

AGENDA

January 18, 2021

CONSISTENT WITH TERMS OF GOVERNOR HOLCOMB'S EXECUTIVE ORDER FACEMASK ARE REQUIRED

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
Meeting Number (access code) 179 640 1471
Meeting Password: f3XbT4RmVh4

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: 1796401471.mishawaka@lync.webex.com

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

A letter from the Board of Zoning Appeals regarding their recommendations from their January 12, 2021 meeting

A letter from the City Plan Commission regarding their recommendations from their January 12, 2021 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O No. 2021-01	Rezone Two Parcels Total of 1.81 acres from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial - 5055 & 5603 Grape Road
P.O No. 2021-02	PUD Amendment to allow Fuel Pumps & Convenience Store with parking reduction - 520 Bittersweet - SE. Corner of Bittersweet & Vistula
P.O. No. 2021-03	Collective Bargaining Between the City and Police Lodge 91 - 1-01-2021 thru 12-31-2022 (Requesting Second Reading)
P.O. No. 2021-04	Collective Bargaining Between the City and Local 364 Central Service Dept.- 1-01-2021 thru 12-31-2022 (Requesting Second Reading)
P.O. No. 2021-05	Collective Bargaining Between the City and Electrical Workers Local 1392.1-01-2021 thru 12-31-2022 (Requesting Second Reading)
P.O. NO. 2021-06	Collective Bargaining Between the City and Sewer Dept. Local 364.1-01-2021 thru 12-31-2022 (Requesting Second Reading)
P.O. NO. 2021-07	Amending the Municipal Code of the Traffic Code - Municipal Lot No. 3 on First & Church Street
P.O. NO. 2020-08	Amending Ordinance No. 5709 - Annexing adjacent property to be included in subdivision - S. and E. of 1141 & 1241 E. Twelfth Street - Scrivener's Error (Requesting Second reading)

8. Resolutions

R2021-01	Use Variance to allow Tattoo, Piercing & Art Gallery - 403 & 411 S. Main Street
R2020-02	Amending Resolution No. 2020-19 -Fiscal Plan for Annexing adjacent property - S. and E. of 1141 & 1241 E. Twelfth Street - Scriver's Error

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

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.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

January 4, 2021

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, January 4, 2021 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.

Dale “Woody” Emmons 1st District
Mike Bellovich 2nd District
Anthony “Tony” Hazen 3rd District
Kate Voelker 4th District
Michael Compton 5th District
Ron Banicki 6th District
Gregg A. Hixenbaugh At-Large
Matt Mammolenti At -Large
Maggie DeMaegd At-Large



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

Clerk Block opened the floor for nominations for President of the Council for the year 2021. Mr. Emmons placed a nomination for Mr. Gregg Hixenbaugh for the office of President of the Council, which was seconded by Mr. Banicki. Clerk Block entertained a motion to close nominations, which was moved by Mr. Emmons and seconded by Mr. Banicki. Clerk Block conducted a roll call vote on closing the nominations.



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 conducted a roll call vote on the nomination of Mr. Hixenbaugh for President of the Council for 2021.



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. The nomination passed and Mr. Hixenbaugh was elected President of the Council.

Mr. Hixenbaugh stated he looked forward to working with all of the council as they embark on another challenging year for the community. Mr. Hixenbaugh noted for the record that this

evening they operated under altered procedures, consistent with Governor Holcomb's executive orders regarding face masks and other issues. Mr. Hixenbaugh stated they were offering the opportunity for people to participate in the meeting remotely and members of the public will be asked to place their microphone on mute during the meeting, with the exception of any public hearing. Mr. Hixenbaugh stated at the appropriate point in the public hearing, he would invite the public to unmute their microphone for the purpose of submitting any comments they wish to make, one person at a time. Mr. Hixenbaugh stated all persons wishing to make public comments will be asked to state their name and address for the record and after completing their public comments, members of the public will once again be asked to place their microphone on mute. Mr. Hixenbaugh concluded thanking everyone for their cooperation as they work through these procedures.

Mr. Hixenbaugh opened the floor for nominations for the office of Vice President of the Council for the year 2021. Mr. Banicki nominated Mr. Matt Mammolenti for Vice President of the Council for 2021 with a second from Mr. Emmons. The chair entertained a motion to close nomination, so moved by Mr. Banicki and seconded by Mr. Emmons. Clerk Block conducted a roll call vote on closing the nominations.



**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.**

The chair called for the question with regard to the appointment of Mr. Mammolenti as Vice President of the Council for 2021. Clerk Block conducted a roll call vote on the nomination of Mr. Mammolenti for Vice President of the Council for 2021.



**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.** The nomination passed and Mr. Mammolenti was elected Vice President of the Council.

Minutes for the Regular meeting of December 21, 2020 were approved and received from the Clerk's Office.

Clerk Block read an appeal and petitions to the council who referred them to the Board of Zoning Appeals and the City Plan Commission.

Appeal No. 2020-58

Use Variance to allow Tattoo, Piercing & Art Gallery –
403 & 411 S. Main Street

Petition No. 2020-24

Rezone Two Parcels Total of 1.81 acres from C-1
General Commercial to C-7 Automobile Oriented
Restaurant Commercial – 5055 Grape Road

NEW BUSINESS

- **Council Committees**
- **Council Attorney - Mike Trippel**
- **Appointments to Various Boards and Commissions**
 - **MBA - Gregg Hixenbaugh**
 - **Solid Waste - Woody Emmons**
 - **MACOG - Mike Bellovich**
 - **Insurance Committee - Mike Compton & Mike Bellovich**
 - **Redevelopment Commission - Kris Ermeti & Janet Whitfield-Hyduk**
 - **Plan Commission - Woody Emmons**
 - **Historic Preservation Commission - Kate Voelker**
 - **School City of Mishawaka Liaison - Woody Emmons**

The chair entertained a motion to approve the suggested appointments to the council committees, Mr. Trippel as the Council Attorney and the appointments to various boards and commissions to be made for 2021 all as are reflected in the information distributed to the council from the Clerk's Office. A motion was made by Mr. Banicki and seconded by Mrs. Voelker. Question was called for at 7:09PM and Clerk Block polled the council.



Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Mr. Hixenbaugh announced the acceptance of Conflict of Interest Forms and asked Clerk Block to read into the record the name of the councilmembers who have completed and distributed to the rest of the council their Conflict of Interest forms.

Dale Woody Emmons, 1st District Council
Anthony Tony Hazen, 2nd District Council
Gregg A Hixenbaugh, Council At-Large
Matt Mammolenti, Council At-Large

The chair entertained a motion to accept the Conflict of Interest forms, consistent with requirements of Indiana Law. A motion was made by Mrs. Voelker and seconded by Mr. Emmons. Question was called for at 7:10PM and Clerk Block polled the council.

 **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.**

Mr. Hixenbaugh wished the council, their friends from the administration and Mr. Trippel a Happy New Year as well as the remainder of the community.

ADJOURNMENT: 7:11PM

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

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 13, 2021

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 14 2020

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
January 12, 2021, Public Hearing

Honorable Members:

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

APPEAL #20-58 An appeal submitted by Bokhart Properties, LLC, requesting a Use Variance for **403 and 411 South Main Street** to allow tattoo, piercing, and art gallery in the I-1 Light Industrial zoning and a Developmental Variance for reduction of parking spaces.

The Board, with a vote of 3-0, recommended approval subject to the following conditions:

1. Submission of a site plan addressing new parking and traffic flow.
2. Proposed parking area shall be brought up to current standards with stormwater management.
3. The gravel access between 403 and 411 South Main Street shall be hard surface. Gravel is not allowed anywhere there will be vehicular traffic.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Maurice Bokhart

STAFF REPORT

Location: 403 & 411 South Main Street

Date: January 12, 2021

Appeal: 20 58

Prepared By: CH

GENERAL INFORMATION

Applicant: Bokhart Properties, LLC/Maria Ortega

Status: Property Owner/Tenant

Request: Use Variance to allow for tattoo, piercing and art gallery
Developmental Variance for parking spaces

Zoning Classification: I-1 Light Industrial

Lot Size: 1.75 acres

Applicable Regulations: Section 137-42 Board of Zoning Appeals Use Variance
Section 137-586 Light Industrial Uses

SPECIAL INFORMATION

Area Development Pattern: North: C-3 City Center Commercial
South: C-1 General Commercial, R-1 Single Family Residential
East: I-1 Light Industrial
West: C-1 General Commercial, I-1 Light Industrial

Thoroughfare: North Main Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial & Industrial

ANALYSIS

The Appellants are requesting a Use Variance to allow for tattoo, piercing, and art gallery in property zoned I-1 Light Industrial. The property is surrounded by industrial and commercial uses with limited residential to the south.

In 2015, Mr. Bokhart received Use Variance to allow for warehousing and display of high-end, luxury automobiles at 403 S Main. In 2016, the Use Variance was expanded to include 411 S Main, but maintain that building's previous use as a commercial kitchen. In 2020, Mr. Bokhart and a contingent purchaser, received a Use Variance for an interior design studio and furniture showroom (retail sales). That sale never went through. Tattoo is a Use Variance or Conditional Use regardless of the underlying zoning.

Mr. Bokhart is now leasing the property to Maria Ortega, who will be relocating the tattoo and piercing business to a larger space to expand with the art gallery.

The parking requirement for a building of approximately 9,000 square feet is 36 parking spaces. Parking will be provided, 10 spaces, including ADA spaces, behind (west of) 411 S Main.

Planning Staff requests a site plan be submitted addressing items including, but not limited to; location of new parking, and traffic flow.

The Building Department requires a change of occupancy permit and permits for any remodeling.

The Engineering Department comments:

- 1) The proposed parking area shall be brought up to current standards with stormwater management.
- 2) The gravel access between 403 & 411 S Main shall be hard surface. Gravel is not allowed anywhere there will be vehicular traffic.

Other pertinent City departments have reviewed and approved.

RECOMMENDATION

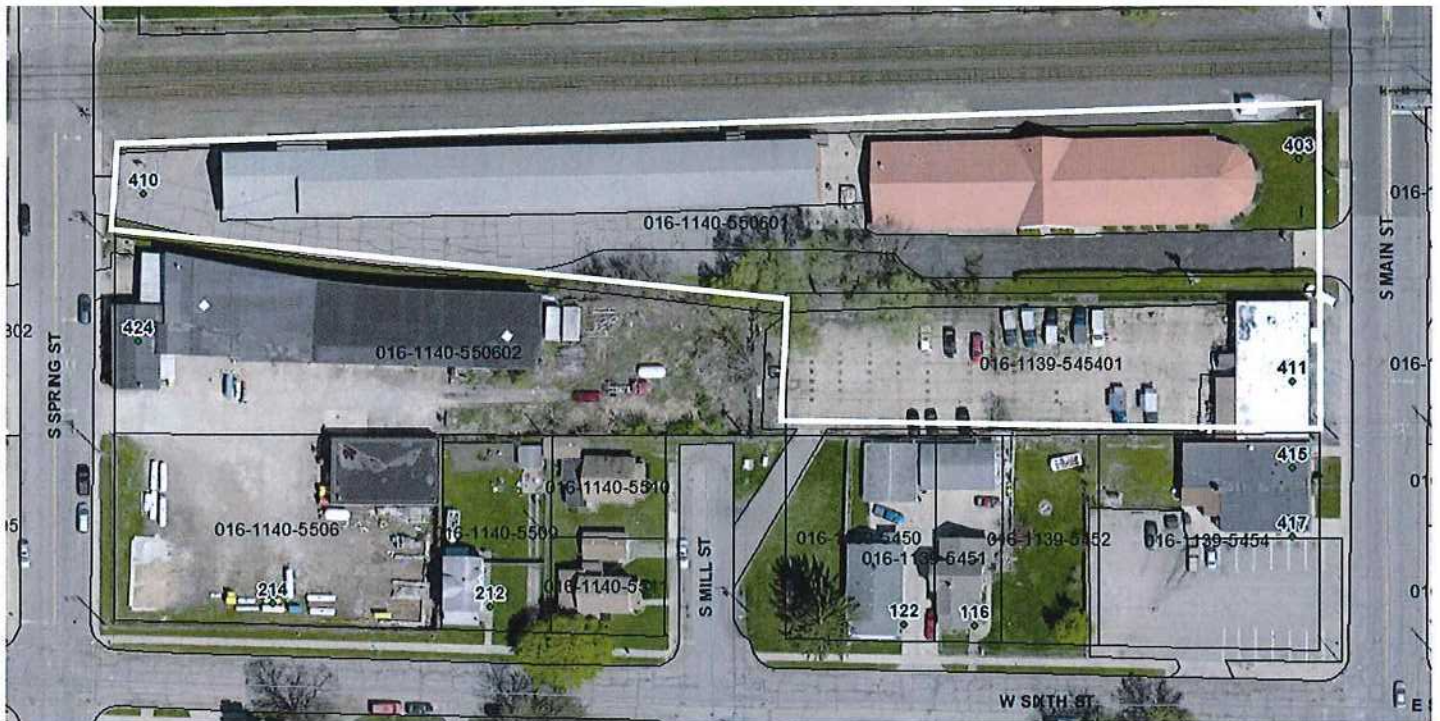
The Planning Staff recommends approval of Appeal #20-58 to allow for tattoo, piercing, and art gallery, in an I-1 Light Industrial District, subject to an administrative site plan being submitted addressing above comments.

