

AGENDA

May 18, 2020

Meetings of Standing Committees
Council Conference Room
6:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM

WebEx Telephone Number: 1-408-418-9388

WebEx Access Code: 710 822 944

Livestream #1: <https://www.facebook.com/cityofmishawaka/>

Livestream #2: @MichianaAccessTV on Facebook

Livestream #3: Michiana Access TV
(Comcast and AT&T U-Verse Channel 99)

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial 710822225.mishawaka@lync.webex.com

Members of the public will be asked to place their microphone on mute during the Meeting, with the exception of any public hearing. At the appropriate point in the public hearing, the Council President will invite the public to unmute their microphone for purposes of submitting such comments, one person at a time. All persons wishing to make public comments will be asked to first state their name and address for the record. After completing his/her public comments, members of the public will once again be asked to place their microphone on mute. Thank you for your cooperation.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of May 04, 2020
5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their May 12, 2020 meeting.

A letter from the City Plan Commission regarding recommendations from their May 12, 2020 meeting.

Presentation of letter to County Auditor regarding Consolidated TIF Districts.

A public hearing on Vacation R2020-01 required by State Statute on behalf of Mishawaka High School Vacating Areas of N Wenger Ave. between LWE and Homewood - The East 63' of the East/West alley North of LWE - all alleys bounded by Homewood on the North, Indiana on the West, Wenger on the East.

6. Report of Special Committee

7. Ordinances on First Reading

- P.O. No. 2020-11 Vacating Areas of N Wenger Ave between LWE and Homewood - The East 63' of the East/West alley North of LWE - all alleys bounded by Homewood on the North Indiana on the West and Wenger on the East- Mishawaka High School (requesting 2nd reading)
- P.O. No. 2020-12 Rezone from C-1 General Commercial, C-5 Neighborhood Commercial and I-2 Heavy Industrial to R-3 Multi- Family Residential - 1215 & 1225 E. Jefferson
- P.O. No. 2020-13 PUD Amendment to allow Quick Service Oil Changes as a use and Reduction of Parking Spaces, Setbacks and Landscaping - 317 W. Indian Ridge Blvd.
- P.O. No. 2020-14 Annex and Rezone to C-1 General Commercial - 52921, 52861, 52885, & 52841 Fir Rd.
- P.O. No. 2020-15 Rezone from I-1 Light Industrial to C-3 City Center Commercial - 407 W. Fourth St.
- P.O. No. 2020-16 Appropriating \$500,000 from CEDIT Fund to CEDIT Revolving Loan Fund for COVID-19 Emergency Loan Program

8. Resolutions

- R2020-07 Use Variance for 3-units in R-1 Single Family Residential - 201 Smith St.
- R2020-08 Use Variance for 3-units in R-1 Single Family Residential - 1210 W. Sixth St.
- R2020-09 Use Variance for relocating shipping containers and Developmental Variance for reduction of parking spaces - Bethel University Athletic Training Center - SE corner of W. Lowell Avenue and Clay Street
- R2020-10 Waiver of Non-Compliance for a Real Personal Property Tax Abatement - Lippert Components Manufacturing Inc.

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

Mayor Wood COVID-19 Update

Discussion on changing Meeting from June 3rd to June 1st

13. Adjournment - This meeting will be aired Wednesday at 9:00AM on the Public Access Channel

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 Susan Kile, ADA Coordinator, at (574) 258-1615.

Note: The Mishawaka Common Council has instituted changes in the way in which its meetings will be conducted during the current public health emergency. These changes are consistent with the terms of multiple Executive Orders issued by Governor Holcomb, as well as related legal guidance. It is anticipated that the Council's normal meeting procedures will be reinstituted at the conclusion of the public health emergency. In the meantime, physical attendance at Council meetings will continue to be restricted in accordance with relevant guidance related to limitations on public gatherings and social distancing. During the public health emergency, Council members, as well as members of the public and media, will continue to be afforded the opportunity to remotely access Council meetings. Recordings of Council meetings (if applicable) and the minutes of the meetings will also be made available to the public and the media as soon as is possible.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 4, 2020

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall and via telephone on Monday, May 4, 2020 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh all were asked to stand for the Pledge of Allegiance, followed by a moment of silence remembering those who have been lost to the COVID-19 virus.

Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Others Present: Clerk Block Mike Trippel, Council Attorney.

Minutes for the Regular meeting of April 4, 2020 were approved as received from the Clerk's Office.

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

APPEAL NO. 2020-10 Use Variance for 3-units in R-1 Single Family Residential – 201 Smith St.

APPEAL NO. 2020-11 Use Variance for 3-units in R-1 Single Family Residential – 1210 W. Sixth St.

APPEAL NO. 2020-16 Use Variance for relocating shipping containers and Developmental Variance for reduction of parking spaces – Bethel University Athletic Training Center

PETITION NO. 2020-05 Rezone from C-1 General Commercial, C-5 Neighborhood Commercial and I-2 Heavy Industrial to R-3 Multi-Family Residential – 1215 & 1225 E. Jefferson Blvd.

PETITION NO. 2020-06 PUD Amendment to allow Quick Service Oil Changes as a use and Reduction of Parking Spaces, Setbacks, and Landscaping – 317 W. Indian Ridge Blvd.

PETITION NO. 2020-08 Annex and Rezone to C-1 General Commercial – 5921, 52861, 52885, & 52841 Fir Rd.

PETITION NO. 2020-09 Rezone from I-1 Light Industrial to C-3 City Center Commercial – 407 W. Fourth St.

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

RESOLUTION 2020-06

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS

Ken Prince, City Planner, began stating the staff report was thoroughly completed by Derek Spier. He continued explaining there were currently 10 active tax abatements in Mishawaka. Mr. Prince said next year's reports will be interesting due to COVID-19 and how it affected businesses. Mr. Prince concluded giving insight on Lippert Compounds Manufacturing and Jamil Packaging regarding employment and business partners.

President Hixenbaugh thanked Mr. Spier for his work.

Question was called for at 7:10PM for **RESOLUTION 2020-06**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.**

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

PROPOSED ORDINANCE 2020-08

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.

Rezone area South of Retention Area from R-1 Single Family to C-1 General Commercial 4019 & 4021 LWE

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

Wendy Walker, May Oberfell Lorber, represented the Lincolnway Veterinary Clinic. Ms. Walker began stating the Clinic faced Lincolnway with a parking lot on the corner. She continued to say they were seeking a rezoning from residential to commercial to add an additional parking area behind the clinic building and to relocate the retention pond.

Mr. Compton asked was the retention a wet of dry pond. Ms. Walker replied she was unsure.

Mr. Mammolenti asked was the retention pond full and how deep and were there plans on a fence barrier. Ms. Walker was unaware of the depths but assured Mr. Mammolenti she would retrieve the information. She continued to say the pond would be relocated to accommodate the parking space. Mr. Ms. Walker stated they would be working with the City Planning and City Engineering Department to work out the requirements.

Mr. Mammolenti asked for Ken Prince to answer questions regarding the pond. Mr. Prince began stating there was not a policy to require barriers around retention areas. The Traffic Commission could not meet in May to discuss the policy after 10 cases arose of cars driving into ponds with 1 case resulted in a fatality. Mr. Prince concluded by reiterating there was no clear policy, but it would be reviewed.

Question was called for at 7:20PM for **PROPOSED ORDINANCE 2020-08**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.** Thus, it becomes **ORDINANCE NO. 5691**

NEW BUSINESS

Mayor Wood gave an update on COVID-19 related issues. There were 668 positive cases, 292 recoveries, and 20 deaths in St. Joseph County reported. He said the Mishawaka Fire Department and Police Department conducted data stating no employees have tested positive to date and Mishawaka as a city has flattened the curve of the virus. Mayor Wood continued stating the City of Mishawaka has followed Governor Holcomb's plan to be back on track and would have the ability to be stricter if necessary. He continued to say the city government has instituted modified operations and begun to return to normal considering all the guidelines from the CDC and local Health Department. Mayor Wood continued stating an implementation team has been put in place to make sure the plan was being followed. He stated utilities have returned to regular operation and the Mishawaka Police Station lobby and Central Services would open on May 11th. Mayor Wood went on to say Leaf Pick up and Large item cleanup programs went relatively smoothly. Mayor Wood continued stating City Hall was not yet opened to the public but should be open fully by the following week. He went on to state the Controller's Office tabulated the expenses for COVID-19 related expenses, totaling \$100,000. He said Baker & Tilly have been hired to conduct Comprehensive Financial Plan for the pandemic. Mayor Wood mentioned Governor Holcomb announcement of the CARES Act Fund going to local, municipal, and county governments in Indiana to reimburse for COVID-19 related expenses. Mayor Wood also stated the recovery plan was constantly being worked on for citizens affected by the pandemic, which could include basic necessities and utilities. He also mentioned the Small Business Plan was also being modified to aid with zero interest loans to be used for purchasing inventory and basic expenses. Mayor Wood concluded by stating considering bonding for projects that would help keep local companies in business.

Mrs. Voelker asked were parks open. Mayor Wood answered stating the parks were open, but playgrounds and dog parks were not at this time. He said they were planning to open Merrifield pool and a small amount of splash pads when allowed.

Mr. Compton expressed appreciation for the information being provided and asked for Mayor Wood's thoughts on office settings, specifically if employees should work remotely until second week of June, and if he has considered the strategy. Mayor Wood explained the City of Mishawaka was being encouraged to follow all recommendations and guidance for getting back

on track. Mayor Wood also continued stating City Hall has remained open with essential services and would continue to comply with social distancing.

Mr. Hixenbaugh thanked Mayor Wood for the information and work all of the staff has been conducting. Mr. Hixenbaugh continued stating how important it was to move forward with financial plans and implement assistance to the public as soon as possible. Mr. Hixenbaugh concluded asking the Mayor to share with the Council the plans as decisions were reached in the future. Mayor Wood added thermometers have been purchased for all departments, with the Police and Fire departments taking temperatures for the time being.

Mr. Hixenbaugh expressed appreciation to Police Chief Witkowski and the department for their work on addressing the McKinley Cruise that transpired the past weekend. Mayor Wood added that 54 citations were written.

Mr. Hixenbaugh continued asking Mayor Wood to touch on how communication with the County and South Bend were conducted. Mayor Wood stated he had phone calls with County Commissioner, the Health Department, Dr. Fox, and Jeff Rea receiving reports, but not necessarily relating to Mishawaka.

Mr. Hazen asked why the county decided to go more stringent with the Governor's suggestions. Mayor Wood stated he was not part of the decision process and couldn't answer.

Mr. Hixenbaugh closed the meeting by thanking the IT staff for perfecting availability of the council meeting to the public and Clerk Block as well for working out details to make the meeting happen. Mr. Hixenbaugh also announced the public health emergency was extended by Governor Holcomb to June 4th.

ADJOURNMENT 7:48PM

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

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 13, 2020

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

Honorable Members of the Common Council
City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN

RE: Board of Zoning Appeals Recommendation
May 12, 2020, Public Hearing

Honorable Members:

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

APPEAL #20-10 An appeal submitted by Artisan Investment Group LLC requesting a Use Variance for **201 Smith Street** to allow three (3) units in R-1 Single Family Residential zoning.

The Board, with a vote of 4-0, recommended approval.

APPEAL #20-11 An appeal submitted by Artisan Investment Group LLC requesting a Use Variance for **1210 West Sixth Street** to allow three (3) units in R-1 Single Family Residential zoning.

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

1. A hard surface parking pad shall be provided for three (3) marked parking spaces.

APPEAL #20-16 An appeal submitted by Bethel College Inc. requesting a Use Variance for the **southeast corner of West Lowell Avenue and Clay Street** to allow a shipping container for storage purposes for the training center.

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

1. A solid row of evergreen trees shall be planted along the east property line adjacent to Lots 30 through 36, and Lot 39 in the Lowell Wood Subdivision. Trees shall be spaced a maximum of 12' apart and a minimum 6-7' in height at the time of planting. Existing trees may also be maintained to meet the screening requirement compliant with the maximum spacing and minimum height requirements. Trees shall not be required adjacent to the existing storage building.
2. Improvements to the existing storage building shall include roof replacement and painting.

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers, Secretary
Board of Zoning Appeals

cc: Marlin Schwartz
Joe Zappia

STAFF REPORT

Location: 201 Smith St

Date: 05/12/20

Appeal: 20 10

Prepared By: CH

GENERAL INFORMATION

Applicant: Artisan Investment Group

Status: Property Owner

Request: Use Variance for 3 units in R-1 Single Family Residential
Developmental Variance for reduction of parking spaces

Zoning Classification: R-1 Single Family Residential

Lot Size: 50' x 132' (0.14 acres)

Applicable Regulations: Section 137-165 R-1 Single Family Uses
Section 137-166 R-1 Single Family Residential Developmental Regulations
Section 137-42 Board of Zoning Appeals Use Variance

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: R-1 Single Family Residential

Thoroughfare: Smith Street, south of Lincolnway West

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: Low Density Residential

ANALYSIS

The Appellant is requesting a Use Variance to allow the continuation of three units in the R-1 Single Family Residential District.

The building was built in 1916. The current owner purchased the property in 2017. Polk Directories as far back as 1979 identifies three units, however, to be considered legal non-conforming (i.e. grandfathered), proof would be needed back to 1966, prior to the introduction of the zoning ordinance. Since the current owner has only owned it for a few years, and resources like the library, have been closed for over a month, additional research was not available.

If the property were rezoned to the R-3 Multi-Family Residential, like properties to the north, it would need to meet the parking requirements of 1.5 parking spaces per unit (5 cars). Right now, there is a parking pad off the alley with room for only 3 cars.

All pertinent City departments have reviewed and approved this request.

RECOMMENDATION

The Planning Staff recommends approval of Appeal #20-10 to allow three units in R-1 Single Family Residential at 201 Smith Street.

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 nothing is physically changing at the site. This use has been in existence since at least 1979.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the use of the property is not changing, only being made legal for financial institution purposes.
3. The need for the variance arises from some condition peculiar to the property because even though the property has been used this way for over 40 years, the zoning has not matched the use.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property because it is unclear if the property could be returned to a single family home.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates low density uses for this area.

ATTACHMENTS

Aerial, Photographs, Appeal, Location Map





201 Smith St

STAFF REPORT

Location: 1210 W Sixth

Date: 05/12/20

Appeal: 20 11

Prepared By: CH

GENERAL INFORMATION

Applicant: Artisan Investment Group

Status: Property Owner

Request: Use Variance for 3 units in R-1 Single Family Residential
Developmental Variance for reduction of parking spaces

Zoning Classification: R-1 Single Family Residential

Lot Size: 40' x 73' (0.07 acres)

Applicable Regulations: Section 137-165 R-1 Single Family Uses
Section 137-166 R-1 Single Family Residential Developmental Regulations
Section 137-42 Board of Zoning Appeals Use Variance

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: I-1 Light Industrial
West: R-1 Single Family Residential

Thoroughfare: West Sixth Street, east of Logan

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: Low Density Residential

ANALYSIS

The Appellant is requesting a Use Variance to allow the continuation of three units in the R-1 Single Family Residential District.

The building was built in 1920. The current owner purchased the property in 2019. Polk Directories as far back as 1979 identifies three units, however, to be considered legal non-conforming (i.e. grandfathered), proof would be needed back to 1966, prior to the introduction of the zoning ordinance. Since the current owner has only owned it for a few years, and resources like the library, have been closed for over a month, additional research was not available.

If the property were rezoned to the R-3 Multi-Family Residential, like properties to the north, it would need to meet the parking requirements of 1.5 parking spaces per unit. Right now, there is a gravel or dirt parking area off the alley with room for two, maybe three cars. The lot is only 40' wide. A paved parking pad will be a condition of the approval.

All pertinent City departments have reviewed and approved this request.

RECOMMENDATION

The Planning Staff recommends approval of Appeal #20-11 to allow three units in R-1 Single Family Residential at 201 Smith Street subject to the following condition: A hard surface parking pad shall be provide for 3 marked parking spaces.

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 nothing is physically changing at the site. This use has been in existence since at least 1979.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the use of the property is not changing, only being made legal for financial institution purposes.
3. The need for the variance arises from some condition peculiar to the property because even though the property has been used this way for over 40 years, the zoning has not matched the use.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property because it is unclear if the property could be returned to a single family home.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates low density uses for this area.

ATTACHMENTS

Aerial, Photographs, Appeal, Location Map





1210 W Sixth

STAFF REPORT

Location: Southeast Corner of W. Lowell Avenue & Clay Street
Part of the Bethel University Campus

Date: May 12, 2020

Appeal: 20 -16

Prepared By: DJS

GENERAL INFORMATION

Applicant: Bethel College, Inc. / Engineering Resources, Inc.

Status: Property Owner / Surveyor and Engineering Consultant

Request: Use variance to allow a shipping container for storage accessory to a proposed athletic training facility and adjacent athletic fields, and a developmental variance for a reduction in the required number of off-street parking spaces

Zoning Classification: R-3 Multi-Family Residential & R-1 Single Family Residential

Lot Size: 9.84 acres

Applicable Regulations: Section 137-42 / (4) Board of Zoning Appeals – Use Variance; Section 137-42 / (5) Board of Zoning Appeals – Developmental Variance; Sec. 137-215 thru 137-217 / R-3 Multi-Family Residential; and Sec. 137-164 thru 137-166 / R-1 Single Family Residential

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential (University / Bethel University)
South: R-3 Multi-Family Residential, R-1 Single Family Residential and C-1 General Commercial (Vacant / Property Owned by Bethel University) & C-1 General Commercial (Retail & Bar / Mr. Fresh Convenience Drive-Thru, South Bend Clutch, and RBIs Sport's Bar & Grill)

East: S-2 Planned Unit Development (Single & Two Family Residential) & R-3 Multi-Family Residential (Cedar Crest Apartment Complex)

West: R-1 Single Family Residential (Residential)

Thoroughfare: W. Lowell Avenue, Clay Street & Jefferson Boulevard

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the owner's expense

Comprehensive Plan: Medium Density Residential

ANALYSIS

The appellant, Bethel College Inc., is requesting a use variance to allow a shipping container for storage accessory to a proposed athletic training facility and adjacent athletic fields, and a developmental variance to allow for a reduction in the required number off-street parking spaces.

A new athletic facility is proposed to be constructed at the southeast corner of W. Lowell Avenue and Clay Street. A Final Site Plan (SP 20-05) was submitted in conjunction with the variance petition and will be considered by the Plan Commission after the Board of Zoning Appeals meeting.

Presently, a shipping container is located on the property and is used for maintenance and equipment storage to support the adjacent soccer and rugby fields. Recent aerial photography shows the container was placed on the site after 2017. The zoning ordinance does not permit shipping containers in any district for personal, commercial, or any other type of storage. The appellant was unaware that this was not permitted. As a result, a Use Variance is required to allow for the relocation and continued use of the container. The container is proposed to be moved to the south of an existing 1,200 sq. ft. storage building and east of the new facility where shown on the attached site plan.

Although the container was originally placed on the property without approval from the City and did not comply with the permitted uses, Staff supports the request. The container will be moved a portion of the site that is less visible from the adjacent public rights-of-way and neighboring properties than its current location. The existing storage and proposed building will screen the container to the north, west, and south. Staff requested that a solid row of evergreen trees be planted along the portion of the east property line where generally shown on the attached site plan. Existing trees along this property line can also be maintained to provide screening. Additionally, trees will not be required immediately adjacent to the existing storage building due to lack of space between the structure and property line.

Based on two (2) parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for a recreational building in the R-1 and R-3 districts, a total of forty-nine (49) parking spaces are required for the new 24,431 sq. ft. building. Sixteen (16) parking spaces, including two (2) ADA accessible spaces, are proposed.

The appellant states in their petition that the building will be located on the south edge of campus and within walking distance of most of the facility's users. As a result, the site will not need the number of parking spaces required per ordinance. The proposed sixteen (16) spaces should provide adequate parking. Staff concurs with this assessment and is supporting the parking space reduction.

