AGENDA

Monday, November 18, 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**

   November 06, 2019
5. **Petitions, Communications, Remonstrance and Memorials**

   A letter from the Board of Zoning Appeals regarding recommendations from their 11-12-2019.
6. **Report of Special Committee**
7. **Ordinances on First Reading**
8. **Resolutions**

   R2019-26 Adding one parcel to the City's Acquisition List

   R2019-27 Use Variance to allow Two Family Dwelling in R-1 Single Family District 815 N Main St

   R2019-28 Bond Inducement Res for Green Oaks of Granger LLC - 120 units for a senior assisted living facility - near 15055 Cleveland Rd
9. **Ordinances on Second Reading**

   P.O. NO. 2019-35 Transfer Funds - Police Dept. - $67,600.00
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
November 06, 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 November 06, 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.

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

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

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

PROPOSED ORDINANCE NO. 2019-35

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2019
(TF- Police Dept. $67,600)
(Assigned to Budget and Finance Committee)

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

PROPOSED ORDINANCE NO. 2019-27

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
(App Local Road and Bridge Funding - $1,145,700)

(Assigned to Budget Finance Committee)

Mr. Hixenbaugh 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 explained this ordinance would satisfy a number of state statues . She continued to say it required to deposit 50% of motor vehicle highway revenue from the state into the MVH Restricted Fund. Ms. Miller said to fund the Community Crossings Grant, they had to have 50% matching to be transferred from MVH Restricted Fund. She continued to explain once the funds were transferred, they needed to appropriate both the State Community Crossings Award and the transfer which was the 1-million-dollar figure.

Question was called for 7:06 P.M. for **PROPOSED ORDINANCE NO. 2019-27** **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. 5669**

PROPOSED ORDINANCE NO. 2019-28

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(Add Funds Controller $56,000 - Fire $215,000)
(Assigned to 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 of the committee upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said the $56,000 in additional funds in the controller's budget was for the increase in the Human Society Animal Control Contract. She said she found out about the increase after the budget was set. Ms. Miller said the $56,000 would pay the rest of the balance for the contract for this year.

Mr. Mammolenti asked if the Human Society gave any justification for the increase. Ms. Miller explained it was the increase cost of operation in Mishawaka. She mentioned there was also significant increases for 2020 and 2021. Mr. Mammolenti asked the total for the contract for 2019. Ms. Miller said the total was $230,863.55.

Mr. Tanner asked was the contracts aligned with the calendar year. Ms. Miller replied yes, they went to the Law Department to discuss the changes, it did not come to her attention. Mr. Tanner asked were these changes agreed to in a past decision making process for the year of 2019. Ms. Miller said the changes came in 2018 for 2019, she found out about the changes after the budget was set in the fall.

Bryon Woodward, Fire Chief said they had a bad year in some aspects. He continued to say the last few weeks four firefighters were out on extend injuries, three were back to work. Chief Woodward said the other part the expense was the investment of their people with their EMS system. He said they have had five people pass the paramedic class, they had three in the class at this time. Chief Woodward continued to say they currently had four members in an advanced EMT class to be finished this month. He mentioned they also hired five new firefighters, four would be starting on shift, with the new just hired yesterday. Chief Woodward said this money would cover the rest of the year.

Mr. Emmons questioned the new hires shifts. Chief Woodward explained there would be two on two different shift and one on third shift.

Question was called for at 7:12 P.M. for **PROPOSED ORDINANCE NO. 2019-28** **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. 5670**

<u>PROPOSED ORDINANCE NO. 2019-29</u>

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(Add Funds – Sidewalk & Curb Repair $16,161)
(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 upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said this ordinance would appropriate the additional funds in the Street Sewer Sidewalk and Curb Fund. She continued to explain this was the 50% contributions from the citizens to pay for their sidewalk, the city payed their 50%, this would appropriate the money to pay the bills.

Question was called for at 7:14 P.M. for **PROPOSED ORDINANCE NO. 2019-29** **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. 5671**

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)

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

Daryl Knip, Abonmarche Consultants said they were requesting to rezone the northwest corner of Grape Road and McKinley to C-4 in front of the old Kmart store which was now BIG Lots. He said this project would be on the corner where Rally's currently sits and it would expand north 75 feet and 15 feet to the west. Mr. Knip provided the council an ariel map of the proposed site. He said the project would include 4800 square foot automatic car wash with self-service vacuum stations on the east side of the building. Mr. Knip continued to say they worked with the city and developers to refine the site plan. He mentioned as a part of refining the site plan, they tried to allow additional green space along the Grape Road corridor to provide additional land in case there was ever a road widening project. Mr. Knip said the Plan Commission unanimously supported the proposed car wash.

Mr. Tanner thanked Mr. Knip for the materials he provided. He went on to say the city proactively introduced a pedestrian or multi use pathway along Grape Road along on the west side. Mr. Tanner said one of the issues the city had with the current status on the southern portion was a temporary asphalt. He asked for clarity the proposed widen right of way would accommodate a wider and potentially a concrete path. Mr. Knipp replied yes, the project would dedicate the right of way to allow for it to happen.

Mr. Banicki questioned the plan for reusing and recycling the water from the car wash. Mr. Knip said there would be a recycling tank underneath the equipment room. He went on to explain the tanks were 6 feet deep and would be a couple feet under the slab. Mr. Knip said the bottom of the tanks would be 8 feet below grade. He said they were proposing to elevate the site to help with drainage and help bring the tanks up. Mr. Knip continued to say the current water table in the spring was 8 to 9 feet deep. He said they were comfortable the water table would not be an issue for the tanks. Mr. Banicki mentioned he lived couple blocks away, the year they had the horrendous snow melt and rain his basement floor cracked. He said he did have some concern but being that this car wash was not as close to the creek it was not as big of an issue but there was still some environmental issue because the water had to go somewhere. Mr. Knip explained the tanks were more structurally designed than basements and they were thicker. He said in working with the city Engineering Department they were checking the water table to see where the sewer depths would be on the project. Mr. Banicki also mentioned the concern with the rendering being moved to the north and traffic backing up especially during the day when the Transpo bus stops at the corner in the turn lane for pedestrians riding the bus. He asked did the drive entrance have to be near the bus stop. Mr. Knip said with the amount of traffic generated from a shopping center of that size they would be hesitant to close any of the drives. He said there were two entrances on McKinley and Grape Road, it was very desirable from a business stand point for business from McKinley and they wanted to be careful not to direct more traffic in front of the BIG Lots store, they recommend the entrances stayed. Mr. Knip mentioned they were moving the entrance north a little more than 75 feet to line up with the east west drive through the shopping center to give separation from the McKinley intersection. He said they understood their concerns regarding traffic back up. Mr. Banicki asked could they speak with Transpo of possibly moving the stop closet to the corner of the intersection on McKinley. Mr. Knip said they would be happy to have a discussion with Transpo. Mr. Banicki asked would the entrance/exit have one in and two outs going left and right between the car lot and proposed car wash. Mr. Knipp replied yes, the existing drive was 50 feet wide drive, they were proposing 37 feet with a left and right out and one way in.

Mr. Mammolenti questioned the recycling process. Mr. Knipp explained the was went through a separation process separating dirt, oil and sediment and then vacuumed out of the tank.

Mrs. Voelker and Mr. Tanner thanked the Mr. Wyant, the owner and developer of the car wash for continuing to find a place in Mishawaka. Mr. Tanner mentioned he and Mr. Bellovich had the chance to visit one of Mr. Wyants properties in Nappanee, it seemed he ran an outstanding clean business. He also thanked him for finding a site amenable to the council's consideration.

Mr. Banicki thanked Mr. Wyant for making this work and Mr. Knip for meeting with him over the last weeks going over concerns. He said he was confident the entrance/exist going through the shopping center would keep traffic from backing up on McKinley and Grape Road. Mr. Banicki expressed his support.

