

AGENDA

June 07, 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): 173 259 2095
Meeting Password:p4CGUPXTH33

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: 1732592095@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of May 17, 2021
5. Petitions, Communications, Remonstrance and Memorial

Petition No. 2021-07 University Marketplace PUD Amendment to
allow an Automobile Dealership and Service
Center - 7207 Grape Road (former Jcpenney
Home Store)

Petition No. 2021-08 Rezone from C-1 District to C-7 District
to allow Restaurant with Drive-Thru - Part
of 2754 Lincoln Way East - existing
parking area for Mishawaka INN

Petition No. 2021-09 Annexation & Zoning of 19.02 Acre to R-1
for a proposed Single Family Residential
Subdivision - Autumn Ridge Phase 4

Petition No. 2021-10 Annexation & Zoning of 5.24 Acres to I-1
for a proposed Self Storage Facility -
16996 S.R. 23

**A public hearing on Vacation 2021-01 required by State Statute
on behalf of Hack Properties LLC, Right of Way alley vacation
16' wide alley N. of Brown, S. of Catalpa, between Forest and
Benton Ave. for length of 215 feet.**

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

R2021-12 Adopting a written policy Establishing the
Procedures for Electronic participation at
meetings

9. Ordinances on Second 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
(Assigned to Land Use Planning Committee)

P.O. NO. 2021-18 Rezone from C-7 Auto Oriented Restaurant to
C-4 Automobile Oriented Commercial - 5603
Grape Road
(Assigned to Land Use Planning Committee)

P.O. NO. 2021-19 Rezone from C-1 General Commercial to C-7
Automobile Oriented Restaurant - 2777
Lincoln Way East
(Assigned to Land Use Planning 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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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 17, 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 17, 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 (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (P), Mrs. Voelker (P), Mr. Hixenbaugh (P).
P: Present E: Electronically participating A: Absent

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

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Minutes for the Regular Meeting of May 3, 2021 were approved as received from the Clerk's Office.

Clerk Block read the following letter from the City Plan Commission regarding their recommendation from their May 11, 2021 meeting.

PETITION #2021-04

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 #2021-05

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 #2021-06

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.

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

PROPOSED ORDINANCE NO. 2021-17

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.

Right of Way alley vacation of 16’ wide alley N. of Brown, S. of Catalpa, between Forest and Benton Ave. for length of 215 feet

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-18

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-7 Auto Oriented Restaurant to C-4 Automobile Oriented Commercial – 5603 Grape Road

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-19

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

Rezone from C-1 General Commercial to C-7 Automobile Oriented Restaurant – 2777 Lincolnway East

(Assigned to Land Use Planning)

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

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

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

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-14**. Ms. Miller stated the first item was an annual ordinance for transfer and appropriation for the community crossings grant. Ms. Miller stated they would be transferring their match from the Motor Vehicle Highway Restricted Fund to the Local Bridge and Road Matching Grant Fund and there they would appropriate the state's grant and their match for a total of \$765,240. Ms. Miller stated this was their first ordinance on street paving that evening and Chris Jamrose, City Engineer, was also present to answer questions.

Question was called for at 7:08PM for **PROPOSED ORDINANCE NO. 2021-14** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5742**.

PROPOSED ORDINANCE NO. 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 for a total
of \$1,000,000**

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

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-15**. Ms. Miller stated for the following ordinance, in 2020 it was determined that their MVH funds would be reduced and they were reduced to about \$190,000, so they were conservative in requesting community crossing grants. Ms. Miller stated after careful review of the budget, their cash flow, projections and necessary need for further street repair, they determined out of \$250,000 from the Local Road and Street Fund and another \$750,000 out of the Motor Vehicle Highway Restricted Fund would allow for the capacity to pay an additional \$1,000,000 for street repair for 2021.

Mrs. Voelker asked this would mean they would have \$1.7 million. Ms. Miller stated that was correct and it would be the \$1 million plus their community crossing grant money.

Mr. Hazen stated with the \$12 million they would get they would be able to do Sewer and Water under that and asked if when they go back and pay if they could use that money too and free up

additional money normally used for paving. Ms. Miller stated she did not know if it could be used for paving, but it was being reviewed at that time for infrastructure.

Chris Jamrose, City Engineer, approached the podium to answer questions. Mr. Compton referred to the list sent out to the council and stated it looked as though the southeast part of the city was being concentrated on per the list, along with two repaving projects in the northeast part of the city. He also asked how they determined which streets to repave. Ms. Jamrose stated in order to get federal matching grant funds for community crossing, they had to follow a PSER rating system, which stood for Pavement Service Evaluation Rating, it rated every street every year on a 1 to 10 scale with 10 being fabulous and 1 being horrible. Ms. Jamrose stated per the ratings of 2020, they had 15 miles of rated 2 streets as well as 23 miles of rated 3 streets and 30 miles of rated 4 streets. Ms. Jamrose stated they were supposed to pay for an under, which was critical and because of how last year occurred, they paved the reconstruction projects and very few streets around the reconstruction projects, because they got the best bang for their buck at that time. Ms. Jamrose stated this year, they had \$2.5 million and that was only \$1 million they could figure out how to pay. Ms. Jamrose stated it was a compilation of community crossings, reconstruction projects and all of the pavement going on. Ms. Jamrose stated the \$1 million they were requesting was the worst of the twos. Mr. Compton reiterated so there was a scientific process to determine what needed to be done and appreciated Ms. Jamrose's clarification and stated he did not realize there was a rating process done throughout the city to determine what was next. Mr. Compton stated he was just curious and this year he stated it looked like there was a particular area of the city that was being concentrated on, but now he better understood why. Mr. Compton also asked if the move to pave more alleys was going to take place in the near future. Ms. Jamrose stated they had that movement for 6 years and it was funded through the trash and it was \$40,000 with the alleys being rated similarly to the streets, so they knew which ones were more problematic than others and which ones they had to worry more about drainage than others. Ms. Jamrose stated when they did reconstruction projects, that was a different set of funding and if they were going to pull the street out, they wanted to make sure they gave the residents a place to go. Ms. Jamrose stated if the alleys had not been upgraded, they typically upgrade them first because they are pushing everyone into the alleys. Mr. Compton thanked Ms. Jamrose for her explanation.

Mr. Hixenbaugh thanked Ms. Jamrose for the map she provided and stated it was very helpful along with the alignment of the funding sources. Mr. Hixenbaugh asked, referring to the issues in 2020, if the problem last year was that social distancing and concerns related to the pandemic would not allow paving crews to get out and do the work or if it was a loss of revenue and funding as a ripple effect of the pandemic. Ms. Jamrose stated they had to make decisions for the community crossings in June of every year and she was trying to predict what she would do for next year in June and they had not even talked about budget. Ms. Jamrose stated she would put her package together, submit it and she would find out in September or October if they were lucky enough to get an award. Ms. Jamrose stated they were lucky enough to get an award in 2019 slated for 2020 construction and that construction was a heavy duty dollar value. Ms. Jamrose stated they had already awarded the money and were under construction when they began to find out revenues would be slow, so they worked very hard to cover bills they already made commitments to and through August they did not fit all of what they planned in. Mr. Hixenbaugh stated it sounded to him like in light of everything going on, they were prudent and

judicious in planning things out and how they budgeted for street paving the prior year and they were not going to totally be able to close the gap between what was not done last year, but this was as best they could do under the circumstances and were moving forward. Ms. Jamrose stated that was correct and they cut back their community crossings request last June knowing what they were in for that coming year and not knowing what their distributions would be and how timely they would be. Ms. Jamrose stated they had a contractor they had to pay and were not sure they would be able to get those timely. Mr. Hixenbaugh thanked Ms. Jamrose.

Question was called for at 7:20PM for **PROPOSED ORDINANCE 2021-15. 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. 5743.**

PROPOSED ORDINANCE NO. 2021-16

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

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

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-16.** Ms. Miller stated the ordinance was necessary to receive their ARP money and put it to use. Ms. Miller stated they were naming it Fund #180 and it talked about the distribution in 2021 and 2022, with them receiving half in 2021 and half in 2022. Ms. Miller stated it referenced the different uses and the administration along with the common council adopting a plan in how to spend the funds. Ms. Miller stated she appreciated Mr. Hixenbaugh's assistance in forming the ordinance.

Mr. Hixenbaugh stated he believed it was important to underscore the point the action that evening would was not set in stone the way the money would be spent. He asked for clarification from Ms. Miller. Ms. Miller stated that was correct. Mr. Hixenbaugh stated there was a great deal of scrutiny of those regulations and a wealth of interaction between the council and the administration needed to take place before they got around to spending the \$12 million they were slotted to receive. Mr. Hixenbaugh stated, for the record, their distribution would be in two large chunks being \$6 million in 2021 and \$6 million in 2022 and it all had to be encumbered by 2024, he asked if that was correct. Ms. Miller stated that was correct. Mr. Hixenbaugh concluded stating there was a lot of work still to do and he appreciated the work Ms. Miller had done and the council appreciated the work she had done with a lot more work to come.