All pertinent City departments have reviewed and approved the use and developmental variance requests.

RECOMMENDATION

The Planning staff recommends approval of Appeal 20-16 for a Use Variance to allow a shipping container for storage accessory to a proposed athletic training facility and adjacent athletic fields subject to the following conditions:

1. A solid row of evergreen trees shall be planted along the east property line adjacent to Lots 30 through 36, and Lot 39 in the Lowell Wood Subdivision. Trees shall be spaced a maximum of 12' apart and a minimum 6-7' in height at the time of planting. Existing trees may also be maintained to meet the screening requirement compliant with the maximum spacing and minimum height requirements. Trees shall not be required adjacent to the existing storage building.
2. Improvements to the existing storage building shall include roof replacement and painting.

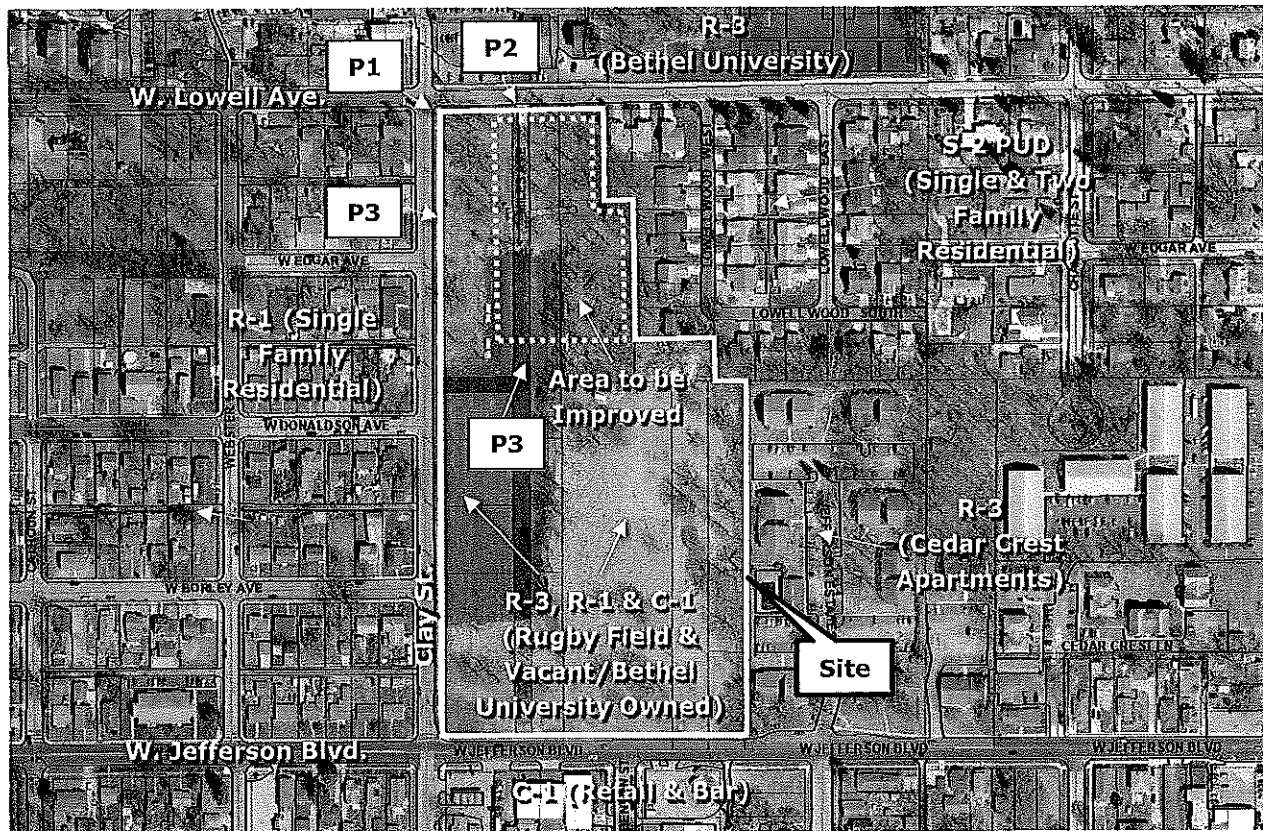
The Planning staff recommends approval of Appeal 20-016 for a Developmental Variance for a reduction in the required number of off-street parking spaces for property located at the southeast corner of W. Lowell Avenue and Clay Street.

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. The shipping container will be moved a portion of the site that is less visible from the adjacent public rights-of-way and neighboring properties than its current location. The existing and proposed building and required row of evergreen trees will screen the container from all directions. Additionally, the proposed number of parking spaces should provide adequate parking. A majority of the facility's users are within walking distance to 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. Moving the shipping container east the proposed building and south of an existing accessory building and planting a row of evergreen trees to the east will more adequately screen it from neighboring properties. The parking reduction will not negatively affect the area as parking requirements for the facility are limited.
3. The need for the use variance arises from some condition peculiar to the property in that the zoning ordinance does not permit shipping containers to be used for storage.
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 and result in practical difficulties in the use of the property. The use variance will permit the university to continue to use the shipping container for needed storage to support the adjacent athletic fields and proposed new training facility. Requiring additional parking spaces to meet code would unnecessarily consume land and would be seldom occupied. The proposed number of spaces should provide adequate parking.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates medium density residential use for this area. The proposed primary use of the property for an athletic training facility is permitted, but does not allow shipping containers to be used as an accessory structure for storage purposes.

ATTACHMENTS

Aerial Photograph, Photographs, Appeal, Existing Conditions Map, Site Plan, Location Map



Aerial Photograph
SE Corner of W. Lowell Ave. & Clay St.
Vacant Property owned by Bethel University



P1. Looking southeasterly toward the site from the W. Lowell Ave. & Clay St. intersection.



P2. Looking southerly from W. Lowell Avenue toward the location of the proposed building.



P3. Looking easterly from Clay St. toward the location of the proposed building.



P4. Looking northeasterly from vacant property owned by Bethel University toward the site.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 13, 2020

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
May 12, 2020, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #20-05 A petition submitted by Mark and Debra Kamm to rezone **1215 East Jefferson Boulevard and 1225 East Jefferson Boulevard** from C-1 General Commercial District, C-5 Neighborhood Commercial District, and I-2 Heavy Industrial District to R-3 Multi-Family Residential District.

The Commission, with a vote of 9-0, recommended approval.

PETITION #20-06 A petition submitted by Elm Street Capital, LLC, and HD Development of Maryland, Inc. seeking approval to amend the University Town Center – Home Depot Planned Unit Development to allow quick service oil change as a use and for a reduction in the number of parking spaces, setbacks, and landscaping.

The Commission, with a vote of 6-3, recommended denial.

PETITION #20-08 A petition submitted by RH Line, LLC, seeking to annex and zone **52921, 52861, 52885, and 52841 Fir Road, Granger** to C-1 General Commercial District.

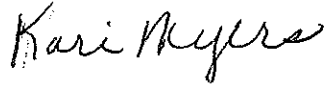
The Commission, with a vote of 9-0, recommended approval.

PETITION #20-09 A petition submitted by The M Group LLC-S Series 407 W. 4th Street seeking to rezone **407 West Fourth Street** from I-1 Light Industrial District to C-3 City Center Commercial District.

The Commission, with a vote of 9-0, recommended approval.

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

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Mike Danch
Mark Rykovich
Paul Mead

STAFF REPORT

Location: 1215 & 1225 E Jefferson Blvd

Date: May 12, 2020

Petition: 20 05

Prepared By: CH

GENERAL INFORMATION

Applicant: Mark & Debra Kamm

Status: Property Owner

Request: Rezone from C-5 Neighborhood Commercial, C-1 General Commercial, & I-2 Heavy Industrial to R-3 Multi-Family Residential District

Zoning Classification: C-5 Neighborhood Commercial, C-1 General Commercial, & I-2 Heavy Industrial

Lot Size: 247' X 115' (0.67 acres)

Applicable Regulations: Sec. 137-215 Residential R-3 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial (HVAC), C-1 General Commercial (single family home), and R-1 Single Family Residential (single family home)

South: I-2 Heavy Industrial and R-1 Single Family Residential (single family homes)

East: I-2 Heavy Industrial (VFW Post 360)

West: I-2 Heavy Industrial (Reggio's Restaurant)

Thoroughfare: East Jefferson between Merrifield and Byrkit Ave

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The Petitioner, Mark & Debra Kamm, is requesting to rezone the property at 1215 & 1225 E Jefferson, a total of 6 lots, from C-5 Neighborhood Commercial, C-1 General Commercial, & I-2 Heavy Industrial to R-3 Multi-Family Residential District. The property is located on east Jefferson between Merrifield Ave and Byrkit Ave, just west of the VFW Post 360. The two lots on the west were formerly Mowers and More, the two in the middle are vacant, and the two on the east contain single-family homes, one that was also used as a hair salon.

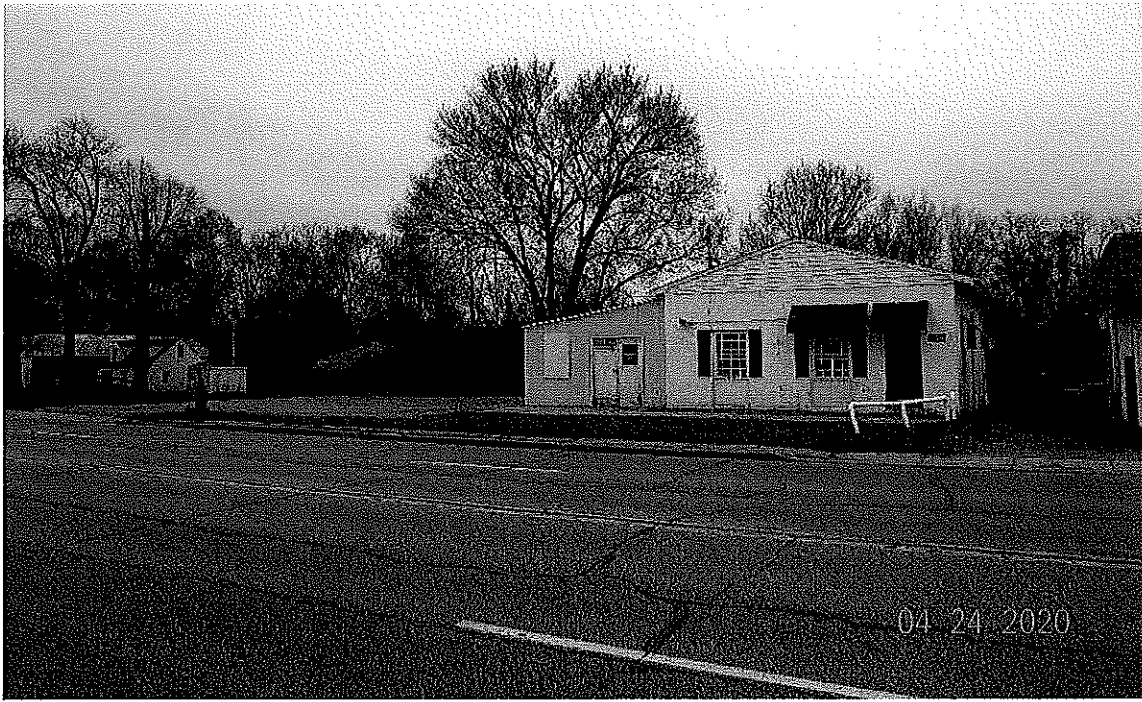
The Petitioner plans to build 7 single family units around a common courtyard. These units will be owned by the VFW and used as rentals for veterans. These homes will be 29' x 27', a total of 783 sf, each. There will be 11 new parking spaces added off of the VFW parking lot to serve these units. The Petitioner also submitted a variance for front and rear setback variances. A final site plan will be required prior to building permits. A plat will be required to combine the parking to this lots.

Pertinent City Departments reviewed and approved the request.

RECOMMENDATION

ATTACHMENTS





1215 E Jefferson



1225 E Jefferson

STAFF REPORT

Location: South Side of Indian Ridge Boulevard, west of Main Street,
part of the existing Home Depot parking lot

Date: May 12, 2020

Petition: 20- 06

Prepared By: KBP

GENERAL INFORMATION

Applicant: HD Development of Maryland for Home Depot / Elm Street Capital LLC

Status: Property Owner & Developer

Request: Amend a part of the University Town Center – Home Depot Planned Unit Development – to allow for the construction of a quick service oil change business. The proposed redevelopment also proposes the elimination of pavement setbacks and landscaping requirements for the proposed lot on the east, west, and south sides, and a reduction in the total number of required parking spaces for Home Depot from 389 spaces to 362 spaces. An additional freestanding sign is also proposed along Indian Ridge Boulevard to identify the proposed business.

Zoning Classification: S-2 Planned Unit Development

Lot Size: 9.82 acres (entire Home Depot Parcel)
Proposed lot is roughly 115' x 157' (.41 acres)

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

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Sam's Club and Walmart)
South: S-2 Planned Unit Development (Home Depot, Office Max, Aldi's parking areas)
East: S-2 Planned Unit Development (5/3 Bank Outlot)
West: S-2 Planned Unit Development (Home Depot)

Thoroughfare: Indian Ridge Boulevard and Main Street

School District: South Bend Community School Corporation

Township: Clay Township

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

Comprehensive Plan: Service Commercial

ANALYSIS

The petitioner is proposing to amend a part of the University Town Center – Home Depot Planned Unit Development – to allow for the construction of a quick service oil change business.

Although the request is fairly straightforward, staff has identified that the proposed use (automobile related) is problematic from a regulatory/precedent perspective.

This issue goes back to the planning and investment from the City that occurred in the late 1980's and early 1990's. The City adopted the Mishawaka 2000 Comprehensive Plan and made millions of dollars in investment to extend Main Street over the Indiana Toll Road and create the infrastructure for what is now Edison Lakes. That plan specifically guided automobile uses to Grape Road but preserved Main Street for service commercial uses only. The idea was to keep car sales lots, gas stations, repair facilities and the like off of Main Street and that qualitatively, Main Street would be different than Grape Road.

In the mid-1990's, when the plan was relatively new, the Drive and Shine car wash was proposed which represented the first and only new automobile-oriented use that has been approved by the City in this area since the adoption of that Comprehensive Plan. Drive and Shine, more specifically, the automobile-oriented use, divided our community and even resulted in a lawsuit between the Administration and the Council, and resulted with the car wash still being constructed. Since that time, the City Administration and Common Council has had a unified approach to approving quality service commercial uses and not adding more automobile related uses to the Main Street corridor.

Since I started with the City in 1999, staff has received multiple inquiries and suggestions that the City reconsider allowing automobile-oriented uses in the corridor. At staff's recommendation, none of these were ever filed for the Planning Commission's and ultimately Common Councils action. Inquiries have included car sales lots, gas stations, car washes, tire sales, and others.

In this case, staff is recommending against the proposed change because of its proximity and connection to Main Street. The issue with the proposed site, although it fronts on Indian Ridge Boulevard, is that the overall PUD's was designed as being oriented toward the Main Street frontage. When you visually identify developments that are located on Main Street, the Home Depot Planned Unit Development including all of the outlots are as prominent as any.

Despite the proposed lots frontage on Indian Ridge, Home Depot's orientation is directed toward Main Street and the proposed lot in question is proposed to be developed out of what is now the Home Depot parking lot, which is actually much closer to Main Street than the Home Depot Building. The proposed site is roughly 325' west of Main Street just west of 5/3 Bank which is the corner lot located at the southwest corner of Main Street and Indiana Ridge Boulevard. The only proposed access to this parcel will be through the access points that were developed through the creation of the PUD which includes Indian Ridge Boulevard, Main Street and Douglas Road. To that end, we know that one of the reasons why automobile-oriented businesses want to be on Main Street is the lack of competition from other automobile related businesses that is prevalent on Grape Road along with the high traffic counts. The proposed location has prime visibility from Main Street even though its immediate frontage is proposed on Indian Ridge. The attached picture shows this proximity.

Home Depot currently has a massive amount of outside storage with a drive thru in the parking area that is currently proposed for the quick-change oil facility. This outside storage is inconsistent with the approved PUD which very specifically limited outside storage to the enclosed area north of and adjacent to the main building. Staff has contacted the local store to correct this violation which has nothing to do with the proposed PUD amendment.

What is relevant though is that there was an intent to keep a higher standard on Main Street. By choosing Main Street instead of Grape Road or other area of the City, Home Depot accepted this higher standard. A copy of the letter that was sent to the Manager of the store in 2003 from the City concerning outside storage has been attached to this report for reference.

If approved, staff also believes that a change to add automobile related businesses would create a negative precedent that would wholly change development in the corridor. The attached aerial identifies the physical relationship of this site to the Drive and Shine Car Wash. Although Drive and Shine is a much larger facility, the aerial illustrates the close proximity of the proposed site to Main Street. The Commission and ultimately the Common Council should be prepared for immediate additional requests for automobile related uses if this proposed change is adopted.

To that end, staff is asking the Commission and Council to consider the following hypothetical questions:

Would you approve a gas station fueling facility in the Sam's Club Parking lot adjacent to Main Street?

The current Acera Care Hospice building located just west of the Stanton Optical Building at the corner of Main Street and Douglas Road in the Home Depot PUD has had significant turnover. If a proposal was received for that site to allow another quick-change oil business on that site, would you approve it?

Because of the angle, Golden Corral does not have access to Main Street, but is yet essentially a corner lot. If a car lot was proposed behind Golden Corral with only access to Douglas Road, but with direct visibility to Main Street, would you approve it?

Although hypothetical, all of these represent realistic scenarios that illustrate why the action on this request will establish a precedent for future automobile related use requests adjacent to the Main Street corridor.

Also, another important characteristic of this request is the sites location in an area that was predominantly developed since the adoption of the Mishawaka 2000 Comprehensive Plan. There are older development areas that have contained previously developed automobile related uses where staff has recommended in favor of modifications or expansions. In some cases, changes are necessary to allow for the appropriate redevelopment of a given the physical parameters and challenges associated with a given site. In this case, there is no such history or extenuating circumstance to warrant consideration for this change for an automobile-oriented use.

Beyond the use itself, staff has no real concerns regarding the physical development characteristics of the proposal. We believe that the development of an additional outlot to take advantage of space in an overbuilt parking lot is a good idea and should be encouraged, just with a use that is consistent with the existing zoning. The concept of creating a new outlot out of overbuilt parking is not new and physically this proposal is very similar in concept to what the City approved with the Firehouse Subs building on Grape Road.

If the amendment is approved, staff would request that additional areas be provided for internal landscaping and the planting of trees since the proposed division of property has resulted in a request for no perimeter landscaping on three sides. Staff has no concerns on the proposed reduction of parking spaces.

All pertinent City Departments have reviewed the request. The Engineering Department is also recommending denial. A copy of the Engineering Departments review is also attached for your use and information.

RECOMMENDATION

Staff recommends **denial** to amend a part of the University Town Center – Home Depot Planned Unit Development – to allow for the construction of a quick service oil change business.

This recommendation is based upon the following findings of fact:

1. Existing Conditions – The subject property is currently part of the Home Depot parking lot. adjacent uses are consistent with the original PUD which did not include automobile relates uses.
2. Character of Buildings in Area – Buildings within the area are all service commercial or restaurant uses. No automobile related uses are located within the Planned Unit Development. Automobile related uses were not submitted or requested to be included in the Planned Unit Development which was approved in 2002. The Planned Unit Development as a whole has been very successful as planned and developed.
3. The most desirable/highest and best use – The requested PUD amendment is not consistent with the original approval which includes a wide range of uses and excluded automobile related uses.

4. Conservation of property values – The proposed amendment could be injurious to property values in the surrounding area if automobile-oriented uses are included in the area and the qualitative characteristics of the Main Street corridor are changed for the worse.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. The proposed automobile related use is not consistent with that guided use.

