

## **AGENDA**

**Monday, June 17, 2019**

**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**

June 3, 2019

**5. Petitions, Communications, Remonstrance and Memorials**

A letter from the Board of Zoning Appeals regarding recommendations from their June 11, 2019 meeting.

A letter from the City Plan Commission regarding recommendations from their June 11, 2019 meeting.

**6. Report of Special Committee**

**7. Ordinances on First Reading**

P.O. NO. 2019-17 Grandview PUD Amendment's - W Side of North Gumwood South by W Cleveland Rd ( SR23) and the East by Centennial Place Shopping Center.

**8. Resolutions**

R2019-17 Use Variance to permit Micro-blading &/or Permanent Makeup - 6501 N Grape Rd Suite 1205A

R2019-18 Use Variance to allow a 4-day Recreational Vehicle RV Sales Event - 6501 N Grape Rd Suite 334

**9. Ordinances on Second Reading**

**10. Privilege of the Floor - Non-Agenda Items**

**11. Unfinished Business**

**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  
June 03, 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 June 03, 2019, at 7:00 p.m. The meeting was called to order by President Dale “Woody” Emmons all were asked to stand for the Pledge of Allegiance.

 **Roll Call.**

**Present:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

**Absent:** Mr. Compton.

Minutes for the Regular Meeting of May 20, 2019 were approved as received from the Clerk’s Office.

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

**APPEAL NO. 2019-23**    Use Variance to permit Micro-blading Permanent  
Makeup-6501 N Grape Rd Suite 1205A

**APPEAL NO. 2019-26**    Use Variance to allow a 4-Day Recreational Vehicle RV  
Sales Event- 6501 N Grape Rd, Suite 334

**PETITION NO. 2019-07**    PUD Amendment to allow Microblading/Semi-Permanent  
Makeup-6910 N Main St Units 25 & 26

**PETITION NO. 2019-08**    Grandview PUD Amendment’s - W Side of North Gumwood  
South by W Cleveland Rd (SR23) and the East by Centennial Place  
Shopping Plaza

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

**PROPOSED ORDINANCE NO. 2019-13**

**AN ORDINANCE DECLARING AN EMERGENCY AND  
DETERMINING THE EXPENDITURE OF ADDITIONAL  
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019**

(Add. Funds – Police Dept. \$16,063/ Public Safety \$4,300)

(Assigned to the Budget and Finance Committee)

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by a majority of the committee upon a second by Mr. Banicki motion carried.

Ken Witkowski, Police Chief said they were using money from their insurance policy from totaled vehicles. He continued to say they would like to purchase two kawasaki mules, a four-wheel motor vehicle similar to a golf cart but bigger. He said they would also like to buy the C.A.P volunteers a two-wheel drive model. Chief Witkowski went on to say \$4,919 would be used to purchase new gun holsters. He explained their current supplier Smith and Wesson would like to update the departments guns for no cost, the current holsters did not fit the new weapons.

Mr. Hixenbaugh commented the dollar amount in the letter did not match the dollar amount in the ordinance. He asked which numbers were correct. Rebecca Miller, City Controller explained the ordinances showed where the money was coming from but both totals equaled the amount of \$20,363. Mr. Hixenbaugh was curious as to how many holsters \$4900 would purchase. Chief Witkowski explained not every officer needed a new holster. He continued to explain there was a stress test which determined at 100 pounds of pressure someone could take an officer's gun out of their holster. He said some of the holsters the officers currently carried were at 99.9 pounds.. Chief Witkowski continued to say because of liability, they decided to buy new holsters the stress test would meet. Mr. Hixenbaugh questioned how many holsters would be purchased. Chief Witkowski said they would purchase around 50.

Mr. Mammolenti asked would they keep their current mule. Chief Witkowski replied yes, it was in good condition. He continued to say they would like to have two vehicles, especially with the new parks opening this summer and it would give further range for larger special events. Mr. Mammolenti asked would the park patrol increase based on an extra vehicle. Chief Witkowski said he could not promise, it depended on the man power. He said for certain events they had a certain number of officers, instead of having them walk or use golf carts, they would have their own vehicle. Mr. Mammolenti also asked was this the same program from a couple of years ago when they received free weapons and did the chief receive any feedback from the officers. Chief Witkowski replied yes, it was three years ago. He said officers would be required to carry the weapon on duty. Chief Witkowski said so far, he received positive feedback on improvements on the new weapons.

Mr. Bellovich questioned the size of the guns. Chief Witkowski replied they were 9-millimeter guns.

Question was called for at 7:12 P.M. for **PROPOSED ORDINANCE NO. 2019-13**  Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5657**

**PROPOSED ORDINANCE NO. 2019-14**

**AN ORDINANCE DECLARING AN EMERGENCY AND  
TRANSFERRING AND REAPPROPRIATING FUNDS  
WITHIN THE BUDGET ADOPTED FOR THE  
CALENDAR YEAR ENDING DECEMBER 31, 2019  
(Trans Funds MVH -CEDIT \$694,000 / Local Road & Street \$394,000)  
(Assigned to the Budget and Finance Committee)**

Mr. Hixenbaugh reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by a majority of the committee upon a second by Mr. Banicki motion carried

Rebecca Miller, City Controller explained this transfer was needed to meet the requirements for 50% of the MVH Funds to be used for street construction. She continued to say traditionally, the street construction and Local Road and Street were put into the CEDIT Fund. Ms. Miller said the transfers moved the funds into the MVH and the new MVH Restricted Fund.

Mr. Mammolenti asked was the gas, oil line item based on the Fuel Budgeting Program. Ms. Miller explained they were not reducing money in the line; the money was switched around between the funds.

Question was called for at 7:16:PM for **PROPOSED ORDINANCE NO. 2019-14**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.** Thus, it becomes **ORDINANCE NO. 5658**

**PROPOSED ORDINANCE NO. 2019-15**

**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-2 1211 W. 6<sup>th</sup> Street)  
(Assigned to the Land Use Planning Committee)**

Mrs. Voelker reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by a majority of the committee upon a second by Mr. Banicki motion carried.

Ruth Sila represented KISO INC. She said the petitioner would like to rezone the old Jerrys Pub to R-2 Residential to be utilized for multifamily housing.

Mrs. Voelker asked did Ms. Sila own the property and would they remodel the property to look residential. Ms. Sila replied yes. She continued to say it was not in the plan to remodel, unless

required. Ms. Sila said they would remove the Jerry's Pub sign; most likely it would remain the same on the outside. Mrs. Voelker also asked did Ms. Sila have renters. Ms. Sila replied no, she was waiting for the rezoning to pass.

Mr. Mammolenti asked would Ms. Sila reside on the property. Ms. Sila replied no.

Mr. Tanner and Mr. Emmons asked did Ms. Sila own the parking lot adjacent to the proposed property. Ms. Sila replied no, she believed it was owned by the Canadian Railroad Company. She said the tenants would park on the street or in the detached two car garage behind the apartments. Ms. Sila said she would keep Mr. Emmons informed on the parking lot across the street.

Question was called for at 7:21 P.M. for **PROPOSED ORDINANCE NO. 2019-15**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5659**

### **PROPOSED ORDINANCE NO. 2019-16**

#### **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 N. of Edison Lakes Pkwy & Holy Cross Pkwy Intersection)  
(Assigned to the Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by a majority of the committee upon a second by Mr. Banicki motion carried.

Mike Huber, Abonmarche Consultants represented petitioners. He said in the fall they requested to amend the PUD to allow for their uses. Mr. Huber continued to say at that time the property to the south between their property and the street frontage was not controlled by his client. He said they have now secured access to the property and they were now planning to utilize the property to provide more parking and stormwater detention/retention to serve the project. Mr. Huber continued to say a retention pond would be a great amenity to the project. He mentioned they created a new site plan, which received approval from the City Plan Commission. Mr. Huber said they needed to add the parcel into the PUD.

Question was called for at 7:25 P.M. for **PROPOSED ORDINANCE NO. 2019-16**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5660**

### **PRIVILEGE OF THE FLOOR**

Mayor Wood announced there would be a ribbon cutting for the new Central Park Event Stage on June 6, 2019 at 6:15 P.M. followed by a concert.

