

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 18, 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 18, 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.

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

Clerk Block read the following letters from the Board of Zoning Appeal and City Plan Commission regarding their recommendations from their May 12, 2020 meeting.

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.

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.

Clerk Block read the following proposed vacation and opened the public hearing.

VACATION R2020-01

Vacating Areas of N Wenger Ave between LWE and Homewood – The East 63' of the East/West alley North of Indiana on the West and Wenger on the East- Mishawaka High School

Ken Prince, City Planner, spoke in favor of the vacation. Mr. Prince began stating the modification for the alleyways were submitted months ago with two exhibits marked the same. Mr. Prince explained his staff only found one exhibit and did not include the other legal description and wanted to correct the description so the vacation matches the ordinance.

The public hearing closed at 7:10PM.

Clerk Block read the following proposed ordinances by title and assigned committee.

PROPOSED ORDINANCE NO. 2020-11

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

Vacating Areas of N Wenger Ave between LWE and Homewood – The East 63’ of the East/West alley North of Indiana on the West and Wenger on the East- Mishawaka High School (requesting 2nd reading)

Mrs. Voelker made a motion to allow second reading for **PROPOSED ORDINANCE NO. 2020-11** upon a second by Mr. Bellovich.  **Vote:** Motion carried by roll call vote (summary: Yes = 8). **Yes:** Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.
Excused: Mr. Hazen.

Mr. Prince reiterated his comments from the previous public hearing on **Vacation Resolution No. 2020-01**.

Question was called for at 7:13 P.M. on **PROPOSED ORDINANCE NO. 2020-11**.  **Vote:** Motion carried by unanimous roll call vote (summary: Yes = 8). **Yes:** Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **ORDINANCE No. 5692**

PROPOSED ORDINANCE NO. 2020-12

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 from C-1 General Commercial, C-5 Neighborhood Commercial and I-2 Heavy Industrial to R-3 Multi-Family Residential – 1215 & 1225 E. Jefferson
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-13

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

**PUD Amendment to allow Quick Services Oil Changes as a use and Reduction of Parking Services, Setbacks and Landscaping – 317 W. Indian Ridge Blvd.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-14

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

**Annex and Rezone to C-1 General Commercial – 52921, 52861, 52885 & 52841 Fir Rd.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-15

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

**Rezone from I-1 Light Industrial to C-3 City Center Commercial – 407 W. Fourth St.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-16

**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
(Assigned to Budget and Finance Committee)**

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

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, IN
Use Variance for 3-unit in R-1 Single Family Residential – 201 Smith St.**

Marlin Schwartz, Artisan Group, spoke in favor of **RESOLUTION NO. 2020-07**. Mr. Schwartz began stating they discovered the area was not in compliance with zoning when looking to refinancing. He continued to say the building was being used as 3 units since before 1973. Mr. Schwartz added they are looking to get the zoning lined up in order to be 3 units.

Mr. Hixenbaugh questioned Mr. Schwartz relationship was with Artisan Group. Mr. Schwartz said s he was a 50 percent member. Mr. Hixenbaugh also asked if there were any other matters to

be discussed. Mr. Shwartz stated while going through properties being sold in a package, the 2 areas were not in line with zoning compliances.

Question was called for at 7:22PM for **RESOLUTION NO. 2020-07.**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Excused: Mr. Hazen.**

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, IN
Use Variance for 3-units in R01 Single Family Residential – 1210 W Sixth St.**

Marlin Shwartz also spoke in favor of **RESOLUTION NO. 2020-08.** Mr. Shwartz stated his issue was the same as the resolution before. He questioned time frames for parking. Mr. Hixenbaugh told Mr. Shwartz to contact Ken Prince, City Planner for information regarding parking.