ATTACHMENTS

Photographs, Petition, Site Plan as Submitted with the Petition, Aerial, Location Map, Planning Letter , and Engineering Department Comments



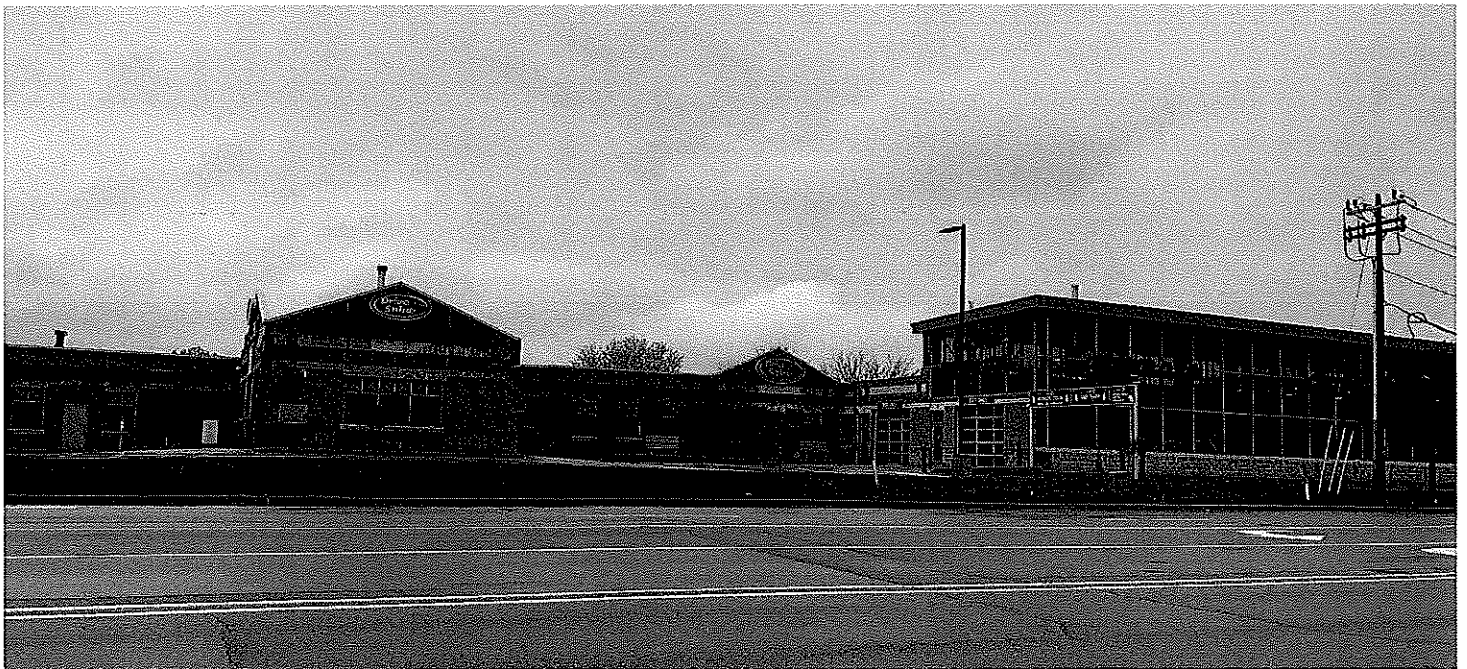
View looking southwest from the corner of Main Street and Indian Ridge Boulevard



View looking north from the proposed site toward Walmart and Sam's Club



View looking north Across Douglas Road from Main Street Marketplace illustrating relationship of Main Street to the existing Hospice building west of Stanton Optical



Picture of Drive & Shine Car Wash located at the intersection of Douglas Road and Main Street

STAFF REPORT

Location: 52921, 52885, 52861, and 52841 Fir Road – West side of Fir Road Date: May 12, 2020
Approximately 300' South of Beacon Parkway

Petition: 20- 08

Prepared By: DJS

GENERAL INFORMATION

Applicant: RH Line, LLC / Danch, Harner & Associates, Inc.

Status: Property Owner / Site Design Consultant

Request: To annex, establish zoning, and approve a preliminary site plan for a mixed use development containing medical offices, retail uses, and an existing residential use for a temporary time

Existing Zoning: Unincorporated St. Joseph County (R Single Family District)

Proposed Zoning: C-1 General Commercial District

Lot Size: 3.76 acres

Applicable Regulations: Section 137-300 to 137-303 / C-1 General Commercial & Section 137-41 / Amendments to Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County – R Single Family (Residential/ Vacant Land and Existing Storage Building)
South: Unincorporated St. Joseph County – R Single Family (Residential/Single-Family Home) & Unincorporated St. Joseph County – O Office (Dental / Granger Oral Surgery & Dental Implants)
East: S-2 Planned Unit Developmental (Vacant / Property within the NW Fir & Cleveland PUD permitted for C-1 & C-2 uses)
West: Unincorporated St. Joseph County – R Single Family (Residential/ Single Family Home)

Thoroughfare: Fir Road

School District: Penn-Harris-Madison School Corporation

Township: Harris

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

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

ANALYSIS

Proposal:

The applicant is proposing to annex, establish zoning, and approve a preliminary site plan to allow for a mixed use development containing medical offices, retail uses, and an existing residential use for a temporary time.

The 3.76 acre site, which includes four separate parcels (52921 Fir Road/Tax Parcel #006-1007-007610, 52885 Fir Road/Tax Parcel #006-1007-007611, 52861 Fir Road/Tax Parcel #006-1007-007612, and 52841 Fir Road/Tax Parcel #006-1007-007617), is located on the west side of Fir Road approximately 300' south of Beacon Parkway. The southern three properties at 52921, 52885, and 52861 Fir Road are currently occupied with single-family houses and several accessory structures. The northernmost property at 52841 Fir Road is vacant. All structures except for the house at 52861 Fir Road are proposed to be demolished. Property across Fir Road to the east was annexed into the City of Mishawaka in 2011 with an S-2 Planned Unit Development zoning classification allowing all C-1 General Commercial and C-2 Shopping Center Commercial permitted uses (Petition 10-18). This property remains vacant.

As indicated on the preliminary site plan, the mixed use development will include an approximate 7,000 sq. ft. medical office, a 9,800 sq. ft. retail building, an existing single family home, and the associated parking areas and access drives. The property will likely be developed in multiple phases with the first phase consisting of the medical office. The proposed retail building shown within the northern part of the site will be constructed at a later date based upon market demand. Tabulated data provided on the plan indicates that buildings will occupy 11.4% (18,889 sq. ft.) of the site, while parking, drives and walks, and open spaces will total 35.6% (58,705 sq. ft.) and 53.0% (87,416 sq. ft.), respectively. A total of 28 parking spaces are required for the medical office building (4 spaces per 1,000 sq. ft. of gross floor area) with 45 parking spaces being provided. The proposed retail building requires a total of 39 spaces (4 spaces per 1,000 sq. ft. of gross floor area) with 49 spaces being provided. Two spaces are required and provided for the single-family house.

The applicant is requesting a zoning classification of C-1 General Commercial District to permit the proposed medical and retail uses. The preliminary site plan indicates that all of the required height, area, and development regulations for the C-1 District (building and parking setbacks, off-street parking requirements, etc.) will be met.

Two access locations off of Fir Road are being proposed to serve the development. The Engineering Department commented that only one shared access drive with a deceleration lane per city standards will be permitted. All drives and parking lots interior to the site will be privately owned and maintained.

Due to the project being located within a future Juday Creek 5-year well head protection area, stormwater runoff cannot be handled on-site via a system of drywells. All runoff will have to be maintained on-site via a surface stormwater retention or detention basin. A large retention basin is conceptually shown within the central part of the development to serve the entire development.

Although conceptual in nature, the plan shows numerous landscaping areas and trees along the perimeter of and throughout the site. A more detailed landscaping plan shall be submitted with each planned unit development site plan, and is subject to review and approval by the Planning Staff.

If the proposed rezoning and annexation request is approved, a detailed final site plan for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

In 2011, adjacent property across Fir Road to the east was annexed into the City and zoned S-2 Planned Unit Development for commercial uses (Petition 10-08). The property remains undeveloped.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexation as

outlined above, approximately 573 feet, or 33.3%, of the total 1,722 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located to the west of Fir Road approximately 300' south of Beacon Parkway, and is bordered to the north by vacant land and a storage building located within unincorporated St. Joseph County; to the west by a single-family house located within unincorporated St. Joseph County; to the south by a single-family house and medical office located within unincorporated St. Joseph County, and to the east by vacant land approved for commercial use. The Fir Road corridor between State Road 23 and Douglas Road includes a variety of single and multi-family residential, institutional (schools and churches), medical, senior care and rehabilitation, financial, and commercial land uses.

Zoning Change:

Staff believes that the proposed zoning of this property to the C-1 General Commercial District is appropriate given the commercial growth that has occurred along the Fir Road corridor. With the completion of Beacon Parkway to the north, providing a major gateway into the City from the Toll Road and northeast part of St. Joseph County, development pressures along the corridor will only intensify in the future.

Transportation/Roads:

According to the latest available traffic counts, there were 10,921 annual average daily trips (AADT) (June 2019) along Fir Road south of Beacon Parkway. The counts at this location have more than doubled over the last 15 years. Between 2006 and 2010, counts ranged from just over 4,200 AADT to 6,300 AADT. With the existing and anticipated increase in commercial and residential development in the northern Mishawaka and Granger areas, it is anticipated that traffic volumes will remain relatively consistent and/or increase in future years.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, does not show any planned added travel lanes along the Fir Road corridor. A small road west of the Indiana Toll Road connecting Beacon Parkway to Cleveland Road is proposed for construction in 2030. This connector may relieve future traffic congestion along Fir Road adjacent to the site and north of Cleveland Road. The plan and anticipated completion date may be amended in future years dependent on projected travel demand.

All pertinent City Departments have reviewed and approved the request for annexation and zoning with the Engineering, Electric, and Water Departments providing the following comments:

Engineering Department:

1. The development will require a shared access drive with a deceleration lane per engineering standards for 30 MPH.
2. Landscaping south of the access drive may need to be positioned to not block line of sight.
3. Sanitary sewer is available at a manhole on the west side of Fir Road. Sewer shall be extended on site with individual connections.
4. Water may need to be extended across Fir Road. Coordinate with the Water Department.

These comments shall be addressed with the Final Site Plan.

Electric Department:

1. The Mishawaka Utilities Electric Division does not currently serve the proposed annexation area.

Water Department:

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

RECOMMENDATION

Staff recommends approval of Petition 20-08 to annex and establish zoning to the C-1 General Commercial District for property located on the west side of Fir Road south of Beacon Parkway (52921, 52861, 52885, and 52841 Fir Road). The property is proposed to be a mixed use development containing medical offices, retail uses, and an existing residential use for a temporary time.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along a moderately travelled section of Fir Road between Beacon Parkway and Cleveland Road. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include vacant property and a storage building to the north, a single-family residential house to the west, a single-family residential house and medical office to the south, and vacant property to the east approved for commercial use.
2. Character of Buildings in the Area – The character of buildings and land uses located along the Fir Road corridor between State Road 23 and Douglas Road vary greatly and include single and multi-family residential, institutional, medical, senior care and rehabilitation, financial, and commercial land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north and the approved commercial use of the property to the east, commercial development along Fir Road is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed mixed use development to include medical office, retail, and residential uses is reasonably consistent with adjacent and changing land uses along the Fir Road corridor.

ATTACHMENTS

Aerial Map, Photographs, Rezoning & Annexation Petition, Preliminary Site Plan, and Location Map



Aerial Photograph
52921, 52861, 52885, and 52841 Fir Road
Proposed Mixed Use Development



Existing House to
Remain (52861
Fir Rd.)

P1. Looking southwesterly into the annexation area from Fir Road.



P2. Looking westerly from Fir Road toward the existing house at 52861 Fir Road to remain.



P2. Looking westerly from Fir Road toward the existing houses and accessory structures at 52921 & 52885 Fir Road to be razed.

STAFF REPORT

Location: 407 W Fourth

Date: May 12, 2020

Petition: 20 09

Prepared By: CH

GENERAL INFORMATION

Applicant: M Group LLC-S Series 407 W 4th Street

Status: Property Owner

Request: Rezone from I-1 Light Industrial District to C-3 City Center Commercial District

Zoning Classification: I-1 Light Industrial District

Lot Size: 41' X 314' (0.29 acres)

Applicable Regulations: Sec. 137-358 Commercial C-3 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-3 City Center Commercial (medical office)
South: C-3 City Center Commercial (vacant parking lot)
East: R-1 Single Family Residential (single family home)
West: I-1 Light Industrial (vacant medical supply business)

Thoroughfare: West Fourth Street between Spring Street and West Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, M Group LLC-S Series 407 W 4th Street, is requesting to rezone the property at 407 W Fourth from I-1 Light Industrial District to C-3 City Center Commercial District. The property is located on west Fourth Street between Spring Street and West Street.

The building is currently used as a 4 unit apartment building. According to tax records, the building was built in 1892. Polk Directories as far back as 1982 list 4 apartments under this address. The property to the east, at 403 W Fourth was rezoned from I-1 to R-1 in 2018. Staff could find no reason why these three properties are zoned I-1 Light Industrial in a block of C-3 City Center Commercial. Prior to the 1980's residential uses were permitted in the I-1 Light Industrial District. Around 1986 the Zoning Ordinance was amended to prohibit residential uses. C-3 City Center Commercial allows a range of uses including single and multi-family residential, offices, retail, and restaurants.

The Petitioner learned that the zoning did not match the use when going through a refinancing.

Pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #20-09 to rezone 407 W Fourth Street to C-3 City Center Commercial District. This recommendation is based upon the following findings of fact:

1. The City Center Commercial zoning matches most of the properties in the immediate vicinity and the use would be compatible to the area;
2. The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because the use is not changing and given its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-3 City Center Commercial District;
3. Because the parcel is located in an area with commercial uses, the rezoning to C-3 City Center Commercial District is a desirable use for this property;
4. Rezoning to C-3 City Center Commercial will have a favorable and stabilizing impact on the neighborhood as the use is not changing, however if it were to change, commercial uses are preferable to industrial uses; and,
5. The City's Comprehensive Plan identifies the area as General Commercial, so rezoning it to a commercial district, which allows this parcel's historical multi-family use is consistent with the Plan.

ATTACHMENTS

AERIAL, PHOTOS, PETITION, SITE PLAN, LOCATION MAP





407 W Fourth



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

May 12th, 2020

County Auditor: Michael J. Hamann
227 W. Jefferson Blvd.
2nd Floor County City Bldg.
South Bend, IN 46601

Re: City of Mishawaka, Consolidated Tax Increment Financing District
Statutory obligation letter regarding evaluation of assessed valuation

Dear Mr. Hamann,

In accordance with IC 36-7-14-39(b)(4)(B) (the "Act"), I have written this letter as the Staff of the City of Mishawaka Redevelopment Commission to notify you and all other taxing units of the determination that it has made concerning its Tax Allocation Area for 2020 taxes payable 2021. The Commission has determined that there is no "excess assessed value" that may be allocated to the overlapping taxing units in the manner prescribed by this section of the Indiana Code. See attached Redevelopment Commission Resolution 2020-03.

As you are aware, when the City Consolidated our Northwest Tax Increment Financing District and our South Side Tax Increment Financing District into one Consolidated Tax Increment Financing District in 2014, we performed a long-range study of both our long-term infrastructure needs and the revenue that is projected from the Tax Increment Financing District through 2033, including projected growth. This was just re-affirmed by the Commission on May 11th of 2020. The study identified our infrastructure need in and adjacent to the district exceeded 580 million dollars through 2033. The revenue over that same time period was estimated at roughly 300 million dollars, a projected shortfall of approximately 280 million dollars.

Similar to all other local taxing units, the City is also facing further reductions in general fund revenue. In our case this reduction is projected to be over 10 million dollars by 2023. Now with the current COVID-19 crisis, there is a further need for funding that cannot be accounted for. This will further impact our ability to fund City services and perform capital improvement projects as time goes on, underscoring the importance of maintaining tax increment financing district assessed values.

As always, please contact me if you have any questions.

Sincerely,

Kenneth B. Prince, ASLA, AICP
City Planner

Cc: David A. Wood,
Rebecca Miller, City Controller
City of Mishawaka Clerk and Common Council
City of Mishawaka Redevelopment Commission
Mishawaka-Penn Public Library
St. Joseph County Board of Commissioners
St. Joseph County Council
South Bend Community School Corporation
South Bend Int. Airport

Mayor Penn-Harris-Madison School Corp.
TRANSPD
Penn Township Trustee
Harris Township Trustee
Clay Township Trustee
School City of Mishawaka
Penn Township Assessor
St. Joseph County Assessor
IN DLGF

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241
Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

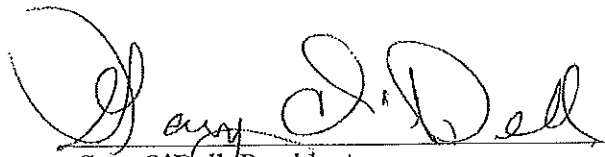
each taxing unit that is wholly or partly located within each such Allocation Area, and also (in an electronic format) to the Indiana Department of Local Government Finance, in the manner set forth in IC 36-7-14-39(b)(4)(B).

4. The Executive Director of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute and deliver such documents and to take such actions as such officer or member deems necessary or desirable to carry out the intent of this resolution, including, but not limited to, providing the written notice to the offices described in Section 3 above, and any and all actions previously taken by any officer or member of the Commission in connection with the foregoing determinations, be, and hereby are, ratified and approved.

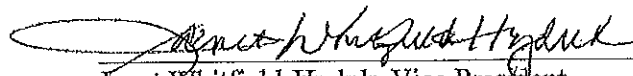
5. This Resolution shall take effect immediately upon adoption.

ADOPTED by the City of Mishawaka Redevelopment Commission this 11th day of May, 2020.

CITY OF MISHAWAKA
REDEVELOPMENT COMMISSION



Gary O'Dell, President



Janet Whitfield-Hyduk, Vice President



Kris Ermeti, Secretary



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2020-01</u>
PETITION NO.	<u>2020-02</u>
DATE of HEARING	<u>05-18-2020</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by School City of Mishawaka to vacate the following described public right of ways

North Wenger Ave between LWE and Homewood, The East 63' of the East/West alley North of LWE, All Alleys bounded by Homewood on the North, Indiana on the West and Wenger on the East.

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on May 18, 2020 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

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 Susan Kile, ADA Coordinator, at (574) 258-1615.

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

Raven Boston, Chief Deputy I Michael Hixenbaugh, Chief Deputy II
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

APR 24 2020

CITY CLERK
MISHAWAKA, IN

PETITION #20-02 AMENDED

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-11

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, School City of Mishawaka has filed a petition for vacation of the public right-of-way described in Section 1 below;

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

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

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

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

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

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

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

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

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

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

A 50 FOOT WIDE NORTH SOUTH AVENUE RUNNING BETWEEN LINCOLN WAY EAST AND HOMEWOOD AVENUE, IN THE CITY OF MISHAWAKA, INDIANA, AND WHICH IS BOUNDED ON THE WEST BY LOT "I" AND LOTS 59 THROUGH 68 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER, AND WHICH IS BOUNDED ON THE EAST BY LOT 1 AND LOTS 114 THROUGH 124 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF WENGER REALTY COMPANY'S FIRST ADDITION TO THE CITY OF MISHAWKA, RECORDED IN PLAT BOOK 8, PAGES 182 THROUGH 183, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH,

PROPOSED ORDINANCE NO. 2020-11

ORDINANCE NO.

RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B (ROAD VACATION)**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT "I"; THENCE NORTH 00° 08' 00" WEST ALONG THE WEST RIGHT OF WAY LINE OF WENGER AVENUE, A DISTANCE OF 607.99 FEET TO THE NORTHEAST CORNER OF SAID LOT 68; THENCE NORTH 89° 45' 25" EAST A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 114; THENCE SOUTH 00° 08' 00" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID WENGER AVENUE A DISTANCE OF 602.71 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 83° 44' 23" EAST ALONG THE NORTH LINE OF LINCOLN WAY EAST A DISTANCE OF 50.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.70 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

A 15 FOOT WIDE NORTH SOUTH ALLEY RUNNING BETWEEN THE EAST AND WEST ALLEY NORTH OF AND PARALLEL TO LINCOLN WAY EAST AND HOMEWOOD AVENUE, IN THE CITY OF MISHAWAKA, INDIANA, WHICH NORTH AND SOUTH ALLEY IS BETWEEN WENGER AVENUE AND INDIANA AVENUE, AND WHICH IS BOUNDED ON THE WEST BY LOTS 49 THROUGH 58 AND ON THE EAST BY LOTS 59 THROUGH 68 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER; AND, A 14 FOOT EAST WEST ALLEY RUNNING BETWEEN INDIANA AVENUE AND WENGER AVENUE AND LYING BETWEEN LOTS 51, 52, 65 AND 66 AS SAID LOTS ARE KNOWN AND DESIGNATED ON SAID PLAT, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B (ALLEY VACATION)**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 56; THENCE NORTH 00° 05' 57" WEST ALONG THE EAST LINE OF SAID LOTS 58, 57, 56, 55, 54, 53, AND 52, A DISTANCE OF 309.44 FEET TO THE NORTHEAST CORNER OF SAID LOT 52; THENCE SOUTH 83° 35' 53" WEST ALONG THE NORTH LINE OF SAID LOT 52 A DISTANCE OF 119.33 FEET, TO THE NORTHWEST CORNER OF LOT 52; THENCE NORTH 00° 07' 20" WEST 14.08 FEET TO THE SOUTHWEST CORNER OF SAID LOT 51; THENCE NORTH 83° 35' 53" EAST ALONG THE SOUTH LINE OF SAID LOT 51 A DISTANCE OF 119.34 FEET TO THE SOUTHEAST CORNER OF LOT 51; THENCE NORTH 00° 01' 07" WEST ALONG THE EAST LINE OF SAID LOTS 51, 50, AND 49 A DISTANCE OF 135.52 FEET TO THE NORTHEAST CORNER OF LOT 49; THENCE NORTH 83° 45' 13" EAST 15.09 FEET TO THE NORTHWEST CORNER OF SAID LOT 68; THENCE SOUTH 00° 01' 07" EAST ALONG THE WEST LINES OF SAID LOTS 68 THROUGH 66 A DISTANCE OF 135.48 FEET TO THE SOUTHWEST CORNER OF LOT 66; THENCE NORTH 83° 35' 53" EAST ALONG THE SOUTH LINE OF SAID LOT 66 A DISTANCE OF 119.01 FEET TO THE SOUTHEAST CORNER OF LOT 66; THENCE SOUTH 00° 08' 00" EAST 14.08 FEET TO THE NORTHEAST CORNER OF SAID LOT 65; THENCE SOUTH 83° 35' 53" WEST ALONG THE NORTH LINE OF SAID LOT 65 A DISTANCE OF 119.02 FEET TO THE NORTHWEST CORNER OF LOT 65; THENCE SOUTH 00° 05' 57" EAST ALONG THE WEST LINES OF SAID LOTS 65, 64, 63, 62, 61, 60, AND 59 A DISTANCE OF 309.43 FEET TO THE SOUTHWEST CORNER OF LOT 59; THENCE SOUTH 83° 33' 07" WEST 15.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

ALSO:

AN EASTERLY PORTION OF A 16.5 FOOT ALLEY RUNNING BETWEEN WENGER AVENUE AND

PROPOSED ORDINANCE NO. 2020-11

ORDINANCE NO.

INDIANA AVENUE LYING BETWEEN LOTS 58 AND 59 AND LOTS "D" THROUGH "I", AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER, SAID EASTERLY PORTION BEING NORTH OF A PARCEL OF LAND CONVEYED TO ROBERT V. AND JENNIFER C. TASHIJAN, INSTRUMENT NUMBER 9235291, ST. JOSEPH COUNTY RECORDER, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B (ALLEY VACATION)**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TASHIJAN LAND; THENCE SOUTH 83° 33' 07" WEST ALONG THE NORTH LINE OF SAID LOTS "I" AND "H" A DISTANCE OF 62.09 FEET TO THE NORTHWEST CORNER OF SAID TASHIJAN LAND; THENCE NORTH 06° 26' 53" WEST A DISTANCE OF 16.50 FEET TO THE SOUTH LINE OF SAID LOT 59; THENCE NORTH 83° 33' 07" EAST ALONG SAID SOUTHERLY LINE 63.92 FEET TO THE SOUTHEAST CORNER OF SAID LOT 59; THENCE SOUTH 00° 08' 00" EAST 16.60 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

COMMONLY KNOWN AS: Wenger Avenue north of Lincolnway East and south of Homewood; eastern 63' of the first east/west alley north of Lincolnway East and west of Wenger; and, the north/south and east/west alley bounded by Wenger Avenue, Homewood Avenue, Indiana Avenue, and the first east/west alley north of Lincolnway East

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow a new parking lot, and drop off lane to be constructed for Mishawaka High School.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020.

Presiding Officer

PROPOSED ORDINANCE NO. 2020-11

ORDINANCE NO. __

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2020, at ____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2020, at ____ o'clock ____M.

David A. Wood, Mayor

EXHIBIT A

WENGER AVENUE VACATION

A 50 FOOT WIDE NORTH SOUTH AVENUE RUNNING BETWEEN LINCOLN WAY EAST AND HOMEWOOD AVENUE, IN THE CITY OF MISHAWAKA, INDIANA, AND WHICH IS BOUNDED ON THE WEST BY LOT "I" AND LOTS 59 THROUGH 68 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER, AND WHICH IS BOUNDED ON THE EAST BY LOT 1 AND LOTS 114 THROUGH 124 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF WENGER REALTY COMPANY'S FIRST ADDITION TO THE CITY OF MISHAWKA, RECORDED IN PLAT BOOK 8, PAGES 182 THROUGH 183, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT "I"; THENCE NORTH 00° 08' 00" WEST ALONG THE WEST RIGHT OF WAY LINE OF WENGER AVENUE, A DISTANCE OF 607.99 FEET TO THE NORTHEAST CORNER OF SAID LOT 68; THENCE NORTH 89° 45' 25" EAST A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 114; THENCE SOUTH 00° 08' 00" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID WENGER AVENUE A DISTANCE OF 602.71 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 83° 44' 23" EAST ALONG THE NORTH LINE OF LINCOLN WAY EAST A DISTANCE OF 50.33 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.70 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

THIS DOCUMENT WAS PREPARED FOR SCHOOL CITY OF MISHAWAKA BY HANS P. MUSSER, INDIANA REGISTERED LAND SURVEYOR, LICENSE NUMBER 29700002, ON JANUARY 21, 2020.



HANS P. MUSSER, PS

01/21/2020

DATE

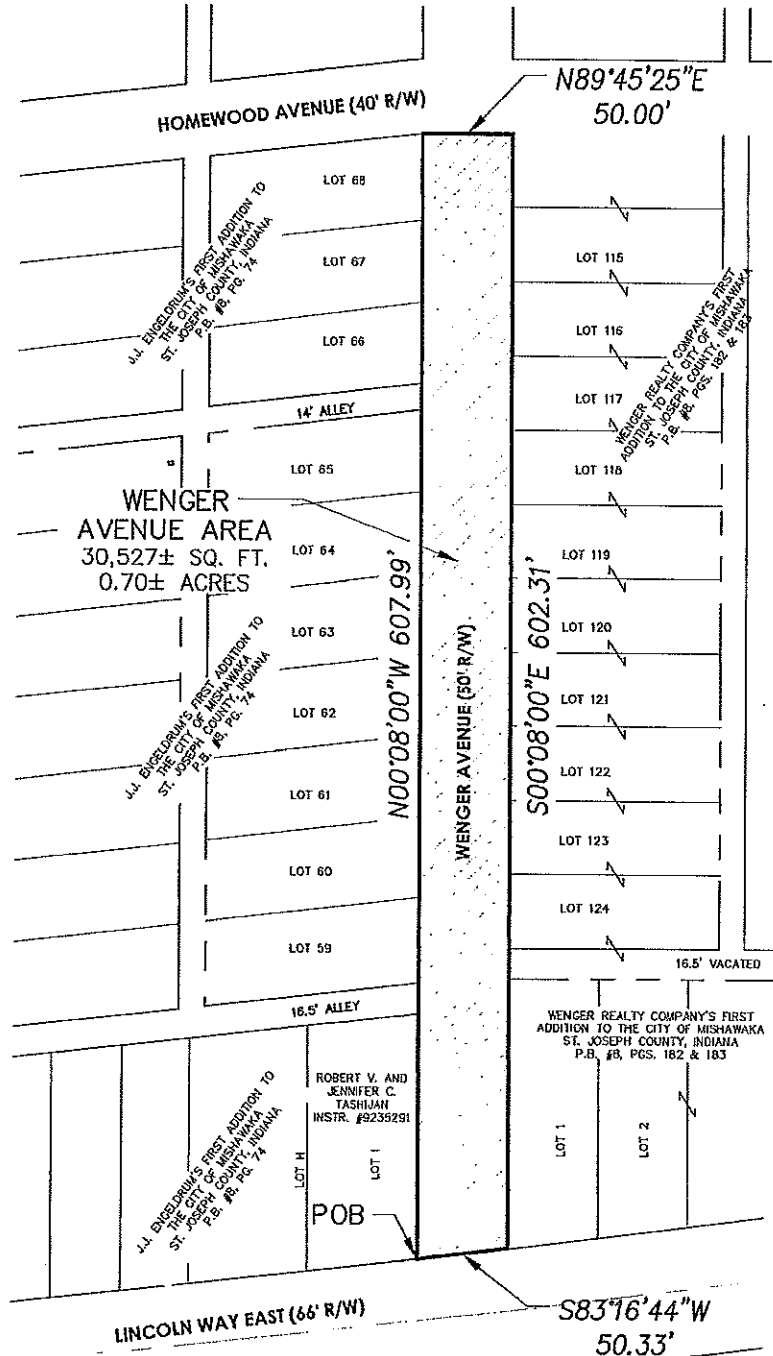
JOB NO.: 19-0067

DATE: JAN. 21, 2020



EXHIBIT B

BEING A PART OF J.J. ENGLEDRUM'S FIRST ADDITION AND WENGER REALTY COMPANY'S FIRST ADDITION TO THE CITY OF MISHAWAKA, ALL WITHIN THE NE 1/4 OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA



0 50 100
SCALE: 1" = 100'

**WENGER AVENUE VACATION
FROM LINCOLN WAY EAST TO
HOMEWOOD AVENUE**

ABONMARCHE

DATE: 01-21-2020

ACI JOB #: 19-0067 SHET: 1 of 1

COPYRIGHT 2020 - ABONMARCHE CONSULTANTS, INC.

Engineering - Architecture - Land Surveying

EXHIBIT A

ALLEY VACATION

A 15 FOOT WIDE NORTH SOUTH ALLEY RUNNING BETWEEN THE EAST AND WEST ALLEY NORTH OF AND PARALLEL TO LINCOLN WAY EAST AND HOMEWOOD AVENUE, IN THE CITY OF MISHAWAKA, INDIANA, WHICH NORTH AND SOUTH ALLEY IS BETWEEN WENGER AVENUE AND INDIANA AVENUE, AND WHICH IS BOUNDED ON THE WEST BY LOTS 49 THROUGH 58 AND ON THE EAST BY LOTS 59 THROUGH 68 AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER; AND, A 14 FOOT EAST WEST ALLEY RUNNING BETWEEN INDIANA AVENUE AND WENGER AVENUE AND LYING BETWEEN LOTS 51, 52, 65 AND 66 AS SAID LOTS ARE KNOWN AND DESIGNATED ON SAID PLAT, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 56; THENCE NORTH 00° 05' 57" WEST ALONG THE EAST LINE OF SAID LOTS 58, 57, 56, 55, 54, 53, AND 52, A DISTANCE OF 309.44 FEET TO THE NORTHEAST CORNER OF SAID LOT 52; THENCE SOUTH 83° 35' 53" WEST ALONG THE NORTH LINE OF SAID LOT 52 A DISTANCE OF 119.33 FEET, TO THE NORTHWEST CORNER OF LOT 52; THENCE NORTH 00° 07' 20" WEST 14.08 FEET TO THE SOUTHWEST CORNER OF SAID LOT 51; THENCE NORTH 83° 35' 53" EAST ALONG THE SOUTH LINE OF SAID LOT 51 A DISTANCE OF 119.34 FEET TO THE SOUTHEAST CORNER OF LOT 51; THENCE NORTH 00° 01' 07" WEST ALONG THE EAST LINE OF SAID LOTS 51, 50, AND 49 A DISTANCE OF 135.52 FEET TO THE NORTHEAST CORNER OF LOT 49; THENCE NORTH 83° 45' 13" EAST 15.09 FEET TO THE NORTHWEST CORNER OF SAID LOT 68; THENCE SOUTH 00° 01' 07" EAST ALONG THE WEST LINES OF SAID LOTS 68 THROUGH 66 A DISTANCE OF 135.48 FEET TO THE SOUTHWEST CORNER OF LOT 66; THENCE NORTH 83° 35' 53" EAST ALONG THE SOUTH LINE OF SAID LOT 66 A DISTANCE OF 119.01 FEET TO THE SOUTHEAST CORNER OF LOT 66; THENCE SOUTH 00° 08' 00" EAST 14.08 FEET TO THE NORTHEAST CORNER OF SAID LOT 65; THENCE SOUTH 83° 35' 53" WEST ALONG THE NORTH LINE OF SAID LOT 65 A DISTANCE OF 119.02 FEET TO THE NORTHWEST CORNER OF LOT 65; THENCE SOUTH 00° 05' 57" EAST ALONG THE WEST LINES OF SAID LOTS 65, 64, 63, 62, 61, 60, AND 59 A DISTANCE OF 309.43 FEET TO THE SOUTHWEST CORNER OF LOT 59; THENCE SOUTH 83° 33' 07" WEST 15.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

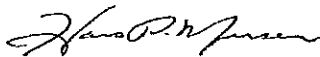
ALSO:

AN EASTERLY PORTION OF A 16.5 FOOT ALLEY RUNNING BETWEEN WENGER AVENUE AND INDIANA AVENUE LYING BETWEEN LOTS 58 AND 59 AND LOTS "D" THROUGH "I", AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF J.J. ENGELDRUM'S FIRST ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 8 PAGE 74, ST. JOSEPH COUNTY RECORDER, SAID EASTERLY PORTION BEING NORTH OF A PARCEL OF LAND CONVEYED TO ROBERT V. AND JENNIFER C. TASHIJAN, INSTRUMENT NUMBER 9235291, ST. JOSEPH COUNTY RECORDER, ALL LYING WITHIN THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA INDIANA, AS DEPICTED ON THE ATTACHED PARCEL PLAT MARKED **EXHIBIT B**, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TASHIJAN LAND; THENCE SOUTH 83° 33' 07" WEST ALONG THE NORTH LINE OF SAID LOTS "I" AND "H" A DISTANCE OF 62.09 FEET TO THE NORTHWEST CORNER OF SAID TASHIJAN LAND; THENCE NORTH 06° 26' 53" WEST A DISTANCE OF 16.50 FEET TO THE SOUTH LINE OF SAID LOT 59; THENCE NORTH 83° 33' 07" EAST ALONG SAID SOUTHERLY LINE 63.92 FEET TO THE SOUTHEAST CORNER OF SAID LOT 59; THENCE SOUTH 00° 08' 00" EAST 16.60 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRE MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

THIS DOCUMENT WAS PREPARED FOR SCHOOL CITY OF MISHAWAKA BY HANS P. MUSSER, INDIANA REGISTERED LAND SURVEYOR, LICENSE NUMBER 29700002, ON JANUARY 21, 2020.



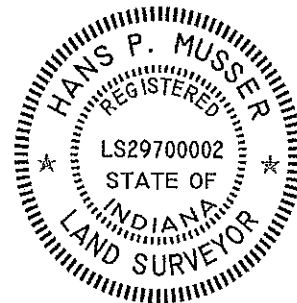
HANS P. MUSSER, PS

01/21/2020

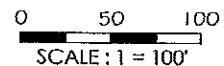
DATE

JOB NO.: 19-0067

DATE: JAN. 21, 2020



BEING A PART OF J.J. ENGLEDRUM'S FIRST ADDTION TO THE CITY OF MISHAWAKA,
ALL WITHIN THE NE 1/4 OF SECTION 15, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN
TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S83°33'07"W	62.09'
L2	N06°26'53"W	16.50'
L3	N83°33'07"E	63.92'
L4	S00°08'00"E	16.50'

ABONMARCHE

ALLEY VACATION

DATE: 01-21-2020

ACI JOB #: 19-0067 SHE: 1 of 1

COPYRIGHT 2020 - A3ONIMARCKE CONSULTANTS, INC.

Engineering · Architecture · Land Surveying



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2020-01</u>
PETITION NO.	<u>2020-02</u>
DATE of HEARING	<u>05-18-2020</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by School City of Mishawaka to vacate the following described public right of ways

North Wenger Ave between LWE and Homewood, The East 63' of the East/West alley North of LWE, All Alleys bounded by Homewood on the North, Indiana on the West and Wenger on the East.

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on May 18, 2020 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

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 Susan Kile, ADA Coordinator, at (574) 258-1615.

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

Raven Boston, Chief Deputy I Michael Hixenbaugh, Chief Deputy II
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@mishawaka.in.gov Website: Mishawaka.in.gov

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-12

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

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

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

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING KNOWN AS LOTS #12 THROUGH 17 AND THE NORTH HALF OF A VACATED ALLEY BEING ADJACENT TO AND SOUTH OF SAID LOTS #16 AND #17 ALL PART OF THE PLAT OF "MILLEKEN'S SUBDIVISION (UNRECORDED)" AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF JEFFERSON BOULEVARD WITH THE EAST LINE OF SAID LOT #17; THENCE ALONG SAID EAST LINE, S. 00°00'00" EAST (ALL BEARINGS ASSUMED), A DISTANCE OF 125 FEET MORE OR LESS TO THE CENTERLINE OF SAID VACATED ALLEY; THENCE S. 90°00'00" WEST ALONG SAID CENTERLINE, A DISTANCE OF 82.50 FEET MORE OR LESS; THENCE N. 00°00'00" WEST, A DISTANCE OF 10 FEET MORE OR LESS TO THE NORTH LINE OF A PUBLIC ALLEY; THENCE S. 90°00'00" WEST, ALONG THE NORTH LINE OF SAID ALLEY, A DISTANCE OF 165 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID LOT #12; THENCE N. 00°00'00" WEST, ALONG THE WEST LINE OF SAID LOT #12, A DISTANCE OF 115 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF SAID JEFFERSON BOULEVARD; THENCE N. 90°00'00" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 247.50 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 0.67 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESSES: 1215 and 1225 East Jefferson Boulevard

Proposed Ordinance No: 20-12

Ordinance No: _____

which real estate is now classified as C-1 General Commercial District, C-5 Neighborhood Commercial District, and I-2 Heavy Industrial District shall hereafter be within and a part of that District known as R-3 Multi-Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The R-3 Multi-Family Residential District zoning best matches the proposed use, and the use would be compatible to the area;
2. The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because an investment is being made in the property, given its relationship to surrounding properties, staff feels that the most desirable use for this property is the R-3 Multi-Family Residential District;
3. Because the parcel is located in an area with mixed uses, the parcel's proximity to the VFW Post, and the proposed use, the rezoning to R-3 Multi-Family Residential District is a desirable use for this property;
4. Rezoning to R-3 Multi-Family Residential will have a favorable and stabilizing impact on the neighborhood as the contingent purchaser, the VFW, will be overseeing the program and continue upkeep and maintain the property; and,
5. The City's Comprehensive Plan identifies the area as Industrial, but working with the adjacent VFW, this parcel's proposed use as multi-family is not in conflict with the Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 20-12

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____,
2020, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____.M.

