

AGENDA

Monday, January 21, 2019

Councilmembers Picture

6:00PM

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**

January 21, 2019

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their January 8, 2019 meeting.

A letter from the City Plan Commission regarding recommendations from their January 8, 2019 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2019-02 Annex and Zone C-6 Office Commercial 53013 Fir Rd

P.O. NO. 2019-03 PUD Amendment to add Senior Daycare Use 6005 North Fir Rd

P.O. NO. 2019-04 Amendment to 2019 Salary Ordinance(Petitioner Requesting Second Reading)

8. Resolutions

R2019-01 Conditional Use for Tattoo Establishment 236 W. Edison Rd

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

Suspend Council Rules for Mayor Wood's State of the City on March 25th at Battell Center.

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
January 7, 2019

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 January 07, 2019, at 7:00 p.m. The meeting was called to order by Clerk Block all were asked to stand for the Pledge of Allegiance.

Clerk Block introduced newly elected council members Stacy Petko Reisdorf, 3rd District and Gregg A. Hixenbaugh, Councilmen at Large. Clerk Block explained at the last meeting of the year, they knew they would be replacing Councilmen at Large Joe Canarecci. She continued to say they had no idea Ross Deal, 3rd District would be the new State Representative District 7.

Dale “Woody” Emmons 1st District
Mike Bellovich 2nd District
Stacy Petko Reisdorf 3rd District
Kate Voelker 4th District
Michael Compton 5th District
Ron Banicki 6th District
Gregg A. Hixenbaugh At Large
Matt Mammolenti At Large
Bryan J. Tanner At Large

Chief Deputy Clerk Mary Ellen Hazen roll call showed the following,  **Roll Call.**
Present: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Others present; Mike Trippel Council Attorney.

Clerk Block opened the floor for nominations for President of the Council. Mr. Banicki nominated Dale “Woody” Emmons with a second by Mr. Compton the motion carried.

Chief Deputy Clerk Hazen polled the Council on the motion to elect Mr. Emmons, President.
 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Mr. Banicki made a motion, to close the nominations with a second by Mr. Tanner the motion carried

Clerk Block turned the meeting over to President Dale “Woody” Emmons who opened the floor for nominations for Vice President of the Council. Mr. Tanner nominated Ron Banicki for Vice President upon a second by Mr. Mammolenti the motion carried.

Clerk Block polled the Council on the motion to elect Mr. Banicki, Vice President.  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr.

Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Minutes for the Regular Meeting of December 17, 2018 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their December 11, 2018 meeting.

Appeal No 2018-45 **Conditional Use for Tattoo Establishment**
236 W. Edison Rd

Petition No 2018-34 **PUD Amendment to add Senior Daycare Use**
6005 North Fir Rd

Clerk Block read the following proposed ordinances by title were assigned to a committee and set for public hearing at next the meeting.

PROPOSED ORDINANCE NO, 2019-01

**AN ORDINANCE APPROVING AND AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS
ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS, AFL-CIO**

(CBA between City & Firefighter Local 360 1-01-2019 thru 12-31-2021)

(Petitioner requested second reading)

Mrs. Voelker made a motion to suspend council rules to allow second reading for **PROPOSED ORDINANCE NO. 2019-01** upon a second by Mr. Banicki motion carried.

Geoff Spiess, Corporation Counsel thanked the council for suspension of rules. He went on to say the collective bargaining agreement would cover 2019 through 2021. Mr. Spiess said the union body ratified on December 27th and the Board of Public Works and Safety ratified on December 28th.

Mrs. Voelker mentioned she had a privilege to sit in on meeting with Police and Fire. She said she admired the hard work in negotiating.

Mr. Emmons thanked the Administration and all that were involved for all their work, time and effort.

Question was called for at 7:11 P.M. for **PROPOSED ORDINANCE NO. 2019-01**  **Vote:**
Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr.

Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5644**

Clerk Block read the following proposed ordinances and opened for public hearing.

PROPOSED ORDINANCE NO. 2018-38

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, AUTHORIZING THE ISSUANCE OF ECONOMIC DEVELOPMENT
REVENUE BONDS IN ONE (1) OR MORE SERIES IN THE AGGREGATE
PRINCIPAL AMOUNT NOT TO EXCEED SEVEN MILLION EIGHT HUNDRED
THOUSAND DOLLARS (\$7,800,000) AND APPROVING AND AUTHORIZING
OTHER ACTIONS IN RESPECT THERETO
(EDC Bond \$7,800,000 – Ironwood Village Apts.)
(Assigned to the Budget and Finance Committee)**

Mr. Compton reported the Budget and Finance 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. Banicki motion carried.

Randy Rompola, Attorney with Barnes and Thornburg served as Bond Counsel for this proposed financing transaction. He said the proposed ordinance was requested to be adopted by EDP Ironwood, LP which was the borrower in the proposed financing. Mr. Rompola continued to say Eagle Point Development was looking to renovate the apartment complex formerly known as Arbors at Ironwood, which would be known as Ironwood Village Apartments. He explained the ordinance provides for tax exempt financing to finance the acquisition of rehabilitation of 128 apartment units. Mr. Rompola said the council approved the inducement resolution back in July. He said the Economic Development Commission held its public hearing on December 10, 2018 and adopted its final resolution recommending adoption of the ordinance by the council. Mr. Rompola went on to say the ordinance did state the bonds to be issued were not to exceed 7.8 million dollars. He explained the forms with the ordinance read 7.6 million was the borrowing amount, but the 7.8 million was the maximum amount not to exceed. Mr. Rompola said they were expecting the bond issue to be slightly less. He explained the current working number was 7.6 million dollars, which was the reason it was reflected in the indenture and loan agreement that was attached to the ordinance. Mr. Rompola went on to explain the bonds would be issued as tax exempt bonds, which required the local governing body to issue the bonds. He said the Federal Government had a tax program to allow conduit issuers, the “City of Mishawaka” to issue the bonds and loan the proceeds to the developer for purposes of completing acquisitions and rehabilitation. Mr. Rompola stated the city bares no responsibility and would not have any role once the bonds were issued. He said if the project failed or the developer failed to make a payment, it would have no effect on the city or the city’s credit rating. Mr. Rompola continued to say the proposed purchaser of the bonds would look solely to the developer for repayment. He said the ordinance authorized the issuance of the bonds; it provided for the bonds to be sold by an underwriter and it approved the form of the loan agreement. Mr. Rompola mentioned there was also a land use restriction agreement as well approved by this ordinance, which would provide the tax-exempt requirements for the developer to meet. Mr. Rompola introduced Jason Barnes to speak on behalf of Eagle Point to discuss the project in details.

Jason Barnes, Eagle Point Development said Arbor at Ironwood was a currently 128-unit affordable housing community with a mix of 1, 2, 3-bedroom apartments serving families in Mishawaka. He said their rehab budget was 4 million dollars. Mr. Barnes continued to say the rehab would include all units to receive high energy star rated appliances, updated electrical and mechanical finishes, updated kitchens and other finishes throughout the units. He said there would also be exterior updates on roofing, insulation in the attics, exterior lighting, playground equipment and more. Mr. Barnes went on to say they would meet with the Indiana Housing Authority in two weeks for approval. He said after approval from the Housing Authority they expect to close to start rehab in the second quarter with a 12-month construction schedule.

Mrs. Voelker asked was the 4 million dollars the total amount they would have available for the apartment units. Mr. Barnes explained they had 4 million dollars in their budget and they carry a contingency. He said it was 31, 250 dollars per unit.

Mr. Compton asked would they be hiring locally. Mr. Barnes said their General Contractor was CRG Residential outside of Indianapolis and they were soliciting local trade carpenters. Mr. Compton said outside of Indianapolis may sound local to them, but they would like for them to hire Mishawaka citizen or at least St. Joseph County citizens working on this project. He continued to say it was good for the community and it was what the city promoted.

Mr. Emmons asked had they heard of any traffic concerns coming out of Arbors crossing Dragoon Trail. Mr. Barnes replied no. Mr. Emmons said it was brought to his attention and asked that he address the issue if possible.

Mr. Tanner thanked and commended Mr. Rompolo on explaining the parameters and how the city bears no burden of this type of issuance.

Question was called for at 7:23 P.M. for **PROPOSED ORDINANCE NO. 2018-38** 
Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5645**

PROPOSED ORDINANCE NO. 2018-40

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.

