

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
March 18, 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 March 18, 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. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Minutes for the Regular Meeting of March 04, 2019 were approved as received from the Clerk’s Office.

Clerk Block read the following letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their March 12, 2019 meeting.

APPEAL #19-04 An appeal submitted by F&C Mishawaka Development, LLC, requesting a Use Variance for **216 North Spring Street** to allow for a temporary sales trailer through December 31, 2019.

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

1. A site plan with exact placement and dimensioned setbacks must be submitted before a permit can be issued.
2. Details on the mounting or placing of the trailers must be submitted before a permit can be issued.
3. After the trailer is removed, restore any disturbed area.

APPEAL #19-05 An appeal submitted by Lodder Dieter W & Monika M Living Trust on behalf of ABI Attachments, Inc., requesting a Use Variance for **520 South Byrkit Avenue** to allow trailer sales in I-2 Heavy Industrial Zoning District.

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

1. No on-site signage advertising trailer/vehicle sales.

APPEAL #19-06 An appeal submitted by Ahmed Jojo requesting a Use Variance for vacant lot south of **519 Ell Street** to permit an accessory structure without a primary structure on the lot.

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

1. If the properties are not sold at the same time, or to the same owner, the second storage shed on 517 Ell Street will be removed.

APPEAL #19-08

An appeal submitted by Gates Automotive Group on behalf of University Park Mall LLC requesting a Use Variance for **6501 Grape Road** to permit three (3) separate off-site Used Car Sales as follows: ten (10) days in May, ten (10) days in June, and ten (10) days in August for three (3) consecutive years, with temporary signage including banners, and two (2) mobile office facilities for business transactions and securing of valuables.

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

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for three (3) ten (10) day periods (dates to be determined) in May, June, and August of 2019, 2020, and 2021 as presented.

SITE PLAN:

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

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

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

SETBACKS:

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

SIGNAGE/ATTENTION DEVICES:

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

be permitted as necessary provided they are not visible from surrounding major roadways

APPEAL #19-09 An appeal submitted by JLJ Group LLC, on behalf of Charles S. Hayes Inc., dba Hayes Towers, requesting a Conditional Use at .30 acres of **500 Union Street** to permit a 185' communications (cell) tower.

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

1. The monopole tower shall not exceed more than 185 ft. in height including all attached appurtenances and/or antenna.
2. A 6' minimum to 8' maximum high security fence with vinyl slats shall be provided around the base of the tower to fully enclose all future buildings and equipment. Barbed wire may be utilized.
3. An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the preliminary site plan as submitted.
4. A recorded ingress/egress easement, or equivalent documentation, showing legal access between the compound area and the Union Street public right-of-way shall be provided prior to site plan approval or issuance of an improvement location permit.
5. The proposed access drive between the vacated portion of Union Street and the access gate into the compound shall be paved.
6. A storm water drainage plan shall be submitted to include an adequate system and means to capture all runoff from the new impervious surface areas.

PETITION #19-02 A petition submitted by James Douglas Cole requesting to rezone **13880 Scout Lane** from I-2 Heavy Industrial District to R-1 Single Family Residential District.

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

PETITION #19-03 A petition submitted by Thomas J. and Kathleen A. Herrman requesting to amend the University Gardens Planned Unit Development, **6910 North Main Street, Granger**, to allow for microblading/semi-permanent make-up services.

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

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

PROPOSED ORDINANCE NO. 2019-07

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 1-2 to R-1 Vacant Property 13880 Scout Lane)
(Assigned to the Land Use Planning Committee)

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(PUD Amd Micro blading/semi-permanent Makeup University Gardens 6910 N. Main St.)
(Assigned to the Land Use Planning Committee)

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

RESOLUTION NO. 2019-07

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT:

16525 Arthur Street and 52781 Grape Road, Granger, IN 46530 and the adjacent Arthur Road and Grape Road right-of-way to include approximately 3.4 acres

Ken Prince, City Planner said the parcel was 3.39 acres located at the southwest corner of Arthur and Grape Road. He said to annex property the state law required the property to be at least 12.5 percent contiguous to the city; this property was over 18 percent contiguous. Mr. Prince stated they distributed the annexation to all departments, they indicated they could service the property with the existing on-going operation expense. He said any physical improvements required in conjunction with proposed townhouses and single-family homes would be at the expense of the developer.

Terry Lang, Lang, Feeney & Associates was present for questions.

Question was called for at 7:09 P.M. for **RESOLUTION NO. 2019-07**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

RESOLUTION NO. 2019-08

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:

**Southeast Corner Front and Spring Streets, Mishawaka, Indiana
(Use Variance for Temporary Trailer)**

Petitioner was not present. Mr. Compton made a motion to continue Resolution No. 2019-08 to the April 1st meeting second by Mr. Mammolenti motion carried.

RESOLUTION NO. 2019-09

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:

**520 South Byrkit Avenue
(UV for trailer sales in I-2 Heavy Industrial)**

John Diling, Vice President of Finance for ABI Attachments said they were seeking to obtain a dealer license from the Secretary of State to sell water trailers through their business. He explained the trailers would never be located on the property, they buy the trailers through a vendor from Texas and they shipped the trailers directly to the customers. Mr. Diling said the property needed to be zoned appropriately as required from the Secretary of State to receive a dealer license. He stated again the vehicles would never be on site, it was a formality to receive the license.