Question was called for at 7:24PM for **PROPOSED ORDINANCE NO. 2021-16. 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. 5744.**

ADJOURNMENT 7:25PM

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

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

Deborah S. Block, IAMC, MMC

MAY 26 2021

City Clerk
Mishawaka, IN



DATE: May 10, 2021

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

RE: PETITION FOR PUD AMENDMENT

The undersigned Triple "J" LLC Jeffery Joers respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

A parcel of land in the Southwest Quarter of Section 21, Township 38 North, Range 3 East of the Second Principal Meridian, Clay Township, City of Mishawaka, St. Joseph County, Indiana, and described as follows, viz:
Commencing from a brass plug at the Southeast corner of the Southwest quarter of said Section 21; thence N. 89 degrees 44 minutes 40 seconds W. (bearing assumed) along the South line of the Southwest Quarter of said Section 21 (being along the centerline of Cleveland Road), 662.66 feet; thence N. 00 degrees 10 minutes 31 seconds E., 40.00 feet to the point of beginning; thence continuing N. 00 degrees 10 minutes 31 seconds E., 487.00 feet; thence S. 89 degrees 44 minutes 40 seconds E., 225.00 feet; thence N. 00 degrees 10 minutes 31 seconds E., 248.00 feet; thence S. 89 degrees 44 minutes 40 seconds E., 28.00 feet; thence N. 00 degrees 10 minutes 31 seconds E., 222.31 feet; thence S. 89 degrees 34 minutes 43 seconds E., 366.52 feet; thence S. 00 degrees 00 minutes 00 seconds W., 656.26 feet; thence N. 89 degrees 44 minutes 40 seconds W., 287.00 feet; thence N. 00 degrees 00 minutes 00 seconds E., 49.00 feet; thence N. 89 degrees 44 minutes 40 seconds W., 280.06 feet; thence S. 00 degrees 10 minutes 32 seconds W., 349.00 feet; thence N. 89 degrees 44 minutes 40 seconds W., 54.31 feet to the point of beginning.

The property has a common address of 7207 Grape Road, Granger, Indiana and designated as Tax ID 029-1003-020002, subject to taxes, covenants, restrictions, easements and zoning ordinances, the Carriage Square Planned Unit Development established by an ordinance of the Common Council of the City of Mishawaka, Indiana under date of October 2, 1979, as Ordinance No.

C:\Users\End User\Desktop\PUD Amendment Info.doc

2321, non-exclusive easements over common area for parking and unobstructed pedestrian and vehicular use for passage over the Property and to and from adjacent public rights-of-way and to and from adjacent properties located on the "Planned Unit Development" (sometimes referred to as "Carriage Square Planned Unit Development").

Petitioner own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for offices and retail shopping.

Petitioner desire said real estate to be amended to allow for an automobile dealership and service center.

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


Jeffery Joers

CONTACT PERSON:

Steven J. Panko
Key Development Partners
515 N. State #2660
Chicago, IL. 60654
312 865 1100
spanko@kdp-llc.com

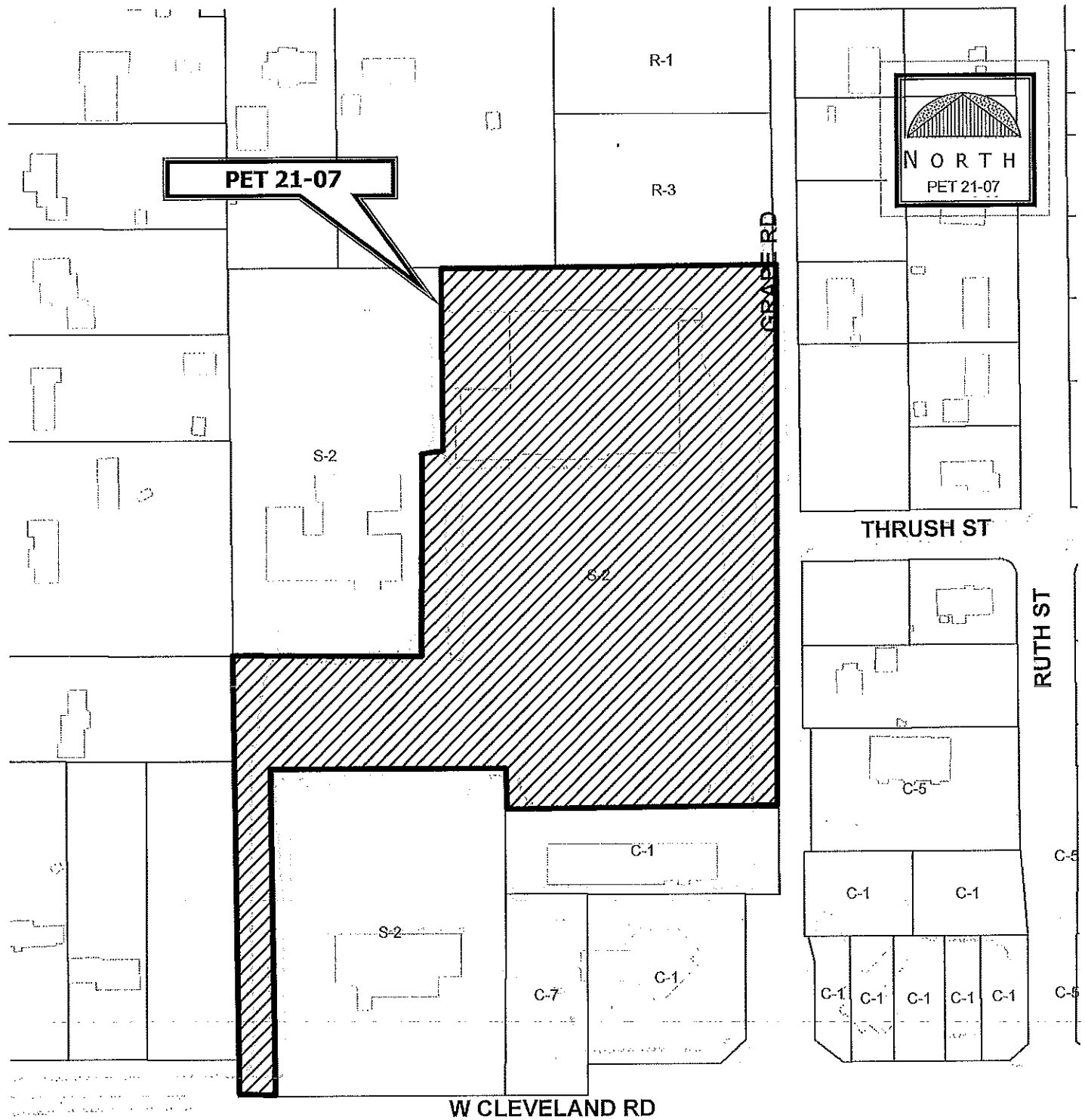
ADDENDUM

Landscaping: Sec. 137-815. - Landscaping and screening regulations

Per the cities "landscaping requirements for interior of parking lots" we propose to eliminate the interior island from the parking stall runs. We will however take the required tree quantities and plant them in other locations on the site. Tree quantities will comply with the ordinance.

Signage: Chapter 129 - ON-PREMISES SIGN STANDARDS

We are not asking for any sign variances at this time. We will follow the C-9 standards for signage. Only one freestanding sign with a maximum 35' height, 162.5 sq. ft. copy area and 270.8 sq. ft. of display area per each side of the sign.

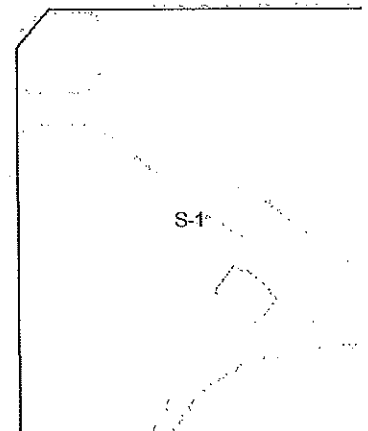
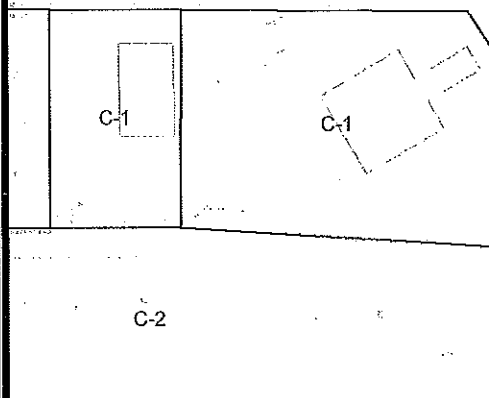


Location Map PET 21-07

TRIPLE J LLC (OWNER)

7207 GRAPE ROAD
(FORMER J.C. PENNEY HOME STORE)

UNIVERSITY MARKETPLACE PUD
AMENDMENT TO ALLOW AN
AUTOMOBILE DEALERSHIP AND
SERVICE CENTER



MAY 26 2021

City Clerk
Mishawaka, IN

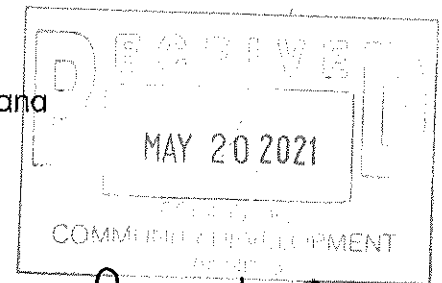
Engineering • Architecture • Land Surveying

ABONMARCHE

May 19, 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**
2754 Lincoln Way East



The undersigned, **Smita Patel**, respectfully show they are the owner 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 a vacant parcel adjacent to the existing hotel.

