

AGENDA

August 16, 2021

Presentation by Susan Cowen
Baker Tilly
Financial Comprehensive Plan
6:00PM

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): 173 620 9323
Meeting Password: t4MHYhvbK63

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: 1736209323@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of August 02, 2021
5. Petitions, Communications, Remonstrance and Memorial

A Letter from the Board of Zoning Appeals regarding their recommendation from their August 10, 2021 meeting.

A letter from the City Plan Commission regarding their recommendations from their August 10, 2021 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO.2021-28	Amendment to the Amusement and Entertainment Ordinance
P.O NO. 2021-29	Rezone rear portion of property from C-1 General Commercial to R-1 Single Family Residential - 115 Kline St.
P.O. NO. 2021-30	Annexation & Rezoning to the I-1 Light Industrial District for a future expansion of adjacent manufacturing business - vacant land 58200 Block Byrkit Rd. W. of 1405 & 1505 Byrkit Rd.

8. Resolutions

R20210-19	Modifying Local Income Tax Rates in St. Joseph County
R2021-20	Use Variance to allow Microblading/Permanent Makeup - 218 W. Cleveland Rd.

9. Ordinances on Second Reading

P.O. NO. 2021-25	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. 2021-26 Additional Appropriation:
CARES Provider Relief Fund

Capital Outlays
264-50-445-07 Medical Equipment \$44,576.00
(Assigned to Budget and Finance Committee)

P.O. NO. 2021-27 Additional Appropriation:
Cumulative Capital Development

Other Services & Charges
417-50-436-90 Service Contract/
 Software Maintenance \$75,000.00
(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

August 2, 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, August 2, 2021 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

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

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 July 26, 2021 were approved as received from the Clerk's Office.

Clerk Block read the following appeal and petitions by title.

- | | |
|-----------------------------|--|
| Appeal No. 2021-24 | Use Variance to allow Microblading/Permanent Makeup – 218 W. Cleveland Rd. |
| Petition No. 2021-11 | Rezone rear portion of property from C-1 General Commercial to R-1 Single Family Residential – 115 Kline St. |
| Petition No. 2021-12 | Annexation & Rezoning to the I-1 Light Industrial District for a future expansion of adjacent manufacturing business – vacant land 58200 Block Byrkit Rd. W. of 1405 & 1505 Byrkit Rd. |

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

PROPOSED ORDINANCE NO. 2021-25

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 FOR 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 NO. 2021-26

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

**Additional Appropriation: CARES Provider Relief Fund Capital Outlays – 264-50-445-07
Medical Equipment \$44,576.00
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2021-27

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

**Additional Appropriation: Cumulative Capital Development Other Services & Charges –
417-50-436-90 Service Contract/Software Maintenance \$75,000.00
(Assigned to Budget & Finance Committee)**

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

PROPOSED ORDINANCE NO. 2021-24

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

Mrs. Voelker 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.

Becky McGuire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-24**. Mrs. McGuire stated she was requesting approval for this annual ordinance to allow her to invest in certificates of deposit outside of city limits of Mishawaka, but within the state of Indiana.

Mr. Compton asked if there was a reason they had to stay within the state. Mrs. McGuire stated that was the state statute.

Question was called for at 7:08PM for **PROPOSED ORDINANCE NO. 2021-24** **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 it became **ORDINANCE NO. 5752.**

PRVILEGE OF THE FLOOR

Mayor Wood reminded the council and the public about the National Night Out event on August 3rd in Mishawaka. Mayor Wood stated they celebrated it and loved the event each and every year. Mayor Wood stated this year's event would follow the tradition of taking it straight into the neighborhood with two park events; one at Merrifield Park from 5-8PM with the Mishawaka Police Department with refreshments and several departments represented. Mayor Wood stated there would also be one held at the newly renovated Twin Branch Park from 5:45-8PM. Mayor Wood stated it was always a great time and encouraged the public to attend.

NEW BUSINESS

Mrs. DeMaegd stated she emailed with Chief Woodward and there would be firetrucks present at the two events as well. Mrs. DeMaegd stated truck number one would be at Merrifield Park and engine four would be at Twin Branch Park.

Mr. Compton stated last week, they had individuals present at their meeting who were concerned about a problematic house in the neighborhood and similar problem in his district a few years ago. Mr. Compton stated in both cases; they were resolved through different avenues and he was glad things were resolved. Mr. Compton stated he would like to know better about the process and what steps were taken in this case of housing. Mr. Compton also wanted to know if there was something the council could do to better improve the process. Mr. Compton stated in most cases, they relied on the citizen or business owner to do what they should do and in most cases, they did. Mr. Compton stated but when they did not and refused, it was frustrating to see it drag on over time. Mr. Compton stated he knew there was process and law that they were limited to do, but he was not sure where to start and wanted to understand the process as well. Mr. Compton stated he thought it was something the council did not normally do, but he wanted to understand the process in case the council were approached in the future .

Mr. Hixenbaugh agreed with Mr. Compton and stated he circulated an email that day amongst the council and others that made a similar suggestion. Mr. Hixenbaugh agreed that it would be good information to have as a council with regard to what the legal authority was that municipal government had to address those type of issues. Mr. Hixenbaugh stated it was always good to have dialogue and they could consider what, if any, ordinance changes needed to be considered as a group. Mr. Hixenbaugh stated this was absolutely the role they needed to play as a legislative body to work in partnership with the administration to address what they were doing and what they could do better. Mr. Hixenbaugh stated they ought to be on a constant improvement cycle to perhaps learn from experience in other communities and get better at what they did. Mr. Hixenbaugh stated significant improvement were made and was credited to their various departments, including the Police Department who took an active role in trying to address the concern brought up at the last meeting. Mr. Hixenbaugh also shared that Mr. Mammolenti agreed to take on a leadership role on behalf of the substandard housing committee. Mr. Hixenbaugh concluded stating this would be the type of issue where he saw all of the council

playing a role or at the least being in tune with what happened and he believed in working with a partnership with the administration, it would be educational for them and the community if nothing else.

Mrs. Voelker stated over the years, she had different things like this that happened with Code Enforcement and the Police Department, who worked hard and resolved it. Mrs. Voelker stated one of the things she thought about was at what point was a council member made aware when there had been 20 calls to a home in a council member's district and at what point does the trigger of communication come to the council representative, so they were aware and could be proactive. Mrs. Voelker stated they would not necessarily interfering with the city's work, but certainly being aware for the neighbors reaching out to them to inform them. Mrs. Voelker stated she was just curious if there was a threshold and was interested in learning more about it.

Mr. Mammolenti stated he would be more than willing to accept Mr. Hixenbaugh's invitation to host the first meeting of the committee and he graciously accepted. Mr. Mammolenti stated last week, they were brought to the attention the housing issue Mr. Hixenbaugh and Mr. Compton had mentioned and he wanted to applaud the administration, Code Enforcement, the Mishawaka Police Department and his fellow council members who all worked together to try to remedy the situation the best they could. Mr. Mammolenti stated there was still work that needed to be done, but he was pleased with the efforts from all to speed the process up.

