

AGENDA

May 17, 2021

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:408-418-9388
Meeting Number (access code): 173 444 7658
Meeting Password:uB5MTJypf85

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: 1734447658.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 May 03, 2021
5. Petitions, Communications, Remonstrance and Memorial

A letter from the City Plan Commission regarding their recommendation form their May 11, 2021 meeting.

6. Report of Special Committee
7. Ordinances on First Reading

P.O. NO. 2021-17 Right of Way alley vacation 16' wide alley
N. of Brown, S. of Catalpa, between Forest
and Benton Ave. for length of 215 feet

P.O. NO. 2021-18 Rezone from C-7 Auto Oriented Restaurant to
C-4 Automobile Oriented Commercial - 5603
Grape Road

P.O. NO. 2021-19 Rezone from C-1 General Commercial to C-7
Automobile Oriented Restaurant - 2777
Lincoln Way East

8. Resolutions

9. Ordinances on Second Reading

P.O. NO. 2021-14 Transfer of Funds and Additional
Appropriation
Motor Vehicle Highway Restricted Fund -
\$386,620.00

TO:
Local Bridge and Road Matching Grant fund

Additional Appropriation of Funds to:
Local Bridge and Road Matching Grant Fund -
\$765,240.00
(Assigned to Budget and Finance Committee)

P.O. NO. 2021-15 Additional Funds:

Local Road and Street	\$250,000.00
MVH Restricted	<u>\$750,000.00</u>
	\$1,000,000.00

(Assigned to Budget and Finance Committee)

P.O. NO. 2021-16 Establishing the ARP Coronavirus Local
Fiscal Recovery Grant Fund
(Assigned to Budget and Finance Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via Live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, <https://www.facebook.com/cityofmishawaka/> and also on the Michiana Access TV Facebook page, <https://www.facebook.com/MichianaAccessTV>

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

May 3, 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, May 3, 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.



Roll Call.

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

Others Present: Clerk Block and Mike Trippel, Council Attorney.

Minutes for the Regular Meeting of April 19, 2021 were approved as received from the Clerk's Office.

Clerk Block read the following petitions to the council who referred them to the City Plan Commission for their recommendation.

- PETITION NO. 2021-04** Right of Way alley vacation 16' wide alley N. of Brown, S. of Catalpa, between Forest and Brown Ave. for length of 215 feet
- PETITION NO. 2021-05** Rezone from C-7 Auto Oriented Restaurant to C-4 Automobile Oriented Commercial – 5603 Grape Road
- PETITION NO. 2021-06** Rezone from C-1 General Commercial to C-4 Automobile Oriented Restaurant – 2777 Lincolnway East

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

PROPOSED ORDINANCE NO. 2021-14

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD AND BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2021 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021

Transfer of Funds and Additional Appropriation – Motor Vehicle Highway Restricted Fund \$386,620.00 TO: Local Bridge and Road Matching Grant Fund. Additional Appropriation of Funds to: Local Bridge and Road Matching Grant Fund - \$765,240.00 (Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE 2021-15

**AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE
EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER
31, 2021**

**Additional Funds: Local Road and Street - \$250,000 MVH Restricted - \$750,000
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2021-16

**AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA ESTABLISHING THE
ARP CORONAVIRUS LOCAL FISCAL RECOVERY GRANT FUND
(Assigned to Budget & Finance Committee)**

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

RESOLUTION R2021-11

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A LEASE BETWEEN THE MISHAWAKA
REDEVELOPMENT AUTHORITY AND THE MISHAWAKA REDEVELOPMENT
COMMISSION AND APPROVING ISSUANCE OF LEASE RENTAL REVENUE BONDS
BY THE MISHAWAKA REDEVELOPMENT AUTHORITY AND OTHER MATTERS
RELATED THERETO**

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-11**. Mr. Prince stated the resolution before them was the final council action for the stimulus bond suggested by the administration. Mr. Prince stated this went back to the beginning of the COVID epidemic when they talked about what steps they needed to take to address what they thought would be a very significant issue and it had been. Mr. Prince stated on the stimulus bond, they looked at the allocation of federal funds immediately to their Central Service agencies as step one, a small business loan as step two and the third step was a stimulus. Mr. Prince stated having discussed it at that time and after receiving relatively favorable feedback, they went through the process and continued to design on multiple projects. Mr. Prince stated this was a two-tiered process and they had a first year of projects and a second year of projects. Mr. Prince stated the idea was to try to get more than half of the \$45 million dollars' worth of construction they designated and the overall cost was \$50 million. Mr. Prince stated they felt this was so important at that time, because the cost was so low and they had a vision that there would be a decrease in construction with what was occurring at Notre Dame and knowing the school corporation was pulling back. Mr. Prince stated they had a number of road projects including Niles and Cedar that had already been awarded and issued and the large project they could not issue without approval of the stimulus bond was the ice project in downtown Mishawaka. Mr. Prince stated when looking at the ice project, they had budgeted \$18 million for the construction portion of the project and the bids came back at just under \$15.2 million. Mr. Prince stated when bids were sent out for the Biergarten on phase two, it came in slightly over the estimate, but they only had one bidder on

that phase of the project and in this instance, they had 5 bidders for the project. Mr. Prince stated some of the other projects, including the next most significant project in phase two, was the replacement for fire station #2 on the north side. Mr. Prince stated the one thing they wanted to do and stressed in the beginning of this was that if they were 10% off, that could be a potential \$2 million issue and that was why this had been done in phases. Mr. Prince stated they had a significant number of other projects. He said when looking at their water projects and new city hall project separate from the resolution, they felt it would be good to phase the implementation of the stimulus bond projects. Mr. Prince stated the fire station #2 could easily be an \$8 million project, but they felt much more comfortable. Mr. Prince stated their next step once council approves the resolution, would be to move forward with the hiring a consultant to get under design for the project to be good next year. Mr. Prince stated he would leave it as contingent on the stimulus bond funding. Mr. Prince stated with the projects like Cedar and Niles Avenue, they were using TIF revenues, they could adjust costs and that was why those projects were bid and awarded ahead of time to allow them to incorporate that into their regular funding cycle. Mr. Prince stated as Baker and Tilly identified, once you got into a normal payment period the payment would be a little over \$5 million a year. Mr. Prince stated they were looking at a total cost of just over \$50 million and paying it back essentially over an 11-year period. Mr. Prince stated it was a 12-year issuance and a reserve fund was collected and that reserve fund would be used to pay off the final year of the bond issuance. Mr. Prince stated he was happy to answer any questions and Catherine Fanello, their special bond counsel, was present to answer questions and Mayor Wood was present as well to make other comments.

Mayor Wood spoke in favor of **RESOLUTION R2021-11**. Mayor Wood began stating this had been a process several months in the making. Mayor Wood stated their first leg of the stool was to do immediate response to their citizens, which they had done. Mayor Wood stated their second response was small business loan at zero interest, which they had done and this now in front of the council was the third more long-term part of their plan. Mayor Wood stated they came up with the plan and he gave it to Mr. Prince and appreciated all of his hard work on this and stated he had devoted quite a bit of time to this. Mayor Wood stated they came up with it, because of the fundamentals Mr. Prince thought of. Mayor Wood stated they knew money right then was cheap in terms of interest rates. Mayor Wood stated next, they had the capacity within their TIF because they carried almost no debt, not only with no remainder of debt in the general fund but in the TIF as well. Mayor Wood stated thirdly that these were projects they had on their list of work to get done over the next 10 years or so, and they felt getting some of this work done now in a favorable bid environment would save their citizens a lot of money. Lastly, Mayor Wood stated this would be meant to stimulate the local economy through the companies that were bidding the work out, who were from there, who paid taxes there and who most importantly employed there. Mayor Wood stated they had already bid out a couple of the projects and what they had seen this year in terms of their bidding, it bared out why they were doing this. Mayor Wood stated they were seeing multiple bidders on each of their projects, as opposed to the previous year where they were maybe seeing 1 bidder for a project and had to talk people into bidding in certain cases. Mayor Wood stated they had significant projects that would keep companies busy over a long period of time and they were anticipating the Ironworks phase 3 and 4 project to be bid out at roughly \$18 million, with it coming in at \$15 million and some change. Mayor Wood stated they were seeing their street projects come in at well under what the engineer's estimates were also and were already saving money on the projects. Mayor Wood

stated this was also stimulative for Mishawaka neighborhoods, because the work was being done in Mishawaka neighborhoods and brought new infrastructure into parts of Mishawaka that needed it the most and therefore improved their services, their environment and quality of life for the citizens. Mayor Wood stated they had a couple of park oriented projects along with infrastructure projects in this below ground and above ground. Mayor Wood stated public safety was a big part of this with a new, much needed fire station that would replace a fire station that was antiquated and built in the 1960s when they were a much different fire department than in the present. Mayor Wood stated the new fire station was on their wish list for a long period of time and this would make that project a reality. Mayor Wood stated they also had some projects on the list that would clean the environment, with the old central motor pool site along Cedar was one he wanted to see get done and repurposed into what he believed would be a great opportunity for single family residential there on the outskirts of Mishawaka's downtown. Mayor Wood stated he would appreciate the council's support of this and he believed it would be not just something they can afford, but the terms were very good and the overall length of the bond was much shorter than what they could typically do and only obligated a small portion of their TIF with still a lot of capacity remaining. Mayor Wood stated this was a best practice and he thought other cities were absolutely looking at what they were doing with this and reached out to them to see what they were doing. Mayor Wood stated this could be a model for them going forward as well to do a second round or something similar to that. Mayor Wood concluded urging the council to support this and believed it was good for their citizens, their companies and good for the city.

Mr. Hazen asked if they did the bonds in phases such as they did the projects in phases. Mayor Wood stated Catherine Fanello was present to answer how the money would be accessed and distributed.

Mrs. Voelker asked since bids were coming in a little less than initially thought, did he believe there would be capacity to do a couple of other little projects. Mayor Wood stated that was the goal if it worked out that way and the list was long. Mayor Wood also stated hopefully trends would bear out to realize significant savings and his intention was to do more projects. Mayor Wood stated they had a list of projects a mile long that needed done and were far beyond their capacity to do even with this.

Mr. Emmons asked if the Milburn project was on the list to complete, specifically the one and a half streets that needed to be done. Mayor Wood stated they were awarding that tomorrow. Mr. Emmons asked if that would complete the project out there. Mayor Wood stated it would come pretty close if it wasn't completed and reiterated it would be rewarded out the next day. Mayor Wood stated it would start that summer, along with 7th Street (West from 6th Street to 7th Street). Mr. Emmons asked if that would be as far as that project would go. Mayor Wood stated it was a part of three phased projects, so the next year they would bite off another chunk and get further south along West and do a couple of the side streets. Mayor Wood then stated the year following, they would move even further south and the goal was to get to Rose Park and then around Rose Park. Mr. Emmons asked if this would go for 4 years. Mayor Wood stated they would have to see how it went and they would get to beyond 8th Street in the last phase and the last part would be a pretty big jump and did not know how they would do it at that time. Mayor Wood stated they were starting to get there. Mayor Wood stated this project would include a complete tear

out, brand new separated sewers underground, new water, burying electric power and utilities, above ground brand new road, sidewalks, curbs and in some cases landscape amenities. Mayor Wood stated that was what worked for them and that was what they were trying to replicate in neighborhoods all over the city. Mayor Wood stated they would be talking about another project with the council fairly soon they could have an opportunity to do as well.

Mr. Hixenbaugh thanked Mayor Wood for the information and he agreed with him and Mr. Prince with regard to the emphasis needed to be placed on the local stimulative effect of what they had set in motion. Mr. Hixenbaugh asked with regard to any bids had been awarded to date if they had been awarded to local firms so they were really getting the goal of stimulating their local workforce. Mayor Wood stated not only local firms, but local union as well. Mr. Hixenbaugh stated he appreciated that update and that validated the vision and goal the council and administration shared as they embarked on that journey.

