District to C-1 General Commercial District for a contingent purchaser to use the land for an electrical contractor's office and warehouse.

A little history on the site. In 1990 these properties were rezoned from R-2 to C-1 for expansion of the Martin's Supermarket. Although it was approved by Ordinance 3370, the business expansion never happened. In 2006, the property was rezoned to R-1 Single Family District to allow 7 homes and 1

commercial building. In 2007, a subdivision was submitted to split the property into 8 lots, but was never recorded.

The preliminary site plan shows an approximately 3,500 square foot building with 10 parking spaces and room for a retention pond. Before construction can begin, a final site plan shall be submitted, approved, and recorded, to address parking, landscaping, retention, construction materials, etc.

Pertinent departments have reviewed and approved this request.

The Planning Staff has been made aware of neighbor concerns about additional traffic on Elder and the location of the curb cuts.

RECOMMENDATION

Staff recommends in **favor** of Petition 18-30 to rezone 0.87 acres located at the northwest corner of South Elder and Norton Ct. from R-1 Single Family Residential to C-1 General Commercial District to allow an electrical contractor's office and warehouse.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The properties adjacent to the north and west of the properties to be rezoned are zoned C-1 General Commercial.
2. Character of Buildings – The character of the buildings in the block bounded by Lincolnway East, Elder St., Norton Ct., and Charles St. are commercial in nature.
3. The most desirable/highest and best use – Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the history of this site as a commercial project, staff feels that the most desirable use for this property is commercial.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The Lincolnway East and Bittersweet intersection is a mix of commercial uses, therefore, C-7 Automobile Oriented Restaurant Commercial uses are compatible with the existing uses along the corridor.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, identifies the front +/-120 feet along the south of Lincolnway East as commercial. This is appropriate given the high traffic volume of the Lincolnway corridor. There are several other properties along Lincolnway East where the commercial activities extend beyond that front 120 feet, therefore it still meets/does not conflict with the goals of the Comprehensive Plan.

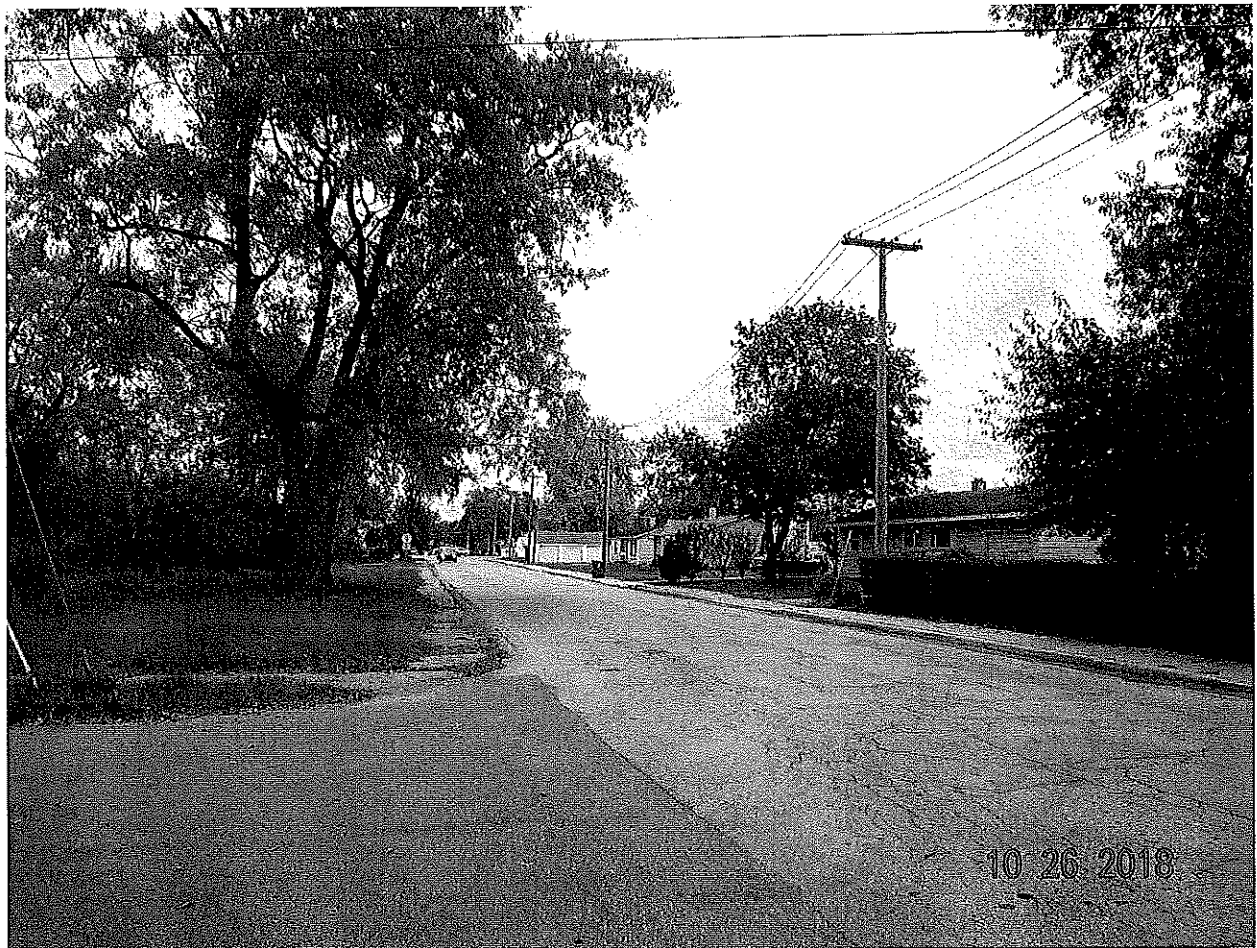
ATTACHMENTS

Aerial Photograph, Photographs, Petition, Location Map, Preliminary/Conceptual Site Plan





A view North along Elder. The driveway for the vet clinic at the far right.



A view looing north along Elder



From the corner of Elder and Norton Ct.

NOV 14 2018

1st Reading 11-19-18
2nd Reading
Passed
Failed
Continued To

PETITION 18-30

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. ~~2018- 29~~

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made no recommendation on the reclassification of the zoning as herein set forth of the real estate hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

Parcel 2 N End Nortons Sub Prop of Lots 19-20 Wards Sub Prop S of L W E;
Parcel 2 50 Ft S End Nortons Sub Prop of Lots 19-20 Wards Sub Prop S of L W E; Parcel 11 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E; Parcel 12 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E; Parcel 13 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E.

COMMON ADDRESS: Vacant property near the Northwest Corner of South Elder Street and Norton Court

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as C-1 General Commercial District designated in "The Zoning Ordinance of 1966" as amended.

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Existing Conditions – The properties adjacent to the north and west of the properties to be rezoned are zoned C-1 General Commercial.
2. Character of Buildings – The character of the buildings in the block bounded by Lincolnway East, Elder Street, Norton Court, and Charles Street are commercial in nature.
3. The most desirable/highest and best use – Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to

Proposed Ordinance No: 18-29

Ordinance No: _____

surrounding properties, and the history of this site as a commercial project, staff feels that the most desirable use for this property is commercial.

4. Conservation of property values – The rezoning should not be injurious to property values in the area. The Lincolnway East and Bittersweet intersection is a mix of commercial uses, therefore, C-1 General Commercial uses are compatible with the existing uses along the corridor.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, identifies the front +/-120 feet along the south of Lincolnway East as commercial. This is appropriate given the high traffic volume of the Lincolnway corridor. There are several other properties along Lincolnway East where the commercial activities extend beyond that front 120 feet, therefore it still meets/does not conflict with the goals of the Comprehensive Plan.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2018, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2018, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2018, at _____ o'clock _____.M.

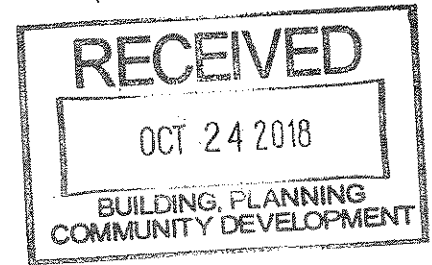
David A. Wood, Mayor

October 23, 2018

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 01 2018

CITY CLERK
MISHAWAKA, IN



Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION TO REZONE

The undersigned John A. Piraccini & Jayne L. Piraccini respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Parcel 2 N End Nortons Sub Prop of Lots 19-20 Wards Sub Prop S of L W E

Parcel 2 50 Ft S End Nortons Sub Prop of Lots 19-20 Wards Sub Prop S of L W E

Parcel 11 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E

Parcel 12 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E

Parcel 13 Nortons Sub Prop of Lots 19-20 Sub Prop S of L W E

Above Parcels have address close to 121 S Elder St, Mishawaka, IN 46544

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-1 Single Family Residential District. Said property is vacant.

Petitioner(s) desire said real estate to be rezoned to C-1 General Commercial District. Petitioner(s) further state that they intend to utilize said land for an electrical contractor's office and warehouse.

Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

Signature(s) of Property Owner(s)