**NEW BUSINESS**

Mr. Emmons thanked all involved in the remodel of Mary Gibbard Park. He said the ribbon cutting was a great turnout and the park was a great addition to the area.

**ADJOURNMENT 7:28 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

June 12, 2019

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 13 2019

Honorable Members of the Common Council  
City of Mishawaka, Indiana

CITY CLERK  
MISHAWAKA, IN

RE: Board of Zoning Appeals Recommendation  
June 11, 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 Variances were considered:

**APPEAL #19-23** An appeal submitted by Simon Properties and Spaceman Ventures LLC, dba Sola Salon, requesting a Use Variance for **6501 Grape Road, Unit 1205A**, to allow microblading and/or permanent make-up services within a salon.

The Board, with a vote of 5-0, recommended approval.

**APPEAL #19-26** An appeal submitted by University Park Mall LLC c/o Simon Property Group requesting a Use Variance for **6501 Grape Road** to permit a four (4) day RV show to be located in the JC Penney parking lot from June 27 to June 30, 2019.

The Board, with a vote of 5-0, recommended approval subject to the following conditions:

**USES:**

- The event shall be limited to the display and sales of RVs during a 4 day period between June 27 and June 30, 2019.

**SITE PLAN:**

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

**ACCESS/TRAFFIC CONTROL REQUIREMENTS:**

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.
- **All mall service drives shall remain open at all times.**

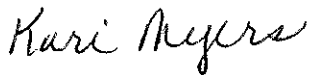
SETBACKS:

- All tents, display/parking areas, and portable toilets shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

Respectfully,



Kari Myers, Administrative Planner  
Secretary, Board of Zoning Appeals

cc: Joe Gravitt  
Wes Mehr

**STAFF REPORT**

Location: 6501 Grape Road

Date: June 11, 2019

Appeal: 19 23

Prepared By: CH

**GENERAL INFORMATION**

Applicant: University Park Mall, LLC/Sola Salon

Status: Property Owner/Tenant

Request: Use Variance to allow microblading/semi-permanent make-up services

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: Approximately 75 acres, more or less

Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

**SPECIAL INFORMATION**

Area Development Pattern: North: C-1 General Commercial  
South: C-2 Shopping Center Commercial  
East: S-1 Extensive Open Space and Public Use  
West: St. Joseph County

Thoroughfare: Grape Road, State Road 23

School District: South Bend Community School Corporation

Public Utilities: All utilities are available or can be extended

Comprehensive Plan: General Commercial

**ANALYSIS**

The petitioners are requesting a Use Variance to allow for microblading services within the Sola Salon, Unit 1205A. Microblading is a form of semi-permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

In the past year, we have received several requests for microblading. The latest request is inside an existing salon at the University Park Mall.

It should be noted that while microblading is a service that can be found in a spa or beauty salon, it is a form of tattoo and not specifically permitted within the zoning district. The need for a Use Variance arises from the fact that a tattoo establishment is not an approved use within the C-2 zoning district.

All pertinent City departments have reviewed and approved of the request.

## RECOMMENDATION (S)

Staff recommends in **favor** of Appeal #19-23 a Use Variance, to allow microblading services in Suite 1205A (Sola Salon) of the University Park Mall. This recommendation is based upon 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 existing business provides similar personal services/salon 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 it is included in a large commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development.;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

## ATTACHMENTS

Photographs, Aerial, Appeal, Location Map





**STAFF REPORT**

Location: 6501 Grape Road

Date: June 11, 2019

Appeal: 19 26

Prepared By: CH

**GENERAL INFORMATION**

Applicant: University Park Mall, LLC

Status: Property Owner

Request: Use Variance to allow for the temporary use of mall parking lot for a 4-day RV sales event.

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: Approximately 75 acres, more or less

Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

**SPECIAL INFORMATION**

Area Development Pattern: North: C-1 General Commercial  
South: C-2 Shopping Center Commercial  
East: S-1 Extensive Open Space and Public Use  
West: St. Joseph County

Thoroughfare: Grape Road, State Road 23

School District: South Bend Community School Corporation

Public Utilities: All utilities are available or can be extended

Comprehensive Plan: General Commercial

**ANALYSIS**

The petitioner, University Park Mall, LLC, is seeking a Use Variance to allow for the temporary use of a portion of the University Park Mall parking lot for a 4-day RV sales event. This event will take place June 27-June 30, 2019 in the northernmost part of the parking lot north of the JC Penny store.

University Park Mall offers a high visibility location and the availability of space. The property is located in a very high visibility area with easy access, adequate customer and employee parking. It is located on a heavily traveled commercial corridor. The primary access points to the Mall occur at existing traffic signals for added safety and convenience. The site is also located a considerable distance away from residential uses.

Since 2010, the City has approved car sales for the Gates Automotive Group to be held in the mall parking lot and last year, the mall hosted a carnival.

Staff is recommending, as a condition of approval, that all mall service drives shall remain open at all times. Temporary signage will be allowed as described below, however, no inflatable air balloons shall be permitted. The Engineering Department advises no signage in City right-of-way.

Other pertinent City departments have reviewed and approved of the request.

|                           |
|---------------------------|
| <b>RECOMMENDATION (S)</b> |
|---------------------------|

Staff recommends in **favor** of Appeal #19-26, Use Variance, to allow for the temporary use of a portion of the University Park Mall parking lot for a 4-day RV sales event. The Use Variance is subject to the following conditions:

USES:

- The event shall be limited to the display and sales of RVs during a 4 day period between June 27 and June 30, 2019.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.
- **All mall service drives shall remain open at all times.**

SETBACKS:

- All tents, display/parking areas, and portable toilets shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

This recommendation is based upon the following findings of fact:

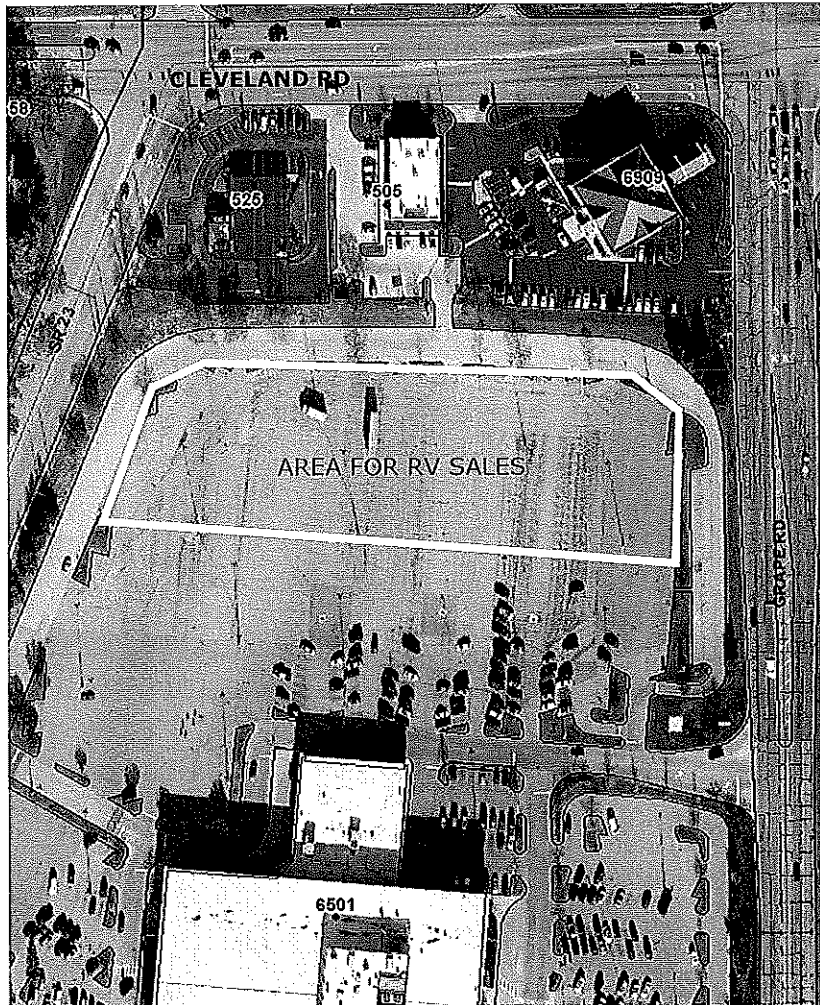
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the development is temporary and will maintain certain minimum developmental standards as outlined herein;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

## ATTACHMENTS

Photographs, Appeal, Site Plan, Aerial, Location Map



A view south towards JC Penny from the northernmost interior access drive.