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 directly across the street from 3 existing drive thru restaurants, with a 4th site under consideration for rezoning to C-7 use as well. 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.

Signature(s) of Property Owner(s)

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

EXHIBIT A

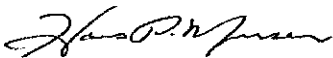
LEGAL DESCRIPTION

A PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING A PORTION OF PARCEL II OF LAND CONVEYED TO SMITA V. PATEL, AS DESCRIBED IN INSTRUMENT NUMBER 1533882, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE CENTER LINE OF LINCOLN HIGHWAY EAST IN THE CITY OF MISHAWKA AS FORMERLY LOCATED, PRIOR TO THE WIDENING OF SAID HIGHWAY BY RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF MISHAWAKA, PASSED APRIL 1, 1935, WHICH IS RECORDED IN MISCELLANEOUS RECORD 55 AT PAGE 327 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, WHICH POINT IS 725.7 FEET EASTERLY FROM THE INTERSECTION OF SAID CENTER LINE OF LINCOLN HIGHWAY WITH THE WEST LINE OF SAID SECTION 13, AND IS THE SOUTHEAST CORNER OF A PARCEL OF LAND WHICH WAS CONVEYED BY GEORGE F. LAING TO HARRY A. SIPLE AND OLLO D. SIPLE, HUSBAND AND WIFE, BY A WARRANTY DEED DATED FEBRUARY 20, 1937, WHICH IS RECORDED IN DEED RECORD 290 AT PAGES 446-447 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY; THENCE EASTERLY, FOLLOWING SAID CENTER LINE OF LINCOLN HIGHWAY, AS FORMERLY LOCATED, A DISTANCE OF 41.75 TO THE POINT OF BEGINNING; THENCE CONTINUING APPROXIMATELY 308 FEET TO A POINT WHICH IS 306.14 FEET DUE WEST OF THE SOUTHWEST CORNER OF A PARCEL OF LAND, WHICH WAS CONVEYED BY GEORGE F. LAING AND CARRIE M. LAING, HIS WIFE, TO ST. JOSEPH AND ELKHART POWER COMPANY BY WARRANTY DEED DATED JULY 26, 1902, WHICH IS RECORDED IN DEED RECORD 122 AT PAGE 482 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, AND WHICH IS NOW OWNED BY INDIANA AND MICHIGAN ELECTRIC COMPANY; THENCE RUNNING IN A NORTHERLY DIRECTION ON A LINE PARALLEL WITH AND 306.14 FEET WEST OF THE WEST LINE OF SAID LAND OWNED BY SAID INDIANA AND MICHIGAN ELECTRIC COMPANY 560 FEET; THENCE DUE WEST, 157 FEET, MORE OR LESS TO A POINT LYING 506 FEET, NORTH 16 DEGREES 4 MINUTES EAST OF THE POINT OF BEGINNING; THENCE SOUTH 16 DEGREES 4 MINUTES WEST TO THE POINT OF BEGINNING.

SUBJECT TO ALL RIGHTS OF WAY AND EASEMENTS OF RECORD. SUBJECT TO ADDITIONAL RIGHT OF WAY FOR LINCOLN HIGHWAY (LINCOLNWAY / STATE ROUTE 933) AS SHOWN ON INDOT PLANS PROJECT NO. STP -517110151, CONTRACT "IR 31091", DATED NOVEMBER 24, 2009. PARCEL SUBJECT TO SURVEY.

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

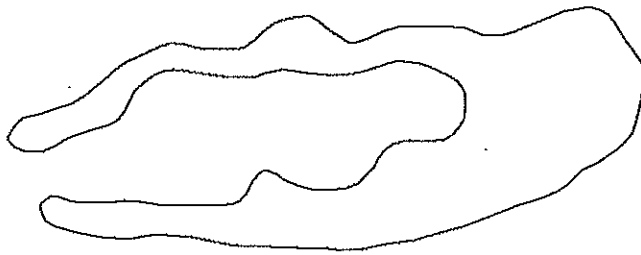


HANS P. MUSSER, PS

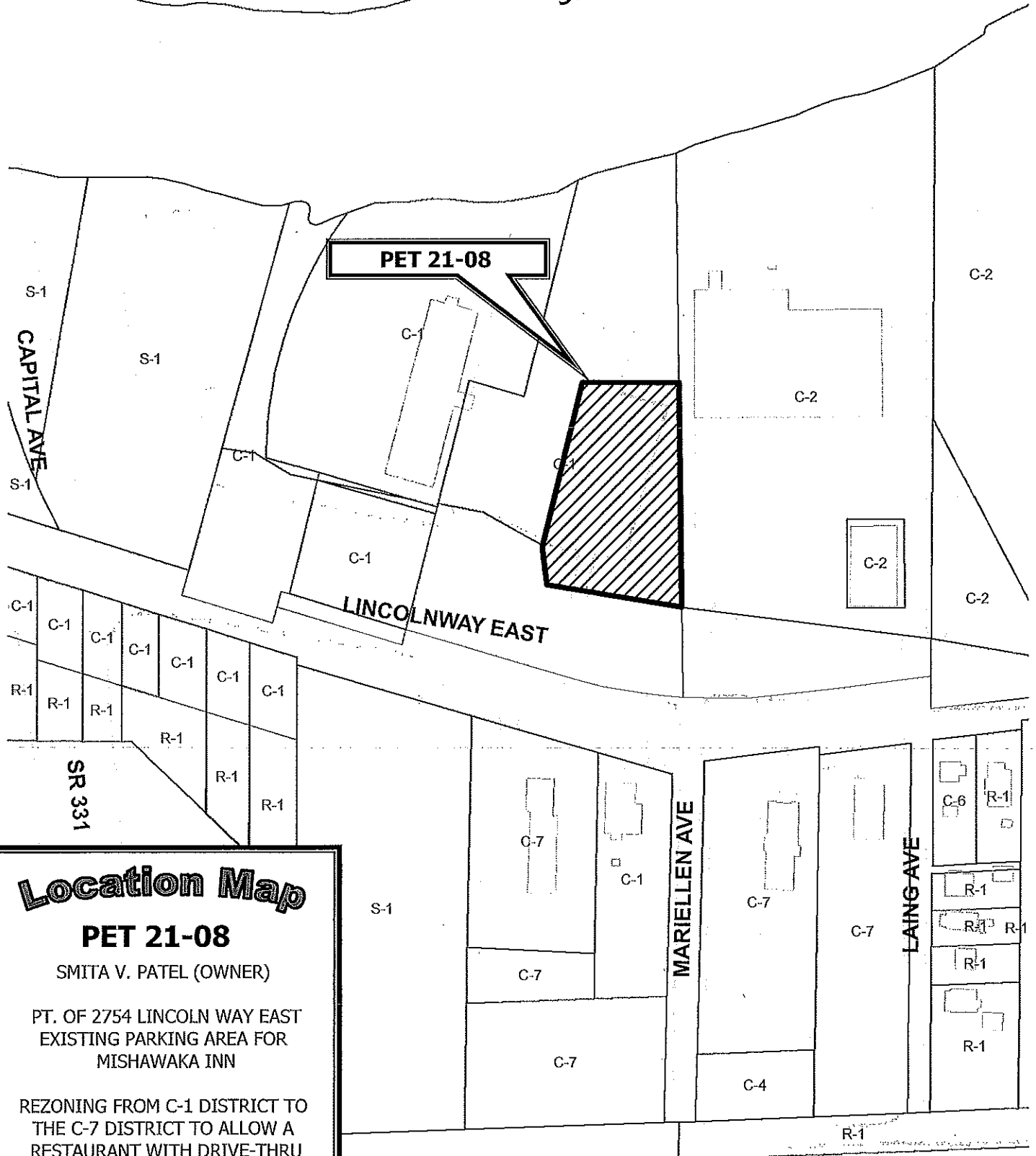
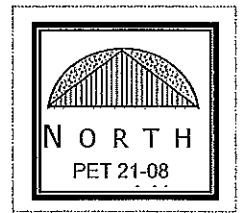
5/18/2021

DATE





ST. JOSEPH RIVER



Location Map

PET 21-08

SMITA V. PATEL (OWNER)

PT. OF 2754 LINCOLN WAY EAST
EXISTING PARKING AREA FOR
MISHAWAKA INN

REZONING FROM C-1 DISTRICT TO
THE C-7 DISTRICT TO ALLOW A
RESTAURANT WITH DRIVE-THRU

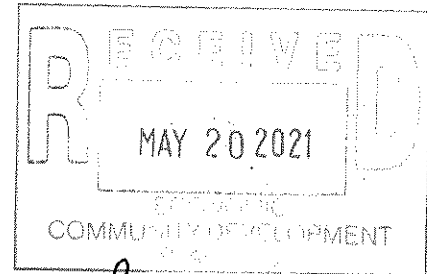
MAY 26 2021

City Clerk
Mishawaka, IN

Engineering • Architecture • Land Surveying

DATE: May 19, 2021

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



RE: Petition for Annexation and Zoning Classification

The undersigned MOE AN, LLC respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION ATTACHED

Petitioners own one-hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana and that petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a R-1 Residential District. Petitioners further state they intend to utilize said land for a single-family residential subdivision development.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed lots, roads and drainage infrastructure.