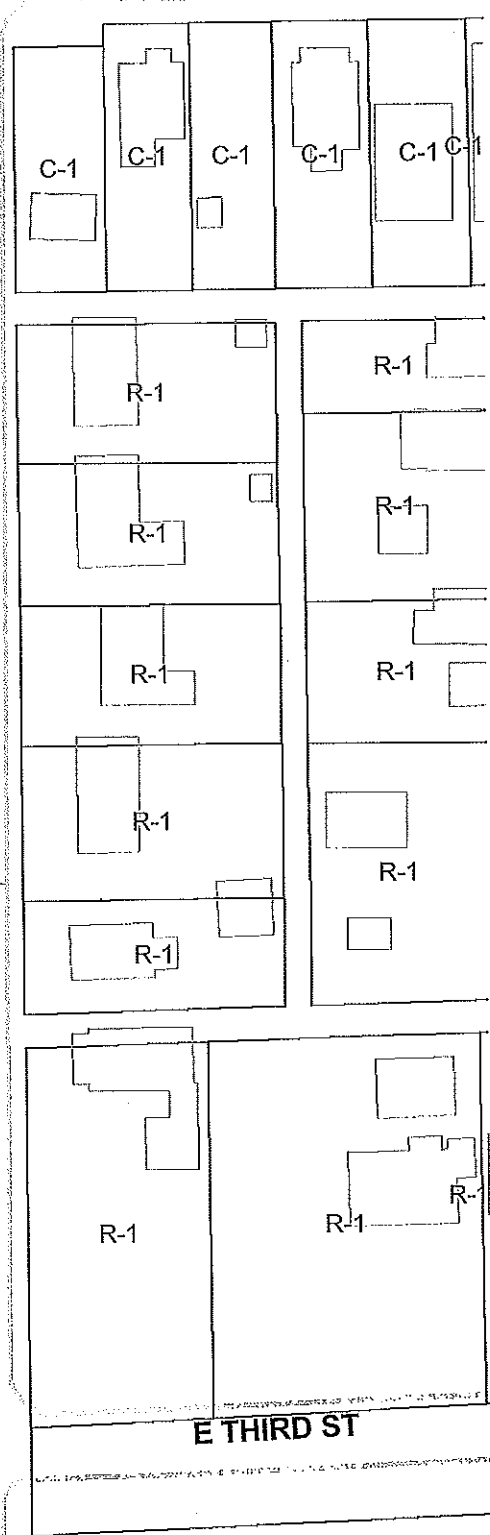
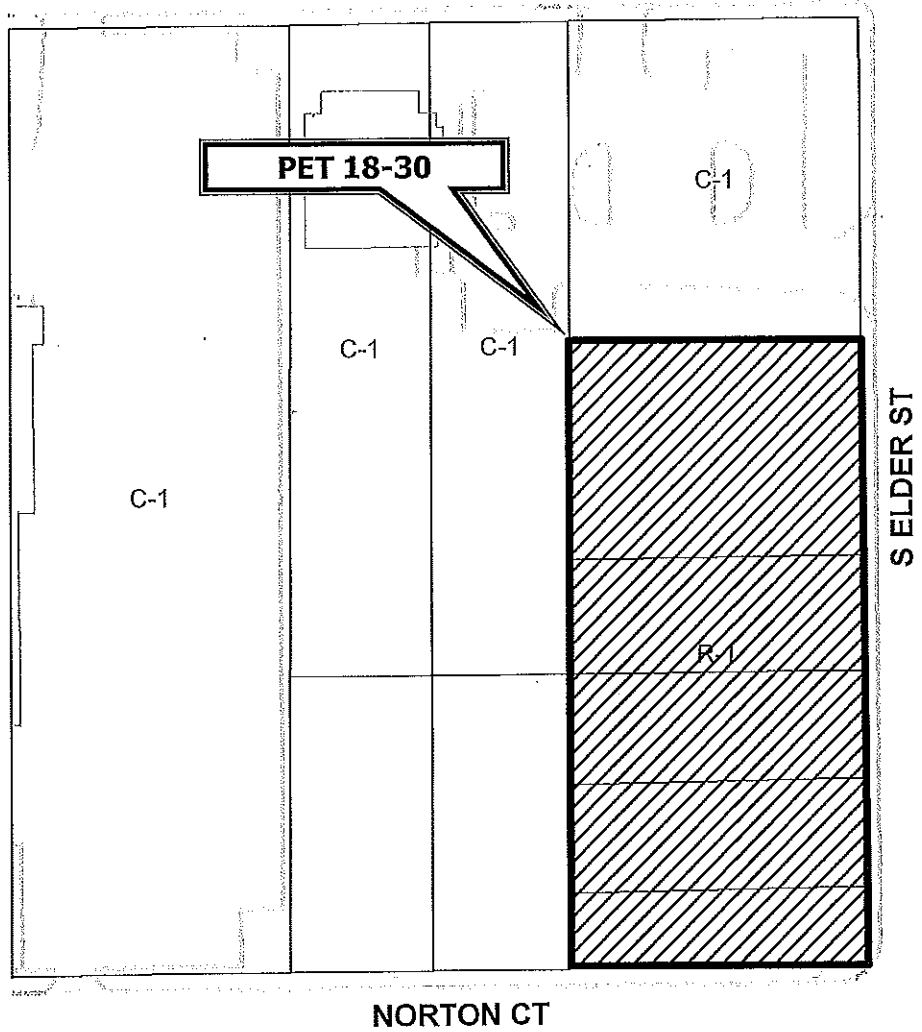
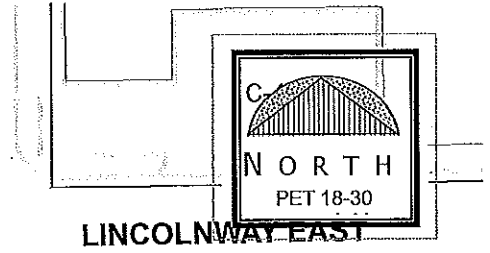
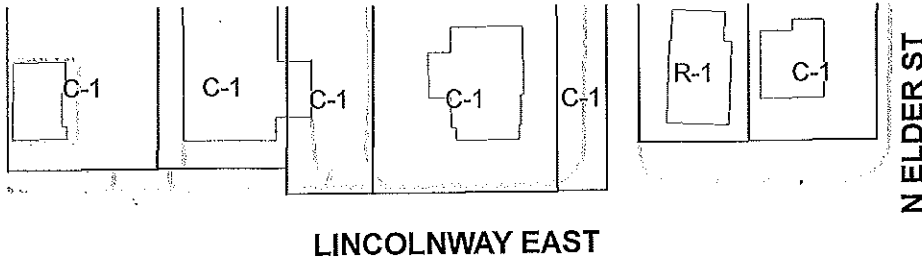
John A. Piraccini

Signature(s) of Property Owner(s)

Jayne L. Piraccini

CONTACT PERSON:

Jason Roth
30438 S Meadowbrook Ln, Elkhart, IN 46514
Cell: 574-215-8479
Jason.scott.roth@gmail.com

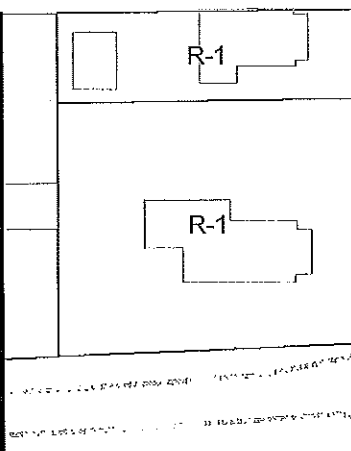


Location Map

PET 18-30

JOHN A. & JAYNE L. PIRACCINI
NW CORNER OF N. ELDER ST. &
NORTON ST. - VACANT PARCELS
IN NORTON'S SUB UNREC. OF
LOTS 19 & 20 IN WARD'S
SUB UNREC.

REZONING FROM R-1 TO C-1
PROPOSED ELECTRICAL CONTRACTOR'S
OFFICE & WAREHOUSE





CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 15 2018

CITY CLERK
MISHAWAKA, IN

November 15, 2018

Mishawaka Common Council
600 E. Third Street
Mishawaka, IN 46544

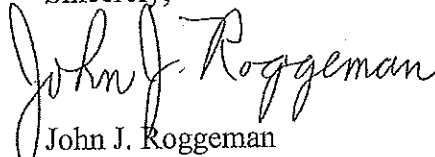
Re: Proposed Amendment to Land Development Code, Part II, Appendix A, Schedule of Fees

Honorable Members of Council:

Attached for your consideration is a Proposed Ordinance that incorporates needed changes to the Schedule of Fees charged by the City to contractors and subcontractors under the Land Development Code. Building Commissioner Bo Hundt has requested the changes after reviewing the City's current schedule. The Fee Schedule has not been adjusted since 2011.

Thank you for your consideration. Should you have any questions, please contact me.

Sincerely,


John J. Roggeman
City Attorney

Geoffrey D. Spiess
Corporation Counsel
600 East Third Street
Mishawaka, Indiana 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 East Third Street
Mishawaka, Indiana 46544
(574) 258-1637
fax: (574) 254-0197

David V. Bent
Deputy City Attorney
320 West Fourth Street
Mishawaka, Indiana 46544
(574) 255-3680
fax: (574) 255-3969

Robert C. Beutler
Deputy City Attorney
4100 Edison Lakes Parkway
Mishawaka, Indiana 46545
(574) 243-4100
fax: (574) 232-9789

1st Reading 11-19-18
2nd Reading
Passed
Failed
Continued To

CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2018-30
ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK MMC

NOV 15 2018

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE AMENDING LAND DEVELOPMENT CODE, PART II,
APPENDIX A, SCHEDULE OF FEES, OF THE MUNICIPAL CODE OF THE CITY
OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED,

WHEREAS, circumstances warrant periodic changes to fees charged to
contractors and subcontractors for obtaining permits to work in the City of Mishawaka
from time to time; and

WHEREAS, a comprehensive review of various fees charged by the city resulted
in changes in categories and amounts of fees charged; and

WHEREAS, the schedule of fees has not been adjusted since 2011.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF MISHAWAKA, INDIANA, THAT:

Section 1. Appendix A, Schedule of Fees, of Part II of the Land Development
Code, of the Municipal Code of the City of Mishawaka, be, and the same is, hereby
amended as follows:

Repeal Appendix A in its entirety and replace with the following:

See attached Schedule of Fees.

Section 2. This Ordinance shall be in full force and effect from and after its passage,
due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____
day of _____, 2018, at _____ o'clock _____ M.

Matt Mammolenti
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2018, at
_____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2014, at _____
o'clock _____.M.

David A. Wood, Mayor

ELECTRICAL:

MINIMUM PERMIT: \$30.00

METER SERVICE: \$30.00

(REPLACE/REPAIR/TEMPORARY)

ALTERNATE POWER: \$30.00

CIRCUITS: \$25.00 PLUS \$5.00 EACH CIRCUIT

(NEW/REPLACED)

MAIN SERVICE/SUB PANEL:

(NEW/REPLACED)

100 AMP OR LESS \$100.00

200 AMP \$150.00

400 AMP \$200.00

600 AMP \$250.00

600 AMP OR MORE \$300.00

LICENSE-NEW/RENEWAL: \$125.00

HVAC:

MINIMUM PERMIT	\$30.00
HVAC EQUIPMENT INSTALLED	\$15.00 + \$15.00each

COMMERCIAL HOODS:

NO SUPPRESSION:	\$75.00
FIRE SUPPRESSION:	\$150.00

ROOFTOP FURNACE/AIR:	\$75.00
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ALTERNATIVE HEATING/COOLING:	\$50.00
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WATER CHILLERS:	\$75.00
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DUCT/REGISTER INSTALLATION:

0	-	50	\$30.00
51	-	100	\$75.00
101	+		\$150.00

GAS PIPING:

PRESSURE TEST:	\$30.00
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LICENSE NEW/RENEWAL:	\$125.00
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PLUMBING:

MINIMUM PERMIT:	\$30.00
PLUMBING FIXTURES:	\$25.00 + \$5.00each
ALTERNATIVE PLUMBING:	\$30.00
GAS PIPING:	
PRESSURE TEST:	\$30.00
FIRE SPRINKLERS:	\$50.00 + \$3.00per head
LICENSE NEW/RENEWAL:	\$125.00

RESIDENTIAL:

\$300.00 - \$1,000.00 \$30.00

\$1,001.00 - \$5,000.00 \$50.00

ADD \$25.00 PER \$5,000.00 AFTER \$5,000.00 UP TO \$50,000.00

ADD \$25.00 PER \$10,000.00 AFTER \$50,000.00 up to \$200,000.00

ADD \$25.00 PER \$25,000.00 AFTER \$200,000.00

RE-INSPECTION ROUGH \$50.00

RE-INSPECTION FINAL \$100.00

LICENSE-NEW/RENEWAL: \$125.00

COMMERCIAL:

300	-	2,500	\$50.00
2,500	-	5,000	\$100.00
5,000	-	7,500	\$150.00
7,500	-	10,000	\$200.00

ADD \$100.00 FOR EVERY \$10,000.00 UP TO \$200,000.00

ADD \$20.00 FOR EVERY \$10,000.00 AFTER \$200,000.00 UP TO \$1,000,000.00

ADD \$100.00 FOR EVERY \$100,000 AFTER \$1,000,000.00

RE-INSPECTION ROUGH	\$50.00
RE-INSPECTION FINAL	\$100.00
LICENSE-NEW/RENEWAL:	\$125.00

UNMETERED WATER AND EXH. FANS:

RESIDENTIAL :	\$65.00
APARTMENTS: PER BUILDING:	\$50.00
COMMERCIAL:	\$135.00
INDUSTRIAL BUILDINGS:	\$600.00
EXHAUST FANS:PER FIXTURE:	\$5.00

WRECKING AND DEMOLITION PERMIT:

MINIMUM PERMIT:	\$30.00
GARAGE/ACCESORY STRUCTURE:	\$30.00
RESIDENTIAL HOUSE:	\$50.00
COMMERCIAL:	\$75.00

SWIMMING POOLS:

RESIDENTIAL IN-GROUND: \$150.00

COMMERCIAL: \$250.00

MOVING PERMITS:

RESIDENTIAL AND COMMERCIAL: OVER PUBLIC ROAD/ALLEY

ONE-OR-TWO STORY \$150.00

GREATER THAN TWO STORY: \$250.00

MISCELLANEOUS PERMITS:

Minimum Permit:	\$30.00
Change of occupancy:	\$150.00
Commercial Fire Alarm:	\$100.00+\$3.00 per device
Commercial Suppression:	\$50.00
Fire Inspection fees:	\$150.00
Underground Storage Tank:	\$150.00
Spray Booth:	\$200.00

SIGNS:

0 - 50 SQ. FT. \$30.00

50 - 100 SQ. FT. \$50.00

ADD \$25.00 PER 50 SQ. FT. AFTER 100 SQ. FT.

