

AGENDA

Wednesday, November 6, 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**

October 21, 2019

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

Appeal No. 2019-48 Use Variance to allow Two Family Dwelling in R-1 Single Family District - 815 N Main St.

Petition No. 2019-16 Rezone from C-1 to R-1 - 2228 LWW

- 6. Report of Special Committee**

- 7. Ordinances on First Reading**

P.O. NO. 2019-35 Transfer Funds - Police Dept. - \$67,600.00

- 8. Resolutions**

- 9. Ordinances on Second Reading**

P.O. NO. 2019-27 Appropriating Local Road and Bridge Funding - \$1,145,700.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2019-28 Additional Funds Controller - \$56,000.00 Fire- \$215,000.00 total \$271,000.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2019-29 Additional Funds Sidewalk and Curb Repair - \$16,161.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2019-30 Rezone from C-7 to C-4 Car Wash Facility 410 W McKinley Ave(Assigned to Land Use Planning Committee)

P.O. NO. 2019-31 Rezone from I-1 Light Industrial to R-1 Single Family - 935 E Fifth St. (Assigned to Land Use Planning Committee)

P.O. NO. 2019-32 PUD Amendment to add a Helipad as Permitted Use - 3220 Beacon Parkway Beacon Health Systems, Inc. (Assigned to Land Use Planning Committee)

P.O. NO. 2019-33 Vacation of 20 ft strip of Right-of-Way - Beacon Health Systems, Inc. (former Evergreen Road) (Assigned to Land Use Planning Committee)

P.O. NO. 2019-34 Transfer Funds - MVH - \$6,500.00 (Assigned to Budget and Finance Committee)

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

The matter of Ordinance No 5666 AA City Employees Salary Ord for 2020

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
October 21, 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 October 21, 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.

Others Present: Clerk Block, Chief Deputy Clerk Hazen, Deputy Clerk Raven Boston and Council Attorney Michael Trippel.

Minutes of the Regular Meeting of October 07, 2019 was approved as received from the Clerk’s Office.

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

APPEAL NO. 19-47 An appeal submitted by James and Julie Schmidt requesting a Use Variance for **623 East Fourth Street** to allow tailoring and alterations in the small detached building (formerly beauty salon).

The Board, with a vote of 4-1, recommended approval.

PETITION NO. 19-11 A request submitted by GLC-MAP McKinley Trust, LLC, requesting to rezone **410 West McKinley Avenue** from C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District.

The Commission, with a vote of 6-0, recommended approval.

PETITION NO.19-12 A petition submitted by Szabolcs Szemethy requesting to rezone **935 East Fifth Street** from I-1 Light Industrial District to R-1 Single Family Residential District.

The Commission, with a vote of 6-0, recommended approval.

PETITION NO.19-13 A petition submitted by Beacon Health Systems, Inc., requesting to amend the NW Capital and Toll Road Planned Unit Development (**3220 Beacon Parkway, Granger**) to add a helipad as a permitted use.

The Commission, with a vote of 6-0, recommended approval.

PETITION NO.19-14 A petition submitted by Beacon Health Systems, Inc., requesting to vacate a 20' strip of right-of-way (former Evergreen Road).

The Commission, with a vote of 6-0, recommended approval.

A public hearing on Vacation R2019-01 required by State Statue on behalf of Beacon Health Systems, INC. (former Evergreen Rd.) a 20ft strip of Right-of-Way.

William Coleman, Panzica Architecture Group 416 E. Monroe Street South Bend, IN spoke on behalf of Beacon Health Systems Inc. He went on to say they Beacon were requesting a forgotten portion of land to be vacated to proceed to enter into an agreement with the Indiana Department Of Transportation for the establishment of contiguous right-of-way between Beacon property and INDOT property along Capital Avenue. Mr. Coleman said it appeared the portion of the roadway was not included in the original property Beacon purchased. He continued to say through this vacation they would be able to continue their desire to a contiguous roadway and a transfer of property between INDOT and Beacon.

Public Hearing was closed at 7:08P.M.

Clerk Block read the following proposed ordinances by title and was set for public hearing at the next meeting.

PROPOSED ORDINANCE NO. 2019-30

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 from C-1 to C-4 Car Wash Facility – 410 W. McKinley Ave.)
(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2019-31

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 from I-1 to R-1 935 E. Fifth Street)
(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2019-32

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 add Helipad as permitted use- 3220 Beacon Parkway)
(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2019-33

**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.**

(Vaca 20 ft. strip or Right-of-Way – Beacon Health Systems Inc.)
(Assigned to Land Use Planning Committee)

Clerk Block read the following resolutions by title and were opened for public hearing.

RESOLUTION NO. 2019-25

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY
OF MISHAWAKA, INDIANA, APPROVING A PETITION OF T
HE MISHAWAKA BOARD OF ZONING APPEALS F
OR THE PROPERTY LOCATED AT:**

623 East Fourth Street, Mishawaka, Indiana
(UV to allow Tailoring & Alteration)

Matt Vukovich said he was the owner of the property under a land contract. He went on to say the proposed property has sat vacant for almost a year. Mr. Vukovich said the property was previously a hair salon, they have been marketing the building as a salon searching for tenants with no luck. He mentioned the salon brought heavy traffic to the neighborhood and he knew the neighbors were not happy. Mr. Vukovich said he spoke with the Planning Department on finding other permitted uses for the property. He said when Mr. Theangy applied to do tailoring by drop off on the property, he then spoke with the Planning Department again, they told him he had to go through the process of changing the variance. Mr. Vukovich went on to say Mr. Theragene would work at the hours of 9 A.M. to 6 P.M. Monday through Friday with short hours on Saturday. He mentioned Mr. Theragene also designed suits for sale but it would not attract as much traffic as the other permitted uses as it would be a drop off and pick up only business. Mr. Vukovich said they were expecting very light traffic and they were also applied to have the handicap parking space removed in front of the business, it was a concern with congestion. He continued to say the space had not been used in over 10 years, the removal of the space would free three spaces in front of the property.

Mr. Mammonlenti asked would Mr. Theragene be the only tailor. Mr. Theragene replied yes. Mr. Mammolenti also questioned the term length Mr. Vukovich had left on the land contract and

was he planning on purchasing the building at the end of the contract term. Mr. VuKovich said he had between 1 to 3 years on the land contract and the plan was to purchase the building after. He continued to say the property provided a lot of income; they were struggling with the vacancy for a year. He mentioned the biggest complaint from the neighbor was the lack of parking and the amount of traffic the salon created. Mr. VuKovich felt this was a better fit.

Mrs. Voelker questioned the petitioners addresses. Mr. Vukovich stated his address was 1415 West Avenue in Goshen. Mr. Theragene stated his address was 1719 Lincoln Way West Mishawaka. Mrs. Voelker went on to ask was there water and restrooms in the building and when the building was purchased did Mr. Vukovich also purchase the home behind the salon. Mr. Theragene replied yes, there was a restroom and water. Mr. VuKuvich said it was the same parcel they purchased the building at the same time. She also questioned the hours of operation and would Mr. Theragene do alterations outside of operation hours. Mr. Theragene said hours would be 10A.M. to 6P.M. Monday through Friday and some Saturdays 10 A.M. to 12 P.M. He said alteration would be done during the occupied hours of operation.

Mr. Tanner asked was the home behind the proposed tailor shop occupied and were they in agreement to the proposal. Mr. VuKuvich replied yes, the building was occupied, and the residents were in agreement.

Mrs. Voelker questioned how many apartments were in the building. Mr. VuKovich said there were two apartments, both were occupied.

Mr. Mammolenti asked would there be after hour drop-off. Mr. Theragene replied no.

Mr. Emmons asked to confirm the rental was for residence and not business. He said in the past the tenant ran a music studio out of the home. Mr. Vukovich replied no it was residential only.

Ms. Petko Reisdorf questioned where Mr. Theragene currently did business and how long has he tailored. Mr. Theragene said he was currently working out of his home, but he knew it was illegal to work out of his home, so he wanted to find a business. He said he has been tailoring for a couple of years. Ms. Petko Reisdorf also questioned estimated traffic he would bring to his business a day. Mr. Theragene said not much, the customer would drop off clothing and he would give a time to pick up.

Mr. Baincki asked Ken Prince, City Planner when the property was built it was meant for the owner of the house to run the business, it was not meant to be two different situations. Mr. Prince stated zoning and ownership did not necessarily go together. He said in this case they did not have to make the correlation between someone that would have to live there in order to operate a business there. Mr. Prince said he believed it would have to be grandfathered as it was a extremely nonconforming situation. He said they had they had nonconforming situations all over the city. Mr. Prince went on to say the alternative to the situation was to demolish the building but that would deny Mr. VuKovich the use of the property, they had to provide him reasonable use of the property. Mr. Prince continued to say the property was grandfathered for a salon which created a lot of traffic. He said they believed recommending the tailor shop would be less of an impact rather than the previous existed. Mr. Prince mentioned once the tailor shop

was there for an extended period of time, any other use or changing use would have to come back before the Board of Zoning Appeals and the council. Mr. Banicki said something like this was more acceptable in the past. He continued to say for them to split the parcel to profit, it was not necessarily owner occupied on either building. He expressed he did not know how it would affect the neighborhood. Mr. Prince explained this was a zoning issue and not an ownership issue. He went on to say the city had a lot of rentals, some were very well cared for and some were not, but it was a separate issue than what was being proposed now. Mr. Prince said how the property was maintained was separate from the zoning and the use of the property and use of the building in front.

Mr. Hixenbaugh agreed with Mr. Prince legal analysis and Mr. Banicki's raised some good points. He went on to say he believed it fell more in the category of challenge for the petitioners. Mr. Hixenbaugh said in light of the unique nature of the property and history when properties like this were more common back in the day. He said he agreed with Mr. Prince comments regarding the land use component as proposed. Mr. Hixenbaugh continued to say he thought it was uncommit upon the petitioners to be more sensitives to the neighbors and the impact they would have on the neighbors than other commercial entities. He suspected his colleagues would join in challenging the petitioners to be the best neighbor at all times to the residence next door. Mr. Hixenbaugh said if it was not for the fact the property being zoned for a commercial use back in 1977, he would have voted against it. He thought in this time it made less since for it to be interjected in a residential neighborhood than it did in the 1900's. He said he would support the recommendation of staff with regard to approved proposal, but he would hold the petitioners to their commitment to be good neighbors. Mr. Hixenbaugh wished Mr. Vukovich and Mr. Theragene well on their business venture.

Mr. Emmons asked were the utility bills billed separately from the house. Mr. Prince said he was not sure. He assumed because the buildings were separate structures bills were separate. Mr. Prince said sometimes gas and electric were billed separately and if there was a combined tap for water and sewer, it would be billed together. He said he did not investigate it as a part of the zoning.

