

# AGENDA

July 06, 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: 129 444 4263

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 [129444263.mishawaka@lync.webex.com](https://129444263.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 June 15, 2020
5. Petitions, Communications, Remonstrance and Memorials
6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2020-23      Investment of Public Funds Outside the  
Mishawaka City Limits

8. Resolutions

9. Ordinances on Second Reading

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.  
(Petitioner Requesting Amendment)

P.O. No. 2020-19      Historic Preservation to include removal of historic  
district designation or de-designation.  
(Assigned to Land Use Planning Committee)

P.O. No. 2020-20      An Ordinance to maintain Normain Heights as a  
Conservation District.  
(Assigned to Land Use Planning Committee)

P.O. NO. 2020-21      Rezone from I-2 Heavy Industrial to R-1 Single Family  
Residential to allow for addition to Garage on property  
with an existing Single-Family House - 3706 York Street  
(Assigned to Land Use Planning Committee)

P.O. No. 2020-22      Annex & Zone to C-1 General Commercial for Future  
Medical Office - 16813 Douglas Road  
**PUBLIC HEARING- NO VOTE**

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

**Reconsideration of Proposed Ordinance No. 2020-17, Ordinance No. 5697 for republication.**

P.O. No. 2020-17      Transfer of Funds and Additional Appropriation  
Motor Vehicle Highway Restricted Fund      \$427,150.00  
TO:  
Local Bridge and Road Matching Grant fund

Additional Appropriation of Funds to:  
Local Bridge and Road Matching Grant Fund \$854,300.00

## 12. New Business

Mayor Wood COVID-19 Update

## 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.***

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## REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

**June 15, 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, June 15, 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: Mike Trippel, Council Attorney and Clerk Block.

Minutes for the Regular meeting of June 1, 2020 were approved as received from the Clerk's Office.

Clerk Block read the following letters to the council.

**A letter from the Historic Preservation Commission regarding recommendations from their June 02, 2020 meeting.**

**A letter from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their June 09, 2020 meeting.**

#### **APPEAL #20-21**

An appeal submitted by Michiana Rental Properties, LLC, requesting a Use Variance for **623 East Fourth Street** to allow for a dog grooming salon.

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

#### **PETITION #20-10**

A petition submitted by Kenneth L. and Marcy J. Bergner requesting to rezone **3706 York Street** from I-2 Heavy Industrial District to R-1 Single Family Residential District.

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

#### **PETITION #20-11**

A petition submitted by C&H Wallace Family LLC requesting to annex and zone **16813 Douglas Road** to C-1 General Commercial District.

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

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

**PROPOSED ORDINANCE NO. 2020-19**

**AN ORDINANCE AMENDING CHAPTER 125, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE HISTORIC PRESERVATION ORDINANCE” OF THE CITY OF MISHAWAKA, INDIANA.**

**Historic Preservation to include removal of historic district designation or de-designation  
(Assigned to Land Use Planning Committee)**

**PROPOSED ORDINANCE 2020-20**

**AN ORDINANCE TO MAINTAIN NORMAIN HEIGHTS AS A CONSERVATION DISTRICT WITHIN THE CITY OF MISHAWAKA, INDIANA**

**(Assigned to Land Use Planning Committee)**

**PROPOSED ORDINANCE NO. 2020-21**

**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-2 Heavy Industrial to R-1 Single Family Residential to allow for addition to Garage on property with an existing Single-Family House – 3706 York Street  
(Assigned to Land Use Planning Committee)**

**PROPOSED ORDINANCE NO. 2020-22**

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

**Annex & Zone to C-1 General Commercial for Future Medical Office –  
16813 Douglas Road**

**(Assigned to Land Use Planning Committee)**

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

**RESOLUTION 2020-12**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: 52921, 52861, 52885 AND 52841 FIR ROAD, GRANGER, IN 46530**

Ken Prince, City Planner, spoke on **RESOLUTION 2020-12**. Mr. Prince stated the area was 3.86 acres and 33% of the property was contiguous to City and plans were distributed to City Departments to make sure the area could be serviced. Mr. Prince also added all departments say they can be serviced under the current budget.

Question was called for at 7:12PM for **RESOLUTION 2020-12**  **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 2020-13**

#### **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: 623 EAST 4<sup>TH</sup> STREET Use Variance to allow Pet Grooming & Office Use**

Matt Vukovich, 4000 E. Bristol Street Suite 3, spoke in favor of the **RESOLUTION 2020-13**. Mr. Vukovich stated was the property owner. He mentioned he came before the council in the past for the tailor who ultimately did not work out.

Mr. Emmons asked if there were any stipulations to follow. Mr. Vukovich stated they were to follow the requirements of the size of the sign and no overnight stays. Mr. Emmons continued by explaining his hesitance to give a variance to a petitioner who does not follow through with their requirements. Mr. Vukovich explained in the past the salon was not doing business correctly with people coming in at all hours and hoped it will not be the case with the new tenant.

Mr. Compton asked did he own the residential unit next to the property. Mr. Vukovich answered yes. Mr. Compton also questioned how and where dogs will be let out to relieve themselves while there and if there will be a fenced area. Mr. Vukovich stated he had no problem putting a fence up and will let the tenant answer those types of questions. Mr. Compton expressed concern about people dropping pets for long periods of time and it should be addressed before the business opened up. Mr. Vukovich apologized stating he misunderstood, thought it was alright for the dog groomer to start up business then soon after realized a new variance needed to be assessed. He also stated he would be available by phone and would be fully accountable.

Mr. Mammolenti asked if he lived in the residential unit next to the property. Mr. Vukovich stated he does not, but it was currently occupied and fully aware of the variance.

Joanna Dwyer, owner and operator of the grooming salon, answered questions regarding the business. Mrs. Dwyer began stating she has owners drop their dog off for an hour to an hour and a half and she makes it clear their pet should use the bathroom before arriving. Mrs. Dwyer stated she was the only worker and she takes one dog at a time. She operates from 8 in the

morning to 5 in the evening at the latest. Mrs. Dwyer also stated she has met all of the neighbors in the surrounding area and informed them of her business and answered any questions they had. Mrs. Dwyer mentioned some of the neighbor have become her clients.

Mr. Emmons questioned hours of operation. Mrs. Dwyer stated she begins her day at 8 or 9 in the morning until 4 or 5 in the evening, closed on Sunday and Monday. Mr. Emmons also questioned parking on the property. Mrs. Dwyer stated there were two parking spots in front of the establishment and a couple of parking spots on the side.

Mr. Compton asked were there 2 workstations in the building. Mrs. Dwyer stated there was only one station which included a table and one tub to groom the dogs.

Mr. Banicki asked how long she has been running her business at this location. Mrs. Dwyer stated she rented the building in February and began conducting business in May. Mr. Banicki also asked where she worked in the past. Mrs. Dwyer stated she worked for PetSmart in Chicago and Mishawaka, and at a private salon in Niles for a few years which led to her deciding to work on her own after doing well for a long period of time. Mr. Banicki asked did she have a pet size limit for dogs. Mrs. Dwyer answered it depends if they will fit on the table or in the tub, but has handled a dog as big as a Labrador. She also stated if the dogs are too big she asks the clients to look elsewhere for business.

Mrs. Demaegd asked if she was licensed in Indiana for grooming. Mrs. Dwyer answered there is no license required in Indiana, but she has a certification through Illinois where she received training. Mrs. Demaegd asked if she checks for current vaccinations on the animals. Mrs. Dwyer stated she requires by State Law for paperwork of recorded vaccinations.

Mr. Hixenbaugh followed up stating council members have the discretion to amend resolutions and add conditions if necessary. Mr. Hixenbaugh also asked for clarification on the enforceability that would take place if a petitioner did not comply with conditions built into resolutions. Ken Prince, City Planner, stated any condition placed that has not been met can enforce citations which could also lead to court action. Mr. Emmons asked if there has ever been anyone taken to court for violation of a variance. Mr. Prince replied no, but citations were issued on this particular property in the past and were paid. Mr. Emmons expressed interest in finding a way for the council to rescind the variance if guidelines were not followed.

Mr. Banicki asked was it possible to give a variance for a certain amount of time to then come back before the council for re-approval. Mr. Prince answered it has happened in the past and recommended that the council pick and choose which variances to enforce this on.

Mr. Compton asked would putting time limits on variances be discriminatory. Mr. Prince stated it would not be, because variances were considered individually, and each was based on circumstances for the conditions specific to it.

Mr. Hixenbaugh showed appreciation for the information the petitioners provided and commitment to the process. Mr. Hixenbaugh stated this was a matter of trust and hoped they would follow through with their commitment.

Question was called for at 7:41PM for **RESOLUTION 2020-13**  **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 ordinances by title and opened the public hearing.

**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 Service Oil Changes as a use and Reduction of Parking Spaces, Setbacks and Landscaping – 317 W. Indian Ridge Blvd.**

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

Pete Agostino, Attorney-at-law at 131 S. Taylor St., represented the developer with connection to the petitioner. Mr. Agostino stated he believes it was a very important project and a very important step forward for the city of Mishawaka. He continued stating there were 2 main points heard from the council members & staff; the first point being the need to be flexible to meet the needs of the marketplace. Mr. Agostino stated it's important, because the marketplace has tried to place something in the area for two years. He pointed out on page 3 of the 2000 Comprehensive Plan, there was a point explaining the plan needed constant updating every 5 years. Mr. Agostino said the goal was to make Mishawaka the most progressive and appealing city. He explained progressive in this context meant openness to new ideas and facts, meaning not just to follow a 20-year plan, but to move forward. Mr. Agostino then began answering concerns from council members. He stated the first concern was where Home Depot stood and if they in support of this proposal. Mr. Agostino said he submitted a letter from Home Depot to the council; stating they were supportive of this move and this operation would not add to any further traffic congestion but would instead take advantage of traffic present. He went on to state another concern involved was environmental issues. Mr. Agostino stated the products recovered would be 100% recycled and there would be a truck to come in every two weeks to take away products. Mr. Agostino also laid out concerns raised by the staff, which included regulatory precedent. He felt this was a high-quality occupant being professionally built under three quarters of a million-dollar investment. Mr. Agostino also stated they would work with the Planning Department to meet concerns and needs. He said another concern raised by staff was the location. Mr. Agostino made it clear they would be located on Indian Ridge, not Main Street. He stated other staff concerns can be addressed with proper planning with the Plan Commission. Mr. Agostino said staff did recognize the out lot should be developed. He said this was what a PUD was supposed to be. Mr. Agostino concluded stating this was a good opportunity to take advantage of successful planning in the area and it fits.