Catherine Fanello, Kreig Devault Law Firm, served as bond counsel. Mrs. Fanello stated they had before them a resolution to approve the lease and bond issue along with documents she had provided including the lease and the trust indenture. Mrs. Fanello stated they had gone through their process and she was happy to answer questions. Mrs. Fanello also added the bonds were expected to be competitively bid, meaning they would be put out, people would submit a bid and the purchaser with the lowest interest cost would be selected. Mrs. Fanello stated the bonds would be bid out at one time, with a one bond issue of approximately \$50,560,000. Mrs. Fanello stated they had a bit of a complicated structure and the best they could do was to bid out the entire amount. Mrs. Fanello stated the funds would be held under the trust indenture and Rebecca Miller, City Controller, was in the process of selecting a trustee for the bonds. Mrs. Fanello stated again it would be one bond issue and all of the bonds would be available on day one when they closed. Mrs. Fanello stated the bonds were payable from the TIF revenues and there would be a special benefits tax backup. Mrs. Fanello stated the TIF revenues were more than enough to cover the debt service, about 330% coverage based on the debt service that would be paid under the bonds. Mrs. Fanello stated however, they were also backed up by a special benefits tax, which was basically to add or lower property tax levied in what they called the Mishawaka Redevelopment district, the boundaries which were coterminous with the city. Mrs. Fanello stated it really was a credit enhancement and would allow them to get the best interest rate possible on the bonds even though they never expected to use it and the TIF revenues were more than sufficient, but it really enhanced the ability to get out the best price for the bonds. Mrs. Fanello stated it was \$50,560,000 over approximately eleven years with a debt service reserve that would also enhance the ability to sell the bonds at the best price.

Mr. Hazen asked once they got the \$50 million bond and if they decided to do other projects on the list, would they come back to the council or would they be able to do them as long as the fell in the scope of the TIF area. Mrs. Fanello stated as long as they were projects that were similar in nature. Mrs. Fanello stated they were funding these from TIF revenues and it was a pretty term as far as redevelopment and economic development were concerned and they all served and benefited a consolidated TIF area. Mrs. Fanello stated it would be an internal choice for what the internal procedure would be to come back for the projects not on the list, as long as the funds were spent consistent with the nature of the bond issue. Mr. Hazen asked if interest payments would start immediately or as they used the money. Mrs. Fanello stated it would start February 1,

2022 and how they structured this particular bond issue was they were not paying capitalized interest and in some respects, if they were waiting to pay for all of the projects there would be a period of time under a lease rental bond where you could not pay principle in interest on a lease rental bond until the projects were completed. Mrs. Fanello stated that meant they would be paying capitalized interest during a construction period, but in this instance because they were leasing, the underlying leased asset already existed and they avoided capitalized interest, so you would get a pool of funds to use.

Mrs. Voelker asked if this was something they could continue to use, as far as the establishment of the Bond Authority and Redevelopment Authority, as a function of funding projects in the future. Mrs. Fanello stated the Redevelopment Authority would continue to exist as long as the city desired and the Redevelopment Authority was generally for issuing lease rental bonds, which was a bit more of a complicated structure and you would have to work through that structure.

Mr. Hixenbaugh appreciated the work Mrs. Fanello had done on there before and stated she had always done a good job of taking complex concepts and explaining it to them in a very understandable fashion. Mr. Hixenbaugh asked about her comments on the special benefits tax and if that inclusion in the concept would allow them to enhance their credit and their ability to be able to do it in the most cost effective fashion. Mrs. Fanello stated that was correct and it enhanced the marketing of the bond. Mr. Hixenbaugh asked if it were correct that although it stood behind the TIF revenues, they were overwhelmingly in good shape with regard to TIF revenues so that no one anticipated that they would have to enact the special benefits tax. Mrs. Fanello stated that was correct. Mr. Hixenbaugh asked if it were correct that if they had to enact the special benefits tax, which was almost difficult to conceive, it would be a tax that would be assessed against the property that lied only within the consolidated TIF district itself. Mrs. Fanello stated it would be within the Redevelopment district and the boundaries were an overlay of the TIF district. Mr. Hixenbaugh thanked Mrs. Fanello again for the creative work she and her firm had done on this and stated it was exciting to see this move forward. Mrs. Fanello stated it was exciting and it was a structure used across Indiana, along with the United States and it was one they talked about regularly at their National Association of Bond Lawyers Conference. Mrs. Fanello stated she was glad Mishawaka was pleased and moving forward.

Mr. Prince stated briefly that part of the nature of choosing the projects they did was to try and keep flexibility within the expenditure of funds. Mr. Prince stated when looking at the projects on the list, Crawford Park was included, they had only been funding part of the intended improvements and if they had additional funding, it would immediately go to that. Mr. Prince stated Battell Park and Normain Park were the same way and their intent was to spend the \$45 million of capital funds allocated through this to the projects on that list and they did not want to complicate any kind of audit or things associated with that. Mr. Prince stated projects would grow and expand if they had additional funds, but the intent for these funds were to keep it on that list. Mr. Prince stated that could enable them in other ways to use other TIF funds that were designated for the other projects to fund additional projects that were talked about, but he did not want anyone to think this was a pot of funds someone would take and move into another direction, because that was not the case. Mr. Hazen asked if they saved 20% over what they thought originally if they would still spend that tied to these projects. Mr. Prince stated if you

looked at the other capital expenditures they had just in Battell Park and Crawford Park, in regard to Battell Park with the bridge, the completion of the Veteran's monument and the playground, it would probably be around \$5 million. Mr. Prince stated Crawford Park would be another \$4 million to \$5 million, so immediately they would be at 25% initially. Mr. Prince stated when looking at the fire station, for example, they took their best estimate based on the numbers they did for fire station #4 and when they would get into the actual practice, he could not imagine they would have significant savings of a magnitude of 20% on that project.

Mr. Hixenbaugh followed up on that discussion stating they hoped there would be some opportunity to look at a second phase of this or expand into the projects they would use the financing vehicle for. Mr. Hixenbaugh asked, assuming that would occur, if Mr. Prince would anticipate going back to the comprehensive spreadsheet he put together and shared with the council and the Redevelopment Commission and try to program those projects into the mix or if they were so far beyond that to the point where it had been identified what the process would look like. Mr. Prince stated that list was put together every year and they had updated priorities every year and there were projects that went in and out based on changes in priorities. Mr. Prince stated in general they would follow that list, but that wouldn't mean they would not add a project or delete a project depending on what the priorities would be at that mean.

Mr. Mammolenti asked Mr. Prince to refresh his memory as to the completion time of the fire station. Mr. Prince stated the completion, knowing how the projects were working and if they hired a consultant that year and bid the following year, would take a year to design and likely 18 months to build. Mr. Prince stated they were probably 2 and a half to 3 years out of completion, by his guess.

Question was called for at 7:36PM for **RESOLUTION R2021-11**  **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 resolution passed 9-0.

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

PROPOSED ORDINANCE NO. 2021-13

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

Rezone from C-1 to R-1 – 1803 Lincoln Way West

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

Andrew Mick, represented Morgan Mick, and spoke in favor of **PROPOSED ORDINANCE NO. 2021-13**. Mr. Mick stated they wanted to build a single-family home on that lot.

Question was called for at 7:38PM for **PROPOSED ORDINANCE NO. 2021-13**  **Vote:**
Motion carried by unanimous roll call vote (summary: Yes = 9).
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5741.**

NEW BUSINESS

Mr. Mammolenti thanked the Parks Department and Councilwoman DeMaged's efforts to put together volunteer hours to help beautify the city and thanked to all that were involved. Mr. Hixenbaugh thanked Mrs. DeMaged for her work on the project.

ADJOURNMENT 7:40PM

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

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 12, 2021

Deborah S. Block, IAMC, MMC

MAY 12 2021

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
May 11, 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 #21-04 A request submitted by Hack Properties, LLC, seeking to vacate the alley north of Brown Avenue between Forest Avenue and Benton Street.

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

PETITION #21-05 A request submitted by GW Mishawaka II, LLC, seeking to rezone **5603 Grape Road** from C-7 Automobile Oriented Restaurant Commercial to C-4 Automobile Oriented Commercial District.

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

PETITION #21-06 A request submitted by Pizza Hut of American, Inc., seeking to rezone **2777 Lincolnway East** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial.

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

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Terry Lang
Mike Huber

STAFF REPORT

Location: 16' wide Alley north of Brown Avenue between
Benton Street and Forest Avenue

Date: May 11, 2021

Petition: 21-04

Prepared By: DJS

GENERAL INFORMATION

Applicant: Hack Properties, LLC / Lang, Feeney & Associates, Inc.

Status: Adjacent Property Owner / Surveyor

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential (Residential)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential (Residential)
West: R-1 Single Family Residential (Residential)

Thoroughfare: Benton Street and Forest Avenue north of Brown Avenue

School District: Penn-Harris-Madison

Public Utilities: Public Right-of-Way

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioner is requesting to vacate a 16' wide east-west alley lying north of Brown Avenue and running approximately 300' in length between Forest Avenue and Benton Avenue. The alley is adjacent to Lots 11 through 24 of Liberty Gardens platted in 1928.

The alley is bound to the north by three (3) of seven (7) lots, or 129' of the 300' length, being owned by the Petitioner. The Petitioner also owns five (5) of the (7) lots, or 215' of the 300' length, to the south. There are three (3) existing houses north of the alley (601, 611 & 621 W. Catalpa Drive) of which one (1) is owned by the Petitioner. Only one (1) house is currently located south of the alley at the northeast corner of Brown Avenue and Benton Street (626 Brown Avenue). Although not required, three of the four adjacent owners did not sign the petition.

The alley is unimproved, and therefore, does not provide access to any adjacent structures. No overhead utility lines are located within the alley. The presence of any underground utilities is unknown. Since the petition does not request the release of any utility easement rights, an easement will remain within the vacated area.

Although no specific reason is given in the petition for vacating the alley, the Petitioner is currently in the process of constructing five (5) new single family houses to the south of the alley on Lots 20 through 24 of Liberty Gardens. The vacation petition was likely submitted since the alley is unimproved and does not appear to provide any purpose. If approved, the south half (8') of the alley, will be added to the adjacent lots to the south, while the north half (8'), will be added to the adjacent lots to the north.

All City departments have reviewed the proposed right-of-way vacation and recommend approval.