Question was called for at 7:29P.M. for **RESOLUTION NO. 2019-25**  **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.

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

PROPOSED ORDINANCE NO. 2019-21

**AN ORDINANCE FIXING THE SALARIES
OF CERTAIN ELECTED OFFICIALS OF THE CITY OF MISHAWAKA
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2020
(Elected Officials Salary Ord)
(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 the majority upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said she was seeking approval for the Elected Officials Salary Ordinance. She continued to say the salary was made with a 1.5% plus a 500 hundred dollar increase from 2019.

Question was called for at 7:32 P.M. for **PROPOSED ORDINANCE NO. 2019-21** **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. 5665**

PROPOSED ORDINANCE NO. 2019-22

AN ORDINANCE THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2020.

(City Employee Salary Ord)

(Assigned to the Budget and Finance Committee)

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

Mayor Wood said he was speaking in support of the proposed amendment for Proposed Ordinance No. 2019-22. He continued to say he just reviewed the amendments and he mostly approved of them. Mayor Wood went on to say he wanted to give his unequivocal support to the public safety of police and fire for the annual wage increase. He said police and fire did difficult work doing what they did; it was public service beyond what most could comprehend, it was public service that demanded respect and support. Mayor Wood said when public safety personnel discharge their duties within their guidelines, they had no bigger supporter than himself for doing their work. He continued to say public safety was public service number one, it was the top priority and his administration puts their money where their mouth was. Mayor Wood said they made sure they gave public safety the proper equipment, training, facilities, and as best of pay and benefits and retirement the city could offer. He went on to say while they have given raises each and every year of his 9 years as Mayor, some were admittedly small. Mayor Wood said the small raises were due to the planning and preparation of the universally accepted coming budget short fall known as the fiscal cliff. He continued to say they have been transparent about the impacts of the fiscal cliff and their strategy and their plans to overcome it. Mayor Wood continued to say their strategy was working, they were putting the city in a better position and pushing back the fiscal cliff. He said the fiscal cliff would primarily impact the city's general fund, they were anticipating a 10 million dollar hit in revenue due to property tax caps. Mayor Wood said the general fund predominately paid for city services, over half was

dedicated to public safety, over 75 percent was dedicated to payroll, and most of the payroll went to public safety departments. He went on to say his primary goal was to weather the fiscal cliff to provide best in area wages at the base level, good benefits and provide decent retirement for police and fire, which was a difficult juggling act. Mayor Wood said in order to achieve the goals, everyone had to be on the same page as one unified Mishawaka. He said his administration strived to be transparent to communicate any issues of relevance with the council and to be as inclusive as possible on all issues. Mayor Wood stated they did not have one party line vote in his time as mayor and there has been unparalleled cooperation. He said it was what Mishawaka citizen expected and demand from elected officials. Mayor Wood went on to say Mishawaka was not first on this issue. He said as he supports the annual salary wage increase, they did have some questions. Mayor Wood pointed out points 2 and 3 of the proposed amendment under fire were a part of a collective bargaining agreement, they had no authority to change the agreement without opening the agreement, which they were obligated to enforce and support. He said point 4 introduced a new benefit to the firefighters to approve health and wellness related expenses. Mayor Wood questioned what a health-related expense was. He said there was no language to say what was approved or not and it would also create more work for the administration to track receipts to figure out a way to reimburse. Mayor Wood expressed they were not transparent on this matter. He went on to point out point number 5 which also applied to the police regarding group health insurance plans as followed: All Firefighters represented by Mishawaka Professional Firefighter Local Union #360 and Police Officers represented by Mishawaka Fraternal Order of Police, Lodge 91 would not be subject to any increase in their respective group health insurance employee premium contribution for 2020. Mayor Wood said they made it perfectly clear the city would not seek an increase in healthcare insurance for 2020; he was not sure as to why it made into the proposed language. He said the council had no authority to discuss premium contribution. Mayor Wood went on to say they did have to take some acceptance to the proposed amendments. He went on to express he felt there was a lack of transparency in the wage committees process, he did not receive the proposed amendment until 4:00 P.M. by email and despite it being signed by October 1st and 9th by the bargaining units. Mayor Wood questioned the delay in receiving the amendments. He said he was promised a meeting with Council President Emmons to go over the proposal before a vote but there was no attempt to set a meeting. Mayor Wood said the proposed amendment would have a big impact on the budget. He continued to say there was not one member on the negotiating team to ask what the impact would be on the budget or the fiscal cliff planning. Mayor Wood stated this came with a significant cost to the city, his administration team did not have the chance to calculate. He asked did the council wage committee team factor all the cost including overtime, PERF contribution or Medicare etc. Mayor mentioned revenue had not gone up significantly. He said he recommended a plan to save some city money on overpayment the citizens were making for PSAP, he asked was there any consideration on adopting the recommendation to create more revenue to provide more equipment or man power wages for public safety. He went on to ask what changed on something that worked so well over the last 9 years with good cooperation and working together. Mayor Wood expressed it struck him as unfair, they give big raises and drop it on the administration with no notice and expect for them to pay for it with no regards of the possibility to make cuts to make it happen. He went on to ask was this fair to other public servants he worked with every day, who also made sacrifice to make the Princess City a cleaner, better, and safer place to live. Mayor Wood said they worked hard, and they deserved higher wages as well, he would strive to get them higher wages over what was provided to them to

keep up. He continued to say as he absolutely supported the salary increase for the public safety heroes, he could not be more disappointed in the council's process and complete lack of transparency in communication. Mayor Wood said the citizen and their government were not well served. He expressed in his opinion he felt they took a step backwards.

Mr. Hixenbaugh made a motion to amend **PROPOSED ORDINANCE NO. 2019-22** upon a second by Mr. Tanner motion carried.

Clerk Block read the following amendments to **PROPOSED ORDINANCE 2019-22** as followed:

FIRE

1. Increase the Biweekly Salary amounts (as well as the corresponding annual salary amount) for all Firefighters represented by Mishawaka Professional Firefighters Union Local #360 to reflect a 3.5% across the board increase for 2020.
2. Increase the Tier 2 Lead Paramedic compensation amount to \$100.00/shift.
3. Add a new term for Tier 2 Second Seat Advanced EMT/Paramedic compensation of \$50.00/shift.
4. Add a new term reflecting a One-Time Health & Wellness Stipend of \$200.00 per Firefighter represented by Mishawaka Professional Firefighters Union Local #360, payable as follows:
 - a. Each Firefighter to provide the City with receipts confirming the expenditure of at least \$200.00 for a gym membership of or another approved Health & Wellness related expense by no later than June 30, 2020, with reimbursement to be made within thirty (30) days of the submission of the receipts.
5. Add a new term related to Firefighter participation in the City's group health insurance plan as follows:
 - a. All Firefighters represented by Mishawaka Professional Firefighters Union Local #360 will not be subject to any increase in their respective group health insurance employee premium contribution for 2020.

POLICE

1. Increase the Biweekly Salary amounts (as well as the corresponding annual salary amount) for all Police Officers represented by Mishawaka Fraternal Order of Police, Lodge 91 to reflect a 3.5% across the board increase for 2020.
2. Increase the Equipment Maintenance Allowance to \$1,250.00.
3. Amend Section 5 of the Proposed Ordinance in order to delete the last sentence, thereby affording all Police Officers represented by Mishawaka Fraternal Order of Police, Lodge 91 the opportunity to participate in the State's 457B Plan under the same terms that govern the participation of other City employees.
4. Add a new term reflecting a One-Time Off Duty Weapon Stipend of \$400.00 per Police Officer represented by Mishawaka Fraternal Order of Police, Lodge 91, payable as follows:
 - a. \$200.00 payable on or about June 1, 2020, and
 - b. \$200.00 payable on or about December 1, 2020.

5. Add a new term related to Police Officer participation in the City's group health insurance plan as follows:
 - a. All Police Officers represented by Mishawaka Fraternal Order of Police, Lodge 91 will not be subject to any increase in their respective group health insurance employee premium contribution for 2020.

Mr. Emmons requested for a roll call vote to accept the amendments.

Clerk Block's roll call showed  **Vote: Motion passed (summary: Yes = 7, No = 1, Abstain = 0). Yes: Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

No: Mrs. Voelker

Thus, **PROPOSED ORDINANCE NO. 2019-22** becomes **PROPOSED ORDINANCE NO. 2019-22AA**

Mrs. Voelker asked if collective bargaining was the way the agreements should be made, could line items number 2 and 3 for fire be removed from the ordinance.

Mr. Hixenbaugh appreciated the Mrs. Voelker's comment. He went on to say the amendment was in fact a result of the collective bargaining process enacted by ordinance in Mishawaka and it was the result of good faith negotiations between the council bargaining committee and the bargaining representative of each respective public safety unit. Mr. Hixenbaugh continued to say the proposal was the outcome of collective bargaining, it was not inconsistent with collective bargaining. He pointed out a reference made concerning the reopening of the collective bargaining agreement, he stated each collective bargaining agreement relevant to the proposed had language to allow either party to request the reopening of wage negotiations during the term of the agreement, which meant there was nothing inconsistent for there to be discussions regarding wages mid-stream. Mr. Hixenbaugh continued to say in each instance it would be inconsistent with the agreements reached in prior years with the respective associations not to discuss wages this year, since there was only a salary ordinance for 2019 approved and the only language in the collective bargaining agreement relevant for 2019 was regard to compensation that would be in place, absent renegotiation of this year. He went on to state this was in fact consistent with the collective bargaining agreements and their term and the process to his knowledge when he represented the FOP, has been in place in Mishawaka since the collective bargaining ordinance was first in established back in 1970's or 80's.

Mrs. Voelker asked was it possible during the language negotiation process for numbers 2 and 3 be renegotiated. Mr. Hixenbaugh stated by state law the council was empowered to establish compensation by ordinance. He quoted IC36-8-3-3 "The annual compensation of all members of the Police and Fire Department and other appointees shall be fixed by ordinance by the legislative body not later than November 1st of each year for the ensuing budget year." Mr. Hixenbaugh went on to say the topic of compensation was clearly a broader term of art than salaries, it has long been the practice in Mishawaka, the city's records were replete with evidence of this fact with items such as uniform and equipment allowance and other forms for

compensation gone beyond salary were negotiated between the council and the various public safety entities. He went on to say in his opinion this was consistent with the statutory authority they had been given.

Mrs. Voelker expressed she was concerned there was a conflict between the administration and the wage negotiation committee on what should and should not be negotiated. She went on to request there be more clarification to eliminate any misunderstanding next year.

Mr. Emmons mentioned during negotiations he reached out to both city attorneys to attend the negotiation meetings. He said neither attorney attended the meetings. Mr. Emmons said before they always extended the invitation and the attorneys always attended.

Mrs. Voelker made a motion to remove items number 2 and 3 under Fire from **PROPOSED ORDINANCE NO. 2019-22AA**, motion died for a lack of a second.