Mr. Banicki asked how the water table would handle the water level in the basement. Mr. Agostino stated it would be tough but was not sure if any tests have been made on it at this time.

Mr. Mammolenti asked if they could not dig a basement would they move forward with the project or look for another building. Mr. Reiskovich answered if they could not build a basement, they must add 500 feet to allow for equipment.

Mr. Bellovich asked how big the storage tanks for waste oil were. Mr. Reiskovich answered 5.5 gallon drums. Mr. Bellovich also asked if there was a secondary containment area for waste storage. Mr. Reiskovich stated they were stored off to the side where there was no foot traffic.

Mrs. Voelker asked were all surrounding businesses contacted. Mr. Reiskovich stated they spoke with all the owners or attorneys with no further concerns just to follow guidelines.

Mr. Mammolenti asked Mr. Banicki if there were any remonstrance calls for his business, in which Mr. Banicki answered no. Mr. Mammolenti also asked what was considered automotive and was not. Mr. Prince stated automobile related uses can range of things from oil change to car washes to gas stations.

Mr. Hixenbaugh added asking were there any automotive activity in C-1 Mr. Prince replied there was not. Mr. Prince also added automobile uses have been kept off of Main Street and they have kept it that way for the past couple decades. Mr. Prince then proceeded to speak on automobile uses in detail with the following statement:

There are multiple facets that make Main Street different, but one of them clearly is the lack of Automobile related uses. Drive and Shine is a wonderful business, but in the context of the area, it stands out like a sore thumb, you can make a building out of all brick and glass, but automobile businesses by their nature want and do draw attention to themselves in a different way. The use of bold disproportionally sized signage, colors, and multiple menu boards adjacent to the street. Even the giant American flag is used not only for patriotism, but to draw attention to the business. Belle Tire on Grape does the same. I am all for the Flag and the display of it, my point is that automotive related uses are in fact different than the other uses located along this corridor. The classic stylings of Ron's Grape Road automotive are subdued in comparison to typical Automobile related uses. Imagine John's Auto Spa which was recently approved by the City at the corner of Grape and McKinley, it will be a very nice modern carwash facility, that being said ask yourself if the orange panels and fake palm trees are appropriate for this section of Main Street? We talk about flexibility and I can use the same argument of why this should not be permitted in this location. We are all in favor of maximizing development, but this was never outlawed. Automobile uses were never planned or envisioned as part of the Home Depot. They never asked the council for it and it was never identified in the PUD until now. I remember a discussion I had with Tammy Pesek one of the owners of the Corndance Tavern. She indicated that some of their patrons questioned why they would locate on Grape Road. If you recall, they actually had legal counsel speak in opposition to Belle Tire when it came in. All development is not the same and should not be mixed together. Relative to Main Street, ask yourself, if you are going to be investing millions of dollars in a bank or a restaurant, if it were your money, would

you be more inclined or less inclined to make the investment with what amounts to a Jiffy Lube next door?

The four examples that I want you to consider regarding Precedent and Location are:

- 1) The northeast corner of Main Street and University Drive (Former Charter Hospital site). I was approached by a developer who was interested in a combination convenience store/restaurant for that location. If they oriented the restaurant part toward Main Street, and oriented the pumps toward University, but still clearly visible, would that be acceptable.
- 2) I was approached by a Development Company representing Sam's Club that they wanted to do a fuel concept in front of Sam's. I indicated our desire to keep this type of use off of Main Street and it was never filed. Would that be acceptable? I would offer you if this were to be approved tonight; I would say they should go ahead and build the fueling station.
- 3) I was approached by a national used car dealer who was interested in a prominent location on the north side of Mishawaka, roughly 5 acres, for a used car center. There are not many tracts of land of this size left. If such a dealership was proposed on Douglas Road behind Golden Corral, less than 110' and in clear sight of Main Street, despite only currently having access to Douglas Road, would you approve it?
- 4) The Hospice office located west of Stanton Optical has had a number of uses since it was originally constructed. We were contacted by the agent multiple times regarding their difficulty in providing a tenant. In this case, the lot was carved out of the Stanton Optical site. They had a lot of restaurant interest but couldn't meet the parking requirements based on what they had done. If they lose this tenant, would you consider a small car wash as an appropriate use?

If the oil change facility passes, I would say we are changing the uses regarding what we are doing on Main Street. PUDs allow for a certain amount of flexibility, but we have heard tonight the examples of Drive and Shine on Main Street & the example of the Midas facility on University Drive. When Midas was developed, its only access was off of University Drive, giving it no access to Main Street. The only reason it has access to Main Street now is because when Menards came in to expand, we had them do the connection to Main Street at that point in time, because of the traffic ingestion occurring there.

Mr. Hazen asked about parking spots. Mr. Prince stated the Home Depot has an excessive number of parking spots, which would be good for restaurant use. Mr. Prince also mentioned Chris Jamrose, City Engineer, has concerns about the development of this site.

Mr. Mammolenti asked how long the location was available for development. Mr. Prince said he did not know because he never saw a sign or listing for the property. Mr. Mammolenti also asked would this proposal have access to Main Street. Mr. Prince stated Home Depot wanted to face

Main Street and not be on Indian Ridge. Mr. Prince also said there were three access points in this development at Main Street, Indian Ridge, and Douglas Road.

Mr. Hixenbaugh appreciated Mr. Prince's passionate presentation. Mr. Hixenbaugh asked Mr. Trippel for clarification on litigation within the Staff Report involving the history of other sites of precedent in the area. Mr. Trippel stated in 1994, there was litigation regarding the development of Midas on University Drive. He said the council turned the development down 6-3 which resulted in a lawsuit filed and was resolved in court. Mr. Trippel continued to say the council then reconsidered and the development passed. Mr. Trippel continued explaining Drive & Shine had no litigation found, although it had been very contentious. Mayor Beutter vetoed the proposal and the council overrode the veto, which resulted in it being constructed. Mr. Trippel concluded stating the council has discretion, with every case being different, to make decisions based on facts and information presented.

Mr. Agostino added Mishawaka was well served by Mr. Prince and appreciated his drive and vigor in terms of what he believes is best for the city. He also stated Mr. Prince isn't the sole voice and was not an elected official, unlike the council and they have the ability to address issues. Mr. Agostino continued stating the examples Mr. Prince brought to the council do not apply and this was the only petition before the council to consider regarding this property. Mr. Agostino stated the citizens of Mishawaka trust the council to take upon future cases based on their merits but should not be a reason to be afraid to act on the issue at hand. Mr. Agostino concluded stating they believed the use of the out lot would be the best use and asked for their approval.

Mrs. Voelker asked Mr. Prince when the PUD changed to 8 lots. Mr. Prince stated the PUD has been amended several times, but he did not have the information with him. He also stated some changes do not need to come to the council and the PUD itself was established in 2002. Mr. Prince mentioned several businesses in the past have been involved, such as Aldi, Krispy Kreme, Chick-Fil-A, Chipotle, Stanton Optical, OfficeMax, and Home Depot.

Mr. Mammolenti asked if the basement design has to be changed, will they have to come back to the council for approval. Mr. Prince stated the council would approve the use and the out lot itself, but the details would be worked out with the Planning Commission. Mr. Mammolenti also asked if there was anything from a design standpoint, they could do to get Mr. Prince on board. Mr. Prince stated no, because it was still automobile related use.

Mr. Hixenbaugh asked Mr. Trippel to clarify verbiage in the ordinance under paragraph 4, the proposed amendment could be injurious to property values, which he does not recall the council approving. Mr. Trippel stated the petitioner could submit a revised ordinance that would reflect the council's decision. Mr. Prince also explained it was their standard practice to prepare findings as part of recommendation from the Plan Commission and in this case, they recommended denial of the project 6-3. Mr. Hixenbaugh made it clear there would need to be a revision to the ordinance if the petition were approved.

Mr. Agostino stated he revised an ordinance with changes and could work out the changes with Mr. Trippel to submit it.

Mr. Hixenbaugh stated in this instance it was important to rather than call for the question and vote; make a specific motion to approve or deny the petition being presented, a second to that motion, and a vote on that motion for the record. He explained to approve the ordinance as it is drafted would deny the petition and not allow the development to occur. Mr. Trippel concurred with Mr. Hixenbaugh's statement. Mr. Trippel also stated normally the ordinance would be amended on the floor, but in this instance the ordinance was only drafted as specific findings supporting denial without another ordinance supporting approval.

Clerk Block suggested the council postpone the vote until the next meeting to allow for time to receive an ordinance that can be passed. Mr. Hixenbaugh stated he agreed with Clerk Block and that option would be on the table.

Mr. Mammolenti asked what the timeframe allowed for a postponement for the ordinance to still be valid. Mr. Trippel stated the council is given 90 days.

Mr. Prince apologized for the confusion and encouraged the council to answer yes or no to each finding separately in the ordinance according to the comprehensive plan to avoid further confusion and move forward, if necessary. Mr. Hixenbaugh stated he will not be in favor of approving an ordinance that makes negative findings and not have it either be amended this evening or at a later date.

Mr. Bellovich made a motion to postpone the public hearing on the proposed ordinance until the next meeting on July 06, 2020 subject to the drafting of a revised ordinance for consideration by the council with a second from Mr. Hazen.