Question was called for at 7:26 PM for **RESOLUTION NO. 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.**

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
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**

Matt Lentsch, Bethel University, spoke in favor of **RESOLUTION NO. 2020-09.** Mr. Lentsch began requesting for a shipping container for storage accessories for the athletic training facility and reduction in parking spaces. Mr. Lentsch gave history on the property; in 2005 the purchasing began and in 2008 the purchasing was finalized at \$1.85 million and \$885,000 was put into property improvements. Mr. Lentsch made it clear Bethel wanted to be a great neighbor, he met with Mrs. Voelker along with several neighbors. Mr. Lentsch stated Bethel intends to improve the shed with a new roof and painting and intend to move the container and add buffers as appropriate. He continued to say there would also be a row of evergreen trees planted along the east property line adjacent to the storage building. Mr. Lentsch requested a reduction to 16 to reduce foot traffic. Mr. Lentsch stated the location of the building would be on the south edge of

campus, which will be in walking distance for facility users. Mr. Lentsch clarified the university would reopen face-to-face classes in the fall and will follow all CDC and Health Department guidelines with a quarantine facility on campus and testing when students arrive to campus. Mr. Lentsch concluded stating the university has invested a total of \$70 million to the state and \$36 million to the City of Mishawaka.

Mrs. Voelker asked was the \$36 million dollar an annual investment. Mr. Lentsch replied yes, it included taxes, aid, tourism, etc.

Mr. Compton asked would quarantine held on or off campus. Mr. Lentsch stated they will screen student when they return and told to follow all the guidelines (hand washing, social distancing), this would be enforced immediately. He continued to explain any students arriving from out of the United States, would be screened and admitted until after tests confirm no trace of the virus. Mr. Lentsch continued stating there were Bethel owned houses adjacent from campus designated for quarantine lodging.

Mr. Banicki asked how many individuals were on campus right now. Mr. Lentsch stated about 50 international students who could not return home. Mr. Lentsch continued explaining they had staff on campus sanitizing the homes.

Mr. Mammolenti asked where the neighborhood meeting was held. Mr. Lentsch said the meeting was intended to be held on campus, but a zoom meeting was held due to the virus with Mrs. Voelker in attendance. He said four neighbors were also in attendance with the addition of a few administrators where all questions were answered. Mr. Lentsch also met with the president of the Home Owners Association with a couple others to answer additional questions. Mr. Memmolenti also asked if there were any strong objections from the neighbors. Mr. Lentsch answered the only clear objected involved buffers to be made and the shed on the property and what improvements would be made.

Mr. Hixenbaugh thanked Mr. Lentsch for the presentation and asked for more inclusion of the At Large members of the council who also represented Bethel University and as students return and as plans continue to grow. Mr. Hixenbaugh also stated it was great news the university was working to welcome the students back, along with St. Mary's and Notre Dame, but it was a clear concern that Bethel is near a residential neighborhood and it was important Mr. Compton and the Public Health & Safety committee to work with the university to receive additional information in June or July.

Mrs. DeMaegd asked would the athletic facility be open to the public. Mr. Lentsch stated there will be times clinics are provided for high school track athletes along with summer camps when the public will be welcomed.

Mr. Compton asked if there would be swimming scholarships offered. Mr. Lentsch stated there were scholarships available and the new aquatic center in Elkhart would also be used by the swim team. Mr. Lentsch stated the team used several facilities around the area in the past because they could not afford one but now, they will be using the facility in Elkhart.

Mrs. Voelker commended Mr. Lentsch and the rest of the Bethel staff for their efforts with Lowell Woods and neighbors during the 6-month process.

Question was called for at 7:53PM for **RESOLUTION NO. 2020-09**  **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.**

RESOLUTION NO. 2020-19

**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. R2017-17 FOR
LIPPERT COMPONENTS MANUFACTURING, INC. LOCATED AT 400 SOUTH
BYRKIT AVENUE**

**Waiver of Non-Compliance for Real Personal Property Tax Abatement – Lippert
Components Manufacturing Inc.**

Ken Prince, City Planner, spoke on **RESOLUTION NO. 2020-19**. Mr. Prince began stating the form was not timely filed and Lippert started with an appeal process while working with the Assessor's office. Mr. Prince continued stating Lippert followed through with their investment and the abatement granted by the council should be received through this action. Mr. Prince concluded explaining the resolution was more of a procedural item.

Tom Bauters, Lippert Components Manufacturing Inc., appreciated the continued support from the council and explained the County Assessor came in for an assessment and took all necessary approaches to receive the abatement.

Mr. Bellovich asked what kind of investment they had in the community regarding the facility on Byrkit Street property and the Headquarters building. Mr. Bauters did not know the clear answer and asked upon Joe Salisbury to further answer the question.

Joe Salisbury, Tax Manager for Lippert, answered stating just under \$40 million dollars have been invested in the purchasing and rehabbing of the Byrkit Building and Headquarters building in Edison Lakes.