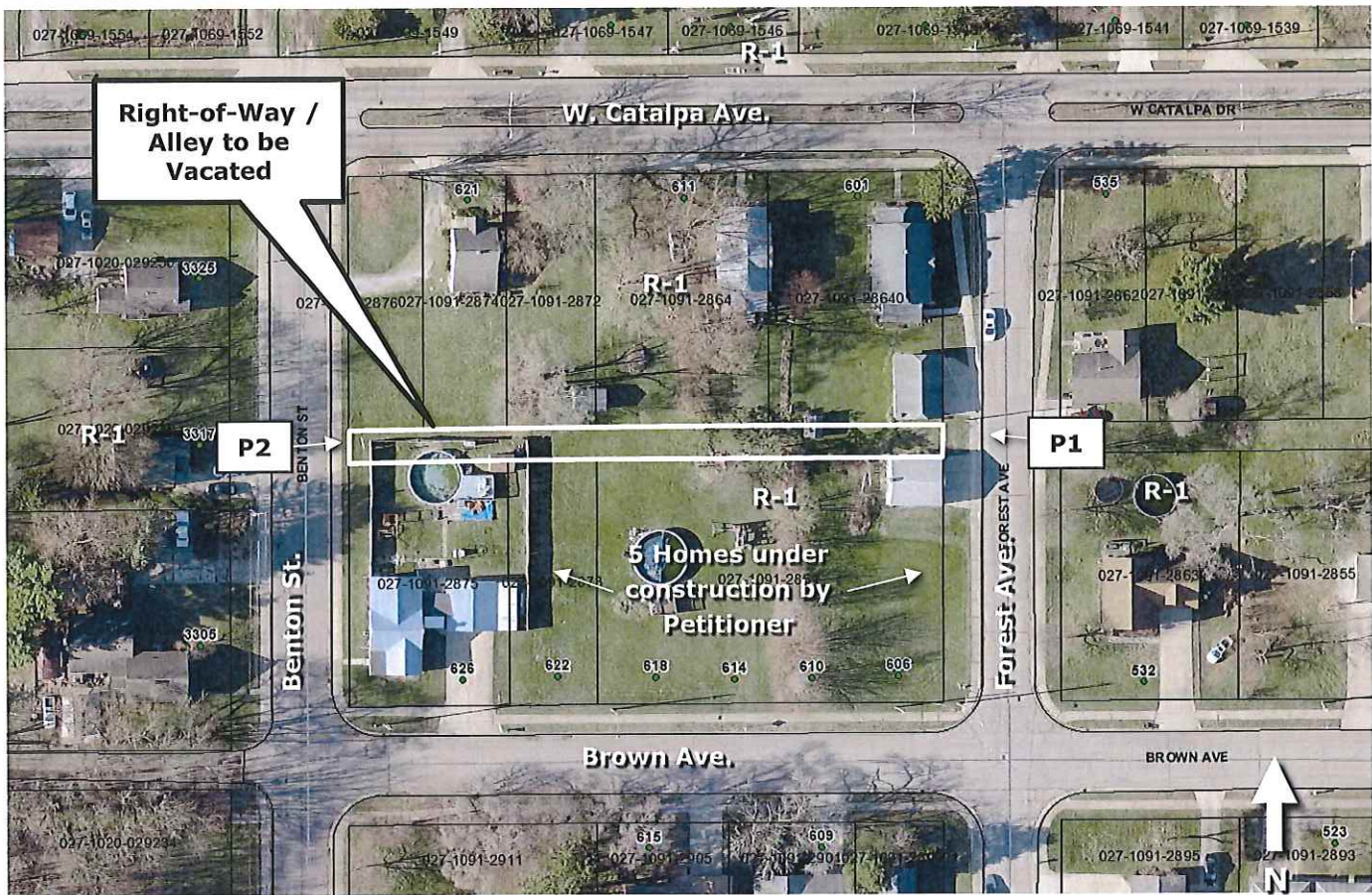
RECOMMENDATION

Staff recommends in favor of Petition 21-04 to vacate the first 16' wide east-west alley lying north of Brown Avenue running approximately 300' and bound on the east by the west right-of-way line of Forest Avenue and on the west by the east right-of-way line of Benton Street. The alley is adjacent to Lots 11 through 24 of Liberty Gardens. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The alley is currently unimproved and has remained as such since being platted in 1928.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley does not provide access to any adjacent existing structures, and will not be utilized for the new houses being constructed to the south.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. The existing right-of-way is currently unimproved. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph of Area to be Vacated, Photos, Petition including an Exhibit Drawing, Location Map



Aerial Photograph

Alley to be vacated located north of Brown Avenue between Forest Avenue & Benton Avenue.



P1. A view looking west from Forest Avenue along the unimproved alley to be vacated.



P2. A view looking east from Benton Street along the unimproved alley to be vacated.

STAFF REPORT

Location: formerly 5603 Grape Road

Date: May 11, 2021

Petition: 21 05

Prepared By: CH

GENERAL INFORMATION

Applicant: GW Mishawaka II LLC/Abonmarche Consultants

Status: Property Owner/Representative

Request: Rezone from C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District

Zoning Classification: C-7 Automobile Oriented Restaurant Commercial District

Lot Size: 1 acre

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 (Discount Tire)
 South: C-1 General Commercial District (ABC Warehouse)
 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 C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented 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.

At the beginning of the year, the Petitioner rezoned two outlots in the parking lot for the development of new drive-thru restaurants. One of the potential tenants has changed, therefore, the northern outlot is now requesting a change to the C-4 Automobile Oriented Commercial District for an instant oil lube and service business. This is the location of the former Fitness USA, which closed in 2014, and was demolished after 2017. There will still be sufficient parking for all of the existing and proposed uses.

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's representative to aid in developing the site plan.

The Planning Department previously required a subdivision be submitted to officially create these new lots. A subdivision has been submitted and is also being heard at tonight's meeting. Furthermore, each lot will require its own site plan prior to permits being issued.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #21-05 to rezone the property formerly addressed as 5603 Grape Road to C-4 Automobile Oriented 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 automobile use, Discount Tire to the north, the rezoning to C-4 Automobile Oriented 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 Grape Road is the commercial corridor with permits multiples commercial uses; 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 site from across Grape Road



A view towards Grape Road from ABC Warehouse



A view north

STAFF REPORT

Location: Southwest Corner of Lincoln Way East & Mariellen Avenue -
2777 Lincoln Way East

Date: May 11, 2021

Petition: 21- 06

Prepared By: DJS

GENERAL INFORMATION

Applicant: Pizza Hut of America Inc. / Abonmarche Consultants, Inc.

Status: Property Owner / Surveyor & Site Design Consultant

Request: To rezone from C-1 General Commercial District to C-7 Auto Oriented Restaurant Commercial District to allow for the construction of a restaurant with drive-thru facilities

Zoning Classification: C-1 General Commercial District

Lot Size: 0.88 acres per the MACOG GIS/County Auditor tax parcel maps with the area to be rezoned including approximately 0.64 acres

Applicable Regulations: Section 137-455 thru 137-457 / C-7 Auto Oriented Restaurant Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Hotel / Mishawaka Inn) & C-2 Shopping Center Commercial (Multi-Tenant Building & Vacant Outbuilding / AutoZone, Dollar General, Revolution Fitness & Washland Coin Laundry)

South: C-7 Auto Oriented Restaurant Commercial (Public Utilities / City of Mishawaka Sanitary Sewer Lift Station)

East: C-7 Auto Oriented Restaurant Commercial (Restaurant with Drive-Thru / Burger King)

West: C-7 Auto Oriented Restaurant Commercial (Restaurant with Drive-Thru / McDonald's)

Thoroughfare: Lincoln Way East & Mariellen Avenue

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to the site at the expense of the developer.

Comprehensive Plan: General Commercial (Retail Sales & Shopping Centers)

ANALYSIS

The Petitioner, Pizza Hut of America Inc., is requesting to rezone approximately 0.64 acres of property located at 2777 Lincoln Way East from C-1 General Commercial to C-7 Auto Oriented Restaurant

Commercial to allow for the construction of a restaurant with drive-thru facilities. An undisclosed national franchise will occupy the new building, and will not be a Pizza Hut.

According to the St. Joseph County parcel maps, the property (Tax Parcel 016-1081-3248.05) is an "L" shaped parcel with the rear part of the McDonald's site to the west being owned by the Petitioner. The Petitioner's surveyor and Planning Staff are of the opinion that the parcel maps may be in error. The Petitioner may only own the 0.64 acre area as described in the legal description provided with the rezoning petition. If the rezoning is approved, recorded deeds and a title policy for the property shall be provided as a part of the final site plan process.

The property to be rezoned includes a vacant 2,520 sq. ft. commercial building, formerly occupied by Pizza Hut, and adjacent 40 space parking lot. The building and property remain largely unchanged since its original construction in 1978. With the proposed redevelopment of the site, all existing improvements, excluding the south access drive utilized for both the Petitioner's property and McDonald's, will be razed.

Per the preliminary site plan submitted with the rezoning petition, the contingent developer is proposing to construct a one-story 2,327 sq. ft. building, a twenty-six (26) space parking lot, and other required infrastructure (access drives, stormwater drainage system, landscaping, etc.).

Access to the site is currently proposed from both Lincoln Way East via an existing drive, and Mariellen Avenue via an existing shared drive to the south. A title policy, property deeds, and recorded ingress/egress/cross-access easement document shall be provided since the ownership and easement rights between the Petitioner's property and the adjacent McDonald's is in question. The Engineering Department commented that the current approach to Lincoln Way East should be removed and a new access provided to Mariellen Avenue near the northeast of the new building. The existing approach along Lincoln Way East creates an awkward traffic conflict due to its close proximity to Mariellen Avenue. Additionally, the left turn lane for westbound traffic on Lincoln Way East ends at Mariellen Avenue which restricts usage of the access. The Engineering Department recommended that INDOT be contacted regarding the potential acquisition of part of the right-of-way to utilize for parking or access, or allowing an encroachment into the existing right-of-way for such purposes. A new sidewalk shall be extended between Lincoln Way East the existing sidewalk on Mariellen Avenue, and the existing sidewalk replaced along the west side of Mariellen Avenue.

The preliminary site plan indicates a one-way south access drive will be provided west of the building. Due to the narrowness of the property, a one-way drive would allow five (5) parallel parking spaces west of the building in addition to the twenty-one (21) parking spaces to the south. With the proposed twenty-six (26) spaces, a developmental variance will be required for a reduction in the number of spaces. Based on 15 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the C-7 Auto-Oriented Restaurant Commercial use, a total of thirty-five (35) spaces are required for the proposed 2,327 sq. ft. building. A development variance (AP 21-12) to allow for both reduced parking and a reduced pavement setback for the drive-thru lane to the east of the building was submitted in conjunction with the rezoning petition. A 6' pavement setback between the drive-thru lane and Mariellen Avenue is proposed also due to the narrowness of the property. A 10' pavement setback is required along all public right-of-way. The Engineering Department commented that a two-way drive aisle west of the building would be preferred. If one-way parking is the only feasible option, it is recommended that the parking spaces be angled instead of being 90° spaces. Also if a one-way drive aisle is provided, the property shall be adequately signed with "one-way only" signs where necessary to reduce the potential for on-site traffic conflicts.

Landscaping and screening shall comply with the commercial landscaping and C-7 Auto Oriented Restaurant Commercial District requirements.

With the exception of the above noted variances, the preliminary site plan shows the intent to comply with the required height, area, and developmental regulations for the C-7 Auto Oriented Restaurant Commercial District. If additional variances are required for landscaping or any other developmental regulations, the Board of Zoning Appeals shall be petitioned when the final site plan is submitted.

With this petition, the property owner and contingent purchaser are only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff

review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Since the property is currently zoned for commercial use and located along the highly travelled Lincoln Way East corridor, Planning Staff supports the request for rezoning. The proposed restaurant with drive-thru facilities is not out of character and will be compatible with the existing adjacent land uses. The property is located adjacent to three (3) existing drive-thru restaurants. The proposed use is also consistent with the historical uses and recommended use per the comprehensive plan.

The Building, Fire, Electric, and Water Departments have reviewed and approved the rezoning request providing no additional comments.

The Engineering Department had no comments related to the rezoning petition but provided the above comments to be addressed with the final site plan.