Mayor Wood stated this address was on their radar for a long time and they, as an administration, had been responsible to do all they could to address the concerns that arose and made sure to move ahead with enforcing compliance with households that sometimes were not necessarily cooperative. Mayor Wood stated he served on the Mishawaka City Council a long time ago, in which case they activated the substandard housing committee and they came up with some good thoughts and ideas that lasted to this day. Mayor Wood stated one thing that came out of that was the neighborhood improvement team; a group of department managers from around the city that were relevant who came together every month to discuss individual address problems or bigger large-scale neighborhood problems. Mayor Wood stated properties came onto that agenda and did not leave until it was resolved. Mayor Wood stated it had the full attention of all of the departments at the meeting and this problem along with all of the others were unique. Mayor Wood stated there was not one cookie cutter set of laws they could go to and they were very creative about the response they brought to bear. Mayor Wood stated it was a very cooperative landowner that week and finally became cooperative and through her help, they had options available after signing an affidavit to make it happen. Mayor Wood stated this was a homeowner occupied situation and they had to get out of a land contract situation, and then agreed to have the home boarded up to allow no one to trespass on that property. Mayor Wood stated he understood the frustration of it, because it took patience and persistence and that was why they were looking at it 20 years ago. Mayor Wood stated the issues they had then were similar to the issues they had in the past. Mayor Wood stated these things, while they caused frustrations for the council, also caused frustrations for them because they were responding to the situations sometimes multiple times a day. Mayor Wood stated they were certainly open to communicating what was necessary. Mayor Wood stated they would not give up and would be successful in the end, as they were on every property that he could imagine that came before the neighborhood improvement team. Mayor Wood stated it was a priority to bring the issues to resolution and they

found the best vehicle for it was the neighborhood improvement team and they would absolutely continue it.

Mr. Hixenbaugh thanked Mayor Wood for his comments and stated he remembered in the past when he and Mayor Wood were working on the issues that they interacted with the administration to put together the multi-disciplinary group and he agreed it was a valuable step. Mr. Hixenbaugh stated at the time, there was a council representative who would be a part of the neighborhood improvement team and attend the meetings and he remembered subbing for people from time to time, so they all had a chance to participate. Mr. Hixenbaugh stated somewhere from that time to the present day, they had not had a formal representative to be part of it and they may not have been the total solution to the points raised by Mrs. Voelker with regard to communication, but it was amongst the things needed to be discussed and considered. Mr. Hixenbaugh stated he brought it up only because it would be a valuable dialogue between the administration and the council with regard to what he believed to be their shared interests in trying to address the concerns with the community. Mr. Hixenbaugh stated he thought overwhelmingly so, as a legislative body and an administration, they spoke with one voice and had the same expectations with regard to what standards were in place in the community. Mr. Hixenbaugh stated they wanted to partner with them on this and learn things, such as, the history Mayor Wood referenced and what all the things were they did not know that they needed to know. Mr. Hixenbaugh stated he thought this would be valuable to them and the dialogue of what they could do to assist them in the daily battles they were fighting. Mr. Hixenbaugh stated he believed they were on the same page and it was a question of where they went from that point. Mr. Hixenbaugh stated if Mayor Wood were open to it, they would be willing to work with them and have them help the council understand better what they did not know and work together with them to identify any other solutions that could make sense. Mr. Hixenbaugh thanked Mayor Wood again.

Mr. Emmons addressed Mrs. Voelker's comments stating when he turned in a problem in his district, they kept him informed but they did not inform him of a problem unless he initiated it. Mr. Emmons stated they were good at keeping him advised once he identified a problem in his area and he had two Code Enforcement Officers in his area. Mr. Emmons stated he would regularly be advised if he alerted them of a problem and when it was taken care of. Mrs. Voelker stated she had the similar experiences, but she was referring to the ones they did not know about and these were things they had to work through. Mrs. Voelker thanked Mr. Emmons for his clarification.

ADJOURNMENT 7:27PM

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

August 11, 2021

Deborah S. Block, IAMC, MMC

AUG 11 2021

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 10, 2021, Public Hearing

Honorable Members:

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

APPEAL #21-24 An appeal submitted by Mark Shea, Trustee of the John C. Shea Sr. Revocable Trust and Rosemary Shea, Trustee of the Rosemary Shea Revocable Trust requesting a Use Variance for **218 West Cleveland Road, Granger**, to allow microblading/permanent make up on C-2 Shopping Center Commercial property.

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

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Autumn Spitler

STAFF REPORT

Location: 218 W. Cleveland Rd., Granger

Date: August 10, 2021

Appeal: 21 24

Prepared By: KM

GENERAL INFORMATION

Applicant: John Shea Sr & Rosemary Revocable Living Trust/Studio Sixteen
Status: Property Owner/Tenant
Request: Use Variance to allow microblading/semi-permanent make-up services
Zoning Classification: C-2 Shopping Center Commercial
Lot Size: Approximately 4+ acres, more or less
Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County
South: S-1 Extensive Open Space and Public Use District
East: S-2 Planned Unit Development
West: C-5 Neighborhood Commercial District

Thoroughfare: Cleveland Road east of Grape Road

School District: Penn-Harris-Madison

Public Utilities: All utilities are available

Comprehensive Plan: General Commercial

ANALYSIS

The Appellants are requesting a Use Variance to allow for microblading services within Salon Sixteen at Centennial Place. Microblading is a form of semi-permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

In the past year, we have received several requests for microblading. The latest request was inside an existing salon at the Outpost Center.

It should be noted that while microblading is a service that can be found in a spa or beauty salon, it is a form of tattoo and not specifically permitted within the zoning district. The need for a Use Variance arises from the fact that a tattoo establishment is not an approved use within the C-2 zoning district.

All pertinent City departments have reviewed and approved of the request.

RECOMMENDATION (S)

Staff recommends in **favor** of Appeal #21-24 to allow microblading services at Salon Sixteen, Centennial Place, 218 W. Cleveland Road, Granger. This recommendation is based upon the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the existing business provides similar personal services/salon uses;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because it is included in a commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and is in close proximity to one of the largest consolidated retail areas in the State of Indiana.

ATTACHMENTS

Photographs, Appeal, Aerial, Location Map



Salon Sixteen



View of Center looking west



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

Deborah S. Block, IAMC, MMC

August 11, 2021

AUG 11 2021

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
August 10, 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 #21-11 A request submitted by John and Kelly Connon requesting to rezone **115 Kline Street** from C-1 General Commercial District to R-1 Single Family Residential District.

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

PETITION #21-12 A request submitted by Byrkit Property Group LLC requesting to annex and zone the **58200 block South Byrkit Avenue** to I-1 Light Industrial District.

The Commission, with a vote of 5-0, 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: Ed Fisher
Jeff Ballard

STAFF REPORT

Location: 115 Kline

Date: August 10, 2021

Petition: 21 11

Prepared By: CH

GENERAL INFORMATION

Applicant: John and Kelly Connon

Status: Property Owner

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 66' X 133

Applicable Regulations: Sec. 137-164 Residential R-1 District; 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
South: S-2 Planned Unit Development (Lincolnwood)
East: R-2 Two Family Residential District
West: R-1 Single Family Residential District

Thoroughfare: Lincolnway East and Kline Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner is requesting to rezone 115 Kline St from C-1 General Commercial District to R-1 Single Family Residential District. The property is located at the southwest corner of Lincolnway East and Kline Street. Lincolnway East is a mix of commercial and residential. This house sits behind the commercial building which fronts on Lincolnway East.

The 958sf building was built in 1988 as a donut shop/bakery, which operated for a couple of years. The site was listed at vacant in the 1994 & 1995 Polk Directories. By 1997, Eakin Needlework was operating at 115 Kline. By 2003, there is not a listing in the Polk Directory. It is unclear when the property was converted to a residence. In 2018, the tax records changed the use of the rear building to a 1 unit apartment.

The Petitioner has also submitted a subdivision to separate the house at 115 Kline Street from the commercial building at 3019 Lincolnway East. The subdivision provides a 58' ingress-egress, parking and drainage easement on Lot 1 so the house on Lot 2 can continue to access the garage to the west.

Pertinent City Departments have reviewed and approved the request. Engineering verified the sanitary sewer connection is separate from the commercial building.