Mr. Hixenbaugh called for roll call vote to postponed Proposed Ordinance 2020-13 until July 06, 2020

Clerk Block roll call showed:



**Vote: Motion passed (summary: Yes = 8, No = 1, Abstain = 0).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker.**

**No: Mr. Hixenbaugh.**

**Motion carried.**

#### **PROPOSED ORDINANCE NO. 2020-14**

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

**Annex and Rezone to C-1 General Commercial – 52921, 52861, 52885, 52841 Fir Rd.**

**VOTE ONLY**

(At the prior meeting per State Statute, a public hearing was conducted on the following proposed ordinance)  
Clerk Block explained the committee report was given last meeting.

Question was called for at 8:53PM for **PROPOSED ORDINANCE NO. 2020-14** **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. 5695**

### **PROPOSED ORDINANCE NO. 2020-16AA**

#### **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA TRANSFERRING AND REAPPROPRIATING \$515,000 FROM CREDIT FUND TO CREDIT REVOLVING LOAN FUND AND AUTHORIZING THE USE OF SAID FUNDS FOR THE PURPOSE OF MAKING LOANS UNDER THE COVID-19 EMERGENCY LOAN PROGRAM**

Mr. Emmons reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee upon a second by Mr. Banicki motion carried.

Ken Prince, City Planner stated the city has allocated funds to Food Distribution and the ordinance presented this evening involved funding small businesses. He began explaining to fund this, they refunded the Twin Branch park improvements and a street sweeper exclusively for the Riverwalk out of TIF to provide funds for the program. Mr. Prince stated, they were asking for these funds to be moved to fund the loan program with \$15,000.00 going to Lake City for the servicing of the loans. He explained the basic premises was a 24-month loan, at a maximum of \$10,000.00 with the first six months interest free, and the loan would be repaid over the next 18 months after receiving it.

Mrs. Voelker thanked Mr. Prince and Clerk Block for forwarding the application.

Mr. Hixenbaugh stated he hopes this could be tied to the CARES Act money received through the state and hopes the economy would improve. Mr. Hixenbaugh also suggested if this were to happen again, a plan should be looked at to aid citizens who have lost their jobs as a result of the pandemic.

Question was called for at 8:59PM for **PROPOSED ORDINANCE NO. 2020-16AA**   
**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. 5696**

**PROPOSED ORDINANCE NO. 2020-17**

**AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD AND BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2020 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2020**

**A Motor Vehicle Highway Restricted Fund in the amount of \$427,150.00 to Local Bridge and Road Matching Grant Fund; Additional Funds to Local Bridge and Road Matching Grant Fund in the amount of \$854,300.00**

Mrs. Voelker reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2020-17**. Ms. Miller stated the appropriation of the state grant added with the annual transfer of match from the city, by state statute, gives the total of \$854,300.00 to be spent for community crossing.

Question was called for at 9:02PM for **PROPOSED ORDINANCE NO. 2020-17**  **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. 5697**

**PROPOSED ORDINANCE NO. 2020-18**

**AN ORDINANCE DECLARING AN EMERGENCY IN DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2020**

**Additional Appropriation to various Departments in the amount of \$117,208.00**

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

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE 2020-18**. Ms. Miller stated this ordinance was a clean-up of the budget to match the submission of various salaries in Gateway to the state.

Question was called for at 9:05PM for **PROPOSED ORDINANCE 2020-18**  **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. 5698**

### **PRIVILEGE OF THE FLOOR**

Bryan Tanner, 525 Calhoun Street, read the following statement regarding the law suit by the city of Mishawaka to the Mishawaka Firefighters Union, IAFF Local 360:

Mr. President, members of the council, clerk, and mayor,

On June 3<sup>rd</sup>, the South Bend Tribune published an article about the City of Mishawaka filing a lawsuit against the Mishawaka Firefighters Union, IAFF Local 360 regarding wages and compensation negotiated in 2019 to be effective January 1<sup>st</sup>, 2020. A portion of those wages have not been realized and an attempt to complete arbitration has been upended by this suit.

Within the article, Mayor Wood is quoted as saying that “it’s just about following the process that we always have in the city and protecting the integrity of that process.” Additionally, it was stated that this sets a bad precedent for other unions in the city.

Well, when the article was released, I shared my thoughts on this travesty through social media, but I wanted to come here, before you, to issue a statement for the official record of the common council.

If the problem with negotiations is the claimed inconsistency, precedent, or process, then why isn’t there a dispute from this administration or a law suit against the Fraternal Order of Police post #91 for compensatory stipends included in their portion of the ordinance? Or with that in mind, the consistency in which various stipends and reimbursable expenses have been included in the most recent and past negotiations, both during and prior to the current administration?

Now I know there were anecdotal disputes over the personal invitation extended by the council to the administration, but wasn’t every negotiation meeting posted and publicly notified per state statute? All executive session regulations were followed, and haven’t yet been disputed by the administration, have they? No, because the implications made by the mayor that any proceedings were conducted improperly are categorically false.

Did the negotiating committee not perform due diligence of consulting with the council’s own legal representation prior to finalizing the terms of the ordinance? Of course it did.

The negotiating committee was a bi-partisan representation of the council, and all voices were heard during deliberations among the committee and with the union negotiating bodies. The decisions made required compromise from all involved, but approvals made were unanimous. That said, I have serious concerns with how one member of the committee was invited to a closed-door meeting with members of the administration in an attempt to coerce a change of action. That member of the council and negotiating committee deserves tremendous credit for strong moral fortitude and honoring the integrity of our committee’s process.

Casting all these quotes and facts aside, there is long standing Indiana Code, as passed by our state legislature, concerning the realm of what the City Council can negotiate with police and fire unions. This code was updated several years ago to broaden the spectrum of what a council has the authority to negotiate by changing the wording from “salary” to “compensation” within that section. Our council and negotiating committee didn’t and doesn’t even need to stand on the precedent of providing compensatory benefits such as equipment, uniform, health, or other stipends and specialty pay.

It is defined in plain English within the laws of our state that city councils are the fiscal body of a municipal government. It has the duty through our state constitution and associated legal code to negotiate compensation with police and fire departments in order to pass subsequent ordinances related to those negotiations. These negotiations took place in good faith and in accordance with all applicable laws in 2019.

The ordinance was passed by the overwhelming, bi-partisan majority of the council. The mayor’s veto was also overturned by an overwhelming, bi-partisan majority of the council.

The officials present in this room should have already been aware of those facts, and now I’ve laid them all out there, you have no excuse to hide from them.

Knowing that, why is the administration wasting our taxpayer money on a frivolous lawsuit, because the mayor didn’t get his way? Not to mention the timing of this is insulting with 10 members of the Fire Department diagnosed with COVID-19 AND after a 2 year stretch of losing 10 paramedics to early retirement, other departments, or driven out of the profession entirely.

I believe this lawsuit is what sets a new precedent, and one that all other departments should concern themselves with – that the administration comes after them next. Thank you for your time.

Ken Prince, City Planner and Deputy Mayor, spoke on the statement. Mr. Prince stated the reason the police contract was not brought into question, but the fire contract was had to do with the implications of the changes in the contract. Mr. Prince also stated he did not appreciate “grand standing” for a particular issue without conveying all of the facts. Mr. Prince concluded stating he believed there were legitimate grounds for the lawsuit.

Mr. Emmons stated in the article in the newspaper, the statement from the administration was not notified of negotiations was misleading. Mr. Emmons also stated he personally went to the attorney and gave the dates and times of negotiations despite the mayor’s comments. Mr. Prince stated there should have been coordinated dates with the administration and he was not sure the paper quoted the mayor correctly.

Mr. Hixenbaugh expressed appreciation for the passion of everyone involved. Mr. Hixenbaugh stated he would stand by his comments that the council had the authority to take every step that they took in the bargaining process and approval. President Hixenbaugh requested the administration to provide the council with information regarding the expense of the ligation,

incurred costs and the line item in the budget being used to fund the litigation as soon as possible.

## **NEW BUSINESS**

In Mayor Wood's absence, Fire Chief Bryon Woodward provided an update on the COVID-19 pandemic regarding the Fire Department. Mr. Woodward began stating the initial testing within the Mishawaka Fire Department found 8 firefighters testing positive with an additional positive test a few days later. On Thursday June 11<sup>th</sup>, the majority of the department was tested again and only one positive case was found to total 10 firefighters with positive cases. Mr. Woodward stated several of those firefighters were sent back to work and hoping 2 more will be able to work at the end of the week after following up with doctors. Mr. Woodward stated 3 stations and 2 shifts were involved with COVID-19 with one station having 6 positive tests, another having 3 positive tests, and the third station having 1 positive test. Mr. Woodward concluded stating the members of the department are protecting themselves and they are doing very well responding to the pandemic.

Mr. Mammolenti thanked Chief Woodward for the update and gave his regards to the firefighters who tested positive. Mr. Mammolenti asked if they were contact tracing to discover how the firefighters could have contracted COVID-19. Mr. Woodward stated that step has been handled by the St. Joseph County Health Department and they were not involved of that information.

Mr. Compton thanked Chief Woodward for his time and the information he has given to the council. Mr. Compton then referenced the last council meeting by stating the mayor was asked to make a report on the pandemic and his first comment was "there was not much to report." Mr. Compton continued stating Mr. Mammolenti asked of any city employee contracting the virus and he felt the Mayor danced around the question. He believed the council had the right to know the information regarding the firemen becoming ill when the news surfaced. Mr. Compton felt the Mayor did not disclose the information with the council when he had the opportunity and was extremely disappointed.

Chief Woodward stated he hoped this would be a one-time event for the community. Mr. Woodward believed the city employees had done an amazing job during this time despite some roadblocks along the way. Mr. Woodward also stated the email information would continue to be given to the council throughout each week.

Mr. Hixenbaugh asked if the diagnoses have impacted the department's efficiency in a negative fashion. Mr. Woodward stated it has not and any spots opened were filled by other members.