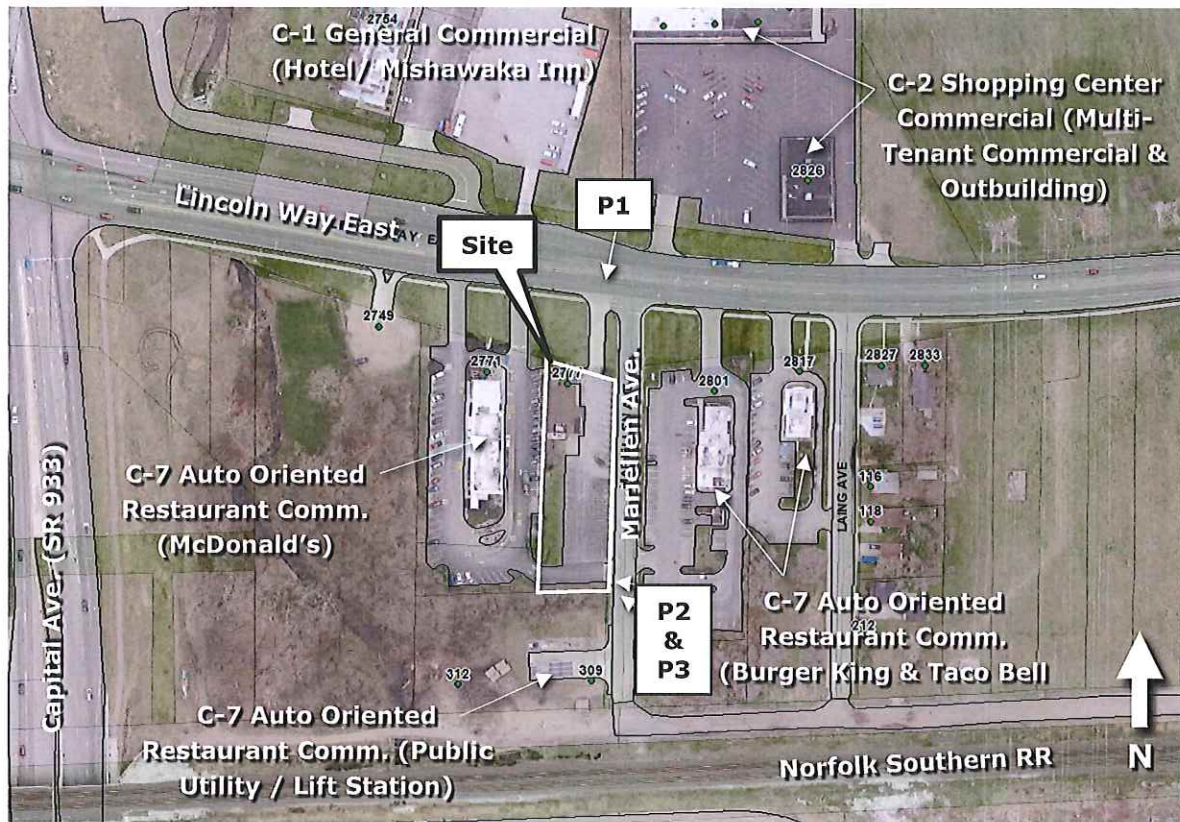
RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 21-06 to rezone approximately 0.64 acres of property located at 2777 Lincoln Way East from C-1 General Commercial to C-7 Auto Oriented Restaurant Commercial to allow for the construction of a restaurant with drive-thru facilities. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property consists of a vacant commercial structure and is located at the southwest corner of the Lincoln Way East and Mariellen Avenue. Lincoln Way East is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include a hotel and multi-tenant commercial shopping center to the north, restaurants with drive-thru facilities to the west and east, and a public utility sanitary sewer lift station to the south.
2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including a hotel, retail, and restaurants.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area. The proposed restaurant with drive-thru and other C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Photographs, Petition, Concept/Preliminary Site Plan, Preliminary Site Plan with Engineering Review Comments, Location Map



Aerial Photograph
Existing Vacant Commercial Building / Former Pizza Hut
2777 Lincoln Way East



P1. Looking southerly toward the site from north of Lincoln Way East.



P2. Looking northwesterly toward the site and existing south access drive from Mariellen Avenue.



P3. Looking westerly toward the existing south access drive from Mariellen Avenue.

Deborah S. Block, IAMC, MMC

MAY 12 2021

City Clerk
Mishawaka, IN

PETITION #21-04

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-17

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

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

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

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

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

The first 16' east-west alley lying north of Brown Avenue, running for approximately 300' and bounded on the east by the west right-of-way line of Forest Avenue and bounded on the west by the east right-of-way line of Benton Street. Said alley being adjacent to Lots 11-24 of Liberty Gardens, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

COMMONLY KNOWN AS: 16' Alley North of Brown Avenue Between Benton Street and Forest Avenue

PROPOSED ORDINANCE NO. 21-17

ORDINANCE NO. __

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The alley is currently unimproved and has remained as such since being platted in 1928.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley does not provide access to any adjacent existing structures, and will not be utilized for the new houses being constructed to the south.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. The existing right- of-way is currently unimproved. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2021.

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: 16' wide Alley north of Brown Avenue between
Benton Street and Forest Avenue

Date: May 11, 2021

Petition: 21-04

Prepared By: DJS

GENERAL INFORMATION

Applicant: Hack Properties, LLC / Lang, Feeney & Associates, Inc.

Status: Adjacent Property Owner / Surveyor

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential (Residential)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential (Residential)
West: R-1 Single Family Residential (Residential)

Thoroughfare: Benton Street and Forest Avenue north of Brown Avenue

School District: Penn-Harris-Madison

Public Utilities: Public Right-of-Way

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioner is requesting to vacate a 16' wide east-west alley lying north of Brown Avenue and running approximately 300' in length between Forest Avenue and Benton Avenue. The alley is adjacent to Lots 11 through 24 of Liberty Gardens platted in 1928.

The alley is bound to the north by three (3) of seven (7) lots, or 129' of the 300' length, being owned by the Petitioner. The Petitioner also owns five (5) of the (7) lots, or 215' of the 300' length, to the south. There are three (3) existing houses north of the alley (601, 611 & 621 W. Catalpa Drive) of which one (1) is owned by the Petitioner. Only one (1) house is currently located south of the alley at the northeast corner of Brown Avenue and Benton Street (626 Brown Avenue). Although not required, three of the four adjacent owners did not sign the petition.

The alley is unimproved, and therefore, does not provide access to any adjacent structures. No overhead utility lines are located within the alley. The presence of any underground utilities is unknown. Since the petition does not request the release of any utility easement rights, an easement will remain within the vacated area.

Although no specific reason is given in the petition for vacating the alley, the Petitioner is currently in the process of constructing five (5) new single family houses to the south of the alley on Lots 20 through 24 of Liberty Gardens. The vacation petition was likely submitted since the alley is unimproved and does not appear to provide any purpose. If approved, the south half (8') of the alley, will be added to the adjacent lots to the south, while the north half (8'), will be added to the adjacent lots to the north.

All City departments have reviewed the proposed right-of-way vacation and recommend approval.

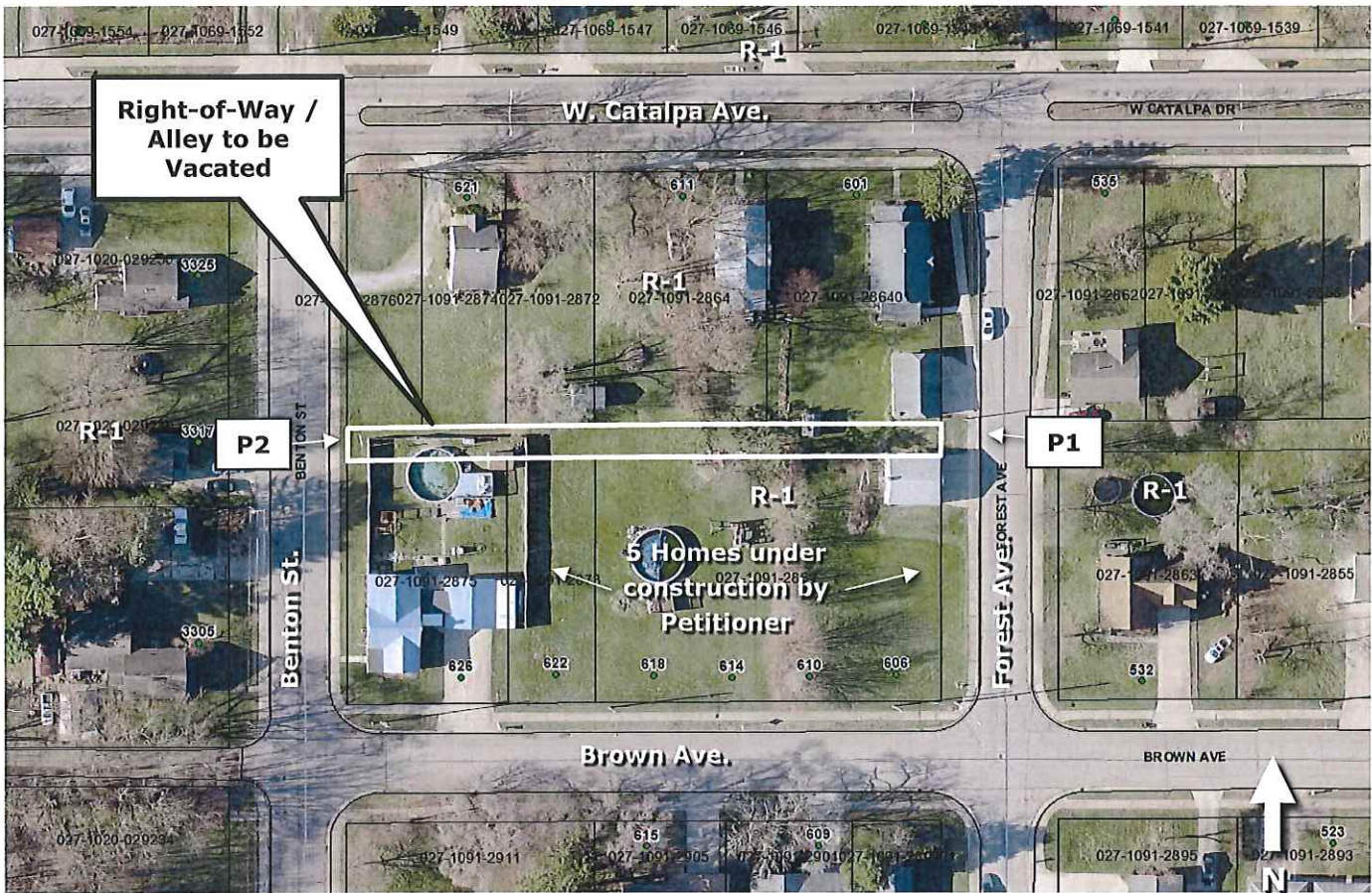
RECOMMENDATION

Staff recommends in favor of Petition 21-04 to vacate the first 16' wide east-west alley lying north of Brown Avenue running approximately 300' and bound on the east by the west right-of-way line of Forest Avenue and on the west by the east right-of-way line of Benton Street. The alley is adjacent to Lots 11 through 24 of Liberty Gardens. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The alley is currently unimproved and has remained as such since being platted in 1928.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley does not provide access to any adjacent existing structures, and will not be utilized for the new houses being constructed to the south.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. The existing right-of-way is currently unimproved. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph of Area to be Vacated, Photos, Petition including an Exhibit Drawing, Location Map



Aerial Photograph

Alley to be vacated located north of Brown Avenue between Forest Avenue & Benton Avenue.



P1. A view looking west from Forest Avenue along the unimproved alley to be vacated.



P2. A view looking east from Benton Street along the unimproved alley to be vacated.

APR 29 2021

City Clerk
Mishawaka, IN

April 20, 2021



To The Honorable Members
of the Common Council
City of Mishawaka, Indiana
And
Mishawaka City Plan commission
City of Mishawaka, Indiana

Re: Petition for Vacation of Public Right of Way

The undersigned, Hack Properties, LLC respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

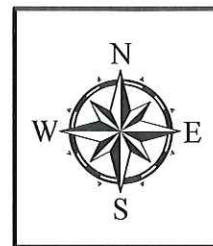
The first 16' east-west alley lying north of Brown Avenue, running for approximately 215 feet and bounded on the east by the west right-of-way line of Forest Avenue and bounded on the west by the east right-of-way line of Benton Street.
Said alley being adjacent to Lots 11 – 24 of Liberty Gardens

Petitioners further state they are the owners of the property immediately adjacent to the above described right of way.

Wherefore, the Petitioner(s) respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacated the above described right of way located in the City of Mishawaka.