Mr. Mammolenti thanked Lippert, Mr. Bauters and Mr. Salisbury for their continued investment in Mishawaka and wished them the best of luck going forward.

Question was called for at 8:02PM for **RESOLUTION NO. 2020-19**  **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.**

NEW BUSINESS

Mayor Wood gave his routine update on response to COVID-19. Mayor Wood stated the curve flattened with less than 10 patients who have tested positive currently in the hospital. Mayor Wood continued stating there was an average of 2-3 calls per day, but the majority of the tests are negative, and the normal runs are being treated as pandemic runs. He said so far, no city employees have tested positive and all supplies have been received, except for a low supply on gowns. Mayor Wood continued stating normalized operations were back in all buildings and the public was now able to access buildings. He said adjustments have been made along the way in workspaces and staffs have been informed to maintain social distancing along with CDC orders. Mayor Wood continued to say thermometers have also been purchased and temperatures were being taken daily. Mayor Wood also expressed his appreciation for Susan Kile and how proud he was of her for all of the effort she has put into enforcing the guidelines, along with her normal duties in the HR Department. Mayor Wood continued stating they were continuing to work on the Recovery Plan and the funds received from the Care Act have been allocated, approved and were expected around July 1st. He said the forecast from Baker Tilly has not yet been received, but the state government took in about \$1 million dollars less in April compared to last April, and a 44% reduction in revenue which would impact Mishawaka. Mayor Wood added he delivered 4,800 to the Mishawaka Food Pantry. Mayor Wood concluded stating how proud he was of all staff for showing up and serving the citizens of Mishawaka during this time and also expressed appreciation for the citizens' dedication to following the recommendations and flattening the curve.

Mr. Compton expressed appreciation for Mayor Wood update. Mr. Compton asked if COVID-19 numbers could be seen on a regular basis by zip code. Mayor Wood did not know of the numbers until reported, but he would try to get the information and stated the numbers come from the Health Department. Mr. Compton also asked if the council could receive information from the Saint Joe Regional Medical Center & Memorial Hospital daily. Mayor Wood stated the Public Safety personnel receive the information, but he would ask for permission to share it with the council.

Mr. Mammolenti asked how far along the Loan Program was in the process. Mayor Wood stated small businesses have reached out and are interested in the program. Mayor Wood concluded answering there were options being considered with the possibility of the State Care Act allocation being a source.

Mr. Hixenbaugh thanked Mayor Wood for his update and stated there were still challenges to be addressed. Mr. Hixenbaugh followed up explaining he was concerned of the approval of future expenditures without knowing overall city finances. Mayor Wood commented the funding sources impacted by lack of revenue, general fund, local income taxes, CEDIT, etc. would not include the loan program and will go through more stable funds. Mayor Wood concluded stating

they were cognizant of potential for lost revenue and prioritizing where the funding would come from. Mr. Hixenbaugh added the thermometers being purchased for employees were a great step, but employees and the public should have mandatory testing to ensure health and safety. Mayor Wood agreed with Mr. Hixenbaugh and expressed how tough it was to regulate testing throughout the buildings, but they would continue to discuss receiving data. Mr. Hixenbaugh concluded thanking the Parks Department for regulating rules and guidelines as events were being hosted in Mishawaka and doing everything they could to keep everyone safe. Mr. Hixenbaugh also thanked Mayor Wood for the answers and information shared.

Mr. Hixenbaugh announced a discussion item to move the June 3rd meeting back to June 1st due to City Hall not being used as a polling place. Mr. Bellovich made a motion to revert the meeting date to June 1st with a second by Mrs. Voelker. Question was called for at 8:38PM  **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.

Mr. Mammolenti announced a virtual Twin Branch neighborhood meeting would be held on Zoom on May 20th at 7PM. The number to access the meeting will be 715-679-2539 with the password 783279.

Mr. Hixenbaugh acknowledged it was National EMS Week and congratulated all EMS workers throughout the country, particularly the ones serving the citizens of Mishawaka. Mr. Hixenbaugh also thanked the IT department and Clerk Block for their efforts to present the meeting electronically.

Mr. Hixenbaugh concluded the meeting by reading the following statement:

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.

ADJOURNMENT 8:42PM

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

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