Question was called for at 7:28 P.M. for **PROPOSED ORDINANCE NO. 2019-30 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. 5672**

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)

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

Szabolcs Szemethy, owner of the building said he owned the building since 1992, it was where he ran his business. He continued to say he could not afford his other property, so he moved in to the 935 E. Fifth street property. Mr. Szemethy said Code Enforcement informed him he needed to make the proper zoning change to reside on the property. He said he felt it would be better to convert it to residential.

Mrs. Voelker asked was the building metal. Mr. Szemethy replied yes, it was an old storage building. He said he began building rooms within the building for his business. Mr. Szemethy said he could not afford his other properties, so he decided to move in after getting ideas from movies he seen with people living in industrial buildings.

Mr. Mammolenti asked was there working water, electricity, heating and air condition and carpeting. Mr.Zemethy replied yes, he had a full kitchen, windows and carpeting, it was completely finished. He said he had everything he needed.

Ms. Petko Reisdorf expressed she applauded Mr. Szemethy creativity.

Mrs. Voelker asked were the neighbors comfortable with Mr. Szemethy living at the property. Mr. Szemethy replied yes, his neighbors were his friend and they were very supportive.

Question was called for at 7:36 P.M. for **PROPOSED ORDINANCE NO. 2019-31 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. 5673**

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)

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

Phil Panzica, Panzica Building Corporation explained in early planning was decided not to have a helipad and they would not use it for any inbound or to transport patients to Memorial Hospital trauma center, it was decided ambulances would be provided. Mr. Panzica said they facility was a full hospital with vertical assessment, 15 emergency exam rooms, full trauma room for surgeries, a imaging facility, aid-inpatient beds and all other support services necessary for a hospital. He said later on it was decided there may be a need for patients brought to the hospital in need to go outside the community such as burn victims needing to be sent to Fort Wayne or

Michigan. Mr. Panzica said the helipad was decided to be put in; it was a 60x60 pad to transfer patients outside the community. He went on to say they had an AFAA consultant involved in the project, they studied the site and came up with two primary routes for approaching and leaving the facility without bothering residential areas. Mr. Panzica went on to say the use and frequency of the pad was unknown at this time.

Mr. Tanner questioned why the helipad was not included in the original design. Mr. Panzica explained it was initially thought there would not be inbound trauma patients. He continued to say if a patient was in a helicopter, they would automatically take the patient to Memorial Hospital which was a level two trauma center, which meant there would not be any incoming. Mr. Panzica said the facility could handle over 90% of patients which would handle in the facility. He went on to say the facility would have two transfer ambulance at the facility to transfer patients they could not handle. Mr. Panzica said later on in the project the discussion was what would happen if there were patients brought to the facility such a burn victim who needed to be transported out of the community the quickest. He said it was then decided to spend the money to put in the helipad.

Mr. Mammolenti asked where they would primarily base the helicopters and if it was determined at the scene of an accident the person was severely burned would the patient be directly sent to a trauma burn center. Mr. Panzica said the helicopter were based out of Michiana Reginal Airport. He went on to say if a helicopter picked up a burn victim anywhere in the community, the helicopter would transport the victim straight to the level two trauma center which was Memorial. Mr. Panzica stated the helipad would only be used for outbound.

Mr. Hixenbaugh asked why they were now asking for approval for a helipad that was already constructed. Mr. Panzica explained it was decided very late to include it. He continued to say drawings were prepared and sent to Engineer and Planning Department for review prior to install. Mr. Panzica said during the process it was recommended by the Planning Department to go through to amend the PUD to add the element. He said it was decided in the construction operation with the review of the drawings, the 60 x 60-foot pad was installed for sequence of work to get it completed. Mr. Panzica went on to say if by chance the PUD amendment for the pad was not approved, the pad would not be used. He said there was no intent to do anything unfair, it was decided to build it to get it in the ground, seeded, grated and drained all at one time.

Mr. Hixenbaugh appreciated the clarification. He said he assigned no ulterior motives to the integrity of Beacon, Beacon was a fine corporate citizen as well as Panzica Building Corp. Mr. Hixenbaugh continued to say the fact remains it was out of sequence with the process. He said at this time it puts the council body in an awkward position when an admirable use like this was already constructed; it really hamstrung their decision-making ability under the law. Mr. Panzica gave his apologies.

Question was called for at 7:49 P.M. for **PROPOSED ORDINANCE NO. 2019-32** **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. 5674**

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)

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

Phil Panzica, Panzica Building Corporation represented Beacon Health Systems explained this vacation of the 20 foot sliver of land was for the cleanup of the access right of way that existed. He said this was on the east side of the Beacon property fronting on Capital Avenue. Mr. Panzica explained originally Evergreen Road came along the Indiana Toll Road then took a 45 degree turn heading northeast. He continued to say Evergreen Road was a pioneer road, meaning it was a farm road then eventually grated and oiled and the county started plowing and paved it. Mr. Panzica said it was never a dedicated piece of land, it was a right of way by prescription, no one disagreed with it, so it became a right of way. He said the property owners never deeded the land. Mr. Panzica went on to say the county went on to build on the north end of Capital Avenue, there was a right turn out made. He said the Indiana Toll Road purchased a sliver of land 20 x 70 feet. Mr. Panzica said when Beacon was built Evergreen Road was not needed, so it was vacated. He said it was vacated where the Beacon land ends. Mr. Panzica continued to say it was identified early in the project for the hospital to clean the problem. He said INDOT had rules regarding purchasing access right of way no longer needed. Mr. Panzica explained since Evergreen Road was vacated and no longer needed, INDOT worked with their organization for Beacon Health to transfer the INDOT land to sell to Beacon. He said Beacon purchased the piece of land from the county and INDOT required the piece of land to be cleaned up by vacating it. Mr. Panzica said once it was vacated it would clean up the property line to make everything correct.

Question was called for at 7:54 P.M. for **PROPOSED ORDINANCE NO. 2019-33 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. 5675**

PROPOSED ORDINANCE NO. 2019-34

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

(Transfer Funds – MVH $6,500)

(Assigned to Budget and Finance Committee)

Mr. Tanner 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.

Tim Ryan, Street Commissioner said this transfer would keep the uniform rental and telephone communications lines up for the remainder of the year.

Mr. Tanner asked were the traffic supplies putting the department in a pinch for anything they needed for activities for the rest of the year. Mr. Ryan replied no, once they went through it he sat down with the traffic crew to see what they needed ordered for the remainder of the year.

Mr. Mammolenti thanked Mr. Ryan and his team for helping with his request for some street repairs. Mr. Ryan said his employee were a great group, they took pride in what they did.

Question was called for at 7:58 P.M. for **PROPOSED ORDINANCE NO. 2019-34 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. 5676**

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2019-22AA

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)

Ms. Petko Reisdorf made a motion to override the mayor's veto for **ORDINANCE NO. 5666AA upon** a second by Mr. Hixenbaugh.

Mr. Emmons requested a roll call vote.

Clerk Blocks 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

The motion carried with a vote of 7-1 with Mrs. Voelker voting no.

NEW BUSINESS

Mr. Mammolenti announced the Twin Branch neighborhood meeting at Twin Branch School would be held on November 20th at 7PM with guest speaker School City Superintendent Wayne Barker.

Mr. Hixenbaugh said he had the privilege of attending the public meeting held Castle Manor regarding the proposed improvements to Crawford Park. He congratulated the mayor and his staff for making the presentation as it was the best attended public meeting he has seen in a long time.

Woody Emmons announced 1st District neighborhood meeting would be held on November 21st at 7PM at St. Bavo's with guest speaker School City Superintendent Wayne Barker.

Mayor Wood announced Monday November 11th the Veteran's Day Flag Raising Ceremony would be held at Battell Park from 3:30P.M.-5P.M. for the flag raising, ribbon cutting, and opening of the time capsule.