(PUD Amd S 10 acres SE Main & Douglas PUD lot 1 Portillo’s Main St.)
(Assigned to the Land Use Planning Committee)

Mrs. Voelker 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. Banicki motion carried.

Mike Huber, Abonmarche Consultants represented the petitioner and property purchaser. He said the project was located east of Main Street, east of Cheddars and Portillo's and west of St. Joe Hospital. Mr. Huber said the primary entrance to the proposed development would be off to Edison Lakes Parkway. He continued to say they were working with the Planning and Fire Department as they were looking at additional connectivity and access point to make sure they met all requirements. Mr. Huber said the project was 10 acres of land at the southern edge of the PUD and they were also bringing in 1.63 acres to the west, which was east of the Cheddars Restaurant. He said they were requesting to change the zoning in the southern 10 acres to allow for a multiple family housing development. Mr. Huber said there would be 400 units on five four story buildings over parking. He continued to say their client was developing a unique product in the area. Mr. Huber went on to say it would be exclusively studio and one bedroom units that would target employees of the hospital. He said this was a new market being built nationally and specifically targeting a life style and millennial employees of the hospital who valued the proximity to where they lived and work. Mr. Huber went on to say one of the things they were asking for in the petition was a reduction in 1.5 cars per unit to 1.2 cars per unit. He continued to say they were providing more parking density, every unit would have a spot with additional for visitors. Mr. Huber said they were looking at a really nice design to match the design of the hospital.

Mr. Mammolenti said every time a new a potential new apartment complex arrives in Mishawaka; he was frequently asked the same questions, how many more apartments and who would live in them. Mr. Huber said as he mentioned before this was a new market they were targeting, and it was new to this area. He continued to say this was a national model they were using; they have done this around the country. Mr. Huber said the developers have done their homework and they were confident they had the ability to segment the target of that population. He pointed out there was also another hospital to the south and a couple of medical centers in the close proximity. Mr. Mammolenti asked what was the occupancy rate for these facilities. Mr. Huber he did not know for sure, but he could get that information.

Mr. Tanner asked would this be four stories on top of a parking structure. Mr. Huber replied no, it was surface parking. Mr. Tanner said he also noticed the maximum height of the structure was 48 feet. He asked what kind of construction it would be able to hit those parameters. Mr. Huber said he was not sure. He believed it would be wood frame construction, but it could be steel. Mr. Tanner made the comment he was not sure this would really stand out especially with the hospital nearby, it seemed like a tight constraint for the amount of stories being built and the parameters set with them.

Mr. Emmons asked were the other facilities around the country at similar density. Mr. Huber replied yes, they did similar densities at other properties as well. Mr. Emmons asked did the developer feel confident they could fill 400 units. Mr. Huber replied yes, the developer did extensive market research in the area, they knew the target market and they knew the density of their target particularly in that area. He said they were pretty confident. Mr. Emmons also questioned the construction time line. Mr. Huber said they had to go back and redo some architectural and planning services. He continued to say they were looking at end of first quarter,

early second quarter for construction to begin but it may be delayed to the end of second quarter, early third. Mr. Huber said a year after they would begin leasing.

Mr. Banicki questioned the amenities for this project. Mr. Huber said he knew there would be a gathering room with kitchen. He said the developer certainly had ideas of having communal spaces and amenities that appealed to this target demographic; it was a key component of the apartment designs. Mr. Banicki asked was part of the philosophy to include walking paths to the hospital. Mr. Huber replied yes, that was the main philosophy of this project, to connect with a walking path to the hospital.

Mr. Mammolenti questioned the monthly rent for the proposed apartments. Mr. Huber said he was not sure. Mr. Tanner said he read an article in the South Bend Tribune regarding the projects projections of monthly rent would be \$1,000 to \$1,200.

John Piraccini, Realtor wanted to clarify a few of the questions that were asked. He said the density was high because of the cost of the land was very expensive. Mr. Piraccini continued to say the sewer line had to be brought in through Edison Lake because there was not access on Douglas Road, which the developer had to purchase additional land for the access. He mentioned they were working very closely with Ken Prince, City Planner on multiple access point. Mr. Piraccini said there was a small mitigated wet land they had to work through and Juday Creek was also nearby. He said they had a lot of meetings with the hospital discussing the plans for the project. Mr. Piraccini said the developer had around a total of 12 properties, they had similar properties in Fort Wayne, North West Indiana, Orlando Florida, and Boston to name a few. He went on to discuss the amenities. Mr. Piraccini said there would not be a pool; all amenities would be within the units because of the density of the property. He went on to say they wanted to make sure everything mixed in with the access between Qdoba and Portillo's. Mr. Piraccini said access out to Douglas Road and Edison Lakes would be the major access points. He mentioned the developer was in early negotiation with the hospital, the hospital may take an entire floor of apartments. He believed this would be a nice fit. Mr. Piraccini went on to say they were coming close to the front three acres of more retail. He said Mr. Coussens turned down a developer for apartments on a section of land because he wanted to wait to see how well this development did. Mr. Piraccini said the demand seemed to be there.

Questioned was called for at 7:40 P.M. for **PROPOSED ORDINANCE NO. 2018-40** 
Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5646**

NEW BUSINESS

Mr. Mammolenti announced Twin Branch neighborhood meeting would be January 16, 2019 at Twin Branch School. He said a guest speaker had not been confirmed, they may be newly elected 3rd District Councilwoman Stacy Petko Reisdorf and Councilmen at Large Gregg A. Hixenbaugh.

Mr. Emmons announced the 1st District neighborhood meeting would be January 17, 2019 at 7 P.M., speaker would be Lt. Eric Beckham discussing the drug problems in the community and nationwide.

**MISHAWAKA COMMON COUNCIL
2018 COMMITTEE & APPOINTMENTS**

**President: Matt Mammolenti
Vice President: Dale “Woody” Emmons**

BUDGET & FINANCE COMMITTEE

Mike Compton, Chairman
Gregg A. Hixenbaugh
Mike Bellovich

LAND USE PLANNING COMMITTEE

Ron Banicki, Chairman
Kate Voelker
Bryan Tanner

PUBLIC HEALTH & SAFETY/LONG RANGE PLANNING COMMITTEE

Bryan Tanner, Chairman
Matt Mammolenti
Kate Voelker

PUBLIC IMPROVEMENTS COMMITTEE

Mike Compton, Chairman
Stacy Petko Reisdorf
Mike Bellovich

PERSONNEL COMMITTEE

Gregg A. Hixenbaugh, Chairman
Bryan Tanner
Mike Bellovich

SUB-STANDARD HOUSING COMMITTEE

Matt Mammolenti, Chairman
Stacy Petko Reisdorf
Kate Voelker

Clerk Block read the following appointments to various boards:

Mr. Emmons opened the floor for nomination for Council Attorney. Mr. Mammolenti nominated Mike Trippel as Council Attorney upon a second by Mr. Banicki motion carried.

COUNCIL ATTORNEY – Mike Trippel

PLAN COMMISSION – Woody Emmons 12/31/2019

TRAFFIC COMMISSION – Ron Banicki expires 12/31/2019

MBA – Bryan Tanner, No expiration

SOLID WASTE – Woody Emmons

MACOG – Stacy Petk Reisdorf
INSURANCE COMMITTEE – Gregg A. Hixenbaugh

Mr. Emmon opened the floor for nominations for the Redevelopment Commission. Mr. Tanner nominated Kris Ermeti and Janet Whitfield Hyduk upon a second by Mr. Compton motion carried

REDEVELOPMENT COMMISSION – Kris Ermeti & Janet Whitfield Hyduk 12/31/2019
FIRE DEPT PLATOON STUDY COMMITTEE – Woody Emmons
BOARD OF ZONING APPEALS – Chuck Trippel 12/31/2019

Mr. Emmons opened the floor for nomination for the Animal Control Commission. Mr. Compton nominated Dr. Headley for Animal Control Commission upon a second by Mr. Tanner motion carried.