# City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 12, 2019

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 13 2019

CITY CLERK  
MISHAWAKA, IN

Honorable Members of the Common Council  
City of Mishawaka, Indiana

RE: Plan Commission Recommendation  
June 11, 2019, 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:

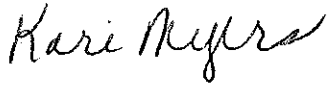
**PETITION #19-08** A petition submitted by Gumwood Acquisitions LLC, seeking approval of an amendment to the Grandview Planned Unit Development to permit outside storage and display as a use, preserve existing vegetation in lieu of landscaping requirements, construct 14' opaque fence to screen outside storage area, and provide driveway access throat length of 100' to property west for a proposed Menard's store.

The Commission, with a vote of 5-2, forwarded a favorable recommendation subject to the following conditions as well as attached conditions "Exhibit A":

- Adding outdoor storage and display as a permitted use;
- *Utilizing a combination of colored split face block (concrete masonry units), treated lumber, and colored Belgian edgers on the north elevation of the storage/warehouse structure as shown on the provided elevation;*
- Preserving the existing vegetation in the 35' wide buffer along the west property lines abutting existing residential property;
- Providing a row of 8' high evergreen trees spaced 12' apart between the existing tree row and screening fence along the west property line abutting the existing residential property and along the north elevation of the storage/warehouse structure;
- *Allowing a composite, aluminum or CedarTone Premium pressure treated lumber fence, 14' in height, to screen the proposed outdoor storage and display areas;*
- *Providing foundation landscaping adjacent to the screening fence along the east side of the proposed outdoor storage and display area;*
- Reduce the minimum on-site throat/stacking area from 200 lineal feet to 100 lineal feet for a cross access with the adjacent Centennial Place commercial center;

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 matters.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kari Myers".

Kari Myers, Administrative Planner  
Secretary, Plan Commission

cc: Brian McMorro

**PETITION 19-08  
EXHIBIT "A"**

**Northwest Gumwood & S.R. 23 Conditions of Approval**

**Traffic Impact:**

1. The following general conditions shall apply. More specifics and refinements shall be made with each final planned unit development plan submission. A Traffic Impact Study may be required as determined by the City Director of Engineering. All traffic/transportation improvements required for the completion of this project (including but not limited to Gumwood Road and State Road 23) shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering, subject to modification by any potential development agreement with the City should one or more be established. The intent is not to have the applicant build the road for additional function for pass-through traffic, rather that any required turn lanes, widening, access control required as a result of this project be provided to ensure that proposed levels of service (based on proposed improvements) are maintained.
  - a. Any additional right-of-way required for both Gumwood Road and State Road 23 improvements associated with the proposed development project shall be dedicated. There is a need to coordinate the timing of pending State and County improvements with the needed/required improvements of the development. Phasing of improvements associated with this project shall be as determined by the City Director of Engineering in coordination with other applicable jurisdictions.
  - b. The number and or type of curb cuts shall be limited as determined appropriate by the City Director of Engineering and the applicable road authority/jurisdictions.
  - c. All improvements required shall be paid for by the developer and shall be identified as part of the phasing plan for the project.

**Proposed Uses:**

1. Commercial uses shall be limited to those identified within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts. Multi-Family Residential uses may be allowed.
2. *Outdoor storage and display shall be permitted as limited to the fenced-in area shown on the preliminary site plan. Outside storage, excluding materials under the covered storage/warehouse structure, shall be limited to 14' in height.*
3. Off-premise signs/billboards shall be prohibited.
4. Outside storage and display shall be prohibited.
5. All loading docks, dumpsters, ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

**Road Connections:**

1. *A hierarchy of the internal vehicular road network shall be provided. A minimum access throat/stacking area of 200 lineal feet on the site shall be provided at each proposed entrance point from its intersection with the public right-of-way. The minimum access/throat stacking area can be reduced to 100 lineal feet for one (1) proposed entrance point where shown on the preliminary site plan. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected based on actual proposed uses as the planned unit development is built out. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.*
2. Access and utility easements shall be dedicated to adjacent properties, including the City Well Field and Centennial Plaza.

**Stormwater run-off:**

1. The type of stormwater facilities proposed within the PUD shall be limited/restricted as required by City well-head protection standards and as may be directed by the City Director of Engineering based on the close proximity of the City Well Field. The purpose is to limit potential groundwater infiltration in that area.
2. An emergency overflow outlet for proposed retention ponds into City storm sewers may be provided by the City if deemed appropriate by the City Director of Engineering.

**Lighting:**

1. All site lighting, *except for lighting located within the outdoor storage and display area*, shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. *Lighting located within the outdoor storage and display area shall be limited to 15' in height. 90-degree cut-off fixtures shall be required within this area.*

**Signage:**

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 44+ acre site) and to otherwise further the intent of this chapter as follows:
  - a) A maximum of (4) monument type signs may be located along Cleveland Road/S.R. 23 and (6) monument signs may be located along Gumwood Road. The maximum standard for area and height calculations for monument signs shall be further restricted as follows: the maximum sign area shall be limited to a maximum of 60 square feet (rather than 75 square feet) with a maximum length of any sign not exceeding 12 feet.
  - b) Three freestanding identification/development signs for the entire planned unit development (not just for one tenant/occupant) shall be permitted in addition to the monument signage. One may be located along State Road 23. One may be located along Gumwood Road. And one may be located at the intersection of State Road 23 and Gumwood Road. The sign at the intersection of State Road 23 and Gumwood sign shall be limited to a maximum of 20 feet in height and

120 square feet in area. The Gumwood Road and State Road 23 signs shall be limited to a maximum of 12 feet in height and 96 square feet in area.

- c) A sign easement shall be provided to the City of Mishawaka well field property, located at the proposed entrance opposite Heritage Square Drive. This sign shall be subject limited to a maximum of 60 square feet with a maximum length not exceeding 12 feet.
  - d) Signs shall be located a minimum of 200 feet apart from one another (including the sign easement) except that signs may be located closer where an entrance drive is located between them.
- 2. All freestanding signs shall have a masonry base.
  - 3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.
  - 4. Seasonal banners and general development identification banners may be allowed for decorative and parking lot light poles throughout the center.
  - 5. Temporary Construction fence coverings which may include information about the project, elevations, renderings, slogans, logos and coming soon info may be allowed.
  - 6. Directory Kiosks placed strategically around the center to help customers locate businesses with a directory map of the development and advertising for retailers and other businesses may be allowed.
  - 7. Freestanding sandwich boards may be placed internally in the development, but shall not be placed where readable from SR 23 or Gumwood Road.

#### ***Landscaping and Screening:***

- 1. A 3-foot high earth mounding shall be provided along Gumwood Road and State Road 23. A minimum 25-foot green buffer area shall be required along both corridors. Each buffer area shall comply with the landscape requirements of the C-1 General Commercial zoning district.
- 2. Utility areas shall be provided separate from required landscaped areas. If utilities are located within the 25 foot green area, an additional 10 feet of green area shall be required for planting.
- 3. *The existing vegetation (tree row) in the 35' wide buffer along the west property lines abutting existing residential property shall be preserved. A row of 8' high evergreen trees spaced 12' apart shall be provided between this tree row and the screening fence and along the north side of the covered storage/warehouse structure as shown on the preliminary site plan.*
- 4. *Foundation landscaping shall be provided adjacent to the screening fence along the east side of the proposed outdoor storage and display as deemed appropriate.*
- 5. If decorative ponds with fountains are proposed along public roadways, the landscaping requirement shall be reduced to eliminate the need for the 2' berm and

shrubbery/low planting between the road and building/parking areas and where the normal water elevation of the pond is located.