Mr. Mammolenti asked would there be another round of testing in the future. Mr. Woodward stated it was not planned yet, but they would continue to monitor for symptoms and the work with Dr. Megliori.

Mr. Prince announced a number of Boy Scouts attended the meeting virtually.

Mr. Mammolenti announced there will be a second zoom meeting for the Twin Branch Neighborhood Watch held on Wednesday June 17<sup>th</sup> at 7PM. Chief Woodward will be the guest speaker giving updates on the COVID-19 situation and answering questions from the public.

Mr. Compton thanked the Boy Scouts for joining the meeting.

Mr. Hixenbaugh thanked the members of the council and expressed his appreciation of being involved with this government body.

ADJOURNMENT 9:34PM

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

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

PROPOSED ORDINANCE NO. 2020-23

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA  
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS  
PURSUANT TO IC 5-13-9-5

Whereas, the City of Mishawaka (the "City") desires pursuant to IC 5-13-9-5 to allow banks outside the political subdivision to submit quotes on public funds certificates of deposit for the purpose of investing its operating and utility funds;

Section 1. Now, therefore, pursuant to IC 5-13-9-5, the Common Council of the City of Mishawaka hereby authorizes the investing officer of the City to invest in certificates of deposit of depositories that have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. This authorization expires one (1) year after the adoption date.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_ o'clock, \_\_\_\_\_. M.

\_\_\_\_\_  
Gregg Hixenbaugh, Presiding Officer

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

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

on this \_\_\_\_\_ day of \_\_\_\_\_, 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



# CITY OF MISHAWAKA

---

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE  
Rebecca S. Miller, Controller  
Kurtis Vardaman, Deputy Controller

Date: June 26, 2020

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Investment of Public Funds

For the July 6<sup>th</sup> meeting I am requesting first reading on our Investment of Public Funds ordinance. This ordinance has an annual renewal and is necessary to allow me to invest in financial institutions outside of the Mishawaka city limits.

I work with Baker Tilly who requests bids and recommends the most advantageous interest rate and maturity date.

Please contact me with any questions.

c: David A. Wood, Mayor

1st Reading 7-6-20  
2nd Reading  
Passed  
Failed  
Continued To

PETITION 20-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE No. 2020-13

ORDINANCE NO. \_\_\_\_\_

**AS AMENDED**

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

WHEREAS, the Common Council of the City of Mishawaka has been petitioned to amend its Zoning Ordinance to allow for a Planned Unit Development (PUD) to be amended to allow for a quick service oil change business at a proposed lot on property located at 317 Indian Ridge Boulevard, Mishawaka, Indiana 46545; and

WHEREAS, the Common Council of the City of Mishawaka, having given due consideration to the petition, and having conducted a public hearing regarding the same,

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

Section 1. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Existing conditions - The subject property is currently part of the Home Dept parking lot. Home Depot endorses the use of the property for a quick service oil change facility, and such use is not incompatible with other existing uses, and may be considered a reasonable complimentary service to other uses at and near the subject property.

2. Character of Buildings in Area - Buildings within the area are generally service commercial or restaurant uses, and while automobile related uses are not currently located within the PUD, surrounding areas do have automobile uses within 300 feet of Main Street, including on Main Street.

3. The most desirable/highest and best use – The requested PUD amendment reflects this Council's statement within Section 137-671 of the Municipal Code that there needs to be flexibility to meet the needs of the market place, and given the price of real estate in the area of the subject property, lack of frontage on Main Street, and other factors, the PUD amendment allows for the most desirable and highest and best use that can be attained presently.

4. Conservation of Property Values - The proposed amendment is not injurious to property values in the surrounding area.

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JUL 01 2020  
CITY CLERK  
MISHAWAKA, IN

5. Comprehensive Plan – while development trends were recognized within the City of Mishawaka's 2000 Comprehensive Plan, the proposed quick oil change service facility, which is not fronting on Main Street, is not prohibited by the Comprehensive Plan, nor inconsistent with that Plan.

Section 2. 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. 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 so as to allow a quick service oil change facility;

b. In connection with this Amendment, the creation of a proposed Lot 8 within the PUD and minor subdivision is hereby approved for construction and operation of a quick service oil change facility;

c. In connection with this Amendment and intended use, with respect to the proposed Lot 8 within the PUD and minor subdivision, the required five (5) feet pavement setback is reduced to zero (0) feet along the west, east and south property lines, which is a direct result of splitting the parcel into separate ownerships;

d. In connection with this Amendment and the proposed Lot 8, internal landscaping shall be provided, including planting of hedges, bushes, or low growth trees, to be coordinated in connection with a final site plan for Lot 8 and any quick service oil change facility must satisfy requirements of environmental laws and regulations:

e. With respect to Lot 1 within the PUD, and the operation of the Home Depot business, there is hereby approved a reduction in the required number of required parking spaces from 389 spaces to 362 spaces.

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  
Gregg A. Hixenbaugh

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

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DEBORAH S. BLOCK, MMC

MAY 13 2020

CITY CLERK  
MISHAWAKA, IN

1st Reading 5-18-20

2nd Reading

PETITION 20-06

Passed

CITY OF MISHAWAKA, INDIANA

Failed

Continued To

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

**IC 36-7-4-603**

Zoning ordinance; preparation and consideration of proposals

Sec. 603. In preparing and considering proposals under the 600 series, the plan commission and the legislative body shall pay reasonable regard to:

- (1) the comprehensive plan;
  - (2) current conditions and the character of current structures and uses in each district;
- 
- (3) the most desirable use for which the land in each district is adapted;
  - (4) the conservation of property values throughout the jurisdiction; and
  - (5) responsible development and growth.

Pet 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]

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DEBORAH S. BLOCK, MMC

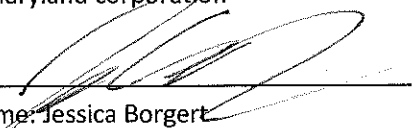
APR 28 2020

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

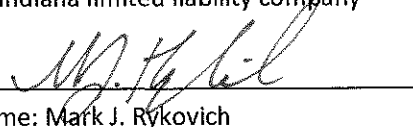
By: 

Name: Jessica Borgert

Title: Assistant General Counsel

*Signature of Petitioner*

Elm Street Capital, LLC,  
an Indiana limited liability company

By: 