BILLBOARD: \$50.00

TEMPORARY: \$30.00

LICENSE-NEW/RENEWAL: \$125.00



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurtis Vardaman, Deputy Controller

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 08 2018

CITY CLERK
MISHAWAKA, IN

Date: November 8, 2018
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: Indiana Bond Bank Fuel Budgeting Program

At the next council meeting is the presentation of the resolution recommending the continued participation in the Motor Fuel Budgeting Program of the Indiana Bond Bank for the year 2019. If approved, 2019 will mark the tenth year of our participation.

This program ensures that drastic changes in the oil markets do not significantly affect our budget for gasoline and diesel purchases.

I have included a spreadsheet detailing the last few years of administration fees and charges. No breaches in the collar have occurred in 2018 so there have only been admin fees paid.

My recommendation is to continue the program at least through the fiscal cliff, as any wild fluctuations would be a detriment to an already burdened cash flow.

In addition, attached is the Board of Public Works' resolution recommending our participation in the program.

Please contact me with any questions.

c: David A. Wood, Mayor
Tim Ryan, Street Commissioner

NOV 08 2018

CITY CLERK
MISHAWAKA, INRESOLUTION NO. 2018-23**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AUTHORIZING THE PARTICIPATION OF SAID CITY IN THE MOTOR FUEL BUDGETING PROGRAM OF THE INDIANA BOND BANK FOR THE 2019 BUDGET YEAR, THE EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH AND OTHER RELATED MATTERS**

WHEREAS, the City of Mishawaka, Indiana (the "City") owns and operates a fleet of motor vehicles which motor vehicles are essential to the ability of the City to serve and provide municipal services to the inhabitants of the City, thereby ensuring the safety and well-being of said inhabitants; and

WHEREAS, the Common Council of the City (the "Council"), acting as the legislative body and fiscal body of the City, finds that the availability of motor vehicle fuel, which includes both gasoline and diesel motor fuel (collectively, "Motor Fuel"), is therefore critical to the City in providing such services; and

WHEREAS, the market-driven volatility of Motor Fuel presents a substantial risk to the Motor Fuel budget of the City, which may require the appropriation of additional funds for the purchase of Motor Fuel should prices increase beyond the amount of funds which have been appropriated for such purpose; and

WHEREAS, current market conditions limit the ability of the City to secure Motor Fuel with qualified suppliers of Motor Fuel in a manner which minimizes the adverse impacts of the volatile Motor Fuel market on the budget for the City; and

WHEREAS, the City has been advised by representatives of the Indiana Bond Bank (the "Bond Bank"), including Crowe Horwath LLP and Maverick Energy Consulting, that the Bond Bank has established and continued a motor fuel budgeting program (the "Program") pursuant to which "qualified entities", as defined in Indiana Code 5-1.5-1-8, may participate for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability; and

WHEREAS, the Council finds that the City participated in the Program for its budget years 2009 through 2018 and is eligible to participate in the Program for its 2019 budget year; and

WHEREAS, the City's Board of Public Works and Safety (the "Board") has considered the matter of the City's participation in the Program for the 2019 budget year and has adopted a resolution recommending to the Council that the City participate in the Program for the 2019 budget year; and

WHEREAS, the Council, having considered the information presented to it, including the recommendation of the Board, finds that (i) participation in the Program will allow the City to manage and mitigate the volatility of Motor Fuel prices in order to achieve stability in the City's Motor Fuel budget for the 2019 budget year, (ii) participation in the Program will enhance the City's ability to continue to operate its motor vehicle fleet in an economical manner to assure the continued provision of municipal services to the inhabitants of the City, and (iii) the City is authorized to participate in the Program pursuant to Indiana Code 5-1.5, 36-1-4 and 36-9-6; and

WHEREAS, the Bond Bank has caused to be prepared a Qualified Entity Reimbursement Agreement in connection with the Program, attached hereto as Exhibit A and incorporated herein by reference (the "Agreement"), for execution by and between the City and the Bond Bank; and

WHEREAS, the Bond Bank intends to enter into agreements substantially the same as the Agreement with other qualified entities in connection with the Program; and

WHEREAS, the Agreement has been reviewed by the Council, which has had an opportunity to obtain independent advice and counsel with respect thereto, and has also had the opportunity to review the Agreement with the Bond Bank and seek explanation of the provisions thereof from the Bond Bank; and

WHEREAS, the Agreement sets forth the obligations of the City with respect to its participation in the Program during the term of the Agreement; and

WHEREAS, based upon the foregoing, the Council finds and determines that the City should participate in the Program for the 2019 budget year, that the Agreement should be approved and that any other actions necessary to be taken to assure the City's participation in the Program for the 2019 budget year should be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AS FOLLOWS:

Section 1. The findings and determinations set forth in the preambles to this Resolution are hereby made findings and determinations of the City.

Section 2. The City is hereby authorized to enter into the Program with the Bond Bank for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability for the 2019 budget year.

Section 3. The Agreement, in the form attached hereto as Exhibit A, is hereby approved by the Council so that the City may participate in the Program. The Mayor of the City is hereby authorized and directed to execute and deliver, and the Controller of the City is hereby authorized and directed to attest, the Agreement, and to approve any such changes in form or substance thereto which are consistent with the terms of this Resolution, such changes to be conclusively evidenced by its execution. The Mayor, Clerk and Controller of the City, and any officer of the Board, are hereby further authorized and directed to take such other actions or deliver such other certificates as are necessary or desirable in connection with the City's

participation in the Program and the other documents needed for the City's participation in the Program as they deem necessary or desirable in connection therewith.

Section 4. The obligations of the City under the Agreement shall be payable from and shall not exceed the amount appropriated by the City for Motor Fuel for the 2019 budget year. The Controller is hereby authorized and directed to make any payments necessary to the Bond Bank pursuant to the terms of the Agreement from funds budgeted by the City for Motor Fuel for the 2019 budget year.

Section 5. All resolutions and parts of resolutions in conflict herewith are hereby repealed.

Section 6. This Resolution shall be in full force and effect upon its passage by the Council and approval by the Mayor of the City as required by law.

Passed this ____ day of _____, 2018.

COMMON COUNCIL, CITY OF
MISHAWAKA, INDIANA

Presiding Officer

Attest:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ____ day of _____, 2018 at the hour of ____ : ____ m.

Deborah S. Block, IAMC, MMC, Clerk

This resolution approved and signed by me, the Mayor of the City of Mishawaka, Indiana, on the ____ day of _____, 2018 at the hour of ____ : ____ m.

David A. Wood, Mayor

EXHIBIT A

Form of Qualified Entity Reimbursement Agreement

NOV 08 2018

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2018-04

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY
OF THE CITY OF MISHAWAKA, INDIANA, RECOMMENDING THE
PARTICIPATION OF SAID CITY IN THE MOTOR FUEL BUDGETING
PROGRAM OF THE INDIANA BOND BANK FOR THE 2019 BUDGET
YEAR, THE EXECUTION OF THE QUALIFIED ENTITY
REIMBURSEMENT AGREEMENT IN CONNECTION THEREWITH
AND OTHER RELATED MATTERS**

WHEREAS, the Board of Public Works and Safety (the "Board") of the City of Mishawaka, Indiana (the "City"), is the governing body; and

WHEREAS, the City owns and operates a fleet of motor vehicles which motor vehicles are essential to the ability of the City to serve and provide municipal services to the inhabitants of the City, thereby ensuring the safety and well-being of said inhabitants; and

WHEREAS, the Board finds that the availability of motor vehicle fuel, which includes both gasoline and diesel motor fuel (collectively, "Motor Fuel"), is therefore critical to the City in providing such services; and

WHEREAS, the market-driven volatility of Motor Fuel presents a substantial risk to the Motor Fuel budget of the City, which may require the appropriation of additional funds for the purchase of Motor Fuel should prices increase beyond the amount of funds which have been appropriated for such purpose; and

WHEREAS, current market conditions limit the ability of the City to secure Motor Fuel with qualified suppliers of Motor Fuel in a manner which minimizes the adverse impacts of the volatile Motor Fuel market on the budget for the City; and

WHEREAS, the Board has been advised by representatives of the Indiana Bond Bank (the "Bond Bank"), including Crowe Horwath LLP and Maverick Energy Consulting, that the Bond Bank has established and continued a motor fuel budgeting program (the "Program") pursuant to which "qualified entities", as defined in Indiana Code 5-1.5-1-8, may participate for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability; and

WHEREAS, the Board finds that the City participated in the Program for its budget years 2009 through 2018 and is eligible to participate in the Program for its 2019 budget year; and

WHEREAS, the Board, having considered the information presented to it, finds that (i) participation in the Program will allow the City to manage and mitigate the volatility of Motor Fuel prices in order to achieve stability in the City's Motor Fuel budget for the 2019 budget year, (ii) participation in the Program will enhance the City's ability to continue to operate its motor vehicle fleet in an economical manner to assure the continued provision of municipal services to

the inhabitants of the City, and (iii) the City is authorized to participate in the Program pursuant to Indiana Code 5-1.5, 36-1-4 and 36-9-6; and

WHEREAS, the Bond Bank has caused to be prepared a Qualified Entity Reimbursement Agreement in connection with the Program, attached hereto as Exhibit A and incorporated herein by reference (the "Agreement"), for execution by and between the City and the Bond Bank; and

WHEREAS, the Bond Bank intends to enter into agreements substantially the same as the Agreement with other qualified entities in connection with the Program; and

WHEREAS, the Agreement has been reviewed by the Board, which has had an opportunity to obtain independent advice and counsel with respect thereto, and has also had the opportunity to review the Agreement with the Bond Bank and seek explanation of the provisions thereof from the Bond Bank; and

WHEREAS, the Agreement sets forth the obligations of the City with respect to its participation in the Program during the term of the Agreement; and

WHEREAS, based upon the foregoing, the Board recommends to the Common Council of the City (the "Council") that the City should participate in the Program for the 2019 budget year, that the Agreement should be approved and that any other actions necessary to be taken to assure the City's participation in the Program for the 2019 budget year should be approved;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF MISHAWAKA, INDIANA, AS FOLLOWS:

Section 1. The findings and determinations set forth in the preambles to this Resolution are hereby made findings and determinations of the Board of Public Works and Safety of the City.