6. *A 14' high composite, aluminum or CedarTone Premium pressure treated lumber fence shall be permitted to screen the proposed outdoor storage area shown on the preliminary site plan.*
7. All developments within the PUD, including the multi-family residential development, shall comply with the landscape requirements of the C-1 General Commercial zoning district. This shall be in addition to any required buffer planting.
8. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission. Phasing of installation shall occur concurrent with development, except that the Planning Commission may require the installation of screening and buffering along property lines prior to when adjacent developments are proposed when deemed necessary/appropriate.

**Parking:**

1. A minimum of (1.5) parking spaces per residential unit shall be provided for the multi-family residential use. Parking ratio may be reduced to a minimum of (1.25) per residential units for one bedroom apartments only. Garages, parking lots, and on-street parking may be utilized for required parking.
2. All other uses shall comply with the corresponding parking requirements as identified in the City of Mishawaka Zoning Ordinance.

**Building/Parking Setbacks:**

1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road.
2. A minimum 25' parking setback shall be provided along Gumwood Road, S.R. 23/Cleveland Road.
3. A minimum 35' building setback shall be provided along the north property line adjacent to Gumwood Crossings and along the west property line abutting existing residential property.
4. A minimum 25' building setback and a 10' parking setback shall be property along the west property line adjacent to Centennial Plaza.
5. A minimum 25' building and 10' parking setback shall be provided along property adjacent to City of Mishawaka owned property.
6. A minimum 10' building and parking setback shall be provided along internal roads and between outlot property lines within the Planned Unit Development, however, a 0' parking setback may be allowed to provide for shared parking bays at various locations within the development as deemed appropriate by the Planning Commission upon review as part of each subsequent final planned unit development site plan submission.

**Building Height & Architectural Material Standards:**

1. All buildings shall be a maximum of four (4) stories or forty-eight (48) feet in height.
2. All buildings shall be permitted to utilize fiber cement board as an appropriate exterior building material. Excluding this material, a minimum of two-thirds of each individual building façade facing the public right-of-way or private internal collector (access) roads within the PUD shall utilize appropriate architectural materials as defined per the C-1 General Commercial District.
3. *The north elevation of the covered storage/warehouse structure shall utilize a combination of colored split face block (concrete masonry units), treated lumber, and colored Belgian edgers as shown on the provided elevation.*

**Phasing:**

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first final planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads, sidewalks, pedestrian access, and other related infrastructure.

|                     |
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| <b>STAFF REPORT</b> |
|---------------------|

Location: Northwest corner of Gumwood Road &  
W. Cleveland Road (S.R. 23)

Date: June 11, 2019  
(AMENDED)

Petition: 19-08

Prepared By: DJS

|                            |
|----------------------------|
| <b>GENERAL INFORMATION</b> |
|----------------------------|

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicants:             | Gumwood Acquisitions, LLC / Menard, Inc. / Abonmarche Consultants, Inc                                                                                                                                                                                                                                                                                                                                                                                                                |
| Status:                 | Property Owner / Contingent Owner & Developer of part of Lot 2 of the Gumwood Road Development PUD plat and three parcels to the north / Surveyor & Engineering Consultant                                                                                                                                                                                                                                                                                                            |
| Request:                | Amend a preliminary Planned Unit Development to refine the overall development plan for a proposed Menard's Home Improvement store, add outdoor storage and display as a permitted use, utilize existing vegetation in a 35' buffer area along a portion of the west property line in lieu of the current PUD ordinance landscaping requirements, construct a 14' high opaque fence to screen the outside storage and display area, and reduce the length of a driveway access throat |
| Existing Zoning:        | S-2 Planning Unit Development (Permitted uses include all those identified in the C-1 General Commercial and C-2 Shopping Center Commercial districts, and multi-family residential)                                                                                                                                                                                                                                                                                                  |
| Proposed Zoning:        | S-2 Planning Unit Development (Same as existing permitted uses with the addition of outdoor storage and display)                                                                                                                                                                                                                                                                                                                                                                      |
| Lot Size:               | 33.8 Acres                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Applicable Regulations: | Section 137-671 thru 137-679 / S-2 Planned Unit Development District; Section 137-41 / Amendments to the Zoning Map                                                                                                                                                                                                                                                                                                                                                                   |

|                            |
|----------------------------|
| <b>SPECIAL INFORMATION</b> |
|----------------------------|

|                           |                                            |                                                                                                                                                               |
|---------------------------|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Area Development Pattern: | North:                                     | S-2 Planned Unit Development (Grandview Mixed-Use Development including commercial and multi-family residential uses & City of Mishawaka/Municipal Wellfield) |
|                           | South:                                     | S-1 Extensive Open Space/Public (Cemetery/St. Joseph Valley Memorial Park)                                                                                    |
|                           | East:                                      | S-2 Planned Unit Development (Heritage Square and Toscana Park Mixed-Use developments including commercial and residential uses)                              |
|                           | West:                                      | C-2 Shopping Center Commercial (Multi-Tenant Commercial/Centennial Place) & Unincorporated St. Joseph County (Single-Family Residential)                      |
| Thoroughfare:             | Gumwood Road & W. Cleveland Road (S.R. 23) |                                                                                                                                                               |
| School District:          | South Bend Community School Corporation    |                                                                                                                                                               |

|                     |                                                                                                                                                                                                                                                                                                                                                     |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Public Utilities:   | All utilities are available and/or will be extended to/throughout the site at the developer's expense                                                                                                                                                                                                                                               |
| Comprehensive Plan: | Not specifically identified in the Mishawaka 2000 Comprehensive Plan. However, the amended PUD with the existing permitted commercial and multi-family residential uses and proposed outdoor storage and display area is generally consistent with the established policy and trend of encouraging retail and multiple family uses within the area. |

## ANALYSIS

The petitioner is requesting to amend the Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) as follows:

- Permission to include as a permitted use, "outdoor storage and display" because this use is expressly prohibited in the current PUD ordinance;
- Permission to "preserve existing vegetation in the 35' wide buffer along the west property lines abutting existing residential property in lieu of constructing a 2' high earth mound planted with evergreen trees, minimum of 8' height, spaced 10' to 12' max along with a 6' minimum height opaque fence as required in the current Grandview PUD ordinance; and
- Permission to construct a treated lumber opaque fence, 14' in height, to screen the proposed outdoor storage and display areas.
- Permission to provide a driveway access throat having a length of approximately 100' to allow for cross access with the adjacent Centennial Place commercial center should there be mutual consent by and between the property owners.

The Planned Unit Development is located at the northwest corner of Gumwood Road and W. Cleveland Road (S.R. 23). The portion to be amended includes the remaining approximate 24.5 acre undeveloped area being a part of Lot 2 of the Grandview Road Development PUD (also a part of tax parcel 029-2017-0370.08) and three vacant parcels (tax parcels 029-2017-0370.23, 029-2017-0370.24, and 029-2017-0370.25).

The petitioner desires to construct a two-story 134,700 sq. ft. retail building with an outdoor storage and display area, where conceptually shown on the attached preliminary site plan, and the required parking areas, access drives, and related infrastructure. The building is for a new Menards Home Improvement Center. The outdoor storage area includes over 176,000 sq. ft. with a 132,843 sq. ft. fenced-in open area and a 43,000 sq. ft. covered storage/warehouse structure located to the north of the main building. The elevations of the storage/warehouse structure show it to be constructed with treated lumber. Staff is recommending that the north side of this structure be constructed with a high quality composite or aluminum siding.

The existing vegetation (i.e. mature overstory tree row) is proposed to be maintained in the 35' wide buffer area along the property line adjacent to the existing residential parcels. The current PUD ordinance states, "a 2-foot high earthen mound planted with evergreen trees, minimum 8' in height, and spaced 10' and 12' max along with a 6' minimum height opaque fence shall be provided along the west property line abutting existing residential property." In addition to maintaining the existing tree row, Staff is recommending that a row of 8' high evergreen trees spaced 12' apart be provided between the tree row and the proposed 14' high opaque fence, as described below, and along the north side of the covered storage/warehouse structure. The 2' mound as previously required can be eliminated. Staff believes that the above described landscaping and fence will provide sufficient screening between the commercial and residential uses. Except for the requested amendment, the site shall comply with all other landscaping requirements as attached.