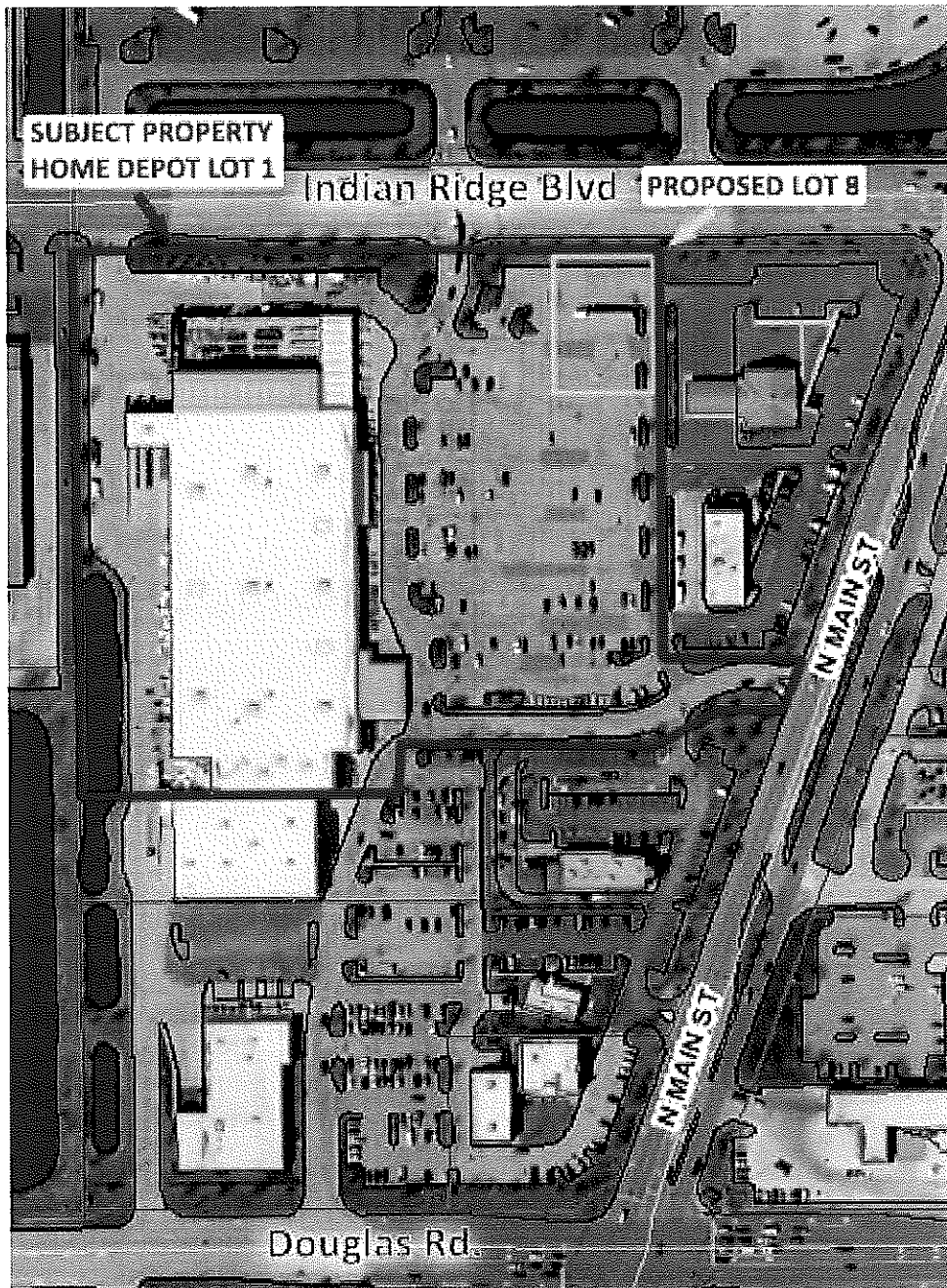
Name: Mark J. Rykovich

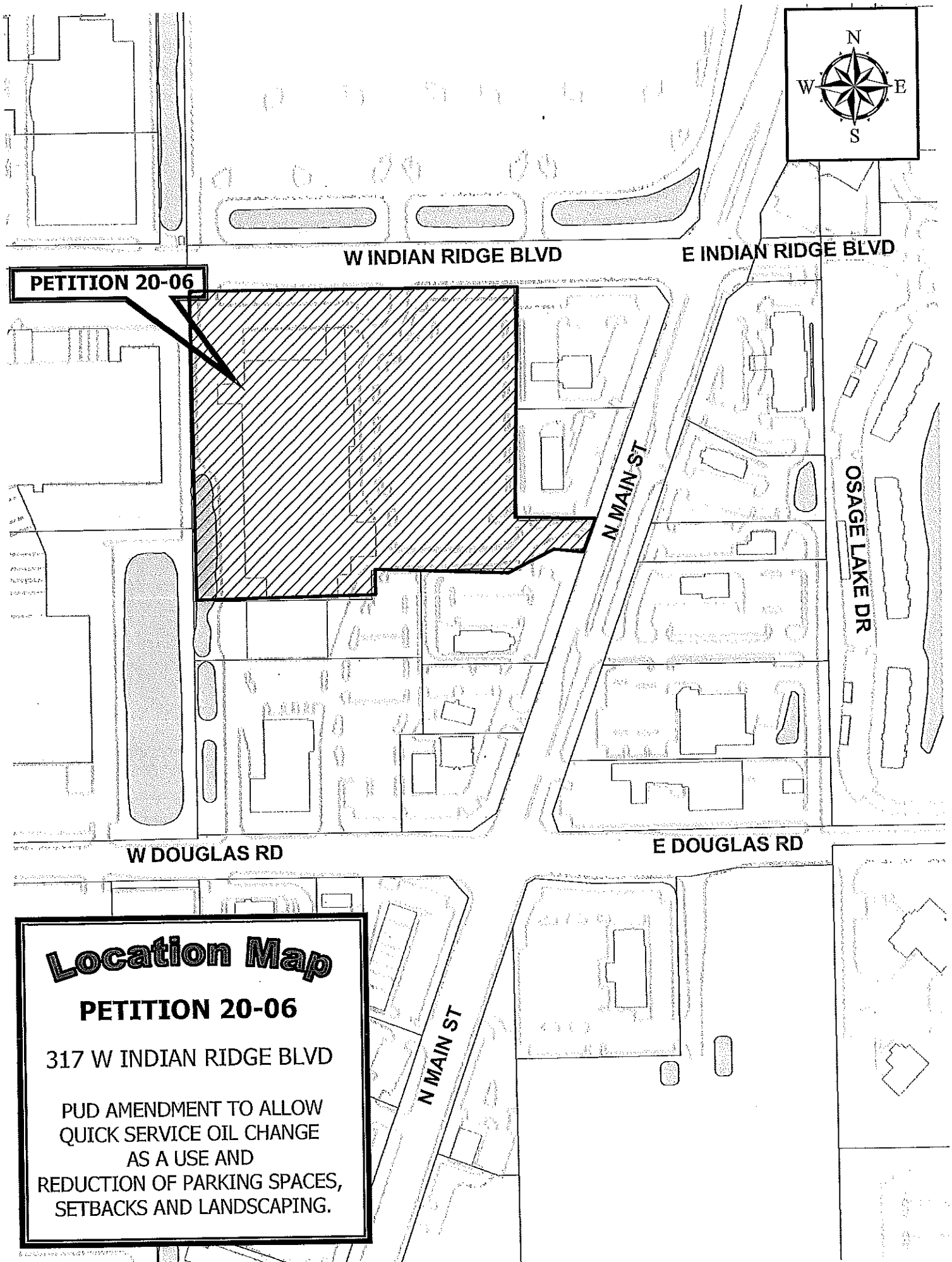
Title: Principal and Authorized Signatory

**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](mailto:mrykovich@nbrellc.com)

## EXHIBIT A





**PETITION 20-06**

**W INDIAN RIDGE BLVD**

**E INDIAN RIDGE BLVD**

**N MAIN ST**

**OSAGE LAKE DR**

**W DOUGLAS RD**

**E DOUGLAS RD**

**N MAIN ST**

# **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.**

## Deb Block

---

**From:** Peter Agostino <agostino@aaklaw.com>  
**Sent:** Thursday, May 28, 2020 12:54 PM  
**To:** Gregg Hixenbaugh  
**Cc:** Michael A. Trippel; Deb Block; Dale "Woody" Emmons; Mike Bellovich; Anthony "Tony" Hazen; Kate Voelker; Michael Compton; Ron Banicki; Matt Mammolenti; Maggie DeMaegd  
**Subject:** petition for PUD amendment (Ord. 4699AA) - Petitioner, Elm Street Capital, LLC

>>> FROM EXTERNAL SENDER <<<

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

Mr. Hixenbaugh,

I am reaching out to you in your role as President of the Mishawaka Common Council. I have been retained today to represent Elm Street Capital, LLC, the petitioner for a PUD amendment dealing with a permitted use issue. It is my understanding that this matter is currently on the Agenda for the June 1, 2020, meeting of the Mishawaka Council. On behalf of the Petitioner, I am requesting that this matter be postponed until the June 15, 2020, meeting of the Mishawaka Council. This will allow me time to review any concerns and questions relating to this petition and be in position to address those at the June 15, 2020 meeting. I have copied your Council Attorney, the Clerk, and other Council members.

Would you be so kind as to let me know whether this communication is sufficient for this request; otherwise I would be prepared to appear in person at the June 1, 2020, meeting to make the request. Thank you for your attention to this and for your service.

Sincerely,

Pete

Peter J. Agostino  
ANDERSON AGOSTINO & KELLER, P.C.  
131 S. Taylor Street  
South Bend, IN 46601  
Telephone: 574.288.1510  
Facsimile: 574.288.1650

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1st Reading  
2nd Reading  
Passed  
Failed  
Continued To

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 03 2020

CITY CLERK  
MISHAWAKA, IN

HPC 20-01

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-19

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 125, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE HISTORIC PRESERVATION ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA.**

WHEREAS, the General Assembly for the State of Indiana has amended IC 36-7-11 et seq., commonly referred to as the Indiana Historic Preservation Statute; and

WHEREAS, the Mishawaka Historic Preservation Commission of the City of Mishawaka, Indiana, has determined that the Mishawaka Historic Preservation Ordinance should be amended to incorporate certain changes in accordance with the State Code;

WHEREAS, the Mishawaka Historic Preservation Ordinance does not presently allow any provisions for the removal of historic district designation, also referred to as de-designation;

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

Section 1. Title 15, Chapter 125: Historic Preservation, of the Municipal Code of the City of Mishawaka, commonly known as "The Historic Preservation Ordinance," is hereby amended by adding the following section:

**125-127 REMOVAL OF HISTORIC DISTRICT DESIGNATION; PETITION; HEARING; FINDINGS**

- (a) The Mishawaka Historic Preservation Commission will follow Indiana State Code 36-7-11-23 Removal of historic district designation; petition; hearing; findings for any petition that comes before the Commission to remove a historic district designation or de-designation, as may be amended.

Section 2. The attached application will be created for de-designation.

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

Proposed Ordinance No: 2020-19

Ordinance No: \_\_\_\_\_

PASSED by the Common Council of the City of Mishawaka, Indiana, this \_\_\_\_\_ day  
Of \_\_\_\_\_, 2020, at \_\_\_\_\_ o'clock, P.M.

\_\_\_\_\_  
Presiding Officer

ATTEST:

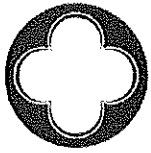
\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

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



MISHAWAKA  
HISTORIC  
PRESERVATION  
COMMISSION

## CITY OF MISHAWAKA APPLICATION HISTORIC LANDMARK DE-DESIGNATION

An application for de-designation of a historic landmark may only be submitted by the owner of record of the nominated site. Applications and supporting documentation should be provided to:

Mishawaka Planning Department, 600 East Third Street, Room 201 Mishawaka, IN 46544  
574-258-1625

### APPLICANT/OWNER OF RECORD

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

Street Address of Property (if different from above)  
\_\_\_\_\_

The legal description of the property: \_\_\_\_\_

Please provide a written statement describing the reasons in support of the proposed de-designation. Cite the specific criteria (there may be more than one) under which you are seeking de-designation. Attach additional information if necessary.

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|                          |                                                  |                          |                                                         |
|--------------------------|--------------------------------------------------|--------------------------|---------------------------------------------------------|
| <input type="checkbox"/> | (A) costs to comply with regulations;            | <input type="checkbox"/> | (H) operating expenses;                                 |
| <input type="checkbox"/> | (B) income generation;                           | <input type="checkbox"/> | (I) vacancy rates;                                      |
| <input type="checkbox"/> | (C) availability of contractors to perform work; | <input type="checkbox"/> | (J) financing issues;                                   |
| <input type="checkbox"/> | (D) real estate values;                          | <input type="checkbox"/> | (K) efforts to explore alternative uses for a property; |
| <input type="checkbox"/> | (E) assessed values and taxes;                   | <input type="checkbox"/> | (L) availability of economic incentives;                |
| <input type="checkbox"/> | (F) revenue projections;                         | <input type="checkbox"/> | (M) recent efforts to sell or rent property             |
| <input type="checkbox"/> | (G) current level of return;                     | <input type="checkbox"/> |                                                         |

Provide the following information:

- Written documentation and evidence establishing that the Applicant is the current owner of record of the nominated property and consents to the proposed historic de-designation. Such documentation or evidence of record ownership shall include the most recent available title policy in the name of the Applicant or other evidence of record ownership acceptable to the City Planner.
- An overall site plan and front, side and rear photographs of the property. Restoration methods, material samples, etc., if applicable.
- Such other relevant information as requested by the Planning Department or the Commission.
- A list of all property owner of record within 300 feet of the subject property.
- Business size (4 1/2" by 9 1/2"), stamped envelopes addressed to all property owners on the list from the Auditor's office. Do NOT put your return address on the envelopes. If using a stamp meter, do not date.