Hack Properties, LLC
Keith Hatkevich, member
13793 Adams Road
Granger, Indiana 46530

Contact Person:
Lang, Feeney & Associates, Inc.
Terry Lang
715 South Michigan Street
South Bend, Indiana 46601



W CATALPA DR

PET 21-04

BROWN AVE

BROWN AVE

Location Map

PET 21-04

RIGHT OF WAY (ALLEY)
VACATION

16' WIDE ALLEY
NORTH OF BROWN,
SOUTH OF CATALPA,
BETWEEN FOREST AND BENTON
FOR A LENGTH OF 215 FEET

BENTON ST

FOREST AVE

BERRY AVE

PETITION 21-05
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2021-18
ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

MAY 12 2021

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, 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, 622.50 (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 FEET (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, 263.00 FEET (REC. 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. CONTAINING 0.89 ACRES MORE OR LESS. SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

COMMON ADDRESS: Formerly 5603 Grape Road

which real estate is now classified as C-7 Automobile Oriented Restaurant Commercial District shall hereafter be within and a part of that District known as C-4 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:

Proposed Ordinance No: 21-18

Ordinance No: _____

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 automobile use, Discount Tire to the north, the rezoning to C-4 Automobile Oriented 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 Grape Road is the commercial corridor with permits multiples commercial uses; 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

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: formerly 5603 Grape Road

Date: May 11, 2021

Petition: 21 05

Prepared By: CH

GENERAL INFORMATION

Applicant: GW Mishawaka II LLC/Abonmarche Consultants

Status: Property Owner/Representative

Request: Rezone from C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District

Zoning Classification: C-7 Automobile Oriented Restaurant Commercial District

Lot Size: 1 acre

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 (Discount Tire)
South: C-1 General Commercial District (ABC Warehouse)
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 C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented 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.

At the beginning of the year, the Petitioner rezoned two outlots in the parking lot for the development of new drive-thru restaurants. One of the potential tenants has changed, therefore, the northern outlot is now requesting a change to the C-4 Automobile Oriented Commercial District for an instant oil lube and service business. This is the location of the former Fitness USA, which closed in 2014, and was demolished after 2017. There will still be sufficient parking for all of the existing and proposed uses.

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's representative to aid in developing the site plan.

The Planning Department previously required a subdivision be submitted to officially create these new lots. A subdivision has been submitted and is also being heard at tonight's meeting. Furthermore, each lot will require its own site plan prior to permits being issued.

Other pertinent City Departments reviewed and approved the request.

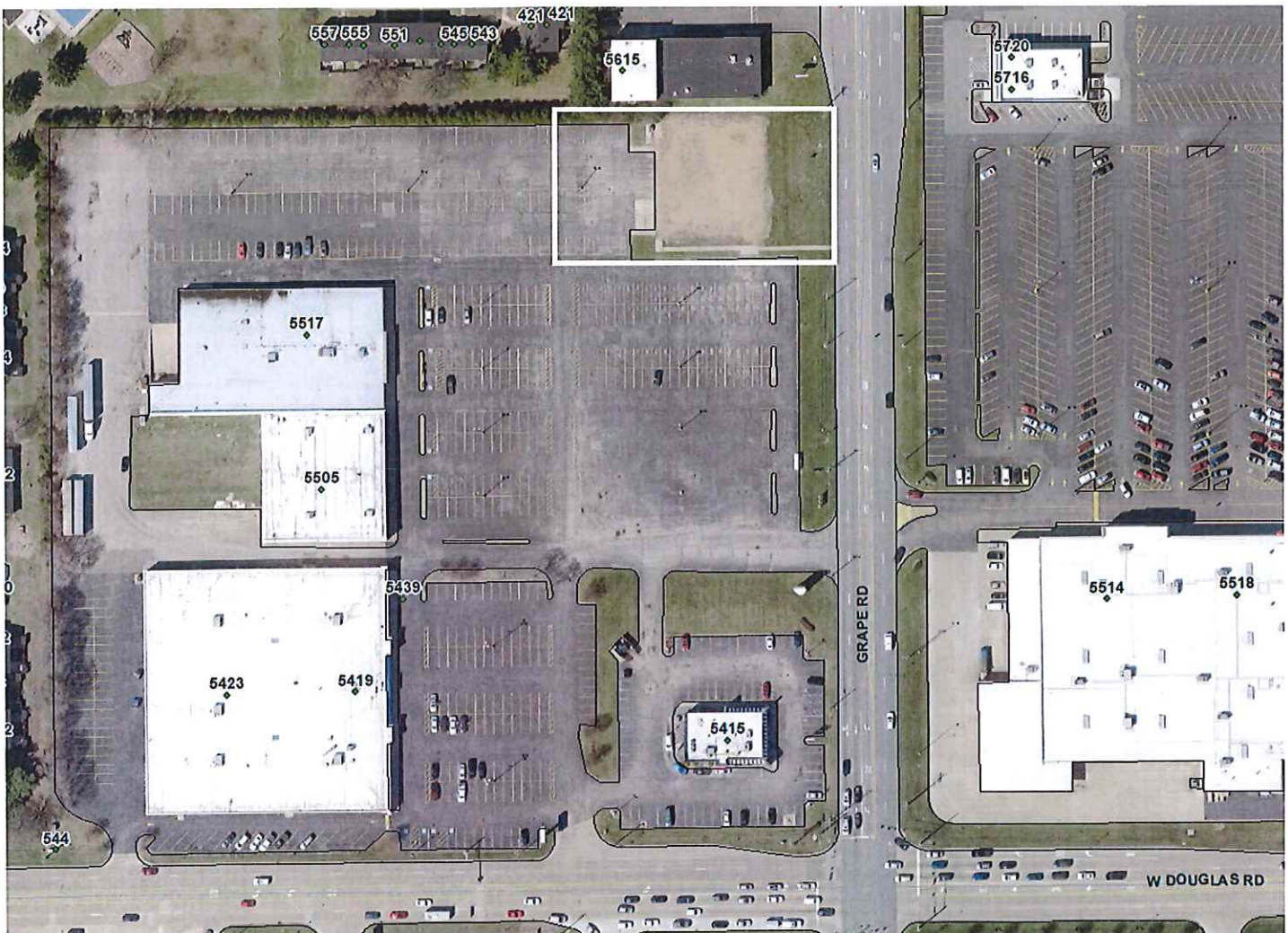
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #21-05 to rezone the property formerly addressed as 5603 Grape Road to C-4 Automobile Oriented 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 automobile use, Discount Tire to the north, the rezoning to C-4 Automobile Oriented 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 Grape Road is the commercial corridor with permits multiples commercial uses; 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 site from across Grape Road



A view towards Grape Road from ABC Warehouse



A view north

April 21, 2021

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

**RE: PETITION TO REZONE PROPERTY
5603 Grape Road**

The undersigned, Mitch Goltz, of GW Mishawaka II, LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Please see attached legal description.

COMMON ADDRESS: 5603 Grape Road

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a zoning classification of C-7 Commercial District. The current use of 5603 Grape Road is vacant land, after the demolition and removal of the former fitness business.

Petitioner desires to rezone the above described property to C-4 Commercial District for the establishment of an instant oil lube and service business. We believe the use to be consistent with the auto-oriented form of the Grape Road corridor. Immediately adjacent to the north is a tire and auto service business, and further south, between Douglas and Day, there is an additional four (4) C-4 Auto-Oriented Commercial uses, multiple C-7 Automobile-Oriented Restaurant use, and one (1) C-9 Automobile Sales use. No negative impacts should arise from locating these use on this very established commercial corridor.

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



Mitch Goltz
GW Mishawaka II, LLC

CONTACT PERSON

Mike Huber
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 347-4610
mhuber@abonmarche.com

Deborah S. Block, TAMC, MMC

APR 29 2021

**City Clerk
Mishawaka, IN**



EXHIBIT A

REZONE LEGAL DESCRIPTION (5603 GRAPE ROAD, MISHAWAKA INDIANA)

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 FEET (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, 263.00 FEET (REC. 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.

CONTAINING 0.89 ACRES MORE OR LESS.

SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

THIS DOCUMENT WAS PREPARED BY HANS P. MUSSER, INDIANA REGISTERED LAND SURVEYOR, LICENSE NUMBER 29700002.

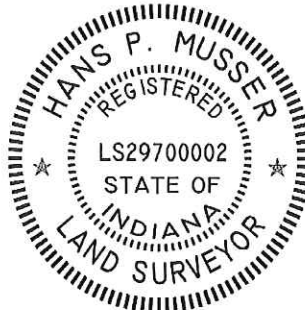


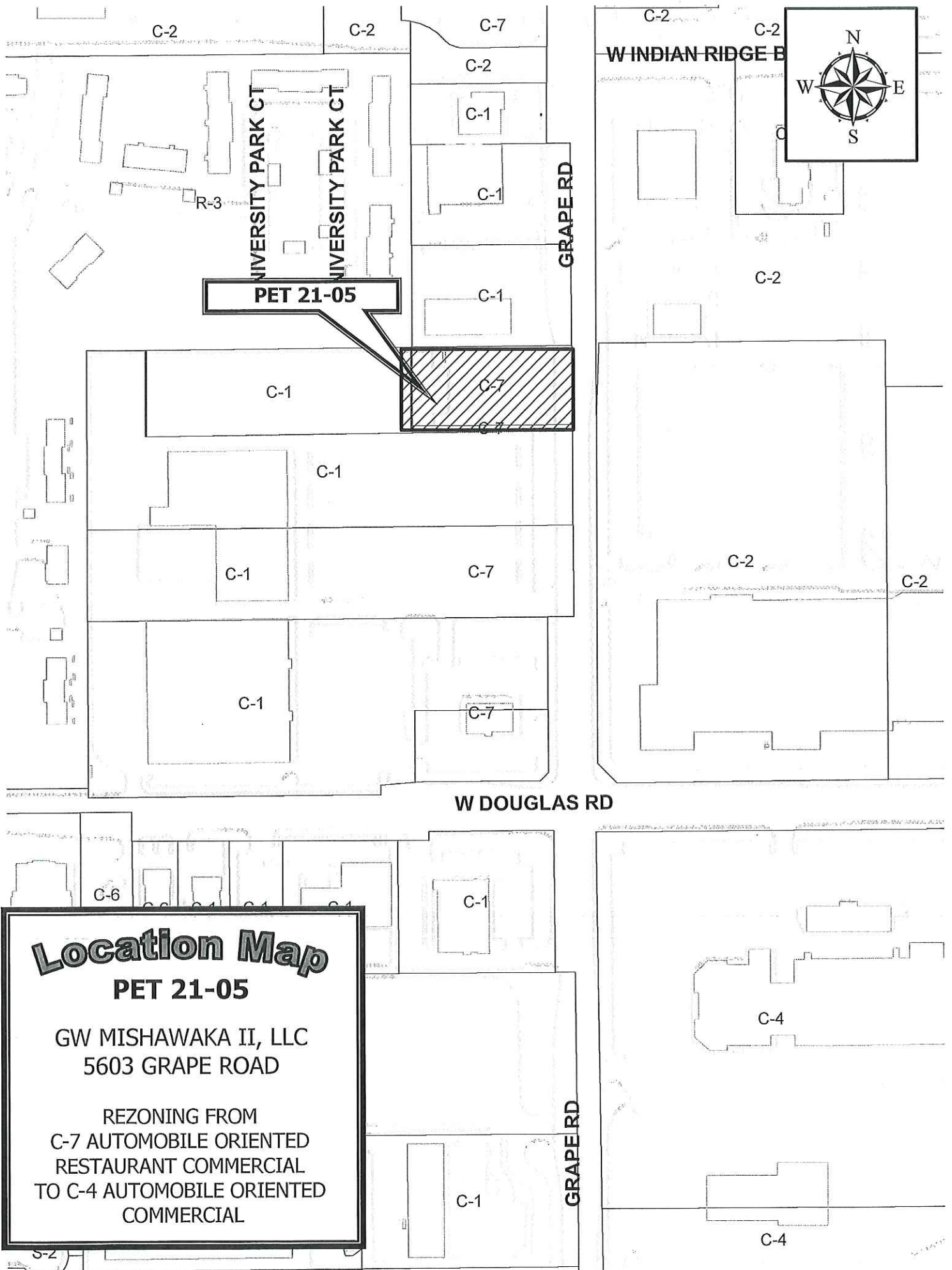
HANS P. MUSSER, PS

12/22/2020

DATE

JOB NO.: 20-2084





MAY 12 2021

City Clerk
Mishawaka, IN

PETITION 21-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-19

ORDINANCE NO. _____

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

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

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

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

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

A part of the West Half of the Northwest Quarter of Section 13, Township 37 North, Range 3 East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows:

Commencing at the intersection of the West line of said Section 13 with the North line of the Indiana & Michigan Electric Company's Right-of-Way; thence North 86 degrees 12' 28" East along said Right-of-Way, 908.33 feet; thence North 00 degrees 00'00" East 184.05 feet to the point of Beginning; thence continuing North 00 degrees 00'00" East, 295.2 feet to a point on the Southerly Right-of-Way (30' ½ Right-of-Way) line of Lincoln Way (US 33); thence Southeasterly along the said Southerly Right-of-Way, 92.42 along an arc to the left having a radius of 934.74 feet, subtended by a chord having a bearing of South 84 degrees 36'01" East and a length of 92.38 feet; thence South 00 degrees 00'00" West along the Westerly Right-of-Way line of Mariellen Avenue, 280.41 feet; thence South 86 degrees 12'28" West, 92.17 feet to the point of beginning.