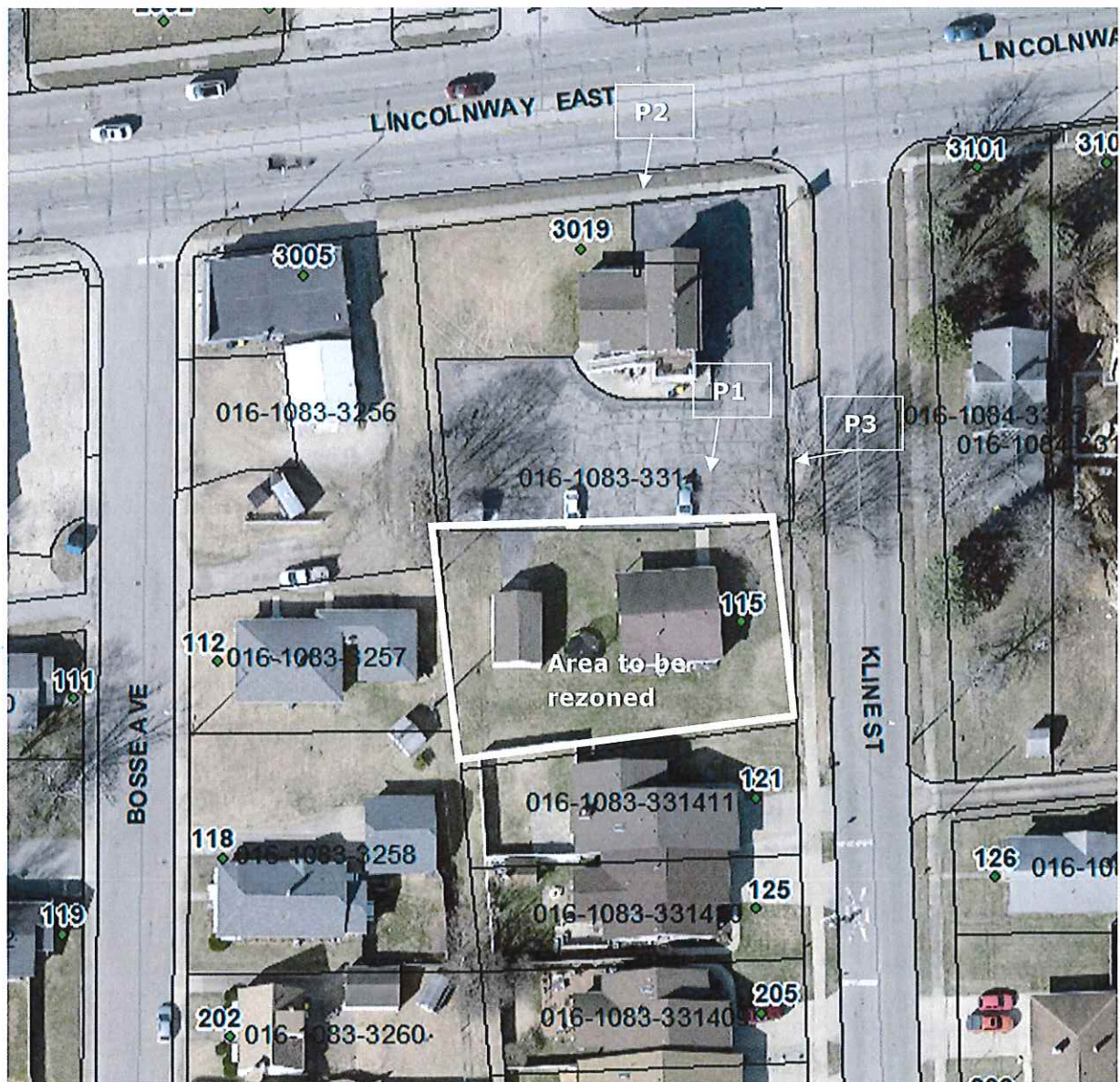
RECOMMENDATION

The Planning Department recommends **approval** of Petition #21-11 to rezone 115 Kline Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. While Lincolnway East is a commercial corridor, there are still plenty of houses, and properties taking access from side streets are primarily residential, and rezoning the rear of the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner given the context of its location, its relationship to surrounding properties, and the lack of potential development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located off of the main road, near other similar residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. The size of the building does not lend itself to many commercial uses, outside of a small office. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial along Lincolnway, but is mostly residential after the first building. Rezoning to residential would be compatible with the nearby residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP





1. The building to be rezoned at 115 Kline Street



2. The commercial building at 3019 Lincolnway East



3. Shared access and parking area between the two buildings

STAFF REPORT

Location: Property located east of and adjacent to 1420 Industrial Dr.

Date: August 13, 2021

Petition: 21- 12

Prepared By: CH

GENERAL INFORMATION

Applicant: Byrkit Property Group LLC

Status: Property Owner

Request: To annex and establish zoning to the I-1 Light Industrial District for the expansion of an adjacent business

Existing Zoning: Unincorporated St. Joseph County (I Industrial District)

Proposed Zoning: I-1 Light Industrial District

Lot Size: 9.15 acres

Applicable Regulations: Section 137-585 to 137-587 / I-1 Light Industrial & Section 137-41 / Amendments to Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial (Adorn Engineered Components)
South: Unincorporated St. Joseph County (I Industrial District)
East: I-1 Light Industrial (Jamil Packaging Corporation)
West: Unincorporated St. Joseph County (I Industrial District), C-4 Automobile Oriented Commercial (Coffel Vending), and I-1 Light Industrial (Substrate Treatment and Lubricants)

Thoroughfare: South Byrkit Avenue

School District: Penn-Harris-Madison

Township: Penn

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

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies a preferred or planned use for this property as Industrial (Manufacturing, Warehousing, and Distribution).

ANALYSIS

Proposal:

The applicants are proposing to annex and establish zoning for part of a vacant parcel of land (Tax Parcel 014-1027-043626), a 9.15 acres parcel, located east of 1420 Industrial Drive, and west of 1405 and 1505 S Byrkit Avenue.

The purpose of the proposed annexation and required zoning to the I-1 Light Industrial District is allow for the future expansion of the Jamil business, located to the west. The property reaches to S Byrkit Avenue, which would allow access. Normally when an annexation and zoning petition is filed, a preliminary site plan is required to conceptually show how the property will be developed. In this case, a preliminary site plan was not provided since there are no immediate development plans.

If the proposed annexation and rezoning request is approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

The original building at 1420 Industrial Drive, containing 2.78 acres, was annexed in 1987. A 2.95 acre parcel to the east was annexed in 1989, and the rear 3 acres was annexed in 1997.

The property to the north, an expansion of the Adorn business on Twelfth Street was annexed last year.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. Based on the existing city boundary, the parcel has 2,418.57 feet, or 64%, of the total 3779.64 feet of the perimeter of the property will be contiguous with the exiting city limits. This exceeds the required 12.5% contiguity. There will be approximately a 225' gap between this property and the existing corporate boundary on the east.

Location/Context:

The site is located on the south Twelfth Street, between Industrial Drive and South Byrkit Avenue. It is bordered to the north by Adorn Engineered Components (manufacturing RV parts) within the City; to the west Jamil Packaging within the City; to the south by vacant land in Unincorporated St. Joseph County; and to the east by Coffel Vending and Substrate Treatment and Lubricants which front on Byrkit Avenue. The area between Merrifield Avenue and Bykit Avenue is primarily industrial.

Zoning Change:

Staff believes that the proposed zoning of this property to the I-1 Light Industrial District is appropriate given that the property will be added to the adjacent business for possible future expansion. Other recent similar annexations have also been zoned as I-1 Light Industrial.

Transportation/Roads:

Traffic counts in this area were recently updated in August 2020. According to the latest available traffic counts, there were 6,900 annual average daily trips (AADT) along Twelfth Street just east of Byrkit Ave. Similar numbers were recorded along Twelfth Street just west of Industrial Dr. At the same time, traffic counts for Byrkit, south of Twelfth were 3,541 annual average daily trips (AADT).