Section 2. The Board hereby recommends to the Council that it authorize the City to enter into the Program with the Bond Bank for the purpose of managing and mitigating the volatility of Motor Fuel prices in order to achieve budget stability for the 2019 budget year.

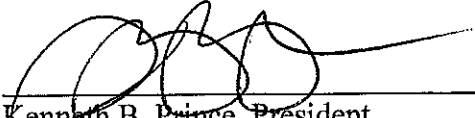
Section 3. The Board hereby recommends to the Council that it approve the Agreement, in the form attached hereto as Exhibit A, so that the City may participate in the Program. The Board further recommends to the Council that it authorize the Mayor, Clerk and Controller of the City, and any officer of the Board, to take such actions or deliver such certificates as are necessary or desirable in connection with the City's participation in the Program and the other documents needed for the City's participation in the Program as they deem necessary or desirable in connection therewith, including execution and delivery of the Agreement.

Section 4. All resolutions and parts of resolutions in conflict herewith are hereby repealed. The Clerk of the Board is hereby directed to deliver this Resolution to the Council.

Section 5. This Resolution shall be in full force and effect upon its adoption.

Adopted this 6th day of November, 2018.

BOARD OF PUBLIC WORKS AND SAFETY,
CITY OF MISHAWAKA, INDIANA


Kenneth B. Prince, President


Rebecca S. Miller, Vice-President

Ronald E. Watson, Member

Attest:

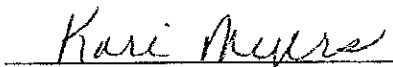

Kari Myers, Clerk of the Board

EXHIBIT A

Form of Qualified Entity Reimbursement Agreement

<u>2015 Gasoline</u>	<u>Reimbursement/</u> <u>Payment</u>	<u>Fee</u>	
January	\$ 1,801.15	\$ 263.00	
February		\$ 302.00	
March		\$ 267.00	
April		\$ 273.00	
May		\$ 262.00	
June		\$ 280.00	
July		\$ 300.00	
August		\$ 301.00	
September	\$ 1,601.00	\$ 287.00	
October	\$ 2,138.38	\$ 308.00	
November	\$ 2,239.14	\$ 317.00	
December	\$ 2,572.51	\$ 269.00	
	\$ 10,352.18	\$3,429.00	\$13,781.18

<u>2015 Diesel</u>			
January	\$ 861.15	\$ 231.00	
February		\$ 127.00	
March	\$ 17.79	\$ 65.00	
April		\$ 57.00	
May		\$ 70.00	
June		\$ 118.00	
July	\$ 423.18	\$ 126.00	
August	\$ 948.31	\$ 116.00	
September	\$ 1,130.82	\$ 144.00	
October	\$ 1,682.49	\$ 185.00	
November	\$ 2,083.24	\$ 182.00	
December	\$ 2,935.06	\$ 154.00	
	\$ 10,082.04	\$1,575.00	\$11,657.04

Total (reimbursement)/payment **\$25,438.22**

<u>2016 Gasoline</u>	<u>Reimbursement/</u> <u>Payment</u>	<u>Fee</u>	
January	\$ 2,039.59	\$ 294.00	
February	\$ 2,609.86	\$ 280.00	
March		\$ 283.00	
April		\$ 244.00	
May		\$ 285.00	
June		\$ 300.00	
July		\$ 219.00	
August		\$ 266.00	
September		\$ 225.00	
October		\$ 300.00	
November		\$ 262.00	
December		\$ 262.00	
	\$ 4,649.45	\$3,200.00	\$ 7,849.45

<u>2016 Diesel</u>			
January	\$ 1,184.38	\$ 201.00	
February	\$ 982.34	\$ 214.00	
March		\$ 127.00	
April		\$ 118.00	
May		\$ 122.00	
June	\$ (22.76)	\$ 123.00	
July		\$ 106.00	
August		\$ 131.00	
September		\$ 143.00	
October	\$ (421.12)	\$ 185.00	
November		\$ 148.00	
December	\$ (462.98)	\$ -	
	\$ 1,259.86	\$1,618.00	\$ 2,877.86

Total (reimbursement)/payment **\$10,727.31**

<u>2017 Gasoline</u>	<u>Reimbursement/</u> <u>Payment</u>	<u>Fee</u>	
January	\$ 603.27	\$ 333.00	
February	\$ 1,021.33	\$ 333.00	
March	\$ 35.10	\$ 312.00	
April		\$ 312.00	
May	\$ 366.73	\$ 229.00	
June	\$ 1,467.32	\$ 312.00	
July	\$ 644.83	\$ 333.00	
August		\$ 333.00	
September		\$ 312.00	
October		\$ 270.00	
November		\$ 229.00	
December		\$ 229.00	
	\$ 4,138.58	\$3,537.00	\$ 7,675.58

<u>2017 Diesel</u>			
January		\$ 198.00	
February		\$ 229.00	
March	\$ 496.52	\$ 156.00	
April	\$ 145.86	\$ 98.00	
May	\$ 385.06	\$ 100.00	
June	\$ 894.13	\$ 135.00	
July	\$ 498.28	\$ 144.00	
August	\$ 31.41	\$ 162.00	
September		\$ 139.00	
October		\$ 133.00	
November		\$ 127.00	
December		\$ 116.00	
	\$ 2,451.26	\$1,737.00	\$ 4,188.26

Total (reimbursement)/payment **\$11,863.84**

<u>2018 Gasoline</u>	<u>Reimbursement/</u> <u>Payment</u>	<u>Fee</u>	
January		\$ 368.00	
February		\$ 332.00	
March		\$ 376.00	
April		\$ 266.00	
May		\$ 380.00	
June		\$ 369.00	
July		\$ 357.00	
August		\$ 38.00	
September		\$ 196.00	
October			
November			
December			
		\$2,682.00	\$ 2,682.00

<u>2018 Diesel</u>			
January		\$ 165.00	
February		\$ 141.00	
March		\$ 193.00	
April		\$ 120.00	
May		\$ 195.00	
June		\$ 173.00	
July		\$ 151.00	
August		\$ 175.00	
September		\$ 69.00	
October			
November			
December			
		\$1,382.00	\$ 1,382.00

Total (reimbursement)/payment **\$ 4,064.00**

NOV 14 2018

APPEAL #18-36

RESOLUTION NO. 2018- 24

CITY CLERK
MISHAWAKA, IN

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA,
APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE
PROPERTY LOCATED AT:

4520 Grape Road, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its
intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval;
and

WHEREAS, the Common Council must take action within sixty (60) days after the
Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on
such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable
recommendation, pursuant to applicable state law, including the imposition of reasonable
conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition
from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance
for property located at **4520 Grape Road, Mishawaka, Indiana**, more particularly known
and described as follows:

That part of the Southeast Quarter of Section 33, Township 38 North, Range 3 East, City of
Mishawaka, St. Joseph County, Indiana, which is described as:

Beginning at a point on the centerline of Juday Creek which is North 79° 31' 37" East,
455.07 feet from a point on the North and South Quarter line of said Section and centerline
of Grape Road which is North 00° 00' 29" East, 2371.31 feet from a P.K. Nail found marking
the South Quarter Post of said Section; thence along the centerline of Juday Creek North
79° 31' 37" East, 135.72 feet; thence North 79° 33' 27" East, 300.00 feet; thence North
78° 24' 42" East, 405.24 feet to the West line of Main Street; thence along said West line
South 00° 05' 58" West, 578.89 feet; thence South 89° 54' 02" East 5.00 feet; thence
South 00° 05' 58" West, 425.78 feet; thence North 90° 00' 00" West, 597.61 feet; thence
South 00° 11' 24" East, 246.48 feet to the North line of Day Road; thence along said North
line South 89° 48' 36" West, 50.00 feet; thence North 00° 11' 24" West, 246.64 feet; thence
North 90° 00' 00" West, 107.28 feet; thence North 00° 00' 00" East, 219.82 feet; thence
North 90° 00' 00" West, 31.50 feet; thence North 00° 00' 00" East, 190.91 feet; thence
South 79° 03' 17" West, 9.56 feet; thence North 04° 19' 43" West, 436.56 feet to the point
of beginning.

COMMON ADDRESS: 4520 Grape Road

The Use Variance, if approved, will allow up to three (3) temporary storage structures subject to the following:

1. Installation of a 6' vinyl fence in a color to match the building on the east side of the containers.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

Section III. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the adjacent commercial or residential uses.
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 because a fence is being added to help screen the view of the containers.
3. The need for a variance arises from the large scale size of the merchandise sold at this location, and the lack of storage space indoors.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use for the shopping center by allowing the more intense uses of that district.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General and Service Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2018, at _____ o'clock _____.m.

Presiding Officer

RESOLUTION #2018-24
4520 Grape Road
Page 3 of 3

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2018,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2018, at
_____ o'clock ____m.

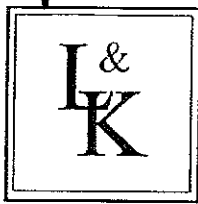
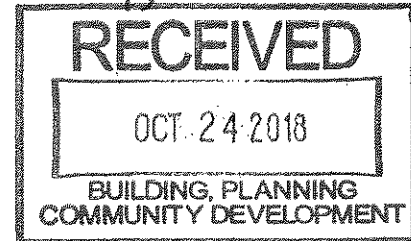
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 01 2018

CITY CLERK
MISHAWAKA, IN
LEWIS & KAPPES
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

ONE AMERICAN SQUARE
SUITE 2500
INDIANAPOLIS, IN 46282



P: (317) 639-1210
F: (317) 639-4882
www.Lewis-Kappes.com

Tammy L. Ortman
Director
tortman@lewis-kappes.com

October 21, 2018

Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. The appellant is Dick's Sporting Goods, a tenant of IRC Princess City Plaza, L.L.C. This petition is made with the affirmative consent of the property owner, by its duly authorized representative, Executive Vice President, Michael Fitzgerald.

The subject property is located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to wit:

That part of the Southeast Quarter of Section 33, Township 38 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana, which is described as:

Beginning at a point on the centerline of Juday Creek which is North 79° 31' 37" East, 455.07 feet from a point on the North and South Quarter line of said Section and centerline of Grape Road which is North 00° 00' 29" East, 2371.31 feet from a P.K. Nail found marking the South Quarter Post of said Section; thence along the centerline of Juday Creek North 79° 31' 37" East, 135.72 feet; thence North 79° 33' 27" East, 300.00 feet; thence North 78° 24' 42" East, 405.24 feet to the West line of Main Street; thence along said West line South 00° 05' 58" West, 578.89 feet; thence South 89° 54' 02" East 5.00 feet; thence South 00° 05' 58" West, 425.78 feet; thence North 90° 00' 00" West, 597.61 feet; thence South 00° 11' 24" East, 246.48 feet to the North line of Day Road; thence along said North line South 89° 48' 36" West, 50.00 feet; thence North 00° 11' 24" West, 246.64 feet; thence North 90° 00' 00" West, 107.28 feet; thence North 00° 00' 00" East, 219.82 feet; thence North 90° 00' 00" West, 31.50 feet; thence North 00° 00' 00"

East, 190.91 feet; thence South 79° 03' 17" West, 9.56 feet; thence North 04° 19' 43" West, 436.56 feet to the point of beginning.