COMMON ADDRESS: 2777 Lincolnway East

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 Restaurant 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 – The subject property consists of a vacant commercial structure and is located at the southwest corner of the Lincoln Way East and Mariellen Avenue. Lincoln Way East is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include a hotel

Proposed Ordinance No: 21-19

Ordinance No: _____

and multi-tenant commercial shopping center to the north, restaurants with drive-thru facilities to the west and east, and a public utility sanitary sewer lift station to the south.

2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including a hotel, retail, and restaurants.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area. The proposed restaurant with drive-thru and other C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 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: Southwest Corner of Lincoln Way East & Mariellen Avenue -
2777 Lincoln Way East

Date: May 11, 2021

Petition: 21- 06

Prepared By: DJS

GENERAL INFORMATION

Applicant: Pizza Hut of America Inc. / Abonmarche Consultants, Inc.

Status: Property Owner / Surveyor & Site Design Consultant

Request: To rezone from C-1 General Commercial District to C-7 Auto Oriented Restaurant Commercial District to allow for the construction of a restaurant with drive-thru facilities

Zoning Classification: C-1 General Commercial District

Lot Size: 0.88 acres per the MACOG GIS/County Auditor tax parcel maps with the area to be rezoned including approximately 0.64 acres

Applicable Regulations: Section 137-455 thru 137-457 / C-7 Auto Oriented Restaurant Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Hotel / Mishawaka Inn) & C-2 Shopping Center Commercial (Multi-Tenant Building & Vacant Outbuilding / AutoZone, Dollar General, Revolution Fitness & Washland Coin Laundry)

South: C-7 Auto Oriented Restaurant Commercial (Public Utilities / City of Mishawaka Sanitary Sewer Lift Station)

East: C-7 Auto Oriented Restaurant Commercial (Restaurant with Drive-Thru / Burger King)

West: C-7 Auto Oriented Restaurant Commercial (Restaurant with Drive-Thru / McDonald's)

Thoroughfare: Lincoln Way East & Mariellen Avenue

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to the site at the expense of the developer.

Comprehensive Plan: General Commercial (Retail Sales & Shopping Centers)

ANALYSIS

The Petitioner, Pizza Hut of America Inc., is requesting to rezone approximately 0.64 acres of property located at 2777 Lincoln Way East from C-1 General Commercial to C-7 Auto Oriented Restaurant

Commercial to allow for the construction of a restaurant with drive-thru facilities. An undisclosed national franchise will occupy the new building, and will not be a Pizza Hut.

According to the St. Joseph County parcel maps, the property (Tax Parcel 016-1081-3248.05) is an "L" shaped parcel with the rear part of the McDonald's site to the west being owned by the Petitioner. The Petitioner's surveyor and Planning Staff are of the opinion that the parcel maps may be in error. The Petitioner may only own the 0.64 acre area as described in the legal description provided with the rezoning petition. If the rezoning is approved, recorded deeds and a title policy for the property shall be provided as a part of the final site plan process.

The property to be rezoned includes a vacant 2,520 sq. ft. commercial building, formerly occupied by Pizza Hut, and adjacent 40 space parking lot. The building and property remain largely unchanged since its original construction in 1978. With the proposed redevelopment of the site, all existing improvements, excluding the south access drive utilized for both the Petitioner's property and McDonald's, will be razed.

Per the preliminary site plan submitted with the rezoning petition, the contingent developer is proposing to construct a one-story 2,327 sq. ft. building, a twenty-six (26) space parking lot, and other required infrastructure (access drives, stormwater drainage system, landscaping, etc.).

Access to the site is currently proposed from both Lincoln Way East via an existing drive, and Mariellen Avenue via an existing shared drive to the south. A title policy, property deeds, and recorded ingress-egress/cross-access easement document shall be provided since the ownership and easement rights between the Petitioner's property and the adjacent McDonald's is in question. The Engineering Department commented that the current approach to Lincoln Way East should be removed and a new access provided to Mariellen Avenue near the northeast of the new building. The existing approach along Lincoln Way East creates an awkward traffic conflict due to its close proximity to Mariellen Avenue. Additionally, the left turn lane for westbound traffic on Lincoln Way East ends at Mariellen Avenue which restricts usage of the access. The Engineering Department recommended that INDOT be contacted regarding the potential acquisition of part of the right-of-way to utilize for parking or access, or allowing an encroachment into the existing right-of-way for such purposes. A new sidewalk shall be extended between Lincoln Way East the existing sidewalk on Mariellen Avenue, and the existing sidewalk replaced along the west side of Mariellen Avenue.

The preliminary site plan indicates a one-way south access drive will be provided west of the building. Due to the narrowness of the property, a one-way drive would allow five (5) parallel parking spaces west of the building in addition to the twenty-one (21) parking spaces to the south. With the proposed twenty-six (26) spaces, a developmental variance will be required for a reduction in the number of spaces. Based on 15 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the C-7 Auto-Oriented Restaurant Commercial use, a total of thirty-five (35) spaces are required for the proposed 2,327 sq. ft. building. A development variance (AP 21-12) to allow for both reduced parking and a reduced pavement setback for the drive-thru lane to the east of the building was submitted in conjunction with the rezoning petition. A 6' pavement setback between the drive-thru lane and Mariellen Avenue is proposed also due to the narrowness of the property. A 10' pavement setback is required along all public right-of-way. The Engineering Department commented that a two-way drive aisle west of the building would be preferred. If one-way parking is the only feasible option, it is recommended that the parking spaces be angled instead of being 90° spaces. Also if a one-way drive aisle is provided, the property shall be adequately signed with "one-way only" signs where necessary to reduce the potential for on-site traffic conflicts.

Landscaping and screening shall comply with the commercial landscaping and C-7 Auto Oriented Restaurant Commercial District requirements.

With the exception of the above noted variances, the preliminary site plan shows the intent to comply with the required height, area, and developmental regulations for the C-7 Auto Oriented Restaurant Commercial District. If additional variances are required for landscaping or any other developmental regulations, the Board of Zoning Appeals shall be petitioned when the final site plan is submitted.

With this petition, the property owner and contingent purchaser are only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff

review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Since the property is currently zoned for commercial use and located along the highly travelled Lincoln Way East corridor, Planning Staff supports the request for rezoning. The proposed restaurant with drive-thru facilities is not out of character and will be compatible with the existing adjacent land uses. The property is located adjacent to three (3) existing drive-thru restaurants. The proposed use is also consistent with the historical uses and recommended use per the comprehensive plan.

The Building, Fire, Electric, and Water Departments have reviewed and approved the rezoning request providing no additional comments.

The Engineering Department had no comments related to the rezoning petition but provided the above comments to be addressed with the final site plan.

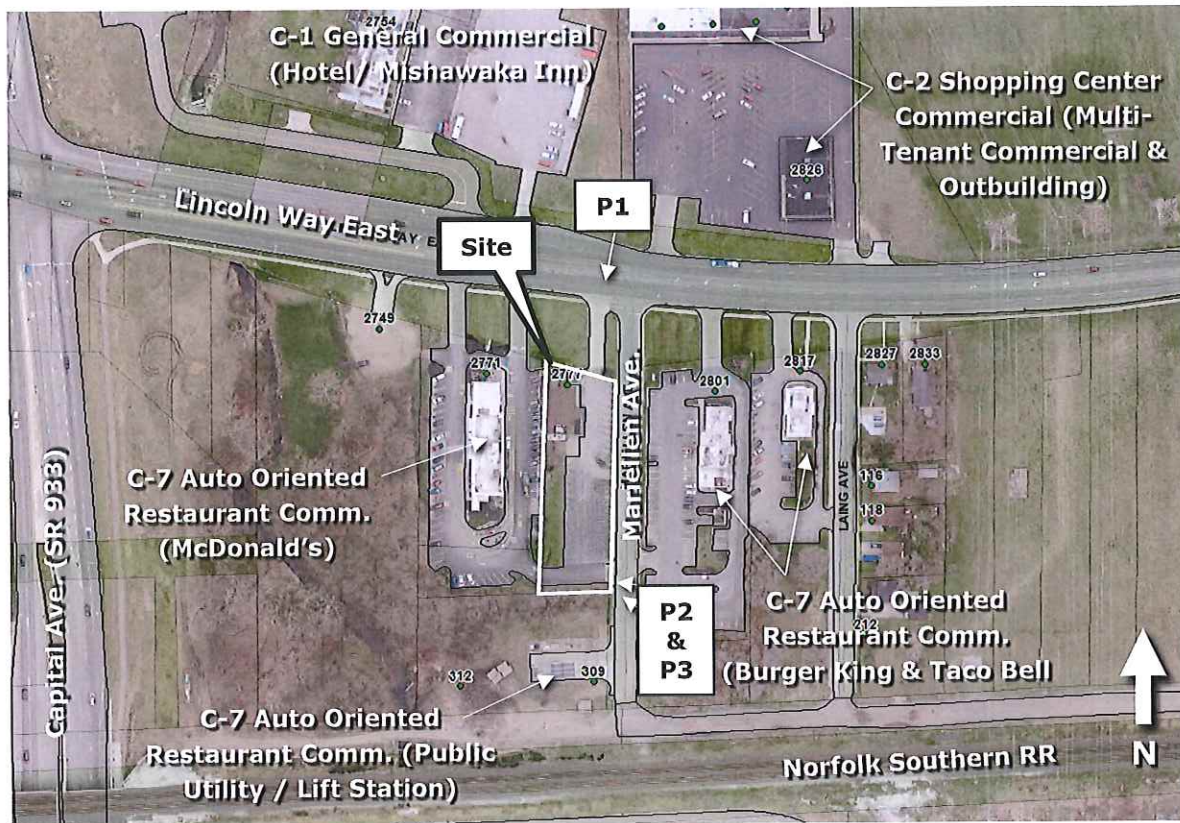
RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 21-06 to rezone approximately 0.64 acres of property located at 2777 Lincoln Way East from C-1 General Commercial to C-7 Auto Oriented Restaurant Commercial to allow for the construction of a restaurant with drive-thru facilities. This recommendation is based on the following findings of fact:

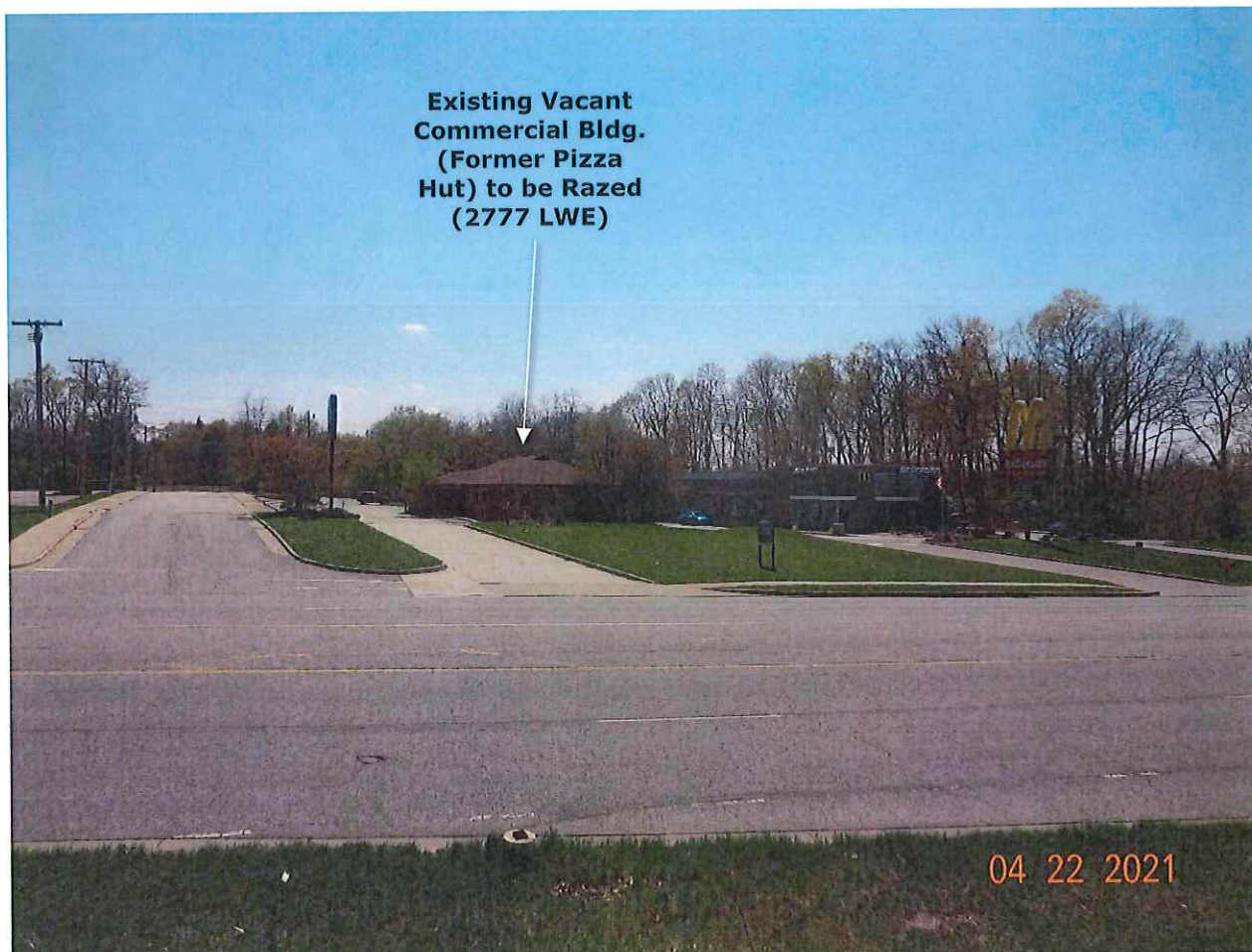
1. Existing Conditions – The subject property consists of a vacant commercial structure and is located at the southwest corner of the Lincoln Way East and Mariellen Avenue. Lincoln Way East is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include a hotel and multi-tenant commercial shopping center to the north, restaurants with drive-thru facilities to the west and east, and a public utility sanitary sewer lift station to the south.
2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including a hotel, retail, and restaurants.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area. The proposed restaurant with drive-thru and other C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Photographs, Petition, Concept/Preliminary Site Plan, Preliminary Site Plan with Engineering Review Comments, Location Map



Aerial Photograph
Existing Vacant Commercial Building / Former Pizza Hut
2777 Lincoln Way East



P1. Looking southerly toward the site from north of Lincoln Way East.



P2. Looking northwesterly toward the site and existing south access drive from Mariellen Avenue.



P3. Looking westerly toward the existing south access drive from Mariellen Avenue.

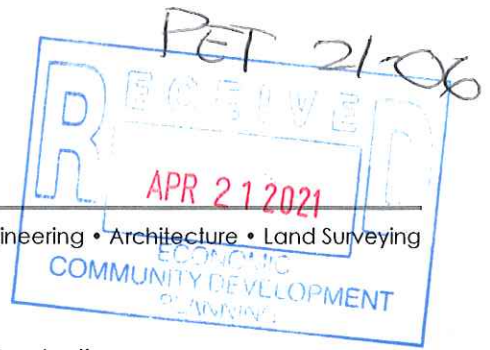


Engineering • Architecture • Land Surveying

April 21, 2021

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

RE: PETITION TO REZONE PROPERTY
2777 Lincoln Way East



Deborah S. Block, IAMC, MMC

APR 29 2021

City Clerk
Mishawaka, IN

The undersigned, Pizza Hut of America, Inc, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Legal Description Attached

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 Commercial District. The subject property is currently in use as a restaurant with no drive thru use (the former Pizza Hut restaurant).

Petitioner is requesting that subject property be rezoned to C-7 Commercial District.

The proposed future use of the subject property is a new drive-thru restaurant, which is not permitted in the current C-1 zoning district. The subject property is located adjacent to 3 existing drive thru restaurants, indicating that the proposed use is consistent with the existing land use patterns for the area.

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

DocuSigned by:

085EE1805F50406
Assistant Secretary
Signature(s) of Property Owner(s)
BY: Pizza Hut of America, LLC

Signature(s) of Property Owner(s)

Printed Name

Printed Name

CONTACT PERSON:

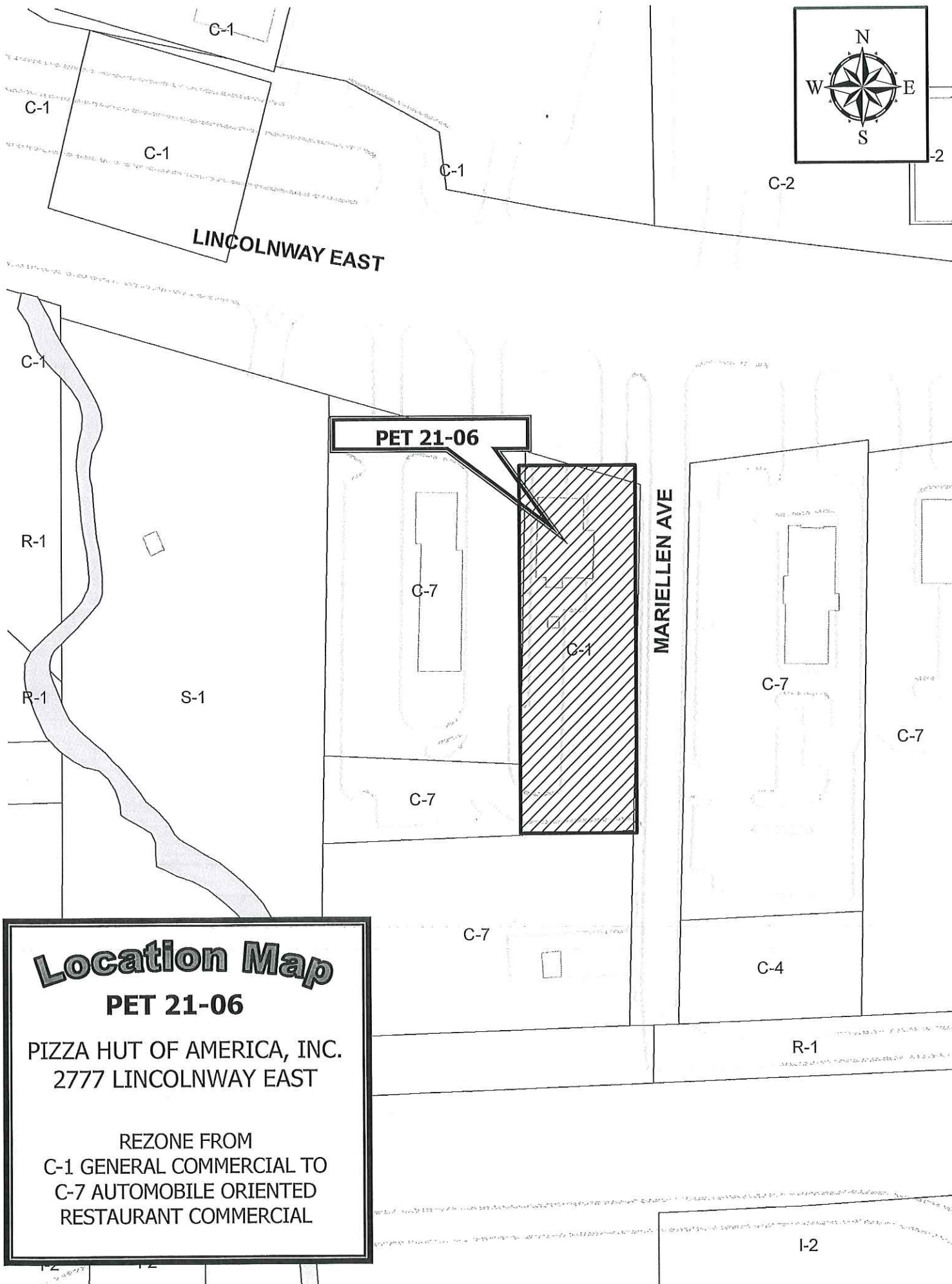
Abonmarche Consultants, Michael Huber
315 W. Jefferson Blvd, South Bend, IN 46601
574.347.4610
mhuber@abonmarche.com

2777 Lincolnway East

LEGAL DESCRIPTION:

A part of the West Half of the Northwest Quarter of Section 13, Township 37 North, Range 3 East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows:

Commencing at the intersection of the West line of said Section 13 with the North line of the Indiana & Michigan Electric Company's Right-of-Way; thence North 86 degrees 12' 28" East along the said Right-of-Way, 908.33 feet; thence North 00 degrees 00' 00" East 184.05 feet to the point of Beginning; thence continuing North 00 degrees 00' 00" East, 295.2 feet to a point on the Southerly Right-of-Way (30' ½ Right-of-Way) line of Lincoln Way (US 33); thence Southeasterly along the said Southerly Right-of-Way, 92.42 along an arc to the left having a radius of 934.74 feet, subtended by a chord having a bearing of South 84 degree 36' 01" East and a length of 92.38 feet; thence South 00 degrees 00' 00" West along the Westerly Right-of-Way line of Mariellen Avenue, 280.41 feet; thence South 86 degrees 12' 28" West, 92.17 feet to the point of Beginning.



APR 29 2021

City Clerk
Mishawaka, IN

1st Reading

2nd Reading

Passed

Failed

Continued To

PROPOSED ORDINANCE NO. 2021-14

ORDINANCE NO. _____

**AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2021
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021**

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

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted (MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of the City of Mishawaka the sum of \$382,620.00 as required for the Community Crossing Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

203-50-442-01

Street Repair

\$382,620.00

Total

\$382,620.00

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

244-50-436-03

Street Repair

\$382,620.00

Total

\$382,620.00

Section 2. Which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road Matching Grant Fund of the City of Mishawaka the sum of \$765,240.00 for assignment as follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

244-50-436-03

Street Repair

\$765,240.00

Total

\$765,240.00

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

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

On this _____ day of _____, 2021 at _____ o'clock, _____. M.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

on this _____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Date: April 29, 2021
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: Transfer from MVH Restricted and Additional Appropriation Local Road & Bridge Matching Fund

I am requesting for first reading, approval for the transfer of \$382,620 from the Motor Vehicle Highway Restricted Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds are budgeted funds for the purpose of the match.

This transfer along with the \$382,619.94 grant already received from the State must be appropriated. Therefore, I am also requesting approval of the additional appropriation for \$765,240.00.