Mr. Hixenbaugh thanked Mr. Emmons, Mr. Bellovich, Mr. Tanner and Mr. Mammolenti for their participation in the process. He continued to thank the perspective bargaining teams for the Police and Fire Department. Mr. Hixenbaugh went on to say collectively, one of their goals were to establish a collaborative atmosphere with good faith negotiation to take place rather than having a predetermine amount. He believed the feedback they received this year was an outcome of good faith bargaining that took place between the council and each perspective public service agency. Mr. Hixenbaugh went on to say the mayor made several very appropriate points, they all needed to be concern with fiscal responsibility, in particular the impending fiscal cliff. He respectfully suggested the council negotiating team was cognizant of those factors as they engaged in the bargain. Mr. Hixenbaugh said they met with the mayor and controller prior to formal bargaining to have some discussions and receive some follow up information from the controller as requested regarding what the impact of a 1% increase would do to the city budget for public safety and city employees across the board. He continued to say they did not engage in a discussion with the administration regarding the overall philosophy or strategies regarding negotiations. Mr. Hixenbaugh said his understanding leaving the meeting with the mayor and controller was the clear discussion about 2.5% being the net impact on police and fire salaries if they took the 1.5% plus the 500 dollars which was equivalent to 2.5% on the pension base. He continued to say they ended up with a bargain on wages at 3.5%, which was more but based upon the information they received from the controller, the records should reflect the additional 1% for police totaling approximately 63,134 dollars and the additional 1% for fire totaled 68,208 dollars. Mr. Hixenbaugh said they were cognizant of the amounts, surely every tax dollar was important, and they needed to be careful with spending but as group they thought making the investment of an additional percent for 2020 was a good investment on behalf of the community. He went on to say they did a fantastic job in making investments in equipment, training and amenities in the community. Mr. Hixenbaugh said he applaud the administration for being able to enact in a raise for each of the nine past years but at some point the other investments they made would begin to lose their value if they did not make an ongoing investment in the people who provide the services throughout the city. He continued to say at some point they needed to do a little more to try to achieve parity with other communities, if nothing else. Mr. Hixenbaugh went on to say he understood one of the things that took place last year was a raise proposed by the administration and enacted with regard to the chiefs and assistant chiefs of each

public safety department. He continued to say the raise amounted to 5,000 dollars per person, the explanation for at which he agreed with, they needed to retain the highly qualified public safety officers they had in Mishawaka, but he questioned if the philosophy not only applied to the chiefs but to the rank and file working in a squad car, fire truck or work in an ambulance every day. He believed it did. Mr. Hixenbaugh confirmed there was an invitation in terms of process for the corporation counsel to participate in negotiations, he chose not to participate. He also mentioned there were some meetings with one or more of the members of bargaining committee as well as President Emmons regarding the outcome of the negotiations. Mr. Hixenbaugh went onto say there was never any intent on anyone's part to try to deny anyone the information they needed in regard to the outcome of negotiations and he understood there was some communication prior to tonight's meeting. He also mentioned as a group they took a look at the impact the proposed 1.5% salary increase plus \$500 on various salary levels throughout the city. Mr. Hixenbaugh continued to say Mr. Tanner did some number crunching, they concluded for many of the city employees with the combination of the 1.5% plus the \$500 reflected more than a portion of a 1.5% percent raise, the issue was looked at very closely. He went on to discuss the point regarding group health insurance in the negotiation strategy, it was a point discussed in the initial meeting with the administration. Mr. Hixenbaugh said he had a follow up conversation with the mayor in regard to integrating health insurance into the negotiating strategy as they worked with each perspective department. He said he also recalled Mr. Emmons having a similar conversation with the controller. Mr. Hixenbaugh said somewhere in the process it became public knowledge, despite the fact he thought they had an agreement as a part of their strategy but regardless it was difficult for him to define the term compensation as not including a lack of an increase in insurance. He said he was glad to hear no city employees would experience an increase this year, the concern regarding that provision in this bargain grazes any major issues. Mr. Hixenbaugh stated state law enacted a process where the council established compensation for police and fire and the administration would take the lead with regards to the other work groups. He said he would agree there was some inconsistency, but it was consistent with the law for the council to take the lead as it has been done in the past with this process. Mr. Hixenbaugh continued to say he believed they all had a common goal of making it work as smoothly as possible and in the best interest of the community. He expressed he hoped they could find a way to be on the same page, he personally stood behind the ordinance as amended, particularly with regard to the public safety component. Mr. Hixenbaugh went on to say the mayor was correct in the highlighting the risk the public safety personnel engaged in everyday, he believed in the additional 1.5% investment in their compensation was a good investment on the part of the community. He concluded with regard to other city employees, his suspicion was if the mayor was able to review the budget and come forward with a proposal to increase the proposed compensation for all city employees, as the law allows it to happen even into the next budget year. Mr. Hixenbaugh continued to say he would be shocked if there was not nine votes on the part of the council to approve enhance compensation for all city employee because they value all their work, it was in the best interest for the community for the city to be able to recruit and retain the best talent. He explained the reason they enacted the raise for police and fire chiefs and being asked to consider an enhanced increase in compensation for the public safety employees also supported an increase in compensation for all city employees as was possible. Mr. Hixenbaugh expressed he appreciated the work from all involved and he would vote in favor of the ordinance as amended.

Mr. Tanner thanked the members from both perspective bargaining units and fellow members of the wage negotiation committee. He went on to say they did do everything in good faith and in transparent effort. Mr. Tanner said he could not speak on behalf for the proposed amendment document being presented to the administration, but he did know the leadership teams of both departments were well aware of what the raises and other benefits were expected to be because he received calls from leadership from both departments. He went on to say he was unsure of the confusion, but the discussion was had, awareness was available, and they presented good faith effort every step of the way.

Ms. Petko Reisdorf, Mr. Mammolenti, and Mrs. Voelker thanked all involved in negotiations. They also thanked police and fire for their work. They expressed they were in support of the ordinance as amended.

Mrs. Voelker expressed hoped confusion for next year could clear before they would get to this point.

Mr. Emmons said they met a number of times this year compared to last two or three years. He continued to say before they would hold one to three meetings maximum before the settling. Mr. Emmons said this year they made a promise to both of the police and fire negotiating teams to negotiate and listen to their concerns. He said they honored the promise, they had actual negotiation sessions and negotiated with each group in good faith, it was a give and take process, as it should be. Mr. Emmons expressed he appreciated all teams involved for being professional and working together. He went on to say negotiations was an obligation the council was required to do, they met that responsibility. He thanked Mr. Tanner, Mr. Hixenbaugh, and Mr. Bellovich for their involvement.

Question was caller for at 8:14 P.M. for **PROPOSED ORDINANCE NO. 2019-22 As**

Amended  **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. 5666**

PROPOSED ORDINANCE NO. 2019-23

Civil City Budget 2020
(Assigned to Budget and Finance Committee)
AS AMENDED
FINAL ADOPTION

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

Mr. Hixenbaugh thanked the controller and department heads for spending some time with the wage negotiating team over the course of the budget and finance committee meetings.

Question was called for at 8:17 P.M. for **PROPOSED ORDINANCE NO. 2019-23 As Amended**  **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. 5667**

PROPOSED ORDINANCE NO. 2019-26

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2019
(TF- HR \$7,000 – Clerk \$5,000)
(Assigned to Budget and Finance Committee)**

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

Rebecca Miller, City Controller said the transfers for the Human Resource Department and the City Clerk's Office were deemed necessary transfers between personnel services and contractual other services and chargers for both departments.

Question was called for at 8:19 P.M. for **PROPOSED ORDINANCE NO. 2019-26**  **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. 5668**

PRIVILEGE OF THE FLOOR

Mark Ryan, Union President for Mishawaka Professional Fire Department Local 360 commended the wage negotiation committee and the council committee on the wage negotiation process. He expressed he felt this was the first year in six years they had real negotiations since he's been involved in wage negotiations. Mr. Ryan continued to say in previous years they had the feeling they were told what they were going to get and that was final. He expressed he felt reasonable people met a reasonable agreement and both teams walked out of the meetings feeling like they were successful. Mr. Ryan continued to say negotiations were a give and take, he believed they gave as well as took what they felt they deserved. He went on to say he hoped the mayor would advocate for every employee of the city to receive 3.5 percent as he said he would do, they all deserved it. Mr. Ryan said all employees were important in their roles, they were the reason for why people moved to Mishawaka, enjoyed living in Mishawaka and why people stayed in Mishawaka. He said his job as union president and negotiating team was to advocate for their 111 members, to get the best wage package they could, he was happy with his progress

and happy they received the support they felt they needed, their members were beginning to feel forgotten. Mr. Ryan expressed his appreciation.

NEW BUSINESS

Clerk Block reminded the first meeting for November would be on Wednesday November 6, 2019 due to election.

ADJOURNMENT 8:24 P.M.

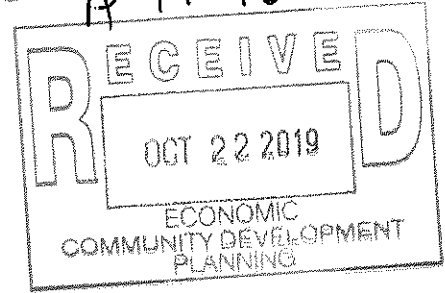
Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

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

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2019

CITY CLERK
MISHAWAKA, IN



Date: 10/20/19

To: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. We, **Jade realty Michiana LLC and 4Tron investment LLC**, are the owner of the following described real estate located with the city of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit:

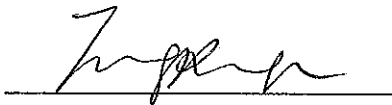
South ½ (one-half) of Lots 10, 11, and 12 of Lawrence & Battell's Addition Block 51
COMMON ADDRESS: 815 North Main Street

2. The above-described real estate presently has a zoning classification of R-1 Single Family Residential District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: **An apartment house with three residential units. One of the two downstairs units and the upstairs unit is currently occupied by tenants. One unit remains unleased**
4. Appellant desires to utilize the building as a **two-family dwelling**.
5. The Zoning Ordinance of the City of Mishawaka does not permit a two-family dwelling in the R-1 Single Family Residential District (Section 137-165 (a)).
6. Strict adherence to the ordinance requirements would create an unusual hardship: **The property has been using as residential and commercial mix usage in the past before it was re-zoning into R-1 Single Family residential District. The upstairs has been using as residential, and downstairs as commercial. The property above ground size is more than 5000 sf in total. It is too big for using as one family rental. In order to cover the costs (loan interest, property tax and insurance, repairs and maintenance), we need \$1200/month rental income to get even. In Mishawaka area, average rent cost is \$700-800/month. The utilities costs for this whole building have been average at \$500/month. It is extremely difficult to find a single family who can afford to rent this property plus utility costs.**
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, approval will not be injurious of the community. There are four parking space at the back of the property. Each unit will have two parking spaces for a duplex.**
 - (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, it won't adversely affect the adjacent to the property. After we renovated this property, it positively affected the surrounding compare with before we purchased it. It had been vacant for a long time before it was auctioned in Sheriff sale. The house was in a very bad condition. The front side with all broken windows, roof was leaking in several places, siding was broken with many places, Bushes and lawn were totally overgrow. It was a very**

difficult property to start with. Due to the limited parking space (It probably had enough parking in the past, after Main street being widen, the property lost many front parking space), it can't be used as commercial building anymore. We put new roof, new siding, new windows, take down the over grow bushes and several trees. Now it looks much improved.