Rick Simbeck, Street Department said he has been on the department for 23 years. He expressed it was unfair all city employees were not receiving the 3.5% raise.

ADJOURNMENT 8:06 P.M.

Deborah S. Block /s/	Dale "Woody" Emmons /s/
Deborah S. Block, IAMC, MMC, City Clerk	Dale "Woody" Emmons, President

City of Mishawaka

DAVID A. WOOD, MAYOR **DEPARTMENT OF CITY PLANNING**

November 14, 2019

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2019

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
November 12, 2019, Public Hearing

Honorable Members:

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

APPEAL #19-48 An appeal submitted by Jade Realty Michiana LLC and 4Tron Investment LLC requesting a Use Variance for **815 North Main Street** to allow a two-family dwelling in R-1 Single Family Residential zoning district.

The Board, with a vote of 3-1, recommended denial.

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Fengrong Ma

STAFF REPORT

Location: 815 N. Main Street

Date: November 12, 2019

Appeal: 19 - 48

Prepared By: DJS

GENERAL INFORMATION

Applicant:	Jade Realty Michiana LLC & 4Tron Investment LLC
Status:	Property Owners
Request:	Use variance to allow a two-family dwelling
Zoning Classification:	R-1 Single Family Residential District
Lot Size:	0.13 acres (58'x99' more or less)
Applicable Regulations:	Section 137-42 / (4) Board of Zoning Appeals – Variance of Use; Section 137-165 (a) / R-1 Single Family Residential District – Permitted Uses

SPECIAL INFORMATION

Area Development Pattern:	North:	C-1 General Commercial (Vacant / Formerly a Hair Salon)
	South:	R-1 Single Family Residential (Residential) & R-2 Two Family Residential (Residential)
	East:	C-5 Neighborhood Commercial (Single & Multi-Family Residential)
	West:	R-1 Single Family Residential (Residential)
Thoroughfare:	N. Main Street	
School District:	School City of Mishawaka	
Township:	Penn	
Public Utilities:	All utilities are available and currently serve the property	
Comprehensive Plan:	Mishawaka 2000 Comprehensive Plan identifies a preferred or planned use of this property as General Commercial (Downtown Retail Sales & Shopping Centers)	

ANALYSIS

The Appellants, Jade Realty Michiana LLC and 4Tron Investments LLC, are requesting a use variance to allow an existing non-conforming multi-family residential structure to be used as a two-family dwelling.

The property is located along the west side of N. Main Street between W. Battell Street and W. Lawrence Street. Surrounding properties are zoned C-1 General Commercial to the north, R-1 Single Family Residential to the west, R-1 Single Family Residential and R-2 Two Family Residential to the south, and C-5 Neighborhood Commercial to the east.

Historical uses of the property have included both commercial and residential. In the mid-2000s, the property was zoned C-1 General Commercial and occupied by a non-profit self-defense school. In 2007, it was rezoned to the R-1 Single Family Residential District when commercial use of the property ceased. (Petition 07-22/Ordinance 5109). At the time of the rezoning, the prior owner indicated that the property would only be used as a single-family residential home.

According to tax records, the Appellant acquired the property in February 2018. Improvements were then made to the structure earlier this year to divide it into three (3) separate residential units. No permits were issued by the Building Department for these improvements. The petition states that one of the two downstairs units and the upstairs unit are currently occupied by tenants. One unit remains unleased. Planning Staff became aware that the property was illegally split into multiple units after responding to a question from a nearby resident regarding parking in the neighborhood. The R-1 Single Family Residential District does not permit multi-family residential use.

Planning Staff recommended to the Appellant that a use variance be requested for a two-family (unit) dwelling due to the limited available parking. On-street parking is not permitted along N. Main Street. The zoning ordinance requires two off-street parking spaces be provided per unit for a two-family dwelling. Four parking spaces are available on the property along the adjacent alley to the south.

If the use variance is approved, the Appellant shall convert the three residential units to two units. Recent inspections by the Building Department revealed the improvements completed, to date, do not meet code. Permits are required and must be obtained by licensed/bonded contractors prior to beginning any additional improvements.

All pertinent City Departments have reviewed and approved the use variance request.

RECOMMENDATION

The Planning Staff recommends approval of Appeal 19-48 to allow an existing non-conforming multi-family residential structure located at 815 N. Main Street to be used as a two-family dwelling.

This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all required permits will be secured and codes adhered to. Adequate off-street parking to serve the two units will be provided on the property.

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. The proposed use is compatible with the nearby land uses which include single-family, two-family, and multi-family residential, and commercial. Renovation and investment in the deteriorating property will likely have a stabilizing effect.

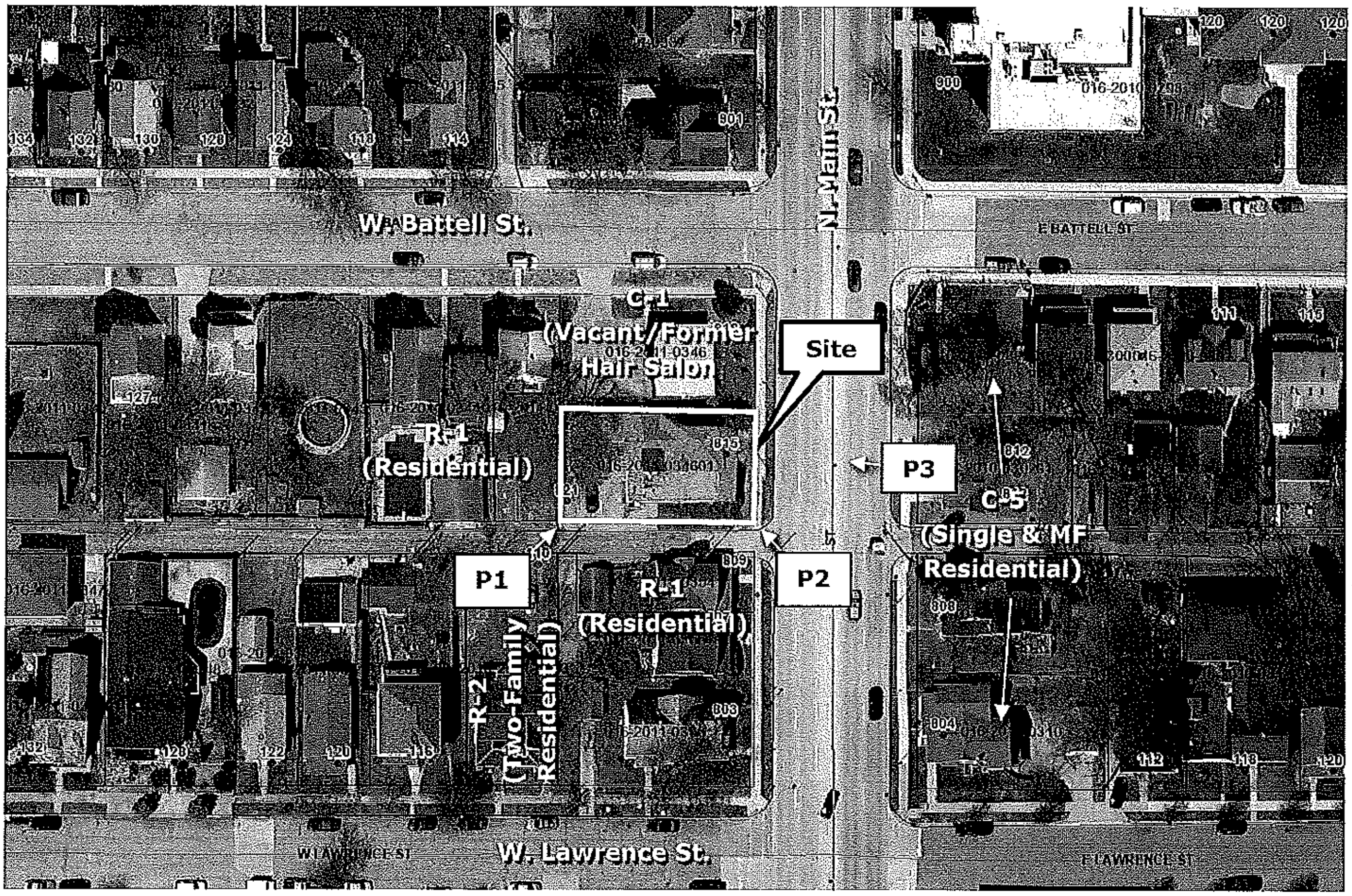
3. The need for the variance arises from some condition peculiar to the property. The zoning ordinance does not permit a two-family dwelling in the R-1 Single Family Residential District. When purchased by the Appellant, the structure was already divided into a downstairs commercial space and an upstairs residential unit. The Appellant states that the structure is too large for single-family residential use.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. Without the use variance, the structure would have to be converted back to a single-family residential home. According to the Appellant, single-family residential use is not financially feasible at this property.