A 14' high treated lumber opaque fence is proposed to enclose and screen the outdoor storage and display areas. Staff is recommending that this fence be aluminum or composite as these materials will be more durable and aesthetically appealing. The opaque fence will be located along the west side of the storage area adjacent to the residential properties and the east side of the storage area where shown on the

preliminary site plan. A 14' high semi-transparent fence is to be located along the southern edge of the storage area facing the parking area. This amendment is being requested as the current PUD ordinance only allows a maximum 7' high fence per the C-1 General Commercial District.

A reduction in the required length of an on-site throat/stacking area for a proposed access drive is being requested from 200 lineal feet to approximately 100 lineal feet. This is to allow a future cross access to the adjacent Centennial Place commercial center where shown on the preliminary site plan. The Engineering and Planning Staff recommended that the cross access drive be moved further to the north with a potential connection to the adjacent drive north of Centennial Place. Per a discussion with the adjacent property owner, two access drives are desired. The drive(s) will only be constructed should there be mutual consent between the property owners.

Similar to when the original Planned Unit Development was approved, the petitioner is only proposing to establish, or in this case, amend the permitted uses and basic development requirements of the planned unit development. If approved, a detailed final planned unit development site plan will be submitted at a later date concurrent with a specific development request. It is anticipated that the next development request will be the proposed Menards. The amended conditions of approval and development regulations are attached to this report as Exhibit "A".

## RECOMMENDATION

Staff recommends in favor of amending the preliminary Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) as follows:

- Adding outdoor storage and display as a permitted use;
- *Utilizing a combination of colored split face block (concrete masonry units), treated lumber, and colored Belgian edgers on the north elevation of the storage/warehouse structure as shown on the provided elevation;*
- Preserving the existing vegetation in the 35' wide buffer along the west property lines abutting existing residential property;
- Providing a row of 8' high evergreen trees spaced 12' apart between the existing tree row and screening fence along the west property line abutting the existing residential property and along the north elevation of the storage/warehouse structure;
- *Allowing a composite, aluminum or CedarTone Premium pressure treated lumber fence, 14' in height, to screen the proposed outdoor storage and display areas;*
- *Providing foundation landscaping adjacent to the screening fence along the east side of the proposed outdoor storage and display area;*
- Reduce the minimum on-site throat/stacking area from 200 lineal feet to 100 lineal feet for a cross access with the adjacent Centennial Place commercial center;

The amended conditions of approval and development regulations, *with changes italicized*, are attached as Exhibit "A". Omissions from the previously amended conditions and development regulations were made when appropriate.

This recommendation is based on the following findings of fact:

1. Existing Conditions - The subject parcels are located on Gumwood Road and Cleveland Road (S.R. 23), both heavily traveled corridors. Existing commercial and residential development is located to the west, northeast, and across Gumwood Road to the east.
2. Character of Buildings in Area - The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial, multi-family residential, and mixed-use consisting of both commercial and residential uses. Single-family residential properties are also located to the west.
3. The most desirable/highest and best use - Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, the most desirable use for the property is a transitional mix of commercial and residential uses.

4. Conservation of property values- The proposed zoning should not be injurious to property values in the surrounding area due to the similar adjacent and nearby commercial and mixed-use retail and multi-family residential uses. Furthermore, if approved, the adjacent residential parcels will be protected by conditions placed on the planned unit development. These conditions include among other significant restrictions as requiring substantial screening and landscaping between uses.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

## ATTACHMENTS

Aerial Map, Photographs, Exhibit A – Conditions of Approval, Petition, Prior Preliminary PUD Site Plan (as approved per Petition 18-04/Ordinance 5611), Amended Preliminary Site Plan, Building Elevations, Photographs of Proposed Menards (For Illustrative Purposes Only)



Aerial Photograph - Northwest Gumwood and Cleveland Road PUD



P1. Looking westerly into the site along Grandview Drive from Gumwood Drive south of Phase II of the Grandview PUD (currently under construction).



P2. Looking northeasterly toward the site from Cleveland Road near the existing access drive.



P3. Looking northwesterly from Cleveland Road toward the site and the existing tree row adjacent to the single-family residential properties to be maintained.

1st Reading 6-17-19  
2nd Reading  
Passed  
Failed  
Continued To

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 13 2019

PETITION 19-08

CITY OF MISHAWAKA, INDIANA

CITY CLERK  
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2019-17

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:

LOT 2 AND A PART OF LOT 1 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION, RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 2; THENCE NORTH 00°28'12" WEST ALONG THE WEST LINE OF SAID LOT 2, 562.65 FEET; THENCE NORTH 68°36'22" EAST, 327.80 FEET; THENCE SOUTH 21°40'35" EAST, 37.48 FEET; THENCE NORTH 89°46'50" EAST, 171.07 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°31'05" EAST ALONG THE EAST LINE OF SAID LOTS 1 AND 2, 1531.34 FEET; THENCE SOUTH 44°28'18" WEST, 35.36 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID LOT 2, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 33.80 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

COMMON ADDRESS: Near Northwest Corner of Gumwood Road and Cleveland Road  
(State Road 23)

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to permit outside storage and display as a use, preserve

Proposed Ordinance No: 2019-17

Ordinance No: \_\_\_\_\_

existing vegetation in lieu of landscaping requirements, construct 14' opaque fence to screen outside storage area, and provide driveway access throat length of 100' to property west for a proposed Menard's store subject to the following conditions:

- Adding outdoor storage and display as a permitted use;
- *Utilizing a combination of colored split face block (concrete masonry units), treated lumber, and colored Belgian edgers on the north elevation of the storage/warehouse structure as shown on the provided elevation;*
- Preserving the existing vegetation in the 35' wide buffer along the west property lines abutting existing residential property;
- Providing a row of 8' high evergreen trees spaced 12' apart between the existing tree row and screening fence along the west property line abutting the existing residential property and along the north elevation of the storage/warehouse structure;
- *Allowing a composite, aluminum or CedarTone Premium pressure treated lumber fence, 14' in height, to screen the proposed outdoor storage and display areas;*
- *Providing foundation landscaping adjacent to the screening fence along the east side of the proposed outdoor storage and display area;*
- Reduce the minimum on-site throat/stacking area from 200 lineal feet to 100 lineal feet for a cross access with the adjacent Centennial Place commercial center.

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

1. Existing Conditions - The subject parcels are located on Gumwood Road and Cleveland Road (S.R. 23), both heavily traveled corridors. Existing commercial and residential development is located to the west, northeast, and across Gumwood Road to the east.
2. Character of Buildings in Area - The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial, multi-family residential, and mixed-use consisting of both commercial and residential uses. Single-family residential properties are also located to the west.
3. The most desirable/highest and best use - Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, the most desirable use for the property is a transitional mix of commercial and residential uses.
4. Conservation of property values- The proposed zoning should not be injurious to property values in the surrounding area due to the similar adjacent and nearby commercial and mixed-use retail and multi-family residential uses. Furthermore, if approved, the adjacent residential parcels will be protected by conditions placed on the planned unit development. These conditions include among other significant restrictions as requiring substantial screening and landscaping between uses.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial

Proposed Ordinance No: 2019-17

Ordinance No: \_\_\_\_\_

areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

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

MAY 30 2019

May 22, 2019

CITY CLERK  
MISHAWAKA, IN

Mr. Kenneth B. Prince, ASLA, AICP, City Planner  
City of Mishawaka  
600 East Third Street  
Mishawaka, IN 46544

RE: **Gumwood Acquisitions, LLC**  
**Petition for PUD Zoning Amendment**



Dear Mr. Prince:

On behalf of the current property owner, Gumwood Acquisitions, LLC, we are submitting for your review and processing a petition to amend the PUD which was approved in 2014 (Ordinance No. 5434) and subsequently amended in 2015 (Ordinance No. 5509) and in 2018 (Ordinance No. 5611).