This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and/or improvements to the existing structure;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the adjacent properties are zoned for industrial and/or commercial uses.
3. The need for the variance arises from some condition peculiar to the property in that Tattoo is a Use Variance or Conditional Use regardless of the underlying zoning.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for specific uses within industrial zoned properties;
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

ATTACHMENTS

Aerial, Photographs, Appeal, Location Map





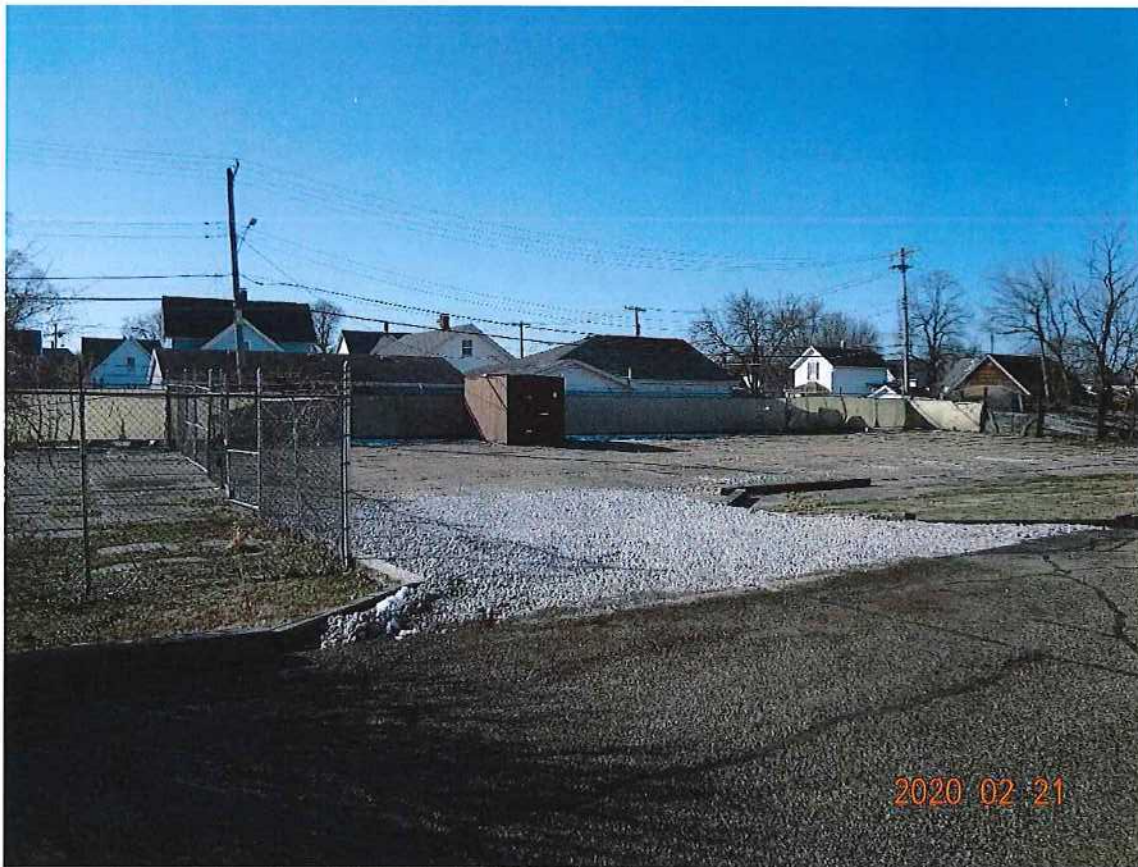
Front view of 403 S Main



Front view of 411 S Main



Rear parking lot of 411 S Main. Gravel to be removed or made hard surface.



Rear parking lot of 411 S Main. Gravel to be removed or made hard surface.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 13, 2021

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 14 2021

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
January 12, 2021, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #20-24 A petition submitted by GW Mishawaka II, LLC requesting a rezoning of **5505 and 5603 Grape Road** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

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

PETITION #20-25 A petition submitted by Family Video Movie Club, Inc. to amend the Bercado Planned Unit Development for property at **520 Bittersweet Road** to allow fuel pumps and convenience store and allow a parking reduction.

The Commission, with a vote of 6-1, recommended approval subject to the following conditions:

1. Permitted uses shall be amended to include a convenience store with fuel pumps. C-2 Shopping Center Commercial uses shall continue to be permitted.
2. A minimum of twenty-four (24) parking spaces shall be provided.
3. A minimum 15' parking setback shall be provided along Bittersweet Road.
4. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height solid hedgerow shall be provided along the east property line.
5. Freestanding off-premise signs shall not be permitted.
6. Except as noted above, the site shall comply with all other C-10 Filling Station / Car Wash area, height, and development regulations.

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Mike Huber
George Lepeniotis
Jeff Ballard

STAFF REPORT

Location: 5505 Grape Road

Date: January 12, 2021

Petition: 20 24

Prepared By: CH

GENERAL INFORMATION

Applicant: GW Mishawaka II LLC/Abonmarche Consultants

Status: Property Owner/Representative

Request: Rezone from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District

Zoning Classification: C-1 General Commercial District

Lot Size: 1.81 acres +/-

Applicable Regulations: Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial District (parking lot & Discount Tire)
South: C-7 Automobile Oriented Restaurant Commercial (Steak N Shake) & C-1 General Commercial District (parking lot)
East: C-2 Shopping Center Commercial District (Wilshire Plaza)
West: C-1 General Commercial District (ABC Warehouse)

Thoroughfare: Grape Road

School District: South Bend Community School Corporation

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

Comprehensive Plan: General Commercial (Downtown, Retail Sales, and Shopping Centers)

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District. The property is located on the west side of Grape Road, north of Douglas Road, in the parking lot of the ABC Warehouse and vacant Bargain Books.

The Petitioner is looking to carve out two outlots in the parking lot for the development of new drive-thru restaurants. The northern outlot is the approximate location of the former Fitness USA, which closed in 2014, and was demolished after 2017. Each outlot can contain an approximately 2,400 sf restaurant, with the appropriate parking. There will still be sufficient parking for the existing retail building.

The Engineering Department had no concerns with the change in zoning, however, did have comments about how the property should eventually develop. Those comments were shared with the owner and their representative.

The Planning Department requires a subdivision be submitted to officially create these new lots. Each lot will require its own site plan prior to permits being issued. Items such as access, flow through the entire site, easements, drive-thru stacking, landscaping etc. will be addressed during the subdivision and site plan processes.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #20-24 to rezone 5055 and 5603 Grape Road to C-7 Automobile Oriented Restaurant Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions. As Grape Road is a busy commercial corridor, the majority of the properties in the immediate vicinity are commercial in use and would be compatible to the area;
2. Character of Buildings - The character of the buildings in the area are predominantly commercial
3. The most desirable/highest and best use - Because the parcel is located adjacent to another C-7 zoned property, the rezoning to C-7 Automobile Oriented Restaurant Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as the existing C-1 General Commercial zoning classification permits multiples commercial uses on the property; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location along Grape Road, the proposed commercial use is consistent with the Plan.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





A view of the Bargain Books/ABC Warehouse building



A view north from the driveway north of Steak N Shake



A view from the buildings looking East towards Grape Road of the southern outlet



A view from the buildings looking East towards Grape Road at the northern outlet



A view of the southern outlet from across Grape Road



A view of the northern outlet (former Fitness USA) from across Grape Road

STAFF REPORT

Location: 520 Bittersweet Road – SW Corner of Bittersweet Rd. & Vistula Rd. Date: January 12, 2021

Petition: 20- 25

Prepared By: DJS

GENERAL INFORMATION

Applicant: Family Video Movie Club Inc. / Danch, Harner & Associates, Inc.

Status: Property Owner / Site Design Consultant

Request: Amend part of the Bercado Planned Unit Development (PUD) to allow a convenience store with fuel pumps, from the required C-2 Commercial District development standards to the C-10 Commercial Development standards, and to allow a reduction in the required number of parking spaces for the existing building

Zoning Classification: S-2 Planned Unit Development (Permitted Uses on the portion of the PUD to be amended include C-2 shopping center commercial uses subject to the C-2 development regulations)

Lot Size: 0.95 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Medical Clinic / Beacon Medical Group Schwartz-Wiekamp)
South: S-2 Planned Unit Development (Multi-Family Residential / Reflections Apartment Complex)
East: S-2 Planned Unit Development (Multi-Family Residential / Reflections Apartment Complex)
West: R-1 Single Family Residential (Residential & Church and School / Queen of Peace)

Thoroughfare: Bittersweet Road & Vistula Road

School District: Penn-Harris-Madison School Corporation

Township: Penn

Public Utilities: All utilities are available and currently serve the site.

Comprehensive Plan: Medium Density Residential

ANALYSIS

The petitioner, Family Video Movie Club Inc., is requesting to amend a part of the Bercado Planned Unit Development to allow an existing multi-tenant commercial building to be partially redeveloped for a proposed convenience store with fuel pumps. The request also proposes the C-10 Filling Station / Car

Wash development regulations be applicable except for the parking requirements. The C-10 District is the only zoning classification that permits filling stations. After review of the preliminary site plan, Staff is requesting that other development conditions be placed on the property. These conditions have been included in the staff recommendation.

The property, located at the southeast corner of Bittersweet Road and Vistula Road, is bound by a medical clinic to the north, a multi-family residential apartment complex to the east and south, and single family houses and a church/school to the west.

The current PUD regulations applicable to the property, which were approved in 1991 (Petition 91-19/Ord. 3495), permit only C-2 Shopping Center Commercial District uses subject to the C-2 District development regulations. The PUD amendment will allow the proposed convenience store with fuels pumps in addition to the previously approved uses.

The property is developed with a multi-tenant one-story commercial building. The northern part of the building is currently vacant and proposed to be occupied by a convenience store with fuel pumps. The vacant tenant space was formerly a Family Video. The southern part of the building is currently occupied with a Little Caesar's carry-out restaurant.

Per the preliminary site plan submitted with the PUD amendment, the existing improvements on the property will remain largely unchanged except for the expansion of the parking area to accommodate the proposed four (4) fuel pumps and canopy. The increase in pavement may require additional stormwater storage be provided on-site.

Access to the site will be maintained as is with one access from Bittersweet Road via a private drive (Honeysuckle Lane) to the south and one access to Vistula Road to the north. The private drive also provides a common access to the adjacent Reflections Apartment complex.

Based on 5.5 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the C-10 District, a total of thirty-nine (39) parking spaces are required for the 7,108 sq. ft. building. The petitioner is requesting a reduction from the current forty-four (44) parking spaces to twenty-four (24) parking spaces. An existing row of parking along Bittersweet Road is proposed to be removed to accommodate the fuel pumps and canopy. The parking area will also be expanded approximately 12.5' to the west to provide adequate space for vehicular circulation through the property and to allow access to the fuel pumps.

The C-10 development regulations require a 10' minimum parking setback from the public right-of-way. Planning Staff requested a minimum 15' parking setback be maintained along Bittersweet Road to allow adequate space for the required landscaping. A 15' setback would also align with the existing pavement setbacks for other commercial properties on the east side of Bittersweet Road to the south (PNC Bank & Martin's - Bittersweet Plaza). The current setback for the existing parking area is approximately 29'. The preliminary site plan shows a parking setback of 16.9'.

The canopy above the fuel pumps is required to be setback a minimum of 20' from any exterior lot line and shall not exceed 35' in height. The preliminary site plan shows the canopy will be setback approximately 27' from Bittersweet Road. The height is not indicated, but a note is included on the plan that states it shall not exceed 35' in height.

The landscaping, conceptually shown, shall comply with the commercial landscaping and screening requirements. Due to the expansion of the parking lot, it appears a minimum of six (6) mature deciduous overstory trees along Bittersweet Road will have to be removed. New trees compliant with the required number and spacing must be planted to replace any removed trees. A 36" minimum height (18" at planting) hedgerow shall also be provided along both Bittersweet Road and Vistula Road. Hedgerows along both roads are shown on the preliminary site plan. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height (18" at planting) hedgerow shall also be provided along the east property line behind the building to screen the adjacent apartment complex. A more detailed landscape plan shall be submitted with the final site plan, and is subject to review and approval by the Planning Staff.

Similar to when the prior Planned Unit Development amendment was approved, the petitioner is only proposing to establish, or in this case, amend the permitted uses and basic development requirements of the planned unit development. If approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

The Engineering Department provided the following comments that shall be addressed with the final site plan:

1. If any food will be prepared or served in the convenience store, a grease interceptor shall be required. (750 gallon minimum)
2. Assuming the existing drainage system is infiltration, measures shall be considered to prevent fuel spills from entering the system and contaminating soils.

The Building Department commented that permit(s) will be required.

The Fire Department commented that they should be informed when the project starts prior to installation of the underground fuel tanks.

RECOMMENDATION

Staff recommends **approval** of Petition 20-25 to amend part of the Bercado Planned Unit Development (PUD) to allow a convenience store with fuel pumps, from the required C-2 Commercial District development standards to the C-10 Commercial Development standards, and to allow a reduction in the required number of parking spaces for the existing building subject to the following conditions:

1. Permitted uses shall be amended to include a convenience store with fuel pumps. C-2 Shopping Center Commercial uses shall continue to be permitted.
2. A minimum of twenty-four (24) parking spaces shall be provided.
3. A minimum 15' parking setback shall be provided along Bittersweet Road.
4. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height solid hedgerow shall be provided along the east property line.
5. Freestanding off-premise signs shall not be permitted.
6. Except as noted above, the site shall comply with all other C-10 Filling Station / Car Wash area, height, and development regulations.