Commonly known as: 4520 Grape Road, Mishawaka, Indiana 46545

Parcel ID: 029-2024-059105

State ID: 71-04-33-402-002.000-005

2. This real estate presently has a zoning classification of S-2, Planned Unit Development and is surrounded by properties with zoning classification of C-1, General Commercial.
3. The Appellant currently occupies a portion of the premises for retail services as Dick's Sporting Goods, pursuant to a lease continuing through 2022.
4. Appellant requests a use variance to maintain the location and use of three (3) storage trailers located at the north side of the building and abutting its delivery area. An aerial view of the site is provided as Exhibit 1. The storage trailers are positioned outside of the travel lanes and do not impair ingress/egress. The use and location of such storage trailers is within Sec. 137-302(5)(c), which states:

No accessory building or accessory building area shall be used for commercial storage purposes

(Code 1985, § 161.58; Ord. No. 4469, 12-20-1999)

5. The Zoning Ordinance of the City of Mishawaka requires that such utility service areas be located where they are not visible from the public right-of-way. Although the storage trailers are visible from the service driveway access from North Main Street, this driveway is distinct from each of the consumer access ways on Grape Road and North Main Street. Area photos of the site are provided on Exhibit 2.
6. Strict adherence to the visibility restrictions of Sec. 137-302(5)(c) creates an unusual hardship for the operation of this commercial/retail store because of:
 - a. The limited access area, all of which is visible to the Main Street access way, because of the angle at which the improvements are located on the site and the structural depth of the Dick's Sporting Goods leasehold space vis-à-vis the adjoining spaces;
 - b. The inventory variety maintained by Dick's Sporting Goods requires prompt access to larger items, i.e. kayaks, basketball goal systems, exercise equipment, resulting in necessary storage beyond what can be displayed and/or stored within the limited dock area servicing this space.

7. Questions relevant to Use Variance:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community:

No, the requested variance will not be injurious to public health, safety, morals or general welfare of the community. It will make a contribution to the benefit of the commercial/retail services provided to the community by Dick's Sporting Goods, allowing it to accommodate its customers in the most timely way, with products and services available at the time of purchase. This use variance seeks only to use a 30' x 45' area for storage that will remain minimally visible from the service entrance to Princess City Plaza. The storage trailers are consistent with existing view from the unrelated loading docks, also facing North Main Street.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

No, the requested variance will not negatively affect the adjacent properties, all zoned C-1. Juday Creek lies north of the subject area and separates this property from Lowe's Home Improvement store, directly facing its utility service area, despite not being visible through the tree line during much of the year.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the site development maximizes the use and parking areas such that the positioning of the building leaves little space for utility areas to the rear of the building. Dicks Sporting Goods operates from one of the larger retail spaces, which extends further north than any other area of the building, and is located near the east end of the shopping center.

- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes, the line of sight restriction, in strict application, would preclude the best use of Dick's Sporting Goods retail space by limiting its ability to inventory, stock, and make available products that require large cartons, display materials and storage space.

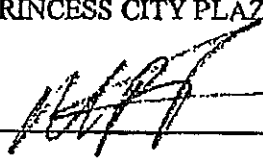
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

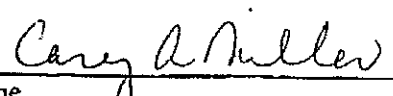
No, the approval of this use variance will not substantially, or in fact at all, interfere with the Mishawaka 2000 Comprehensive Plan.

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

IRC PRINCESS CITY PLAZA, L.L.C., *

DICK'S SPORTING GOODS


Name _____
Title Michael Fitzgerald
Executive Vice President

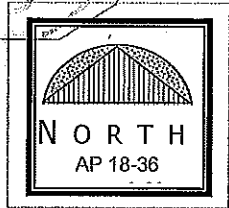

Name _____
Title Senior Corporate Counsel

Contact Person:

Tammy L. Ortman, Esq.
LEWIS & KAPPES, P. C.
One American Square, Suite 2500
Indianapolis, IN 46282
P: 317-639-1210
E: tortman@lewis-kappes.com

*a Delaware limited liability company

By: IRC Retail Centers LLC,
a Delaware limited liability company,
its manager



GRAPE RD

N MAIN ST

AP 18-36

E DAY RD

Location Map

APP 18-36

INLAND PRINCESS CITY
PLAZA LLC (OWNER)

DICK'S SPORTING GOODS
4520 GRAPE ROAD

DEVELOPMENTAL VARIANCE - ALLOW
ACCESSORY STRUCTURES (MAX. 3
TRAILERS) TO BE USED FOR
COMMERCIAL STORAGE

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2018

CITY CLERK
MISHAWAKA, IN

APPEAL #18-38

RESOLUTION NO. 2018- 25

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA,
APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE
PROPERTY LOCATED AT:

Vacant Land North of 55260 Fir Road, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made an unfavorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **Vacant Land North of 55260 Fir Road, Mishawaka, Indiana**, more particularly known and described as follows:

A parcel of land being a part of the Northwest Quarter of Section 2, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at a point on the west line of said Section 2 that is 606.7 feet north of the southwest corner of the North Half of the Northwest Quarter of said Section 2; thence South along said west line a distance of 183.9 feet to the northeast corner of a tract of land conveyed to Albert Cecil Mangold Estate and identified and Tax Key No. 14-1018-0212.02, Deed No. 850487; thence east along the north line of said tract a distance of to the northeast corner of said Mangold tract of land; thence south along the east line of said Mangold tract of land to the southeast corner of said Mangold tract of land; thence east along the north line of a tract of land that was conveyed to David Allen Santuro by Warranty Deed No. 9953984 and identified by Tax Key No. 14-1018-0212.04, to the northeast corner of said tract of land; thence north along the east line of said Santuro tract of land projected north, said line being the east line of the Northwest Quarter of the said Northwest Quarter to the point of intersection with southerly right of way line for the Grand Trunk and Western Railroad spur, thence northwesterly along said southerly right of way line to its point of intersection with the projection of the north line of parcel of land conveyed to Carlos D. Macan and identified by Tax Key No. 27-1001-0227.15, thence East along said projected

line to the intersection with the northerly right-of-way of said railroad; thence northwesterly along said northerly right-of-way line to its intersection with said east line of the Northwest Quarter of the Northwest Quarter; thence north along said east line to the southeast corner of a parcel of land conveyed to Joseph & Julie Ciszczon on April 14, 1972 and identified by Tax Key No. 14-1018-0212.03, said point being 841.6 feet south of the north line of said Section 2; thence west along the south line of said Ciszczon parcel, a distance of 1440 feet to the point of beginning containing 8.17 acres more or less.

COMMON ADDRESS: Vacant Land North of 55260 Fir Road

The Use Variance will allow an outside storage area for a proposed fence contractor, and if approved, subject to the following conditions:

1. An Administrative Site Plan shall be submitted.
2. Gravel areas shall be limited to a screened outside storage area identified on the site plan.
3. No vehicles shall be parked/stored on an unpaved surface.
4. No known hazardous materials shall be stored on site.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

Section III. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the storage area will be over 300' from Fir Road, behind the proposed building.
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 because the proposed use is consistent with the existing industrial properties within the area.
3. The need for the variance arises from some condition peculiar to the property in that the items to be stored would require a much larger building be constructed.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would allow the more intense uses of that district which may not be appropriate for this area.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2018, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2018,
at _____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

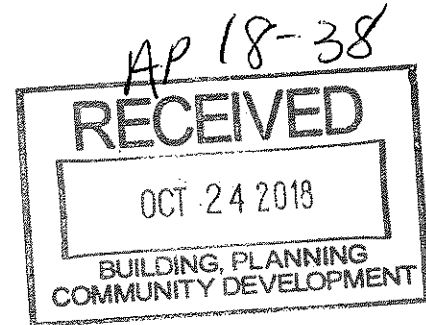
APPROVED by me this _____ day of _____, 2018, at
_____ o'clock ____ .m.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 01 2018

CITY CLERK
MISHAWAKA, IN



DATE: October 24, 2018

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, **Robert L. Miller**, am the owner of the following described real estate located within the City of Mishawaka, Township, St. Joseph County, State of Indiana, to- wit:

Vacant property north of 55260 Fir Road and south of the railroad tracks, with the following legal description:

A parcel of land being a part of the Northwest Quarter of Section 2, Township 37 North, Range 3 East, Penn Township, St Joseph County, Indiana and being more particularly described as follows:

Beginning at a point on the west line of said Section 2 that is 606.7 feet north of the southwest corner of the North Half of the Northwest Quarter of said Section 2; thence South along said west line a distance of 183.9 feet to the northeast corner of a tract of land conveyed to Albert Cecil Mangold Estate and identified as Tax key No. 14-1018-0212.02, Deed No. 850487; thence east along the north line of said tract a distance of to the northeast corner of said Mangold tract of land; thence south along the east line of said Mangold tract of land to the southeast corner of said Mangold tract of land; thence east along the north line of a tract of land that was conveyed to David Allen Santuro by Warranty Deed No. 9953984 and identified by Tax key No. 14-1018-0212.04, to the northeast corner of said tract of land; thence north along the east line of said Santuro tract of land projected north, said line being the east line of the Northwest Quarter of the said Northwest Quarter to the point of intersection with southerly right of way line for the Grand Trunk and Western Railroad spur, thence northwesterly along said southerly right of way line to its point of intersection with the projection of the north line of parcel of land conveyed to Carlos D. Macan and identified by Tax key No 27-1001-0227.15, thence East along said projected line to the intersection with the northerly right-of-way of said railroad; thence northwesterly along said northerly right-of-way line to it's intersection with said east line of the Northwest Quarter of the Northwest Quarter; thence north along said east line to the southeast corner of a parcel of land coveyed to Joseph & Julia Ciszczon on April 14, 1972 and identified by Tax key no 14-1018-0212.03, said point being 841.6 feet south of the north line of said Section 2; thence west along the south line of said Ciszczon parcel, a distance of 1440 feet to the point of beginning containing 8.17 acres more or less.

2. The above-described real estate presently has a zoning classification of I-1 Industrial District under the Zoning Ordinance of the City of Mishawaka.

3. Appellant proposes to occupy the above-described property in the following manner:

Milestone Fence is purchasing the property to relocate their primary business operation from the current location on McKinley Avenue. Business operations will include equipment and materials storage for the fencing contractor.

4. Appellant desires to:

As a part of the business operations, Milestone is proposing outside storage of materials and equipment necessary for the regular operation of the fence contractor business. Additionally,

Milestone is seeking a developmental variance for relief from the required all-weather paved surface for off-street parking.

5. The Zoning Ordinance of the City of Mishawaka requires

General contractors with no outside storage are permitted uses under the I-1 Zoning District in Sec 137-586 of the City of Mishawaka Zoning ordinance, however, Milestone Fence is proposing to have outside storage of materials and equipment, bringing the need for the variance. Sec 137-587 requires off-street parking areas to be surfaced with an all-weather paving material capable of carrying a wheel load of 4,000 pounds.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.

The nature of the materials and equipment required for the operation of the fence contractor business do not easily suit themselves for storage inside of buildings. The size and cost of constructing buildings to accommodate the storage of the materials and equipment would be cost prohibitive to the development of the proposed site location. Similarly, the cost of providing a paved surface to accommodate parking of equipment and storage of materials for the proposed use would be cost prohibitive for the development of the site

USE VARIANCE:

(1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

NO - Granting the use variance and allowing outside storage on the property will not impact the public health, safety, morals or general welfare of the community. The materials and equipment that will be stored do not pose any risks to public health.