The counts at these locations actually decreased from a high of just over 9,000 AADT in 2008 for the location on Twelfth at Industrial Drive. The intersection of Twelfth and Byrkit also shows a steady decrease. Due to the widening of Twelfth Street, as outlined in the 2045 Transportation Plan below, traffic volumes are expected to increase after the project is completed.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, shows planned added travel lanes along Twelfth Street, from Dodge to Campbell. The projected completion year for this project is 2030. It should be noted that the plan may be amended in future years dependent on infrastructure priorities, projected travel demand, and available funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

RECOMMENDATION

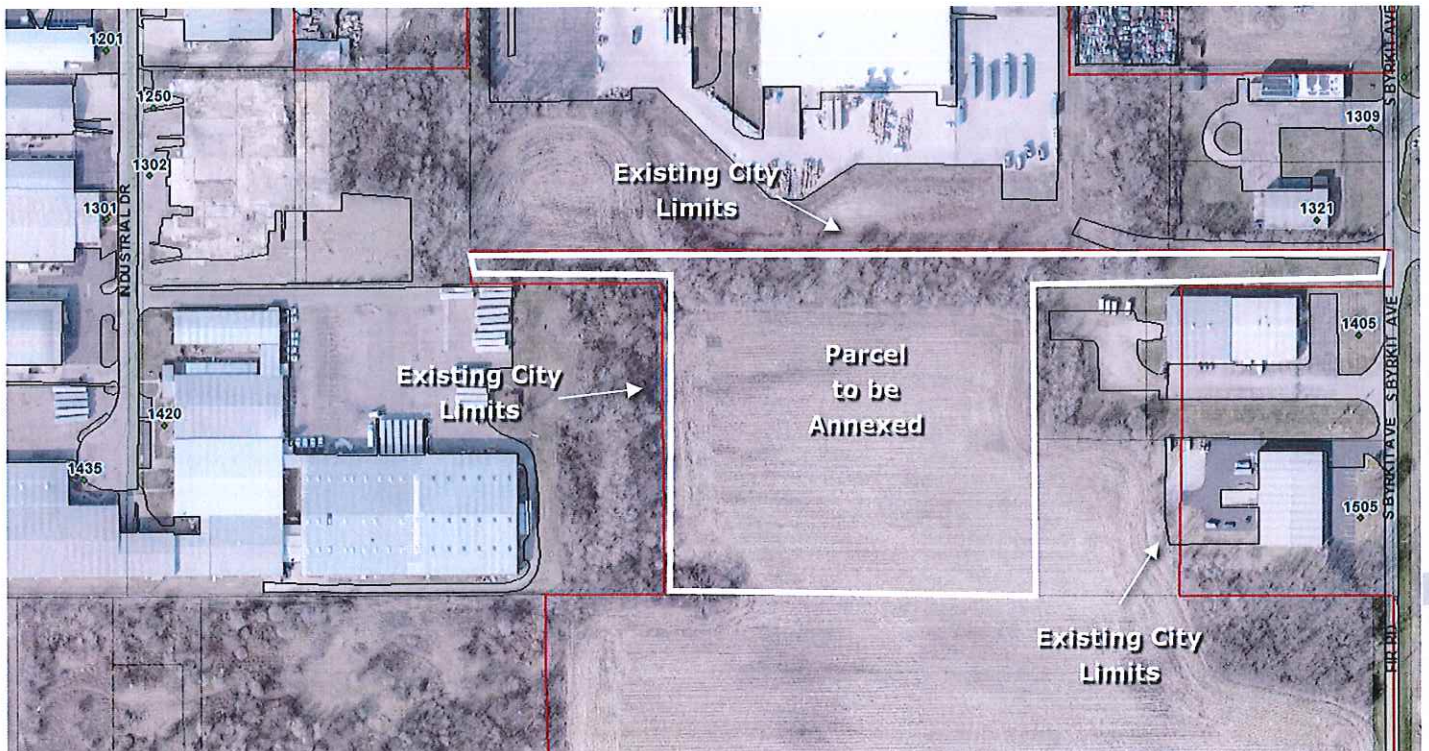
Staff recommends approval of Petition 21-12 to annex and establish zoning to the I-1 Light Industrial District for property east of and adjacent to 1420 Industrial Drive.

This recommendation is based on the following Findings of Fact:

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

ATTACHMENTS

Aerial Map, Photographs of the Annexation Area, Rezoning & Annexation Petition, and Location Maps



Aerial Photograph

PHOTOGRAPHS OF PROPERTY TO BE ANNEXED



A view of the existing business along Industrial Drive



A view towards the rear of the existing business along Industrial Drive



The 60' strip of property that touches S Byrkit Ave

AUG 02 2021

City Clerk
Mishawaka, IN

HPC _____

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021 - 2021-28

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE AMUSEMENTS AND ENTERTAINMENTS ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Mishawaka Amusements and Entertainments Ordinance does not presently have any provision governing the issuance of a temporary event permit; and

WHEREAS, the following regulations will govern temporary event permits in the City of Mishawaka and are designed to prevent nuisances and prevent conditions that are unsafe.

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

Chapter 10 of the Mishawaka Municipal Code regarding Amusements and Entertainments is hereby amended to add the following Article VIII and sub-sections regarding Temporary Event Permits:

Article VIII. - TEMPORARY EVENT PERMITS

Sec. 10-143 - Intent.

A temporary event permit system is hereby established, to be administered by the Board of Public Works and Safety, in order to provide special examination and review of temporary events by the appropriate departments of the city or related agencies.

Sec. 10-144 Temporary events in general.

- (a) Temporary events are those events of limited duration, open to a large number of people that occur indoors or outdoors. It does not include an event or function that has been operating continuously for thirty or more days. For those properties such as one or two-family homes, apartments, apartment community rooms and clubhouses, it is an event that is over 100 people or impacts traffic and access to the public right-of-way.
 - (1) A temporary event can occur on private property, public property, or in a combination of public and private properties that would require special review by the city.

- (2) Temporary event permits will delineate all other temporary uses included for the event, i.e., tents, temporary structures, barricades, fencing, and the like, necessary for the event.
- (3) A temporary event permit would not be required for an event hosted by the city on its property.

Sec.10-145 - Permit application process, possible determinations and referrals.

(a) Property owners and promoter/vendors are all required to obtain temporary event permits for each event, from the Board of Public Works and Safety. Decisions of the Board of Public Works and Safety regarding temporary event permits shall be contingent on approval of the referrals as provided below. Approvals of temporary event permits for temporary events by the Board of Public Works and Safety shall be based on the criteria utilized by the different departments or other governmental agencies upon which referrals were made. Such criteria shall be as determined by each of the city departments or agencies and as regulated by other applicable laws. The Board of Public Works and Safety shall review comments as provided by each city department or agency to determine whether the proposed event complies with all of the individual criteria. In addition, the Board of Public Works and Safety can deny the Application or revoke an existing permit if the applicant made false representations on the application, or the event presents an unreasonable danger to the health or safety of the public at large.

The duration of each temporary event shall be clearly stated within the approved permit.

- (1) Applications for temporary event permits shall be submitted on application forms as provided by the city and shall be accompanied by such plans, reports, photos, or other information, exhibits, or documents as may be reasonably required to make the necessary determination in each case.
 - (2) Applications for temporary event permits shall be submitted at least 30 days in advance of the temporary event unless approved by the Board of Public Works and Safety.
 - (3) Approvals of applications shall be issued when such application is complete and complies with all applicable criteria and requests.
 - (4) Denials of applications shall be issued if after conditions and safeguards have been considered, and the application still fails to comply with all applicable criteria; any provision of this Code will be violated by the temporary event; or for any other cause determined at the discretion of the Board of Public Works and Safety.
 - (5) Denial or revocation of applications will occur if after the final onsite inspection the Fire Marshals determine that the venue does not meet all the codes and standards or does not match the application submitted.
- (b) Temporary event referrals. The Board of Public Works and Safety shall make referrals as specified herein based on the nature of the application.
- (1) *Fire.* Referral to the fire department for review of fire and life safety codes or controls as determined by the department.
 - (2) *Police.* Referral to the police department for review of traffic safety, including provisions of traffic monitors, crowd control measures, and any other life/safety issues as determined by the department.
 - (3) *Engineering.* Referral to the engineering department for review of traffic safety, including provisions of traffic monitors, crowd control measures, and any other life/safety issues as determined by the department.
 - (4) *Other.* Referral to other city agencies or governmental agencies with the necessary expertise based on the nature of the application, in order to make an informed decision.