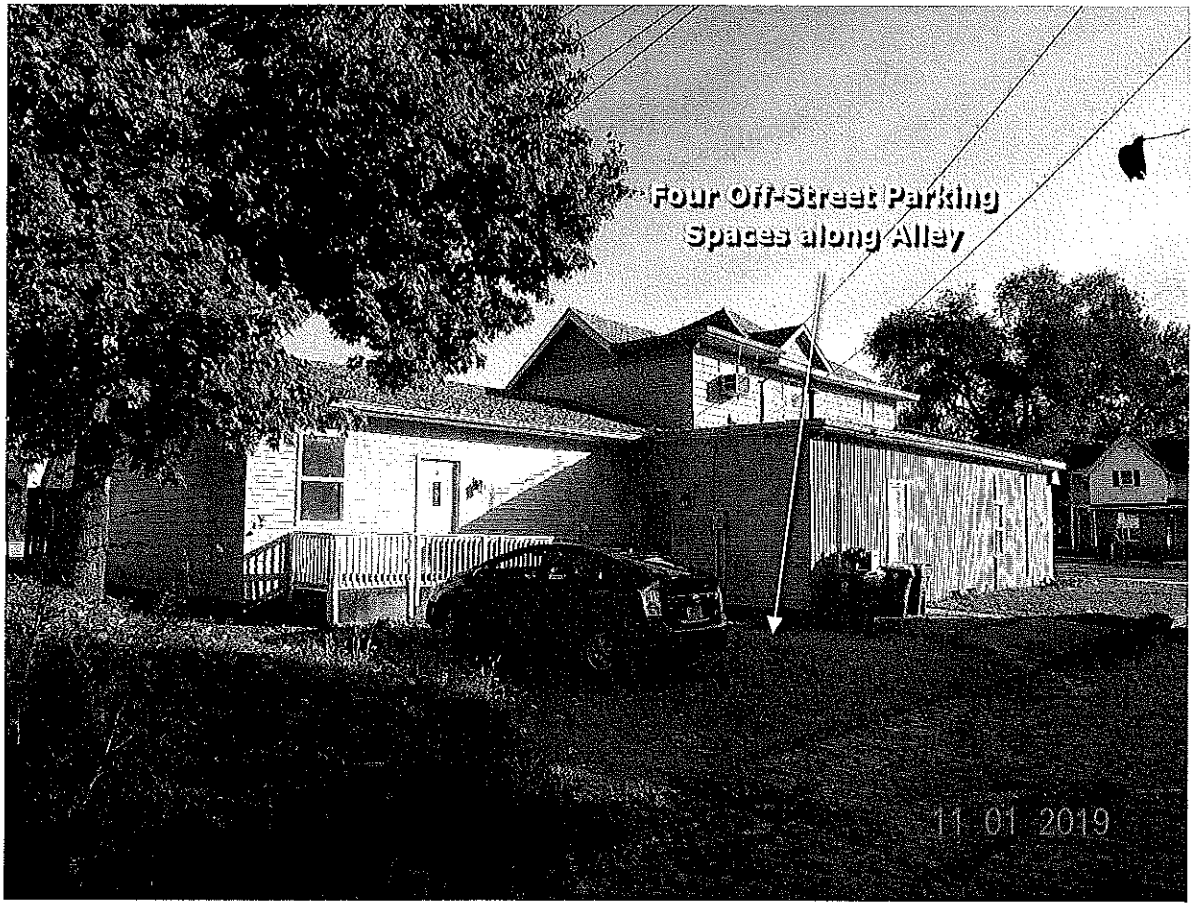
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. Use of the property as a two-family dwelling is less intensive than the preferred commercial use as identified in the comprehensive plan.

ATTACHMENTS

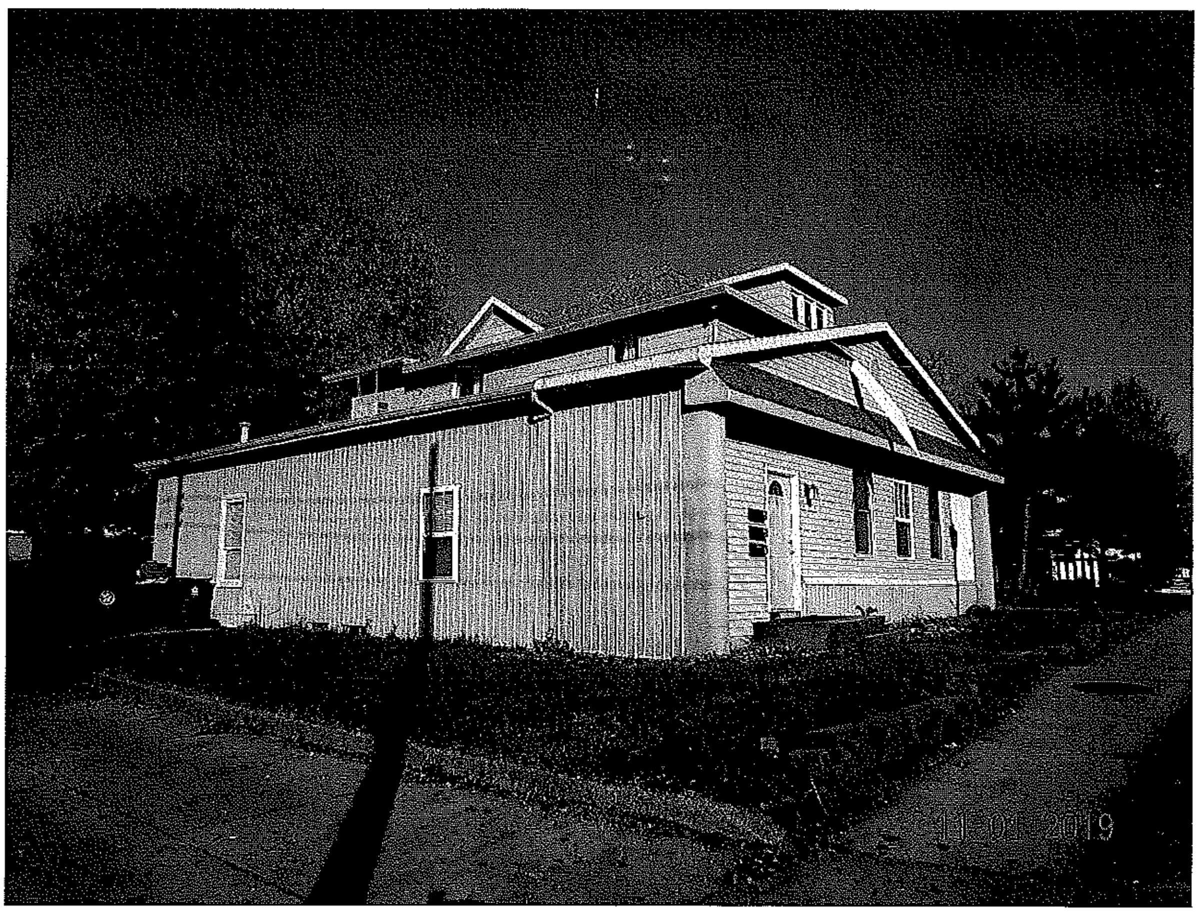
Aerial, Photographs, Appeal, Site Plan, Location Map