The properties included in the approved PUD have tax identification numbers of 029-2017-037008, 029-2017-037022, 029-2017-037023, 029-2017-037024, and 029-2017-037025. The tract is bounded to the north by Phase One of GrandView, to the east by Gumwood Road, to the south by Cleveland Road (SR 23) and to the ~~west~~ <sup>west</sup> by the Centennial Place shopping plaza.

We are respectfully requesting that the PUD be amended as follows:

- Permission to include as a permitted use, "Outdoor storage and display" (because this use is expressly prohibited in the current PUD ordinance);
- Permission to "preserve existing vegetation in the 35'-wide buffer along the west property lines abutting existing residential property" in lieu of constructing "a 2'-high earth mounding planted with evergreen trees, minimum 8' height, spaced 10' to 12' max along with a 6' minimum height opaque fence" as required in the current GrandView PUD ordinance;
- Permission to construct treated lumber opaque fence, 14' high, to screen the proposed outdoor storage and display areas; and
- Permission to provide a driveway access throat having a length of approximately 100' to allow for a cross access with the adjacent Centennial Place commercial center, should there be mutual consent by and between property owners.

This mixed-use development will continue to include construction of public and private roadways and utilities, and a drainage detention system to provide storage for storm water runoff as it is released at a rate into existing drainage facilities.

If you have any questions or require additional information, please do not hesitate to contact our office at (574) 314-1022.

Sincerely,

Abonmarche Consultants, Inc.



Brian McMorrow  
Senior Project Manager

CC: Ryan Rans, Gumwood Acquisitions, LLC  
Kristen Sawdon, Great Lakes Capital, LLC  
Thomas O'Neill, Menard, Inc.  
Daryl S. Knip, Abonmarche Consultants, Inc.



DATE: May 22, 2019

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



RE: **PETITION FOR PUD ZONING AMENDMENT**

The undersigned, Gumwood Acquisitions, LLC respectfully show that they are the owner of the following described real estate which was the subject of a PUD established by Ordinance No. 5434 on January 21, 2014, amended on December 7, 2015 by Ordinance No. 5509, and amended again on February 5, 2018 by Ordinance No. 5611 and located in the County of St. Joseph, State of Indiana, to-wit:

LOT 2 AND A PART OF LOT 1 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION, RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 2; THENCE NORTH 00°28'12" WEST ALONG THE WEST LINE OF SAID LOT 2, 562.65 FEET; THENCE NORTH 68°36'22" EAST, 327.80 FEET; THENCE SOUTH 21°40'35" EAST, 37.48 FEET; THENCE NORTH 89°46'50" EAST, 171.07 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°31'05" EAST ALONG THE EAST LINE OF SAID LOTS 1 AND 2, 1531.34 FEET; THENCE SOUTH 44°28'18" WEST, 35.36 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID LOT 2, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 33.80 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

Petitioner owns One Hundred (100%) percent of the above described land, excluding the right-of-way of Cleveland Road, and is located within a part of the east half of Section 21, Township 38 North, Range 3 East, Harris Township, St. Joseph County, and that the Petitioner desires the same to be annexed to the City of Mishawaka, Indiana, with an "S-2" Planned Unit Development District zoning classification desired. Petitioner further states they intend to utilize said land for a mixed-use multi-family residential and commercial development.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate.

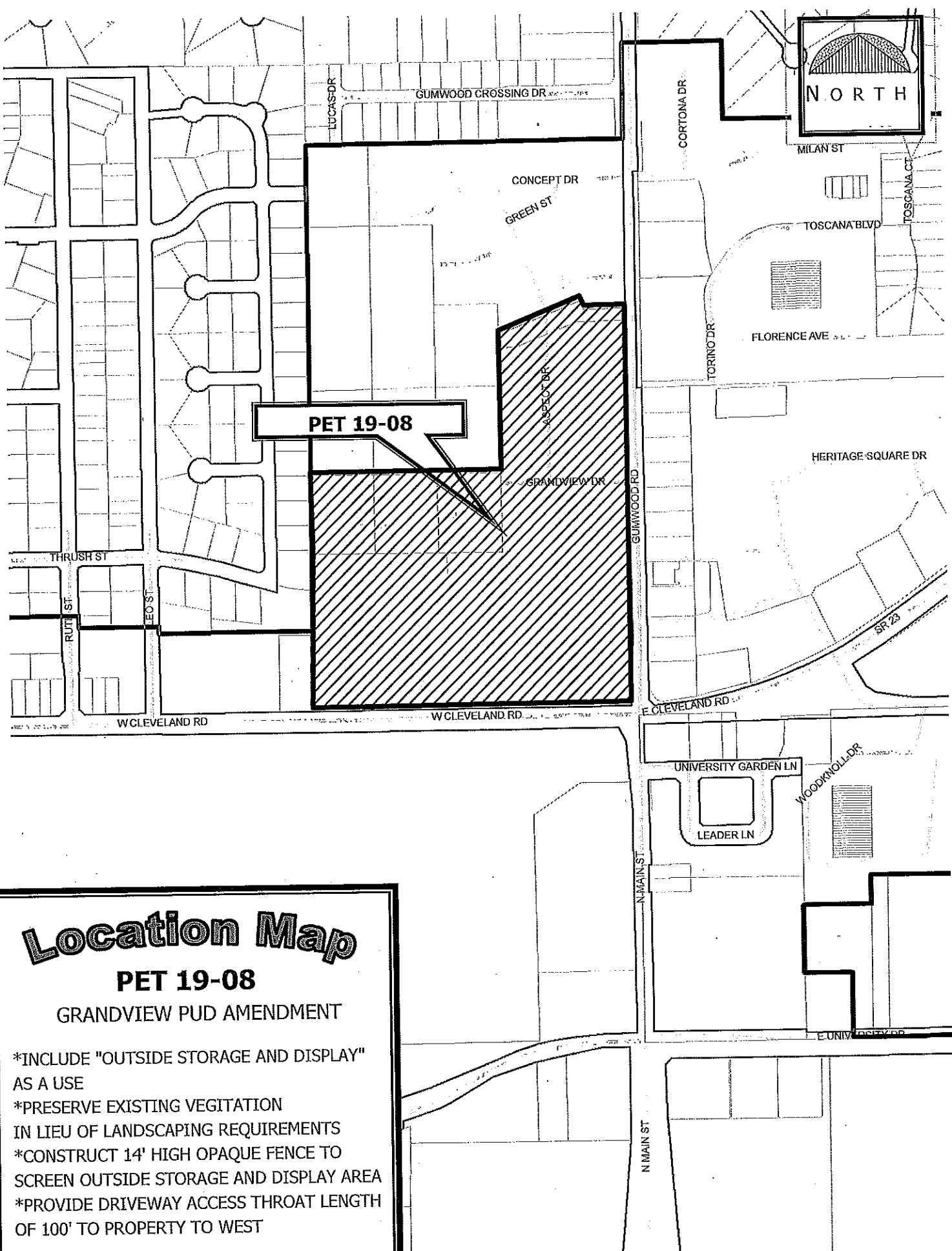
**For: Gumwood Acquisitions, LLC**

Ryan Rans  
Ryan Rans, Managing Partner

Date: 5/21/2019

**CONTACT PERSON:**

Brian McMorro  
Abonmarche Consultants, Inc.  
750 Lincoln Way East  
South Bend, Indiana 46601  
(574) 314-1022  
bmcmorrow@abonmarche.com



JUN 13 2019

APPEAL #19-23

CITY CLERK  
MISHAWAKA, IN

RESOLUTION NO. 2019-17

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:

**6501 Grape Road, Suite 1205A, 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 **6501 Grape Road, Suite 1205A, Mishawaka, Indiana**, more particularly known and described as follows:

Commencing at an Indiana Toll Road right-of-way monument at the intersection of the North right-of-way line of said Toll Road with the proposed West right-of-way line of Grape Road, said point also being the Principal Point and Place of Beginning and lying in and on the South line and 80.00 feet West of the East line of said Northwest Quarter of Section 28;

thence South 89°37'13" West on and along the North right-of-way of the Indiana State Toll Road (said line also being the South line of the Northwest Quarter of Section 28), a distance of 723.71 feet to a point;

thence North 35° 00' 00" West a distance of 382.67 feet to a point;

thence North 55° 00' 00" East a distance of 41.50 feet to a point;

thence North 35° 00' 00" West a distance of 459.50 feet to a point;

thence North 60° 00' 00" West a distance of 430.30 feet to a point on the Easterly right-of-way line of Indiana State Route 23;

thence on and along the said Easterly right-of-way line a distance of 64.24 feet along an arc to the right having a radius of 2821.79 feet and a chord of 64.24 feet bearing North 35° 22' 43.5" East to a point;

thence South 50° 00' 00" East a distance of 385.71 feet to a point;

thence North 30° 00' 00" East a distance of 31.50 feet to a point;

thence South 60° 00' 00" East a distance of 83.08 feet to a point;

thence North 55° 00' 00" East a distance of 169.78 feet to a point;

thence North 30° 00' 00" East a distance of 101.13 feet to a point;

thence South 60° 00' 00" East a distance of 50.00 feet to a point;

thence North 30° 00' 00" East a distance of 55.00 feet to a point;

thence South 60° 00' 00" East a distance of 79.17 feet to a point;

thence North 30° 00' 00" East a distance of 198.00 feet to a point;

thence North 60° 00' 00" West a distance of 114.17 feet to a point;

thence North 30° 00' 00" East a distance of 75.07 feet to a point;

thence North 05° 00' 00" East a distance of 225.09 feet to a point;

thence North 60° 00' 00" West a distance of 358.49 feet to a point on the said Easterly right-of-way line of Indiana State Route 23;

thence North 37° 08' 02" East on and along the said Easterly right-of-way line a distance of 70.52 feet to a point;

thence 452.832 feet along an arc to the left having a radius of 1807.446 feet and a chord of 451.649 feet bearing North 29° 57' 23" East to a point;

thence North 22° 46' 45" East a distance of 319.93 feet to a point;

thence North 89° 49' 12" East a distance of 312.39 feet to a point;

thence South 86° 33' 43.1" East a distance of 320.02 feet to a point on the proposed West right-of-way line of Grape Road;

thence South 01° 01' 41" East on and along the said West right-of-way line of Grape Road a distance of 370.02 feet to a point;

thence South 00° 24' 32" East a distance of 1484.91 feet to a point;

thence South 10° 04' 57" West a distance of 186.59 feet to a point;

thence South 00° 24' 32" East a distance of 320.00 feet to the  
Principal Point and Place of Beginning.

The Use Variance will permit microblading/semi-permanent make-up services within a salon (Suite 1205A).

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 existing business provides similar personal services/salon 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 it is included in a large commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

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.

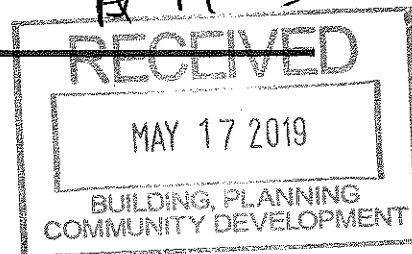
\_\_\_\_\_  
David A. Wood, Mayor

MAY 30 2019

CITY CLERK  
MISHAWAKA, IN

DATE: May 15, 2019

TO: Board of Zoning Appeals  
City of Mishawaka, Indiana



The undersigned appellant respectfully shows the Board:

1. I, **Joe Gravitt, President, Spaceman Ventures LLC**, am the owner of the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to- wit:

**Sola Salon Studios, University Park Mall 6501 N Grape Road Unit 1205A Mishawaka, IN 46545**

2. The above-described real estate presently has a zoning classification of C-2 Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: Studio Salon Suites, 6501 N Grape Road Unit 1205A, Mishawaka IN 46545 renting to Cosmetologists, Estheticians, Barbers, Massage Therapists, Nail Technicians, Beauty Industry.
4. Appellant desires to rent studio space to Salon Professionals who provide micro blading and/or permanent makeup.
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.)
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
7. Answer the following necessary questions for a **USE VARIANCE**:

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

*No. The proposed use is an expansion of services already provided within an existing salon and will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.*

- (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 proposed use is part of an existing studio salon and should not adversely affect adjacent use or property values.*

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

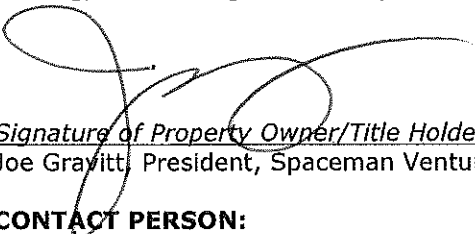
*Yes. To develop quality business areas to meet the retail and service needs of the area, provide business opportunity for salon professionals in St. Joseph County.*

- (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 - it limits professional licensed salon professionals from practicing the art of microblading thus limiting their income; as well as prevents clients from receiving these requested services at an all service studio salon concept. This fairly new procedure has been placed under tattooing which really does not fit the service. There is ongoing conversation within the beauty industry to classify it under cosmetology's umbrella because of who provides the service. Sola Salons has invested a substantial amount into the build out of the facility to insure that the requested variance is consistent with the spirit, purpose, and intent of the any current ordinance.*

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?
- No.*

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  
Joe Gravitt, President, Spaceman Ventures LLC

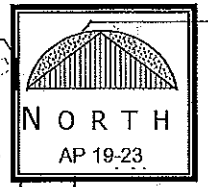
Second Property Owner/Title Holder

**CONTACT PERSON:**

Name: Joe Gravitt, Spaceman Ventures LLC, dba Sola Salon Studios  
Address: 9102 N Meridian Street Ste 555 Indianapolis IN 46260  
Day Phone Number: 317.721.9395  
Fax Number:  
Email: joe\_solasalons@icloud.com

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W CLEVELAND RD



SR 23

GRAPE RD

AP 19-23

CLOVIS ST

INDIANA TOLL RD  
INDIANA TOLL RD

## Location Map

### APPEAL 19-23

JOE GRAVITT, SPACEMAN  
VENTURES LLC DBA SOLA SALON  
STUDIOS (TENANT) & UNIVERSITY  
PARK MALL LLC (OWNERS)

6501 N. GRAPE ROAD, SUITE 1205A

USE VARIANCE TO PERMIT MICRO-  
BLADING &/OR PERMANENT MAKEUP

JUN 13 2019

APPEAL #19-26

RESOLUTION NO. 2019- 18

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:

**6501 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 **6501 Grape Road, Mishawaka, Indiana**, more particularly known and described as follows:

Commencing at an Indiana Toll Road right-of-way monument at the intersection of the North right-of-way line of said Toll Road with the proposed West right-of-way line of Grape Road, said point also being the Principal Point and Place of Beginning and lying in and on the South line and 80.00 feet West of the East line of said Northwest Quarter of Section 28;

thence South 89°37'13" West on and along the North right-of-way of the Indiana State Toll Road (said line also being the South line of the Northwest Quarter of Section 28), a distance of 723.71 feet to a point;

thence North 35° 00' 00" West a distance of 382.67 feet to a point;

thence North 55° 00' 00" East a distance of 41.50 feet to a point;

thence North 35° 00' 00" West a distance of 459.50 feet to a point;

thence North 60° 00' 00" West a distance of 430.30 feet to a point on the Easterly right-of-way line of Indiana State Route 23;

thence on and along the said Easterly right-of-way line a distance of 64.24 feet along an arc to the right having a radius of 2821.79 feet and a chord of 64.24 feet bearing North 35° 22' 43.5" East to a point;

thence South 50° 00' 00" East a distance of 385.71 feet to a point;

thence North 30° 00' 00" East a distance of 31.50 feet to a point;

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thence North 05° 00' 00" East a distance of 225.09 feet to a point;

thence North 60° 00' 00" West a distance of 358.49 feet to a point on the said Easterly right-of-way line of Indiana State Route 23;

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thence 452.832 feet along an arc to the left having a radius of 1807.446 feet and a chord of 451.649 feet bearing North 29° 57' 23" East to a point;

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thence North 89° 49' 12" East a distance of 312.39 feet to a point;

thence South 86° 33' 43.1" East a distance of 320.02 feet to a point on the proposed West right-of-way line of Grape Road;

thence South 01° 01' 41" East on and along the said West right-of-way line of Grape Road a distance of 370.02 feet to a point;

thence South 00° 24' 32" East a distance of 1484.91 feet to a point;

thence South 10° 04' 57" West a distance of 186.59 feet to a point;

thence South 00° 24' 32" East a distance of 320.00 feet to the Principal Point and Place of Beginning.