Sec. 10-146 - Formal notice and hearing.

Formal public notice and hearing is required in connection with temporary event permits. The following is required:

- (1) Notice required by applicants to adjacent property owners. At the time of initial application, the applicants shall notify all abutting property owners, including those properties within 300 feet in any direction from the property in question and properties across the street or alley, in an approved city form.

In the case of adjacent condominiums, town homes and apartment, only one notice to the condominium association will be sent.

Sec. 10-147 - Withdrawal of application; effect of withdrawal.

An application for a temporary event permit may be withdrawn by the applicant at any time prior to a decision without restrictions as to a resubmittal. But if withdrawn after the final decision has been issued, substantially the same application shall not be considered within 12 months of the date of withdrawal.

Sec. 10-148 - Requirement and penalties for failure to comply.

It shall be unlawful for a temporary event to be held if the promoter/vendor and the property owner fail to obtain a temporary event permit pursuant to this section of the Code. Enforcement of this Code shall be by Chapter 1, Section 1-7 of the Code, which includes a fine of up to \$2,500.00 for a first offense and up to \$7,500.00 for a second or subsequent offense each day the violation continues; or any other remedies as provided by law.

With or without a temporary event permit, events that result in unlawful behavior shall be prosecuted by the City of Mishawaka to the fullest extent afforded by law. This may include but shall not be limited to the City pursuing the revocation of licenses to serve alcohol through the State of Indiana, the billing of public costs incurred including but not limited to public safety departments to both the property owner and promoter/event host, the withholding of future permits, and the revocation of licenses and land use/zoning permits as may be applicable.

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

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

Deborah S. Block, IAMC, MMC

AUG 11 2021

City Clerk
Mishawaka, IN

PETITION 21-11

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-29

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:

PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, INDIANA DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF LINCOLNWAY EAST WITH THE WESTERLY LINE OF KLINE STREET; THENCE SOUTH 02°00'00" EAST (ASSUMED BEARING) ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 134.56 TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 02°00'00" EAST ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 66.00 FEET; THENCE SOUTH 83°44'02" WEST, A DISTANCE OF 128.69 FEET TO THE POINT ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION RECORDED JUNE 4, 1929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 13, PAGE 49; THENCE NORTH 05°50'22" WEST, ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION, A DISTANCE OF 75.74 FEET; THENCE NORTH 88°00'00" EAST, A DISTANCE OF 133.43 FEET TO THE WESTERLY LINE OF KLINE STREET AND THE POINT OF BEGINNING.

COMMON ADDRESS: 115 Kline Street

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

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

Proposed Ordinance No: _____

Ordinance No: _____

1. While Lincolnway East is a commercial corridor, there are still plenty of houses, and properties taking access from side streets are primarily residential, and rezoning the rear of the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner given the context of its location, its relationship to surrounding properties, and the lack of potential development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located off of the main road, near other similar residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. The size of the building does not lend itself to many commercial uses, outside of a small office. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial along Lincolnway, but is mostly residential after the first building. Rezoning to residential would be compatible with the nearby residential uses in the area.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

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

David A. Wood, Mayor

STAFF REPORT

Location: 115 Kline

Date: August 10, 2021

Petition: 21 11

Prepared By: CH

GENERAL INFORMATION

Applicant: John and Kelly Connon

Status: Property Owner

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 66' X 133

Applicable Regulations: Sec. 137-164 Residential R-1 District; 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
South: S-2 Planned Unit Development (Lincolnwood)
East: R-2 Two Family Residential District
West: R-1 Single Family Residential District

Thoroughfare: Lincolnway East and Kline Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner is requesting to rezone 115 Kline St from C-1 General Commercial District to R-1 Single Family Residential District. The property is located at the southwest corner of Lincolnway East and Kline Street. Lincolnway East is a mix of commercial and residential. This house sits behind the commercial building which fronts on Lincolnway East.

The 958sf building was built in 1988 as a donut shop/bakery, which operated for a couple of years. The site was listed at vacant in the 1994 & 1995 Polk Directories. By 1997, Eakin Needlework was operating at 115 Kline. By 2003, there is not a listing in the Polk Directory. It is unclear when the property was converted to a residence. In 2018, the tax records changed the use of the rear building to a 1 unit apartment.

The Petitioner has also submitted a subdivision to separate the house at 115 Kline Street from the commercial building at 3019 Lincolnway East. The subdivision provides a 58' ingress-egress, parking and drainage easement on Lot 1 so the house on Lot 2 can continue to access the garage to the west.

Pertinent City Departments have reviewed and approved the request. Engineering verified the sanitary sewer connection is separate from the commercial building.