(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

NO - The areas surrounding the property to the east and the north are also primarily zoned I-1 or I-2 Industrial zoning. This fits with the presence of the adjacent rail spur accommodating additional industrial development for future land uses. The proposed use is consistent with these uses, and would enhance the area rather than adversely impact the area

(3) Does the need for the variance arise from some condition peculiar to the property involved?

NO - However, the parcel is long and narrow toward the Fir Rd frontage, with additional width toward the rear of the property adjacent to I-1 zoned property at the east. This will help to minimize the visual impact of the outside storage at the far rear of the property.

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

YES - The nature of the materials and equipment required for the operation of the fence contractor business do not easily suit themselves for storage inside of buildings. The size and cost of constructing buildings to accommodate the storage of the materials and equipment would be cost prohibitive to the development of the proposed site location.

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

NO – The Mishawaka 2000 Comprehensive Plan calls for Industrial development for the proposed property and adjacent properties.

DEVELOPMENTAL VARIANCE

(1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

NO - Granting the use variance and allowing relief from the paved parking requirements will not have a negative impact to the public health, safety, morals or general welfare of the community.

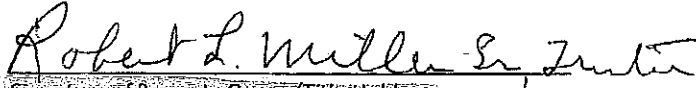
(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

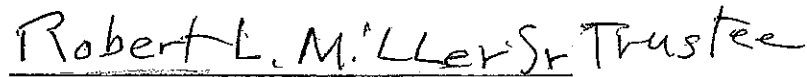
NO - The areas surrounding the property to the east and the north are also primarily zoned I-1 or I-2 Industrial zoning. Additionally, the parcel is long and narrow toward the Fir Rd frontage, with additional width toward the rear of the property adjacent to I-1 zoned property at the east. This will help to minimize the visual impact of the outside storage at the far rear of the property.

(3) Will strict application of the terms of this chapter result in practical difficulties in the use of the property?

YES - the cost of providing a paved surface to accommodate parking of equipment and storage of materials for the proposed use would be cost prohibitive for the development of the site.

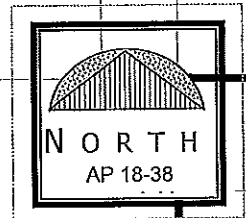
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.


Signature of Property Owner/Title Holder


Print Name Here

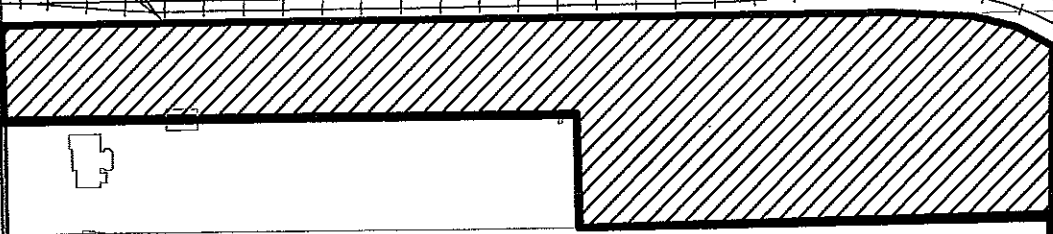
CONTACT PERSON:

Name: Michael Huber
Address: 750 Lincoln Way East
South Bend, IN 46601
Day Phone Number: 574.232.8700
Fax Number:
Email: mhuber@abonmarche.com



PEACHTREE LN

AP 18-38



Location Map

AP 18-38

ROBERT L. MILLER (OWNER)

VACANT PARCEL
NORTH OF 55260 FIR ROAD

DEVELOPMENTAL VARIANCE
TO ALLOW OUTSIDE STORAGE
AND GRAVEL PARKING AREA
FOR PROPOSED FENCE CONTRACTOR

NOV 16 2018

CITY CLERK
MISHAWAKA, IN

PETITION #18-27

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2018-27

ORDINANCE NO. _____

1st Reading 10/15/18
2nd Reading
Passed
Failed
Continued To 11/19/18

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Foundation for the Center for Hospice and Palliative Care, Inc., and Robert L. and Patricia Kay Goeller have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners own all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137 of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

(North Alley Description)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana, the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, said Plat being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northwest corner of Lot 6 in said Addition; thence North

PROPOSED ORDINANCE NO. 2018-27

ORDINANCE NO.

0 degrees 42 minutes 38 seconds East a distance of 14.34 feet to the southwest corner of Lot 9 in said Addition; thence South 76 degrees 51 minutes 17 seconds East along the south line of said Lot a distance of 128.98 feet to the southeast corner of said Lot; thence South 0 degrees 19 minutes 29 seconds West a distance of 14.36 feet to the northeast corner of Lot 8 in said Addition; thence North 76 degrees 51 minutes 17 seconds West along the north line of Lots 8, 7 and 6 a distance of 129.08 feet to the point of beginning and containing 1,806 square feet, more or less.

ALSO:

(A portion of Madison and Pine Streets)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana , the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, and the Center for Hospice Subdivision, the Plat of which is recorded in Instrument No. 1407853, said Plats being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the northeast corner of Lot 1A in the Center for Hospice Subdivision, and further being the southwest corner of the intersection of Cedar Street and Madison Street; thence North 77 degrees 03 minutes 19 seconds West 131.98 feet along the south line of Madison Street to the point of beginning of this description; thence continuing North 77 degrees 03 minutes 19 seconds West 176.84 feet along the south line of Madison Street to its intersection with the west line of Pine Street; thence North 0 degrees 42 minutes 38 seconds East 179.68 feet along the west line of Pine Street; thence South 89 degrees 37 minutes 28 seconds East 50.00 feet to the east line of Pine Street and further being the southwest corner of Lot 9 in Riverside Addition to the City of Mishawaka; thence South 0 degrees 42 minutes 38 seconds West 129.42 feet along the east line of Pine Street to the southwest corner of Lot 6 in said Addition and further being the intersection of the east line of Pine Street and the north line of Madison Street; thence South 77 degrees 03 minutes 19 seconds East along the north line of Madison Street and further being the south line of Lots 6 thru 8 in said Riverside Addition 114.98 feet; thence South 13 degrees 16 minutes 18 seconds West 30.00 feet; thence South 77 degrees 03 minutes 19 seconds East 23.88 feet; thence South 12 degrees 56 minutes 41 seconds West 30.00 feet to the point of beginning and containing 0.38 acres, more or less.

COMMONLY KNOWN AS: Portions of North Pine Street and Madison Street, and a 14' wide east-west alley lying east of Pine between Madison Street and Comfort Place

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow a new parking lot, access drives, and sidewalks to be constructed for the adjacent Center for Hospice campus.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. An ingress/egress easement shall be established and recorded to provide legal access to an existing garage located to the north of the vacated alley.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.

PROPOSED ORDINANCE NO. 2018-27

ORDINANCE NO.

4) The proposed vacation will not hinder the use of any public way, utility or place.

5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2018.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2018, at _____ o'clock _____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2018, at _____ o'clock _____M.

David A. Wood, Mayor

1st Reading 10/15/18
2nd Reading
Passed
Failed
Continued To 11-19-18

Vacation Pet # 2018-01

RECEIVED
DEBORAH S. BLOCK, MMC

PETITION #18-27

OCT 11 2018

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2018-27

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Foundation for the Center for Hospice and Palliative Care, Inc., and Robert L. and Patricia Kay Goeller have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners own all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137 of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

(North Alley Description)

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PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

0 degrees 42 minutes 38 seconds East a distance of 14.34 feet to the southwest corner of Lot 9 in said Addition; thence South 76 degrees 51 minutes 17 seconds East along the south line of said Lot a distance of 128.98 feet to the southeast corner of said Lot; thence South 0 degrees 19 minutes 29 seconds West a distance of 14.36 feet to the northeast corner of Lot 8 in said Addition; thence North 76 degrees 51 minutes 17 seconds West along the north line of Lots 8, 7 and 6 a distance of 129.08 feet to the point of beginning and containing 1,806 square feet, more or less.

(A portion of Madison and Pine Streets)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana, the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, and the Center for Hospice Subdivision, the Plat of which is recorded in Instrument No. 1407853, said Plats being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northeast corner of Lot 1A in the Center for Hospice Subdivision, and further being the southwest corner of the intersection of Cedar Street and Madison Street; thence North 77 degrees 03 minutes 19 seconds West along the south line of Madison Street 308.82 feet to its intersection with the west line of Pine Street; thence North 0 degrees 42 minutes 38 seconds East along the west line of Pine Street 179.68 feet; thence South 89 degrees 37 minutes 28 seconds East 50.00 feet to the east line of Pine Street to the southwest corner of Lot 9 in Riverside Addition to the City of Mishawaka; thence South 00 degrees 42 minutes 38 seconds West along the east line of Pine Street 129.42 feet to the southwest corner of Lot 6 in said Addition and further being the intersection of the east line of Pine Street and the north line of Madison Street; thence South 77 degrees 03 minutes 19 seconds East along the north line of Madison Street and further being the south line of Lots 6 thru 8 in said Riverside Addition 114.98 feet; thence South 13 degrees 16 minutes 18 seconds West 30.00 feet; thence South 77 degrees 03 minutes 19 seconds East 151.73 feet to the northern prolongation of the west line of Cedar Street; thence South 05 degrees 05 minutes 44 seconds West along said northern prolongation 30.28 feet to the point of beginning and containing 20,377 square feet, more or less.

COMMONLY KNOWN AS: Portions of North Pine Street and Madison Street, and a 14' wide east-west alley lying east of Pine between Madison Street and Comfort Place

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow a new parking lot, access drives, and sidewalks to be constructed for the adjacent Center for Hospice campus.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. An ingress/egress easement shall be established and recorded to provide legal access to an existing garage located to the north of the vacated alley.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place.

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2018.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2018, at _____ o'clock _____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2018, at _____ o'clock _____M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

SEP 27 2018

CITY CLERK
MISHAWAKA, IN

September 18, 2018

To the Honorable Members of the
Common Council
City of Mishawaka, Indiana
And
Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION FOR VACATION OF PUBLIC RIGHT OF WAY

The undersigned, Foundation for the Center for Hospice and Palliative Care, Inc., respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public rights of way located in the City of Mishawaka, St. Joseph County, Indiana:

(Please see the attached sheet for legal descriptions)

Petitioners further state they are the owners of the property immediately adjacent to the above-described rights of way.

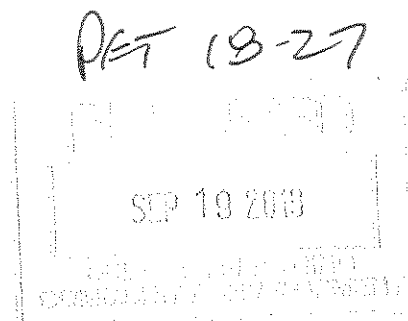
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacated the above described rights of way located in the City of Mishawaka.