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

Wherefore, Petitioners respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a R-1 Residential District zoning classification.

Carolyn Moser
MOE AN, LLC

Carolyn Moser
Printed

5-20-21

Art Moser
ART MOSER
5-20-21

Contact:

Mike Huber
Abonmarhce Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 347-4610
mhuber@abonmarhce.com

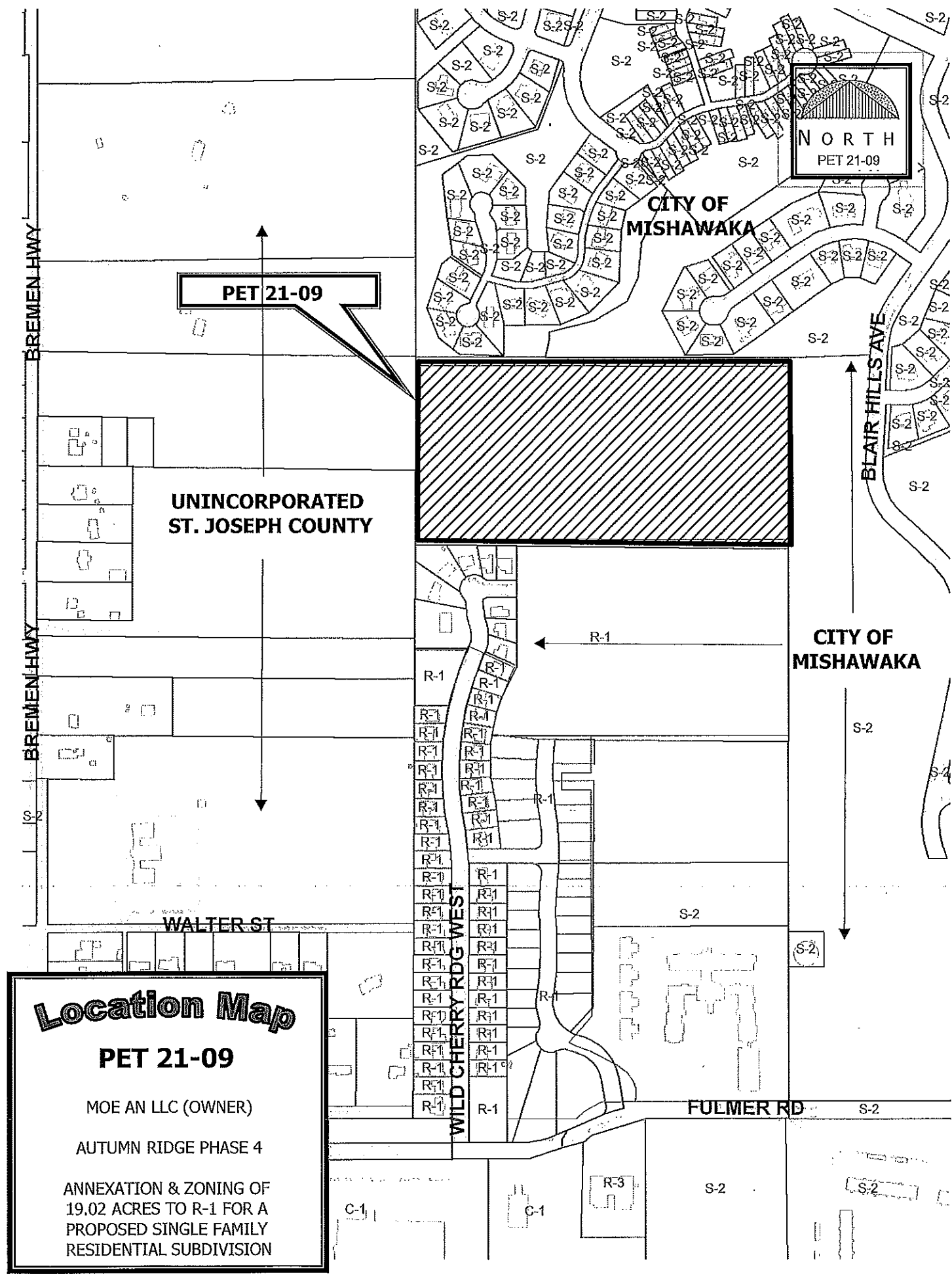
LAND DESCRIPTION

PART OF THE EAST HALF (E $\frac{1}{2}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SECTION 27 TOWNSHIP 37 NORTH, RANGE 3 EAST SITUATE IN PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A MASONRY NAIL MARKING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 59 MINUTES 52 SECONDS EAST ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 A DISTANCE OF 1320.97 FEET TO A CAPPED ONE INCH IRON PIPE MARKING THE SOUTHWEST CORNER OF THE EAST HALF (E $\frac{1}{2}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; THENCE NORTH 00 DEGREES 19 MINUTES 37 SECONDS WEST ALONG THE WEST LINE OF THE EAST HALF (E $\frac{1}{2}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 A DISTANCE OF 1974.64 FEET TO A CAPPED ONE INCH IRON PIPE MARKING THE SOUTHWEST CORNER OF THE NORTH HALF (N $\frac{1}{2}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 AND THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 00 DEGREES 19 MINUTES 37 SECONDS WEST ALONG THE WEST LINE OF THE EAST HALF (E $\frac{1}{2}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 A DISTANCE OF 628.21 FEET TO A CAPPED ONE INCH IRON PIPE SAID PIPE BEING SOUTH 00 DEGREES 19 MINUTES 37 SECONDS EAST A DISTANCE OF 30.00 FEET FROM AN IRON PIPE MARKING THE NORTHWEST CORNER OF THE EAST HALF (E $\frac{1}{2}$) NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 56 MINUTES 51 SECONDS EAST PARALLEL WITH THE NORTH LINE OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 A DISTANCE OF 1319.60 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 SAID POINT BEING SOUTH 00 DEGREES 13 MINUTES 23 SECONDS EAST A DISTANCE OF 30.00 FEET FROM AN IRON PIPE MARKING THE NORTHEAST CORNER OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; THENCE SOUTH 00 DEGREES 13 MINUTES 23 SECONDS EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27 A DISTANCE OF 627.92 FEET TO A CAPPED ONE INCH IRON PIPE MARKING THE SOUTHEAST CORNER OF THE NORTH HALF (N $\frac{1}{2}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; THENCE NORTH 89 DEGREES 57 MINUTES 36 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH HALF (N $\frac{1}{2}$) OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF THE NORTHWEST QUARTER (NW $\frac{1}{4}$) OF SAID SECTION 27; A DISTANCE OF 1318.46 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION.

CONTAINING 19.018 ACRES OF LAND

SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.



PET 21-09

**UNINCORPORATED
ST. JOSEPH COUNTY**

**CITY OF
MISHAWAKA**

**CITY OF
MISHAWAKA**

Location Map

PET 21-09

MOE AN LLC (OWNER)

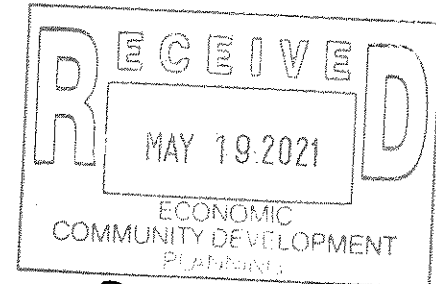
AUTUMN RIDGE PHASE 4

ANNEXATION & ZONING OF
19.02 ACRES TO R-1 FOR A
PROPOSED SINGLE FAMILY
RESIDENTIAL SUBDIVISION

MAY 26 2021

City Clerk
Mishawaka, IN

Engineering • Architecture • Land Surveying

DATE: May 19, 2021**TO:** Honorable Members of the Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana**RE:** Petition for Annexation and Zoning Classification

The undersigned, **Kenneth Bechtold**, respectfully show they are the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION ATTACHED

Petitioners own one-hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana and that petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a I-1 Industrial District. Petitioners further state they intend to utilize said land for a self-storage facility development.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed layout of the development.

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

Wherefore, Petitioners respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with an I-1 Industrial District zoning classification.