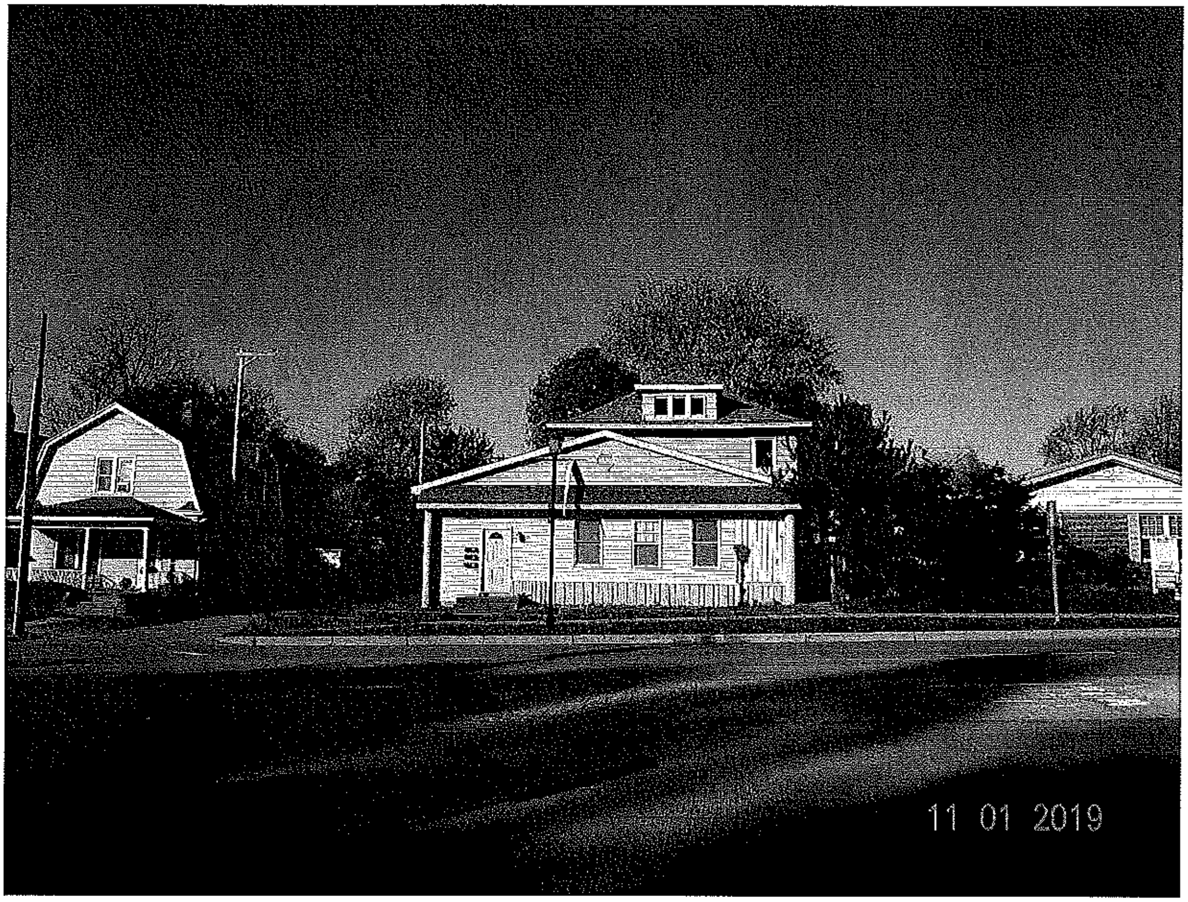
Aerial Photograph
815 N. Main Street
Existing Non-Conforming Multi-Family Residential Structure – 3 Units
Zoned R-1 Single Family Residential



P1. Looking northeasterly toward the property from the alley to the south.



P2. Looking northwesterly toward the property from N. Main Street.



P3. Looking westerly toward the property from the east side of N. Main Street.

Attached is draft resolution 2019-26. If approved, it would add 1534 East 12th Street to the City's acquisition list. In this case, the property would be purchased through the Mishawaka Utility Board for Mishawaka Utilities Electric Division. As required by the Indiana Code, before the property can be purchased, a resolution adding the property to the City acquisition list must be approved by the fiscal body/Common Council. As we have previously identified with Redevelopment projects, our preference has been to bring these potential acquisitions forward on a case by case basis for review.

In this case, earlier this year Mishawaka Utilities Electric Division was contacted by the neighboring property owner (Bill's City Wide Towing) if the Electric Division had an interest in acquiring the property before it was listed on the open market for sale. Since we have run out of room at the Electric Division property located at 1646 East 12th Street and the subject property is immediately adjacent, the acquisition makes sense. Currently, the Electric Division uses property at the City's Biosolid's Facility on Logan Street and our Central Services Facility on Union Street for what cannot currently be contained on 12th Street. The acquisition would in turn over time open up needed space for other Departments, particularly at our Central Services Building.

Basically, the acquisition would allow the Electric Division to better consolidate their operations and grow over time. The property is being offered at appraised value. The current owner has obtained one appraisal that listed the value of the property at $300,000. If added to the acquisition list, Mishawaka Utilities will order an additional appraisal as required by law, with the resulting purchase price not to exceed $300,000 or the average of the two appraisals, whichever is lower.

For the moment, only incidental improvements would be made to the property and it would be used "as is". Over time, the Electric Division will plan for capital expenditures that better consolidate operations between the two properties.

Please do not hesitate to contact me if there are any questions or concerns. Rick Springman, the manager of Mishawaka Utilities Electric Division will be attending on Monday evening should the Council have any specific questions about our Electric Divisions needs.

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 13 2019

CITY CLERK
MISHAWAKA, IN

As always, thank you for considering this request.

Ken

Kenneth B. Prince, ASLA, AICP

Executive Director- City Planner

City of Mishawaka

Economic-Community Development-Planning

600 East Third Street

Mishawaka, IN 46544

Phone- (574) 258-1625

Email- kprince@mishawaka.in.gov

Website- www.mishawaka.in.gov

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 13 2019

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2019-26
Miscellaneous Property Acquisitions
1534 East 12th Street

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S PROPERTY ACQUISITION LIST

WHEREAS, Mishawaka Utilities Electric Division has expanded over the years outgrowing their facility at 1646 east 12th Street; and

WHEREAS, 1646 east 12th Street is a location that is central to operations and is located in an industrial area that is suitable for outside storage which is required for the operation; and

WHEREAS, Mishawaka Utilities Electric Division has utilized both Mishawaka Utilities Wastewater Division Biosolids facility located at 1340 South Logan Street and the Central Services Building located at 700 South Union Street for storage and training space; and

WHEREAS, the City and Mishawaka Utilities continues to have a need for additional storage space; and

WHEREAS, Mishawaka Utilities Electric Division has been approached by the owner of the property located immediately adjacent to 1646 east 12th Street to the west located at 1534 East 12th Street (Bills City-Wide Towing site) regarding the Electric Divisions interest in purchasing the 1.82-acre property including two buildings and parking area; and

WHEREAS, the property has been offered at appraised value, which one appraisal has been obtained by the seller, and another appraisal will be obtained by the buyer; and

WHEREAS, the acquisition of the property located at 12th Street will allow certain storage and use areas at 1340 South Logan Street and the Central Services Building located at 700 South Union Street to be relocated; and