ANIMAL CONTROL COMMISSION – Dr. Headley 12/31/2021
HISTORIC PRESERVATION- Kate Voelker 12/31/2020
MISHAWAKA SCHOOL LIASON Woody Emmons

Clerk Block said there was the matter of acceptance of the Conflict of Interest forms filed by:

Dale “Woody” Emmons”
Stacy Petko Reisdorf
Matt Mammolenti
Gregg A. Hixenbaugh
Bryan Tanner

Mr. Banicki made a motion to accept the conflict of Interest form as filed upon a second by Mr. Tanner motion carried

Clerk Block said there was the matter of Nepotisms and Contracting Policy forms to be signed by the eleven elected officials to be presented to the mayor.

Mr. Banicki welcomed Stacy Petko Reisdorf and welcomed back Gregg Hixenbaugh to the council. He also thanked Mr. Deal for everything he’s done for the city and hopefully he could help at the state level.

ADJOURNMENT 7:51 P.M.

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

Dale “Woody” Emmons /s/
Dale “Woody” Emmons, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 9, 2019

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
January 8, 2019, 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 Variance was considered:

APPEAL #18-45 An appeal submitted by Edison Lake View Associates, LLP, requesting a Conditional Use for a tattoo establishment at **236 W. Edison Road.**

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

1. The tattoo and body piercing studio must comply with all regulations and permitting requirements per Chapter 18 – Business Regulations, Article X – Tattoo and Body Piercing Establishments of the City of Mishawaka.
2. There shall be no loitering or disruptive behavior in or around the business. If problems are encountered as identified by the Mishawaka Police Department, and those problems are not corrected, the Conditional Use shall be revoked by default.
3. No one under the age of 18 shall be permitted to have artwork done to their body unless accompanied by their parent or legal guardian and proof of identification is showed. Identification must include a certified birth certificate.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Amber Olsen

STAFF REPORT

Location: 236 W Edison

Date: January 8, 2019

Appeal: 18 45

Prepared By: CH

GENERAL INFORMATION

Applicant: Edison Lake View Associates LLP/Amber Olsen

Status: Property Owner / Authorized Representative & Contingent Tenant

Request: Use Variance to allow a tattoo establishment within a multi-tenant commercial building.

Zoning Classification: C-1 General Commercial District

Lot Size: 1.01 acres

Applicable Regulations: Section 137-301 (b) Commercial C-1 District Uses & Section 137-43 (7) / Board of Zoning Appeals – Conditional Use

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial (car sales)
South: S-2 Planned Unit Development (radio station)
East: C-2 Shopping Center Commercial (multi-tenant commercial building)
West: C-4 Automobile Oriented Commercial (car sales)

Thoroughfare: West Edison Road

School District: South Bend Community School Corporation

Township: Clay

Public Utilities: Available and Existing

Comprehensive Plan: General Commercial (Downtown Retail Sales & Shopping Centers)

ANALYSIS

The Appellant is requesting a Conditional Use to allow a tattoo establishment within a multi-tenant commercial building at 236 W Edison. The building is located on the north side of Edison Road, between Grape Road and Main Street.

The Conditional Use is being requested because the City of Mishawaka Zoning Ordinance, per Section 137-301 (b) (4) Conditional Uses in the C-1 General Commercial District, states:

Tattoo establishment; provided, however, that it is at least 750 feet away from any residentially zoned land or legal nonconforming residential property, public and private elementary, middle or high school, parks and churches as measured by a line between the nearest lot line of the tattoo parlor.

This means that in order to open a tattoo establishment in Mishawaka the property must be zoned C-1 General Commercial District and meet the separation requirements from the adjacent uses as listed above. The separation requirements were confirmed via the MACOG GIS.

The proposed use is commercial in nature and would be located in an existing multi-tenant commercial building also containing a restaurant, massage studio, driving school, etc. The tenant spaces are between 800 and 1,500 sq. ft. The strip center, was constructed in 1980 and includes over 11,000 sq. ft. of retail space. The tattoo and body piercing studio will be an entirely new business. The Conditional Use will not prevent the uses permitted in the C-1 General Commercial District, from occupying other units within the shopping center.

All tattoo establishments must comply with the County Health Department regulations, and Chapter 18-Business Regulations, Article X-Tattoo and Body Piercing Establishments of the City of Mishawaka Ordinance. Initially there will be two artists, with room to expand up to six.

The Plaza has 66 parking spaces for the existing uses in the strip center. Per the current ordinance, off-street parking is required at a ratio of 4 spaces per 1,000 sq. ft. of gross floor area, however, the restaurant use requires ten per 1,000 sq. ft. of gross floor area. The restaurant use requires 26 spaces and the retail uses require 35 parking spaces.

All pertinent City Departments have reviewed and approved the request. The Building Department stated that building permits will be required for the interior remodel and an occupancy permit must be obtained prior to occupancy.

RECOMMENDATION

The Staff recommends **approval** of Appeal 18-45 for a use variance to allow a tattoo establishment within an existing multi-tenant commercial building at 236 W Edison, subject to the following conditions:

1. The tattoo and body piercing studio must comply with all regulations and permitting requirements per Chapter 18-Business Regulations, Article X-Tattoo and Body Piercing Establishments of the City of Mishawaka.
2. There shall be no loitering or disruptive behavior in or around the business. If problems are encountered as identified by the Mishawaka Police Department, and those problems are not corrected, the Conditional Use shall be revoked by default.
3. No one under the age of 18 shall be permitted to have art work done to their body unless accompanied by their parent or legal guardian and proof of identification is shown. Identification must include a certified birth certificate.

This recommendation is based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the tattoo studio will be located within an existing commercial plaza and be permitted, operated and managed according to all applicable regulatory codes. Additionally, tattoos have experienced resurgence in popularity and acceptance in recent decades and coupled with advancements in tattoo pigments and ongoing refinement of the equipment used, has led to an improvement in the quality of tattoos being produced.
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 studio will be located in a building that is surrounded by commercial and office development in an area of various commercial uses. The plaza has an appropriate number of parking spaces provided for the proposed uses of the building.

3. There are two bodies that oversee tattoo establishments, the St. Joseph County Health Department and the City of Mishawaka. These conditions will mitigate any potentially adverse impact of the conditional use upon adjacent property.
4. Since the tattoo establishment is moving into an existing commercial center there are proper utilities, drainage, paved access roads, landscape, buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestions.
5. The granting of the conditional use permit is in the best interest for the community because this location is in one of the areas where the 750 foot buffer does not include any residentially zoned or legal nonconforming residential property, public or private elementary, middle or high school, parks and churches. The orientation of the building provides that tattooing will not be visible from the street.

ATTACHMENTS

Aerial, Photographs, Variance Petition, Location Map





A view of the multi-tenant building from Edison Road



A view of the parking lot looking south towards Edison Road.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 9, 2018

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
January 8, 2019, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #18-31 A petition submitted by FHS Investments, LLC, requesting to annex and zone property located at **53013 Fir Road** to C-6 Linear Office Commercial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #18-34 A petition submitted by Darin Hurn requesting to amend the Fir Road Athletic Club Planned Unit Development to allow a senior daycare at **6005 Fir Road**.

The Commission, with a vote of 7-0, recommended approval.

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Terry Lang
Darin Hurn

STAFF REPORT

Location: 6005 N Fir

Date: January 8, 2019

Petition: 18 34

Prepared By: CH

GENERAL INFORMATION

Applicant: Darin Hurn

Status: Property Owners

Request: Amend Fir Road Athletic Club PUD to allow senior day care facility at 6005 N Fir Road

Zoning Classification: S-2 Planned Unit Development

Lot Size: 5.3 acres

Applicable Regulations: Section 137-671 to 137-679 S-2 Planned Unit Development District
Section 137-41 Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R Single Family District (unincorporated St. Joseph County)
South: S-2 Planned Unit Development (Fir Road Athletic Club PUD)
East: R Single Family District (unincorporated St. Joseph County)
West: S-2 Planned Unit Development (Main Street Village PUD)

Thoroughfare: Fir Road

School District: Penn-Harris-Madison

Township: Harris

Public Utilities: All utilities are available to the site

Comprehensive Plan: Low Density Commercial

ANALYSIS

The petitioners are requesting to amend the Fir Road Athletic Club Planned Unit Development to allow for senior daycare at 6005 N Fir Road. This was the former location of Hoffman Insurance.