DocuSigned by:

A handwritten signature in black ink that reads 'Ken Bechtold'.

A777A02260884AB
Kenneth Bechtold

Ken Bechtold

Printed

Contact: Mike Huber
Abonmarhce Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 347-4610
mhuber@abonmarhce.com

PARCEL I

A tract of land situate in South West Quarter (1/4) of Section Twenty-eight (28), Township Thirty-eight (38) North, Range Three (3) East, commencing Six Hundred Sixty-seven (667) feet South of the Northwest corner of the South West Quarter (1/4) of said Section 28; thence East Seven Hundred Twenty-seven and Five Tenths (727.5) feet; thence South Two Hundred Thirty-nine and Fifty-two Hundredths (239.52) feet; thence West Seven Hundred Twenty-seven and Five Tenths (727.5) feet; thence North Two Hundred Thirty-nine and Fifty-two Hundredths (239.52) feet to the place of beginning, containing Four (4) acres, more or less, and being known as Lots Eleven (11), Twelve (12), Thirteen (13) and Fourteen (14) of Clara Murray's Proposed Plat.

PARCEL II

A parcel of land situate in the North West Quarter (NW 1/4) of the South West Quarter (SW 1/4) of Section Number Twenty-eight (28), Township Number Thirty-eight (38) North, Range Number Three (3) East, bounded by a line running as follows: Beginning at the Northwest corner of said North West Quarter of the South West Quarter of said Section 28; thence South along the West line thereof a distance of 427 feet to the center line of State Road Number 23 (Edwardsburg Road); thence North 44 degrees 10 minutes East along the center line of said road a distance of 94.15 feet; thence South 45 degrees 50 minutes East a distance of 40 feet for the beginning point of the herein considered; running thence South 45 degrees 50 minutes East 411.85 feet; thence West 358.15 feet to a point 25 feet East of the West line of said North West Quarter of the South West Quarter of said Section; thence North on a line parallel with said West line, a distance of 221.85 feet to the South line of said State Road No. 23; thence North 44 degrees 10 minutes East along the South line of said State Road No. 23, a distance of 90.15 feet to the place of beginning, and being known as Lot Numbered Ten (10) on a survey of a part of Lots 3 and 4 in the Partition of lands of Chauncey Johnson, deceased.

S.R. 23 RIGHT-OF-WAY

PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, AND PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, BOTH SECTIONS LYING IN TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, ST. JOSEPH COUNTY INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 427 FEET TO THE CENTERLINE OF STATE ROAD 23 (EDWARDSBURG ROAD); THENCE NORTH 44 DEGREES 10 MINUTES EAST, ALONG THE CENTERLINE OF SAID ROAD, 94.15 FEET; THENCE SOUTH 45 DEGREES 50 MINUTES EAST 40 FEET TO THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO KENNETH F. BECHTOLD, AS DESCRIBED IN INSTRUMENT NUMBER 1004730, ST. JOSEPH COUNTY

RECORDER, AND BEING THE POINT OF BEGINNING; THENCE NORTH 45 DEGREES 50 MINUTES WEST, ALONG THE NORTHERLY LINE EXTENDED OF SAID BECHTOLD LAND TO THE NORTHWESTERLY RIGHT OF WAY OF SAID STATE ROAD 23; THENCE SOUTHWESTERLY, ALONG SAID RIGHT OF WAY, TO A POINT LYING NORTH 45 DEGREES 50 MINUTES WEST OF THE NORTHWEST CORNER OF SAID BECHTOLD LAND; THENCE SOUTH 45 DEGREES 50 MINUTES EAST, PARALLEL WITH SAID NORTHERLY LINE EXTENDED, TO SAID NORTHWEST CORNER, ALSO BEING ON THE SOUTHEASTERLY RIGHT OF WAY OF SAID STATE ROAD 23; THENCE NORTH 44 DEGREES 10 MINUTES EAST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY, 90.15 FEET TO THE POINT OF BEGINNING.

180 Indiana Toll Road

South Bend Avenue (SR 25)



GENERAL NOTES

1. Project is located in Cass County, Indiana. Property is zoned Industrial.
2. Existing Land Use: Residential.
3. The site will be serviced by City of Indianapolis sewer and water.
4. Building setbacks follow the Industrial - I-1 District zoning ordinance.
5. Driveways will be located on-site and managed by the Owner.
6. Parking areas will be paved and privately owned.
7. Landscaping, lighting, and signage will be in accordance with the PUD zoning unless the proper ordinance here have been obtained.

TABULATED SITE DATA

Parcel 002-2018-023815, 1.15 Acres
Parcel 002-2018-157811, 3.81 Acres
TOTAL: 4.96 Acres

DEVELOPED LAND COVERAGE	AREA (Acres)
Parking, Driveway, Sidewalk	2.51
Drainage	1.39
TOTAL	3.90

22.33
44.33
44.33
44.33
104.62

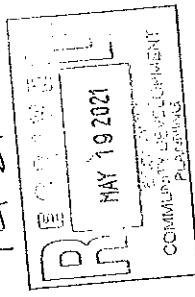
PARKING SUMMARY

PARKING REQUIRED:
1 Space/Residence (New Site)
= (1 Space) x (1 On-Site Employee)
= 1 Space

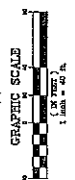
PARKING PROVIDED:
7 Spaces (Per 1 ADU (Assessable))

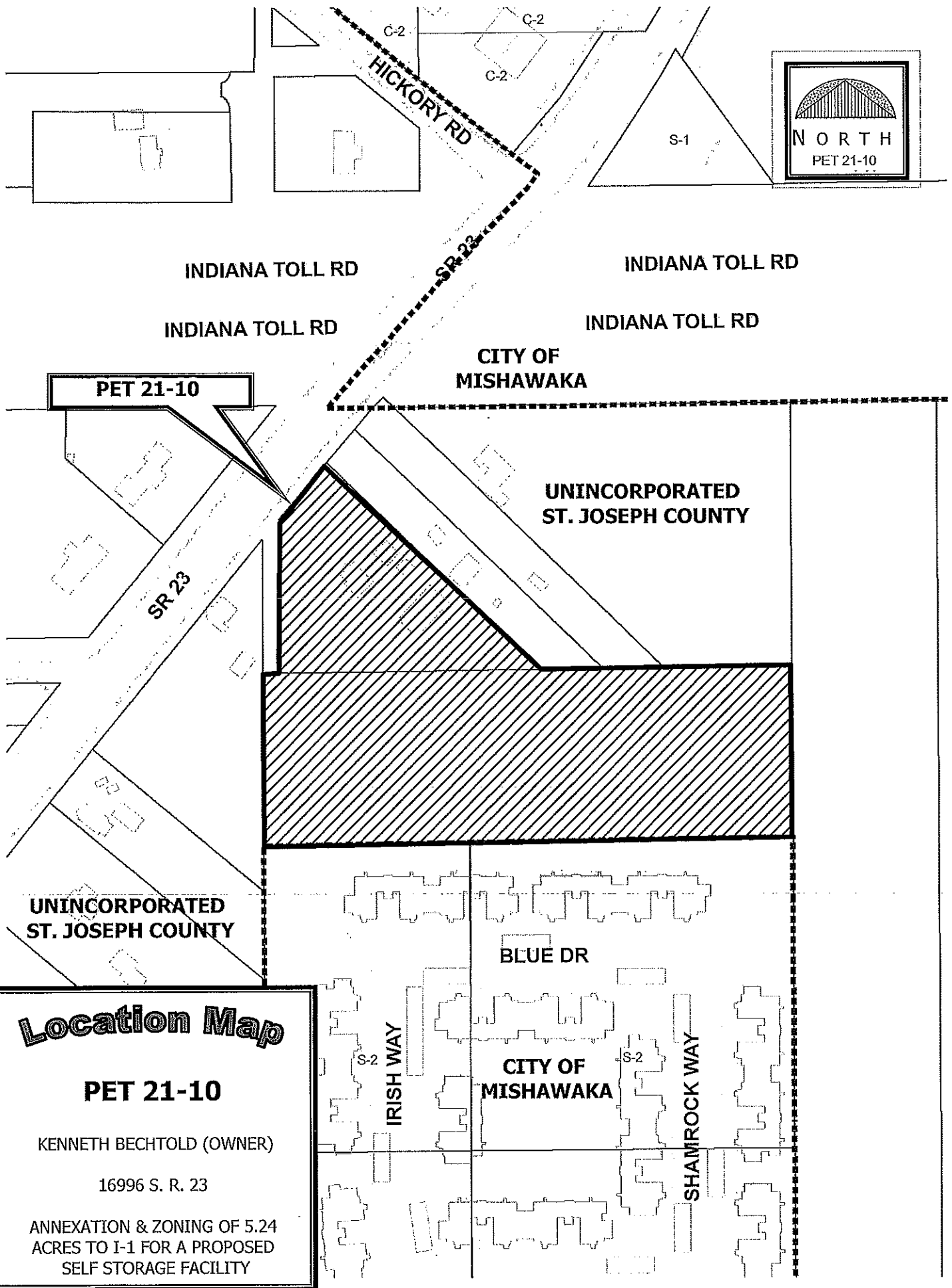
CONCEPT PLAN

SELF STORAGE DEVELOPMENT
16996 S.R. 23
MISHAWAKA, IN



Preliminary
Not for
Construction







City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2021-01</u>
PETITION NO.	<u>2021-04</u>
DATE of HEARING	<u>06-07-2021</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by Hack Properties, LLC

Vacate first 16' wide alley north of Brown, south. of Catalpa, between Forest and Benton Ave. for length of 215 feet.