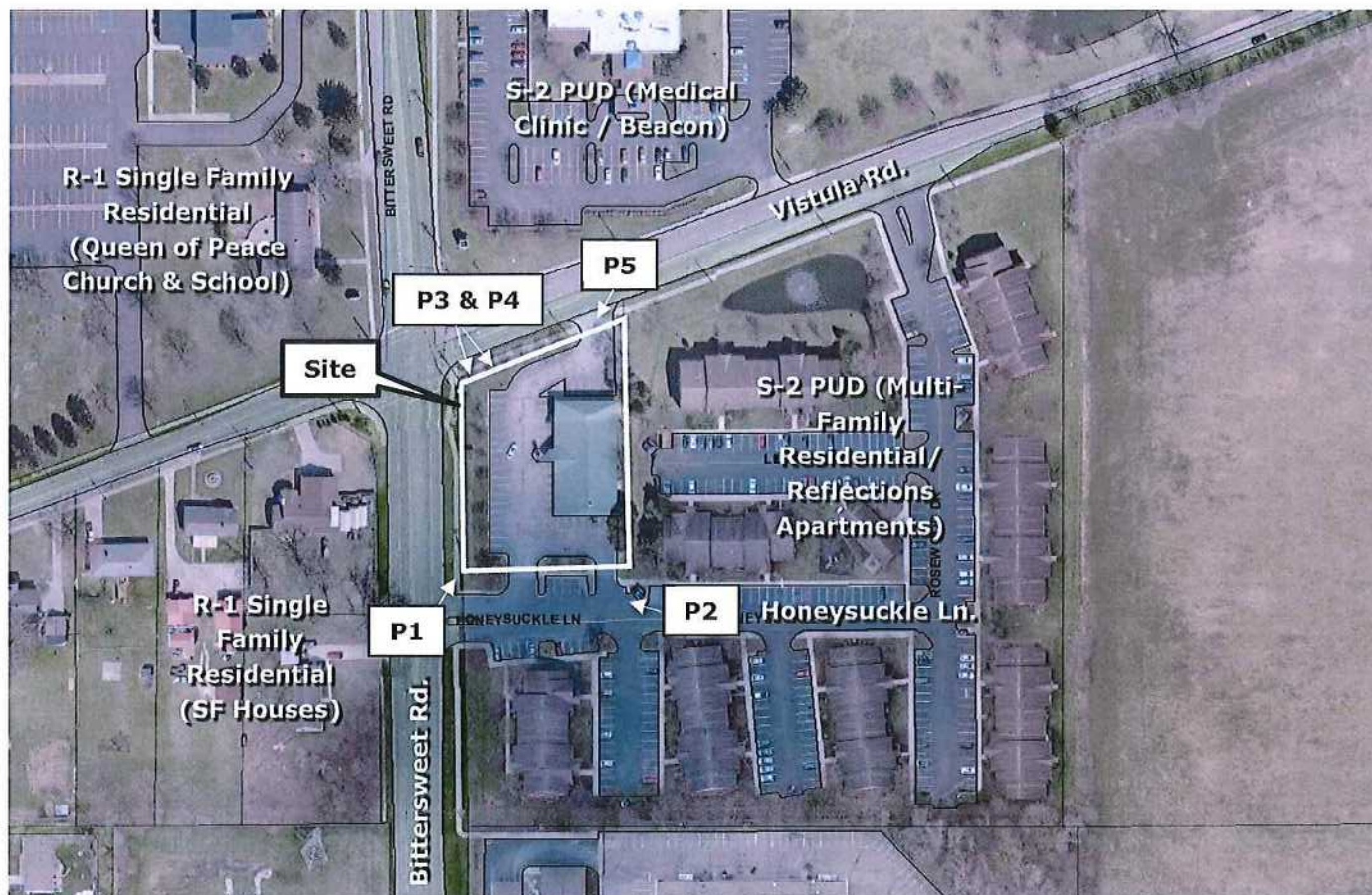
The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently developed with a 7,108 sq. ft. multi-tenant commercial building subject to the C-2 Shopping Center Commercial uses. Adjacent uses include a medical clinic to the north, an apartment complex to the east and south, and single family houses and a church/school to the west. The Bittersweet Road corridor includes many commercial buildings and uses south of the St. Joseph River.
2. Character of Buildings in Area – The character of the buildings along the Bittersweet Road corridor vary and include single-family houses, single and multi-tenant commercial/retail buildings, a fueling station, a car wash, and a multi-family residential apartment complex.
3. The Most Desirable/Highest and Best Use – Due to the property's location along a primarily commercial corridor, the most desirable use of the property is for continued commercial use. The proposed use will be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area. The property is currently zoned for C-2 Shopping Center commercial uses.

5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for medium density residential development as currently exists to the east and south. The presence of existing commercial development along Bittersweet Road has profoundly changed the character of the area since the early 1990's.

ATTACHMENTS

Photographs, Petition, Amended Preliminary PUD Plan, Location Map



Aerial Photograph
Existing Multi-Tenant Commercial Building – 520 Bittersweet Road
Part of the Bercado Planned Unit Development



P1. Looking northeasterly toward the property from the Bittersweet Road & Honeysuckle Lane intersection.



P2. Looking westerly along the existing access drive (Honeysuckle Ln) to the south.



P3. Looking southeasterly toward the property from Bittersweet Road & Vistula Road intersection.



P4. Looking southerly from the northwest corner of the property.



**Existing Tree Row
along Vistula Rd.
likely to remain.**

P5. Looking southwesterly toward the property from the existing access point along Vistula Road.

JAN 14 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-24

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-01

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, Clay Township, St. Joseph County, State of Indiana, to-wit:

A part of the southwest quarter of Section 28, Township 38 North, Range 3 East, City of Mishawaka, Clay Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the south quarter corner of said Section 28; thence North 00°42'31" West along the north and south quarter line of said Section 28, 315.00 feet; thence South 89°07'47" West, 40.00 feet to the west right-of-way line of Grape Road, and the point of beginning; thence continuing South 89°07'47" West, 263.00 feet; thence North 00°42'31" West, parallel with the north and south quarter line of said section, 152.85 feet; thence North 89°09'37" East, 263 feet; thence South 00°42'31" East, along said west right-of-way line, 151.44 feet, to the point of beginning.

AND

A part of the southwest quarter of Section 28, Township 38 North, Range 3 East, City of Mishawaka, Clay Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the south quarter corner of said Section 28; thence North 00°42'31" West along the north and south quarter line of said Section 28, 622.50 feet (Rec. North, 622.50 feet) thence South 89°07'47" West, 40.00 feet (Rec. West 40.00 feet) to the west right-of-way line of Grape Road, and the point of beginning; thence continuing South 89°07'47" West 263.00 fee (Rec. West); thence North 00°42'31" West, parallel with the north and south quarter line of said section, 140.00 feet; thence North 89°07'47" East, 263 feet (Rec.

Proposed Ordinance No: 2021-01

Ordinance No: _____

East); thence South 00°42'31" East, along said west right-of-way line, 140.00 feet (Rec. South, 141.00 feet) to the point of beginning.

COMMON ADDRESSES: 5505 outlot and 5603 Grape Road

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-7 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions - As Grape Road is a busy commercial corridor, the majority of the properties in the immediate vicinity are commercial in use and would be compatible to the area;
2. Character of Buildings - The character of the buildings in the area are predominantly commercial;
3. The Most Desirable/highest and Best Use - Because the parcel is located adjacent to another C-7 zoned property, the rezoning to C-7 Automobile Oriented Restaurant Commercial District is a desirable use for this property;
4. Conservation of Property Values - The proposed rezoning should not be injurious to property values in the surrounding area as the existing C-1 General Commercial zoning classification permits multiples commercial uses on the property; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location along Grape Road, the proposed commercial 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 _____, 2021, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2021-01

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____, 2021,
at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2021, at
_____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: 5505 Grape Road

Date: January 12, 2021

Petition: 20 24

Prepared By: CH

GENERAL INFORMATION

Applicant: GW Mishawaka II LLC/Abonmarche Consultants

Status: Property Owner/Representative

Request: Rezone from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District

Zoning Classification: C-1 General Commercial District

Lot Size: 1.81 acres +/-

Applicable Regulations: Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial District (parking lot & Discount Tire)
South: C-7 Automobile Oriented Restaurant Commercial (Steak N Shake) & C-1 General Commercial District (parking lot)
East: C-2 Shopping Center Commercial District (Wilshire Plaza)
West: C-1 General Commercial District (ABC Warehouse)

Thoroughfare: Grape Road

School District: South Bend Community School Corporation

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

Comprehensive Plan: General Commercial (Downtown, Retail Sales, and Shopping Centers)

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District. The property is located on the west side of Grape Road, north of Douglas Road, in the parking lot of the ABC Warehouse and vacant Bargain Books.

The Petitioner is looking to carve out two outlots in the parking lot for the development of new drive-thru restaurants. The northern outlot is the approximate location of the former Fitness USA, which closed in 2014, and was demolished after 2017. Each outlot can contain an approximately 2,400 sf restaurant, with the appropriate parking. There will still be sufficient parking for the existing retail building.

The Engineering Department had no concerns with the change in zoning, however, did have comments about how the property should eventually develop. Those comments were shared with the owner and their representative.

The Planning Department requires a subdivision be submitted to officially create these new lots. Each lot will require its own site plan prior to permits being issued. Items such as access, flow through the entire site, easements, drive-thru stacking, landscaping etc. will be addressed during the subdivision and site plan processes.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #20-24 to rezone 5055 and 5603 Grape Road to C-7 Automobile Oriented Restaurant Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions. As Grape Road is a busy commercial corridor, the majority of the properties in the immediate vicinity are commercial in use and would be compatible to the area;
2. Character of Buildings - The character of the buildings in the area are predominantly commercial
3. The most desirable/highest and best use - Because the parcel is located adjacent to another C-7 zoned property, the rezoning to C-7 Automobile Oriented Restaurant Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as the existing C-1 General Commercial zoning classification permits multiples commercial uses on the property; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location along Grape Road, the proposed commercial use is consistent with the Plan.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





A view of the Bargain Books/ABC Warehouse building



A view north from the driveway north of Steak N Shake



A view from the buildings looking East towards Grape Road of the southern outlet



A view from the buildings looking East towards Grape Road at the northern outlet



A view of the southern outlet from across Grape Road



A view of the northern outlet (former Fitness USA) from across Grape Road

1st Reading 1-18-21
2nd Reading
Passed
Failed
Continued To

PETITION 20-25

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-02

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC
JAN 14 2020
CITY CLERK
MISHAWAKA, IN

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:

PART OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 37 NORTH, RANGE 4 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 7; THENCE SOUTH 89°57'01" EAST, A DISTANCE OF 80 FEET TO AN IRON STAKE ON THE EAST RIGHT-OF-WAY LINE OF BITTERSWEET ROAD; THENCE NORTH 00°04'11" EAST ALONG THE EAST LINE OF SAID BITTERSWEET ROAD, A DISTANCE OF 271.45 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING NORTH 00°04'11" EAST ALONG THE EAST LINE OF SAID BITTERSWEET ROAD, A DISTANCE OF 195.66 FEET TO A POINT ON THE SOUTHERLY LINE OF VISTULA ROAD; THENCE NORTH 69°50'11" EAST ALONG THE SOUTHERLY LINE OF SAID VISTULA ROAD, A DISTANCE OF 191.84 FEET; THENCE SOUTH 00°04'11" WEST, A DISTANCE OF 261.95 FEET; THENCE NORTH 89°57'01" WEST, A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.95 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: 520 Bittersweet Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow an existing multi-tenant commercial building to be partially redeveloped for a proposed convenience store with fuel pumps subject to the following conditions:

1. Permitted uses shall be amended to include a convenience store with fuel pumps. C-2 Shopping Center Commercial uses shall continue to be permitted.
2. A minimum of twenty-four (24) parking spaces shall be provided.

Proposed Ordinance No: 2021-02

Ordinance No: _____

3. A minimum 15' parking setback shall be provided along Bittersweet Road.
4. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height solid hedgerow shall be provided along the east property line.
5. Freestanding off-premise signs shall not be permitted.
6. Except as noted above, the site shall comply with all other C-10 Filling Station/Car Wash area, height, and development regulations.

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

1. Existing Conditions – The property is currently developed with a 7,108 sq. ft. multi-tenant commercial building subject to the C-2 Shopping Center Commercial uses. Adjacent uses include a medical clinic to the north, an apartment complex to the east and south, and single-family houses and a church/school to the west. The Bittersweet Road corridor includes many commercial buildings and uses south of the St. Joseph River.
2. Character of Buildings in Area – The character of the buildings along the Bittersweet Road corridor vary and include single-family houses, single and multi-tenant commercial/retail buildings, a fueling station, a car wash, and a multi-family residential apartment complex.
3. The Most Desirable/Highest and Best Use – Due to the property's location along a primarily commercial corridor, the most desirable use of the property is for continued commercial use. The proposed use will be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area. The property is currently zoned for C-2 Shopping Center commercial uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for medium density residential development as currently exists to the east and south. The presence of existing commercial development along Bittersweet Road has profoundly changed the character of the area since the early 1990's.

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 _____, 2021, at _____ o'clock ____M.

Presiding Officer

Proposed Ordinance No: 2021-02

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2021,
at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2021, at
_____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: 520 Bittersweet Road – SW Corner of Bittersweet Rd. & Vistula Rd. Date: January 12, 2021

Petition: 20- 25

Prepared By: DJS

GENERAL INFORMATION

Applicant: Family Video Movie Club Inc. / Danch, Harner & Associates, Inc.