The Fir Road Athletic Club PUD was originally annexed and rezoning to S-2 Planned Unit Development in 2005 for a recreational sports center and the existing uses of single-family residential and a landscape business. The original plan of a tennis/fitness center was never built. In 2008, the PUD was amended to allow for an insurance/investment services office at 6005 N Fir Road. In 2013, the PUD was amended to allow a skilled nursing facility, which became Bell Tower at 5805 N Fir Road. There are still two single family homes within the PUD boundary.

Also, the requested amendment does not amend the entire PUD, but specifically the property at 6005 N Fir Road, which the Petitioner owns.

The Petitioner must provide parking to meet the ordinance. There is a long U-shaped driveway, but at only 10' wide, is best suited for one way traffic.

All pertinent City Departments have reviewed this request and recommend approval.
The Building Department noted Building Permits and Change of Occupancy are required.
The Electric Department noted this address is not in the Mishawaka Utilities Electric Service Boundary.

A detailed site plan conforming to the PUD requirements shall be submitted, and will be subject to review and approval by the Planning Staff.

RECOMMENDATION

Staff recommends in favor of amending the Fir Road Athletic Club PUD to allow microblading services. This recommendation is based on the following findings of fact:

1. Existing Conditions – The use will be located in an existing building which was previously used as an insurance office.
2. Character of Buildings in Area – There is a Health and Rehabilitation Center also included in the PUD. To the north is a 290 unit apartment project. The character of the buildings located within this development and the surrounding area are residential.
3. The most desirable/highest and best use – Because of the parcel's location within an area that is mostly residential, the continuation of a service commercial business is the most desirable use for the property.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the business is similar to that of the previous insurance office and not generate more traffic.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.

ATTACHMENTS

Aerial, Photographs, Petition, Location Map





View from Fir Road



Close up of house and driveway



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

STAFF REPORT

General Location: 53013 Fir Road - Southwest Corner of Cleveland Road & Fir Road

Date: Dec. 11, 2018

Petition: 18-31

Prepared By: DJS

GENERAL INFORMATION

Applicants: FHS Investment LLC / Lang, Feeney & Associates, Inc.

Status: Property Owner / Surveyor & Agent

Request: To annex and establish zoning to the C-6 Linear Office Commercial District for the expansion of the adjacent medical office use

Existing Zoning: O Office District (Unincorporated St. Joseph County)

Proposed Zoning: C-6 Linear Office Commercial District

Lot Size: Approximately 1.01 acres

Applicable Regulations: Section 137-426 to 137-428 / C-6 Linear Office Commercial & Section 137-41 / Amendments to the Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multiple Family Residential (Single-Family Residential / Annexed via Petition 16-32), R Residential / Unincorporated (Single-Family Residential) & O Office / Unincorporated (Medical Office / Granger Oral Surgery & Dental Implants)
South: R Residential / Unincorporated (Agricultural Land)
East: R Residential / Unincorporated (Agricultural Land)
West: C-6 Linear Office Commercial (Medical Office/Indiana Pain & Spine Clinic)

Thoroughfare: Cleveland Road & Fir Road

School District: Penn-Harris-Madison School Corporation

Public Utilities: All public utilities are either available or will be extended to/throughout the site at the owner's/developer's expense.

Comprehensive Plan: This area was not included in the extents of the Mishawaka 2000 Comprehensive Plan.

ANALYSIS**Proposal:**

The applicant, FHS Investment LLC, is proposing to annex and establish zoning for a vacant parcel of property (Tax Parcel 006-1012-0151.01) located at the southwest corner of Cleveland Road and Fir Road.

The parcel, which has a property address of 53013 Fir Road, is approximately 1.04 acres. The total annexation area is estimated at 3.2 acres when including the adjacent right-of-way.

The purpose of the proposed annexation and required zoning to the C-6 Linear Commercial District is to allow for the future expansion of the adjacent medical office use. In late 2015, the property to the west, also owned by the applicant and occupied by the Indiana Pain & Spine Clinic, was annexed into the City and zoned to the C-6 district (Petition 15-32). The following year it was partially developed with a 7,800 sq. ft. medical office building being located in the far southwest corner of the property (Site Plan 16-B). Approximately half of the parcel remains undeveloped. A previously submitted conceptual site plan shows the remaining land could potentially include an additional two buildings.

As indicated on the preliminary site plan, the 1.04 acre parcel to be annexed will include an approximate 6,000 sq. ft. office building, parking lot, and storm water retention basin. No direct access from either Cleveland Road or Fir Road is proposed as access will be provided via an internal private drive. The parking area, as conceptually shown, will meet the required minimum number of parking spaces for the C-6 district.

Due to the project being located within a future Juday Creek 5-year well head protection area, stormwater runoff cannot be handled on-site via a system of drywells. All runoff will have to be maintained on-site via a surface stormwater retention or detention basin as shown on the preliminary site plan.

If the proposed annexation and rezoning request is approved, a detailed final 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.

Annexation:

Per Indiana State annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexations to the west and north (Petition 16-32), approximately 499 feet, or 30.4%, of the total 1,640 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

If approved, the annexation effective date will not be until January 1, 2020. State statutes (I.C. 36-4-3-7 (b)) do not allow municipalities to annex property during the year preceding a year in which a federal decennial census is conducted. Due to the delay in the effective date of the ordinance, the City cannot approve any future site plans or issue any permits until 2020.

Location/Context:

The site is adjacent to the Cleveland Road and Fir Road intersection in the northeast part of the City, and is bordered to the north by two single-family residential properties located within both the City and unincorporated St. Joseph County, and a medical office building located within unincorporated St. Joseph County; to the west by commercial property recently developed with a medical office building; and to the southeast by agricultural land located within unincorporated St. Joseph County. The property to the northwest, which is primarily vacant, was annexed into the City in 2016 and zoned to the R-3 Multiple Family Residential District for a proposed residential town home development. To the best of our knowledge, this proposed development has been put on hold. Another developer has expressed interest in the property for a potential assisted living facility.

Zoning Change:

Staff feels that the proposed zoning of this property for office and other permitted C-6 district uses is appropriate given the adjacent commercial growth along Cleveland Road, Fir Road, and East University Drive to the south. With the completion of Beacon Parkway to the north, providing a major gateway into the City from the Toll Road, development pressures along the Fir Road and Cleveland Road corridors will only intensify in the future.

Transportation/Roads:

According to the latest available traffic counts along Cleveland Road, there were 5,500 annual average daily trips (AADT) west of Fir Road and 9,400 AADT east of Fir Road in 2015. The counts at these locations have been relatively constant since the mid-2000s. Counts along Fir Road have increased from

8,600 AADT (2012) to 10,800 AADT (2015) south of Cleveland Road, and from 5,100 AADT (2012) to 8,400 AADT (2018) north of Beacon Parkway. Between these years, additional travel lanes were installed on Fir Road from University Drive to Beacon Parkway. With the recent commercial and multi-family residential construction within this part of the city, it is anticipated that traffic volumes will continue to increase in future years.

The 2040 Transportation Plan, prepared by the Michiana Area Council of Government with input from City staff, does not show any planned added travel lanes along Cleveland Road from State Road 23 to Fir Road or along Fir Road other than those referenced above. However, the plan does include added travel lanes along Cleveland Road to the east of the property from Fir Road to State Road 331 (Capital Avenue) (2030), from State Road 331 to Bittersweet Road (2035), and from Bittersweet Road to Ash Road (County Line Road). The projected completion year for each segment of the Cleveland Road project is in parentheses. It should be noted that the plan may be amended in future years dependent on projected travel demand.

All pertinent City Departments have reviewed and approved the proposed annexation and rezoning with the Engineering, Electrical and Water Departments providing the following comments:

Engineering Department:

1. The access drive will need to be extended from the west. Direct access to the site (new drives) will not be allowed on Cleveland Road or Fir Road.
2. The City's sanitary sewer is available for connection at the northwest corner of the site via a private sewer system/easement.

These comments shall be addressed with the Final Site Plan.

Electric Department:

1. The Mishawaka Utilities Electric Division does not currently serve the proposed annexation area. If the annexation is approved, Mishawaka Utilities Electric Division will attempt to acquire the service area from AEP as it is not already in our franchise boundary.

Water Department:

1. The project is located within a future Juday Creek 5-year well head protection area pending the construction of a new well field to the northeast of the Douglas Road and Fir Road intersection.