David A. Wood, Mayor

Date: March 17, 2020

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

RE: Mark & Debra Kamm Petition for Rezoning for
1215 & 1225 East Jefferson Boulevard, Mishawaka, Indiana:

The undersigned, respectfully show that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING KNOWN AS LOTS # 12 THROUGH 17 AND THE NORTH HALF OF A VACATED ALLEY BEING ADJACENT TO AND SOUTH OF SAID LOTS # 16 AND 17 ALL PART OF THE PLAT OF "MILLEKEN'S SUBDIVISION (UNRECORDED)" AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF JEFFERSON BOULEVARD WITH THE EAST LINE OF SAID LOT # 17; THENCE ALONG SAID EAST LINE, S. 00°00'00" EAST (ALL BEARINGS ASSUMED), A DISTANCE OF 125 FEET MORE OR LESS TO THE CENTERLINE OF SAID VACATED ALLEY; THENCE S. 90°00'00" WEST ALONG SAID CENTERLINE, A DISTANCE OF 82.50 FEET MORE OR LESS; THENCE N. 00°00'00" WEST, A DISTANCE OF 10 FEET MORE OR LESS TO THE NORTH LINE OF A PUBLIC ALLEY; THENCE S. 90°00'00" WEST, ALONG THE NORTH LINE OF SAID ALLEY, A DISTANCE OF 165 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID LOT # 12; THENCE N. 00°00'00" WEST, ALONG THE WEST LINE OF SAID LOT # 12, A DISTANCE OF 115 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF SAID JEFFERSON BOULEVARD; THENCE N. 90°00'00" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 247.50 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.67 ACRES MORE OR LESS.

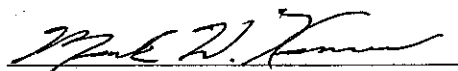
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as 1215 & 1225 East Jefferson Boulevard, Mishawaka, Indiana 46545.

The above described parcel of land is presently zoned "C-1" and "C-5" Commercial and "I-2" Industrial Districts.

The Petitioners desire said real estate, to be Rezoned to the "R-3" Residential District classification. The purpose for the Rezoning is to allow for the real estate to be purchased by an interested party who desires to build seven (7) starter homes for rental to returning veterans.

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



Mark Kamm
16316 Wild Cherry Drive
Granger, Indiana 46530



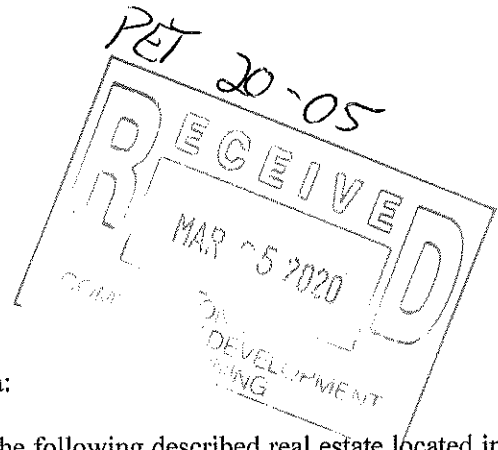
Debra Kamm
16316 Wild Cherry Drive
Granger, Indiana 46530

Contact person: Michael Danch - Danch, Harner & Associates, Inc.
1643 Commerce Drive, South Bend, Indiana 46628
(574) 234-4003.

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2020

CITY CLERK
MISHAWAKA, IN



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

March 17, 2020

To The: Honorable Members of the
Plan Commission of the City of Mishawaka, Indiana,

RE: Mark & Debra Kamm Petition for Rezoning for
1215 & 1225 East Jefferson Boulevard, Mishawaka, Indiana:

Dear Council & Plan Commission Members,

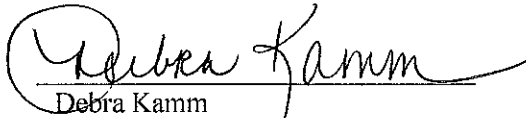
This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request will be heard.

If you have any questions concerning this matter, please feel free to give me (us) a call at 574-271-4060.

Sincerely,

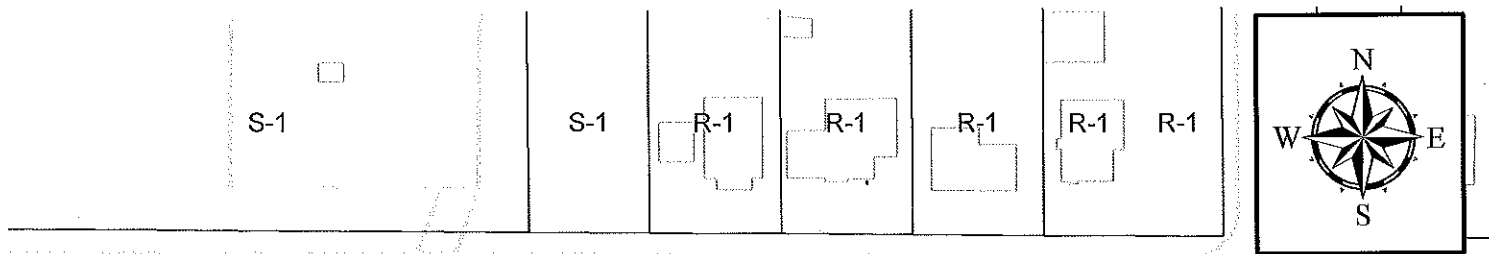


Mark Kamm
16316 Wild Cherry Drive
Granger, Indiana 46530

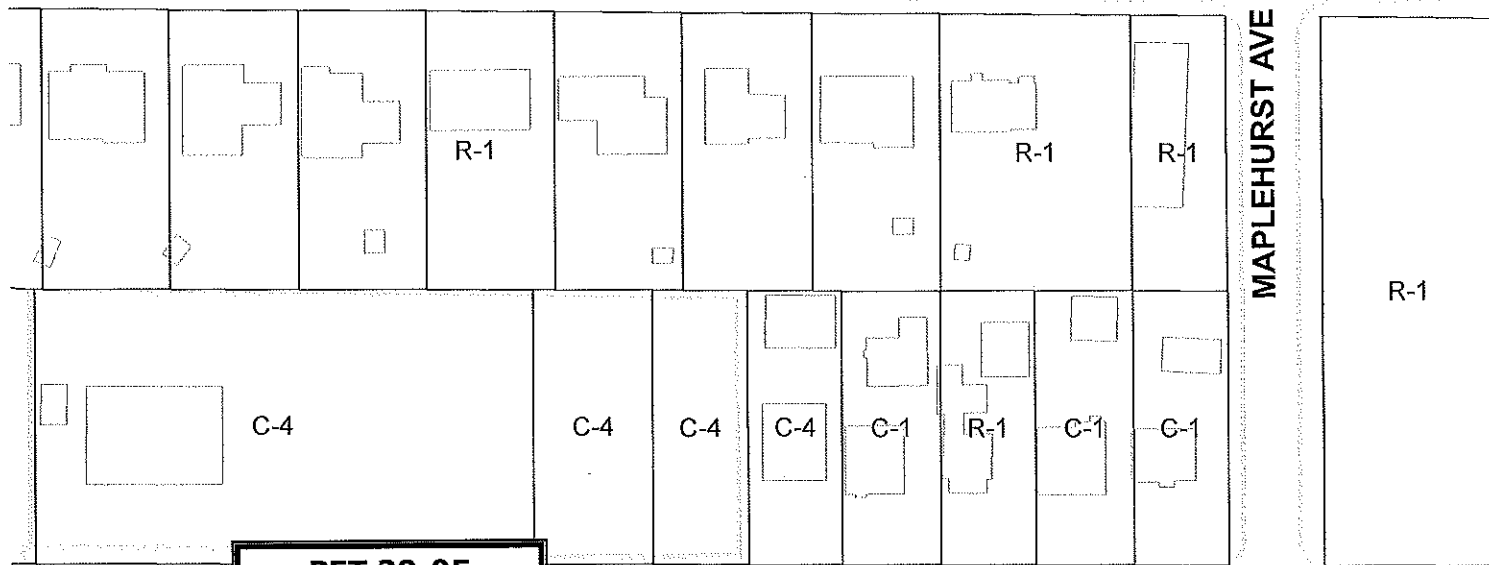


Debra Kamm
16316 Wild Cherry Drive
Granger, Indiana 46530

File No. 200123 "C" MD

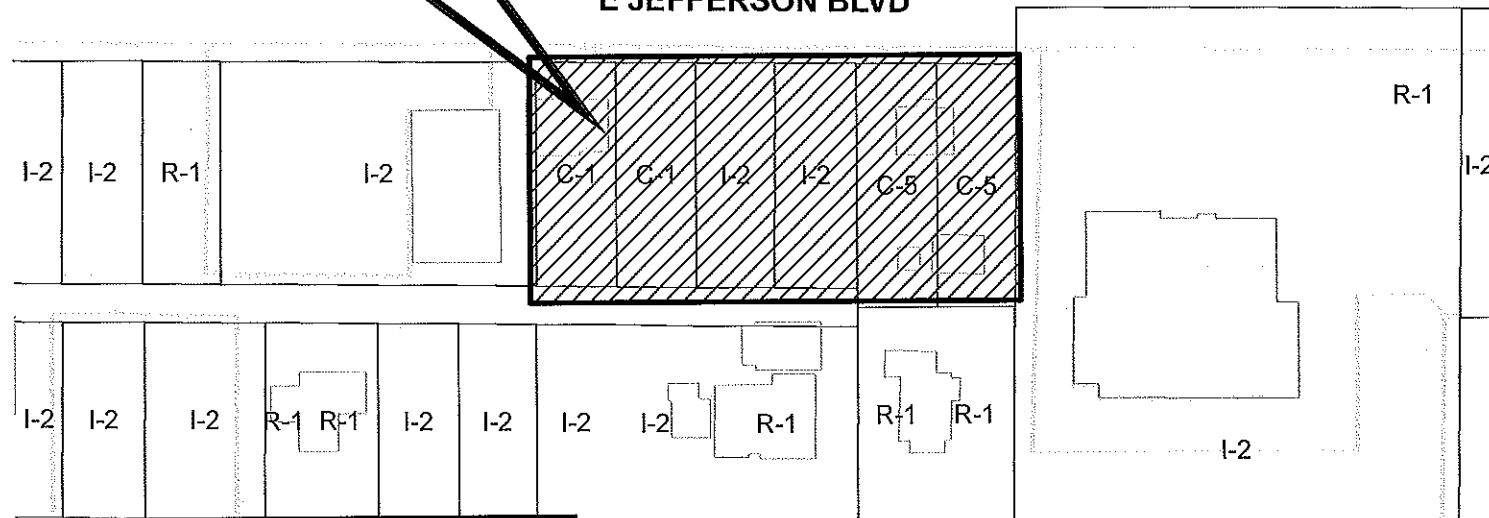


E BORLEY AVE



PET 20-05

E JEFFERSON BLVD



Location Map

PETITION 20-05

1215 & 1225 E JEFFERSON

REZONE FROM
C-1 GENERAL COMMERCIAL,
C-5 NEIGHBORHOOD COMMERCIAL,
AND I-2 HEAVY INDUSTRIAL
TO R-3 MULTI-FAMILY RESIDENTIAL

HIGHLAND VILLAGE DR

S-2

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 20-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-13

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended denial of the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

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

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

Lot 1 Home Depot Minor Subdivision as recorded under Instrument #0335529 in the Office of the Recorder of St. Joseph County, Indiana

COMMON ADDRESS: South Side of Indian Ridge Boulevard, west of Main Street in Home Depot Parking Lot

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a quick service oil change business.

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

1. Existing Conditions – The subject property is currently part of the Home Depot parking lot. adjacent uses are consistent with the original PUD which did not include automobile relates uses.
2. Character of Buildings in Area – Buildings within the area are all service commercial or restaurant uses. No automobile related uses are located within the Planned Unit Development. Automobile related uses were not submitted or requested to be included in the Planned Unit Development which was approved in 2002. The Planned Unit Development as a whole has been very successful as planned and developed.

Proposed Ordinance No: 20-13

Ordinance No: _____

3. The most desirable/highest and best use – The requested PUD amendment is not consistent with the original approval which includes a wide range of uses and excluded automobile related uses.
4. Conservation of property values – The proposed amendment could be injurious to property values in the surrounding area if automobile-oriented uses are included in the area and the qualitative characteristics of the Main Street corridor are changed for the worse.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. The proposed automobile related use is not consistent with that guided use.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock ____M.

David A. Wood, Mayor

Ret 20-06



Date: March 20, 2020

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

RE: PETITION FOR PUD AMENDMENT (ORD. 4699AA)

The undersigned Petitioner, Elm Street Capital, LLC ("Elm Street"), and HD Development of Maryland, Inc. ("Home Depot"), the current owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Lot 1 Home Depot Minor Subdivision as recorded under Instrument #0335529 in the Office of the Recorder of St. Joseph County, Indiana. Property address: 317 Indian Ridge Blvd., Mishawaka, Indiana 46545.

Newberry Real Estate LLC, on behalf of Elm Street, the contract purchaser of proposed Lot 8 (see attached Exhibit "A"), a part of the above described parcel of land to be subdivided, files this petition for PUD Amendment in conjunction with Home Depot. The above described parcel of land is presently zoned "S-2" Planned Unit Development and the real estate use is for retail. Proposed Lot 8 will have the same zoning classification as Lot 1.

Petitioner desires for the current Planned Unit Development to be amended to allow the following:

1. Proposed Lot 8 - Reduce required five (5) feet pavement setback to zero (0) feet along the west, east and south property lines, which is a direct result of splitting the parcel into separate ownerships
2. Proposed Lot 8 - No landscaping shall be provided for the west, east & south side yards, which is a direct result of splitting the lot into separate ownerships
3. Proposed Lot 8 - A quick service oil change business.
4. Lot 1 Home Depot Parcel - Reduction in the required number of parking spaces from 389 spaces to 362 spaces. Lot 1 currently has 431 parking spaces.

[continue to signature pages]

RECEIVED
DEBORAH S. BLOCK, MMC

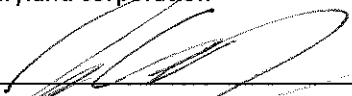
APR 28 2020

CITY CLERK
MISHAWAKA, IN

Wherefore, the Petitioner prays and respectfully requests that the Common Council of the City of Mishawaka refers this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of Mishawaka.

Signature(s) of Property Owner(s)

HD Development of Maryland, Inc.,
a Maryland corporation

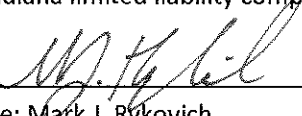
By: 

Name: Jessica Borgert

Title: Assistant General Counsel

Signature of Petitioner

Elm Street Capital, LLC,
an Indiana limited liability company

By: 