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on June 07, 2021 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

Respectfully, Deborah S. Block, IAMC, MMC, City Clerk

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

Raven Boston, Chief Deputy I Michael Hixenbaugh, Chief Deputy II
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

RESOLUTION NO. 2021-12

**RESOLUTION OF THE COMMON COUNCIL OF MISHAWAKA, INDIANA
ADOPTING A WRITTEN POLICY ESTABLISHING THE PROCEDURES FOR
ELECTRONIC PARTICIPATION AT MEETINGS**

WHEREAS, effective April 21, 2021, P.L 88-2021 amended Ind. Code § 5-14-1.5-3.5 to allow a governing body of a public agency of a political subdivision to participate in a meeting by an electronic means of communication;

WHEREAS, in order to allow participation by members in a meeting by electronic means, the governing body must adopt a written policy establishing the procedures that apply to such participation; and

WHEREAS, the Common Council of the City of Mishawaka has determined that it is in the best interest of the City of Mishawaka and its members that it adopt such a written policy allowing electronic participation in meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE MISHAWAKA COMMON COUNCIL THAT:

Section 1. The Common Council of Mishawaka, Indiana hereby adopts and approves the attached Electronic Participation in Meetings Policy. All Common Council meetings are subject to this policy regarding electronic participation in meetings.

Section 2. This Resolution shall be in full force and effect from the day of its passage.

PASSED AND ADOPTED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana on this ____ day of _____, 2021.

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

ELECTRONIC PARTICIPATION IN MEETINGS POLICY

A member of the governing body who is not physically present at a meeting of the governing body may participate in a meeting by any electronic means of communication that: (1) allows all participating members of the governing body to simultaneously communicate with each other; and (2) allows the public to simultaneously attend and observe the meeting (other than a meeting in executive session). Examples of electronic communication which meet these requirements include, but are not limited to: Zoom, Google Meet, WebEx, etc.

A governing body member who participates in the meeting by an electronic means of communication shall be considered present for purposes of establishing a quorum, and may participate in final action taken at the meeting if the member can be both SEEN and HEARD. For a member to participate in final action their participation must be by a means which includes video as well as audio.

Ind. Code § 5-14-1.5-3.5 requires at least fifty percent (50%) of the members of the governing body be physically present at a meeting. There is no limit on the number of meetings that may include participation by members electronically.

Members who wish to participate in a meeting electronically, other than at a meeting called to deal with an emergency under Ind. Code § 5-14-1.5-5(d), must notify the chair person at least forty-eight (48) hours prior to the meeting so that arrangements may be made for the member's electronic participation.

All votes taken during a meeting in which there are members participating electronically must be taken by audible roll call.

The minutes of a meeting where member(s) participated electronically must state the name of each member who was physically present, each member who participated electronically, and was absent; and must identify the electronic means of communication used by the participating member and the public attendees/observers.

A member may not attend more than fifty percent (50%) of the meetings of this body in a calendar year electronically, unless their electronic participation is due to one or more of the following: (1) military service; (2) illness or other medical condition; (3) death of a relative; or (4) an emergency involving actual or threatened injury to persons or property.

A member may attend two (2) consecutive meetings (a "set" of meetings) by electronic communications; a member shall physically attend at least one (1) meeting between "sets" of meetings attended electronically, unless the electronic participation is due to: (1) military service; (2) illness or other medical condition; (3) death of a relative; or (4) an emergency involving actual or threatened injury to persons or property.

Members may NOT participate electronically in a meeting where the intent is to take final action to: (1) adopt a budget; (2) make a reduction in personnel; (3) initiate a referendum; (4) establish or increase a fee; (5) establish or increase a penalty; (6) use eminent domain; or (7) establish, raise, or renew a tax.

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.

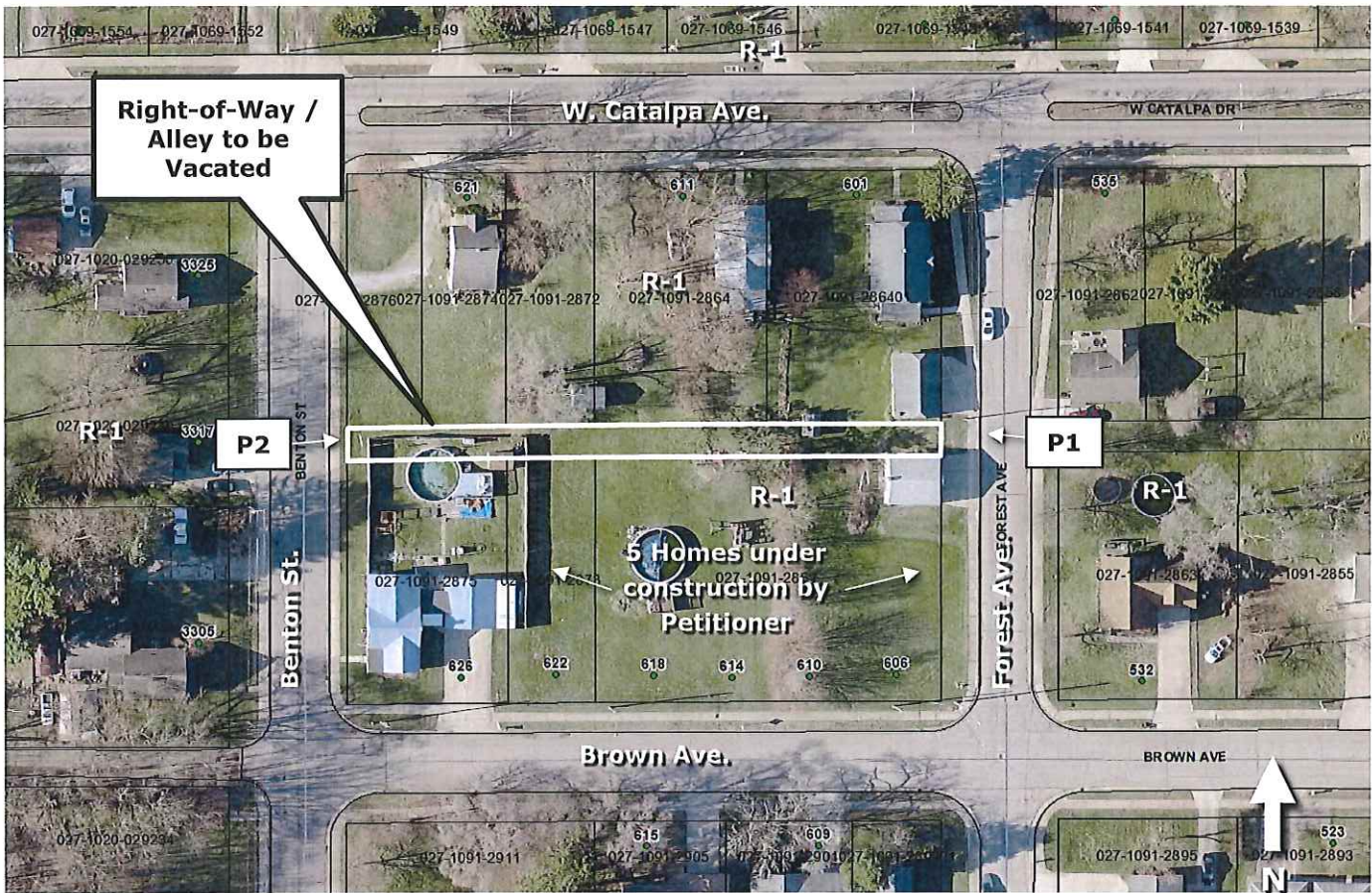
RECOMMENDATION

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:

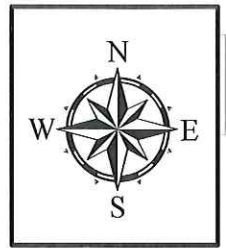
The first 16' east-west alley lying north of Brown Avenue, running for approximately 215 feet and bounded on the east by the west right-of-way line of Forest Avenue and bounded on the west by the east right-of-way line of Benton Street.
Said alley being adjacent to Lots 11 – 24 of Liberty Gardens

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

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.