- (3) Does the need for the variance arise from some condition peculiar to the property involved? **Yes. When the property was purchased at Sheriff sale, we were unaware of currently zoning and that it does not allow for multifamily residential use. The property size is too big for one family. Furthermore, the structure of property was already divided into a vacant downstairs 4000sf commercial space and one 1000sf upstairs residential unit.**
- (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, as I explained above, with strict application to R-1, the property is too big for one tenant family to use. It going to be very difficult for one family to pay for higher rent and utilities each month. In addition, our costs (property tax, insurance, interests and management costs) can't be covered by the average one family rental rate.**
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? **No, approval will not interfere substantially with the Mishawaka 2000 comprehensive plan.**

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



Jade Realty Mishawaka LLC



4Tron Investment LLC

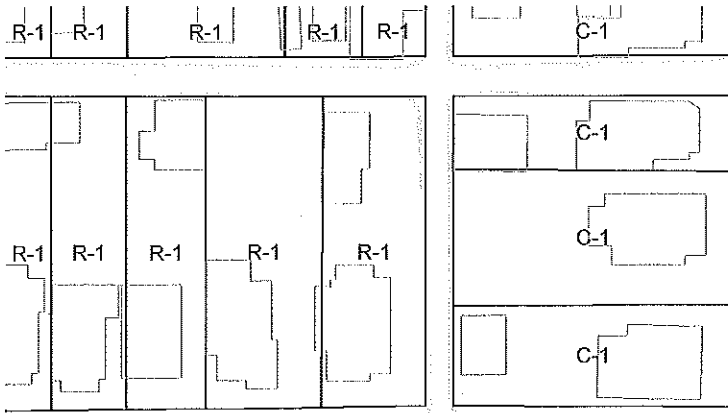
Contact person:

Name: Fengrong Ma

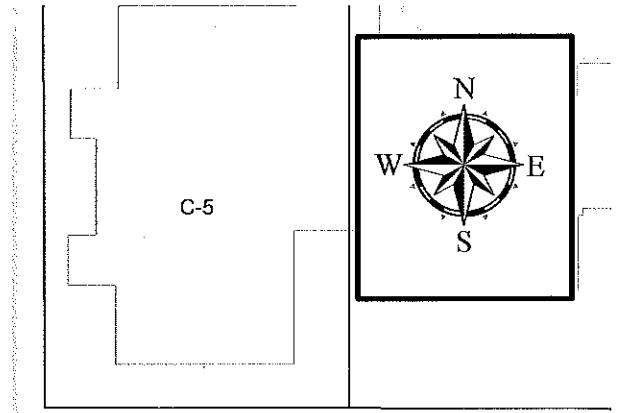
Address: 301 S. Lafayette Blvd. South Bend, IN 46601

Day Phone Number: 574-310-7995

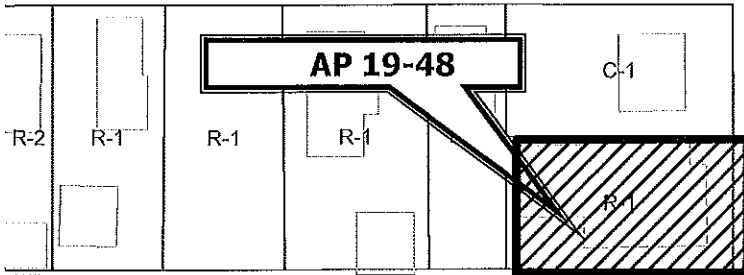
Email: mafengrong@hotmail.com



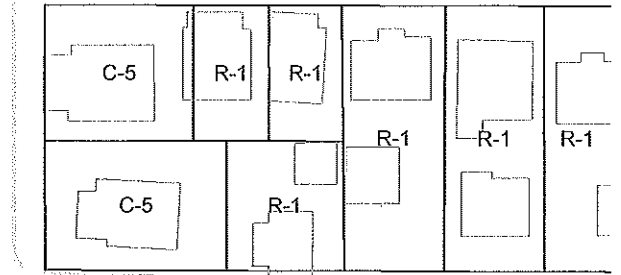
W BATTELL ST



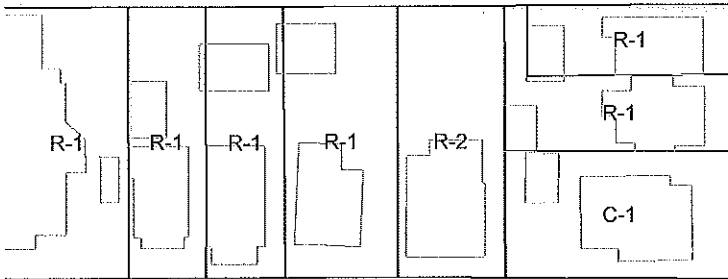
E BATTELL ST



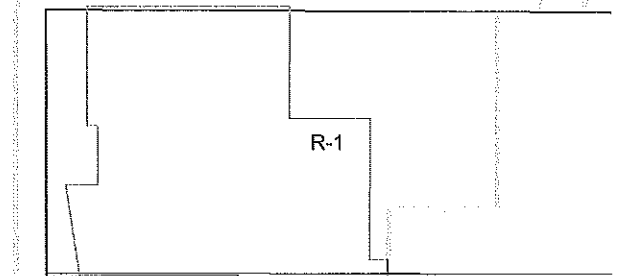
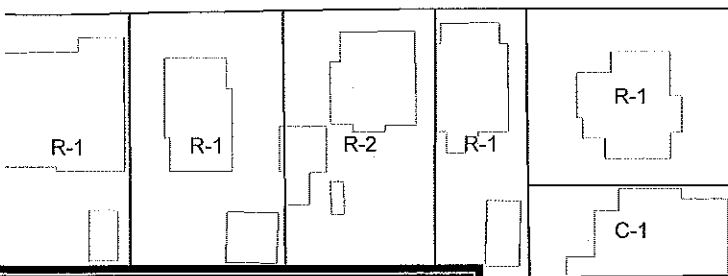
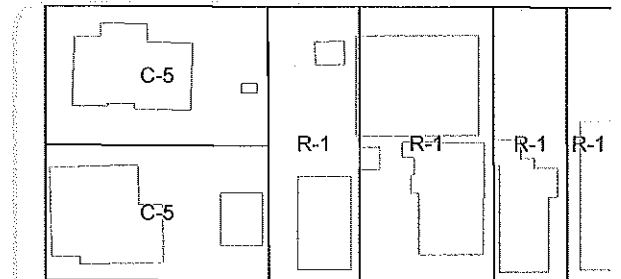
N MAIN ST



E LAWRENCE ST



W LAWRENCE ST

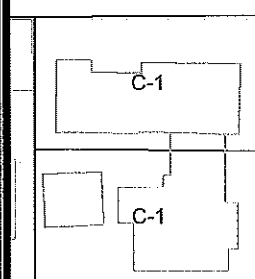


Location Map **APPEAL 19-48**

JADE REALTY MICHIANA LLC
& 4TRON INVESTMENT LLC

815 N MAIN STREET

USE VARIANCE TO ALLOW
TWO FAMILY DWELLING IN
R-1 SINGLE FAMILY
RESIDENTIAL DISTRICT

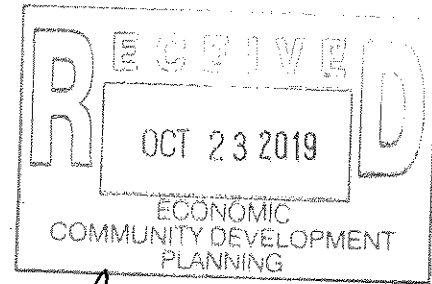


ST

E GROVE ST

DATE:

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



RE: PETITION TO REZONE

The undersigned Kevin Leach respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

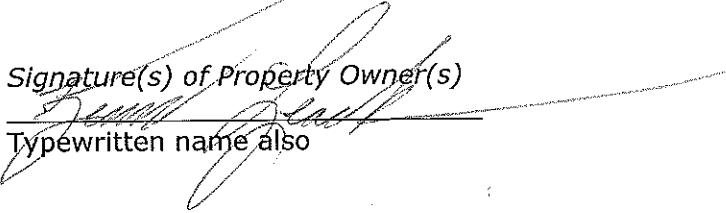
Lots 7 & 8 Byerley Subdivision

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 District. Said property is *vacant commercial building (former hair salon)*

Petitioner(s) desire said real estate to be rezoned to R-1 Single Family District. Petitioner(s) further state that they intend to utilize said land for his personal residence

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

Signature(s) of Property Owner(s)