RECOMMENDATION

Staff recommends in favor of Petition 18-31 to annex and establish zoning to the C-6 Linear Office Commercial District for property located at the southwest corner of Cleveland Road and Fir Road (53013 Fir Road). The property is proposed to be utilized for the future expansion of the adjacent medical office use to the west.

This recommendation is based upon the following Findings of Fact:

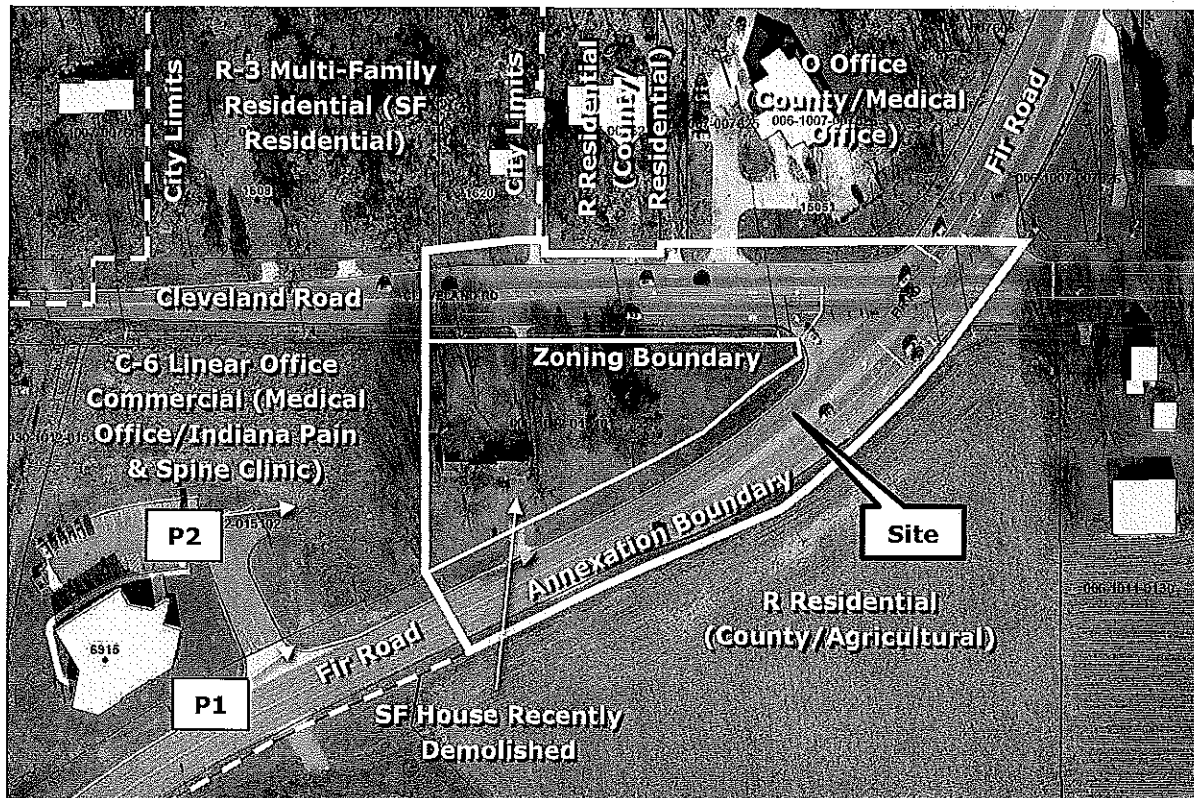
1. Existing Conditions - The subject parcel is located along low to moderately travelled sections of Cleveland Road and Fir Road. Traffic volumes on these roadways are expected to increase due to commercial and residential development in the northwest part of the City. Cleveland Road does not currently serve as a major east-west corridor. However, Fir Road now serves as the primary gateway into the City from the Toll Road due the completion of Beacon Parkway to the north. Adjacent land uses include single-family residential properties and a medical office building to the north, a commercial property to the west occupied by a medical office, and agricultural property to the southeast.
2. Character of Buildings in Area - The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Fir Road and along the Fir Road corridor between Beacon Parkway and University Drive vary greatly. Buildings and uses include low-density

single family residential homes, an assisted living/memory care facility, an independent living senior facility, a residential apartment complex, a church, medical office buildings, and agricultural land.

3. The most desirable/highest and best use – With the recent completion of Beacon Parkway to the north, commercial and multi-family residential development along Fir Road, and to a lesser extent along Cleveland Road, is expected to increase. Therefore, the most desirable use for the property is either commercial or multi-family residential reflecting the changing land use patterns in the area.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area. The proposed commercial use is compatible with the adjacent single-family residential and medical office uses.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed commercial use is reasonably consistent with adjacent and changing land uses along the Cleveland and Fir Road corridors.

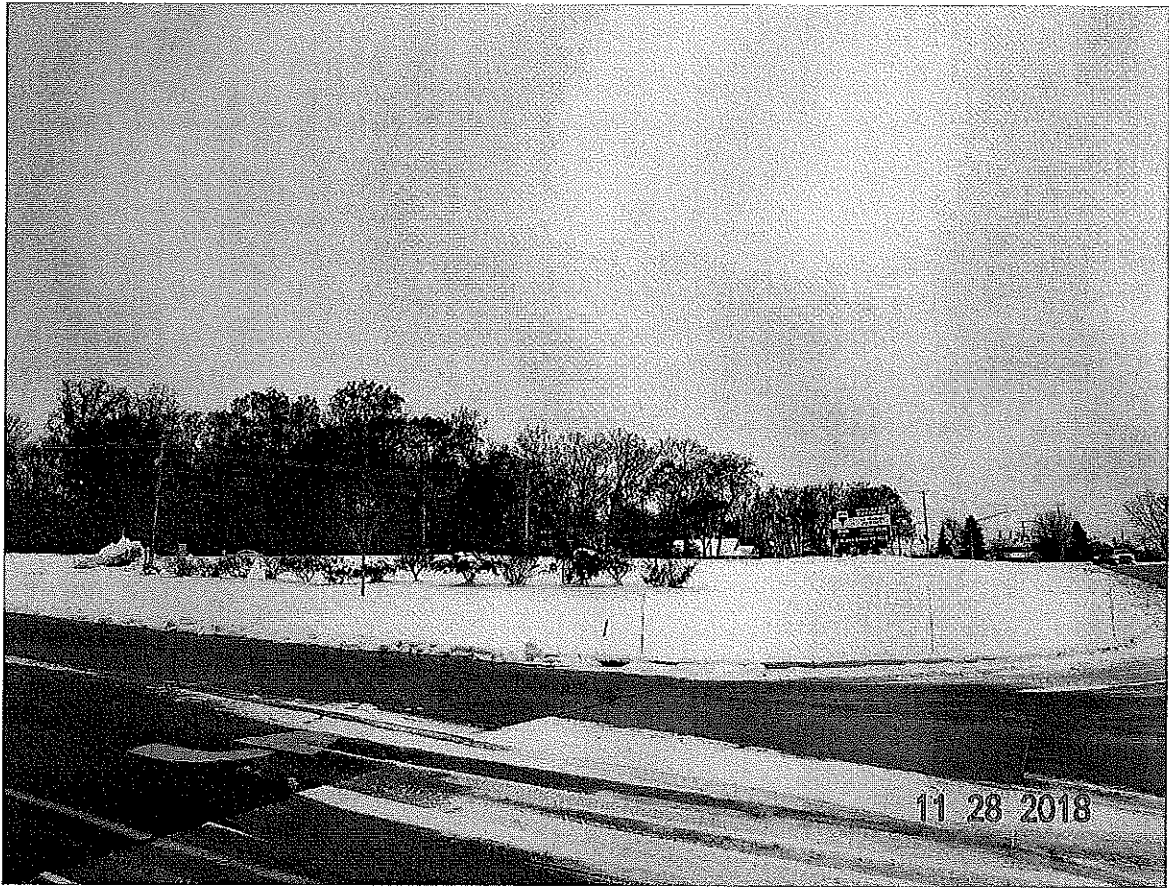
ATTACHMENTS

Aerial Photograph, Photographs of Site Area, Rezoning & Annexation Petition, Preliminary Site Plan, Location Map



Aerial Photograph

53013 Fir Road - Vacant Land at the Southwest Corner of Cleveland Road & Fir Road
Proposed expansion of the adjacent medical office uses to the west



P1. Looking northeasterly toward the site from the Indiana Pain & Spine Clinic entrance on Fir Road.