## **REMOVAL OF HISTORIC DISTRICT DESIGNATION; PETITION; HEARING; FINDINGS**

(a) This section provides the exclusive method for removing the designation of a historic district. The owner or owners of a building, structure, or site designated as a single site historic district may sign and file a petition with the legislative body of the unit requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two (2) or more parcels, at least sixty percent (60%) of the owners of the real property of the historic district may sign and file a petition with the legislative body of the unit requesting removal of the designation of the historic district.

(b) The legislative body shall submit a petition filed under subsection (a) to the historic preservation commission of the unit. The historic preservation commission shall conduct a public hearing on the petition not later than sixty (60) days after receiving the petition. The historic preservation commission shall provide notice of the hearing:

(1) by publication under IC 5-3-1-2(b) ;

(2) in the case of a historic district comprised of real property owned by fewer than fifty (50) property owners, by certified mail, sent at least ten (10) days before the hearing, to each owner of real estate within the historic district; and

(3) in the case of a single building, structure, or site designated as a historic district, by certified mail, sent at least ten (10) days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.

(c) The historic preservation commission shall make the following findings after the public hearing:

(1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in the ordinance approving the historic district map under section 7 of this chapter. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.

(2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner's property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:

(A) costs to comply with regulations;

(B) income generation;

(C) availability of contractors to perform work;

(D) real estate values;

(E) assessed values and taxes;

(F) revenue projections;

(G) current level of return;

(H) operating expenses;

- (I) vacancy rates;
- (J) financing issues;(K) efforts to explore alternative uses for a property;
- (L) availability of economic incentives; and
- (M) recent efforts to sell or rent property.

(3) Whether removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.

(4) Whether removal of or failure to remove the designation of the historic district would have an adverse impact on the unit's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the commission's survey prepared under section 6 of this chapter.

(d) Not later than ten (10) days after the public hearing, the historic preservation commission shall submit:

- (1) its findings on the petition; and
- (2) a recommendation to grant or deny the petition; to the legislative body of the unit.

(e) Not later than forty-five (45) days after receiving the historic preservation commission's findings, the legislative body of the unit shall:

- (1) take public comment and receive evidence in support of or in opposition to the petition; and
- (2) do one (1) of the following:
  - (A) Deny the petition.
  - (B) Grant the petition by adopting an ordinance that removes the designation of the historic district by:
    - (i) a majority vote, if the recommendation of the historic preservation commission is to grant the petition; or
    - (ii) a two-thirds (2/3) vote, if the recommendation of the historic preservation commission is to deny the petition.

The legislative body shall record an ordinance adopted under subdivision (2) with the county recorder not later than ten (10) days after the legislative body adopts the ordinance. The historic district designation is considered removed on the date the ordinance is recorded with the county recorder.

(f) If the legislative body of the unit does not grant or deny the petition within forty-five (45) days after receiving the historic preservation commission's findings:

(1) the petition is considered granted or denied in accordance with the recommendation of the historic preservation commission; and

(2) if the petition is considered granted, the legislative body shall, not later than fifty-five (55) days after receiving the historic preservation commission's findings:

(A) adopt an ordinance that removes the designation of the historic district; and

(B) record the ordinance with the county recorder.

The historic district designation is considered removed on the date the ordinance is recorded with the county recorder.

1st Reading  
2nd Reading  
Passed  
Failed  
Continued To

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 03 2020

CITY CLERK  
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2020-20

ORDINANCE NO.

HPC # 20-02

**AN ORDINANCE TO MAINTAIN NORMAIN HEIGHTS AS A  
CONSERVATION DISTRICT WITHIN THE CITY OF MISHAWAKA, INDIANA.**

**WHEREAS**, Chapter 125 of the Municipal Code provides for the establishment of Historic Districts within the City of Mishawaka, and

**WHEREAS**, Normain Heights is designated on the National Register, and is a contributing neighborhood according to the 1995 Survey, indicating the importance of the history to be preserved and protected, and

**WHEREAS**, the Normain Heights Conservation District was established by Ordinance 5574AA on May 1, 2017, and

**WHEREAS**, accordance with IC 36-7-11-19, because the Commission received objection, in writing, during the prescribed time period, by a majority of the property owners, the Conservation District shall continue, and not elevate to a fully established Historic District.

**NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY  
OF MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA, THAT:**

**SECTION 1:** The map setting forth the proposed conservation district for the site is hereby approved by the Common Council and the Normain Heights Conservation District is hereby designated.

**The Normain Heights Conservation District shall consist of the following  
addresses:**

Ardennes: 104, 108, 113, 114, 117, 118, 121, 122, 125, 126, 131, 132, 135, 136, 139,  
140, 202, 203, 207, 208, 211, 212, 215, 216, 221, 222, 225, 226, 229, 230,  
236, 240, 244, 304, 308, 312, 316.  
Bastogne: 111, 114, 117, 120, 121, 124, 127, 130, 131, 138, 141, 142, 203, 204, 207,  
208, 211, 212, 216, 217, 221, 222, 226, 227, 230, 231.  
Guam: 109, 114, 115, 118, 119, 123, 124, 128, 129, 132, 135, 138, 139, 203, 204,  
207, 208, 211, 212, 217, 218, 223, 224, 228, 229, 232, 237, 243.  
East Leyte: 111, 114, 117, 120, 121, 124, 125, 128, 131, 134, 135, 138, 139, 142, 203,  
204, 207, 208, 212, 213, 217, 218, 221, 222, 226, 227, 230, 231.  
North Main: 2333, 2339, 2343, 2344, 2347, 2348, 2353, 2356, 2357, 2361, 2403, 2406,  
2407, 2410, 2411, 2416, 2417, 2421, 2422, 2425, 2503, 2506, 2507, 2510,  
2513, 2519, 2522, 2603, 2604, 2609, 2610, 2614, 2617, 2620, 2623, 2703,  
2704, 2709, 2710, 2716, 2717, 2722, 2729, 2732, 2733, 2739, 2740, 2743,  
2747, 2803, 2806, 2807, 2810, 2811, 2816, 2817, 2821, 2822, 2825, 2903,  
2907, 2911.  
Normandy: 2303, 2304, 2309, 2310, 2313, 2314, 2319, 2320, 2323, 2324, 2327, 2328,  
2333, 2334, 2337, 2338, 2343, 2344, 2347, 2348, 2353, 2354, 2358, 2359,

Normandy: 2364, 2404, 2408, 2409, 2414, 2415, 2419, 2424, 2425, 2428, 2431, 2434,  
(cont.) 2503, 2504, 2509, 2510, 2514, 2515, 2519, 2520, 2524, 2603, 2604, 2608,  
2609, 2612, 2615, 2616, 2619, 2622, 2626, 2704, 2705, 2708, 2711, 2714,  
2721, 2722, 2725, 2728, 2732, 2803, 2804, 2809, 2812, 2817, 2818, 2821,  
2824.

Palau: 111, 112, 117, 118, 121, 122, 125, 126, 129, 130, 135, 136, 139, 140, 202,  
203, 207, 208, 211, 212, 216, 217, 221, 222, 225, 226, 230, 231.

Saint Lo: 111, 114, 117, 120, 121, 129, 130, 134, 135, 138, 139, 203, 204, 207, 208,  
212, 2132, 216, 217, 222, 223, 226, 227, 230, 231, 234.

**The individual properties making up the District are legally described as follows:**

Lots 4 -316 Normain Heights, Lot 1 Normain Heights 1<sup>st</sup> Minor, and Lot 1 Main McKinley  
Corrective Plat.

**NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA, THAT the above  
reference property be designated as Normain Heights Conservation District.**

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 p.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

JUN 11 2020

CITY CLERK  
MISHAWAKA, IN

PETITION 20-10

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-21

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:

Lots 156 and 157, Geyers 4<sup>th</sup> Addition Prop, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

COMMON ADDRESS: 3706 York Street

which real estate is now classified as I-2 Light Industrial District shall hereafter be within and a part of that District known as R-1 Single Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The Residential 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 R-1 Single Family Residential District;
3. Because the parcel is located in an area with residential uses, the rezoning to R-1 Single Family Residential District is a desirable use for this property;

Proposed Ordinance No: 2020-21

Ordinance No: \_\_\_\_\_

4. Rezoning to R-1 Single Family Residential will have a favorable and stabilizing impact on the neighborhood as the use is not changing; and,
5. The City's Comprehensive Plan identifies the area as Low Density Residential 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

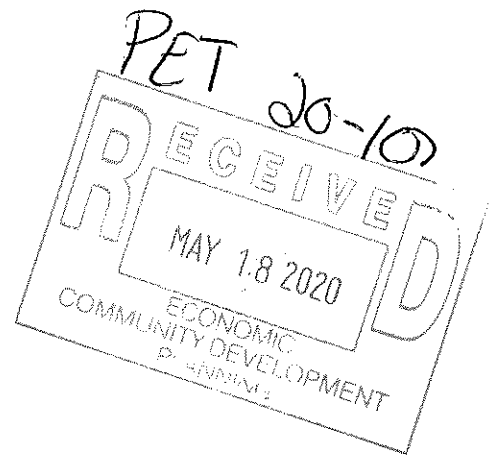
RECEIVED  
DEBORAH S. BLOCK, MMC

MAY 26 2020

CITY CLERK  
MISHAWAKA, IN

DATE

5/18/2020



Honorable Members of the Common Council

City of Mishawaka, Indiana

and

Mishawaka City Plan COMMISSION

CITY OF MISHAWAKA, INDIANA

re: petition to rezone

The undersigned Kenneth L. Bergner & Marcy J. Bergner respectfully show they are the owners of the fowing decribed real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit: Lots 156 & 157 Geyers 4th Addition ( proposed ) 3706 York St. Mishawaka, Indiana,46544

Petitioners own one hundred (100%) percent of the above decribed parcel of land which carries a zoning classification of I-1 Light Industrial District. Said property is Single Family residential Home .