WHEREAS, the acquisition of this property combined with the relocation of storage and use areas will free up space in other facilities for the use of other departments of the City; and

WHEREAS, the location of the proposed property to be acquired cannot be replicated in another location and uniquely provides for the efficient expansion and consolidation of electric utility operations; and

WHEREAS, Legal Counsel has advised that the procedure for purchasing property for Mishawaka Utilities Electric Division by the Utility Board is dictated by Indiana Code 36-1-10.5-5; and

WHEREAS, Indiana Code 36-1-10.5-5 requires that the fiscal body of the political subdivision shall pass a resolution to the effect that it is interested in making a purchase of specified land or a structure; and

WHEREAS, the Administration is asking the legislative body for its review and approval of adding this property to the City's acquisition list to allow for the logical expansion and consolidation of the Mishawaka Utilities Electric Division in one primary location; and

WHEREAS, the property proposed to be added is as follows:

1534 East 12th Street, Mishawaka IN

Tax Parcel 016-1117-464803

Beg 1112' E Sw Cor W1/2 Sw1/4 208' E&W X 377.42'

N&S Cont 1.80 Ac Sec 14 37 3e

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. The referenced parcel is hereby added to the City's acquisition list.

2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

* * * * *

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on November 18, 2019.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

____
Dale (Woody) Emmons, President

ATTEST:

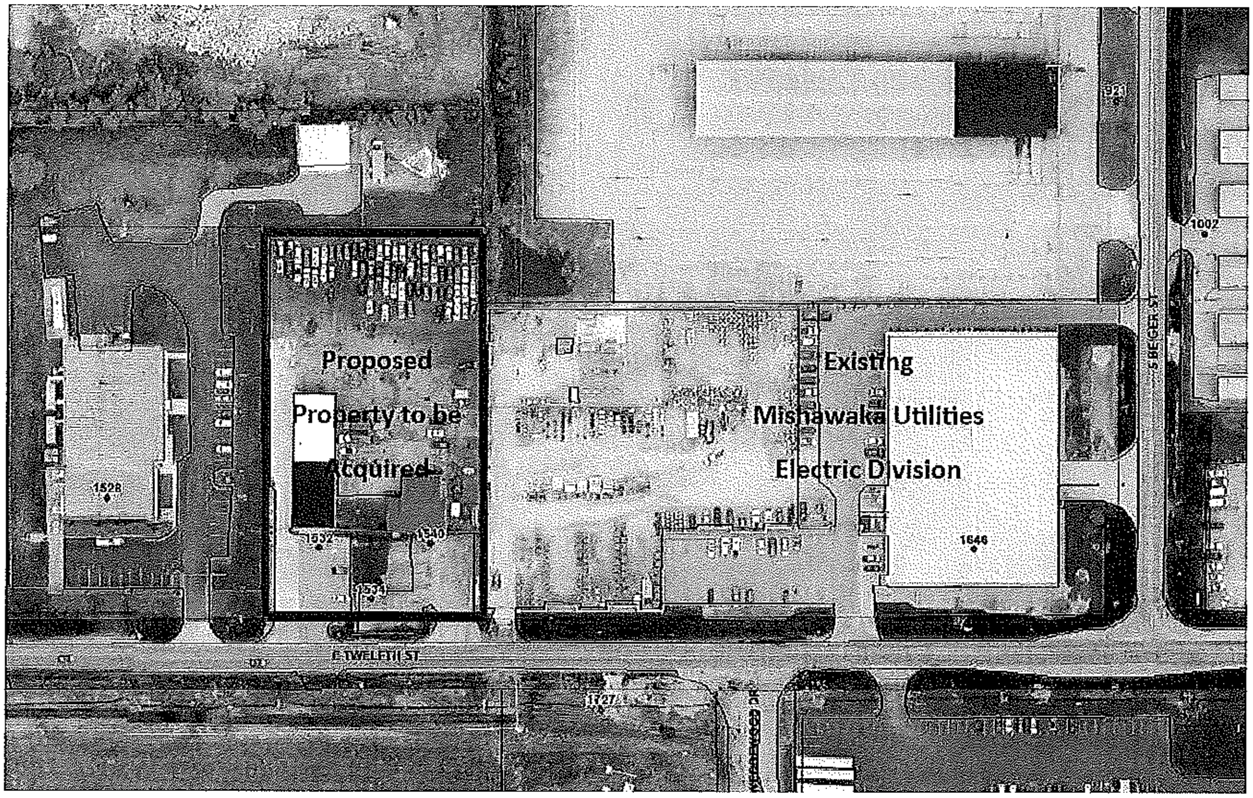
____
Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ______ day of November, 2019, at the hour of _______ _____.m.

____
Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of November, 2019, at the hour of _________ ___.m.

____
David A. Wood
Mayor of the City of Mishawaka, Indiana



Proposed
Property to be
Acquired
Existing
Mishawaka Utilities
Electric Division
1528
1532
1540
1534
1646
1002
E TWELFTH ST
S BEGER ST

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2019

CITY CLERK
MISHAWAKA, IN

APPEAL #19-48

RESOLUTION NO. 2019- 27

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:

815 North Main Street, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **815 North Main Street, Mishawaka, Indiana**, more particularly known and described as follows:

South ½ (one-half) of Lots 10, 11, and 12, Lawrence & Battell's Addition, Block 51, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

The Use Variance will allow a two-family dwelling in R-1 Single Family Residential District.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all required permits will be secured and codes adhered to. Adequate off-street parking to serve the two units will be provided on the property.

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. The proposed use is compatible with the nearby land uses which include single-family, two-family, and multi-family residential, and commercial. Renovation and investment in the deteriorating property will likely have a stabilizing effect.

3. The need for the variance arises from some condition peculiar to the property. The zoning ordinance does not permit a two-family dwelling in the R-1 Single Family Residential District. When purchased by the Appellant, the structure was already divided into a downstairs commercial space and an upstairs residential unit. The Appellant states that the structure is too large for single-family residential use.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. Without the use variance, the structure would have to be converted back to a single-family residential home. According to the Appellant, single-family residential use is not financially feasible at this property.

5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. Use of the property as a two-family dwelling is less intensive than the preferred commercial use as identified in the comprehensive plan.

<u>Section IV.</u> 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

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2019

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2019-28

A RESOLUTION OF THE MISHAWAKA COMMON COUNCIL CONCERNING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO THE FINANCING OF CERTAIN MISHAWAKA ASSISTED LIVING FACILITIES

WHEREAS, the City of Mishawaka, Indiana (the "City"), is authorized by IC 36-7-11.9 and 12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction and equipping of said facilities or the reimbursement of costs incurred in connection therewith, and said facilities to be either sold or leased to another company or directly owned by another company; and

WHEREAS, a representative of Green Oaks of Granger, LLC, an Indiana limited liability company or another to be formed limited liability company (the "Borrower") has advised the City that the Borrower proposes that the City lend proceeds of an economic development financing to the Borrower to provide a portion of the funds to (i) pay the costs of acquisition, design, construction, improvement and/or equipping of the assisted living facilities to be located in the City at or near 15055 Cleveland Rd. consisting of approximately 120 assisted living units and certain functionally-related improvements (the "Development"), (ii) pay capitalized interest on the bonds (if necessary), (iii) fund a debt service reserve fund (if necessary), and (iv) pay incidental expenses incurred on account of the issuance of the bonds and acquiring any credit enhancement with respect thereto (if necessary); and

WHEREAS, the Development will be owned and operated by the Borrower for use as a assisted living facility which will provide affordable housing; and

WHEREAS, the diversification of industry, creation of job opportunities and providing affordable rental housing to be achieved by the acquisition, construction and equipping of the Development will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it would appear that the financing of the Development would be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it is found that the acquisition, construction and equipping of the Development will not have an adverse competitive effect on any similar facility already constructed or operating near or in the City; and

WHEREAS, the Mishawaka Economic Development Commission (the "Commission") has rendered its Report for the Development regarding the financing of proposed economic development facilities for the Borrower; and

WHEREAS, the Commission adopted a resolution on November 18, 2019 (the "Commission Resolution"), which has been transmitted to this Common Council, finding that the financing of certain economic development facilities of the Borrower complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City and its citizens; now therefor

BE IT RESOLVED BY THE CITY OF MISHAWAKA COMMON COUNCIL THAT:

SECTION 1. It is hereby found and determined that the promotion of diversification of economic development and job opportunities in and near the City, and the providing of affordable rental housing is desirable to preserve the health, safety and general welfare of the citizens of the City, and that it is in the public interest that the Commission and the City take such action as they lawfully may to encourage economic development, diversification of industry, promotion of job opportunities and affordable rental housing in and near the City.