P2. Looking easterly toward the site from the Indiana Pain & Spine Clinic parking lot.

1st Reading 1-21-19
2nd Reading
Passed
Failed
Continued To

PETITION #18-31

JAN 10 2019

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2019-02

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA,
INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 38 North, Range 3 East in St. Joseph County, Indiana, described as follows: Beginning at a point in the center of Fir Road 180 feet west of the Northeast corner of said Section 27; thence West 476 feet; thence South 313.2 feet to the center of Fir Road; thence Northeast with the center of Fir Road 576.4 feet to the place of beginning. Also, all that portion of the right-of-way for Fir Road and Cleveland Road lying adjacent to said described parcel.

COMMON ADDRESS: 53013 Fir Road, Granger, IN 46530 and the adjacent right-of-way to include approximately 3.2 acres

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of C-6 Linear Office Commercial District.

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

1. Existing Conditions - The subject parcel is located along low to moderately travelled sections of Cleveland Road and Fir Road. Traffic volumes on these roadways are expected to increase due to commercial and residential development in the northwest part of the City. Cleveland Road does not currently serve as a major east-west corridor. However, Fir Road now serves as the primary gateway into the City from the Toll Road due the completion of Beacon Parkway to the north. Adjacent land uses include single-family residential properties and a medical office building to the north, a commercial property to the west occupied by a medical office, and agricultural property to the southeast.
2. Character of Buildings in Area - The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Fir Road and along the Fir Road corridor between Beacon Parkway and University Drive vary greatly. Buildings and uses include low-density single family residential homes, an assisted living/memory care facility, an independent living senior facility, a residential apartment complex, a church, medical office buildings, and agricultural land.

Proposed Ordinance No. 2019-02

Ordinance No. _____

3. The most desirable/highest and best use - With the recent completion of Beacon Parkway to the north, commercial and multi-family residential development along Fir Road, and to a lesser extent along Cleveland Road, is expected to increase. Therefore, the most desirable use for the property is either commercial or multi-family residential reflecting the changing land use patterns in the area.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area. The proposed commercial use is compatible with the adjacent single-family residential and medical office uses.
5. Comprehensive Plan - This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed commercial use is reasonably consistent with adjacent and changing land uses along the Cleveland and Fir Road corridors.

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 _____, 2019, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2019, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at _____ o'clock _____.M.

David A. Wood, Mayor

DATE: November 19, 2018

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 28 2018

CITY CLERK
MISHAWAKA, IN

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

RE: Petition for Annexation and Zoning Classification

The undersigned FHS Investments, LLC respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 38 North, Range 3 East in St. Joseph County, Indiana, described as follows: Beginning at a point in the center of Fir Road 180 feet west of the Northeast corner of said Section 27; thence West 476 feet; thence South 313.2 feet to the center of Fir Road; thence Northeast with the center of Fir Road 576.4 feet to the place of beginning. Except: A part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 38 North, Range 3 East, St. Joseph County, Indiana and being that part of the grantor's land lying within the right-of-way lines depicted on the attached right-of-way parcel plat, described as follows: Beginning at a point on the north line of said Section South 89°25'05" West 220.17 feet from the Northeast corner of said Section and which point of beginning is on the Northwest boundary of Fir Road; thence along the boundary of said Fir Road Southwesterly 325.91 feet along an arc to the right having a radius of 784.64 feet and subtended by a long chord having a bearing of South 52°14'59" West and a length of 323.57 feet; thence along said boundary South 64°08'56" West 196.82 feet to the West line of grantor's land; thence North 00°34'55" West 11.06 feet along said West line; thence North 64°08'56" East 192.10 feet; thence Northeasterly 218.92 feet along an arc to the left having a radius of 774.64 feet and subtended by a chord having a bearing of North 56°03'10" East and a length of 218.19 feet; thence North 18°08'01" West 32.98 feet; thence South 89°25'05" West 346.00 feet to the West line of grantor's land; thence North 00°34'55" West 35.00 feet along said West line to the north line of said Section; thence North 89°25'05" East 435.83 feet along said north line to the point of beginning and containing 0.460 acres more or less, inclusive of the presently existing right-of-way which contains 0.145 acres, more or less. Commonly described as 53013 Fir Road.

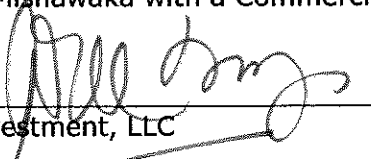
LEGAL ATTACHED

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located 53013 Fir Road and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a Commercial C-6 District. Petitioners further state they intend to utilize said land for similar use as adjacent C-6 zoned property lying to the west.

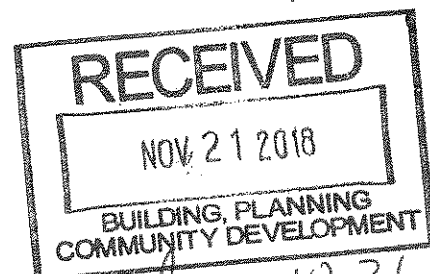
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

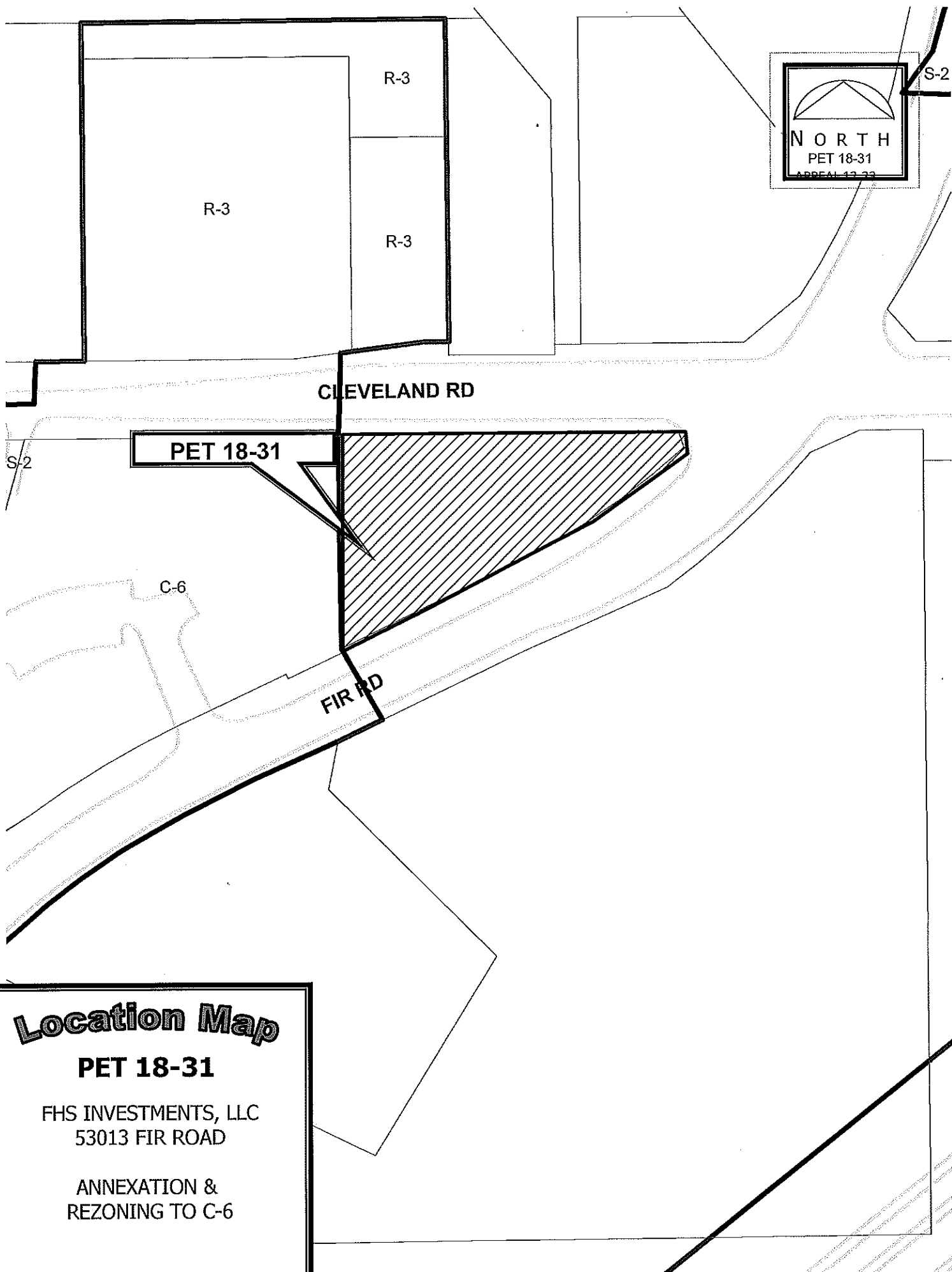
Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a Commercial C-6 District.