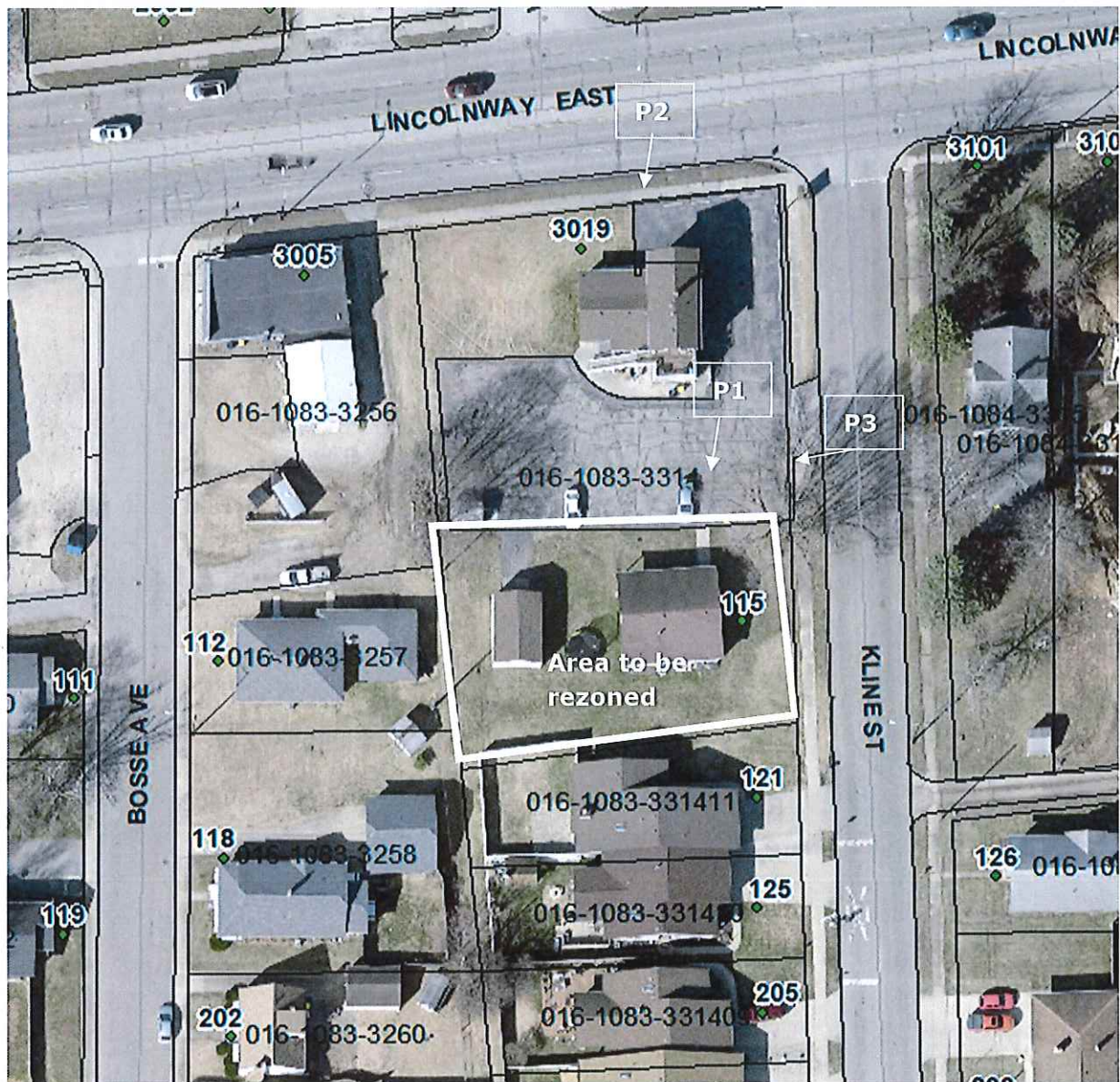
RECOMMENDATION

The Planning Department recommends **approval** of Petition #21-11 to rezone 115 Kline Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. While Lincolnway East is a commercial corridor, there are still plenty of houses, and properties taking access from side streets are primarily residential, and rezoning the rear of the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner given the context of its location, its relationship to surrounding properties, and the lack of potential development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located off of the main road, near other similar residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. The size of the building does not lend itself to many commercial uses, outside of a small office. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial along Lincolnway, but is mostly residential after the first building. Rezoning to residential would be compatible with the nearby residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP





1. The building to be rezoned at 115 Kline Street



2. The commercial building at 3019 Lincolnway East



3. Shared access and parking area between the two buildings

PET 21-11

July 21, 2021

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

Deborah S. Block, IAMC, MMC

JUL 28 2021

City Clerk
Mishawaka, IN



RE: PETITION TO REZONE

The undersigned John Connon and Kelly Connon 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:

~~PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, INDIANA DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF LINCOLNWAY EAST WITH THE WESTERLY LINE OF KLINE STREET; THENCE SOUTH 02°00'00" EAST (ASSUMED BEARING) ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 200.56 FEET; THENCE SOUTH 83°44'02" WEST, A DISTANCE OF 128.69 FEET TO A POINT ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION RECORDED JUNE 4, 1929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 13, PAGE 49; THENCE NORTH 05°50'22" WEST, ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION, A DISTANCE OF 200.01 FEET TO THE NORTHEAST CORNER OF LOT 7 IN SAID REPLAT; THENCE NORTH 83°44'02" EAST ON THE SOUTHERLY LINE OF LINCOLNWAY EAST, A DISTANCE OF 142.13 FEET TO THE POINT OF BEGINNING.~~

The above described property has addresses of 3019 Lincoln Way East and 115 Kline Street.

Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. The property is currently being used as a commercial business, an apartment and a single family residence.

Petitioners desire the following described portion of said real estate to be rezoned to R-1 Single Family Residential District:

PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, INDIANA DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF LINCOLNWAY EAST WITH THE WESTERLY LINE OF KLINE STREET; THENCE SOUTH 02°00'00" EAST (ASSUMED BEARING) ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 134.56 TO THE POINT OF BEGINING; THENCE CONTINUING SOUTH 02°00'00" EAST ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 66.00 FEET; THENCE SOUTH 83°44'02" WEST, A DISTANCE OF 128.69 FEET TO A POINT ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION RECORDED JUNE 4, 1929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 13, PAGE 49; THENCE NORTH 05°50'22" WEST, ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION, A DISTANCE OF 75.74 FEET; THENCE NORTH 88°00'00" EAST, A DISTANCE OF 133.43 FEET TO THE WESTERLY LINE OF KLINE STREET AND THE POINT OF BEGINNING.

Petitioners further state the purpose for this rezoning request is to bring the existing non-conforming single family house located at 115 Kline Street into compliance so it may be subdivided (proposed Lot 2, Connon Minor Subdivision) and sold.

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


John Connon


Kelly Connon

CONTACT PERSON

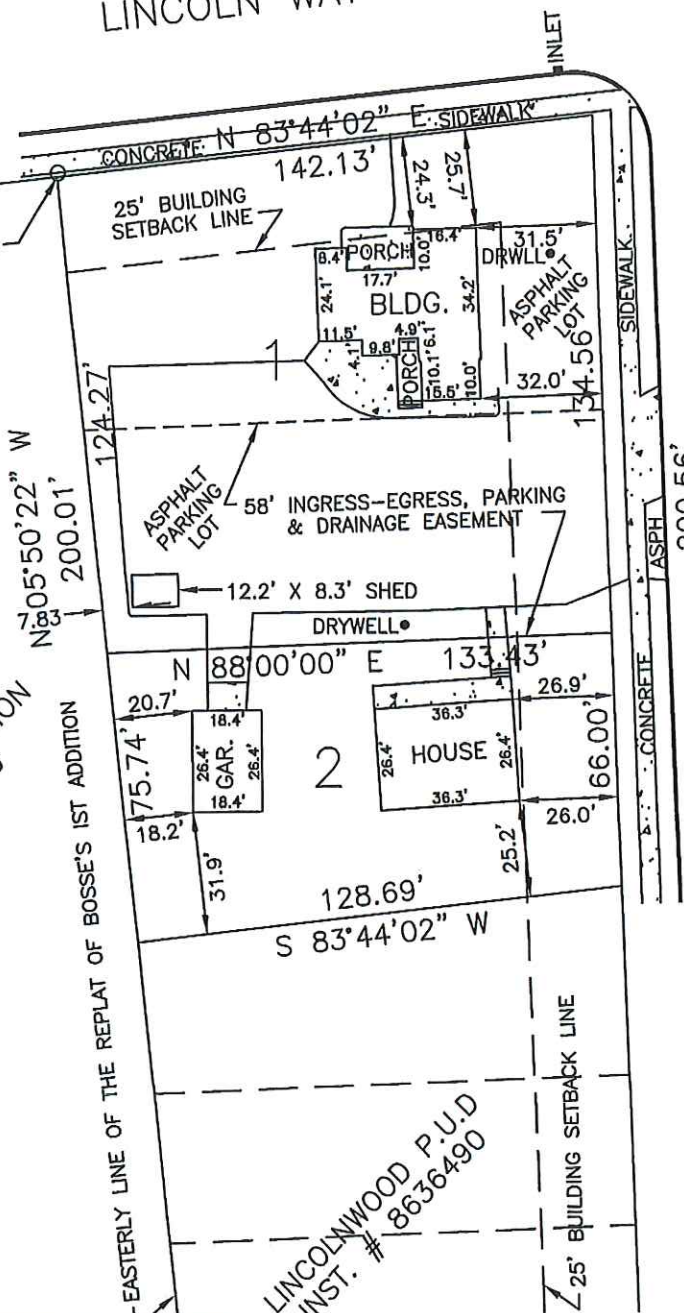
Edward M. Fisher
303 East Third Street
Mishawaka, Indiana 46544
Ph: 574 255-8377
Fax: 574 2578557
Email: FISHERSURVEY@AOL.COM

SITE PLAN
(EXISTING CONDITIONS)