PETITIONERS DESIRE SAID REAL ESTATE TO BE REZONED TO R-1 SINGLE FAMILY RESIDENTIAL DISTRICT.  
Petitioners further state that they intend to utlize said land for Single Family Residential with Addition to existing Garage.

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

KENNETH L. BERGNER

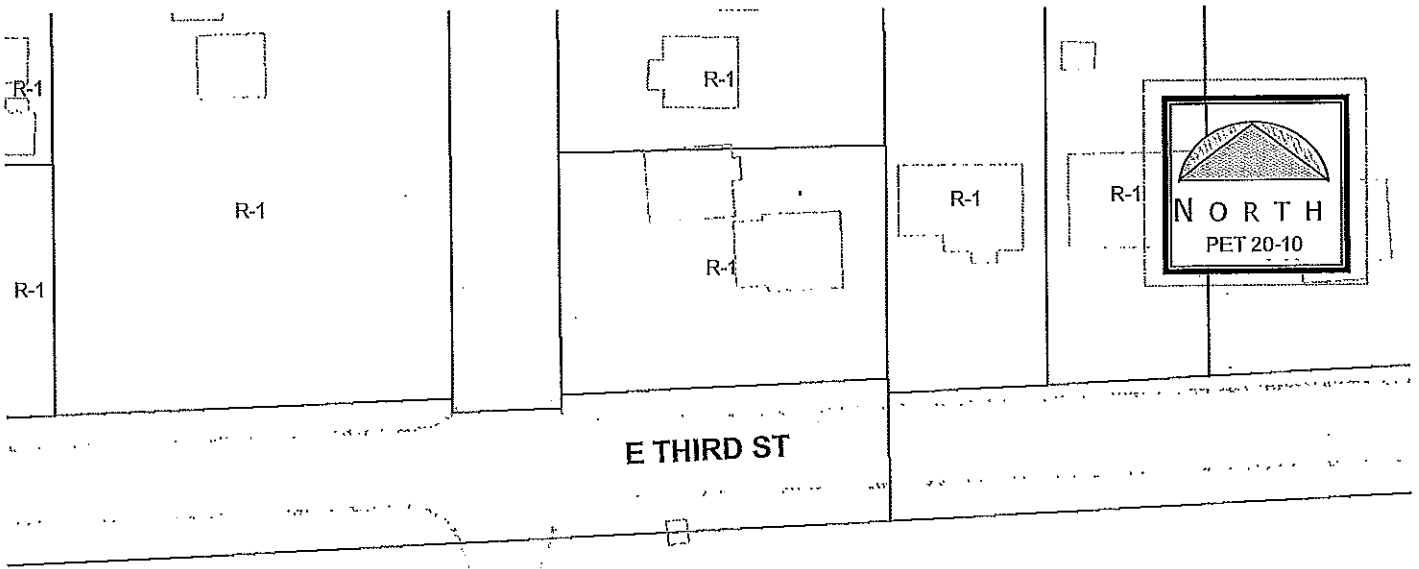
MARCY J. BERGNER

Kenneth L. Bergner

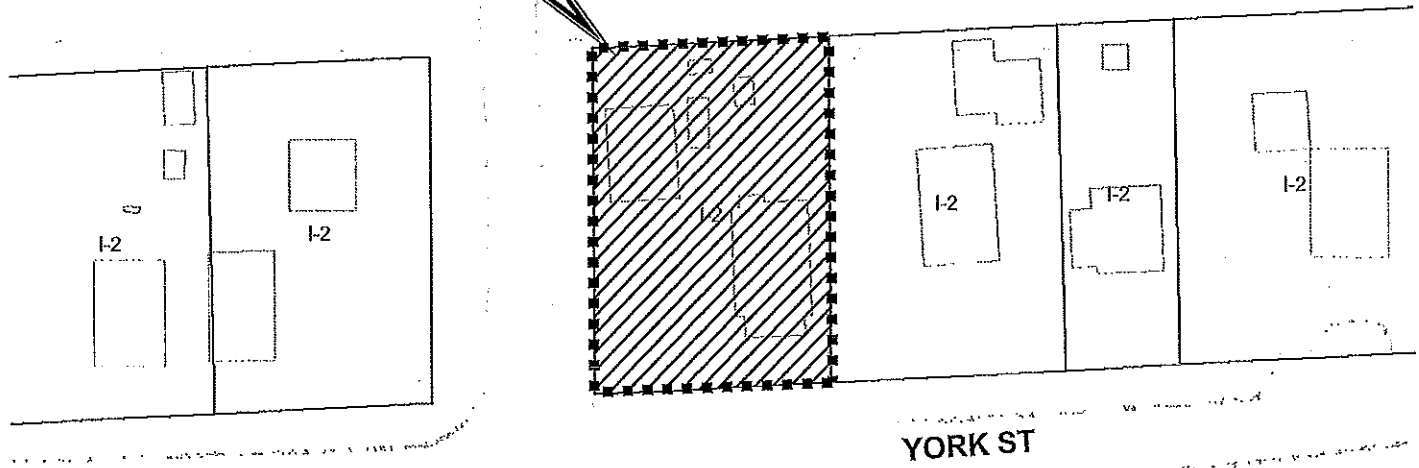
3706 York St.

574-255-7401

cell 574-276-3141

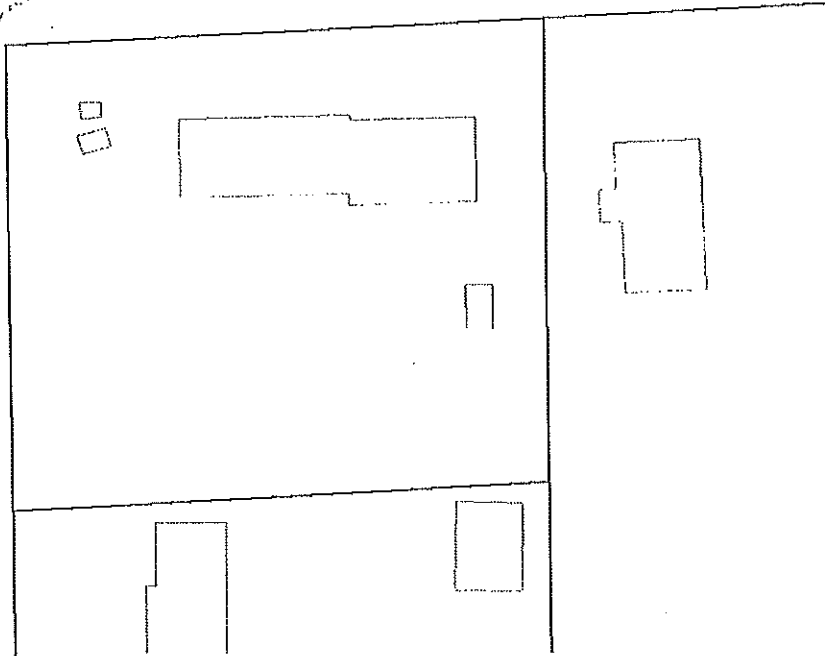


PET 20-10



**Location Map**  
**PET 20-10**  
KENNETH L. & MARCY J.  
BERGNER  
  
3706 YORK STREET  
  
REZONING FROM I-2 ~~HEAVY~~ INDUSTRIAL  
TO R-1 SINGLE FAMILY RESIDENTIAL  
TO ALLOW FOR ADDITION TO GARAGE  
ON PROPERTY WITH AN EXISTING  
SINGLE-FAMILY HOUSE

OAKSIDE AVE  
OAKSIDE AVE



PETITION #20-11

JUN 11 2020

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-22

CITY CLERK  
MISHAWAKA, IN

ORDINANCE NO. \_\_\_\_\_

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:

South 275.84' of Lot 1 of EPA Douglas Road Minor Including Public Right-of-Way, City of Mishawaka, Clay Township, St. Joseph County, State of Indiana

COMMON ADDRESS: 16813 Douglas Road

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 heavily travelled section of Douglas Road that serves as the primary arterial roadway connecting the north side of South Bend and the University of Notre Dame to the northern Mishawaka retail area. Traffic volumes in the immediate vicinity are anticipated to increase following completion of roadway improvements (added travel lanes) proposed west of the property. The site, which is currently vacant, is adjacent to a landfill to the north, vacant land to the west zoned for multi-family residential use, vacant land and a mobile home leasing office to the south, and an insurance office to the east.
2. Character of Buildings in the Area – The character of buildings and land uses located along W. Douglas Road corridor vary greatly and include single and multi-family residential, office, medical, and commercial/retail land uses.