The Use Variance will permit a four (4) day RV show subject to the following conditions:

USES:

- The event shall be limited to the display and sales of RVs during a 4 day period between June 27 and June 30, 2019.

SITE PLAN:

- A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

- Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.
- **All mall service drives shall remain open at all times.**

SETBACKS:

- All tents, display/parking areas, and portable toilets shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

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 development is temporary and will maintain certain minimum developmental standards as outlined herein;
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 area is surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

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

RESOLUTION #2019-18  
6501 Grape Road  
Page 5 of 5

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

2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why*
3. Will strict application of the terms of the On-Premise Sign Standards Ordinance result in practical difficulties in the use of the property? *Explain your reason why*

RECEIVED  
DEBORAH S. BLOCK, MMC

MAY 30 2019

CITY CLERK  
MISHAWAKA, IN



**THIS IS NOT A FILL-IN FORM, BUT A SAMPLE APPEAL TO BE USED AS A GUIDE WHEN PREPARING YOUR APPEAL**

DATE: 5/21/2019

TO: Board of Zoning Appeals  
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, **University Park Mall LLC**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

**Irreg. Tract Between State Rd 23 & Grape Road & Between Toll Road & Cleveland Rd sec 28-38-3e 39.022 Acres More Or Less.**

2. The above-described real estate presently has a zoning classification of **Commercial (C-2)** District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner: **Temporary 4 day RV show located in the North JC Penney Lot. See Exhibit A for proposed location.**
4. Appellant desires to (*Explain what is proposed that violates the Ordinance.*)  
**Hold a temporary, four-day RV sales show in the North portion of the JC Penney parking area from June 27 to 30. A variance is necessary because C-2 zoning does not permit RV/vehicle sales**
5. The Zoning Ordinance of the City of Mishawaka requires (*Explain ordinance requirements and note Section Number of the Ordinance.*)  
**A use variance be submitted by property owner and be heard by the Board of Zoning Appeals.**
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.  
**No. By definition this will not result in any unnecessary hardships to the property. These shows provide positive synergy to the businesses that operate within the mall as well as the surrounding businesses on Cleveland and Grape Road.**
7. Answer the following necessary questions for a **USE VARIANCE**:
  - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? **YES OR NO and explain your reason why.**

**No. This is a request for a temporary use-variance to host University Park Mall's second annual RV-Show in the North portion of the JCPenney parking lot. This is a temporary 4 day show beginning June 27th, 2019 and ending Sunday, June 30th.**

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *YES OR NO and explain your reason why.*

**No. It is our expectation that this event will have no negative impact on neighboring business. The four day event will drive traffic to the area to the benefit of surrounding businesses. The RV Show will have no site line obstructions to any neighboring parcel.**

- (3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*

**No. University Park Mall is strategically located with great visibility to Grape Road, Cleveland Road, State-Road 23, & Toll Road 80. On Mall Media/Advertising and University Park Mall social media pages help co-promote the show.**

- (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 OR NO and explain your reason why.*

**No. By definition this will not result in any unnecessary hardships to the property. These shows provide positive synergy to the businesses that operate within the mall as well as the surrounding businesses on Cleveland and Grape Road.**

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *YES OR NO and explain your reason why.*

**No. This request is in accordance with the Mishawaka 2000 Comprehensive Plan. This is a temporary 4 day show including multiple RV dealers and drives traffic from neighboring counties.**

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



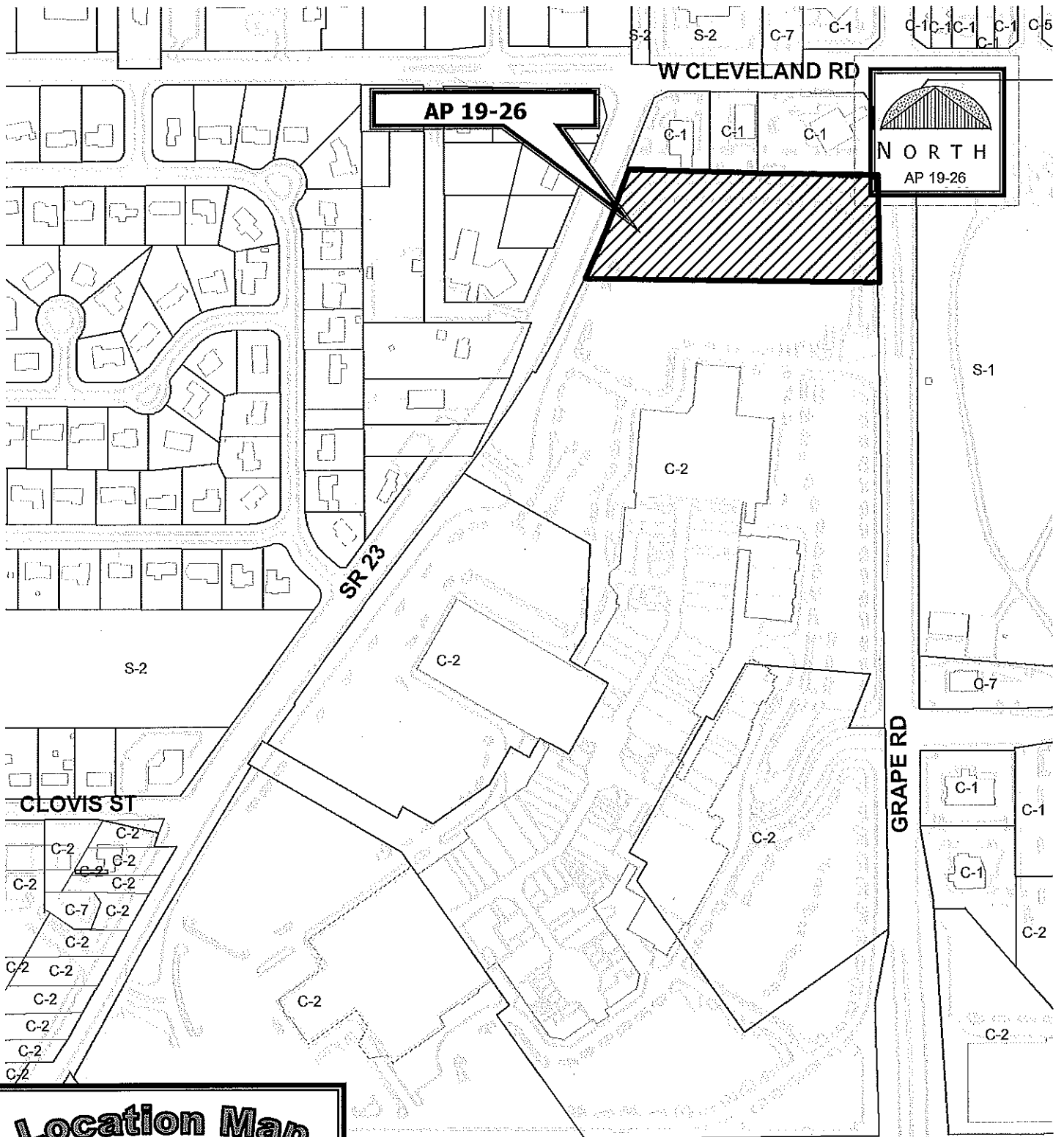
Second Property Owner/Title Holder

Print Name Here

**CONTACT PERSON:**

Name: Wes Mehr, General Manager  
Address: 6501 N. Grape Road Suite 334 Mishawaka, IN 46545  
Day Phone Number: 574.271.5531  
Fax Number: 574.272.5924  
Email: Wes.Mehr@simon.com

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## Location Map

### APPEAL 19-26

UNIVERSITY PARK MALL LLC  
(OWNER)

6501 N. GRAPE ROAD, SUITE 334

USE VARIANCE TO ALLOW A 4-DAY  
RECREATIONAL VEHICLE (RV)  
SALES EVENTS