LINCOLN WAY EAST

NORTHEAST CORNER OF LOT 7,
REPLAT OF BOSSE'S 1ST ADDITION

REPLAT OF BOSSE'S 1ST ADDITION
PLAT BOOK 13, PAGE 49



S 02°00'00" E
KLINE STREET 60' R/W

LINCOLNWOOD P.U.D
INST. # 8636490

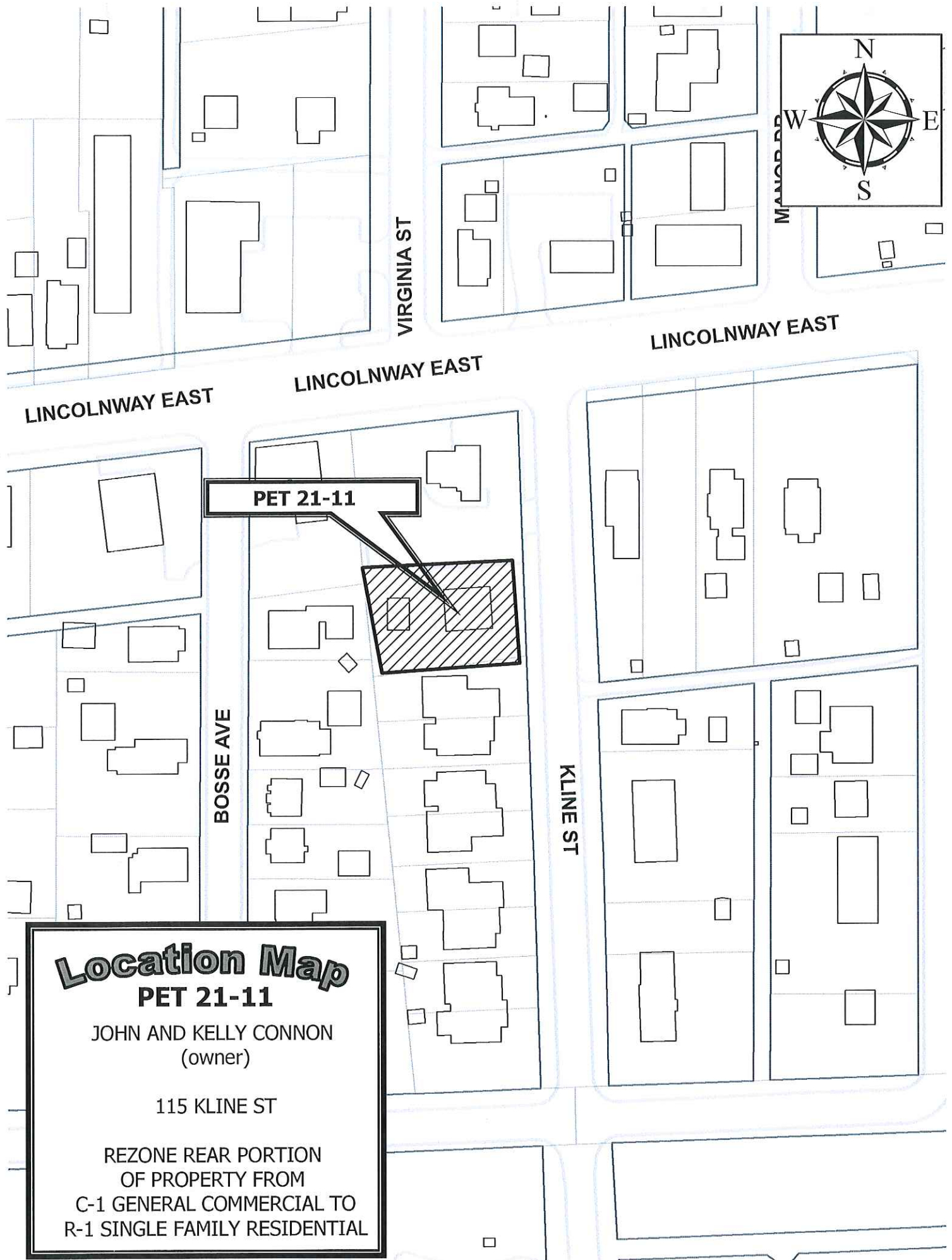


FISHER

LAND SURVEYING
SERVICES INC.

303 EAST THIRD STREET
P.O. BOX 23
MISHAWAKA, INDIANA 46544
574 / 255-8377

SCALE 1"=50'	DATE JULY 21, 2021	
BOOK	REVISED	JOB NO. 70-2021



Location Map

PET 21-11

JOHN AND KELLY CONNOR
(owner)

115 KLINE ST

REZONE REAR PORTION
OF PROPERTY FROM
C-1 GENERAL COMMERCIAL TO
R-1 SINGLE FAMILY RESIDENTIAL

1st Reading 8-16-21

2nd Reading

Passed

Failed

Continued To

PETITION #21-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-30

ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

AUG 11 2021

City Clerk
Mishawaka, IN

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

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

PART OF THE NORTHEAST QUARTER OF SECTION 22, AND THE NORTHWEST QUARTER OF SECTION 14, BOTH IN TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH (ALL BEARINGS ASSUMED) ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE ALSO BEING THE CENTERLINE OF FIR ROAD A DISTANCE OF 759.23 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID EAST LINE AND CENTERLINE A DISTANCE OF 60 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 561.68 FEET MORE OR LESS; THENCE SOUTH A DISTANCE OF 507.90 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 622.49 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 487.37 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 137.22 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 81.54 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 1321.44 FEET MORE OR LESS TO SAID EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF FIR ROAD TO THE POINT OF BEGINNING. CONTAINING 9.15 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: 9.15 acres east of and adjacent to 1420 Industrial Drive

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of I-1 Light Industrial District.

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

1. Existing Conditions – The subject property is vacant industrial land in Unincorporated St. Joseph County.

Proposed Ordinance No. _____

Ordinance No. _____

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

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: Property located east of and adjacent to 1420 Industrial Dr.

Date: August 13, 2021

Petition: 21- 12

Prepared By: CH

GENERAL INFORMATION

Applicant: Byrkit Property Group LLC

Status: Property Owner

Request: To annex and establish zoning to the I-1 Light Industrial District for the expansion of an adjacent business

Existing Zoning: Unincorporated St. Joseph County (I Industrial District)

Proposed Zoning: I-1 Light Industrial District

Lot Size: 9.15 acres

Applicable Regulations: Section 137-585 to 137-587 / I-1 Light Industrial &
Section 137-41 / Amendments to Zoning Map &
Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial (Adorn Engineered Components)
South: Unincorporated St. Joseph County (I Industrial District)
East: I-1 Light Industrial (Jamil Packaging Corporation)
West: Unincorporated St. Joseph County (I Industrial District), C-4
Automobile Oriented Commercial (Coffel Vending), and I-1 Light
Industrial (Substrate Treatment and Lubricants)

Thoroughfare: South Byrkit Avenue

School District: Penn-Harris-Madison

Township: Penn

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

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies a preferred or planned
use for this property as Industrial (Manufacturing, Warehousing, and
Distribution).

ANALYSIS

Proposal:

The applicants are proposing to annex and establish zoning for part of a vacant parcel of land (Tax Parcel 014-1027-043626), a 9.15 acres parcel, located east of 1420 Industrial Drive, and west of 1405 and 1505 S Byrkit Avenue.

The purpose of the proposed annexation and required zoning to the I-1 Light Industrial District is allow for the future expansion of the Jamil business, located to the west. The property reaches to S Byrkit Avenue, which would allow access. Normally when an annexation and zoning petition is filed, a preliminary site plan is required to conceptually show how the property will be developed. In this case, a preliminary site plan was not provided since there are no immediate development plans.

If the proposed annexation and rezoning request is approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

The original building at 1420 Industrial Drive, containing 2.78 acres, was annexed in 1987. A 2.95 acre parcel to the east was annexed in 1989, and the rear 3 acres was annexed in 1997.

The property to the north, an expansion of the Adorn business on Twelfth Street was annexed last year.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. Based on the existing city boundary, the parcel has 2,418.57 feet, or 64%, of the total 3779.64 feet of the perimeter of the property will be contiguous with the exiting city limits. This exceeds the required 12.5% contiguity. There will be approximately a 225' gap between this property and the existing corporate boundary on the east.

Location/Context:

The site is located on the south Twelfth Street, between Industrial Drive and South Byrkit Avenue. It is bordered to the north by Adorn Engineered Components (manufacturing RV parts) within the City; to the west Jamil Packaging within the City; to the south by vacant land in Unincorporated St. Joseph County; and to the east by Coffel Vending and Substrate Treatment and Lubricants which front on Byrkit Avenue. The area between Merrifield Avenue and Bykit Avenue is primarily industrial.