Status: Property Owner / Site Design Consultant

Request: Amend part of the Bercado Planned Unit Development (PUD) to allow a convenience store with fuel pumps, from the required C-2 Commercial District development standards to the C-10 Commercial Development standards, and to allow a reduction in the required number of parking spaces for the existing building

Zoning Classification: S-2 Planned Unit Development (Permitted Uses on the portion of the PUD to be amended include C-2 shopping center commercial uses subject to the C-2 development regulations)

Lot Size: 0.95 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Medical Clinic / Beacon Medical Group Schwartz-Wiekamp)

South: S-2 Planned Unit Development (Multi-Family Residential / Reflections Apartment Complex)

East: S-2 Planned Unit Development (Multi-Family Residential / Reflections Apartment Complex)

West: R-1 Single Family Residential (Residential & Church and School / Queen of Peace)

Thoroughfare: Bittersweet Road & Vistula Road

School District: Penn-Harris-Madison School Corporation

Township: Penn

Public Utilities: All utilities are available and currently serve the site.

Comprehensive Plan: Medium Density Residential

ANALYSIS

The petitioner, Family Video Movie Club Inc., is requesting to amend a part of the Bercado Planned Unit Development to allow an existing multi-tenant commercial building to be partially redeveloped for a proposed convenience store with fuel pumps. The request also proposes the C-10 Filling Station / Car

Wash development regulations be applicable except for the parking requirements. The C-10 District is the only zoning classification that permits filling stations. After review of the preliminary site plan, Staff is requesting that other development conditions be placed on the property. These conditions have been included in the staff recommendation.

The property, located at the southeast corner of Bittersweet Road and Vistula Road, is bound by a medical clinic to the north, a multi-family residential apartment complex to the east and south, and single family houses and a church/school to the west.

The current PUD regulations applicable to the property, which were approved in 1991 (Petition 91-19/Ord. 3495), permit only C-2 Shopping Center Commercial District uses subject to the C-2 District development regulations. The PUD amendment will allow the proposed convenience store with fuels pumps in addition to the previously approved uses.

The property is developed with a multi-tenant one-story commercial building. The northern part of the building is currently vacant and proposed to be occupied by a convenience store with fuel pumps. The vacant tenant space was formerly a Family Video. The southern part of the building is currently occupied with a Little Caesar's carry-out restaurant.

Per the preliminary site plan submitted with the PUD amendment, the existing improvements on the property will remain largely unchanged except for the expansion of the parking area to accommodate the proposed four (4) fuel pumps and canopy. The increase in pavement may require additional stormwater storage be provided on-site.

Access to the site will be maintained as is with one access from Bittersweet Road via a private drive (Honeysuckle Lane) to the south and one access to Vistula Road to the north. The private drive also provides a common access to the adjacent Reflections Apartment complex.

Based on 5.5 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the C-10 District, a total of thirty-nine (39) parking spaces are required for the 7,108 sq. ft. building. The petitioner is requesting a reduction from the current forty-four (44) parking spaces to twenty-four (24) parking spaces. An existing row of parking along Bittersweet Road is proposed to be removed to accommodate the fuel pumps and canopy. The parking area will also be expanded approximately 12.5' to the west to provide adequate space for vehicular circulation through the property and to allow access to the fuel pumps.

The C-10 development regulations require a 10' minimum parking setback from the public right-of-way. Planning Staff requested a minimum 15' parking setback be maintained along Bittersweet Road to allow adequate space for the required landscaping. A 15' setback would also align with the existing pavement setbacks for other commercial properties on the east side of Bittersweet Road to the south (PNC Bank & Martin's - Bittersweet Plaza). The current setback for the existing parking area is approximately 29'. The preliminary site plan shows a parking setback of 16.9'.

The canopy above the fuel pumps is required to be setback a minimum of 20' from any exterior lot line and shall not exceed 35' in height. The preliminary site plan shows the canopy will be setback approximately 27' from Bittersweet Road. The height is not indicated, but a note is included on the plan that states it shall not exceed 35' in height.

The landscaping, conceptually shown, shall comply with the commercial landscaping and screening requirements. Due to the expansion of the parking lot, it appears a minimum of six (6) mature deciduous overstory trees along Bittersweet Road will have to be removed. New trees compliant with the required number and spacing must be planted to replace any removed trees. A 36" minimum height (18" at planting) hedgerow shall also be provided along both Bittersweet Road and Vistula Road. Hedgerows along both roads are shown on the preliminary site plan. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height (18" at planting) hedgerow shall also be provided along the east property line behind the building to screen the adjacent apartment complex. A more detailed landscape plan shall be submitted with the final site plan, and is subject to review and approval by the Planning Staff.

Similar to when the prior Planned Unit Development amendment was approved, the petitioner is only proposing to establish, or in this case, amend the permitted uses and basic development requirements of the planned unit development. If approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

The Engineering Department provided the following comments that shall be addressed with the final site plan:

1. If any food will be prepared or served in the convenience store, a grease interceptor shall be required. (750 gallon minimum)
2. Assuming the existing drainage system is infiltration, measures shall be considered to prevent fuel spills from entering the system and contaminating soils.

The Building Department commented that permit(s) will be required.

The Fire Department commented that they should be informed when the project starts prior to installation of the underground fuel tanks.

RECOMMENDATION

Staff recommends **approval** of Petition 20-25 to amend part of the Bercado Planned Unit Development (PUD) to allow a convenience store with fuel pumps, from the required C-2 Commercial District development standards to the C-10 Commercial Development standards, and to allow a reduction in the required number of parking spaces for the existing building subject to the following conditions:

1. Permitted uses shall be amended to include a convenience store with fuel pumps. C-2 Shopping Center Commercial uses shall continue to be permitted.
2. A minimum of twenty-four (24) parking spaces shall be provided.
3. A minimum 15' parking setback shall be provided along Bittersweet Road.
4. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height solid hedgerow shall be provided along the east property line.
5. Freestanding off-premise signs shall not be permitted.
6. Except as noted above, the site shall comply with all other C-10 Filling Station / Car Wash area, height, and development regulations.

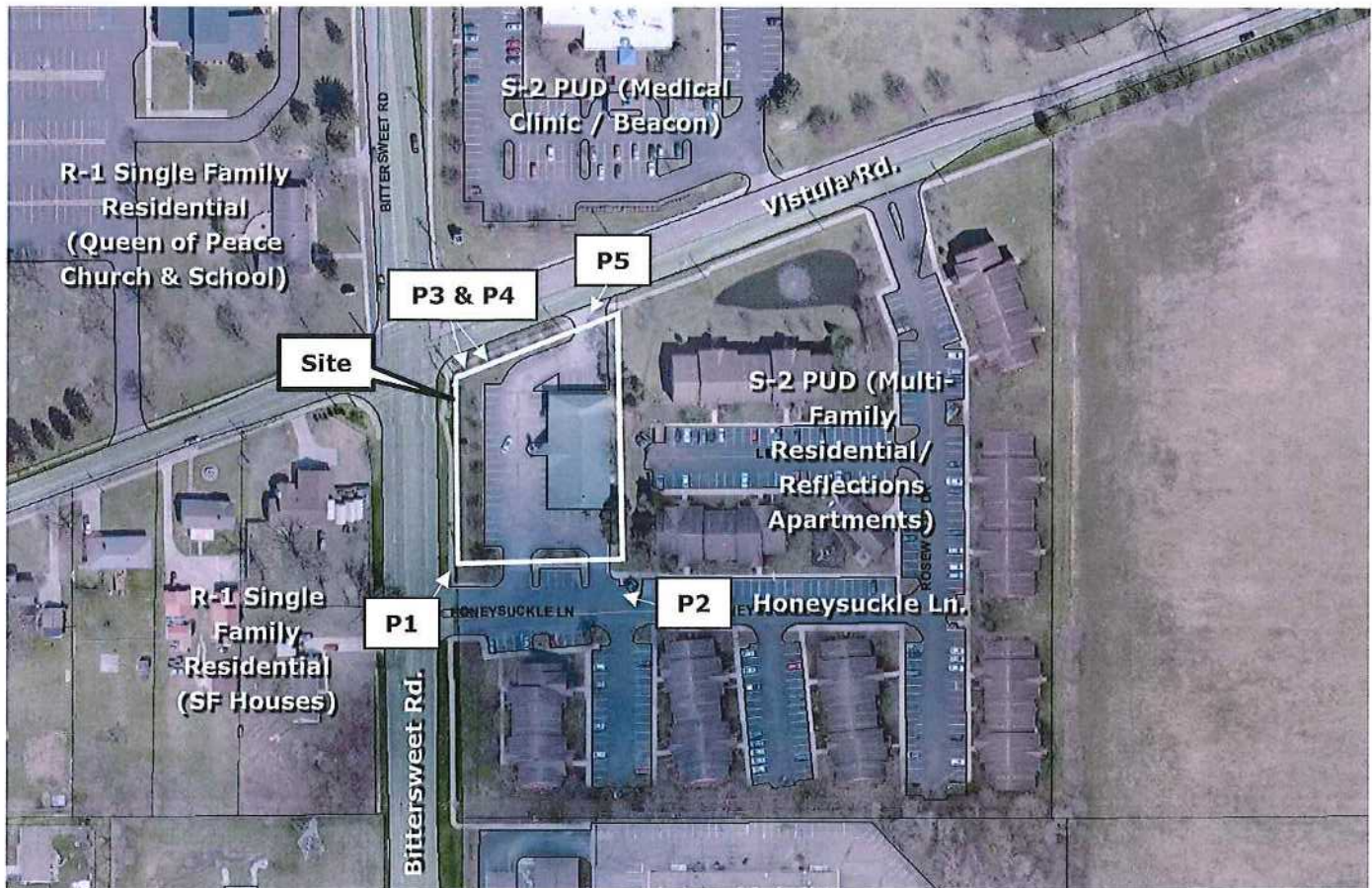
The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently developed with a 7,108 sq. ft. multi-tenant commercial building subject to the C-2 Shopping Center Commercial uses. Adjacent uses include a medical clinic to the north, an apartment complex to the east and south, and single family houses and a church/school to the west. The Bittersweet Road corridor includes many commercial buildings and uses south of the St. Joseph River.
2. Character of Buildings in Area – The character of the buildings along the Bittersweet Road corridor vary and include single-family houses, single and multi-tenant commercial/retail buildings, a fueling station, a car wash, and a multi-family residential apartment complex.
3. The Most Desirable/Highest and Best Use – Due to the property's location along a primarily commercial corridor, the most desirable use of the property is for continued commercial use. The proposed use will be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area. The property is currently zoned for C-2 Shopping Center commercial uses.

5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for medium density residential development as currently exists to the east and south. The presence of existing commercial development along Bittersweet Road has profoundly changed the character of the area since the early 1990's.

ATTACHMENTS

Photographs, Petition, Amended Preliminary PUD Plan, Location Map



Aerial Photograph
Existing Multi-Tenant Commercial Building – 520 Bittersweet Road
Part of the Bercado Planned Unit Development



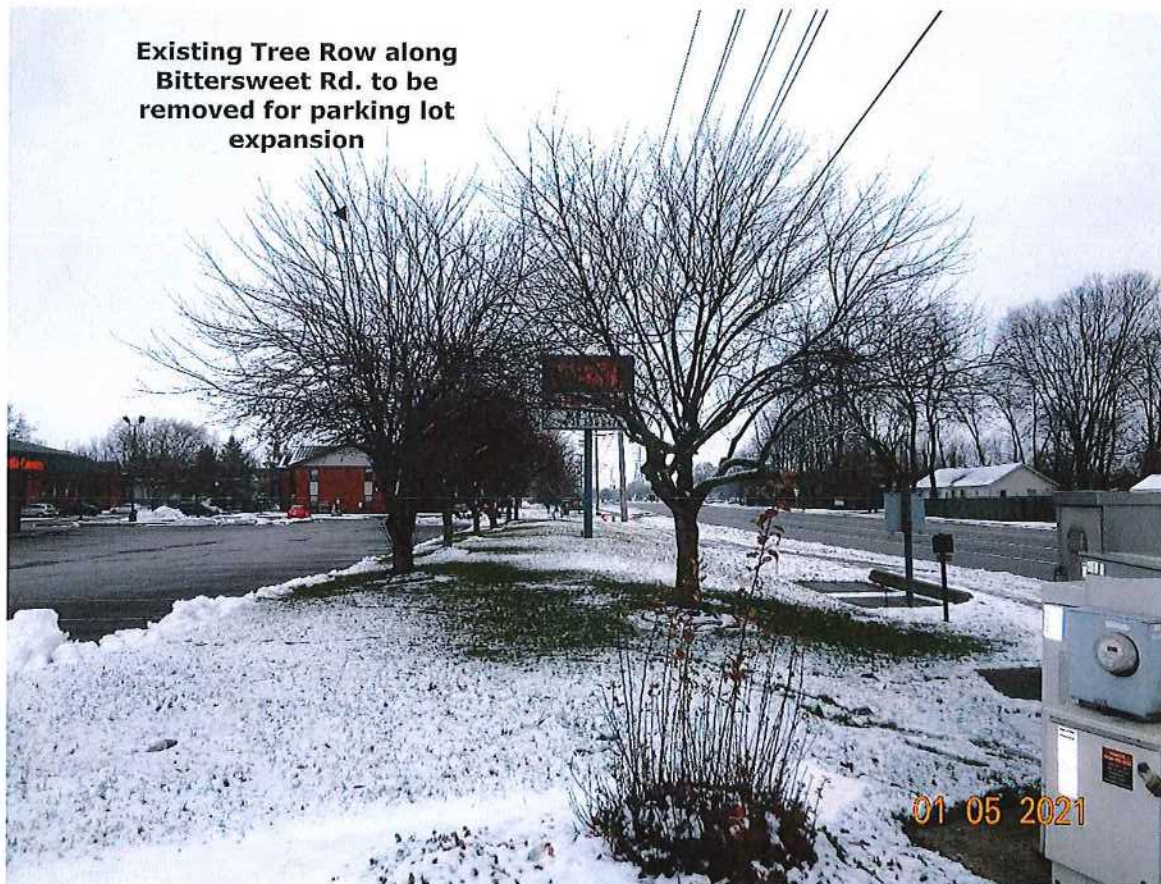
P1. Looking northeasterly toward the property from the Bittersweet Road & Honeysuckle Lane intersection.