Typewritten name also

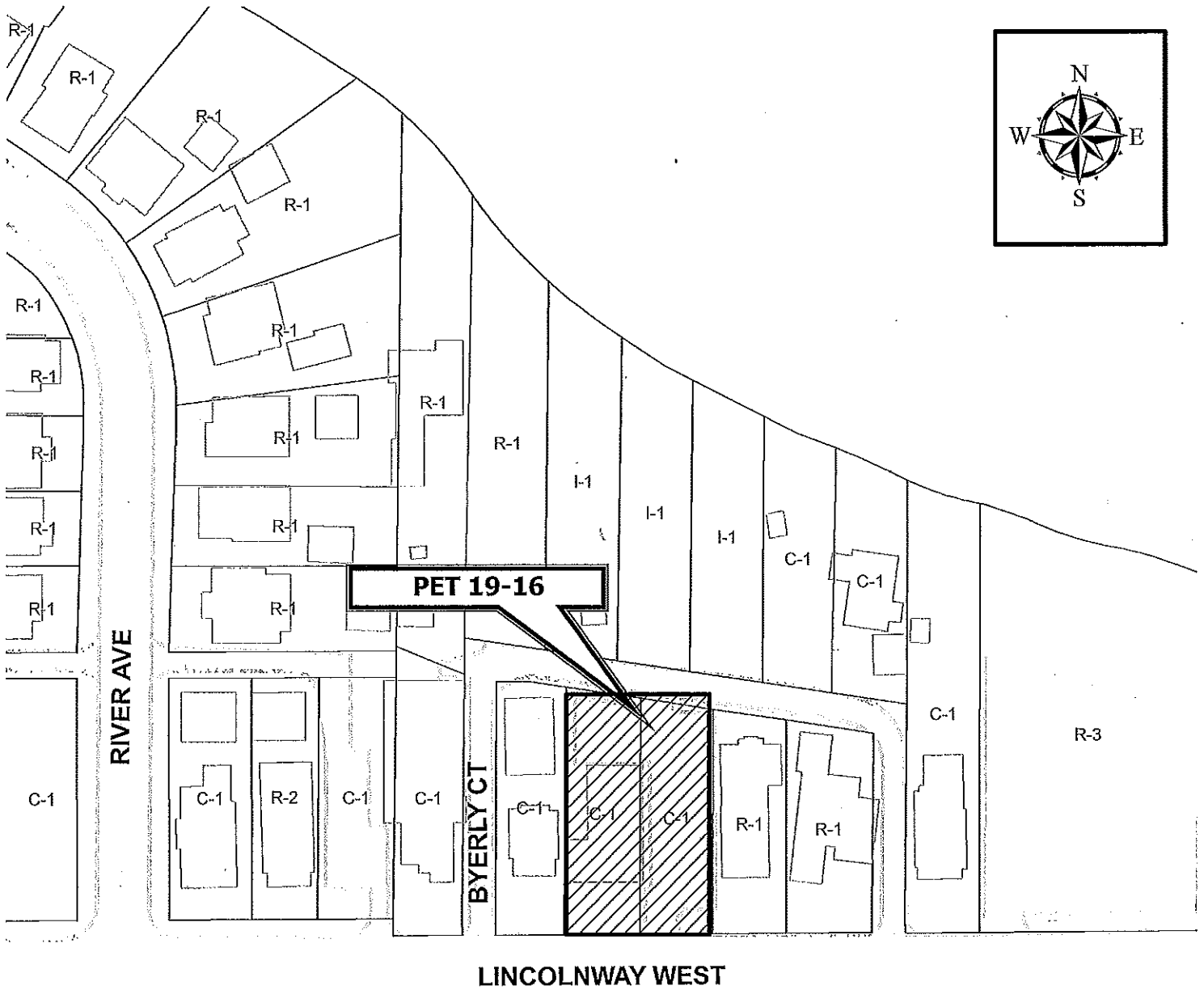
CONTACT PERSON:

NAME KEVIN LEACH
ADDRESS 2228 LINCOLNWAY WEST
PHONE NUMBER 574-485-4986

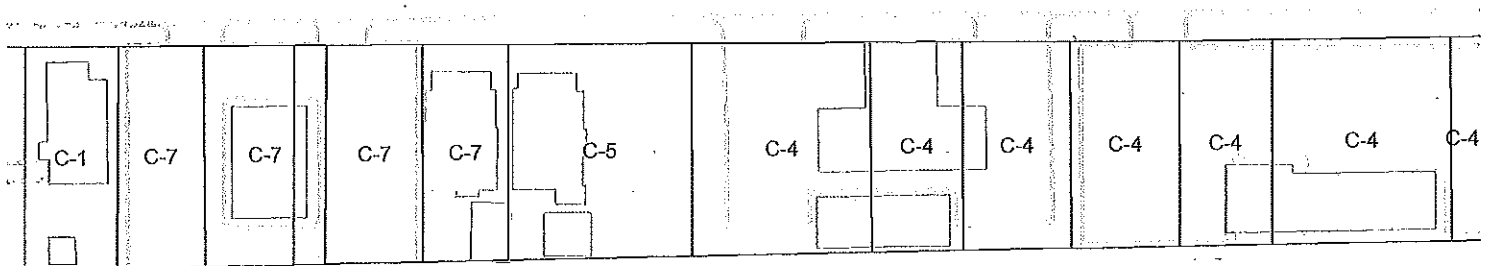
RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2019

CITY CLERK
MISHAWAKA, IN



LINCOLNWAY WEST



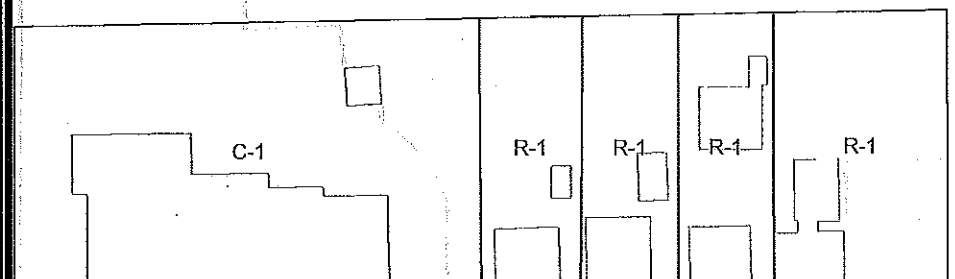
Location Map

PET 19-16

KEVIN LEACH (OWNER)

2228 LINCOLNWAY WEST

REZONE FROM
C-1 GENERAL COMMERCIAL
TO R-1 SINGLE FAMILY
RESIDENTIAL





CITY OF MISHAWAKA



200 N. Church St.
Mishawaka, IN 46544

Police Department

Kenneth L. Witkowski, Chief

David A. Wood, Mayor

November 4, 2019

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2019

Mishawaka Common Council
Mayor David Wood
Rebecca Miller, Controller
Budget/Finance Committee

CITY CLERK
MISHAWAKA, IN

Dear Honorable Members:

We would like to request a transfer and re-appropriation of funds to our account lines within the Police Department budget. No additional funds are needed at this time.

FROM:	101-20-411-03	Regular	\$61000.00
	101-20-411-03	Temporary	\$ 6600.00
		TOTAL:	<u>\$67600.00</u>

TO:	101-20-422-01	Operating Supplies	\$61600.00
	101-20-436-01	Bldg Repair/Maintenance	\$ 5000.00
	101-20-439-12	Canine	\$ 1000.00
		TOTAL:	<u>\$67600.00</u>

If you have any questions, please feel free to contact me.

Respectfully,

Kenneth L. Witkowski
Chief, Mishawaka Police Department

KLW:dcw

EMERGENCY 911
FRONT DESK (574) 258-1678
DETECTIVE BUREAU (574) 258-1684
RECORDS (574) 258-1681

CHIEF (574) 258-1683
UNIFORM CHIEF (574) 258-1688
TRAFFIC DIVISION (574) 259-2966
FAX (574) 258-1690

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2019

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. **2019-35**

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2019

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the budget for the Police Department in the General Fund adopted for the fiscal year ending December 31, 2019.

Section 2. There is hereby transferred and reappropriated the sum of \$67,600 .00 as follows:

General Fund

From: Police Department
Personal Services

101-20-411-02	Regular	\$61,000.00
101-20-411-03	Temporary Help	<u>\$ 6,600.00</u>
Total		\$67,600.00

To: Police Department
Supplies

101-20-422-01	Operating Supplies	\$61,600.00
101-20-436-01	Bldg Repair/Maintenance	\$ 5,000.00
101-20-439-12	Canine	<u>\$ 1,000.00</u>
Total		\$67,600.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

_____ day of _____, 2019 at _____ o'clock, ____ .M.

Dale "Woody" Emmons, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor 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

OCT 03 2019

1st Reading 10-7-19

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2019-27

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2019
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019

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

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted
(MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of
the City of Mishawaka the sum of \$572,850.00 as required for the Community Crossing
Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

203-50-442-01

Street Repair

\$572,850.00

Total

\$572,850.00

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

244-50-436-03

Street Repair

\$572,850.00

Total

\$572,850.00

Section 2. Which requires the appropriation of additional funds for the fiscal year
ending December 31, 2019 in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road
Matching Grant Fund of the City of Mishawaka the sum of \$1,145,700.00 for assignment
as follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

244-50-436-03

Street Repair

\$1,145,700.00

Total

\$1,145,700.00

Section 4. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2019 at _____ o'clock, _____. M.

Dale "Woody" Emmons, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2019 at _____ o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2019 at

_____ o'clock, _____. M.

David A. Wood, Mayor

OCT 03 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 10-7-19

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2019-28

ORDINANCE NO. _____

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

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2019 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the General Fund of the City of Mishawaka the sum of \$271,000.00 for assignment as follows:

General Fund

Controller

Other Services and Charges

101-02-431-05	Humane Society	\$ 56,000.00
---------------	----------------	--------------

Fire

Personal Services

101-19-411-60	Overtime	\$ <u>215,000.00</u>
---------------	----------	----------------------

Total		\$ 271,000.00
-------	--	---------------

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

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

on this _____ day of _____, 2019 at _____

o'clock, _____.M.

Dale "Woody" Emmons, President

.ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2019 at _____
o'clock, ____ .M.

Deborah S. Block, MMC, City Clerk

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

David A. Wood, Mayor

OCT 03 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 10-7-19

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2019-29

ORDINANCE NO. _____

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

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

Section 1. An emergency exists which requires the appropriation of additional
funds for the fiscal year ending December 31, 2019 in addition to that set out in detail in the
published budget.

Section 2. There is hereby appropriated from the Sidewalk and Curb Repair fund
of the City of Mishawaka the sum of \$16,161.00 for assignment as follows:

Sidewalk and Curb Repair

Capital Outlays

220-50-442-04	Street/Sewer/Sdwlk/Curb	\$ 16,161.00
---------------	-------------------------	--------------

Section 5. This Ordinance shall be in full force and effect from and after its
passage, signing and attestation.

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

On this _____ day of _____, 2019 at _____ o'clock, _____. M.

Dale "Woody" Emmons, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2019 at _____ o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2019 at

_____ o'clock, _____. M.

David A. Wood, Mayor

OCT 15 2019

1st Reading 10-21-19
2nd Reading
Passed
Failed
Continued To

PETITION 19-11

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2019-30

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, Penn Township, St. Joseph County, State of Indiana, to-wit:

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 290 FEET OF THE SOUTH 290 FEET OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER, AND CONTAINING 1.76 ACRES, MORE OR LESS.

COMMON ADDRESS: 410 West McKinley Avenue

which real estate is now classified as C-7 Automobile Oriented Restaurant Commercial District shall hereafter be within and a part of that District known as C-4 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The subject property consists of a drive-thru restaurant and is located along McKinley Avenue and Grape Road. These roads are highly travelled commercial corridors providing major east-west and north-south access through the City. Adjacent land uses include a multi-tenant commercial shopping center to the north, an automobile sales business to the

Proposed Ordinance No: 2019-30

Ordinance No: _____

west, a bank and multi-tenant commercial building to the south across W. McKinley Avenue, and an emergency animal hospital, bank, and insurance agency to the east across Grape Road.