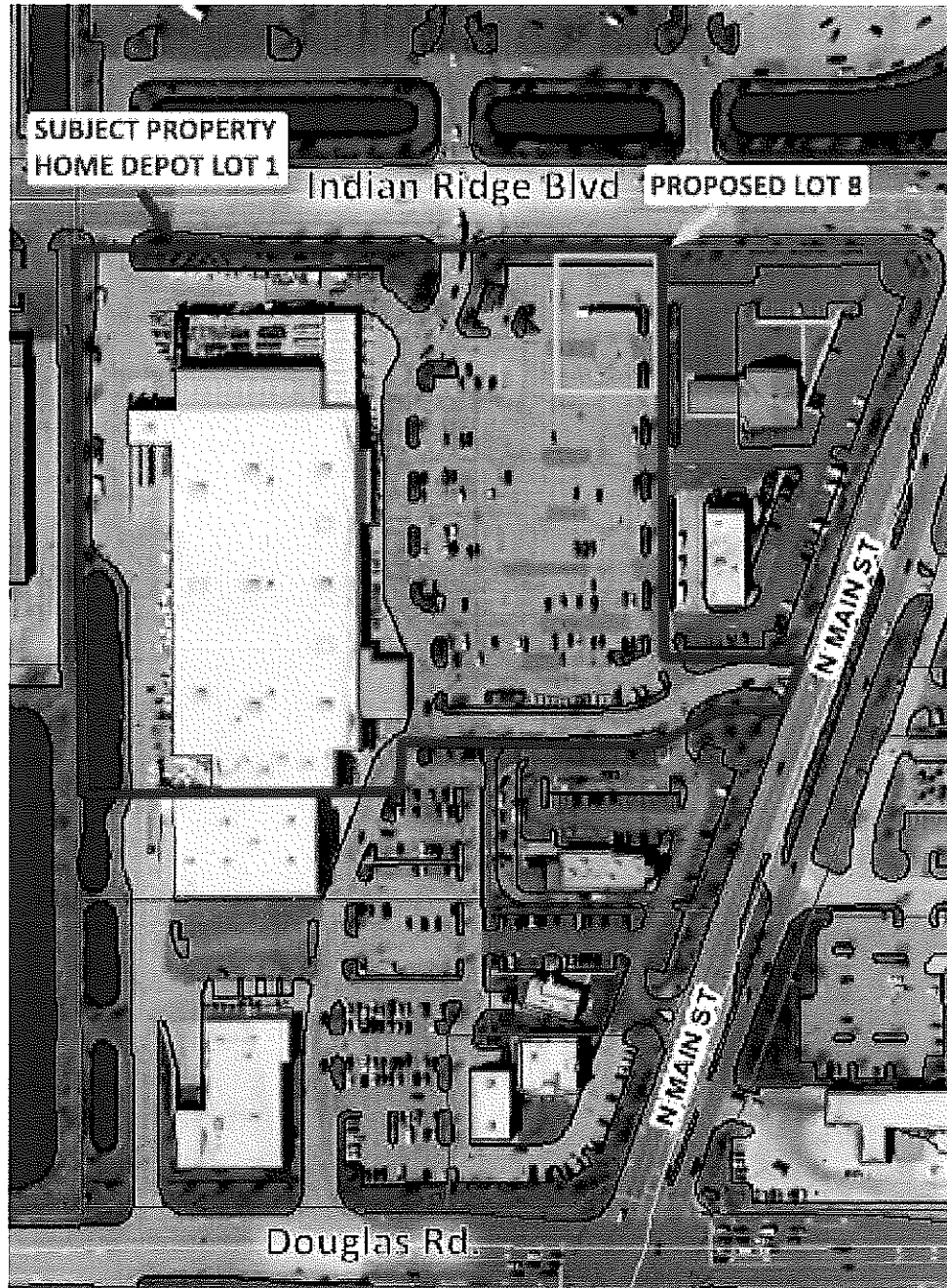
Name: Mark J. Rykovich

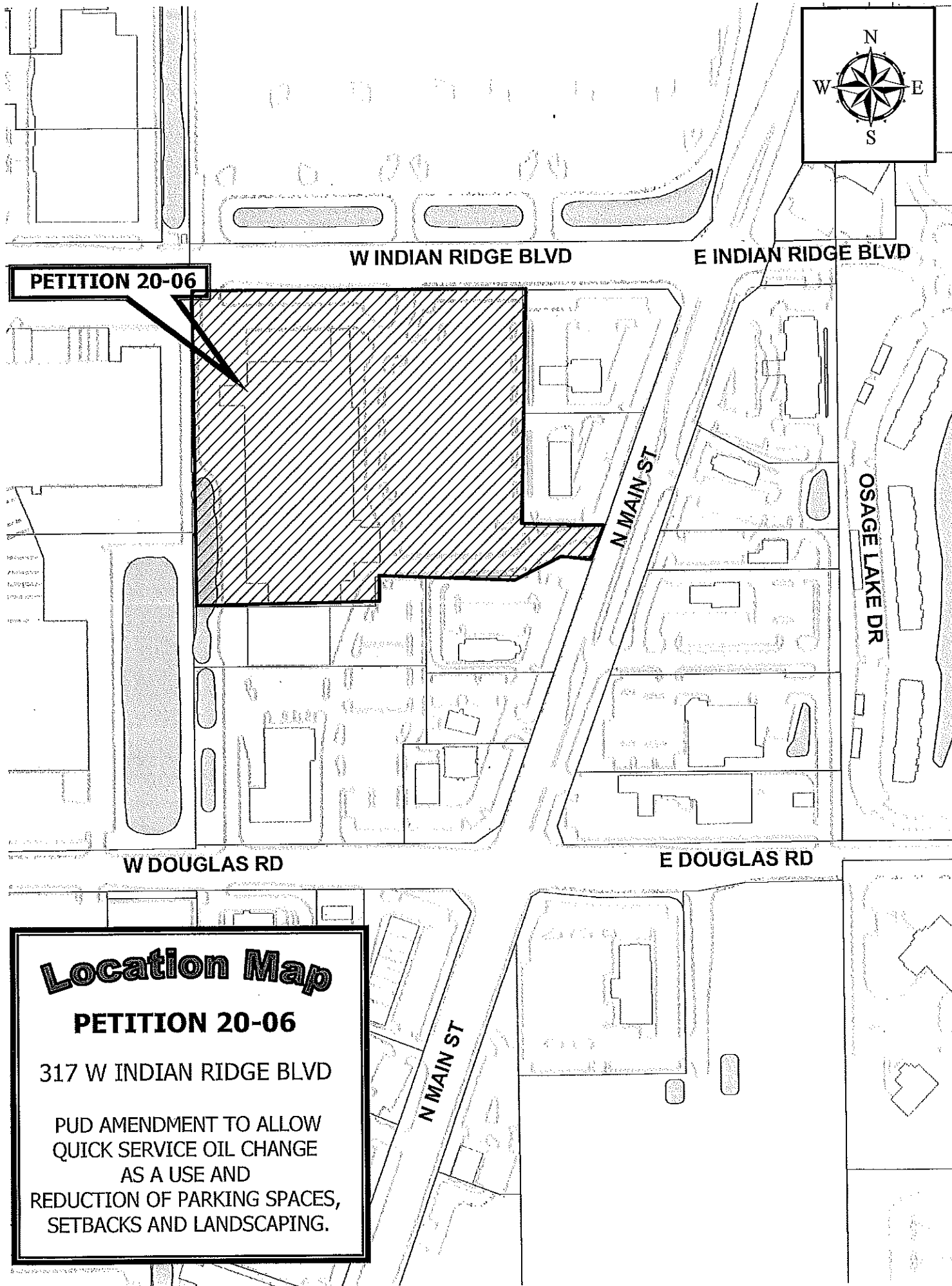
Title: Principal and Authorized Signatory

CONTACT PERSON:

Name: Mark Rykovich
Company: c/o Newberry Real Estate, LLC
Address: 7750 Cree Trail, Indianapolis, IN 46250
Phone #: 312-961-3021
Email: mrykovich@nbrellc.com

EXHIBIT A





Location Map

PETITION 20-06

317 W INDIAN RIDGE BLVD

PUD AMENDMENT TO ALLOW
QUICK SERVICE OIL CHANGE
AS A USE AND
REDUCTION OF PARKING SPACES,
SETBACKS AND LANDSCAPING.

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #20-08

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-14

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

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

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

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

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

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

A Parcel located in the Southeast Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana: Being more particularly described as commencing at the southeast corner of said Section 22; thence North 00°00'00" East along the East line of said Section, 430.00 feet more or less and south 90°00'00" West, a distance of 30.00 feet more or less to a point on the west right-of-way line of said Fir Road and the existing Mishawaka Corporation line and the Point of Beginning of this description; thence South 90°00'00" West, a distance of 288.00 feet more or less; thence North 00°00'00" East, a distance of 572.95 feet more or less; thence North 90°00'00" East, a distance of 288.00 feet more or less to the West right-of-way line of said Fir Road and the existing Mishawaka Corporation line; thence South 00°00'00" East along said West line and Corporation line, a distance of 572.95 feet more or less to the point of beginning. Containing 3.76 acres more or less. Subject to all legal rights-of-way, easements, and restrictions of record.

COMMON ADDRESSES: 52921, 52861, 52885, and 52841 Fir Road, Granger

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of C-1 General Commercial District.

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

1. Existing Conditions – The subject property is located along a moderately travelled section of Fir Road between Beacon Parkway and Cleveland Road. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential

Proposed Ordinance No. 20-14

Ordinance No. _____

development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include vacant property and a storage building to the north, a single-family residential house to the west, a single-family residential house and medical office to the south, and vacant property to the east approved for commercial use.

2. Character of Buildings in the Area – The character of buildings and land uses located along the Fir Road corridor between State Road 23 and Douglas Road vary greatly and include single and multi-family residential, institutional, medical, senior care and rehabilitation, financial, and commercial land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north and the approved commercial use of the property to the east, commercial development along Fir Road is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed mixed use development to include medical office, retail, and residential uses is reasonably consistent with adjacent and changing land uses along the Fir Road corridor.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No. 20-14

Ordinance No. _____

PRESENTED by me to the Mayor this _____ day of _____, 2020, at
o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock
_____.M.

David A. Wood, Mayor

Date: April 17, 2020

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

Re: Petition for Annexation & Rezoning for:

RH Line, LLC
509 West Washington Street
South Bend, Indiana 46601

The undersigned, respectfully show that they are the owners of the following described real estate located in the unincorporated portion of St. Joseph County, Indiana:

Annexation and Rezoning Legal Description:

A Parcel located in the Southeast Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana: Being more particularly described as commencing at the Southeast corner of said Section 22; thence North 00°00'00" East along the East line of said Section, 430.00 feet more or less and South 90°00'00" West, a distance of 30.00 feet more or less to a point on the west right-of-way line of said Fir Road and the existing Mishawaka Corporation line and the Point of Beginning of this description; thence South 90°00'00" West, a distance of 288.00 feet more or less; thence North 00°00'00" East, a distance of 572.95 feet more or less; thence North 90°00'00" East, a distance of 288.00 feet more or less to the West right-of-way line of said Fir Road and the existing Mishawaka Corporation line; thence South 00°00'00" East along said West line and Corporation line, a distance of 572.95 feet more or less to the point of beginning.

Containing 3.76 acres more or less.

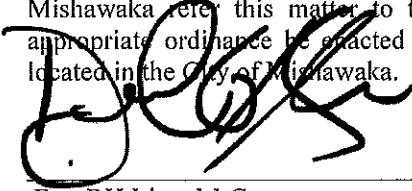
Subject to all legal rights-of-way, easements, and restrictions of record.

Also commonly known as 52921, 52861, 52885 & 52841 Fir Road, Granger, IN 46530.

The above described parcels of land are presently zoned "R" Single Family District in the unincorporated county.

Petitioners desire to annex and rezone the real estate described above to the "C-1" Commercial District classification. The purpose for the annexation and rezoning is to allow for a mixed land use development containing medical office uses, retail uses, and an existing residential use for a temporary time.

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


For: RH Line, LLC
509 West Washington Street
South Bend, Indiana 46601
(574) 339-1793

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2020

CITY CLERK
MISHAWAKA, IN

Pet 20-08

Mishawaka Plan Commission
and the Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

April 17, 2020

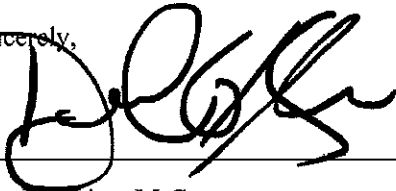
RE: Annexation and Rezoning request,
for RH Line, LLC for properties located at
52921, 52861, 52885 & 52841 Fir Road, Granger, IN;

Mishawaka Plan Commission Members and
Mishawaka Common Council Members:

This letter is to inform the Board members that I (we) have granted authority to Danch, Harner & Associates to represent me (us) before the Mishawaka Plan Commission and the Mishawaka Common Council meeting(s) and at all public meetings at which my (our) petition will be heard.

If you have any questions concerning this matter, please feel free to give me (us) a call at 574-330-1793.

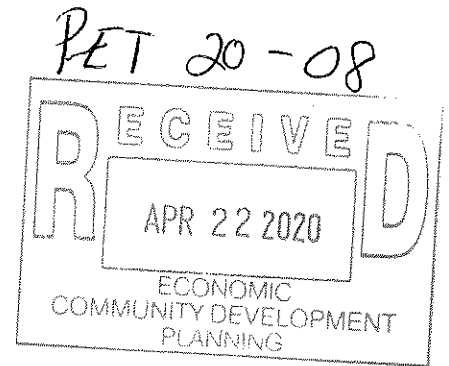
Sincerely,

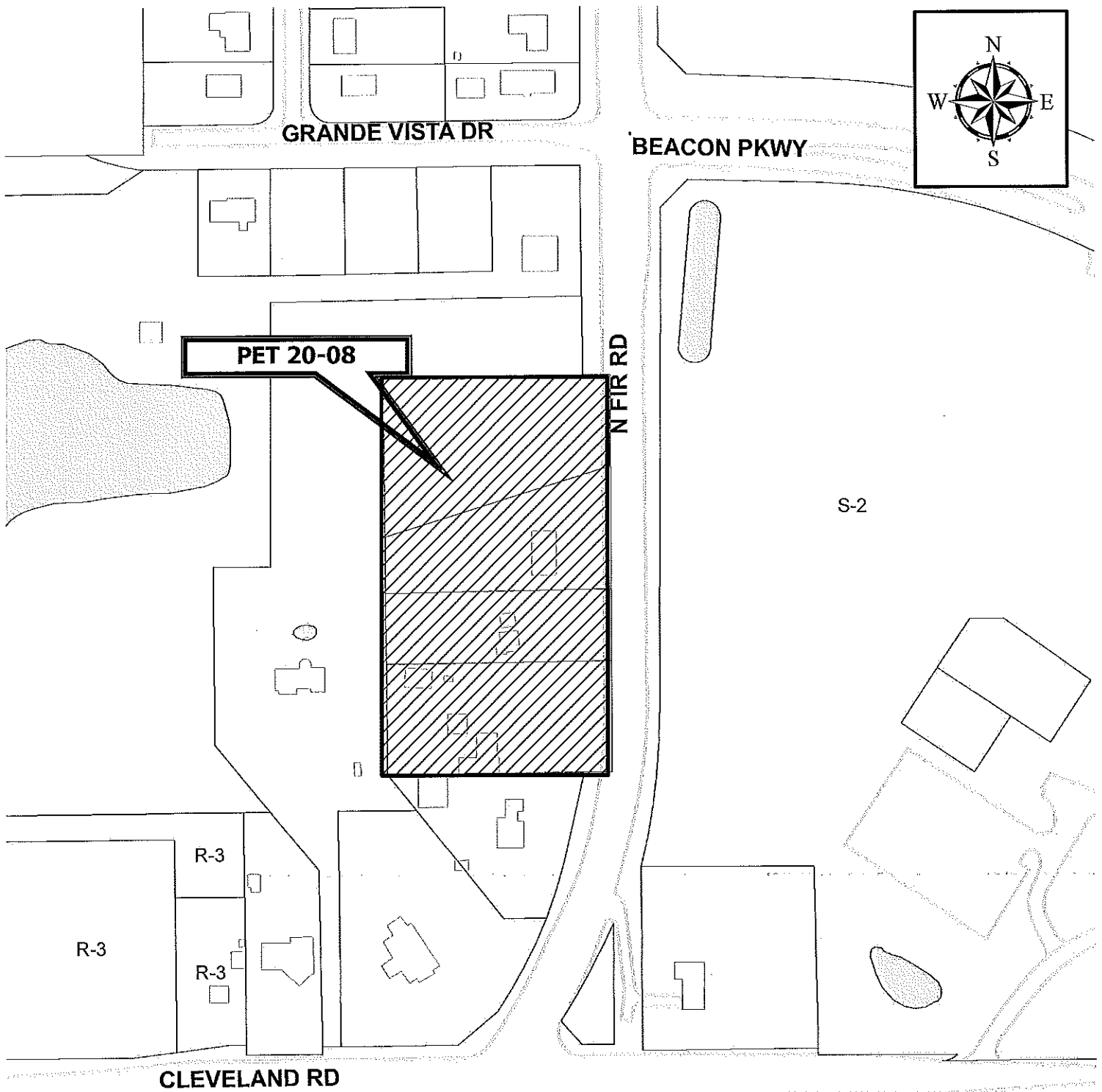


For: RH Line, LLC

Printed Name:

Daniel Klauer





Location Map

PET 20-08

52921, 52861, 52885, &
52841 FIR ROAD

ANNEXATION AND REZONING
TO C-1 GENERAL COMMERCIAL

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-09

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-15

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

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

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

A part of Lot Numbered Thirty-four (34) on Fourth Street as shown on the Original Plat of the Town of St. Joseph Ironworks now the City of Mishawaka, described as beginning 3 ½ rods West of the Northeast corner of said lot Numbered 34, running thence West on the North line thereof 41 feet 3 inches; thence South 19 rods to the North line of the right-of-way of the Lakeshore and Michigan Southern Railroad; thence East 41 feet 3 inches; thence North 19 rods to the place of beginning.

COMMON ADDRESS: 407 West Fourth Street

which real estate is now classified as I-1 Light Industrial District shall hereafter be within and a part of that District known as C-3 City Center Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The City Center Commercial zoning matches most of the properties in the immediate vicinity and the use would be compatible to the area;
2. The use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because the use is not changing and given its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-3 City Center Commercial District;

Proposed Ordinance No: 20-15

Ordinance No: _____

3. Because the parcel is located in an area with commercial uses, the rezoning to C-3 City Center Commercial District is a desirable use for this property;
4. Rezoning to C-3 City Center Commercial will have a favorable and stabilizing impact on the neighborhood as the use is not changing, however if it were to change, commercial uses are preferable to industrial uses; and,
5. The City's Comprehensive Plan identifies the area as General Commercial, so rezoning it to a commercial district, which allows this parcel's historical multi-family use is consistent with the Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock _____.M.

David A. Wood, Mayor

Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana



RE: PETITION TO REZONE

The undersigned The M Group LLC-S Series 407 W. 4th Street respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

A part of Lot Numbered Thirty-four (34) on Fourth Street as shown on the Original Plat of the Town of St. Joseph Ironworks now the City of Mishawaka, described as beginning 3 ½ rods West of the Northeast corner of said lot Numbered 34, running thence West on the North line thereof 41 feet 3 inches; thence South 19 rods to the North line of the right-of-way of the Lakeshore and Michigan Southern Railroad; thence East 41 feet 3 inches; thence North 19 rods to the place of beginning.

More commonly known as 407 W. 4th Street, Mishawaka, Indiana.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of **I-1 District**. Said property is a residential rental property.

Petitioner(s) desire said real estate to be rezoned to **C-3 District**. Petitioner(s) further state that they intend to utilize said land for a residential rental property. We are requesting the rezoning to more accurately reflect the actual use of the property and to conform with like properties in the surrounding area.

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

Paul C. Mead

CONTACT PERSON:

NAME PAUL C MEAD, MEMBER AND MANAGER, THE M GROUP LLC-S
ADDRESS P.O. BOX 741, GRANGER, IN 46530
PHONE NUMBER 847-915-2165
FAX
EMAIL PCMEAD.89@GMAIL.COM

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2020

CITY CLERK
MISHAWAKA, IN

1-1

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, TRANSFERRING AND APPROPRIATING FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) FROM THE CREDIT FUND TO THE CREDIT REVOLVING LOAN FUND AND AUTHORIZING THE USE OF SAID FUNDS FOR THE PURPOSE OF MAKING LOANS UNDER THE COVID-19 EMERGENCY LOAN PROGRAM

WHEREAS, the novel coronavirus known as COVID-19 ("COVID-19") and the resulting mandated stay-at-home orders and social distancing requirements and recommendations implemented by the federal and state government have significantly and negatively affected businesses located in the City of Mishawaka, Indiana (the "City") and many of such businesses have not been able to participate in the federal programs implemented to assist businesses suffering as a result of the effects of COVID-19; and

WHEREAS, in order to address the extraordinary consequences resulting from impact that COVID-19 has had on businesses located in the City and to provide additional support as businesses look to re-open, the Common Council of the City of Mishawaka, Indiana (the "Common Council"), the fiscal body and legislative body of the City of Mishawaka, Indiana (the "City"), has adopted Resolution No. _____ (the "Resolution") for the purpose of establishing (i) a revolving fund, to be known as the "CREDIT Revolving Fund" (the "Revolving Fund"), pursuant to Indiana Code 5-1-14-14(b), as amended (the "Act"), to be funded from a portion of the City's distributive share of the local income tax revenues (the "Economic Development Revenues") allocated for economic development purposes under Indiana Code 6-3.6-6-9, as amended, and received by the City and any other moneys legally available to the City for such purpose (collectively, the "Available Revenues") and (ii) a COVID-19 Emergency Loan Program (the "Program") to provide loans totaling Five Hundred Thousand Dollars (\$500,000) from the Revolving Fund to businesses located in the City as more fully described in the Resolution;

WHEREAS, it has been determined that an emergency exists which makes it necessary to appropriate more money than was originally appropriated in the annual budget for the City to fund the Program; and

WHEREAS, the Mayor and Common Council believe that the use of such Economic Development Revenues in this manner is advisable and serves to promote further economic development in the City; and

WHEREAS, notice of a hearing on said appropriation has been duly given by publication as required by law, and the hearing on said appropriation has been held, at which all taxpayers and other required persons had an opportunity to appear and express their views as to such appropriation;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE

CITY OF MISHAWKA, INDIANA, AS FOLLOWS:

Section 1. There is hereby transferred and appropriated Five Hundred Thousand Dollars (\$500,000.00) from the CEDIT Fund to the Revolving Fund for the purpose of funding the Program so that the City may provide loans as described in the Resolution pursuant to Indiana Code 5-1-14-14(b).

Section 2. There is hereby appropriated Five Hundred Thousand Dollars (\$500,000.00) from the Revolving Fund for the purpose of funding loans to qualifying businesses under the Program as set forth in the Resolution and Indiana Code 5-1-14-14(b).

Section 3. A certified copy of this Ordinance shall be transmitted by the Controller of the City to the Indiana Department of Local Government Finance in accordance with Ind. Code 6-1.1-18-5.

Section 4. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-4-6.

PASSED AND ADOPTED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this _____ day of _____, 2020.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED to the Mayor of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock, _____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED, this _____ day of _____, 2020, _____, o'clock, _____ M.

David A. Wood, Mayor

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

APPEAL #20-10

RESOLUTION NO. 2020-07

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:

201 Smith 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 a favorable
recommendation, pursuant to applicable state law, including the imposition of reasonable
conditions, to wit, the recommendations of the Department of City Planning.

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

Section I. The Common Council has provided notice of the hearing on the Petition
from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance
for property located at **201 Smith Street, Mishawaka, Indiana**, more particularly known
and described as follows:

Lot 12, Adam S Bakers 1st Add, City of Mishawaka, Penn Township, St. Joseph
County, State of Indiana

The Use Variance will allow the continuation of three (3) units in the 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 nothing is physically changing at the site. This use has been in existence since at least 1979.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the use of the property is not changing, only being made legal for financial institution purposes.
3. The need for the variance arises from some condition peculiar to the property because even though the property has been used this way for over 40 years, the zoning has not matched the use.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property because it is unclear if the property could be returned to a single-family home.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates low density uses for this area.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2020,
at _____ o'clock _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

RESOLUTION #2020-07
201 Smith Street
Page 3 of 3

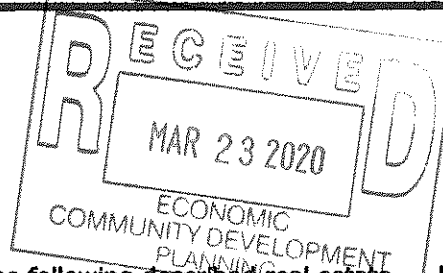
APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____ .m.