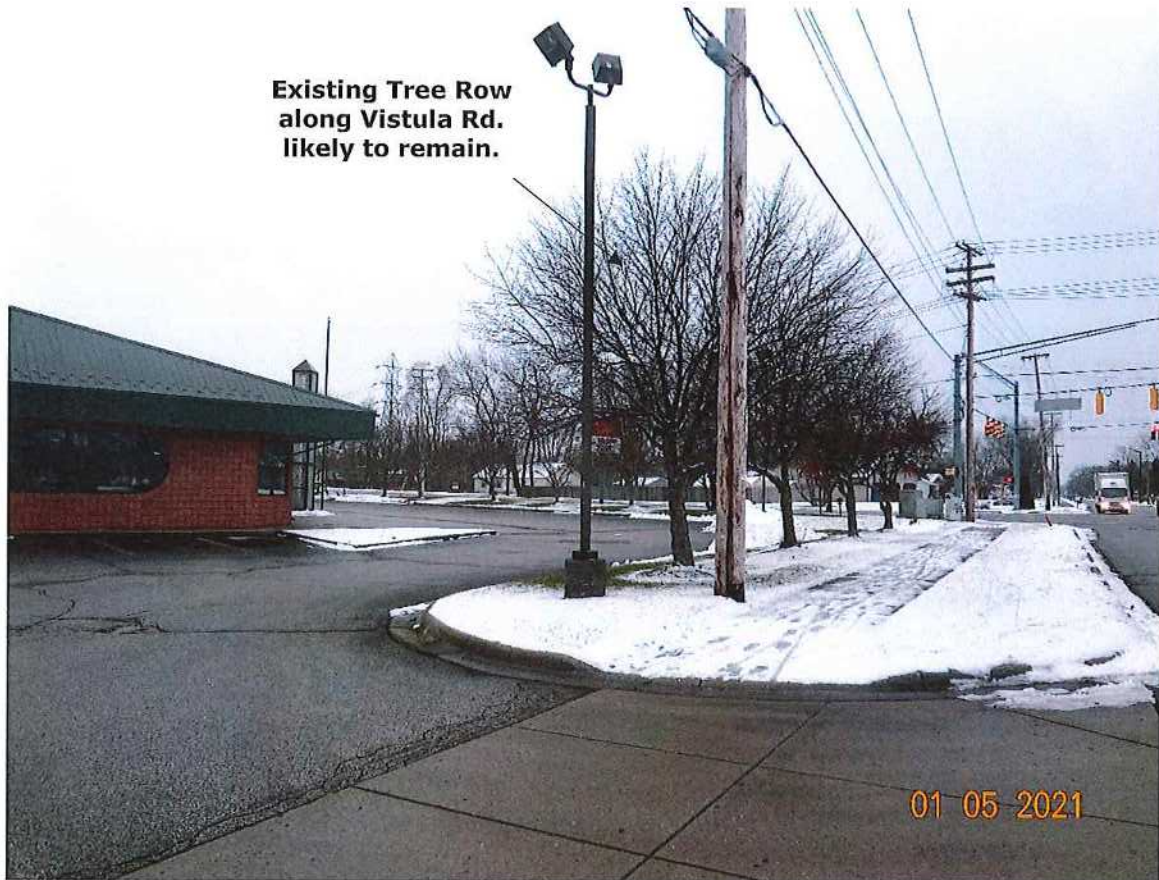
P2. Looking westerly along the existing access drive (Honeysuckle Ln) to the south.



P3. Looking southeasterly toward the property from Bittersweet Road & Vistula Road intersection.



P4. Looking southerly from the northwest corner of the property.



**Existing Tree Row
along Vistula Rd.
likely to remain.**

P5. Looking southwesterly toward the property from the existing access point along Vistula Road.

1st Reading 1 - 18 - 21
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2021-03

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 06 2020

CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE MISHAWAKA FRATERNAL ORDER OF
POLICE, LODGE 91**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana and the Mishawaka Fraternal Order of Police, Lodge 91, have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2020; and

WHEREAS, the members of the Mishawaka Fraternal Order of Police, Lodge 91, have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the Agreement on their behalf; and

WHEREAS, on the 22nd day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the amended Collective Bargaining Agreement with the Mishawaka Fraternal Order of Police, Lodge 91, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 5249 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The amended Collective Bargaining Agreement executed the 22nd day of December, 2020, effective January 1, 2021, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the Mishawaka Fraternal Order of Police, Lodge 91, is hereby approved.

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, this ____th day of January, 2021, at _____ o'clock ____ m.

Common Council

City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana,
to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of
_____, 2021 at _____ o'clock ____ .m.

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of
Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of
the City of Mishawaka, Indiana, this ____ day of _____, 2021 at _____ .m.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 6, 2021

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 06 2020

CITY CLERK
MISHAWAKA, IN

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Re: Police Department Collective Bargaining Agreement Extension

President and Honorable Council Members:

On the 22nd day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the amended Collective Bargaining Agreement with the Mishawaka Fraternal Order of Police, Lodge 91, a copy of the resolution is attached hereto. Also attached is a proposed ordinance.

The City and the Union extended the CBA, for two years to December 31, 2022, and added the contract proposals contained in the resolution.

Sincerely

Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 E. Third Street
Mishawaka, IN 46544
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fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

**CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY RESOLUTION
NO. 2020-11**

**A RESOLUTION AUTHORIZING EXTENSION OF COLLECTIVE BARGAINING
AGREEMENT**

WHEREAS, the attached Memorandum of Understanding ("MOU") was entered into between the City of Mishawaka ("City") and the MISHAWAKA FRATERNAL ORDER OF POLICE, LODGE 91 ("Union"); and

WHEREAS, the City and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020; and

WHEREAS, the City and the Union wish to extend the CBA for two years to December 31, 2022; and

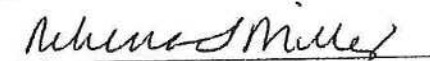
WHEREAS, the City and the Union agreed to the other amendments to the CBA contained in the attached MOU.

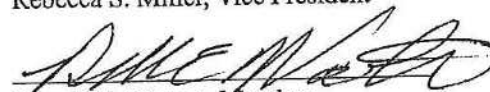
NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, THAT:

1. The CBA is extended two years to December 31, 2022.
2. The amendments to the CBA depicted in the attached MOU are approved.

PASSED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, on this 22nd day of December, 2020.


Kenneth B. Prince, President


Rebecca S. Miller, Vice President


Ronald E. Watson, Member

ATTEST:


Janel Cook, Acting Clerk

MEMORANDUM OF UNDERSTANDING REGARDING EXTENSION OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT

This Memorandum of Understanding ("MOU") is entered into between the City of Mishawaka ("City"); and the Mishawaka Fraternal Order of Police Lodge 91 ("Union")

WHEREAS, the City and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020, which provides at Article XII, Section 3, that the parties may amend any provision of the CBA at any time by the mutual agreement of the parties hereto; and

WHEREAS, the City and the Union wish to extend the CBA, for two years to December 31, 2022, and to the following changes to the CBA:

Mishawaka Police Department

FOP / City of Mishawaka Contract Proposals

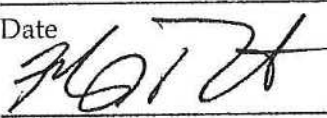
1. **Current language:** Probationary officers count as shift strength 6 months after graduation from the academy and lateral transfers count as shift strength 3 months after date of hire.
Change to: Probationary officers count as shift strength 30 days after successful completion of the FTO program and lateral transfers count as shift strength upon successful completion of the FTO program.
2. The three Uniform Division captains shall be on a 5 and 2 schedule (Monday-Friday). The captains shall no longer count as shift strength and shall be placed on the Combined Extra Duty roster.
3. Officers shall have the option of converting six weeks of vacation into random days.
4. When there is a need for necessary additional officers (e.g. prisoner guard and crime scene security) those necessary positions shall be considered as shift strength positions. Emergency extra duty procedures shall be followed to fill such positions. If the need for a prisoner guard or crime scene security arises after the commencement of a shift, the overtime shall immediately be offered at the double time rate. If the need continues into the following shift, revert back to standard emergency extra procedures.
5. In the event that VCS or a similar personnel management system becomes disabled, then the City shall have the option to immediately offer overtime at the double time rate.
6. Section 3 – Holiday Schedule; (Change to Paragraph C).
C. Any police officer who is ordered (mandatory) to work Emergency Extra Duty on any of the twelve (12) holidays listed in paragraph A shall be paid at the rate of two and one-half (2.5) times the police officer's prevailing hourly rate of pay.
7. Officers earning E-days may carry up to but no more than three (3) E-days during a calendar year. No E-days shall be carried year to year.
8. **ARTICLE XIII UNIFORM ALLOWANCE** – The following two sentences have been added to the end of the existing paragraph: The annual uniform allowance is not paid during the first year of employment, unless the new officer is a lateral hire. When an officer reaches one year of service, clothing allowance shall be paid at a pro-rated amount for the remainder of that calendar year.
9. **Article X – Section 9:** No officer shall accept an overtime assignment for the shift that commences at the end of the shift in which the officer called off sick.

NOW, THEREFORE, the parties hereby agree as follows:

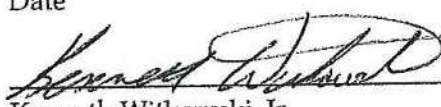
1. The CBA effective from January 1, 2018 to December 31, 2020 is extended to December 31, 2022.
2. The CBA is to be amended as set forth hereinabove.
3. All parties agree by signing this MOU that they have the necessary authority to enter into this MOU.
4. This MOU may be amended only by written agreement signed by each of the parties involved.

IN WITNESS WHEREOF, the parties through their duly authorized representatives enter into this MOU.

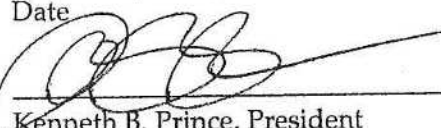
The Mishawaka Fraternal Order of Police
Lodge 91, by FOP President Matt Porter

12-22-20
Date

Matt Porter

The City of Mishawaka, by Chief of
Police Kenneth Witkowski, Jr.:

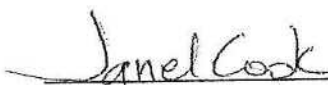
12/22/2020
Date

Kenneth Witkowski, Jr.

Approved by the Board of Public Works, City of Mishawaka:

12/22/2020
Date

Kenneth B. Prince, President


Rebecca S. Miller, Vice President


Ronald E. Watson, Member

ATTEST: 
Kari Meyers, Clerk of the Board
Janel Cook, Acting Clerk

1st Reading 1-18-21
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 03 2020

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2021-04

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE TEAMSTERS LOCAL UNION NO. 364**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana, Central Services Department and the Teamsters Local Union No. 364, have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2020; and

WHEREAS, the members of the Teamsters Local Union No. 364, have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the Agreement on their behalf; and

WHEREAS, on the 15th day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the amended Collective Bargaining Agreement with the Teamsters Local Union No. 364, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 5249 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The amended Collective Bargaining Agreement executed the 15th day of December, 2020, effective January 1, 2021, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the Teamsters Local Union No. 364, is hereby approved.

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, this ____th day of January, 2021, at _____ o'clock p.m.

Common Council
City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana,
to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of
_____, 2021 at _____ o'clock __.m.

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of
Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of
the City of Mishawaka, Indiana, this ____ day of _____, 2021 at _____ .m.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 6, 2021

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 06 2020

CITY CLERK
MISHAWAKA, IN

Re: Central Services Collective Bargaining Agreement Extension

President and Honorable Council Members:

On the 15th day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the amended Collective Bargaining Agreement with the Teamsters Local Union No. 364. Attached is a proposed ordinance for your consideration.

The City and the Union extended the CBA, for one year to December 31, 2021, and increased wages by 1.5% + \$500.00 for the calendar year of 2021.

I ask that the Council suspend their rules and hold 1st and 2nd reading at the January 18th meeting.

Thank you for your consideration in this matter.

Sincerely


Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 E. Third Street
Mishawaka, IN 46544
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fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

**CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY RESOLUTION
NO. 2020-10**

**A RESOLUTION AUTHORIZING EXTENSION OF COLLECTIVE BARGAINING
AGREEMENT AND WAGE ADJUSTMENT**

WHEREAS, the attached Memorandum of Understanding ("MOU") was entered into between the City of Mishawaka Central Services Department ("City") and the Teamsters Local Union No. 364 ("Union"); and

WHEREAS, the City and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020; and

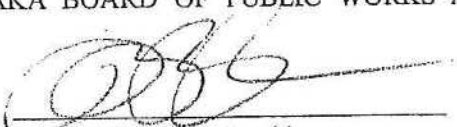
WHEREAS, the City and the Union wish to extend the CBA for one year to December 31, 2021; and

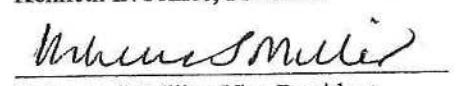
WHEREAS, the City and the Union agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, THAT:

1. The CBA is extended one year to December 31, 2021.
2. The Union employee wages are increased by 1.5% + \$500.00 for the calendar year of 2021.