2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial.
3. The most desirable/highest and best use – Because of the parcel's location and existing commercial development along McKinley Avenue and Grape Road, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. The proposed carwash facility and other permitted C-4 Auto Oriented Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

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

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

PET 19-11

August 20, 2019

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

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 28 2019

CITY CLERK
MISHAWAKA, IN

RE: PETITION TO REZONE

The undersigned GLC-MAP McKinley Trust, LLC respectfully show they are the owners of the following described real estate, and the undersigned Wyant Properties LLC respectfully show they are the contract purchasers of the following described real estate, located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Legal Description: See attached Exhibits "A "and "B"

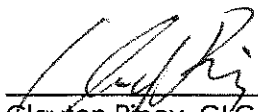
Address: 410 West McKinley Avenue, Mishawaka, IN 46545

Parcel ID: Portion of 016-2058-193912

GLC-MAP McKinley Trust, LLC owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-7, *Auto-Oriented Restaurant Commercial*. Wyant Properties LLC will own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-7, *Auto-Oriented Restaurant Commercial*. Said property is currently occupied by a Rally's Drive-In Restaurant.

Petitioner(s) desire said real estate to be rezoned to C-4, *Auto-Oriented Commercial District*. Petitioner(s) further state that they intend to utilize said land for a car wash facility.

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



Clayton Riney, GLC-MAP McKinley Trust, LLC
Author: Joel Wyant

John Wyant, Wyant Properties LLC

CONTACT PERSON:

Abonmarche Consultants, Inc. (Attn. Brian McMorro)w
750 Lincoln Way East
South Bend, IN 46601
574.314.1022
bmcmorrow@abonmarche.com

August 20, 2019

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

RE: PETITION TO REZONE

The undersigned GLC-MAP McKinley Trust, LLC respectfully show they are the owners of the following described real estate, and the undersigned Wyant Properties LLC respectfully show they are the contract purchasers of the following described real estate, located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Legal Description: See attached Exhibits "A" and "B"

Address: 410 West McKinley Avenue, Mishawaka, IN 46545
Parcel ID: Portion of 016-2058-193912

GLC-MAP McKinley Trust, LLC owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-7, Auto-Oriented Restaurant Commercial. Wyant Properties LLC will own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-7, Auto-Oriented Restaurant Commercial. Said property is currently occupied by a Rally's Drive-in Restaurant.

Petitioner(s) desire said real estate to be rezoned to C-4, Auto-Oriented Commercial District. Petitioner(s) further state that they intend to utilize said land for a car wash facility.

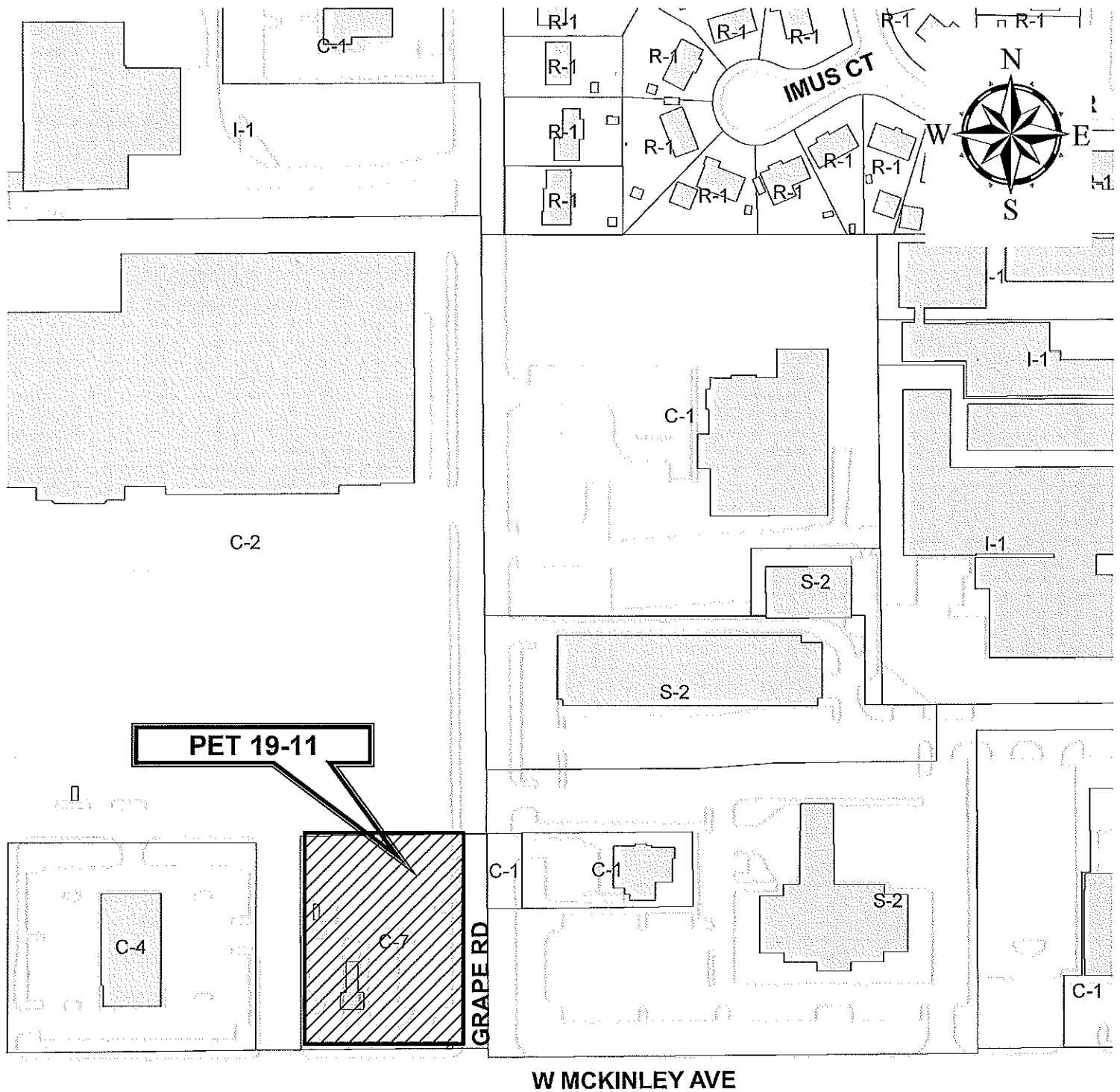
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

Clayton Riney, GLC-MAP McKinley Trust, LLC

John Wyant, Wyant Properties LLC

CONTACT PERSON:

Abonmarche Consultants, Inc. (Attn. Brian McMorrow)
750 Lincoln Way East
South Bend, IN 46601
574.314.1022
bmcmmorrow@abonmarche.com

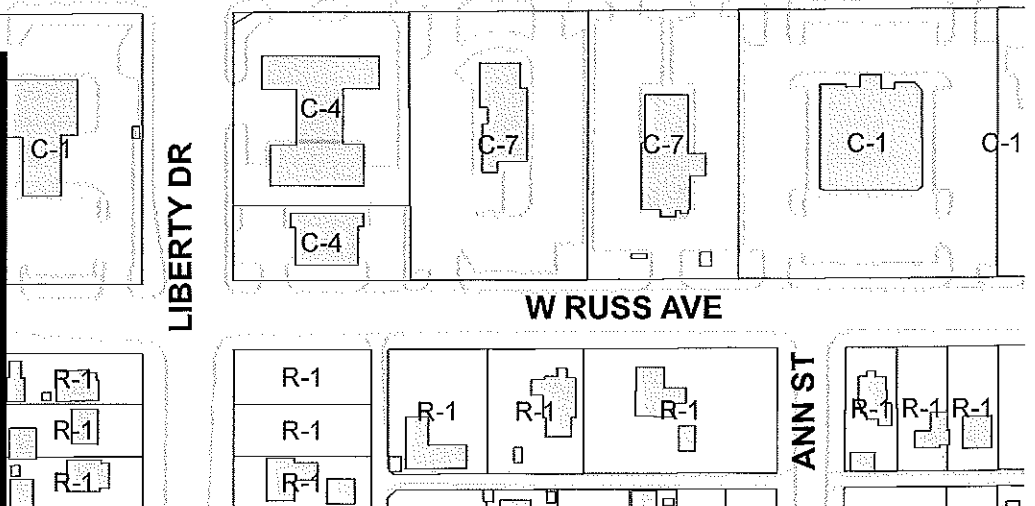


Location Map

PET 19-11

410 W MCKINLEY

REZONE FROM C-7
AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL TO
C-4 AUTOMOBILE ORIENTED
COMMERCIAL



OCT 15 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 10-21-19
2nd Reading
Passed
Failed
Continued To

PETITION 19-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2019-31

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, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 72, Wards 2nd Addition

COMMON ADDRESS: 935 East Fifth Street

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

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

1. Many of the properties in the immediate vicinity are residential in use. The owner's testimony and Mishawaka Utility records support its historic use as a single-family dwelling;
2. The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because as a single-family home, there will be less impact to the neighborhood, than if it were to be used as an industrial building again;
3. Because the parcel is located in an area of residential properties, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2019-31

Ordinance No: _____

4. As opposed to the range of potential development that could occur with the current industrial zoning, rezoning this parcel to the R-1 Single Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will allow the property owner to use it as any other single-family home; and,
5. The City's Comprehensive Plan identifies the area low density residential, which is consistent with the use for the past 30 years.

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.

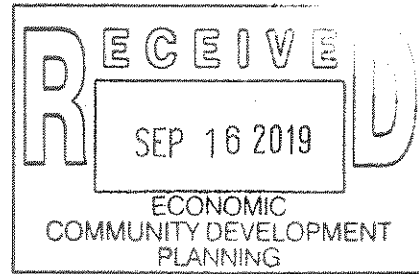
Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

Sept.14.2019

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



RECEIVED
DEBORAH S. BLOCK, MMC

RE: PETITION TO REZONE

OCT 01 2019

The undersigned Szabolcs Szemethy respectfully
show his are the owner of the following described real estate located in the
City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

CITY CLERK
MISHAWAKA, IN

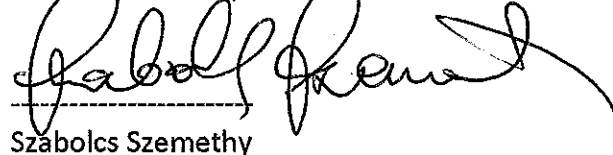
Lot 72 Ward\$ 2nd Additions
935 e5th street Mishawaka, Indiana 46544
Tax ID: 016-1119-4727
Parcel Number: 71-09-15-401-005,000-023

Petitioner own one hundred (100%) percent of the above described parcel
Of land witch carries a zoning classification of I-1 Light Industrial District.
Said property is my home.