David A. Wood, Mayor

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

DATE:

TO: Board of Zoning Appeals
City of Mishawaka, Indiana



The undersigned appellant respectfully shows the Board:

1. I, Artisan Investment Group LLC, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit:

**201 Smith St Mishawaka Indiana
Lot 12 Adam S Bakers 1st Add
ParcelIdState 71-09-16-159-013.000-023**

RECEIVED
DEBORAH S. BLOCK, MMC

APR 28 2020

CITY CLERK
MISHAWAKA, IN

2. The above-described real estate presently has a zoning classification of District under the Zoning Ordinance of the City of Mishawaka.
Currently zoned R-1 single Family
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: **3 Unit apartment building**
4. Appellant desires to (Explain what is proposed that violates the Ordinance.)
We want to maintain 3 units and bring into zoning compliance for financing.
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.)
Ordinance 137-165 Does not allow more than 1 unit per building
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
Since at least 1979 the property has been used as a 3 unit
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? YES OR NO and explain your reason why.

Maintaining current use

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? YES OR NO and explain your reason why.
Nothing is changing from the way it has been used in the last 40 years

- (3) Does the need for the variance arise from some condition peculiar to the property involved? YES OR NO and explain your reason why.
History without proper Zoning

- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? YES OR NO and explain your reason why.
The property has been used this way for at least 40 years and It's been bought and sold numerous times but due to increasing regulations, the banks are implementing more strict guidelines and are requiring the proper zoning for financing.

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? YES OR NO and explain your reason why.
Adjoining properties directly to the north are currently Zoned Multi-family

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

AP 20-10

Artisan Investment Group LLC
Marlin Schwartz/ Member

Mehta / mehta

CONTACT PERSON: Marlin Schwartz

Name: Artisan Investment Group LLC

Address: 420 N Main St Suite 1 Middlebury In 46540

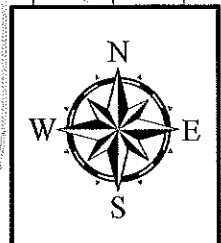
Day Phone Number: 574-536-1210

Fax Number:

Email: abgmarlin@gmail.com



S-1
S-1



LINCOLNWAY WEST

AP 20-10

W THIRD ST

SMITH ST

Location Map

APPEAL 20-10

201 SMITH
ARTISAN INVESTMENT GROUP

USE VARIANCE FOR
3 UNITS IN
R-1 SINGLE FAMILY
RESIDENTIAL

MAY 13 2020

CITY CLERK
MISHAWAKA, IN

APPEAL #20-11

RESOLUTION NO. 2020-08

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:

1210 West Sixth 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 a favorable
recommendation, pursuant to applicable state law, including the imposition of reasonable
conditions, to wit, the recommendations of the Department of City Planning.

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

Section I. The Common Council has provided notice of the hearing on the Petition
from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance
for property located at **1210 West Sixth Street, Mishawaka, Indiana**, more particularly
known and described as follows:

Lot 6, Manoka Place, City of Mishawaka, Penn Township, St. Joseph County, State of
Indiana

The Use Variance will allow the continuation of three (3) units in the R-1 Single Family
Residential District subject to the following condition:

1. A hard surface parking pad shall be provided for three (3) marked parking spaces.

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 nothing is physically changing at the site. This use has been in existence since at least 1979.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the use of the property is not changing, only being made legal for financial institution purposes.
3. The need for the variance arises from some condition peculiar to the property because even though the property has been used this way for over 40 years, the zoning has not matched the use.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property because it is unclear if the property could be returned to a single-family home.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates low density uses for this area.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2020,
at _____ o'clock _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

RESOLUTION #2020-08
1210 West Sixth Street
Page 3 of 3

APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____ m.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

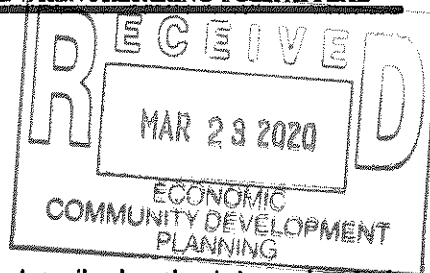
APR 28 2020

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

DATE:

CITY CLERK
MISHAWAKA, IN

TO: Board of Zoning Appeals
City of Mishawaka, Indiana



The undersigned appellant respectfully shows the Board:

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

1210 W 6th St Mishawaka, Lot 6 Manoka Place, ParcelldState 71-09-16-308-005.000-023

2. The above-described real estate presently has a zoning classification of District under the Zoning Ordinance of the City of Mishawaka.
Currently zoned R-1 single Family
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: **3 Unit apartment building**
4. Appellant desires to (Explain what is proposed that violates the Ordinance.)
I want to maintain 3 units and bring into zoning compliance for financing.
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.)
Ordinance 137-165 Does not allow more than 1 unit per building
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
Since at least 1979 the property has been used as a 3 unit
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? YES OR NO and explain your reason why.

Maintaining current use

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

Nothing is changing from the way it has been used in the last 40 years

- (3) Does the need for the variance arise from some condition peculiar to the property involved? YES OR NO and explain your reason why.
Property is currently being taxed as a 3 family dwelling on a platted lot
History without proper Zoning

- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? YES OR NO and explain your reason why.

It's been this way for at least 40 years and It's been bought and sold numerous times but due to increasing regulations, the banks are implementing more strict guidelines and are requiring the proper zoning for financing.

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

There is multi-family directly across the street that was recently rezoned from a pub/Bar to multi-family.

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

AP 20-11

Artisan Investment Group LLC
Marlin Schwartz/ Member

Marlin Schwartz / member

CONTACT PERSON: Marlin Schwartz

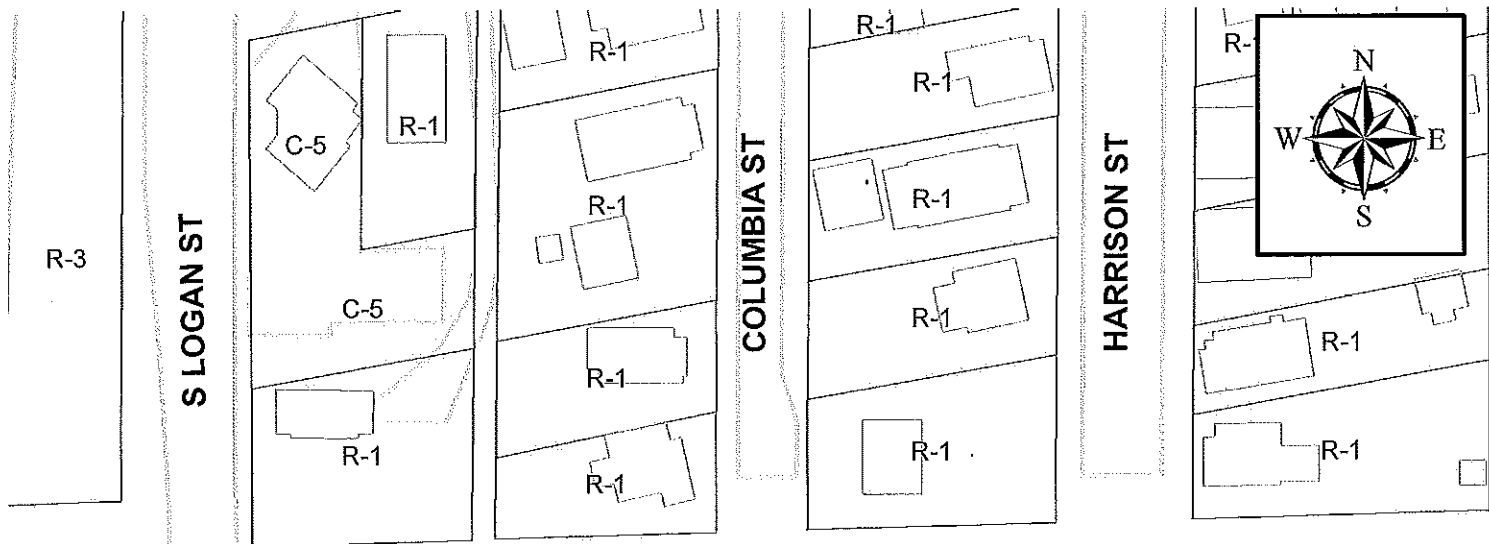
Name: Artisan Investment Group LLC

Address: 420 N Main St Suite 1 Middlebury In 46540

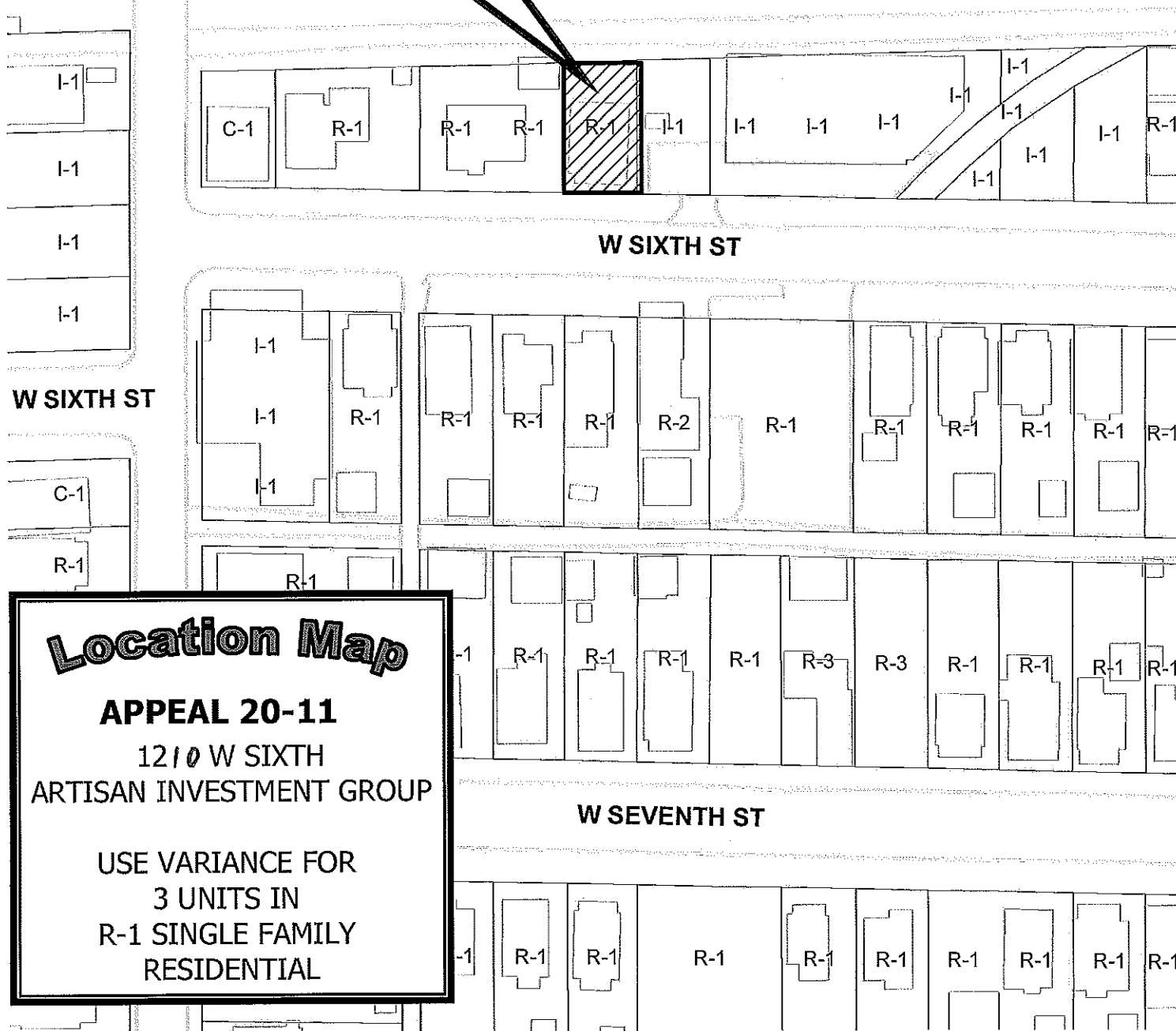
Day Phone Number: 574-536-1210

Fax Number:

Email: abgmarlin@gmail.com



AP 20-11



MAY 13 2020

APPEAL #20-16

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2020-09

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:

Southeast Corner of W. Lowell Avenue and Clay 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 a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

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

TRACT VI:

PARCEL I:

The South 75 feet of the West Half of farm lot numbered eighteen (18) of the Mishawaka farm lots, indicated in the Southeast Quarter of Section 9, Township 37 North, Range 3 East, as laid out by Joseph Battell and recorded in the plat book 1, page 70 1/2, and is more particularly described as follows: Beginning on the North line of the farm lot 18 at a point 132 feet East of the Northwest corner of said farm lot 18; thence East 147 feet; thence South 330 feet, more or less, to the South line of farm lot 18; thence West along the South line of said farm lot 18, 147 feet to a point directly south of the place of beginning; thence North 330 feet to the place of beginning.

PARCEL II:

A part of the Southeast Quarter of the Northwest Quarter of Section 9, Township 37 North, Range 3 East, described as follows: Beginning as the intersection of the centerline of Jefferson Boulevard and the North and South center line of the Northwest Quarter of Section 9 (which point is the Southwest corner of farm lot numbered 17); thence East along the center line of Jefferson Boulevard a distance of 269.8 feet; thence North 666.5 feet to an iron; thence West a distance of 270 feet to an iron set in the North and south center line of the Northwest Quarter of said Section 9; thence South along said North and South center line a distance of 666.7 feet to the point of beginning.

PARCEL III:

A part of Farm Lot Numbered Seventeen (17), in Section 9, Township 37 North, Range 3 East, which part is bounded by a line running as follows, viz: Beginning 20 rods West of the Southeast corner of said lot Number 17, thence North on a line parallel with the East and West line of said Lot to the North line thereof; thence West on said North line 66 feet; thence South to the South line of said lot; thence East 66 feet to the place of beginning, EXCEPTING THEREFROM a lot or parcel of land 484 feet in length, North and South, taken off of and from the North end thereof; and being now within and a part of the City of Mishawaka.

PARCEL IV:

A lot or parcel of land 484 feet in length, North and South, taken off of and from the North end of the following described tract: A part of Farm Lot Numbered Seventeen (17), Section 9, Township 37 North, Range 3 East, bounded by a line running as follows: Beginning 20 rods West of the Southeast corner of said Lot Numbered 17; thence North on a line parallel with the East and West lines of said Lot of the North line thereof; thence West on said North line 66 feet; thence South to the South line of said lot; thence East 66 feet to the place of beginning, now within and a part of the City of Mishawaka.

TRACT V:

PARCEL I:

Lots numbered 1,2,3, 18, 19, 20, 21, 28, 29, 36, 37, 44, and 45, all as shown on the recorded plat of Jefferson Heights addition to the City of Mishawaka, St. Joseph County, Indiana.

ALSO, all those portions of vacated Borley, Edgar and Donaldson Streets that lie between the above described lots, and all vacated alleys between said lots, together with the alley lying North of and adjacent to lot 45 and together with one half of vacated Clay Street lying West of and adjacent to lot 45.

ALSO, the West one-fifth of the West half of Farm lot numbered 18 in the Northwest Quarter of Section 9, Township 37 North, Range 3 East, as shown on the recorded plat of Mishawaka farm lots as recorded in plat book 1, page 70 in the Office of the Recorder of St. Joseph County, Indiana. Being a tract of land approximately 132 feet in width, East and West, by 330 feet in length, North and South, less 1 foot running East and West off the South end of said property.

PARCEL II:

Part of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 9, Township 37 North, Range 3 East, City of Mishawaka, Indiana, described as follows: Commencing at the Northeast corner of the Southeast Quarter of the Northwest Quarter of Section 9, Township 37 North, Range 3 East; thence South 00 degrees 01 minute 14 seconds West, on the West line of the Southeast Quarter of the Northwest Quarter of Section 9, a distance of 167.45 feet to the South of Lowell Avenue and the point of beginning; thence continue South 00 degrees 01 minute 14 seconds West, on the West line of the Southeast Quarter of the Northwest Quarter of Section 9, a distance of 164.075 feet to the South line of the North half of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 9; thence North 89 degrees 47 minutes 38 seconds East on the South line of the North half of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 9, a distance of 80.00 feet; thence North 00 degrees 01 minute 14 seconds East, parallel with the West line of the Southeast quarter of the

RESOLUTION #2020-09

Southeast Corner of W. Lowell Avenue and Clay Street

Page 3 of 4

Northwest Quarter of Section 9, a distance of 164.73 feet to the South line of Lowell Avenue; thence South 89 degrees 19 minutes 41 seconds West, on the South line of Lowell Avenue, a distance of 80.00 feet to the point of beginning.

The Use Variance will allow a shipping container for storage accessory to a proposed athletic training facility and adjacent athletic fields subject to the following conditions of approval:

1. A solid row of evergreen trees shall be planted along the east property line adjacent to Lots 30 through 36, and Lot 39 in the Lowell Wood Subdivision. Trees shall be spaced a maximum of 12' apart and a minimum 6-7' in height at the time of planting. Existing trees may also be maintained to meet the screening requirement compliant with the maximum spacing and minimum height requirements. Trees shall not be required adjacent to the existing storage building.
2. Improvements to the existing storage building shall include roof replacement and painting.

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. The shipping container will be moved a portion of the site that is less visible from the adjacent public rights-of-way and neighboring properties than its current location. The existing and proposed building and required row of evergreen trees will screen the container from all directions. Additionally, the proposed number of parking spaces should provide adequate parking. A majority of the facility's users are within walking distance to 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. Moving the shipping container east the proposed building and south of an existing accessory building and planting a row of evergreen trees to the east will more adequately screen it from neighboring properties. The parking reduction will not negatively affect the area as parking requirements for the facility are limited.
3. The need for the use variance arises from some condition peculiar to the property in that the zoning ordinance does not permit shipping containers to be used for storage.
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 and result in practical

difficulties in the use of the property. The use variance will permit the university to continue to use the shipping containers for needed storage to support the adjacent athletic fields and proposed new training facility. Requiring additional parking spaces to meet code would unnecessarily consume land and would be seldom occupied. The proposed number of spaces should provide adequate parking.