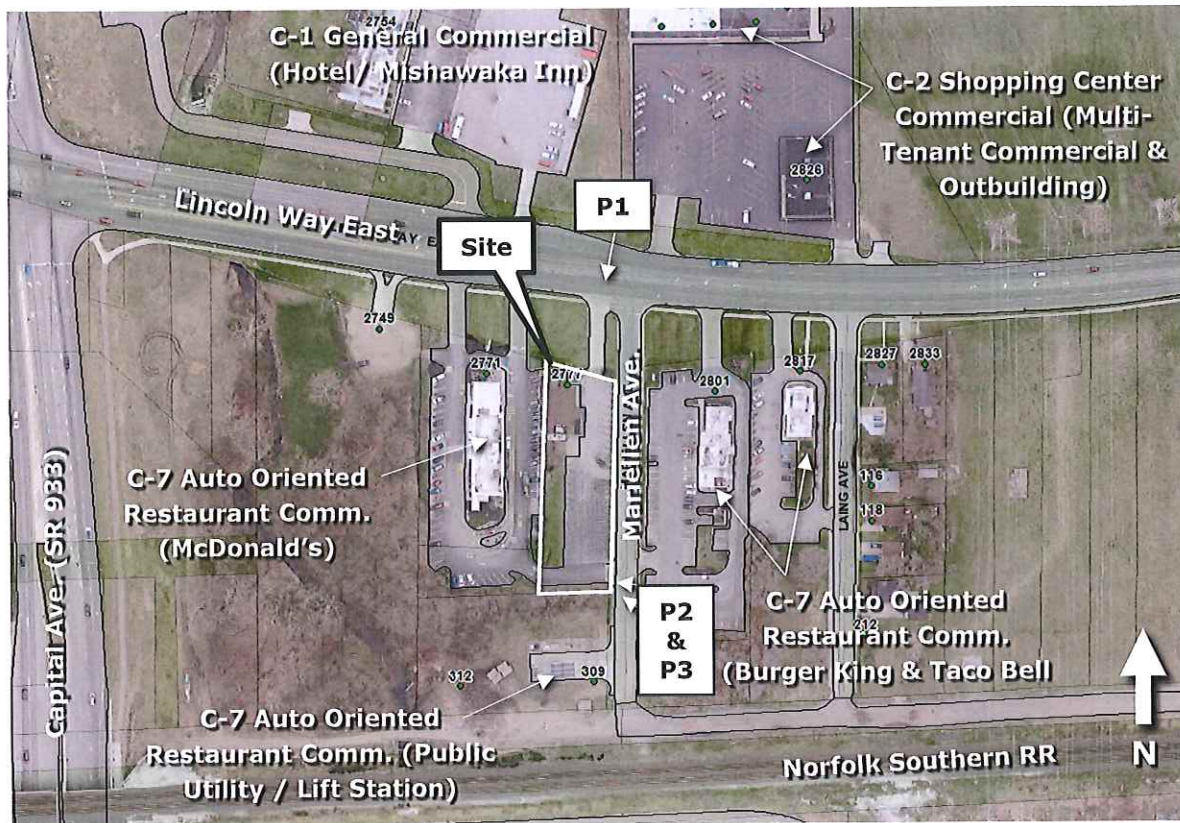
RECOMMENDATION

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:

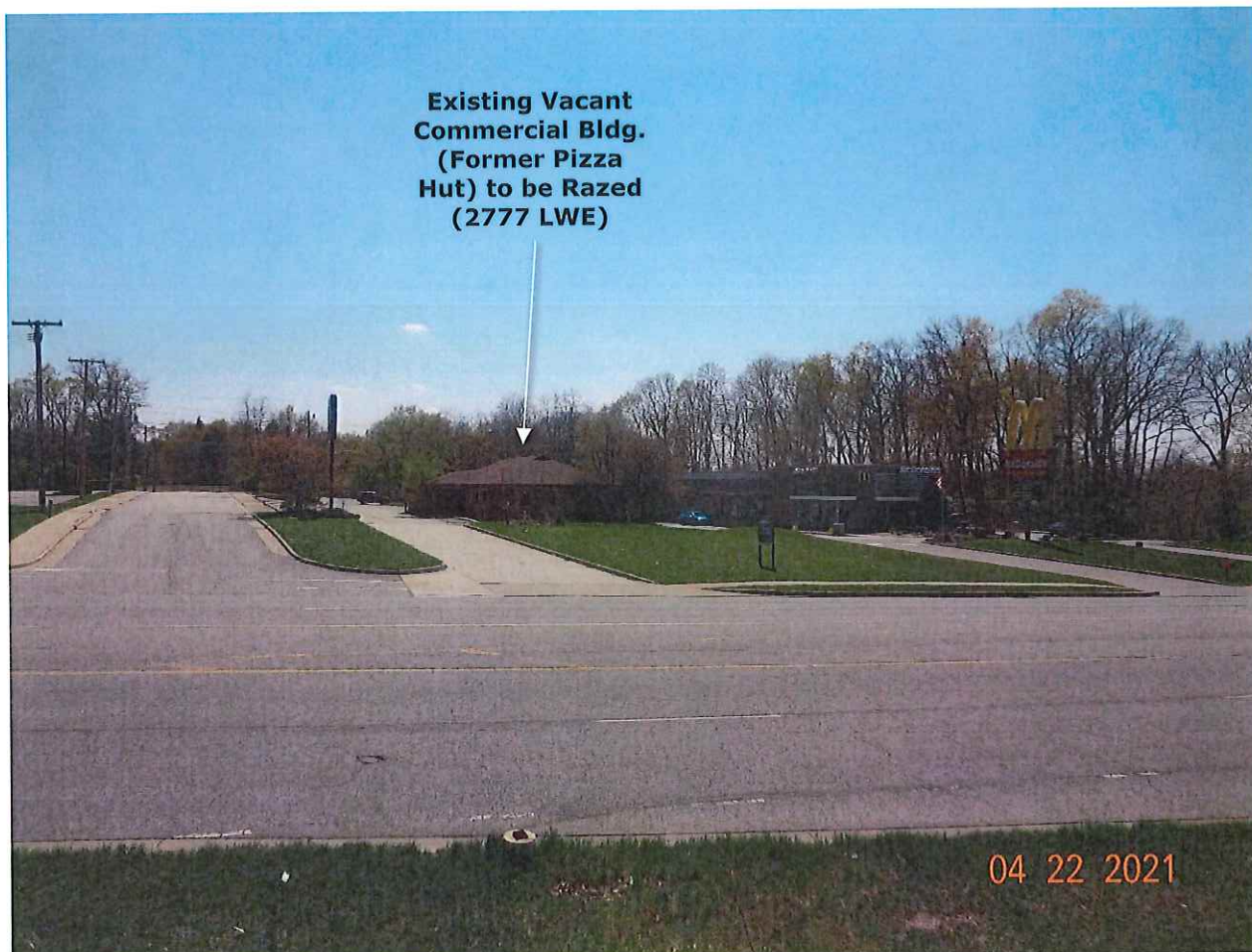
1. Existing Conditions – The subject property consists of a vacant commercial structure and is located at the southwest corner of the Lincoln Way East and Mariellen Avenue. Lincoln Way East is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent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

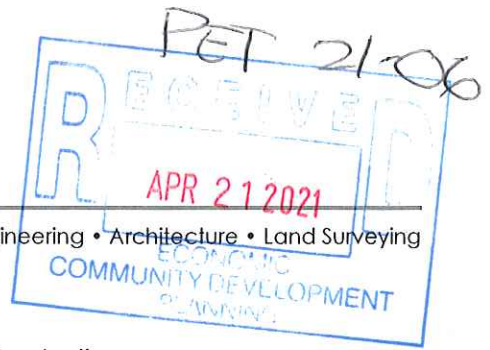


Engineering • Architecture • Land Surveying

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
Signature(s) of Property Owner(s)
BY: Pizza Hut of America, LLC

Assistant Secretary

Signature(s) of Property Owner(s)

Printed Name

Printed Name

CONTACT PERSON:

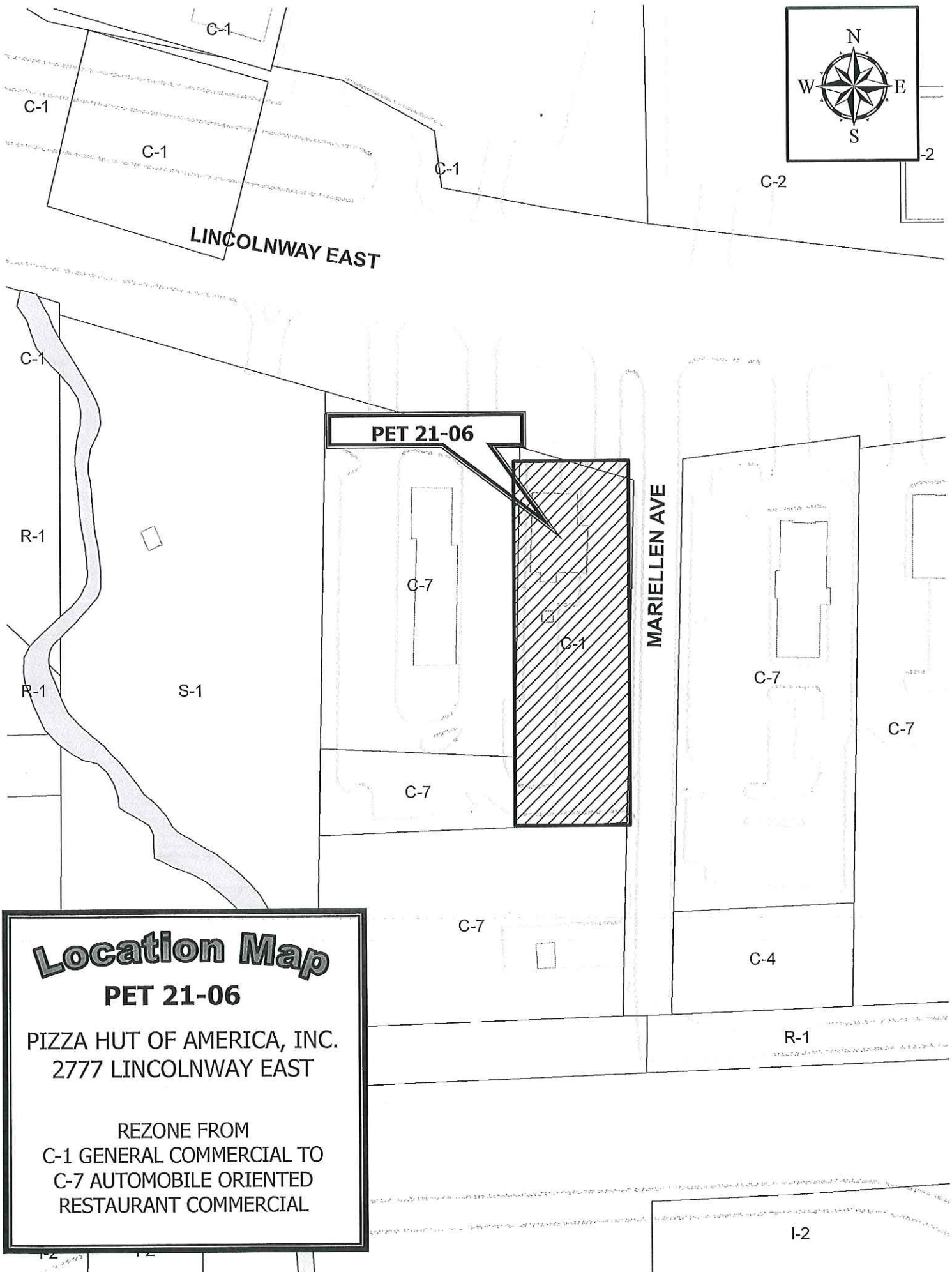
Abonmarche Consultants, Michael Huber
315 W. Jefferson Blvd, South Bend, IN 46601
574.347.4610
mhuber@abonmarche.com

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.



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.

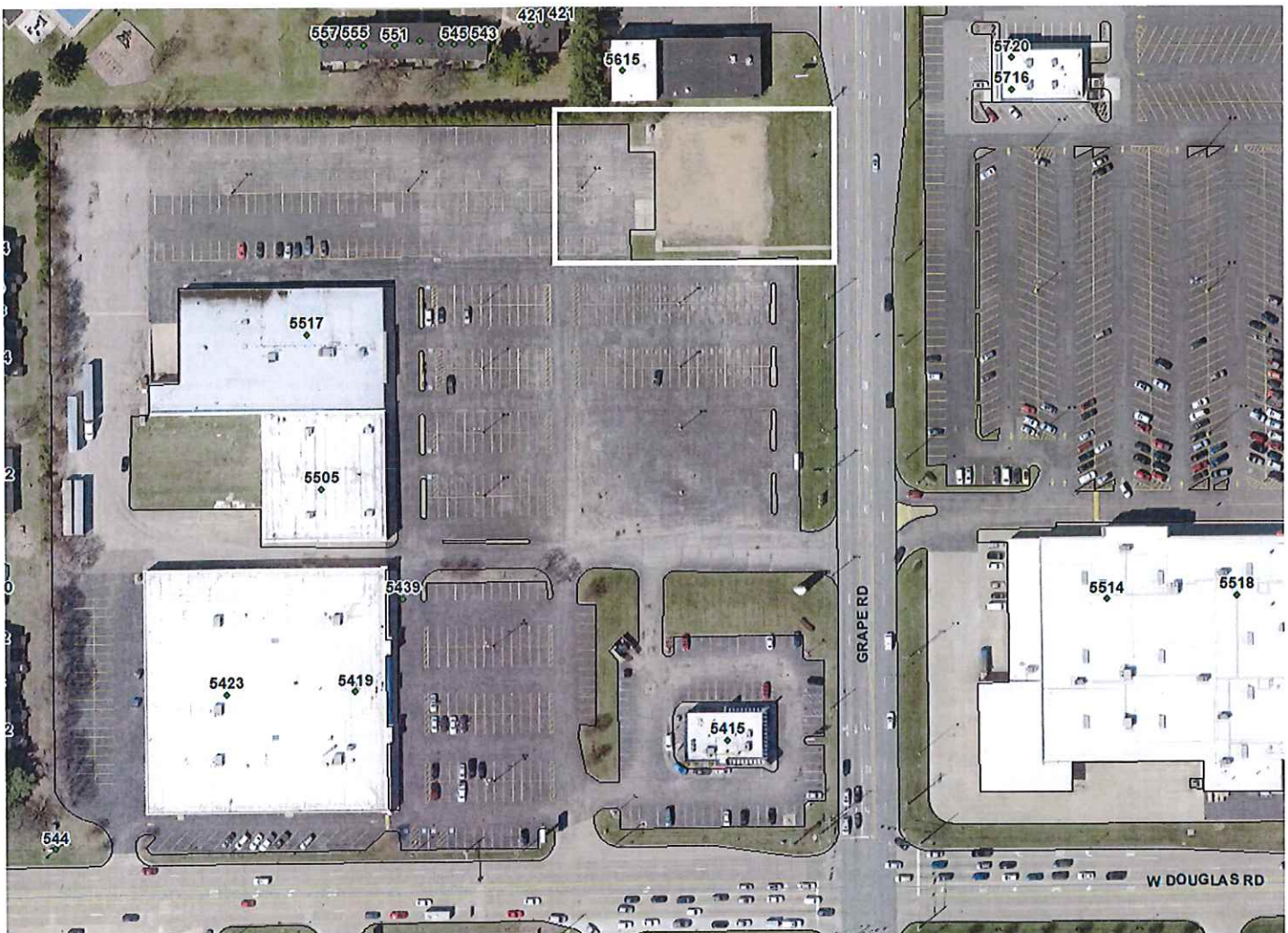
RECOMMENDATION

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.

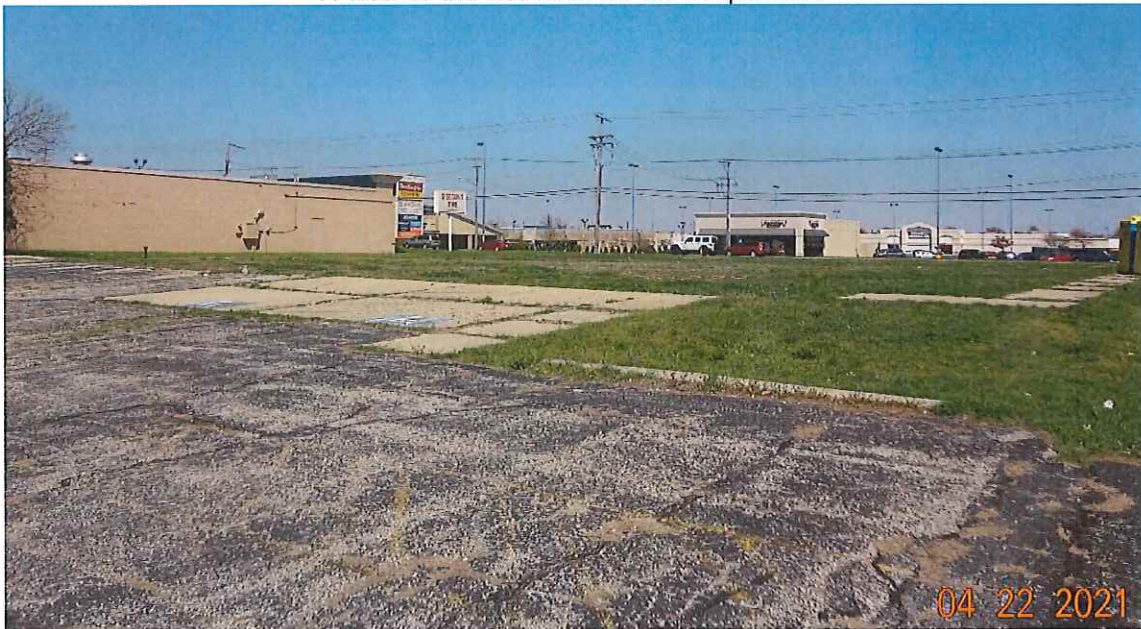
ATTACHMENTS

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