FHS Investment, LLC

Contact Person:
Lang, Feeney & Associates, Inc.
Terry Lang, RLS No. S-0523
715 South Michigan Street
South Bend, Indiana 46601



A part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 38 North, Range 3 East in St. Joseph County, Indiana, described as follows: Beginning at a point in the center of Fir Road 180 feet west of the Northeast corner of said Section 27; thence West 476 feet; thence South 313.2 feet to the center of Fir Road; thence Northeast with the center of Fir Road 576.4 feet to the place of beginning. Also, all that portion of the right-of-way for Fir Road and Cleveland Road lying adjacent to said described parcel.



Location Map

PET 18-31

FHS INVESTMENTS, LLC
53013 FIR ROAD

ANNEXATION &
REZONING TO C-6

JAN 10 2019

1st Reading 1-21-19
2nd Reading
Passed
Failed
Continued To

PETITION 18-34

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2019-03

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
recommended 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:

The following described real estate in the City of Mishawaka, Harris Township,
St. Joseph County, State of Indiana, to-wit:

Beginning at an iron stake located on the South line of the Northwest Quarter of the
Southeast Quarter of Section 27, Township 38 North, Range 3 East, and the center
line of Fir Road and 495.7 feet North thereof and being the beginning point of this
description; thence West and parallel with the South line of the Northwest Quarter of
the Southeast Quarter of Section 27, Township 38 North, Range 3 East to an iron
stake located on the North and South center line of said Section 27; thence North on
said centerline a distance of 165 feet to an iron stake; thence East and parallel with
the South line of the Northwest Quarter of the Southeast Quarter of Section 27, a
distance of 1355.8 feet to the center line of Fir Road; thence South on the center line
of Fir Road, a distance of 165 feet to the point of beginning.

COMMON ADDRESS: 6005 Fir Road

which real estate is now classified as S-2 Planned Unit Development District shall
hereafter be amended to allow for a senior daycare.

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

1. Existing Conditions – The use will be located in an existing building which was
previously used as an insurance office.
2. Character of Buildings in Area – There is a Health and Rehabilitation Center
also included in the PUD. To the north is a 290 unit apartment project. The

Proposed Ordinance No: 2019-03

Ordinance No: _____

character of the buildings located within this development and the surrounding area are residential.

3. The most desirable/highest and best use – Because of the parcel's location within an area that is mostly residential, the continuation of a service commercial business is the most desirable use for the property.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the business is similar to that of the previous insurance office and not generate more traffic.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.

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 _____, 2019, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2019, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at _____ o'clock ____M.

David A. Wood, Mayor

Petition #2018-34

12/18/2018

Honorable Members of the

Common Council

City of Mishawaka, Indiana

And

Mishawaka City Plan Commission

City of Mishawaka, Indiana

RECEIVED
DEBORAH S. BLOCK MMC

DEC 28 2018

CITY CLERK
MISHAWAKA, IN

PETITION FOR PUD AMENDMENT

Darin Hurn

Property address

6005 North Fir road

Granger

46530

Tax ID No.

30-1012-0164

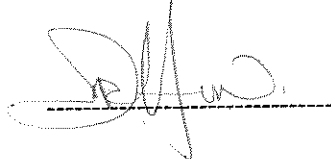
71-04-27-378-059.000-036

Legal description

S END N END NW SE 27 38 3E 5 AC

Existing property was rented to a Insurance company. I respectfully request that I can use the house to accommodate a Senior Daycare, ~~hours of operation will be 7am to 6pm.~~

Darin Hurn



Darin Hurn

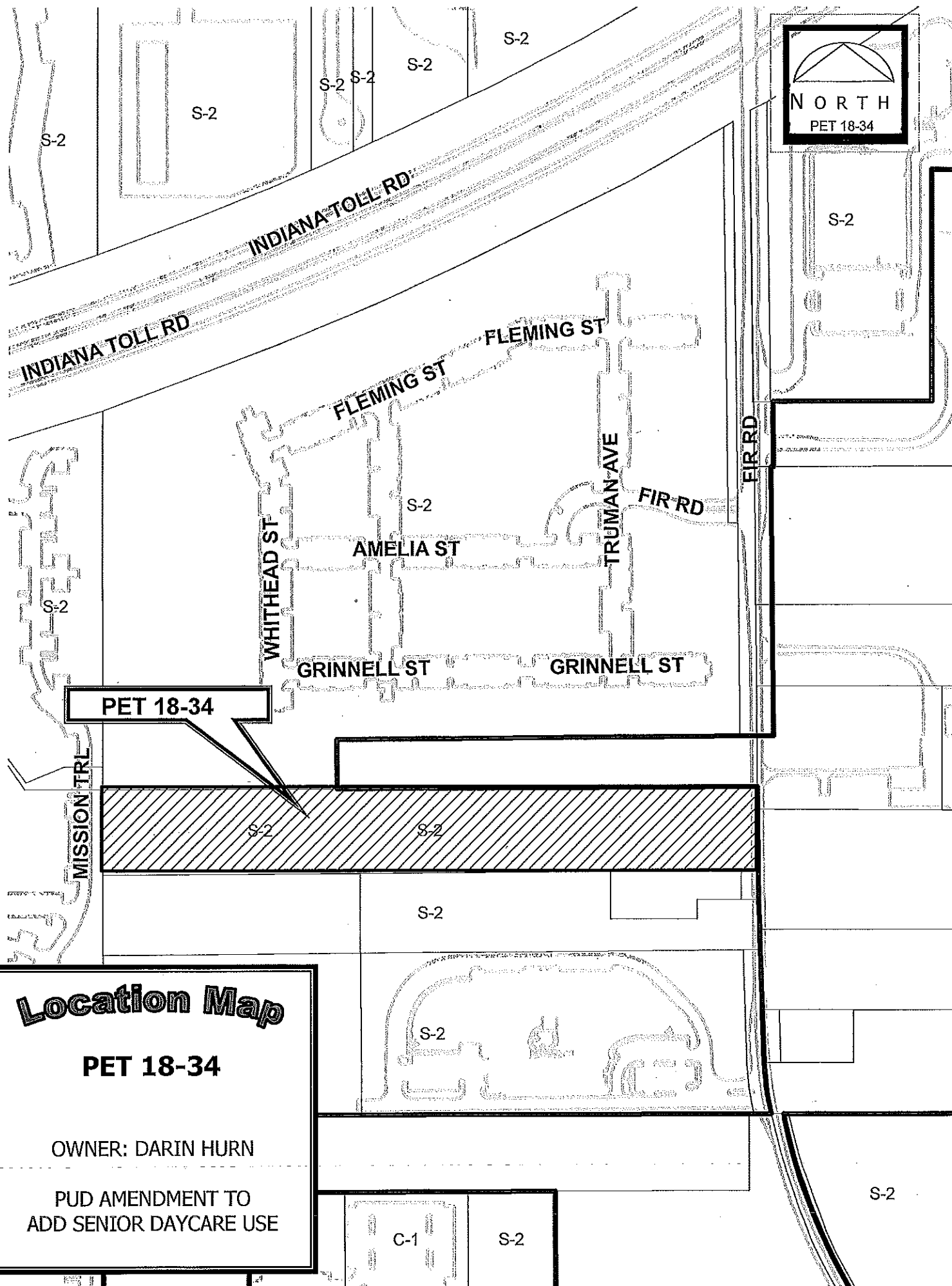
10982 Lakeshore drive

Osceola, In

46530

574 303 2455

darin@currentclassics23.com



PET 18-34

Location Map

PET 18-34

OWNER: DARIN HURN

PUD AMENDMENT TO
ADD SENIOR DAYCARE USE



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Date: January 17, 2019
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: Amend Civil City 2019 Salary Ordinance 5642

I am requesting first and second reading on this salary amendment due to an omission for 2nd Class and Probationary Police Officers hired prior to 01/01/2018.