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

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

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

1st Reading 5-3-21
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

APR 29 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-15

ORDINANCE NO. _____

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021**

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the Local Road and Street and Motor Vehicle Highway Restricted funds of the City of Mishawaka the sum of \$1,000,000.00 for assignment as follows:

Street Paving

Local Road and Street

Capital Outlays

202-50-442-01	Summer Street Program	\$250,000.00
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Motor Vehicle Highway Restricted

Capital Outlays

203-50-442-01	Summer Street Program	<u>\$750,000.00</u>
---------------	-----------------------	---------------------

\$1,000,000.00

Section 5. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2021 at _____ o'clock, _____. M.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Date: April 29, 2021
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: **Additional Appropriations: MVHR and LR&S**

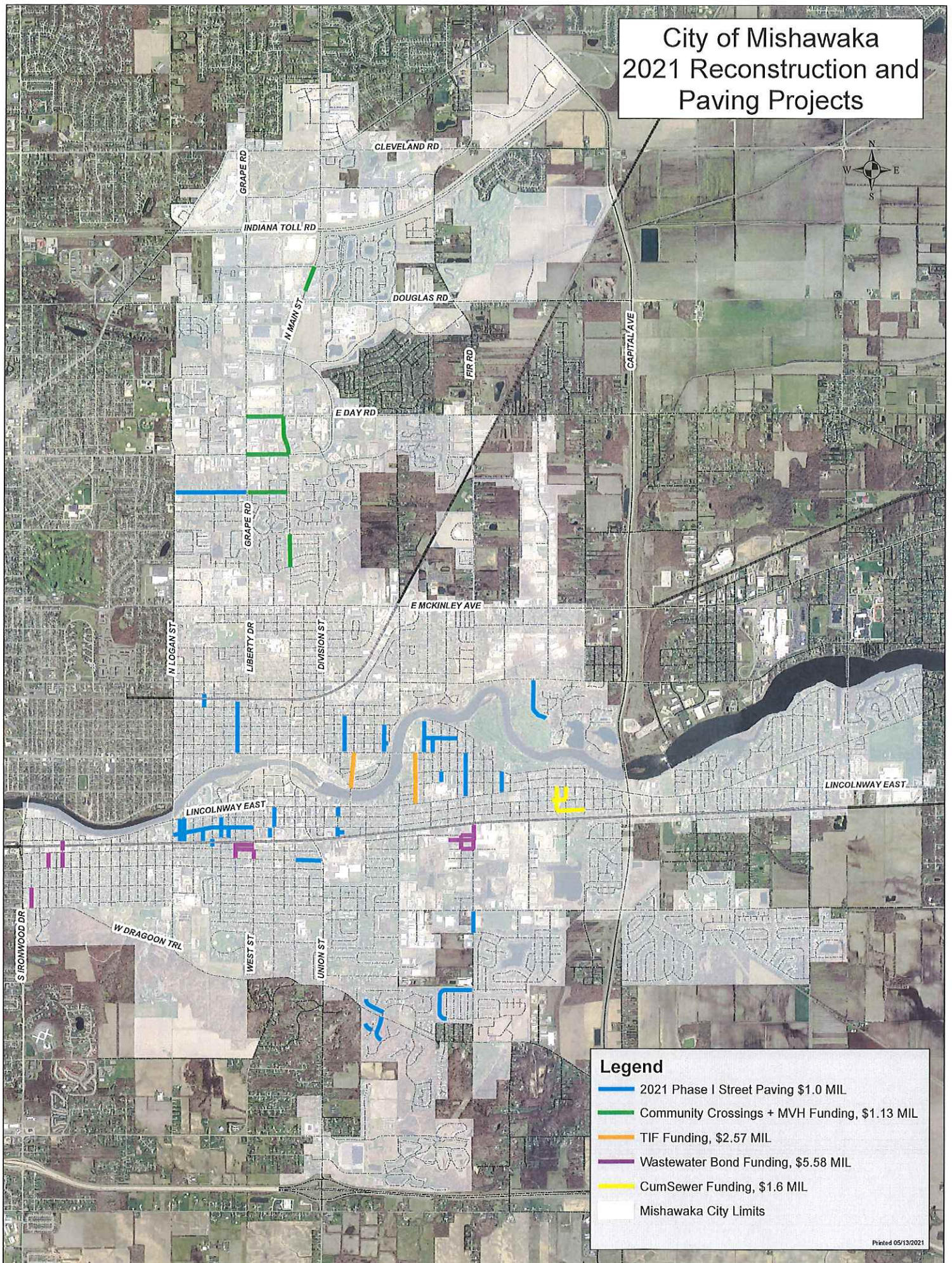
For first reading on May 3rd is an additional appropriation to fund much needed street paving beyond the scope of the Community Crossing Grant.

This funding will come from surplus in the Motor Vehicle Highway Restricted and the Local Road and Street funds.

Thank you for your consideration, and please contact me with any questions.

c: David A. Wood – Mayor
Chris Jamrose – Dir. of Engineering/City Engineer

City of Mishawaka 2021 Reconstruction and Paving Projects



Legend

- 2021 Phase I Street Paving \$1.0 MIL
- Community Crossings + MVH Funding, \$1.13 MIL
- TIF Funding, \$2.57 MIL
- Wastewater Bond Funding, \$5.58 MIL
- CumSewer Funding, \$1.6 MIL
- Mishawaka City Limits

City of Mishawaka
2021 Street Paving
Phase 1

Area	Street Name	From	To	PASER RATING	Width	Length	Tonage 1.5"	Milling (SYD)	Notes
SE	ARBOR LN	BYRKT / FIR RD	WILD ROSE LN	2	36	1100.00	363.00	4400.00	
SW	BAKER ST	DEAD END	FOURTH ST	2	36	409.90	135.27	1639.59	
SE	BUGLE LN	DEAD END	WOOD LN	2	26	363.01	86.52	1048.70	Include Wood Lane from Dragon Trail to north side of intersection at Bugle Lane
SE	BYRKT AVE	SOUTHWOOD DR (entrance into Mobile Home Park	South of TWELFTH ST (begin at drive entrance into Ziker Cleaners / new pavement)	2	24	778.23	171.21	2075.28	West edge of pavement needs to be milled and based in at north end (appears to have been a shoulder area that has been patched and paved)
NW	CATALPA DR	GRAPE RD	HICKORY RD	2	40	2575.00	944.17	11444.44	Additional patching may be needed especially on the west end and bound side where the trees have not allowed the pavement to dry out
SW	CENTER ST	FIFTH ST	FOURTH ST	2	40	356.94	130.88	1586.42	
NW	CHARLOTTE ST	MISHAWAKA AVE	DEAD END	2	42	1495.00	575.58	6976.67	
NE	CHESTNUT ST	MISHAWAKA AVE	BROADWAY	2	40	1320.00	484.00	5866.67	
SW	COLUMBIA ST	DEAD END	LINCOLNWAY WEST	2	22	800.00	161.33	1955.56	
NW	CLAY ST	FAIRMOUNT AV	MARION ST	2	40	435.00	159.50	1933.33	At Railroad Crossing
SW	FOURTH ST	LOGAN ST	TAYLOR ST	2	36	1775.00	585.75	7100.00	
SW	FOURTH ST	TAYLOR ST	WEST ST	2	36	1200.00	396.00	4800.00	
SE	GEORGE ST	LINCOLNWAY EAST	LINDEN AVE	2	38	750.00	261.25	3166.67	
SE	GROVE ST	INDIANA AVE	GERNHART AV	2	24	1200.00	264.00	3200.00	
SW	HARRISON ST	LINCOLNWAY WEST	DEAD END	2	34	850.00	264.92	3211.11	
SE	INDIANA AVE	MISHAWAKA AVE	PROSPECT DR	2	24	1150.00	253.00	3066.67	
SE	PINE ST	LINCOLNWAY EAST	THIRD ST	2	30	353.76	97.28	1179.21	
SE	PINE ST	DEAD END	FOURTH ST	2	20	285.00	52.25	633.33	
SW	SAINT JOSEPH CT	DEAD END	FOURTH ST	2	20	353.66	64.84	785.91	
SE	SCHWITT CT	PINE ST	DEAD END	2	18	227.51	37.54	455.02	
SE	SEVENTH ST	UNION ST	MAIN ST	2	40	972.22	356.48	4320.97	
NE	SHANOWER DR	JEFFERSON BLVD	DEAD END	2	24	1650.00	363.00	4400.00	
SW	SMITH ST	FOURTH ST	SIXTH ST	2	34	680.00	211.93	2568.89	At Railroad Crossing
SW	SPRING ST	FOURTH ST	LINCOLNWAY WEST	2	46	730.00	307.82	3731.11	Saint Joseph School closes Spring Street to allow the kids to cross to the playground area located on the west side of Spring Street. Last day of School for them is June 2nd.
SE	STATE ST	LINCOLNWAY EAST	MISHAWAKA AVE	2	28	1575.00	404.25	4900.00	
SE	STUDEBAKER ST	HOMEWOOD AVE	LINDEN AVE	2	36	400.21	132.07	1600.86	
SW	TAYLOR ST	THIRD ST	FIFTH ST	2	24	730.00	160.60	1946.67	
SE	TRIPLE CROWN RD	DEAD END	WINN PL	2	28	250.00	64.17	777.78	
SE	WENGER AVE	MISHAWAKA AVE	GROVE ST	2	30	500.00	137.50	1666.67	
SE	WILD ROSE LN	ARBOR LN	CLIMBING ROSE LN	2	36	1150.00	379.50	4600.00	Include eyebrow at intersection
SE	WILLOW ST	MISHAWAKA AVE	BATTLE ST	2	42	1000.00	385.00	4666.67	
SE	WOOD LN	DRAGON TRL	TRAIL RIDGE SOUTH	2	28	1200.00	308.00	3733.33	Include the round about and Trailridge South just past the drive approach for 2201 Trail Ridge South
						28615.45	8698.59	105437.51	
						5.42			

APR 29 2021

City Clerk
Mishawaka, IN

Proposed Ordinance NO. 2021-16

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA, ESTABLISHING
THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY GRANT FUND**

WHEREAS, on March 11, 2021 the American Rescue Plan Act of 2021 (ARP) was enacted; and

WHEREAS, the ARP provides \$350 billion in emergency funding to state and local governments and the City of Mishawaka will be a recipient of a portion of that funding; and

WHEREAS, the Indiana State Board of Accounts has provided guidance to funding recipients by State Directive 2021-1;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Common Council of the City of Mishawaka, Indiana recognizes that a need now exists for the establishment of the ARP Coronavirus Local Fiscal Recovery Grant Fund (Fund #180) pursuant to Indiana Code 5-11.

Section 1. There is hereby established a fund to be known as the ARP Coronavirus Local Fiscal Recovery Grant Fund #180.

Section 2. The source of funding includes monies allocated to the City from the American Rescue Plan Act of 2021 and distributed to the City in 2021 and 2022.

Section 3. The City shall only appropriate and use the funds to cover costs incurred by the City by December 31, 2024 for the following:

1. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
3. For the provision of government services to the extent of the reduction in revenue of the City due to the COVID-19 public health emergency relative to

revenues collected in the most recent full fiscal year of the City prior to the emergency that being 2019; or

4. To make necessary investments in water, sewer, or broadband infrastructure.

Section 4. The Common Council shall adopt a plan which provides details for the use of funds. In addition, before money in this Fund is disbursed, the Common Council, as the fiscal body, must appropriate the money in the Fund for a use that is consistent with the statutory purposes set out in Section 3 above.

Section 5. This ordinance may be amended from time to time if additional guidance is received from any federal or state agency.

Section 6. The ARP Coronavirus Local Fiscal Recovery Grant Fund shall exist until terminated by ordinance of the Common Council. Monies from this Fund may not be transferred to another fund of the City.

Section 7. This ordinance shall take effect upon passage 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.

Gregg Hixenbaugh, 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