SECTION 2. It is hereby found and determined that the issuance and sale of economic development revenue bonds of the City under the Act in an amount not to exceed $25,000,000 for the lending of the proceeds of the revenue bonds to the Borrower for the purpose of financing a portion of the cost of the acquisition, construction and equipping of the Development will serve the public purposes referred to above, in accordance with the Act.

SECTION 3. In accordance with the Act, the findings and determination set forth above have been compiled and prepared into the Commission Report which Report is hereby approved by this Common Council.

SECTION 4. The Commission on November 18, 2019 considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in or near the City, and subsequently found, based on special findings of fact set forth in the Commission Resolution transmitted hereto that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in or near the City and the facilities will be of benefit to the health and welfare of the citizens of the City.

SECTION 5. All costs of the Development which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Development, and the City will sell or lease the same to the Borrower or loan the proceeds from the sale of the bonds to the Borrower for the same purposes.

SECTION 6. All action taken and approvals given by this Common Council with regard to the Borrower, are based upon the evidence submitted and representations made by the Borrower, its agents or counsel. No independent examination, appraisal or inspection of the Development was made, requested, or is contemplated by this Common Council, the Commission or the City.

SECTION 7. This Common Council does not, by this or any other approval or finding, guarantee, warrant or even suggest that the bonds, coupons or series thereof will be a reasonable investment for any person, firm or corporation.

SECTION 8. This Common Council shall not be obligated, directly or indirectly, to see to the application or use of the proceeds from the sale of the bonds or to see that the contemplated improvements, if any, are constructed. This Common Council is in no way responsible to the holders of any bonds for any payment obligation created by the bonds.

SECTION 9. This Common Council does not warrant, guarantee or even suggest that interest to be paid to or income to be received by the holders of any bond, coupon, or series thereof is exempt from taxation by any local, state or federal government.

SECTION 10. The bonds shall be special, limited obligations of the City payable solely from the funds provided therefor as described in a Financing Agreement (as defined in the Act) to be approved at a later date by the Commission and this Common Council prior to the issuance of the bonds, and shall not constitute an indebtedness of the Commission or the City or a loan of the credit thereof within the meaning of any constitutional or statutory provisions.

SECTION 11. In order to induce the Borrower to proceed with the acquisition, construction and equipping of the Development, this Common Council hereby finds and determines that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided that all of the foregoing shall be mutually acceptable to the City and the Borrower; and (ii) it will adopt such resolutions or ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds; and (iii) it will use its best efforts to assist the Borrower in procuring the issuance of additional economic development revenue bonds, if such additional bonds become necessary for refunding or refinancing the outstanding principal amount of the economic development revenue bonds, for completion of the Development and for additions to the Development, including the costs of issuing additional bonds (provided that the financing of such addition or additions to the Development is found to have a public purpose (as defined in the Act) at the time of the authorization of such additional bonds), and that the aforementioned purposes comply with the provisions of the Act.

SECTION 12. All costs of the Development incurred after the date permitted by applicable federal tax and state laws, including reimbursement or repayment to the Borrower of moneys expended by the Borrower for application fees, planning, engineering, a portion of the interest paid during acquisition, construction and equipping, underwriting expenses, attorney and bond counsel fees, and acquisition, construction and equipping of the Development will be permitted to be included as part of the bond issue to finance the Development, and the City will lend the proceeds from the sale of the bonds to the Borrower for the same purposes. Also, certain indirect expenses, including but not limited to, planning, architectural work and engineering incurred prior to this inducement resolution will be permitted to be included as part of the bond issue to finance the Development. This resolution shall constitute "official action" for purposes of compliance with federal and state laws requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

SECTION 13. This resolution shall be in full force and effect immediately upon passage by this Common Council and signing by the President of this Common Council and by the Mayor.

ADOPTED THIS _____ day of _______________, 2019.

____
DALE EMMONS, PRESIDENT
MISHAWAKA COMMON COUNCIL

PRESENTED by me to the mayor for his approval and signature on this _____ day of _______________, 2019.

____
DEBORAH S. BLOCK, CITY CLERK
CITY OF MISHAWAKA

APPROVED and SIGNED by me on this this _____ day of _______________, 2019.

____
DAVE WOOD, MAYOR
CITY OF MISHAWAKA

0143344.0725801 4816-2681-9500v5

REPORT OF THE MISHAWAKA ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE PROPOSED FINANCING OF CERTAIN MISHAWAKA ASSISTED LIVING FACILITIES

The Mishawaka Economic Development Commission proposes to recommend to the Common Council of the City of Mishawaka, Indiana that it provide a portion of the funds for the acquisition, construction and equipping of economic development facilities for Green Oaks of Granger, LLC, an Indiana limited liability company, or an entity formed by them (the "Borrower"). Such economic development facilities will consist of the acquisition, construction and equipping of an assisted living facility consisting of approximately 120 assisted living units, together with certain functionally related improvements (the "Development") to be located at or near 15055 Cleveland Rd., in the City of Mishawaka, Indiana (the "City"). The total cost for the acquisition, construction and equipping of the Development is presently estimated to be in an amount of approximately $30,000,000, including incidental costs of issuance of the economic development revenue bonds.

No public works or services not already existing or available, or for which provision has not been made, will be made necessary or desirable on account of the Development as such facilities will be provided either by the Borrower, private utilities, or existing public facilities, or pursuant to agreements with respect to such public facilities with the City.

It is tentatively found that the acquisition, construction and equipping of the Development will not have an adverse competitive effect on any similar facilities already constructed or operating in or near the City.

It is estimated that upon completion of the Development and start of operations, the new operation will create an estimated 46 FTE jobs, consisting of 60 full and part time positions, with an estimated total payroll of approximately $2,000,000 million annually.

Adopted this 18th day of November, 2019.

MISHAWAKA ECONOMIC
DEVELOPMENT COMMISSION

By: ______________________________
President

Attest:

____
Secretary

0143344.0725801 4825-9414-5452v5

RESOLUTION NO. ______

A RESOLUTION OF THE MISHAWAKA ECONOMIC DEVELOPMENT COMMISSION CONCERNING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO THE FINANCING OF CERTAIN NEW MISHAWAKA ASSISTED LIVING FACILITIES

WHEREAS, the Economic Development Commission of the City of Mishawaka, Indiana (the *"Commission"*), is authorized by IC 36-7-11.9 and 12 (collectively, the *"Act"*) to review and recommend the issuance of revenue bonds for the financing of economic development facilities in the City of Mishawaka (the *"City"*), the funds from said financing to be used for the acquisition, construction, renovation and equipping of said facilities or the reimbursement of costs incurred in connection therewith, and said facilities to be either sold or leased to another company or directly owned by another company; and