Mrs. Voelker asked to confirm there would never be a trailer on the property. Mr. Diling replied yes. He explained they were large water trailers for farmers and equestrian riders manufactured in Texas, which were DOT approved and required licensing.

Question was called at 7:14 P.M. for **RESOLUTION NO. 2019-09**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

RESOLUTION NO. 2019-10

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:

517 Ell Street, Mishawaka, Indiana

(Use Variance Accessory Structure w/o Primary Structure)

Ahmed Jojo, 517 N. Pine Street said he owned 517 Ell Street directly behind his home. He continued to say he purchased the property in 2000 and demolished the home on the property to give his children a place to play. Mr. Jojo said he plans on building a shed for personal use for storage.

Mr. Tanner asked was Mr. Jojo in agreement to demolish the structure if property were sold. Mr. Jojo replied yes, he understood that was the agreement. He continued to say he owned both properties which were two different parcels, if he decided to sell both parcels at once he understood the next owner could keep the variance. Mr. Jojo said he understood if he sold his home he would have to remove the shed.

Mr. Mammolenti questioned the access point to the shed. Mr. Jojo explained he would access the shed from Ell Street.

Question was called for at 7:18 P.M. for **RESOLUTION NO. 2019-10**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

RESOLUTION NO. 2019-11

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

6501 Grape Road, Mishawaka, Indiana

(UV allow car sales for 10 day annual event for 3 years)

Clint Emberton, General Manager of Gates Automotive Group said they were requesting the use variance in the University Park Mall parking lot north of JCPenney. He continued to say they were using the same boundaries they have used for the last 10 years. Mr. Emberton said they received written consent from Simon Properties to use the site subject to council approval. He said since 2010 they have enjoyed the working partnership with the University Park Mall. Mr. Emberton mentioned for the last 7 years they have requested the variance, records show there has not been any issues. He said Gates respectfully request a subsequent 3-year approval and subject to the same guidelines from their 2016 request.

Mrs. Voelker asked how many cars did they sale during the event. Mr. Emberton said 250 cars in a week.

Mr. Banicki thanked Mr. Emberton for being a man of his word. He continued to thank the Gates family for their generosity to the community and taking care of their property on McKinley Ave.

Mr. Mammolenti asked did they replenish the lot after they sell so many cars. Mr. Emberton said there was always inventory coming back as inventory leaves during the event. He continued say generally they had 300 to 350 cars on the lot, they try to keep it full all week. Mr. Mammolenti also questioned how many drivers they had to drive cars to and from the lot. Mr. Emberton said they had 50 to 60 drivers moving cars Sunday morning before much traffic began; they were usually set up and gone by noon. He mentioned in the last 7 years they have not had any accidents.

Question was called for at 7:25 P.M. for **RESOLUTION NO. 2019-11**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

RESOLUTION NO. 2019-12

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:

500 South Union Street, Mishawaka, Indiana
(Conditional Use to permit Cell Tower)

Anne Hayes, Hayes Towers said they were requesting to build a cell tower in an area zoned I-2 located at 500 Union Street. Ms. Hayes shared facts regarding the daily use of cell phones. She said over 50 percent of households no longer had land lines in the United States and the number continued to increase. Ms. Hayes continued to say approximately 70 percent of emergency calls were made from cell phones. She stated those two facts help to underly the importance of a reliable cellular network. Ms. Hayes said the tower they were proposing to build would accommodate all four major carriers, first carrier to locate on the tower would be T-Mobile. She mentioned T-Mobile wanted this location specifically to alleviate some of the coverage and compacity gaps which currently existed. Ms. Hayes explained once T-Mobile had their antennas on the tower, their user would have a far enhanced experience. She described the tower be a 185-foot monopole; it would not need to be lit. Ms. Hayes provided a picture of the tower the council approved a couple years ago on Grape and Day Road. She mentioned she worked closely with Ken Prince, City Planner and his staff and she also met with President Emmons as this tower would be in his jurisdiction, she received their support.

Mrs. Voelker asked would AT&T locate on the tower. Ms. Hayes said she hoped so, T-Mobile was their confirmed locator at this time. She recommended if there is a dead zone call your carrier to make them aware of the need.

Mr. Compton said he liked the location. He mentioned there was one proposed in the past on the Dodge property towards the residential area. Mr. Compton said they did not approve of it. He expressed his support. Ms. Hayes said Ken Prince helped them choose the location.

Mr. Emmons expressed his appreciation for contacting him in advance before presenting it to the council.

Question was called for at 7:31 P.M. for **RESOLUTION NO. 2019-12**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

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

PROPOSED ORDINANCE NO. 2019-06

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

(Annex & Zone R-1 & R-3 6 Singles Family Res & 7 Townhomes 1625 Arthur St. & 52781 Grape Rd.)
(Assigned to the Land Use Planning Committee)

VOTE ONLY

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

Question was called for at 7:33 P.M. for **PROPOSED ORDINANCE NO. 2019-06**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**

NEW BUSINESS

Mr. Mammolenti and Ms. Petko Reisdorf announced the Twinbranch neighborhood meeting would be held at Twinbranch school on March 20th at 7:00 P.M. They said speaker would be Park Superintendent Phil Blasko.

Mr. Emmons announced the 1st District meeting would be on March 21st at St. Bavo's at 7:00 P.M., speaker would be State Representative Ross Deal.

ADJOURNMENT 7:38 P.M.

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

Dale "Woody" Emmons /s/
Dale "Woody" Emmons, President