

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

September 21, 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 Tuesday, September 21, 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 to remember the lives lost due to COVID-19.

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 September 8, 2020 were approved as received from the Clerk's Office.

Clerk Block read the following letters from the Board of Zoning Appeals and City Plan Commission regarding their recommendations from their September 8th and September 9th meetings.

APPEAL #20-43 An appeal submitted by JV and Sue Peacock C/O Outpost Sports requesting a Use Variance for **3602 Grape Road #11** to allow microblading services in an existing salon.

The Board, with a vote of 5-0, recommended approval.

PETITION #20-18 A petition submitted by BFR (owner) and RFJ Auto-T Properties, LLC (contingent purchaser), requesting to rezone **4211 Grape Road** from C-1 General Commercial District to C-4 Automobile Oriented Commercial District.

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

PETITION #20-19 A petition submitted by Richard LaFree seeking to amend the Deer Run PUD to permit I-1 Light Industrial use on Lots 2, 3 and 4.

The Commission, with a vote of 7-0, recommended approval subject to the following conditions:

1. Permitted uses shall be amended to include all I-1 Light Industrial Uses.
2. Overstory or understory trees shall be provided along Fir Road at a rate compliant with the C-1 General Commercial District.
3. Parking lot screening per the C-1 General Commercial District shall be provided along the east side of the parking area adjacent to Fir Road.
4. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for the site.
5. Freestanding off-premise signs shall not be permitted.
6. The extension of all utilities to the site shall be at the developer's cost and expense.
7. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. The current City Ornamental street light

standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.

8. A sidewalk with the appropriate ADA ramp shall be extended along the Fir Road and Deer Run Drive frontage subject to review and approval by the Engineering Department.
9. All other development regulations not specified shall adhere to the I-1 Light Industrial District.

PETITION #20-20 A petition submitted by Lionshead Development, LLC, seeking to annex and zone **15165, 15195, and 15201 Cleveland Road, Granger** to R-3 Multi-Family Residential 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. 2020-30

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

Rezone from C-1 General Commercial District to C-4 Auto Oriented Commercial for an Auto sales – 4211 N. Grape Road

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2020-31

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

Deer Run PUD Amendment to Permit I-1 Light Industrial Uses – Vacant Property at SW corner of Deer Run Drive (South Leg) & Fir Road

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2020-32

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

Annexation and Rezoning for a Proposed Multi-Family Townhome Development – 15165, 15195 & 15201 Cleveland Road

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2020-33

Civil City Budget and Tax Levy for 2021

(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2020-34

AN ORDINANCE AMMENDING THE SALARIES OF ALL EMPLOYEES AT THE CITY OF MISHAWAKA EXCEPT THE MISHAWAKA PARKS DEPARTMENT, ELECTED OFFICIALS, AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 21, 2021

**City Employees Salary Ordinance for 20201
(Assigned to Budget and Finance Committee)**

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

RESOLUTION NO. 2020-19

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA INDTRDUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: SOUTH & EAST OF 1141 & 1241 E. TWELFTH ST.
Fiscal Plan for Annexing adjacent property to be included in subdivision – South & East of 1141 & 1241 E. Twelfth St.**

Ken Prince, City Planner, spoke in favor of **RESOLUTION NO. 2020-19**. Mr. Prince began thanking Christa Hill for preparing the fiscal plan reviewed by the council. Mr. Prince stated the property is located south of the adorned facility on Twelfth Street with two parcels; one on the Southwest corner and the Southeast corner. He said the total amount of acres is 3.46 acres. Mr. Prince explained state law requires a minimum of 12.5% adjacency to the city to consider annexation, with parcel 1 having a contiguity 61% and parcel 2 having 50% adjacency. He stated all city departments have reviewed the request and have identified no additional funds or projects are necessary for the annexation. Mr. Prince concluded stating this is essentially an enlarging of the adorned site for future expansion.

Terry Lang, Lang Feeny & Associates Inc., represented the petition before the council. Mr. Lang stated there were two parcels that were never included as part of the city during the process of preparing to expand the site and it came to light before the building could continue. Mr. Lang concluded stating they will merge the two parcels and a large expansion will be made to connect the two buildings together.

Question was called for at 7:10PM for **RESOLUTION NO. 2020-19**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

RESOLUTION NO. 2020-20

**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: 3602 GRAPE ROAD, SUITE 11
Use Variance to allow micro blading inside existing Rootz Salon – 3602 Grape Road, Suite
11**

President Hixenbaugh entertained a motion to postpone the hearing for **RESOLUTION NO. 2020-20** to the next regular council meeting after the petitioner failed to attend, so moved by Mr. Compton and seconded by Mr. Mammolenti the motion passed.

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

PROPOSED ORDINANCE NO. 2020-28

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE
Annex adjacent property to be included in subdivision – South & East of 1141 & 1241 E.
Twelfth St. VOTE ONLY**

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

Mr. Banicki asked if the area had other islands or properties in the county and surrounded by the city. Mr. Prince stated there were quite a few. He continued to say what happens when the city grows over time, the annexation law is set up with individuals having to agree and voluntarily annex your property in order for it to come in. Mr. Prince explained in this case, there are a number of properties surrounded by the larger city and this is one of those islands. Mr. Banicki asked if they had to annex the property and if the city could clean it up. Mr. Prince stated per policy, they have not investigated and have not verified annexation law in recent years. Mr. Prince also stated there used to be a provision that if there is an island surrounding a property that you have the ability to annex it without the consent of the property owners only after bringing it up to current city standards.

Mr. Hazen asked if the petitioner would ask to be annexed, do they still have to be brought up to code. Mr. Prince stated no, because the petitioner would have the opportunity to negotiate on what that standard would be with the city. Mr. Prince stated the petitioner would likely point to the other subdivisions in Mishawaka to further negotiate for or against an annexation.

Question was called for at 7:20PM for **PROPOSED ORDINANCE NO. 2020-28**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.**

NEW BUSINESS

Mr. Mammolenti wished Clerk Block a happy birthday.

ADJOURNMENT 7:21PM

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

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