5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates medium density residential use for this area. The proposed primary use of the property for an athletic training facility is permitted, but does not allow shipping containers to be used as an accessory structure for storage purposes.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2020,
at _____ o'clock _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

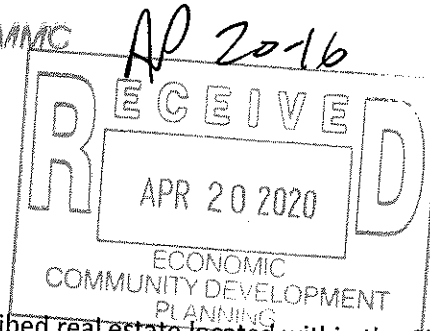
APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____ .m.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

DATE: March 16, 2020
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

APR 28 2020
CITY CLERK
MISHAWAKA, IN



The undersigned appellant respectfully shows the Board:

1. Bethel College Inc. is the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit. See attached for legal descriptions.
2. The above described real estate presently has a zoning classification of R-1 Single Family Residential District, R-3 Multi-Family Residential District and C-1 General Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. The proposed use for this site shall be an athletic training center. The plan violates two ordinances.
4. This project desires to relocate an existing shipping container on site as well as provide 16 parking spaces instead of the required 50.
5. The City does not permit shipping containers in any district. An existing storage container on site needs to be relocated. The site requires 50 total parking spaces while the proposed plan contains 16. Per Section 137-166 (7) / R-1 District and Section 137-217 (7) / R-3 District.
6. The shipping container that is being relocated will be used for the same purpose as originally. It will be moving roughly 82' to the north and slightly rotated to align with the proposed east drive. The site is within the campus of Bethel University and within walking distance to most of the individuals who will be using it. The site will not need 50 parking spaces.
7. Use and Developmental Variance Statements
 - a. Approval will not be injurious to the public health, safety, morals, or general welfare of the community. The shipping container will be used for the same purposes as originally and the relocation of the container is roughly 82' away from its original location. The site will not need 50 parking spaces. The proposed 16 spaces will be enough for daily use.
 - b. 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 and relocated structures and hardscape will not affect the neighboring properties in any physical way. The neighboring properties will either not have a need to use the site, or they will be within walking distance and therefore will not need to use a parking space.
 - c. The need for a variance does not arise from some condition peculiar to the property involved. An existing shipping container is relocated.

DATE: March 16, 2020
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

- d. Strict application of the terms of this chapter do not constitute an unnecessary hardship if applied to the property for which the variance is sought. The shipping container is used for the same purposes as originally and the relocation of the container is roughly 82' away from its original location. The site does not need 50 parking spaces. The proposed 16 spaces is enough for daily use.
- e. Approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. The shipping container will be used for the same purposes as originally and the relocation of the container is roughly 82' away from its original location.

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

Joe Zappia / Physical Plant Director

4/20/2020

Signature of Property Owner/Title Holder

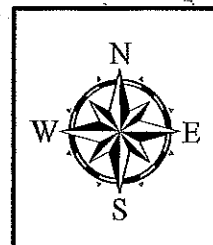
Printed Name of Property Owner/Title Holder

Joe Zappia
Bethel University
Physical Plant Director

Joe Zappia / Physical Plant Director

Contact Person:

Name: Allie Dillinger
Address: 11020 Diebold Rd., Fort Wayne, IN, 46845
Phone Number: (260)451-9718
Email: allie@eri.consulting



Location Map

APPEAL 20-16

BETHEL UNIVERSITY
ATHLETIC TRAINING CENTER

USE VARIANCE FOR
RELOCATING SHIPPING CONTAINER
DEVELOPMENTAL VARIANCE
FOR REDUCTION OF PARKING SPACES



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

May 13, 2020

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Anthony Hazen, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Gregg Hixenbaugh, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Maggie DeMaegd, At-Large City Council
Mrs. Deborah Block, City Clerk

RE: Resolution 2020-10

**Waiver of Non-Compliance for Accepting the Deduction Application from Assessed
Valuation of Structures in an Economic Revitalization Area
Lippert Components Manufacturing Inc. (LCM Reality XI LLC) – 400 S. Byrkit Avenue**

Dear Council Members and Clerk:

Property owners who have applied for and been granted a tax abatement for either real or personal property on or after July 1, 1991, must file a report with the Mishawaka Common Council and the St. Joseph County Auditor's Office reporting the extent to which there has been compliance with the goals set forth in the Statement of Benefits (SB-1) filed at the time of the action granting the aforesaid abatement.

When reviewing the tax abatement compliance forms (CF-1s) submitted for calendar year 2019 and approved by the Council on May 4th, 2020, Staff became aware that the proper deadlines for filing the Application for Deduction from Assessed Valuation in Economic Revitalization Area (Form 322/RE) were not previously met in order for Lippert Components Manufacturing Inc. to receive their approved deduction.

The attached email from Tom Bauters, CPA, Assistant Treasurer & Tax Director, dated May 6, 2020, outlines the timeline and facts surrounding the lateness of filing the proper forms. Essentially, deadlines were not met due to the property tax appeal process which was not finalized until August 2019. The results of the appeals process are included in the attached "Schedule of Values for Form 322/RE" spreadsheet. Because of the lateness of the new assessment, the required forms could not be filed in a timely manner.

Staff supports the waiver request since the total investment in the property and payroll exceeds the amounts that were originally projected when the abatement was approved. Additionally, employment

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241
Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

levels have continually increased over of the last couple years as indicated in the previously approved annual tax abatement compliance reports.

The attached resolution waives a late filing by Lippert Components Manufacturing Inc. (LCM Realty XI LLC) pursuant to IC 6-1.1-12.1-9.5, allowing the company receive the reduction in assessed value (i.e. tax abatement) as previously approved by the Council.

Thank you. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'KB Prince', with a long horizontal line extending to the right.

Kenneth B. Prince, ASLA, AICP
City Planner

cc: David A. Wood, Mayor

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241
Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

Derek Spier

From: Tom Bauters <tbauters@lci1.com>
Sent: Wednesday, May 6, 2020 3:36 PM
To: Ken Prince; Derek Spier
Cc: Joe Salsbury
Subject: Info for our call tomorrow
Attachments: Byrkit Property Tax Abatement 322-RE Attachment 1-1-18 and 1-1-19 assessment dates.xlsx; 2018 Byrkit 322-RE SIGNED Filing Package.pdf; 2019 322-RE Abatement SIGNED Filing Package.pdf; AMENDED RETURN.PDF; Signed 039 Byrkit return- originally filed 5.15.19.pdf; 4100 EDISON LAKES PROPERTY TAX RETURN Originally Filed 5.7.19.PDF; AMENDED 4100 EDISON LAKES PROPERTY TAX RETURN.PDF

>>> **FROM EXTERNAL SENDER** <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Ken, & Derek

We hope you both and your families are staying healthy.

In preparation for tomorrow's conversation, we wanted to provide some items surrounding our real estate tax abatement for the Byrkit facility.

The facts surrounding the situation are listed below.

2017 Assessment:

- In December 2016, we purchased the existing Byrkit facility for approximately \$1.6M
- As of 1/1/2017, very little, if any work had been completed at the Byrkit facility.
- The 1/1/2017 real estate property tax assessment for the main Byrkit parcel was \$4,176,900 on the original Form 11.
- Because we felt that the \$1.6M price we paid for the facility represented fair market value, we appealed the 2017 real estate assessment.
- On August 30, 2019, we agreed upon a \$1,785,000 real estate value for the main parcel with Michael Castellon, Penn Township Assessor.
- Thus, we believe that the pre-construction assessed value should be \$1,785,000. (Our Baseline assessed value for abatement purposes).
- Since no activities were performed in 2016, there is no abatement for the 1/1/2017 tax assessment.

2018 Assessment and 2018 Abatement:

- During 2017, we performed a lot of clean-up and restoration activities. The majority of these did not add a lot of value to the facility.
- The 1/1/2018 real estate property tax assessment for the main Byrkit parcel was \$4,460,100.
- Since the 2017 and 2018 property tax assessments were still under appeal and limited work was performed on the facility in 2017, we did not file for a property tax abatement.
- On August 30, 2019 we agreed upon a \$3,000,000 real estate value for the main parcel with Michael Castellon, Penn Township Assessor.

- Since this is an increase of \$1,215,000 over the 1/1/2017 value, we believe we qualify for a real estate abatement on the incremental value.
- In October, we filed the associated Form 322s with the St Joseph County Auditor's Office (Kathy Gregorich). The forms are attached.
- Typically these forms need to be filed by May 10th or not later than 30 days from receiving the form 11.
- Since we were waiting for the property tax appeals to be resolved and we did not know what the ultimate agreed upon values would be, we were unable to timely file the Form 322s.
- In good faith, we filed the form 322s within 30 days of signing the last Form 134 and real property tax appeal adjustment.
- Kathy said that she is statutorily not allowed to make any exceptions and not allowed to approve any abatements if the form 322 is not filed by May 10th of any given tax year.
- Kathy said that in order for her to approve the abatement, the city of Mishawaka must go through the normal process to approve a waiver of non-compliance. (We can certainly discuss this process further if you would like).
- Based on the above facts and the date that the appeal was settled, we are requesting a waiver of non-compliance for the 2018 abatement and requesting an abatement of \$964,000 of assessed value (per the attached spreadsheet)

2019 Assessment and 2019 Abatement:

- During 2018, the majority of the remaining improvement activities were completed.
- The 1/1/2019 real estate assessment for the main Byrkit parcel was \$4,458,100 (A decrease of \$2,000 vs 2018 assessment)
- Because the value didn't increase from 2018 to 2019 on the original Form 11, we did not file a form 322 since there was nothing to abate.
- The 1/1/2019 Form 11 failed to include additional square footage and improvements that Lippert made during 2018.
- Lippert voluntarily notified and met with the Penn Township assessor to point out missing items from the Form 11.
- Lippert gave a tour and blueprints of the facility to the Penn Township assessor which allowed them to provide an accurate 1/1/19 value.
- On August 30, 2019, we agreed upon a value of \$7,101,200 for the 1/1/19 assessment date for the main Byrkit parcel (An increase of \$2,643,100 over the original value).
- Similar to the facts above, because the new assessment did not come out until August 30, 2019, we were unable to timely file a form 322 for the abatement deduction.
- Based on the above facts and the date that the appeal was settled, we are requesting a waiver of non-compliance for the 2019 abatement and requesting an abatement.

2020 Assessment and 2020 Abatement:

- We received the Form 11 values online and are reviewing them currently.
- We plan on timely filing the Form 322RE, however, need direction on the above in order to proceed.

We understand that the waiver of non-compliance process usually involves a public hearing and a resolution.

May we please discuss during our call tomorrow the preferred way to proceed.

On a separate note, we had a cost segregation study done for the Byrkit and Edison Lakes facilities. That study found that there were some items capitalized as real property that should've been capitalized as personal property for the 1/1/2019 assessment date. We have prepared amended personal property tax returns for both of these locations for 2019. These returns result in an increased 1/1/19 personal property assessment of \$751,610 for Byrkit and \$415,710 for Edison Lakes. Lippert will file the amended personal property tax returns once the above issues are addressed so the returns don't have to be amended again if something else arises from the above discussion.

Many thanks – Be Well!

Tom Baxters, CPA

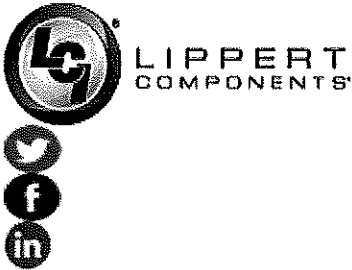
Assistant Treasurer & Tax Director

Lippert Components, Inc.

3501 CR 6 East

Elkhart, IN 46514-7663

w: 574.312.6159 | c: 574.505.0813 | f: 574.217-0181



NYSE:LCII

This message and any attachments (collectively, the "Message") are only intended for the use of the intended recipient(s) and contain information that may be confidential, subject to privilege, and/or exempt from disclosure under applicable law. If you are not the intended recipient of this Message, you are hereby notified that you have received this Message in error and any distribution, disclosure, printing, copying, storage, modification, or the taking of any action in reliance upon this Message is strictly prohibited. If you have received this Message in error, please immediately notify the sender and delete the Message from your system(s).

For details on your privacy rights, including how we may gather, use, and share your personal information, please see our privacy notice available [here](#).

RESOLUTION NO. 2020-10

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA WAIVING THE REQUIRED FILING DATE OF AUGUST 16, 2018 AND MAY 26, 2019, AND ACCEPTANCE OF THE LATE FILING OF THE DEDUCTION APPLICATION FOR THE REAL ESTATE REHABILITATION LOCATED IN AN ECONOMIC REVITALIZATION AREA ESTABLISHED BY RESOLUTION NO. R 2017-17 FOR LIPPERT COMPONENTS MANUFACTURING, INC. LOCATED AT 400 SOUTH BYRKIT AVENUE

WHEREAS, the Common Council of the City of Mishawaka, Indiana, has adopted Resolution No. R 2017-17, pursuant to Indiana Code 6-1.1-12.1 establishing the real estate located at 400 South Byrkit Avenue (the "Facility") as an economic revitalization area for purposes of a ten (10) year real estate tax abatement for Lippert Components Manufacturing, Inc. (the "Company"); and

WHEREAS, Resolution No. R 2017-17 was presented and adopted by the Mishawaka Common Council on July 5, 2017; and

WHEREAS, St. Joseph County Assessor, Rosemary Mandrici, states that the Application for Deduction from Assessed Valuation of Structures in Economic Revitalization Area (Form 322/RE) was not filed by the Company by the due date of August 16, 2018 and May 26, 2019; and

WHEREAS, The Company purchased the Facility in November 2016 for \$1,785,000; and

WHEREAS, The Company appealed the 2017 and 2018 real estate tax assessments since the main parcel was originally assessed for \$4,176,900 and \$4,460,100, respectively, which the company felt was not a fair representation of the actual pre-construction value of the Facility; and

WHEREAS, The 2017 and 2018 tax appeals were not resolved by the time the 2018 or 2019 Form 322/REs were due; and

WHEREAS, the Company received the 2019 Form 11 on April 26, 2019 with a valuation of approximately \$4,458,100 for the main Byrkit parcel, which was a \$2,000 decrease from the original 2018 Form 11. Since the value didn't increase from 2018 to 2019 on the original Form 11, the company did not file Form 322/RE since there was no increase in valuation to abate; and

WHEREAS, the Company noticed that the 2019 Form 11 did not include additional square footage and improvements that the Company made and believed the assessment was materially understated, the Company voluntarily notified and met with the Penn Township Assessor and staff on June 14, 2019. During such meeting, it was

agreed to file Form 130 and protest the assessment in order to provide the Assessor the opportunity to update the assessment for information for which he did not have prior visibility; and

WHEREAS, the Company gave a tour and blueprints of the Facility to the Penn Township Assessor and staff which provided them with the information to compute an updated and accurate 2019 assessment; and

WHEREAS, On October 2, 2019, The Company and Assessor agreed to a value of \$1,785,000 for the 2017 assessment, a \$3,000,000 value for the 2018 assessment and a value of \$7,101,200 for the 2019 Assessment. The Penn Township Assessor provided Form 134s reflecting these updated assessed values. These new valuations result in an increase of \$1,215,000 from 2017 to 2018 and an additional increase of \$4,101,200 from 2018 to 2019 which should both qualify for a real estate abatement; and

WHEREAS, the Company filed both Form 322/REs on October 9, 2019 to claim tax abatements for the associated change in values per the Form 134s; and

WHEREAS, the assessed value after rehabilitation is \$3,000,000 for 2018 and \$7,101,200 for 2019. The assessed value before rehabilitation was \$1,785,000 resulting in a deduction of \$1,215,000 for 2018 and \$5,316,200 for 2019 to which the Company would be entitled had it filed its Form 322/RE on time; and

WHEREAS, the Company otherwise qualifies for the deduction.

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

SECTION 1. The Company has presented testimonial evidence of the following facts in support of this Resolution:

- A. The Company states it didn't file Form 322/RE within 30 days after the 2018 or 2019 assessment notice was mailed, however it did file Form 322/RE after receipt of the Form 134s, albeit untimely, on October 9, 2019.
- B. The Company has met the project cost goal stated in their original petition for a tax abatement. As of January 1, 2019 the actual cost of the project was \$13,324,225.
- C. The project is an outstanding asset to the Mishawaka community.
- D. All other required documentation has been received from the Company by the required due dates.

SECTION II. The foregoing facts, taken together, lead the Common Council to conclude that compelling reasons exist to waive the filing deadline applicable to the Form 322/RE required to be filed under I.C. 6-1.1-12.1.

SECTION III. The Common Council hereby approves the requested waiver of the filing deadline for the Form 322/RE, and pursuant to Indiana Code 6-1.1-12.1-9.5 adopts this Resolution authorizing acceptance of 2018 & 2019 Form 322/REs filed by the Company on October 9, 2019.

RESOLVED THIS _____ DAY OF MAY, 2020.

President
Mishawaka City Common Council

ATTEST:

Deborah Ladyga-Block, City Clerk

LCM Realty XI LLC
Schedule of Values for Form 322/RE

Parcel ID:	Legal Description on Form 11	1/1/2017 Revised Valuation Per Attached Form 134s (Before Any Improvements)	1/1/2019 Revised Valuation Per Attached Form 134s (After Improvements)	Amount Claimed for 2018 Tax Abatement	Additional Increase (Decrease) for 2019 Tax Abatement	Total 1/1/2019 Tax Abatement
71-09-14-184-001.000-023	W Side E NW 1/4 Sec 14 37 3e & Pt Of N 1/2 14 37 3e N 555.5' +/- Of W 1/2 SW 1/4 Sec 14 37 3e Ex Lot 1 & N Pt Lot 2 JRC Corp Sub And Entire Tract S Of Rr W 1/2 NW 1/4 Sec 14 37 3e 18/19	\$ 369,200	\$ 373,200	\$ 10,000	\$ -	\$ 10,000
71-09-14-301-002.000-023	Merged into 71-09-14-301-002.000-023 Above for 1/1/19	\$ 1,785,000	\$ 7,101,200	\$ 1,215,000	\$ 4,101,200	\$ 5,316,200
71-09-14-301-001.000-023		\$ 24,400		\$ (24,400)	\$ -	\$ (24,400)
71-09-14-301-003.000-023		\$ 15,900		\$ (15,900)	\$ -	\$ (15,900)
71-09-14-301-013.000-023		\$ 46,200		\$ (46,200)	\$ -	\$ (46,200)
71-09-14-301-021.000-023		\$ 174,900		\$ (174,900)	\$ -	\$ (174,900)
71-09-14-326-001.000-023	3 Acres N End W1/2 E1/2 SW 14 37 3e 5 Ac. Beg. 195 Ft S Of NW Cor W1/2 E1/2 Sec. 14-37-3e	\$ 32,100	\$ 32,100	\$ -	\$ -	\$ -
71-09-14-326-002.000-023		\$ 53,500	\$ 53,500	\$ -	\$ -	\$ -
71-09-14-326-003.000-023	6.94 Ac M Or L Beg 527.8'S NW Cor E1/2 SW 1-4 Sec 14-37-3e	\$ 74,400	\$ 74,400	\$ -	\$ -	\$ -
71-09-15-285-005.000-023	Se Cor Ne 1-4 S Of Rr Sec 15-37-3e Filled In Broadmoor	\$ 40,900	\$ 39,800	\$ 400	\$ (1,500)	\$ (1,100)
71-09-15-428-006.000-023	Lots 18 - 23 Broadmoor Prop Sec 15 37 3e 20/21	\$ 2,000	\$ 1,900	\$ -	\$ (100)	\$ (100)
71-09-15-428-007.000-023		\$ 2,000		\$ -	\$ (2,000)	\$ (2,000)
71-09-15-428-008.000-023		\$ 2,000		\$ -	\$ (2,000)	\$ (2,000)
71-09-15-428-009.000-023		\$ 2,000		\$ -	\$ (2,000)	\$ (2,000)
71-09-15-428-010.000-023		\$ 2,000		\$ -	\$ (2,000)	\$ (2,000)
71-09-15-428-011.000-023		\$ 2,000		\$ -	\$ (2,000)	\$ (2,000)
Total Assessed Value		\$ 2,622,500	\$ 7,676,100	\$ 964,000	\$ 4,089,600	\$ 5,053,600

This property was previously under appeal with the Penn Township assessor. The original form 11s did not show an assessed valuation increase for these parcels and thus no form 322-RE was filed for the associated tax abatement. The form 134s for the above mentioned parcels were signed by the taxpayer on 8/30/2019 and 10/2/2019. These form 134s decreased the assessed valuation as of 1/1/2017 (Before any rehabilitation work was completed), and revised the 1/1/18 and 1/1/19 assessed values as work on the facility was completed pertaining to the tax abatement. The taxpayer is now filing form 322-RE for 1/1/18 and 1/1/19 to claim a tax abatement for the associated value change due to the recently filed 134s.