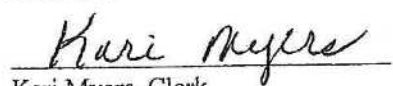
PASSED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, on this 15th day of December, 2020.


Kenneth B. Prince, President


Rebecca S. Miller, Vice President


Ronald E. Watson, Member

ATTEST:


Kari Myers, Clerk

**MEMORANDUM OF UNDERSTANDING
CITY OF MISHAWAKA
CENTRAL SERVICES DEPARTMENT**

THIS MEMORANDUM OF UNDERSTANDING sets forth the agreement between the City of Mishawaka Central Services Department and Teamsters Local Union No. 364.

All articles, terms and conditions of the current agreement in effect shall remain in effect for one (1) additional year except for the following:

**ARTICLE 23
GENERAL PROVISIONS**

Section 1. Uniforms – The City shall have a sufficient amount of rainwear, boots and gloves as needed for use during inclement weather. The City shall provide one pair of insulated pants and a jacket, and the City will allow for the exchange and replacement or repair of apparel damages in the line of duty with the approval of the Central Services Director. Except for Fleet Maintenance Technicians, each employee shall have an allowance to be spent on work boots according to the following schedule:

Employed with Central Services after December 31, 2020, but before December 31, 2021: \$150.00.

The purchase price of each properly documented purchase of work boots will be deducted from the employee's allowance, with the remainder available for future work boot purchases through the end of the term of this contract. Upon termination of employment with Central Services, the employee forfeits any remaining allowance.

The City shall also furnish uniforms and gloves to be worn by the employees during all working hours. If the uniforms and gloves are damaged by normal wear and tear due to daily working conditions, the employer shall provide replacement uniforms and gloves. A total of eleven (11) uniforms will be furnished per year.

Section 7. Tool Allowance – Fleet Maintenance Technicians with more than one year of service shall have a combined boot and tool allowance according to the following schedule:

Employed with Central Services after December 31, 2020, but before December 31, 2021: \$200.00.

The purchase price of each properly-documented purchase of work boots or tools will be deducted from the employee's allowance, with the remainder available for future work boot purchases through the end of the term of this contract. Upon termination of employment with Central Services, the employee forfeits any remaining allowance.

**ARTICLE 28
JOB CLASSIFICATIONS**

The following list of job classifications in the Central Services Department/Fleet Maintenance Technicians work group:

Position	2021 Increase
Fleet Maintenance Tech	1.5% + 500.00
Group 1	1.5% + 500.00
Group 2	1.5% + 500.00
Group 3	1.5% + 500.00

Additional classifications established during the term of the Agreement will be reviewed with the union steward and business agent prior to being implemented.

Changes in job descriptions will be reviewed with the union steward and business agent prior to being implemented.

ARTICLE 29
TENURE OF AGREEMENT

Section 1. This Memorandum of Understanding, along with all other articles, terms and conditions of the Articles of Agreement not herein modified, shall be in full force and effect from January 1, 2021, to and including December 31, 2021.

Section 2. The parties agree to open negotiations with sixty (60) days' prior notice provided on or about July 1, 2021, for the purpose of negotiating a new labor agreement, including wages and benefits.

**CITY OF MISHAWAKA BOARD OF
PUBLIC WORKS AND SAFETY**

By: _____

Ken Prince, President

By: _____

Rebecca Miller, Vice President

By: _____

Ronald E. Watson, Member

ATTEST: _____

Kari Myers, Clerk, BPWS

**LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

By: _____

Robert R. Warnock, III

Title: _____

President

Date Signed: 12-10-2020

1st Reading 1-16-21
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2021-05
ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK MMC
JAN 06 2020
CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL #1392**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Utilities and the International Brotherhood of Electrical Workers, Local #1392, have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2020; and

WHEREAS, the members of the International Brotherhood of Electrical Workers, Local #1392, have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the Agreement on their behalf; and

WHEREAS, on the 1st day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Utility Board, approved the amended Collective Bargaining Agreement with the International Brotherhood of Electrical Workers, Local #1392, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 5249 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The amended Collective Bargaining Agreement executed the 1st day of December, 2020, effective January 1, 2021, between the Utility Board of the City of Mishawaka, Indiana and the International Brotherhood of Electrical Workers, Local #1392, is hereby approved.

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, this ____ day of January, 2021, at ____ o'clock P.M.

Common Council

City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana,
to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of
_____, 2021 at _____ o'clock __.m.

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of
Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of
the City of Mishawaka, Indiana, this ____ day of _____, 2021 at __.m.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 6, 2021

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 06 2021

CITY CLERK
MISHAWAKA, IN

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Re: Mishawaka Utilities and IBEW Collective Bargaining Agreement Extension

President and Honorable Council Members:

On the 1st day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Utility Board, approved the amended Collective Bargaining Agreement with the IBEW Local #1392, a copy of the resolution is attached hereto. Also attached is a proposed ordinance.

The City and the Union extended the CBA, for one year to December 31, 2021, and agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

Sincerely


Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

CITY OF MISHAWAKA UTILITY BOARD RESOLUTION NO. 2020-05

**A RESOLUTION AUTHORIZING EXTENSION OF COLLECTIVE BARGAINING
AGREEMENT AND WAGE ADJUSTMENT**

WHEREAS, the attached Memorandum of Understanding ("MOU") was entered into between the City of Mishawaka Utility Board ("Utility") and the International Brotherhood of Electrical Workers, Local #1392 ("Union"); and

WHEREAS, the Utility and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020; and

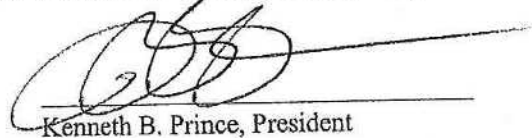
WHEREAS, the Utility and the Union wish to extend the CBA for one year to December 31, 2021; and

WHEREAS, the Utility and the Union agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MISHAWAKA UTILITY BOARD,
THAT:

1. The CBA is extended one year to December 31, 2021.
2. The Union employee wages are increased by 1.5% + \$500.00 for the calendar year of 2021.

PASSED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC UTILITIES, on this 1st day of December, 2020.



Kenneth B. Prince, President

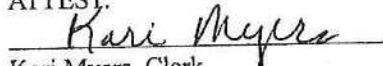


Rebecca S. Miller, Vice President



Ronald E. Watson, Member

ATTEST:


Kari Myers, Clerk

MEMORANDUM OF UNDERSTANDING REGARDING EXTENSION OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT

This Memorandum of Understanding ("MOU") is entered into between the City of Mishawaka Utility Board on behalf of the City's municipally owned utility operation pursuant to the grant of statutory authority by Ind. Code § 8-1.5-3-3, et seq. to the Utility Board to exercise general supervision over the City's municipally owned utilities; and the International Brotherhood of Electrical Workers, Local #1392.

The City of Mishawaka's Utility Board and Mishawaka Utilities shall hereinafter be referred to as the "Utility". The International Brotherhood of Electrical Workers, Local #1392 shall hereinafter be referred to as the "Union".

WHEREAS, the Utility and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020; and

WHEREAS, the Utility and the Union wish to extend the CBA for one year to December 31, 2021; and

WHEREAS, the Utility and the Union agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

NOW, THEREFORE, the parties hereby agree as follows:

1. The CBA effective from January 1, 2018 to December 31, 2020 is extended to December 31, 2021.
2. The Utility will pay the Union employees a 1.5% + \$500.00 wage increase for the calendar year of 2021.
3. All parties agree by signing this MOU that they have the necessary authority to enter into this MOU.
4. This MOU may be amended only by written agreement signed by each of the parties involved.
5. This MOU is effective January 1, 2021 to and including December 31, 2021.

IN WITNESS WHEREOF, the parties through their duly authorized representatives enter into this MOU.

IN WITNESS WHEREOF, the parties through their duly authorized representatives enter into this MOU.

The International Brotherhood
Of Electrical Workers, Local #1392
Local #1392,
by its Negotiating Committee:

11/19/20
Date

Bill D. Scally
Bill D. Scally, Business Manager

Shane Reynolds
Shane Reynolds, Electric Division

Aaron W. DeCocker
Aaron W. DeCocker, Water Division

Joseph P. Schrader
Joseph P. Schrader, Electric Division

The Mishawaka Utilities by its
Negotiating Committee:

11-8-2020
Date

James M. Schrader
James M. Schrader, General Manager

Patrick J. Hinkle
Patrick J. Hinkle, Corporation Counsel

Approved by the Board of Utilities, City of Mishawaka:

Date
Kenneth B. Prince
Kenneth B. Prince, President

Rebecca S. Miller
Rebecca S. Miller, Vice President

Ronald E. Watson
Ronald E. Watson, Member

ATTEST: Kari Meyers
Kari Meyers, Clerk of the Board

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2021-06
ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC
JAN 08 2020
CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN
THE CITY OF MISHAWAKA SEWER DEPARTMENT AND THE TEAMSTERS
LOCAL UNION NO. 364**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Sewer Department and the Teamsters Local Union No. 364, have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2020; and

WHEREAS, the members of the Teamsters Local Union No. 364, have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the Agreement on their behalf; and

WHEREAS, on the 15th day of December, 2020, the City of Mishawaka, Indiana, acting by and through its Board of Public Works and Safety, approved the amended Collective Bargaining Agreement between the City of Mishawaka Sewer Department and the Teamsters Local Union No. 364, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 5249 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The amended Collective Bargaining Agreement executed the 15th day of December, 2020, effective January 1, 2021, between the City of Mishawaka Sewer Department and the Teamsters Local Union No. 364, is hereby approved.

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, this 18th day of January, 2021, at _____ o'clock P.M.

Common Council

City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana,
to the Mayor of the City of Mishawaka, Indiana, for approval on the _____ day of
_____, 2021 at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of
Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of
the City of Mishawaka, Indiana, this _____ day of _____, 2021 at _____ o'clock
____m.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 8, 2021

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 08 2020

CITY CLERK
MISHAWAKA, IN

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Re: Mishawaka Sewer Department and Teamsters Local Union No. 264, Collective Bargaining Agreement Extension

President and Honorable Council Members:

On the 15th day of December, 2020, the City of Mishawaka, Sewer Department, acting by and through the City of Mishawaka Board of Public Works and Safety, approved the amended Collective Bargaining Agreement with the Teamsters Local Union No. 364, a copy of the resolution is attached hereto. Also attached is a proposed ordinance.

The City and the Union extended the CBA, for one year to December 31, 2021, and agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

Sincerely

Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

**CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY RESOLUTION
NO. 2020-09**

**A RESOLUTION AUTHORIZING EXTENSION OF COLLECTIVE BARGAINING
AGREEMENT AND WAGE ADJUSTMENT**

WHEREAS, the attached Memorandum of Understanding ("MOU") was entered into between the City of Mishawaka Sewer Department ("City") and the Teamsters Local Union No. 364 ("Union"); and

WHEREAS, the City and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020; and

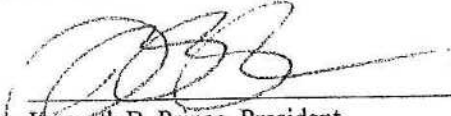
WHEREAS, the City and the Union wish to extend the CBA for one year to December 31, 2021; and

WHEREAS, the City and the Union agreed to a 1.5% + \$500.00 wage increase from January 1, 2021 to December 31, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, THAT:

1. The CBA is extended one year to December 31, 2021.
2. The Union employee wages are increased by 1.5% + \$500.00 for the calendar year of 2021.

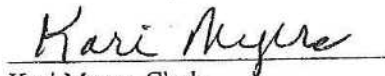
PASSED BY THE CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY, on this 15th day of December, 2020.


Kenneth B. Prince, President


Rebecca S. Miller, Vice President


Ronald E. Watson, Member

ATTEST:


Kari Myers, Clerk

**MEMORANDUM OF UNDERSTANDING
CITY OF MISHAWAKA
SEWER DEPARTMENT**

THIS MEMORANDUM OF UNDERSTANDING sets forth the agreement between the City of Mishawaka Sewer Department and Teamsters Local Union No. 364.

All articles, terms and conditions of the current agreement in effect shall remain in effect for one (1) additional year except for the following:

**ARTICLE 23
GENERAL PROVISIONS**

Section 1. Uniforms

- B) Each employee shall have an allowance to be spent on work boots according to the following schedule:

Employed with Sewer Department after December 31, 2020, but before December 31, 2021: \$125.

The purchase price of each properly-documented purchase of work boots will be deducted from the employee's allowance, with the remainder available for future work boot purchases through the end of the term of this contract. Upon termination of employment with the Sewer Department, the employee forfeits any remaining allowance.