Petitioner desire said real estate to be rezoned to R-1 Single Family District.
Petitioner further state that his intend to utilize said land for:

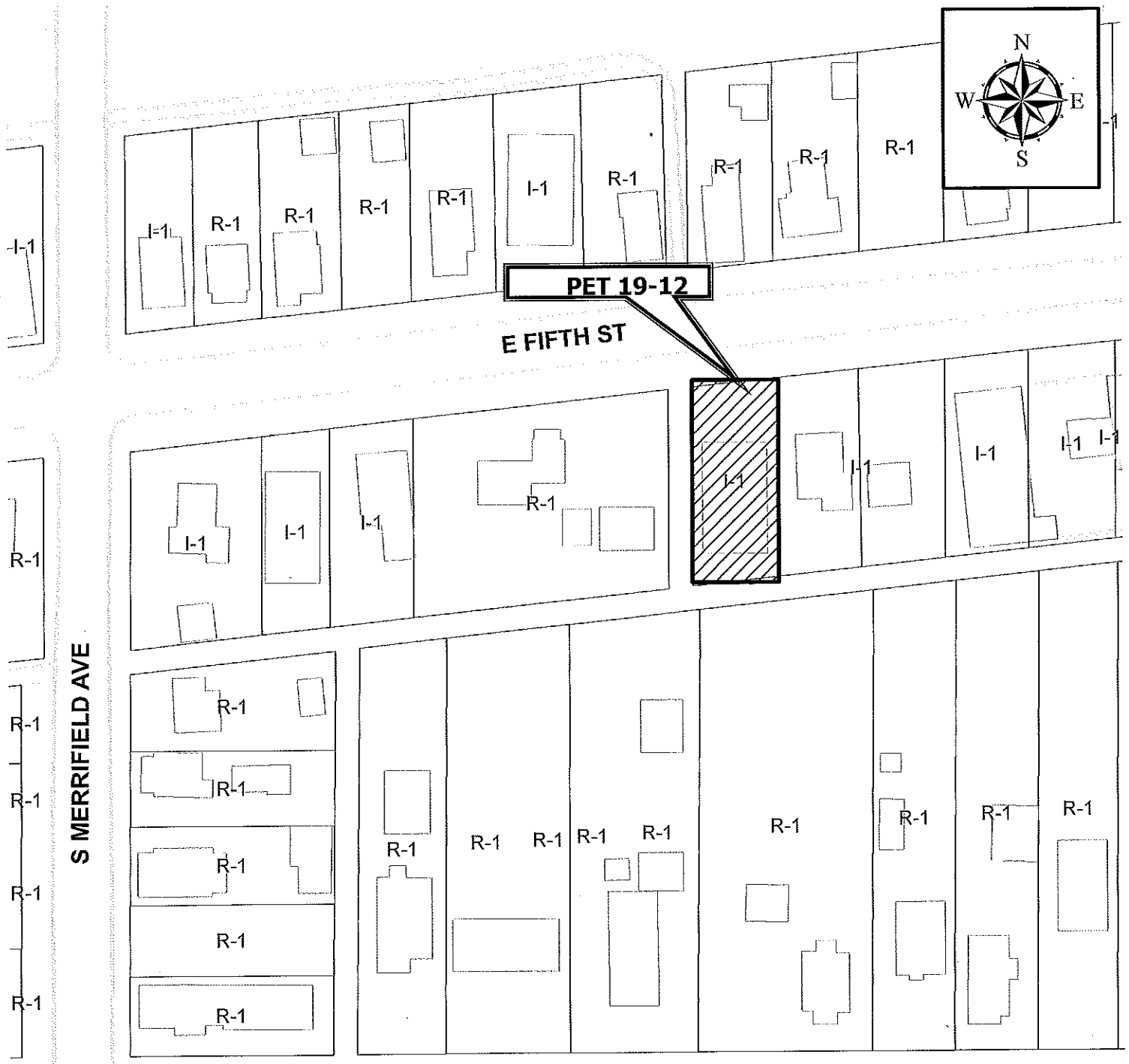
Early 1992 Rent the Building for small business (repairing small surgical
instruments). my wife filed divorce. Lost my home. Got sick, unable to work, later disabled.
Had no choice but stay in the building. Since 1992 the building my home.

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

A handwritten signature in black ink, appearing to read "Szabolcs Szemethy".

Szabolcs Szemethy

**CONTACT PERSON: Szabolcs Szemethy 935 e5th street Mishawaka,
IN 46544. Ph: 574 329-6771**



Location Map

PET 19-12

935 E FIFTH ST
OWNER: SZABOLIC SZEMETHY

REZONE FROM
I-1 LIGHT INDUSTRIAL
TO R-1 SINGLE FAMILY
RESIDENTIAL

E SIXTH ST

I-2

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 15 2019

CITY CLERK
MISHAWAKA, IN

PETITION 19-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2019-32

ORDINANCE NO. _____

1st Reading 10-21-19
2nd Reading
Passed
Failed
Continued To

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 of Beacon Health Subdivision as recorded in the office of the St. Joseph County Recorder on 8/17/2018, as instrument #1820960

COMMON ADDRESS: 3220 Beacon Parkway, Granger

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to add a helipad as a permitted use.

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

1. Existing Conditions – The subject property, located along Beacon Parkway west of Capital Avenue, is only partially developed with the recently constructed Beacon Granger Hospital. Additional medical related uses, retail, or restaurants are anticipated on the property. Adjacent land uses include a multi-tenant commercial strip center and vacant parcel to the north, agricultural land approved for commercial uses to the west, a health and fitness facility and undeveloped commercial outlots to the south, and agricultural land and single-family residential homes to the east. Although not currently a highly travelled corridor, Beacon Parkway provides a major point of entry in the northern part of City from the Indiana Toll Road. Traffic volumes within the area will likely increase due to the anticipated commercial and residential growth in the northeast part of Mishawaka and Granger.

Proposed Ordinance No: 10-21-19

Ordinance No: _____

2. Character of Buildings in Area – There are very few buildings within the immediate area. With the exception of the low-density residential homes to the northeast of Capital Avenue, the three existing buildings are commercial or office. These buildings include the Beacon Granger Hospital, the Beacon Health & Fitness facility, and the Beacon Corporate Services building currently under construction.
3. The most desirable/highest and best use – Due to the presence of commercial activity in the surrounding area, and the surrounding approved Planned Unit Developments, the most desirable/highest use is commercial.
4. Conservation of property values – The proposed amendment will not be injurious to property values in the surrounding area because use of the heliport will be minimal.
5. Comprehensive Plan – The property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, it is within the extents of the Capital Avenue Land Use Plan which identifies recommended land uses for this parcel and area as commercial office and retail, hotel, medical, and research parks. This plan was jointly prepared by St. Joseph County and the City of Mishawaka.

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

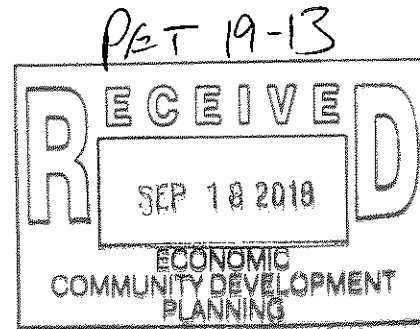
APPROVED by me this _____ day of _____, 2019, at
_____ o'clock ____ M.

David A. Wood, Mayor

September 18, 2019

Honorable Members of the Common Council
City of Mishawaka, Indiana
600 E. Third Street
Mishawaka, IN 46544

RE: Beacon Health Systems, Inc.
Petition for an Amended PUD:



Honorable Members of the Common Council,

The undersigned, Beacon Health Systems, Inc., the Petitioners, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, Harris Township, St. Joseph County, Indiana:

LEGAL DESCRIPTION: Lot #2 of Beacon Health Subdivision as recorded in the office of the St. Joseph County Recorder on 8/17/2018, instrument #1820960

Also commonly known as the Northwest corner of Capital Avenue and Beacon Parkway, 3220 Beacon Parkway, Granger, Indiana 46530.

The above described parcel of land is presently zoned "S-2" Planned Unit Development District under the City of Mishawaka zoning development codes.

The Petitioners desire to amend the existing standards for the previously approved "S-2" Planned Unit Development District, known by Mishawaka Petition #18-18, Proposed Ordinance No. 2015-15, and Ordinance No. 5620 as amended. The requested amended standards would be for the above described real estate portion of the previously approved "S-2" Planned Unit Development District. More specifically the Petitioners are requesting amended standards for adding a Medical Heliport that is an on-grade dedicated helicopter take-off and landing helicopter pad for hospital support needs.

With regards for helipad use, the previously approved Ordinance did not include or anticipate a Medical Heliport need. Beacon Health wishes to have a heliport to provide ability to transfer patients to specialty hospitals that are outside of our region. Anticipated transfers may be limited to several per month typically. Although this acute care emergency hospital is NOT a trauma center, under certain circumstances, such as a local emergency, the hospital may at times receive incoming trauma patients from Medical Evacuation Helicopters as needs may dictate or arise.

All portions of the TLOF (Touchdown and Liftoff) concrete pad area is fully within building setbacks and FATO (Final Approach and Takeoff) and Safety Area open lawn areas, as defined by the FAA, are fully within Beacon property limits.

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 01 2019

CITY CLERK
MISHAWAKA, IN

These requested amended changes to the PUD Development standards are shown on the attached preliminary site plan sheet C100, revision 12, dated August 19, 2019.

All other previously approved PUD standards for Mishawaka Petition #18-18, Proposed Ordinance No. 2015-15, and Ordinance No. 5620 as amended, shall be adhered to for the development of the above described property.

Wherefore, the Petitioners prays and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted the rezoning the above described parcel of real estate located in the City of Mishawaka, Indiana.



Jeffrey P. Costello
Vice President & Chief Financial Officer
Beacon Health System, Inc.
615 N. Michigan Street
South Bend, IN 46601
574-647-3699

Contact person:
Philip E. Panzica, RA, NCARB
President / Principal Architect
Panzica Architecture Group
416 East Monroe Street, Suite 320
South Bend, Indiana 46601
(574) 234-1123
e-mail: pepanzica@panzica.net

End



SR 23

PET 19-13

CAPITAL AVE

S-2

BEACON PKWY

S-2

Location Map

PET 19-13

3220 BEACON PARKWAY
OWNER:
BEACON HEALTH SYSTEMS, INC

PUD AMENDMENT
TO ADD A HELIPAD
AS A PERMITTED USE

1st Reading 10-21-19
2nd Reading
Passed
Failed
Continued To

PETITION #19-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2019-33

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 15 2019

CITY CLERK
MISHAWAKA, IN

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, Beacon Health System Inc. and State of Indiana (INDOT) has filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00°33'26" EAST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23, 2,072.20 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°33'26" WEST ALONG SAID WEST LINE, 154.93 FEET; THENCE SOUTH 42°35'06" EAST, 29.87 FEET; THENCE SOUTH 00°35'06" EAST, 29.87 FEET; THENCE SOUTH 00°33'26" EAST PARALLEL WITH SAID WEST LINE, 132.91 FEET; THENCE SOUTH 89°55'22" WEST, 20.00 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 0.066 ACRE, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF-WAY OF RECORD.