Foundation for the Center for Hospice and
Palliative Care, Inc.
Lots 6-8, Riverside Addition
Lot 1A, Center for Hospice Subdivision


Robert L. & Patricia Kay Goeller
Lot 9, Riverside Addition

Contact Person:

Jones Petrie Rafinski – Chris Chockley
325 South Lafayette Blvd.
South Bend, IN 46601
574-232-4388



Project: Mishawaka Hospice
Parcel: Vacation Legal Descriptions

Sheet 1 of 2

(North Alley Description)

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Prepared for: The Center for Hospice
By: Jeffrey S. Barnes, PS
Firm: Jones Petrie Rafinski (JPR)
Date: September 18, 2018
Job Number: 2017-0283

Project: Mishawaka Hospice
Parcel: Vacation Legal Descriptions

Sheet 2 of 2

ALSO:

(A portion of Madison and Pine Streets)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana, the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, and the Center for Hospice Subdivision, the Plat of which is recorded in Instrument No. 1407853, said Plats being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northeast corner of Lot 1A in the Center for Hospice Subdivision, and further being the southwest corner of the intersection of Cedar Street and Madison Street; thence North 77 degrees 03 minutes 19 seconds West along the south line of Madison Street 308.82 feet to its intersection with the west line of Pine Street; thence North 0 degrees 42 minutes 38 seconds East along the west line of Pine Street 179.68 feet; thence South 89 degrees 37 minutes 28 seconds East 50.00 feet to the east line of Pine Street to the southwest corner of Lot 9 in Riverside Addition to the City of Mishawaka; thence South 00 degrees 42 minutes 38 seconds West along the east line of Pine Street 129.42 feet to the southwest corner of Lot 6 in said Addition and further being the intersection of the east line of Pine Street and the north line of Madison Street; thence South 77 degrees 03 minutes 19 seconds East along the north line of Madison Street and further being the south line of Lots 6 thru 8 in said Riverside Addition 114.98 feet; thence South 13 degrees 16 minutes 18 seconds West 30.00 feet; thence South 77 degrees 03 minutes 19 seconds East 151.73 feet to the northern prolongation of the west line of Cedar Street; thence South 05 degrees 05 minutes 44 seconds West along said northern prolongation 30.28 feet to the point of beginning and containing 20,377 square feet, more or less.

Note: Basis of bearing for the above descriptions are based upon the Indiana State Plane Coordinate System, East Zone.

Prepared for: The Center for Hospice
By: Jeffrey S. Barnes, PS
Firm: Jones Petrie Rafinski (JPR)
Date: September 18, 2018
Job Number: 2017-0283

Parcel No: na
Des. No.: na
Project: na
Road: Pine/Madison
Sec: 15 Town: 37 N. Range: 3 E.

Vacation Sketch Exhibit "B"

Prepared for: Center for Hospice
Owner: City of Mishawaka

Code: na

Job No: 2018-0283
Drawn: jsb
Checked: jsb
County: St. Joseph

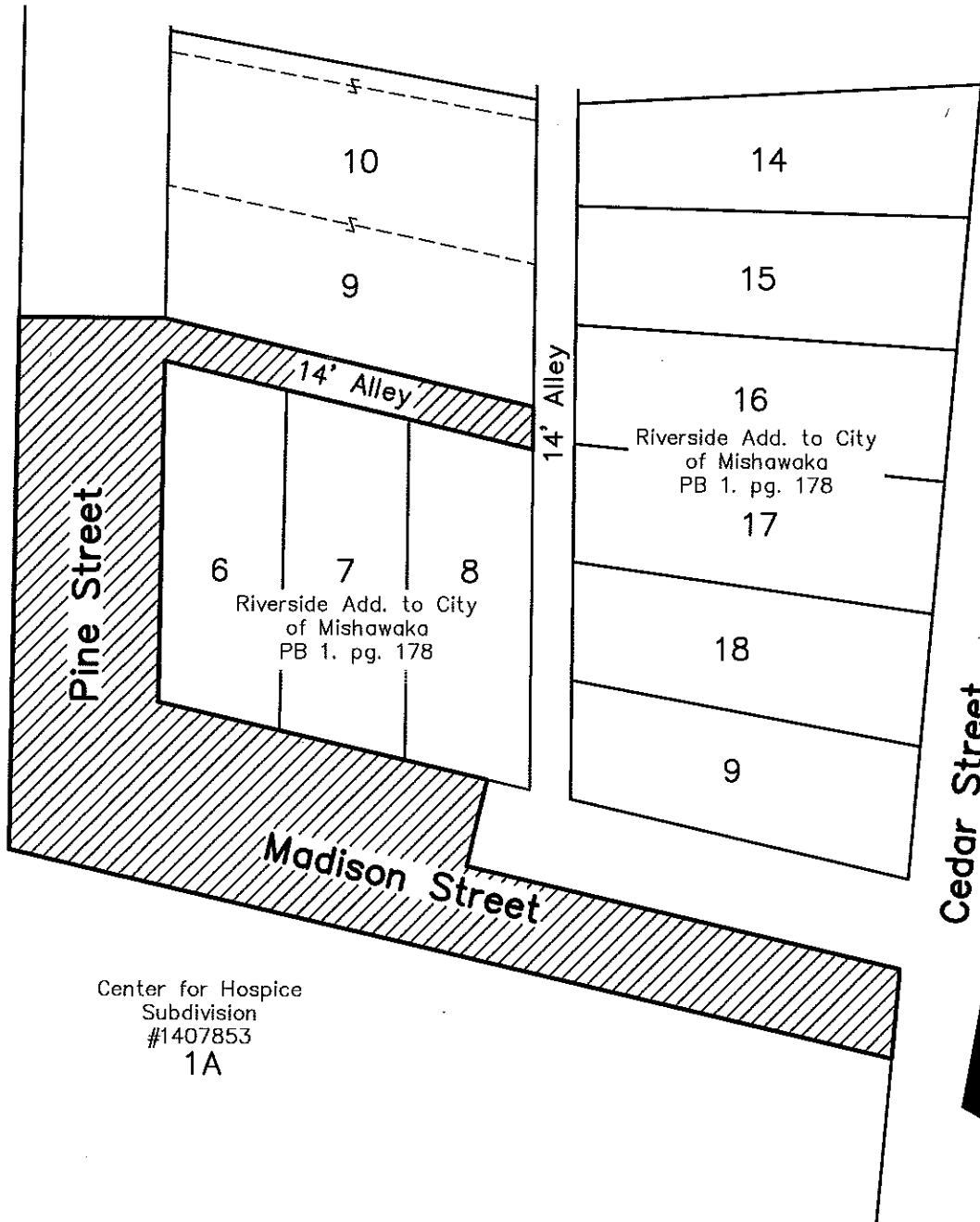


Hatched area is
approximate vacation

Deed Rec.: na
Key Number: na

This plat was prepared from information obtained from the recorder's office and other sources which were not necessarily checked by a field survey. Dimensions shown are from listed record documents.

Center for Hospice Subdivision
#1407853
1A



Cedar Street

N

1" = 60'



JONES PETRIE RAFINSKI
your one single source

Surveying • Engineering • Planning • Architecture • Utility Management
GIS • Environmental • Renewable Energy • Landscape Architecture

Elkhart, IN
p: 574.293.7762
South Bend, IN
p: 574.232.4388
Fort Wayne, IN
p: 260.422.2522

PET 18-27

NOTICE OF HEARING
VACATION NO. 2018-01
PETITION NO. 2018-27
DATE OF HEARING 11-07-2018
TIME OF HEARING 7:00PM

A petition has been filed by the
Foundation for the Center
For Hospice and Palliative Care,
Inc.

(North Alley Description)

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Mishawaka; thence South 00 degrees 42 minutes 38 seconds West along the east line of Pine Street 129.42 feet to the southwest corner of Lot 6 in said Addition and further being the intersection of the east line of Pine Street and the north line of Madison Street; thence South 77 degrees 03 minutes 19 seconds East along the north line of Madison Street and further being the south line of Lots 6 thru 8 in said Riverside Addition 114.98 feet; thence South 13 degrees 16 minutes 18 seconds West 30.00 feet; thence South 77 degrees 03 minutes 19 seconds East 151.73 feet to the northern prolongation of the west line of Cedar Street; thence South 05 degrees 05 minutes 44 seconds West along said northern prolongation 30.28 feet to the point of beginning and containing 20,377 square feet, more or less.

COMMONLY KNOWN AS:
Portions of North Pine Street and Madison Street, and a 14' wide east-west alley lying east of Pine between Madison Street and Comfort Place

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on October 7, 2018 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615

Respectfully, Deborah S. Block,
IAMC, MMC, City Clerk

18

State of Indiana St. Joseph County

Personally Appeared Before Me The Undersigned:

Nancy Nich

Legal Clerk of the **MISHAWAKA ENTERPRISE**, a public newspaper of general circulation, published in the city of Mishawaka in the County aforesaid, who being duly sworn, upon her oath saith, that the notice of which she attached is the true copy, was duly published in the **Mishawaka Enterprise** for:

XX One TWO THREE

times successively to-wit:

On the 18th day of October, 2018, and

On the day of , 2018, and

On the day of , 2018

Jennifer Nich
Subscribed & Sworn To Before Me

This 18th day of October, 2018

Jennifer Nich

Notary Public - Seal

Elkhart County - State Of Indiana

Commission Number NP0714975

My Commission Expires July 23, 2026

CHARGES: \$ 65.12

To Dr.

IDEM

South Bend Tribune
225 West Colfax Ave
South Bend, Indiana 46628
Tax ID# 35-13-1571

.....County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Ad #: 562242

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set) -- number of equivalent

Head -- Number of lines

Body -- Number of lines

Body -- Number of lines

Total number of lines in notice

156

COMPUTATION OF CHARGES

156 lines, 1 columns wide equals 156 equivalent lines at 0.3818 cents per line

Additional charges for notices containing rule or tabular work
(50 per cent of above amount)

Charge for extra proofs of publication

(\$1.00 for each proof in excess of two)

\$0.00

TOTAL AMOUNT OF CLAIM

\$59.56

DATA FOR COMPUTING COST

Width of single column in picas 9.4ems

Size of 8 point

Number of Insertions

1

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 time(s). The dates of publication being as follows: South Bend Tribune: 10/18/18.

Sally J. Brown
Publisher

Cheryl June Morey
Cheryl June Morey, Notary Public
Resident of St. Joseph County
Commission Number: 693302
My Commission expires December 21, 2024

CHERYL JUNE MOREY
Notary Public - Seal
St Joseph County - State of Indiana
Commission Number 693302
My Commission Expires Dec 21, 2024

South Bend Tribune

That it is duly authenticated as required by law.
That it is based upon statutory authority.

225 W. Colfax Ave. South Bend, IN 46628
ON ACCT OF APPROPRIATION FOR

\$59.56

correct

Appropriation No. Tax ID# 35-138-1571

That it is apparently

incorrect

ALLOWED _____
IN THE SUM OF \$59.56

I certify that the within claim is true and correct; that the services there in itemized and for which charge is made were ordered by me and were necessary to the public business

Attest

NOTICE OF HEARING

VACATION NO. 2018-01

PETITION NO. 2018-27

DATE of HEARING 11-07-2018

TIME of HEARING 7:00PM

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Respectfully, Deborah S. Block, IAMC, MMC, City Clerk

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City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615

Hspaxlp

1t: 10:18

Deb Block

From: Ken Prince
Sent: Wednesday, November 07, 2018 1:47 PM
To: DL-Council; David A. Wood; Deb Block
Cc: Mike Wargo (wargom@cfhcare.org); 'cchockley@jpr1source.com'; Derek Spier
Subject: FW: Center for Hospice Campus - Proposed Right-of-Way Vacations for Portions of Pine Street, Madison Street, and an E-W Alley (Petition 18-27)
Attachments: image001.png

Good afternoon,

As you are aware, tonight on your agenda is a vacation request being made by the Center for Hospice. At the Plan Commission Meeting there were concerns expressed by a few neighbors regarding parking. Specifically, a concern for the lack of available public parking if Madison Street were to be vacated as requested.