Proposed Ordinance No. 20-22

Ordinance No. \_\_\_\_\_

3. The most desirable/highest and best use – Because of the property's location along a highly travelled mixed use corridor, the most desirable use for the property is multi-family residential or commercial/office.
4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The proposed medical office use is compatible with adjacent land uses and those along the Douglas Road corridor.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, does not include the property within its study area. However, a majority of the land on the north side of W. Douglas Road to the west and east identified a preferred or planned use of General Commercial. Furthermore, the Douglas Road Corridor Plan, adopted in 2017, includes commercial (retail, office, and service commercial) as a recommended land use along the 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

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

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

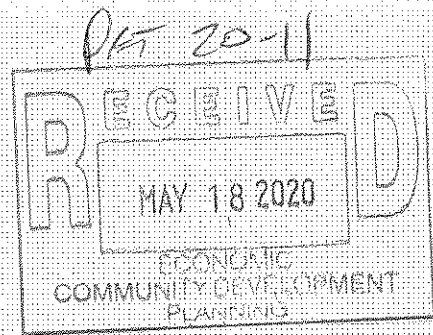
APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, at \_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
David A. Wood, Mayor

RECEIVED  
DEBORAH S. BLOCK, MMC

MAY 26 2020

CITY CLERK  
MISHAWAKA, IN



DATE: 9 May 2020

TO THE:

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

RE: Petition for Annexation and Zoning Classification

The undersigned *C&H WALLACE FAMILY LLC* respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

16813 Douglas Road, South Bend, Indiana  
*Lot 1 of EPA, DOUGLAS ROAD MINOR. AND ADJACENT PUBLIC RIGHT-OF-WAY*

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located *16813 Douglas Road, South Bend, Indiana* and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a *C1 Zoning District*. Petitioners further state they intend to utilize said land for *a possible medical office at a later date*.

Accompanying this petition is a survey showing the above-described parcel of real estate. We will approach to council with a design of the building, showing the size of the proposed building and also the location of the proposed building structure(s) at a later date when construction is planned.

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, 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 annexing the above described parcel of real estate to the City of Mishawaka with a *C1 zone classification*.

*Wayne Wallace*

dotloop verified  
05/12/20 9:42 AM EDT  
YNIW-UFGQ-WUDV-7IAV

Property Owner Signature  
Wayne Wallace

Print Property Owner Name

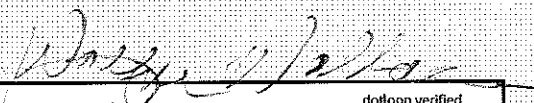
Contact Person:

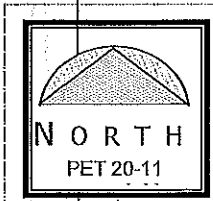
NAME  
ADDRESS  
TELEPHONE NUMBER  
FAX NUMBER  
EMAIL

*Satish Adusumilli*  
*51112 Old Cottage dr, Granger, IN-46545*  
*860-333-4670*  
*satishraoet@yahoo.com*

To Whom It may Concern

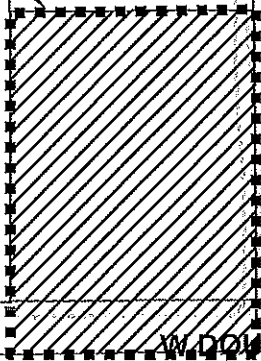
I authorize, Sree Sai Satish Adusumilli, to apply for annexation and rezoning of property located at 16813 West Douglas Road to the city of Mishawaka.

  
**Wayne Wallace**  
dotloop verified  
05/12/20 9:42 AM EDT  
L6JE-WP0E-EJ4B-PKCP



**PET 20-11**

R-3



W DOUGLAS RD

LAKEWOOD DR

S-2

S-2

S-2

S-2

S-2

S-2

S-2

S-2

S-2

JENNY LN

S-2

S-2

S-2

S-2

S-2

S-2

R-4

## Location Map

### PET 20-11

C&H WALLACE FAMILY LLC (OWNER)/  
SATISH ADUSUMILLI (CONTINGENT  
PURCHASER)

16813 DOUGLAS ROAD

ANNEXATION & ZONING TO C-1  
GENERAL COMMERCIAL FOR A  
FUTURE MEDICAL OFFICE

MAY 26 2020

CITY CLERK  
MISHAWAKA, IN

1st Reading 6-1-20  
2nd Reading 6-15-20  
Passed 6-15-20  
Failed  
Continued To

PROPOSED ORDINANCE NO. 2020-17

ORDINANCE NO. 5697

AN ORDINANCE TRANSFERRING FUNDS FROM THE  
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE  
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE  
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA  
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2020  
AND AN ORDINANCE APPROPRIATING ADDITIONAL  
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2020

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

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted  
(MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of  
the City of Mishawaka the sum of \$427,150.00 as required for the Community Crossing  
Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

203-50-442-01

Street Repair

\$427,150.00

Total

\$427,150.00

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

244-50-436-03

Street Repair

\$427,150.00

Total

\$427,150.00

Section 2. Which requires the appropriation of additional funds for the fiscal year  
ending December 31, 2020 in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road  
Matching Grant Fund of the City of Mishawaka the sum of \$854,300.00 for assignment as  
follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

244-50-436-03

Street Repair

\$854,300.00

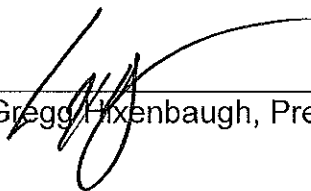
Total

\$854,300.00

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

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

On this 15th day of June, 2020 at 9:02 o'clock, P. M.

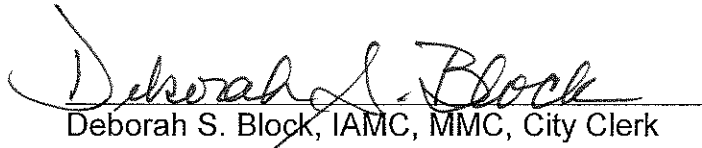
  
\_\_\_\_\_  
Gregg Hixenbaugh, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

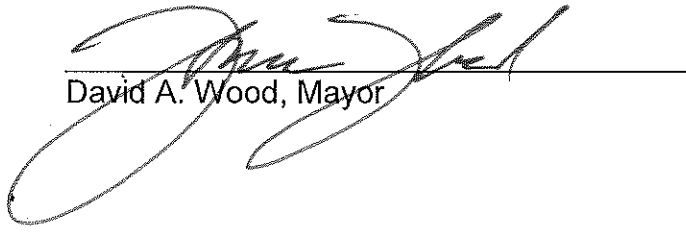
PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this 16th day of June, 2020 at 9:24 o'clock, A. M.

  
\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this 17 day of June, 2020 at

9:57 o'clock, A. M.

  
\_\_\_\_\_  
David A. Wood, Mayor



# CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE  
Rebecca S. Miller, Controller  
Kurt Vardaman, Deputy Controller

RECEIVED  
DEBORAH S. BLOCK, MMC

MAY 26 2020

CITY CLERK  
MISHAWAKA, IN

Date: May 27, 2020  
To: Honorable Members of the Common Council  
From: Rebecca Miller  
Re: Transfer from MVH Restricted and Additional Appropriation Local Road & Bridge Matching Fund

I am requesting for first reading, approval for the transfer of \$427,150 from the Motor Vehicle Highway Restricted Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds are budgeted funds for the purpose of the match.

This transfer along with the \$427,150 grant already received from the State must be appropriated. Therefore, I am also requesting approval of the additional appropriation for \$854,300.00.

This ordinance takes care of both the transfer and appropriation in this fund and is required every year to show proper accounting of the grant and match.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor  
Christine Jamrose, Director of Engineering/City Engineer

Personally Appeared Before Me The Undersigned:

*Nancy Nich*

Legal Clerk of the **MISHAWAKA ENTERPRISE**, a public newspaper of general circulation, published in the city of Mishawaka in the County aforesaid, who being duly sworn, upon her oath saith, that the notice of which she attached is the true copy, was duly published in the **Mishawaka Enterprise** for:

XX One    TWO    THREE

times successively to-wit:

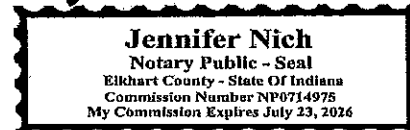
On the   4th   day of   June  , 2020, and

On the        day of       , 2020, and

On the        day of       , 2020

*[Signature]*  
Subscribed & Sworn To Before Me  
This   4th   day of   June  , 2020

*Jennifer Nich*



**CHARGES: \$ 49.97**

**NOTICE TO TAXPAYERS OF PROPOSED ADDITIONAL APPROPRIATION**

Notice is hereby given the taxpayers of Mishawaka, St. Joseph County, Indiana, that the Common Council will meet in City Hall, 600 East Third Street at 7:00 p.m. on the 15th day of June, 2020 and will consider the following additional appropriations in excess of the budget for the current year.

**PROPOSED ORDINANCE 2020-17**

**AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2020 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2020**

**Motor Vehicle Highway Restricted Fund (MVHR)**

**From:**

**Capital Outlays**

**203-50-442-01**

**Street Repair**

**\$427,150.00**

**Total**

**\$427,150.00**

**Local Bridge and Road Matching Grant Fund**

**To:**

**Other Services and Charges**

**244-50-436-03**

**Street Repair**

**\$427,150.00**

**Total**

**\$427,150.00**

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriations as finally made will be referred to the State Board of Tax Commissioners. The Board shall issue a written determination within 15 days of receipt of the proposal.

Deborah S. Block, IAMC, MMC,  
City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

TO THE MEMBERS OF  
THE COMMON COUNCIL OF THE CITY OF MISHAWAKA

Your Committee on **BUDGET AND FINANCE**; to whom was referred  
the matter of Proposed Ordinance No. 20-17 report that they  
have examined said matter and that in their opinion

should be adopted

should not be adopted

should be amended and adopted

should be presented to the Council as a whole

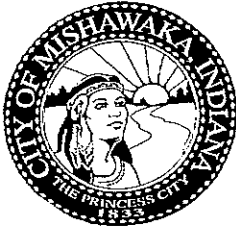
should be continued

This is signed by Entire Committee and I move for its  
acceptance

Dale "Woody" Linn

Kate Vach

R. O. S. B. S.



# City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

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**From:**

**Capital Outlays**  
**203-50-442-01**

Street Repair

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**Total                    \$427,150.00**

#### Local Bridge and Road Matching Grant Fund

**To:**

**Other Services and Charges**  
**244-50-436-03**

Street Repair

**\$427,150.00**

**Total                    \$427,150.00**

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