For the current contract with the FOP the 2nd class officer, probation, and recruit wages were frozen for the duration of the contract. However, we have 2nd class officers and probationary officers that were hired prior to this contract and therefore their wages are not frozen.

This amendment adds the biweekly salary for those pre 01/01/2018 hires.

Please contact me with any questions.

c: David A. Wood, Mayor
Geoff Spiess, HR Director/Corporation Counsel
Ken Witkowski, Police Chief

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 17 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 1-21-19
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 17 2019

PROPOSED ORDINANCE NO. 2019 - 04

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 5642 THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2019.

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

Section 1. The biweekly salaries of all employees of the City of Mishawaka except the Mishawaka Park Department, Elected Officials and the Mishawaka Utilities for the year beginning January 1, 2019 and shall be payable in 26 bi-weekly pay periods commencing on January 11, 2019.

BIWEEKLY SALARY

PRE 01/01/2018 HIRE DATE

2 nd CLASS OFFICER	2,154.95
PROBATION	1,875.18

POST 01/01/2018 HIRE DATE

2 nd CLASS OFFICER	2,064.26
PROBATION	1,875.18
RECRUIT	1,638.44

Section 2. This ordinance shall be in full force and effect from and after its signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on

this _____ day of _____ 2019, at _____ o'clock, ____ m.

Dale "Woody" Emmons, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME, to the Mayor on this _____ day of _____ 2019, at _____ o'clock, ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2019, at _____ o'clock, ____m.

David A. Wood, Mayor

JAN 10 2019

APPEAL #18-45

RESOLUTION NO. 2019- 01

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:

236 West Edison 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 Conditional Use Variance for property located at **236 West Edison Road, Mishawaka, Indiana**, more particularly known and described as follows:

A part of the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section Thirty-Three (33), Township Thirty-Eight (38) North, Range Three (3) East, Clay Township, City of Mishawaka, St. Joseph County, Indiana, more particularly described as follows: Beginning at a point on the North line of Edison Road (60 foot right-of-way), 509.38 feet East of the West line of the Southeast Quarter (1/4) of said Section Thirty-three (33); thence North parallel with said West line of the Southeast Quarter (1/4) of Section Thirty-three (33), 384.03 feet to the centerline of the Indiana and Michigan Electric Company easement; thence Easterly along said centerline of easement 113.48 feet; thence South parallel with said West line of the Southeast Quarter (1/4) of Section Thirty-three (33), 383.67 feet to the North line of Edison Road; thence Westerly along said North line of Edison Road 113.48 feet to the beginning.

COMMON ADDRESS: 236 West Edison Road

The Conditional Use Variance, if approved, will allow a tattoo establishment within a C-1 General Commercial multi-tenant commercial building subject to the following conditions:

1. The tattoo and body piercing studio must comply with all regulations and permitting requirements per Chapter 18 – Business Regulations, Article X – Tattoo and Body Piercing Establishments of the City of Mishawaka.

2. There shall be no loitering or disruptive behavior in or around the business. If problems are encountered as identified by the Mishawaka Police Department, and those problems are not corrected, the Conditional Use shall be revoked by default.
3. No one under the age of 18 shall be permitted to have artwork done to their body unless accompanied by their parent or legal guardian and proof of identification is showed. Identification must include a certified birth certificate.

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 tattoo studio will be located within an existing commercial plaza and be permitted, operated and managed according to all applicable regulatory codes. Additionally, tattoos have experienced resurgence in popularity and acceptance in recent decades and coupled with advancements in tattoo pigments and ongoing refinement of the equipment used, has led to an improvement in the quality of tattoos being produced.
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 studio will be located in a building that is surrounded by commercial and office development in an area of various commercial uses. The plaza has an appropriate number of parking spaces provided for the proposed uses of the building.
3. There are two bodies that oversee tattoo establishments, the St. Joseph County Health Department and the City of Mishawaka. These conditions will mitigate any potentially adverse impact of the conditional use upon adjacent property.
4. Since the tattoo establishment is moving into an existing commercial center there are proper utilities, drainage, paved access roads, landscape, buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestions.
5. The granting of the conditional use permit is in the best interest for the community because this location is in one of the areas where the 750 foot buffer does not include any residentially zoned or legal nonconforming residential property, public or private elementary, middle or high school, parks and churches. The orientation of the building provides that tattooing will not be visible from the street.

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 _____, 2019, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2019,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at
_____ o'clock ____m.

David A. Wood, Mayor

The undersigned Appellant respectfully shows the Board:

Petitioner is the owner of the following described real estate located in the City of Mishawaka, St. Joseph County, State of Indiana, to-wit:

Common Address: 236 W. Edison Road
Mishawaka, IN. 46545

(accurate legal description of the property is attached.)

The above described real estate presently has a zoning classification of C-1 General Commercial
District under the Zoning Ordinance of the City of Mishawaka.

Petitioner presently occupies *(or proposes to occupy)* the above described property in the following manner:
Multi Tenant Building, including a restaurant, massage studio, drivers education school, etc.

4. Petitioner desires to:
Open and operate an Artist studio/gallery, which will include tattooing. Suite #2, or suite #7. (2 preferably)

The Zoning Ordinance of the City of Mishawaka requires: *(State what Mishawaka Code requires along with the Section Number.)*

A conditional use for Tattoo establishments per Section 137-301 (B).

Explain:

1. Why the approval will not be injurious to the public health, safety, morals and general welfare of the community;

The business owner/operator (Amber Olsen) has been a tattoo artist for 10 years. She has held a professional tattoo license in St Joseph County for the last 8 years. Amber has also been Blood Borne Pathogen Safety certified for 10 years.

Along with her tattoo certifications, Amber also holds an Associates in Arts degree from South Western Michigan College, and prides herself in being a well rounded, and professional artist.

2. Why the use and value of the area adjacent to the property included in the conditional use permit will not be affected in a substantially adverse manner;

Any changes to the property will increase its value due to the nature of the proposed build out. A variety of commercial businesses would thrive in the space provided, should we decide to leave. Nothing proposed will hinder the conditional use of this space.

3. If adequate conditions will be stipulated to mitigate any potentially adverse impact of the conditional use permit upon adjacent property;

The proposed space is hidden from the street. And no tattooing would be visible from the street/parking area. We have no intentions of putting up any type of inappropriate/immoral signage or promotional images anywhere around the publicly visible location.

4. If adequate measures have been taken to provide proper utilities, drainage, paved access roads, landscape buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestion; and

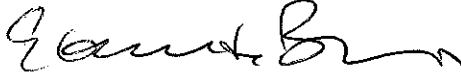
The existing building was built in 1980, and is currently up to code and in operation.

5. Why the granting of the conditional use permit is in the best interest of the community.

The space in question has been vacant for some time now. This will bring new business and traffic to the plaza, especially since Amber is already a well know artist with a large clientele base. Her appointments are currently booked until March of 2019, which guarantees visitors to the area.

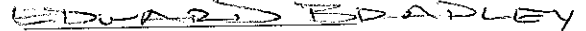
Also, as stated before, any changes made to the property will be appealing to any commercial business looking to lease the space after the proposed occupant.

Wherefore, Petitioner prays and respectfully requests a hearing on this application and that after such hearing the Board grant the requested Conditional Use Permit.



EDISON LAKE VIEW ASSOCIATES LLP

Written signatures of all property owners of title.


EDWARD BRADLEY

Property Owner

CONTACT PERSON:

Name: Amber Olsen

Address: 710 W. 7th St. Mishawaka, IN. 46544

Phone/Fax: 574-344-7292

CITY OF MISHAWAKA, INDIANA

THIS REPORT IS BASED ON LIMITED ACCURACY DATA AND FIELD NOTES. THE REPORT SHOULD BE USED FOR CONSTRUCTION OR ESTABLISHING BOUNDARY OR FENCE LINES.

PROPERTY ADDRESS: 236 W. Edison Road, Mishawaka, In
PROPERTY DESCRIPTION:

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