During the meeting and following the concerns expressed, staff requested that the Planning Commission forward a favorable recommendation to the Common Council with the modification that the proposed angled parking within the proposed vacated area be left in public right-of-way to address the parking concern and also to give the Center of Hospice the ability to work some other solution out before the Council Meeting.

Immediately following the meeting, a representative of the Center for Hospice met with the neighbors and we were of the understanding that the Center for Hospice had a verbal agreement with the neighbors who attended. Essentially, it was our understanding that the agreement was to allow for the vacation to proceed as requested and that the Center for Hospice would let the neighbors use the parking in off hours when the parking was not being used by the Center for Hospice, essentially, most evenings and weekends. Accordingly, the ordinance forwarded to the Council, reflects the original vacation boundaries as submitted.

From Staff's perspective, this was a better arrangement than keeping the area as public right-of-way. As we tell those who request handicapped designations in front of their homes, since those spaces are public, there is no guarantee that those spaces will be reserved for them. In this case, by working with the Center for Hospice keeping this area private was the best way to address the concern of the residents making parking available to them. From a functional standpoint, we also thought this solution was best because the vacated portion of Madison Street, once modified will essentially be an alley meant to serve the homes along Cedar Street and not intended for regular traffic. This area would not be regularly maintained by the City and would be taken care of by the Center for Hospice specifically. Although there is no guarantee of perpetual availability of parking, we feel that it is important to recognize the on-going inclusionary efforts of the Center to work with the neighbors located along Cedar Street, and the secondary relationship of parking relative to the vacation request.

Since that time Councilwoman Voelker has been contacted by the current homeowner at the intersection of Cedar Street and Edgewater Drive with a concern that there was no agreement in writing. Staff reached out to the Center for Hospice and Mike Wargo was kind enough to summarize his efforts to that end below in the e-mail chain.

I just wanted to provide you the opportunity to review this prior to the meeting. If you have additional questions before tonight, please let me know.

Ken

-----Original Message-----

From: Mike Wargo [mailto:wargom@cfhcare.org]

Sent: Tuesday, November 06, 2018 5:55 PM

To: Ken Prince

Cc: Derek Spier; Chris Chockley

Subject: Re: Center for Hospice Campus - Proposed Right-of-Way Vacations for Portions of Pine Street, Madison Street, and an E-W Alley (Petition 18-27)

Hi Ken . . . I spoke with both Erica Campbell (301 Edgewater) and Ken McCleary (309 N. Cedar) regarding the concerns they raised at the Plan Commission meeting. I assured both of them that parking will not be an issue from our perspective.

Ken and his wife expressed their appreciation for my taking the initiative to meet with them and seemed comfortable with my assurances that we wanted to continue to be good neighbors by making parking available to their family when they visited, and did not express that they felt the need to have something in writing from us.

I stopped by Erica's house two times last week in hopes that I could speak with her in person, but she was not home. I called and left a voice mail, which she returned the following day. During our conversation, she did express to me her desire to have something in writing from us that would guarantee her family (and whoever ultimately buys her house that is currently for sale) would have parking available to them – presumably in perpetuity. I told her that was not something we were willing to do and that we do not want to be in the parking lot business. That said, I did give her my verbal assurance that she would be able to continue to park her cars on Madison Street. With the possible exception of occasional overnight guests staying in our Guest House at 301 North Cedar Street, we do not anticipate having much need for parking in that area of Madison Street after 5PM Monday thru Friday, nor do we anticipate having any need for those parking spaces on the weekends.

Hopefully, this explanation will allay any concerns. Thanks . . . Mike

From: Ken Prince <kprince@mishawaka.in.gov>

Date: Tuesday, November 6, 2018 at 4:34 PM

To: Chris Chockley <cchockley@jpr1source.com>, Derek Spier <dspier@mishawaka.in.gov>

Cc: Mike Wargo <wargom@cfhcare.org>

Subject: RE: Center for Hospice Campus - Proposed Right-of-Way Vacations for Portions of Pine Street, Madison Street, and an E-W Alley (Petition 18-27)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Just an FYI, the homeowner at the intersection of Edgewater and Cedar has contacted at least one Council Member and I heard second hand that they have concerns because Hospice wasn't able to provide anything in writing regarding the ability to park there.

Even if it is informal, I think the Council and neighbors should understand how they may be able to use or not use those seven spaces if at all. An alternative is that it can remain public right-of-way for this section which is what the Plan Commission recommended and thought could be worked out before the Council meeting.

Please advise.

Ken

Subject: RE: Center for Hospice Campus - Proposed Right-of-Way Vacations for Portions of Pine Street, Madison Street, and an E-W Alley (Petition 18-27)

Mike has personally spoken with the two neighbors that were at the Plan Commission and mentioned to them that there shouldn't be any issues with parking. The Center of Hospice want to be a good neighbor and does not think that there will be any issues with parking. Mike mentioned that that they do not want to get into the parking space lease business.

As mentioned at the Plan Commission, if the south half of Madison Street is vacated the Center for Hospice will maintain the roadway and 7 identified parking spaces.

Chris Chockley, PLA, AICP | Landscape Architect South Bend | Fort Wayne | Elkhart o. 574.232.4388 | m. 574.261.5287 |

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Jones Petrie Rafinski

Official Sponsors of the 2018 Baseball Winter Meetings

Subject: Center for Hospice Campus - Proposed Right-of-Way Vacations for Portions of Pine Street, Madison Street, and an E-W Alley (Petition 18-27)

Chris~

As a follow up to our conversation yesterday, can you summarize what the current proposal is for providing public parking, if any, or the number of spaces that will be set aside for leasing within the portion of Madison St. to be vacated? Following the Plan Commission meeting, it was discussed that allowing a certain number of spaces to be leased could potentially provide enough parking and satisfy the parking needs of the adjacent property owners.

Currently, the legal description still reflects vacating the southern half of Madison Street between the alley and N. Cedar Street so that the proposed 7 parking spaces in this area would be private. Depending on the discussion at tomorrow's night meeting and per the recommendation of the Plan Commission, the southern half of the right-of-way may have to remain as public right-of-way. If this occurs, the legal description, exhibit drawing, and replat would have to be updated.

Please call or e-mail if you have any questions.

Best regards,

Derek Spier, AICP
Senior Planner / Economic Development Specialist

[city-seal-blue-small2]<[City of Mishawaka
600 East Third Street
Mishawaka, IN 46544](https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fmx.cficare.org%3a32224%2f%3fdmVyPTEuMDAxJiZkMDc5NGVjNzImODc5MDE3Yj01QkUyMDhGRF81MDI0OF80NDI3XzEmJjQ2ZWVmY2ZmODY4ZTBhMD0xMjlyJiZ1cmw9aHR0cCUzQSUYRiUyRnd3dyUyRW1pc2hhd2FrYSUYRWluJTJFZ292JTJG&c=E,1,MXQX2Xh3v0valzvvJPxdp-iF7z566OEImWCdz7l7Tg93B6csvq6dpsEBVwEay2cMR6IL7vzNsfBOL1vhhX3GHwtN67LkiN5F65mIVfklajTwCellA,,&typo=1></p></div><div data-bbox=)

p: 574-258-1625
f: 574-968-6999
e: dspier@mishawaka.in.gov<<mailto:kprince@mishawaka.in.gov>>

MapleTronics iControl Panel
From: dspier@mishawaka.in.gov<<mailto:dspier@mishawaka.in.gov>>

To: cchockley@jpr1source.com<<mailto:cchockley@jpr1source.com>>

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Vacation Public Ref W portion of Madison & Pine Sts.
Center for Hospice & Palliative Care, Inc.

TO THE MEMBERS OF
THE COMMON COUNCIL OF THE CITY OF MISHAWAKA

Your Committee on **LAND USE PLANNING**; to whom was referred
the matter of Proposed Ordinance No. 2018-27 report that they
have examined said matter and that in their opinion

should be adopted

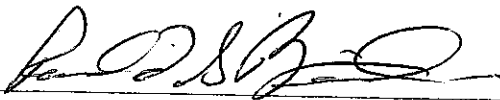
should not be adopted

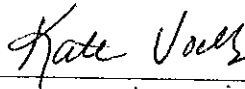
should be amended and adopted

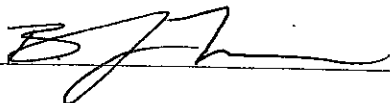
should be presented to the Council as a whole

should be continued

This is signed by THE ENTIRE COMMITTEE and I move for its
acceptance









City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2018-01</u>
PETITION NO.	<u>2018-27</u>
DATE of HEARING	<u>11-07-2018</u>
TIME of HEARING	<u>7:00PM</u>

**A petition has been filed by the Foundation for the Center
For Hospice and Palliative Care, Inc.**

(North Alley Description)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana , the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, said Plat being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northwest corner of Lot 6 in said Addition; thence North 0 degrees 42 minutes 38 seconds East a distance of 14.34 feet to the southwest corner of Lot 9 in said Addition; thence South 76 degrees 51 minutes 17 seconds East along the south line of said Lot a distance of 128.98 feet to the southeast corner of said Lot; thence South 0 degrees 19 minutes 29 seconds West a distance of 14.36 feet to the northeast corner of Lot 8 in said Addition; thence North 76 degrees 51 minutes 17 seconds West along the north line of Lots 8, 7 and 6 a distance of 129.08 feet to the point of beginning and containing 1,806 square feet, more or less.

(A portion of Madison and Pine Streets)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana , the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, and the Center for Hospice Subdivision, the Plat of which is recorded in Instrument No. 1407853, said Plats being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northeast corner of Lot 1A in the Center for Hospice Subdivision, and further being the southwest corner of the intersection of Cedar Street and Madison Street; thence North 77 degrees 03 minutes 19 seconds West along the south line of Madison Street 308.82 feet to its intersection with the west line of Pine Street; thence North 0 degrees 42 minutes 38 seconds East along the west line of Pine Street 179.68 feet; thence South 89 degrees 37 minutes 28 seconds East 50.00 feet to the east line of Pine Street to the southwest corner of Lot 9 in Riverside Addition to the City of Mishawaka; thence South 00 degrees 42 minutes 38 seconds West along the east line of Pine Street 129.42 feet to the southwest corner of Lot 6 in said Addition and

further being the intersection of the east line of Pine Street and the north line of Madison Street; thence South 77 degrees 03 minutes 19 seconds East along the north line of Madison Street and further being the south line of Lots 6 thru 8 in said Riverside Addition 114.98 feet; thence South 13 degrees 16 minutes 18 seconds West 30.00 feet; thence South 77 degrees 03 minutes 19 seconds East 151.73 feet to the northern prolongation of the west line of Cedar Street; thence South 05 degrees 05 minutes 44 seconds West along said northern prolongation 30.28 feet to the point of beginning and containing 20,377 square feet, more or less.

COMMONLY KNOWN AS: Portions of North Pine Street and Madison Street, and a 14' wide east-west alley lying east of Pine between Madison Street and Comfort Place

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on October 7, 2018 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

Respectfully, Deborah S. Block, IAMC, MMC, City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615

Mary Ellen Hazen, Chief Deputy I Raven Boston, Chief Deputy II
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@mishawaka.in.gov Website: Mishawaka.in.gov