**ARTICLE 28
JOB CLASSIFICATIONS**

Position	2020 Wage	Increase	2021 Wage
Advanced Operator	\$ 23.73	1.5% + 500.00	\$ 24.33
GIS Coordinator	\$ 22.97	1.5% + 500.00	\$ 23.55
Repairman	\$ 22.73	1.5% + 500.00	\$ 23.31
Utility Operator	\$ 22.25	1.5% + 500.00	\$ 22.82
General Laborer II	\$ 20.63	1.5% + 500.00	\$ 21.18
General Laborer I	\$ 20.44	1.5% + 500.00	\$ 20.98
General Laborer	\$ 17.73	1.5% + 500.00	\$ 18.24
Probationary	\$ 16.13	1.5% + 500.00	\$ 16.61

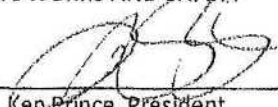
**ARTICLE 29
TENURE OF AGREEMENT**

Section 1. This Memorandum of Understanding, along with all other articles, terms and conditions of the Articles of Agreement not herein modified, shall be in full force and effect from January 1, 2021, to and including December 31, 2021.

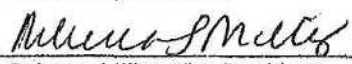
Section 2. The parties agree to open negotiations with sixty (60) days' prior notice provided on or about July 1, 2021, for the purpose of negotiating a new labor agreement, including wages and benefits.

CITY OF MISHAWAKA BOARD OF
PUBLIC WORKS AND SAFETY

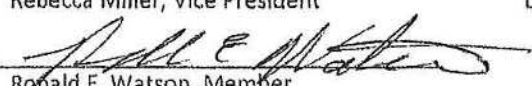
LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

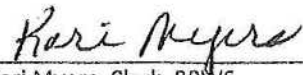
By: 
Ken Prince, President

By: _____
Robert R. Warnock, III
Title: President

By: 
Rebecca Miller, Vice President

Date Signed: _____

By: 
Ronald E. Watson, Member

ATTEST: 
Kari Myers, Clerk, BPWS

CITY OF MISHAWAKA BOARD OF
PUBLIC WORKS AND SAFETY

By: _____
Ken Prince, President

By: _____
Rebecca Miller, Vice President

By: _____
Ronald E. Watson, Member

ATTEST: _____
Kari Myers, Clerk, BPWS

LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By: Robert R Warnock III
Robert R. Warnock, III

Title: _____
President

Date Signed: 1-6-2021

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 13 2020

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2021 - 07

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 58 OF THE MUNICIPAL CODE OF THE
CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED,
COMMONLY REFERRED TO AS THE TRAFFIC CODE**

Whereas, Chapter 58 Section 575, Schedule II, Sub-Section (6), of the Municipal Code of the City of Mishawaka, Indiana, provides parking restrictions for municipal off-street parking lots, including Municipal Lot No. 3, located in downtown Mishawaka, at the southwest corner of First and Church Streets; and

Whereas, the current parking in Lot No. 3 is currently restricted to two-hours, except for exclusive reserved parking space permits; and

Whereas, business owners and residents in the area surrounding Lot No. 3, have complained to the City about the noise and property damage, occurring in Lot No. 3, in the early morning hours as bar patrons return to their vehicles after closing.

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

SECTION I. Chapter 58 Section 575, Schedule II, Sub-Section (6), of the Municipal Code of the City of Mishawaka, Indiana, which provides parking restrictions for municipal off-street parking lots, including Lot No. 3, located in downtown Mishawaka, at the southwest corner of First and Church Streets, be, and the same is hereby amended to add the words, "No parking ever between 12:00 a.m. and 6:00 a.m." so that the restriction for Lot No. 3, is as follows:

No parking ever between 12:00 a.m. and 6:00 a.m. Otherwise two-hour parking only, except for exclusive reserved parking space permits.

SECTION II. If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination. These other provisions of this Ordinance shall remain in full force and effect without the invalid provision.

SECTION III. This Ordinance shall take effect immediately upon its passage by the Common Council and approval by the Mayor, and any other steps required by Indiana law for such Ordinances have been taken.

PASSED by the Common council on the ____ day of _____, 2020 at _____ o'clock ____ .m.

Gregg Hixenbaugh, Council President

ATTEST:

Deborah S. Block, IAMC, MMC
City Clerk

PRESENTED to the Mayor this _____ day of _____, 2018 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

JAN 14 2020

CITY CLERK
MISHAWAKA, IN

PETITION #20-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-08

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:

Parcels of land being a part of the Northeast Quarter of Section 22, Township 37 North, Range 3 East, Penn Township St. Joseph County, Indian and being more particularly described as follows:

Parcel 1: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00 feet to the point of beginning; thence South 89°58'16" West, a distance of 165.65 feet; thence North 00°00'00" East, a distance of 263.87 feet; thence North 89°58'40" East, a distance of 165.65 feet; thence South 00°00'00" East, a distance of 263.87 feet to the point of beginning. Containing 1.00 acre.

Parcel 2: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00; thence South 89°58'16" West, a distance of 717.66 feet to the point of beginning; thence continuing South 89°58'16" West, a distance of 405.58 feet; thence North 00°00'19" West, a distance of 264.00 feet; thence North 89°58'16" East, a distance of 405.58 feet; thence South 00°00'19" East, a distance of 264.00 feet to the point of beginning. Containing 2.46 acres more or less.

COMMON ADDRESSES: Property South of 1141 and 1241 East Twelfth Street

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 I-1 Light Industrial District.

Proposed Ordinance No. _____

Ordinance No. _____

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

1. Existing Conditions – The subject property is vacant industrial land in Unincorporated St. Joseph County, purchased by AWT, Inc. in 2016.
2. Character of Buildings in the Area – The character of buildings and land uses located along Twelfth Street, between Merrifield Ave and Byrkit Ave are primarily industrial, with a few other commercial land uses.
3. The most desirable/highest and best use – Because of the property's location adjacent existing industrial development, the most desirable use for the property is industrial.
4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The combining of all property owned with a possibility for expansion of the existing adjacent industrial use is compatible with industrial and commercial uses.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified this area as industrial, which is how it has developed.

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 _____, 2021, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2021, at o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No. _____

Ordinance No. _____

APPROVED by me this _____ day of _____, 2021, at _____ o'clock
_____.M.

David A. Wood, Mayor

Exhibit "A"
Amended Legal Description correcting Ord. 5709 & Resolution No. 2020-19

Parcels of land being a part of the Northeast Quarter of Section 22, Township 37 North, Range 3 East, Penn Township St. Joseph County, Indian and being more particularly described as follows:

Parcel 1: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00 feet to the point of beginning; thence South 89°58'16" West, a distance of 165.65 feet; thence North 00°00'00" East, a distance of 263.87 feet; thence North 89°58'40" East, a distance of 165.65 feet; thence South 00°00'00" East, a distance of 263.87 feet to the point of beginning. Containing 1.00 acre.

Parcel 2: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00; thence South 89°58'16" West, a distance of 717.66 feet to the point of beginning; thence continuing South 89°58'16" West, a distance of 405.58 feet; thence North 00°00'19" West, a distance of 264.00 feet; thence North 89°58'16" East, a distance of 405.58 feet; thence South 00°00'19" East, a distance of 264.00 feet to the point of beginning. Containing 2.46 acres more or less.



PET 20-16
REVISED
LEGAL

SITE PLAN

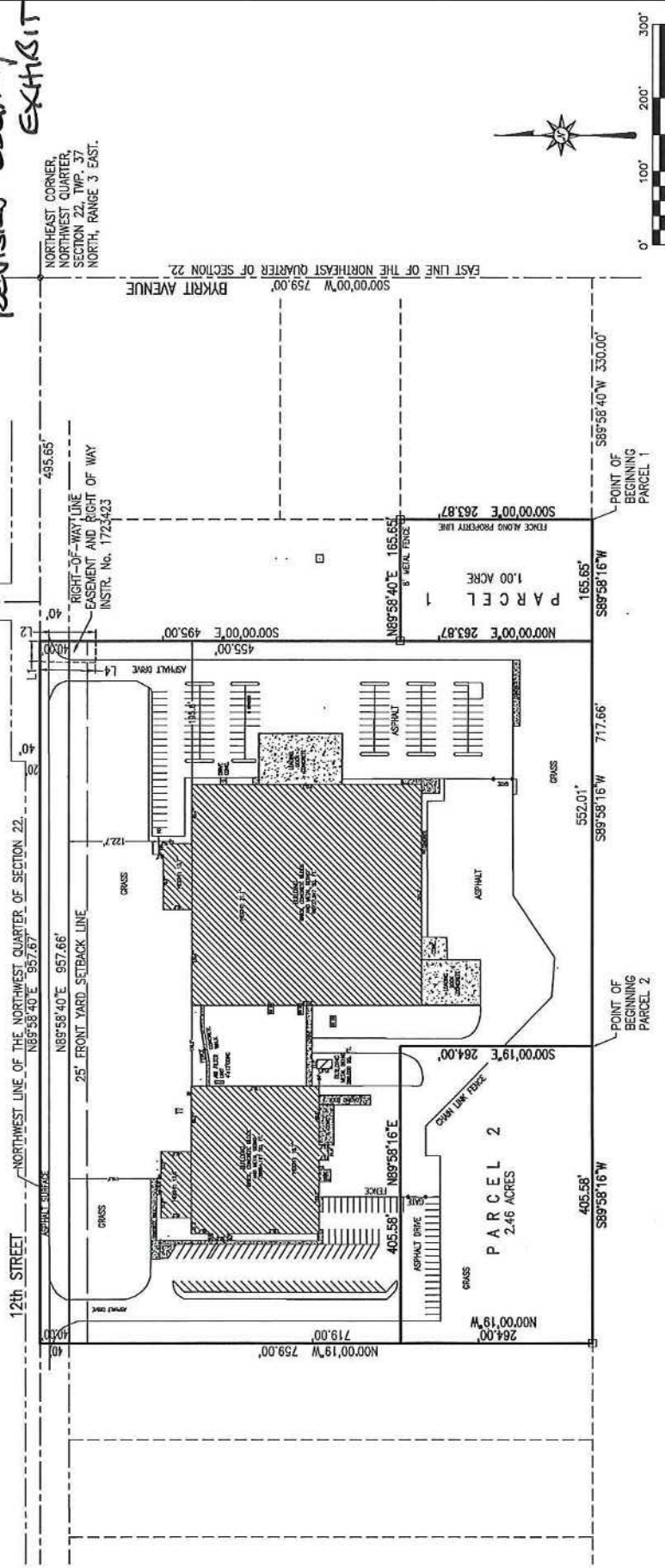
PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH,
RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

FOR ANNEXATION

EXHIBIT "B"



DET 20-16
REVISED LEGAL
EXHIBIT



LINE	BEARING	DISTANCE
L1	N89°58'40"E	28.06'
L2	S00°00'00"E	76.60'
L3	N89°41'56"W	29.61'
L4	N01°08'32"E	76.45'



Lang, Feeney & Associates, Inc.
715 S. Michigan Street
South Bend, Indiana 46601
Phone (574) 233-1841

Land Surveyors • Soil Scientists	
Scale 1" = 100'	Drawn JMS
Date 7-22-20	Job Name
Rev. 1-12-21	Job No.
Rev.	



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF BUILDING, COMMUNITY DEVELOPMENT & PLANNING

January 12, 2021

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

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 12 2020

CITY CLERK
MISHAWAKA, IN

**Re: Property south of 1141 and 1241 E Twelfth St., Mishawaka, IN 46544
Annexation Ordinance 5709 & Fiscal Plan Resolution 2020-19**

Dear Council Members and Clerk:

Lang Feeney & Associates Inc. recently provided the attached revised legal description (Exhibit A) and exhibit drawing (Exhibit B) for correcting several scrivener's errors in Ordinance 5709 and Resolution 2020-19.

Attached is both a revised ordinance draft and resolution with a revised corrected legal description.

Please contact the Planning Department with questions.

Sincerely,

Derek J. Spier, AICP
Senior Planner & Economic Development Specialist

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

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241

Building Phone: (574) 258-1607 Fax: (574) 968-6999

Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999

Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999

JAN 14 2020

CITY CLERK
MISHAWAKA, IN

APPEAL #20-58

RESOLUTION NO. 2021 -01

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:

403 and 411 South Main Street, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **403 and 411 South Main Street, Mishawaka, Indiana**, more particularly known and described as follows:

403 South Main Street:

Beginning at the point of intersection of the East right-of-way line of Spring Street, a 60 foot right-of-way, with the Southerly right-of-way line of the Conrail Railroad right-of-way, thence south 0-00'-00" West along said East right-of-way line of Spring Street, a distance of 46.00 feet; thence South 78-24'-00" East, a distance of 50.00 feet; thence South 80-04'-00" East, 50.00 feet; thence South 82-54'-00" East, a distance of 50.00 feet; thence South 86-41'-00" East, a distance of 50.00 feet; thence South 88-37'-00" East, a distance of 50.00 feet; thence South 89-50'-00" East, a distance of 411.50 feet to the West right-of-way line of Main Street in said City of Mishawaka; thence North 1-17'-00" East, along said West right-of-way line, a distance of 92.50 feet to its intersection with said Southerly right-of-way line of the Conrail Railroad; thence South 88-43'-00" West, along said Northerly right-of-way line, a distance of 198.30 feet; hence South 88-31'-50" West, along said Northerly right-of-way line, a distance of 463.22 feet to the place of beginning containing 52,860 square feet (1.21 acres) more or less. Subject to any easements, covenants, or restrictions of record.

411 South Main Street

79.5' W Side Main Street X 308' Deep E & W N & Adj Dodge Mfg Co. Add in the Office of the Recorder of St. Joseph County, Indiana.