WHEREAS, a representative of Green Oaks of Granger, LLC, an Indiana limited liability company or another to be formed limited liability company (collectively, the *"Borrower"*) has advised the Commission that the Borrower proposes that the City lend the proceeds of an economic development financing (the *"Bonds"*) to the Borrower to provide a portion of the funds to (i) pay the costs of acquisition, design, construction, improvement and/or equipping of the assisted living facilities to be located in the City at or near 15055 Cleveland Rd., Granger, IN 46530, consisting of approximately 120 assisted living units and certain functionally related improvements (the *"Development"*), (ii) pay capitalized interest on the Bonds (if necessary), (iii) fund a debt service reserve fund (if necessary), and (iv) pay incidental expenses incurred on account of the issuance of the Bonds and acquiring any credit enhancement with respect thereto (if necessary); and

WHEREAS, the Commission has preliminarily determined that issuing the Bonds to provide financing for a portion of the Development is consistent with the policy and purposes of the Act; and

WHEREAS, the Development will be owned and operated by the Borrower for use as an assisted living facility which will provide affordable housing; and

WHEREAS, the diversification of industry, creation of job opportunities and providing affordable rental housing to be achieved by the acquisition, construction and equipping of the Development will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it would appear that the financing of the Development would be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it is found that the acquisition, construction and equipping of the Development will not have an adverse competitive effect on any similar facility already constructed or operating near or in the City; and

WHEREAS, the Commission has further determined that it will be advantageous to the Borrower and the City to issue the Bonds and to make the proceeds of the Bonds available to the Borrower to enable the Borrower to develop the Development pursuant to a financing or loan agreement in which the Developer will agree to make payments in amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Commission as follows:

1. The Commission hereby finds and determines that the promotion of diversification of economic development and job opportunities in and near the City, and the providing of affordable rental housing is desirable to preserve the health, safety and general welfare of the citizens of the City, and that it is in the public interest that the Commission and the City take such action as they lawfully may to encourage economic development, diversification of industry, promotion of job opportunities and affordable rental housing in and near the City.

2. The Commission hereby finds and determines that the issuance and sale of economic development revenue bonds of the City under the Act in an amount not to exceed \$25,000,000 upon such terms and conditions as may be agreed upon by the Borrower, the City and the purchaser of the Bonds. The Bonds will be special obligations secured by and payable solely from loan payments paid by Borrower and will not be general obligations of the City.

3. Based solely upon information provided to it, the Commission reports, finds and determines pursuant to the provisions of the Act that:

A. The Development will consist of the acquisition, construction and equipping of an assisted living facility containing approximately 120 assisted living units, together with functionally related and subordinate facilities such as recreational facilities and parking areas. The Development will be located at or near 15055 Cleveland Rd., in the City.

B. The Development will be owned and operated by the Borrower for use as an assisted living facility;

C. No public works or services not already existing or available, or for which provision has not been made, will be made necessary or desirable on account of the Development as such facilities will be provided either by the Borrower, private utilities, or existing public facilities, or pursuant to agreements with respect to such public facilities with the City;

D. The total cost of the Development will be approximate \$30,000,000 of which an amount not to exceed \$25,000,000 will be financed by economic development revenue bonds;

E. It is estimated that upon completion of the Development and start of operations, the new operation will create an estimated 46 FTE jobs, consisting of 60 full and part time positions, with an estimated total payroll of approximately \$2,000,000 annually. The acquisition, construction and equipping of the Development will also require construction jobs to complete the construction;

F. The Development will not have an adverse competitive effect on any similar facilities already constructed or operating in or near the City;

G. The proposed financing of the Development will be of benefit to the health and general welfare of the citizens of the City; and

H. The proposed financing of the Development complies with the purposes and provisions of the Act, as supplemented and amended.

4. In accordance with the Act, the findings and determination set forth above have been compiled and prepared into a report (the *"Report"*) which Report is hereby approved by the Commission and the Secretary of the Commission is hereby directed to submit, or have submitted on the Commission's behalf, the Report to the Executive Director or Chairperson of the Plan Commission having jurisdiction over the Development and, if applicable, to the superintendent of the school corporation where the Development will be located pursuant to IC 36-7-12-23(b).

5. All costs of the Development which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Development, and the City will sell or lease the same to the Borrower or loan the proceeds from the sale of the bonds to the Borrower for the same purposes.

6. All action taken and approvals given by the Commission with regard to the Borrower, are based upon the evidence submitted and representations made by the Borrower, its agents or counsel. No independent examination, appraisal or inspection of the Development was made, requested, or is contemplated by the Commission or the City.

7. The Commission does not, by this or any other approval or finding, guarantee, warrant or even suggest that the bonds, coupons or series thereof will be a reasonable investment for any person, firm or corporation.

8. The Commission shall not be obligated, directly or indirectly, to see to the application or use of the proceeds from the sale of the bonds or to see that the contemplated improvements, if any, are constructed. The Commission is in no way responsible to the holders of any bonds for any payment obligation created by the bonds.

9. The Commission does not warrant, guarantee or even suggest that interest to be paid to or income to be received by the holders of any bond, coupon, or series thereof is exempt from taxation by any local, state or federal government.

10. The bonds shall be special, limited obligations of the City payable solely from the funds provided therefor as described in a Financing Agreement (as defined in the Act) to be approved at a later date by the Commission and the Common Council of the City prior to the issuance of the bonds, and shall not constitute an indebtedness of the Commission or the City or a loan of the credit thereof within the meaning of any constitutional or statutory provisions.

11. In order to induce the Borrower to proceed with the acquisition, construction and equipping of the Development, the Commission hereby finds and determines that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided that all of the foregoing shall be mutually acceptable to the Commission, the City and the Borrower; and (ii) it will adopt such resolutions or ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said Bonds; and (iii) it will use its best efforts to assist the Borrower in procuring the issuance of additional Bonds, if such additional bonds become necessary, for refunding or refinancing the outstanding principal amount of the Bonds, for completion of the Development and for additions to the Development, including the costs of issuing additional bonds (provided that the financing of such addition or additions to the Development is found to have a public purpose (as defined in the Act) at the time of the authorization of such additional bonds), and that the aforementioned purposes comply with the provisions of the Act.

12. All costs of the Development incurred after the date permitted by applicable federal tax and state laws, including reimbursement or repayment to the Borrower of moneys expended by the Borrower for application fees, planning, engineering, a portion of the interest paid during acquisition, construction and equipping, underwriting expenses, attorney and bond counsel fees, and acquisition, construction and equipping of the Development will be permitted to be included as part of the bond issue to finance the Development, and the City will lend the proceeds from the sale of the bonds to the Borrower for the same purposes. Also, certain indirect expenses, including but not limited to, planning, architectural work and engineering incurred prior to this inducement resolution will be permitted to be included as part of the bond issue to finance the Development. This resolution shall constitute "official action" for purposes of compliance with federal and state laws requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

13. The Commission hereby authorizes the President, the Vice-President and Secretary of the Commission to sign this resolution and the Report of the Mishawaka Economic Development Commission Concerning the Proposed Financing of Economic Development Facilities for Green Oaks of Granger, LLC dated November 18, 2019.

Adopted this 18th day of November, 2019.

MISHAWAKA ECONOMIC DEVELOPMENT COMMISSION

By: ______________________________
Its: President

Attest:

By: ______________________________
Its: Secretary

0143344.0725801 4811-8221-9432v5

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
CITY CLERK
MISHAWAKA, IN

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

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:	**$67600.00**
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:	**$67600.00**

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

Respectfully,

Ken Witkowski

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	$ 6,600.00
		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	$ 1,000.00
		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

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

CITY CLERK
MISHAWAKA, IN

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

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.

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		TOTAL:	**$67600.00**
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		TOTAL:	**$67600.00**

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

Respectfully,

Ken Witkowski

Kenneth L. Witkowski
Chief, Mishawaka Police Department

KLW:dcw

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC
OCT 31 2019
CITY CLERK
MISHAWAKA, IN

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.

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General Fund

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	101-20-439-12	Canine	$ 1,000.00
		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