COMMONLY KNOWN AS: 20' X 155' strip of Evergreen Road 250' Northwest of Beacon Parkway

PROPOSED ORDINANCE NO. 2019-33

ORDINANCE NO.

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

- 1) The vacation and release easements will not hinder the growth or orderly development of the neighborhood. The future roadway will be shifted to the west to provide a greater separation between it and an adjacent residential driveway south of Douglas Road.
- 2) The vacation of the established unimproved right-of-way will not make access to any adjacent property difficult or inconvenient. The right-of-way and easements will be rededicated through the subdivision platting process providing future access to the adjacent property.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place. The existing right-of-way is currently unimproved.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan. The adjacent property, which was annexed in 2012, is outside the boundaries of the Mishawaka 2000 Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____
day of _____, 2019.

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

September 18, 2019

RECEIVED
DEBORAH S. BLOCK, MMC

To the Honorable Members of the
Common Council
City of Mishawaka, Indiana

OCT 01 2019

CITY CLERK
MISHAWAKA, IN

-and-

Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: Petition for Vacation of Public Right-of-Way

The undersigned, Beacon Health System, adjacent property owner respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right-of-way located in the City of Mishawaka, St. Joseph County, Indiana:

A PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00°33'26" EAST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23, 2,072.20 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°33'26" WEST ALONG SAID WEST LINE, 154.93 FEET; THENCE SOUTH 42°35'06" EAST, 29.87 FEET; THENCE SOUTH 00°33'26" EAST PARALLEL WITH SAID WEST LINE, 132.91 FEET; THENCE SOUTH 89°55'22" WEST, 20.00 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 0.066 ACRE, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF- WAY OF RECORD.

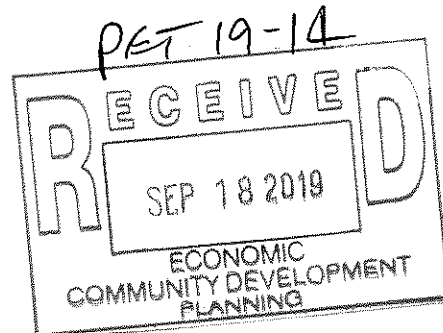
Petitioners further state they are the owners of the property immediately adjacent to the above-described right-of-way.

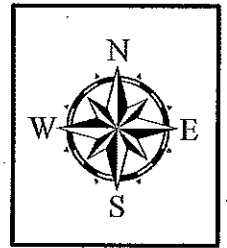
Wherefore, the Petitioner prays and respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted to vacate the above described right-of-way located in the City of Mishawaka.



Jeffrey P. Costello, CPA / CFO
Beacon Health System
3220 Beacon Parkway

CONTACT PERSON:
Philip E. Panzica, RA
Panzica Architecture Group
416 E. Monroe St. South Bend, IN 46601
Email: pepanzica@panzica.net
Phone: 574-234-0124





CAPITAL AVE

PET 19-14

S-2

S-2

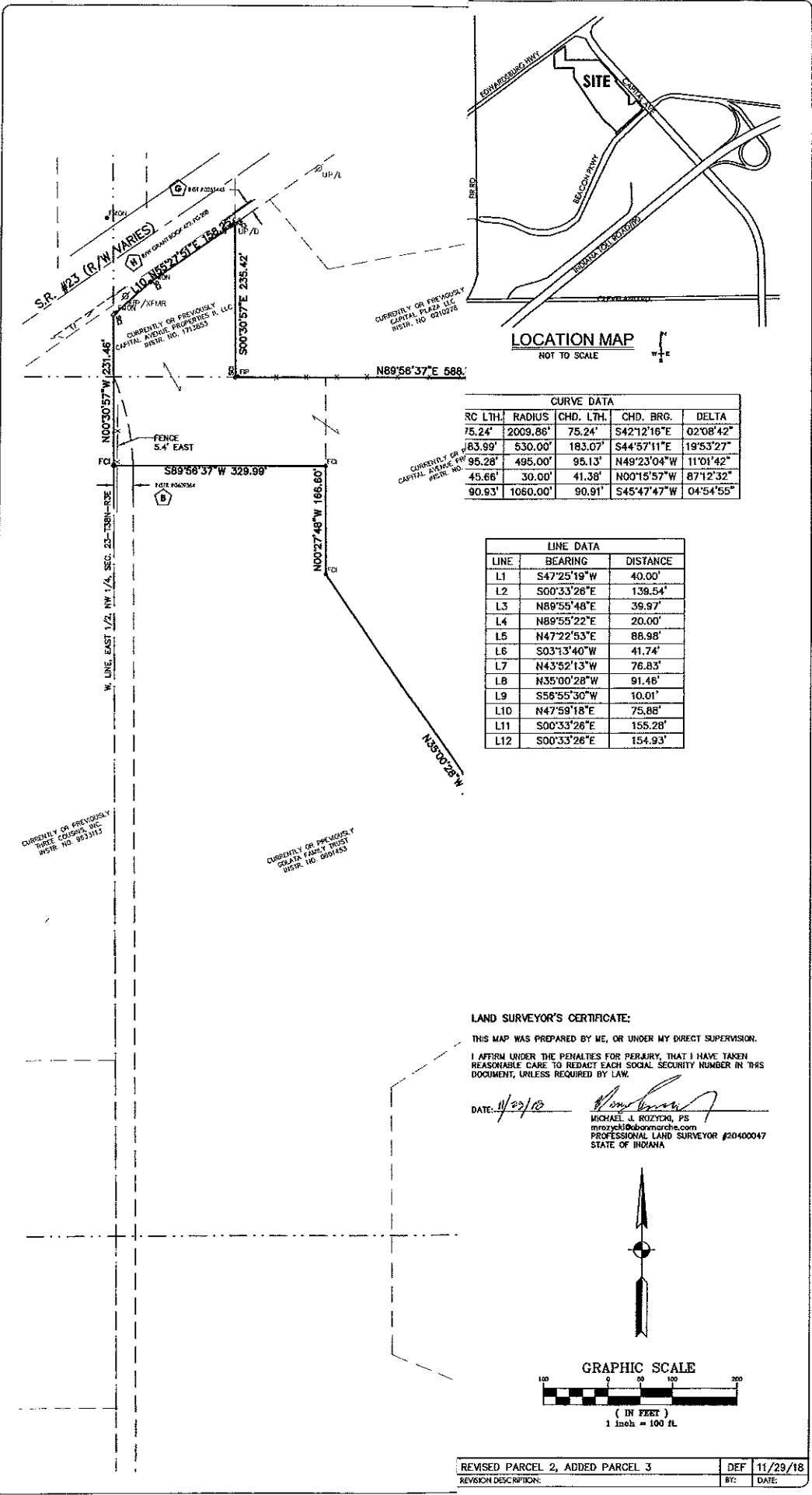
Location Map

PET 19-14

PETITIONER:
BEACON HEALTH SYSTEMS, INC

VACATION OF 20 FOOT STRIP
OF RIGHT-OF-WAY
(FORMER EVERGREEN RD)

BEACON PKWY



ABONMARCHÉ

700 Lincoln Way East
South Bend, IN 46601
T 574.232.8700
F 574.232.8700
abonmarche.com

Geography Surveying Engineering Architecture Land Development

PROJECT:

A PART OF THE EAST HALF OF THE NORTHWEST AND THE WEST HALF OF THE NORTH-EAST QUARTERS OF SECTION 32, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

EXHIBIT DRAWING

SHEET TITLE:

DRAWN BY: DEF

FIELD BOOK: BBS #8 PG 10

PM REVIEW: MJR

QA/QC REVIEW: FC

DATE: 9-25-18 / 11-29-18

SEAL:

MICHAEL J. ROZYCKI

REGISTERED

LS70500010

STATE OF INDIANA

LAND SURVEYOR

HARD COPY IS INTENDED TO BE 24" X 36" WHEN PLOTTED. COPIES INDICATED AND GRAPHIC QUALITY MAY NOT BE ACCURATE FOR ANY OTHER SIZE.

SCALE:

HORIZ: 1" = 100'

VERT:

ACT JOB # 18-0839/1911

SHEET NO. 1 of 1

REVISED PARCEL 2, ADDED PARCEL 3

DEF 11/29/18

BY: DATE:

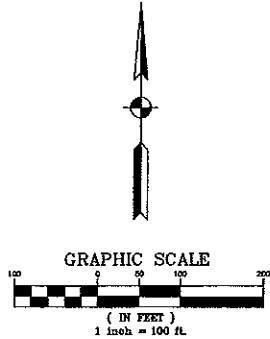
LAND SURVEYOR'S CERTIFICATE:

THIS MAP WAS PREPARED BY ME, OR UNDER MY DIRECT SUPERVISION.

I AFFIRM UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

DATE: 11/29/18

MICHAEL J. ROZYCKI, PS
mrozycki@abonmarche.com
PROFESSIONAL LAND SURVEYOR #20400047
STATE OF INDIANA





CITY OF MISHAWAKA

STREET DEPARTMENT
Tim Ryan
Street Commissioner

DAVID A. WOOD, MAYOR

October 16, 2019

Mishawaka Common Council
City Hall
600 East Third Street
Mishawaka, IN 46544

RE: Proposed Ordinance 2019- 34

Honorable Council Members:

At this time, we find the need to request a transfer of \$6,500 from our *Other Supplies/Traffic Supplies* Line #201-50-429-13 to be distributed as follows:

FROM:	MVH Street Department		
	<u>Other Supplies</u>		
	201-50-429-13	Traffic Supplies	<u>\$6,500</u>
TO:	MVH Street Department		
	<u>Other Services and Charges</u>		
	201-50-432-04	Telephone/Paging	\$2,000
	<u>Rentals</u>		
	201-50-437-05	Uniforms	<u>\$4,500</u>
		TOTAL -	\$6,500

If you have any questions concerning this transfer, please call or visit my office.

Sincerely,

Tim Ryan
Street Commissioner

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 18 2019

CITY CLERK
MISHAWAKA, IN

OCT 18 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 10-21-19

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2019-34

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2019

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the Motor Vehicle Highway Fund budget adopted for the fiscal year ending December 31, 2019.

Section 2. There is hereby transferred and reappropriated the sum of \$6,500.00 as follows:

Motor Vehicle Highway Fund

From: <u>Supplies</u>		
201-50-429-13	Traffic Supplies	\$6,500.00
To: <u>Other Services and Charges</u>		
201-50-432-04	Telephone/Paging	\$2,000.00
201-50-437-05	Uniforms	<u>\$4,500.00</u>
		\$6,500.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

_____ day of _____, 2019 at _____ o'clock, ____ M.

Dale "Woody" Emmons, 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