The Use Variance will allow for tattoo, piercing, and art gallery in I-1 Light Industrial Zoning District subject to the following conditions of approval:

1. Submission of a site plan addressing new parking and traffic flow.
2. Proposed parking area shall be brought up to current standards with stormwater management.
3. The gravel access between 403 and 411 South Main Street shall be hard surface. Gravel is not allowed anywhere there will be vehicular traffic.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and/or improvements to the existing structure.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the adjacent properties are zoned for industrial and/or commercial uses.
3. The need for the variance arises from some condition peculiar to the property in that Tattoo is a Use Variance or Conditional Use regardless of the underlying zoning.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for the specific uses within industrial zoned properties.
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2021, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2021,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2021, at
_____ o'clock ____m.

David A. Wood, Mayor

STAFF REPORT

Location: 403 & 411 South Main Street

Date: January 12, 2021

Appeal: 20 58

Prepared By: CH

GENERAL INFORMATION

Applicant: Bokhart Properties, LLC/Maria Ortega

Status: Property Owner/Tenant

Request: Use Variance to allow for tattoo, piercing and art gallery
Developmental Variance for parking spaces

Zoning Classification: I-1 Light Industrial

Lot Size: 1.75 acres

Applicable Regulations: Section 137-42 Board of Zoning Appeals Use Variance
Section 137-586 Light Industrial Uses

SPECIAL INFORMATION

Area Development Pattern: North: C-3 City Center Commercial
South: C-1 General Commercial, R-1 Single Family Residential
East: I-1 Light Industrial
West: C-1 General Commercial, I-1 Light Industrial

Thoroughfare: North Main Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial & Industrial

ANALYSIS

The Appellants are requesting a Use Variance to allow for tattoo, piercing, and art gallery in property zoned I-1 Light Industrial. The property is surrounded by industrial and commercial uses with limited residential to the south.

In 2015, Mr. Bokhart received Use Variance to allow for warehousing and display of high-end, luxury automobiles at 403 S Main. In 2016, the Use Variance was expanded to include 411 S Main, but maintain that building's previous use as a commercial kitchen. In 2020, Mr. Bokhart and a contingent purchaser, received a Use Variance for an interior design studio and furniture showroom (retail sales). That sale never went through. Tattoo is a Use Variance or Conditional Use regardless of the underlying zoning.

Mr. Bokhart is now leasing the property to Maria Ortega, who will be relocating the tattoo and piercing business to a larger space to expand with the art gallery.

The parking requirement for a building of approximately 9,000 square feet is 36 parking spaces. Parking will be provided, 10 spaces, including ADA spaces, behind (west of) 411 S Main.

Planning Staff requests a site plan be submitted addressing items including, but not limited to; location of new parking, and traffic flow.

The Building Department requires a change of occupancy permit and permits for any remodeling.

The Engineering Department comments:

- 1) The proposed parking area shall be brought up to current standards with stormwater management.
- 2) The gravel access between 403 & 411 S Main shall be hard surface. Gravel is not allowed anywhere there will be vehicular traffic.

Other pertinent City departments have reviewed and approved.

RECOMMENDATION

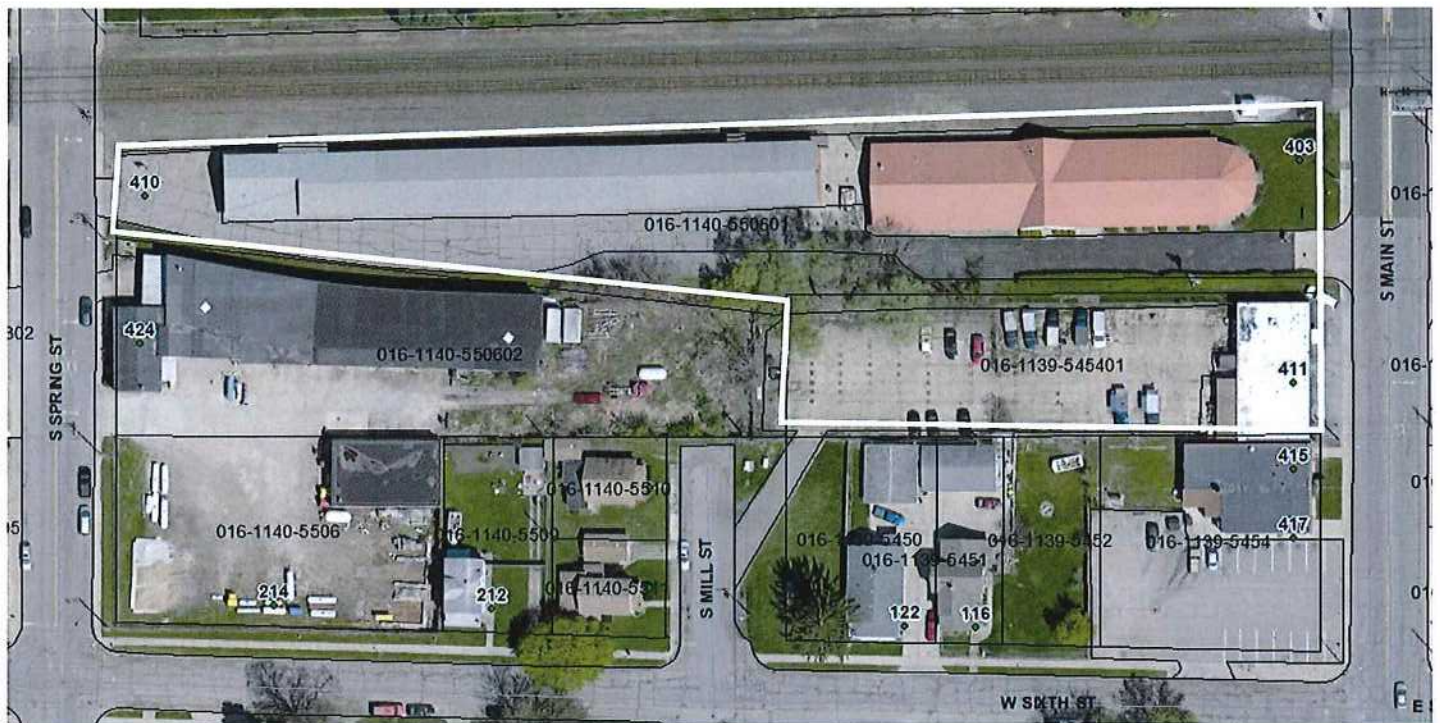
The Planning Staff recommends approval of Appeal #20-58 to allow for tattoo, piercing, and art gallery, in an I-1 Light Industrial District, subject to an administrative site plan being submitted addressing above comments.

This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and/or improvements to the existing structure;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the adjacent properties are zoned for industrial and/or commercial uses.
3. The need for the variance arises from some condition peculiar to the property in that Tattoo is a Use Variance or Conditional Use regardless of the underlying zoning.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for specific uses within industrial zoned properties;
5. The recommendation is consistent, and or, not in conflict with Comprehensive Plan which indicates commercial uses for this area.

ATTACHMENTS

Aerial, Photographs, Appeal, Location Map





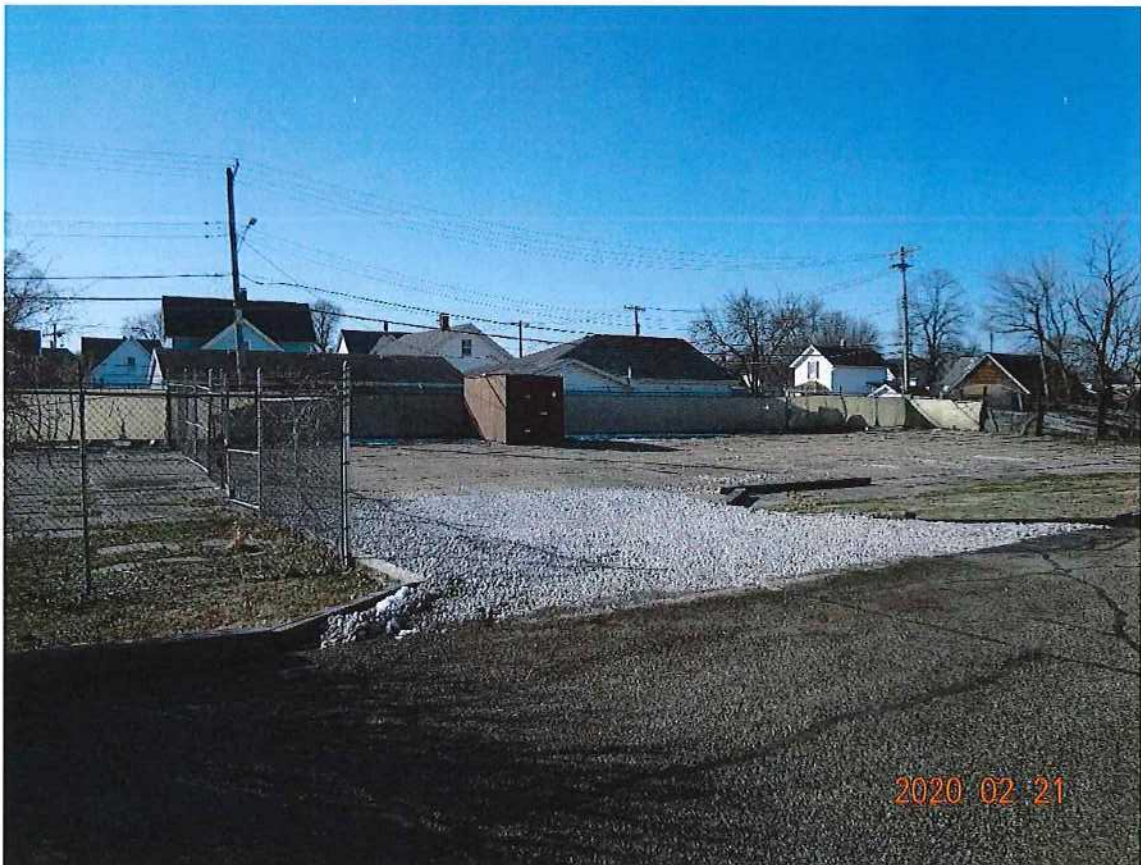
Front view of 403 S Main



Front view of 411 S Main



Rear parking lot of 411 S Main. Gravel to be removed or made hard surface.



Rear parking lot of 411 S Main. Gravel to be removed or made hard surface.

JAN 14 2020

CITY CLERK
MISHAWAKA, IN

Appendix "A"
Fiscal Plan Resolution

RESOLUTION NO. 2021-02

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:

AWT, Inc. property located south of 1141 and 1241 E Twelfth St, Mishawaka, IN 46544.

WHEREAS, the Common Council of the City of Mishawaka desires to consider the annexation of territory adjacent to the City in accordance with a definite policy and all applicable laws and restrictions.

WHEREAS, the entire area proposed for annexation has either petitioned for annexation or signed a consent regarding annexation.

WHEREAS, Indiana Code Section 36-4-3-3.1 requires a municipality to develop and adopt a written fiscal plan and establish a definite policy by resolution.

WHEREAS, the said fiscal plan has been reviewed and is otherwise consistent with the requirements of Indiana Code 36-4-3-13.

WHEREAS, the Department of Planning has prepared said fiscal plan with the input of each applicable City department. Furthermore, based on the review of each City department, a comparable level of City services can be provided to the proposed annexation area when compared to similar geographic areas of the City.

WHEREAS, the Department of Planning has prepared a written policy on annexation that has been incorporated within the fiscal plan.

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

Section I. The Common Council has provided notice of this resolution as required by law, and is initiating an ordinance to annex the following property, legally described as:

PARCELS OF LAND BEING A PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP ST. JOSEPH COUNTY, INDIAN AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER, THENCE SOUTH 00°00'00" WEST ALONG THE EAST LINE OF SAID QUARTER, A DISTANCE OF 759.00 FEET; THENCE SOUTH 89°58'40" WEST, A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°58'16" WEST, A DISTANCE OF 165.65 FEET; THENCE NORTH 00°00'00" EAST, A DISTANCE OF 263.87 FEET; THENCE NORTH 89°58'40" EAST, A DISTANCE OF 165.65 FEET; THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 263.87 FEET TO THE POINT OF BEGINNING. CONTAINING 1.00 ACRE.

PARCEL 2: COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER, THENCE SOUTH 00°00'00" WEST ALONG THE EAST LINE OF SAID QUARTER, A DISTANCE OF 759.00 FEET; THENCE SOUTH 89°58'40" WEST, A DISTANCE OF 330.00 FEET; THENCE SOUTH 89°58'16" WEST, A DISTANCE OF 717.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°58'16" WEST, A DISTANCE OF 405.58 FEET; THENCE NORTH 00°00'19" WEST, A DISTANCE OF 264.00 FEET; THENCE NORTH 89°58'16" EAST, A DISTANCE OF 405.58 FEET; THENCE SOUTH 00°00'19" EAST, A DISTANCE OF 264.00 FEET TO THE POINT OF BEGINNING. CONTAINING 2.46 ACRES MORE OR LESS.

COMMON ADDRESS: PROPERTY SOUTH OF 1141 & 1241 E TWELFTH ST., MISHAWAKA, IN 46545

Section II. Following the review of documents prepared by the Department of Planning and presentation, the Common Council hereby adopts the Fiscal Plan and Annexation Policy as it relates to the aforementioned properties.

Section III. This Resolution shall be in full force and effect after its adoption by the Common Council and approval by the Mayor, as required by law.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day
of _____, 2021, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,

2021, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____ 202, at

o'clock ____M.

David A. Wood, Mayor