Zoning Change:

Staff believes that the proposed zoning of this property to the I-1 Light Industrial District is appropriate given that the property will be added to the adjacent business for possible future expansion. Other recent similar annexations have also been zoned as I-1 Light Industrial.

Transportation/Roads:

Traffic counts in this area were recently updated in August 2020. According to the latest available traffic counts, there were 6,900 annual average daily trips (AADT) along Twelfth Street just east of Byrkit Ave. Similar numbers were recorded along Twelfth Street just west of Industrial Dr. At the same time, traffic counts for Byrkit, south of Twelfth were 3,541 annual average daily trips (AADT).

The counts at these locations actually decreased from a high of just over 9,000 AADT in 2008 for the location on Twelfth at Industrial Drive. The intersection of Twelfth and Byrkit also shows a steady decrease. Due to the widening of Twelfth Street, as outlined in the 2045 Transportation Plan below, traffic volumes are expected to increase after the project is completed.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, shows planned added travel lanes along Twelfth Street, from Dodge to Campbell. The projected completion year for this project is 2030. It should be noted that the plan may be amended in future years dependent on infrastructure priorities, projected travel demand, and available funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

RECOMMENDATION

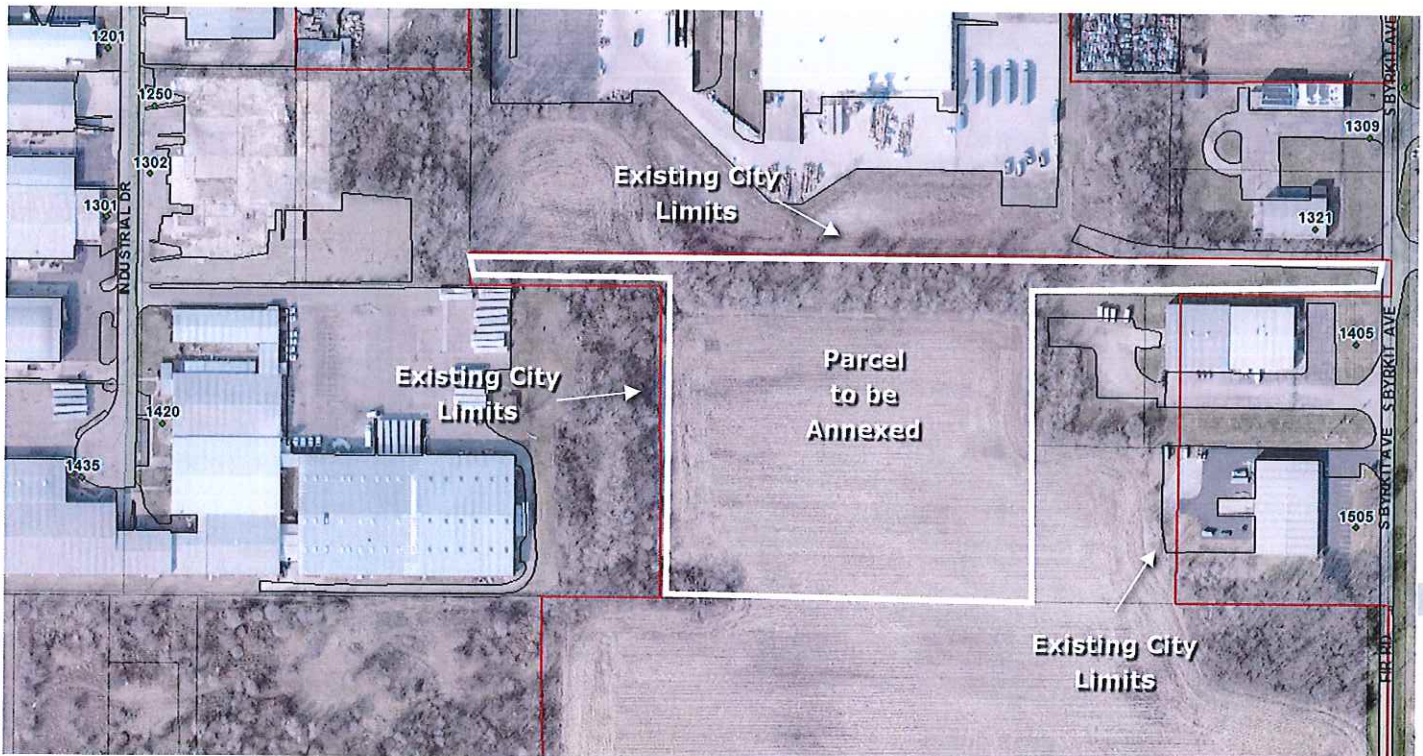
Staff recommends approval of Petition 21-12 to annex and establish zoning to the I-1 Light Industrial District for property east of and adjacent to 1420 Industrial Drive.

This recommendation is based on the following Findings of Fact:

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

ATTACHMENTS

Aerial Map, Photographs of the Annexation Area, Rezoning & Annexation Petition, and Location Maps



Aerial Photograph

PHOTOGRAPHS OF PROPERTY TO BE ANNEXED



A view of the exsiting business along Industrial Drive



A towards the rear of the exsiting business along Industrial Drive



The 60' strip of property that touches S Byrkit Ave

Deborah S. Block, IAMC, MMC

JUL 28 2021

City Clerk
Mishawaka, IN



DATE: July 19, 2021

TO THE: HONORABLE MEMBERS OF THE COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA

RE: PETITION FOR ANNEXATION & REZONING FOR:

BYRKIT PROPERTY GROUP LLC
51129 SHAMROCK HILLS COURT
GRANGER, INDIANA 46530

THE UNDERSIGNED, BYRKIT PROPERTY GROUP LLC, RESPECTFULLY SHOW THAT THEY ARE THE OWNERS OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA:

PARCEL: ANNEXATION AND REZONING LEGAL DESCRIPTION:

PART OF THE NORTHEAST QUARTER OF SECTION 22, AND THE NORTHWEST QUARTER OF SECTION 14, BOTH IN TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH (ALL BEARINGS ASSUMED) ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE ALSO BEING THE CENTERLINE OF FIR ROAD A DISTANCE OF 759.23 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID EAST LINE AND CENTERLINE A DISTANCE OF 60 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 561.68 FEET MORE OR LESS; THENCE SOUTH A DISTANCE OF 507.90 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 622.49 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 487.37 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 137.22 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 81.54 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 1321.44 FEET MORE OR LESS TO SAID EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF FIR ROAD TO THE POINT OF BEGINNING.

CONTAINING 9.15 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

APPROXIMATE PROPERTY ADDRESS: 58200 BLOCK OF FIR ROAD.

THE ABOVE-DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "M" MANUFACTURING INDUSTRIAL DISTRICT IN THE UNINCORPORATED COUNTY.

PETITIONERS DESIRE TO ANNEX AND REZONE THE REAL ESTATE DESCRIBED ABOVE TO THE "I-1" LIGHT INDUSTRIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE ANNEXATION AND REZONING IS TO ALLOW FOR A FUTURE EXPANSION OF THE JAMIL PACKAGING CORPORATION FACILITY LOCATED ADJACENT TO AND WEST OF THE PETITION SITE.

WHEREFORE, THE PETITIONERS PRAY AND RESPECTFULLY REQUEST THAT THE COMMON COUNCIL OF THE CITY OF MISHAWAKA REFER THIS MATTER TO THE MISHAWAKA CITY PLAN COMMISSION AND THAT AFTER HEARING, AN APPROPRIATE ORDINANCE BE ENACTED ANNEXATING AND REZONING THE ABOVE DESCRIBED PARCEL OF REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA.


Michael S. Krizman, Manager
FOR: BYRKIT PROPERTY GROUP LLC
51129 SHAMROCK HILLS COURT
GRANGER, INDIANA 46530
PH.NO. 574-271-9952

CONTACT PERSON:

MICHAEL DANCH
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.
MDANCH@DANCHHARNER.COM

PARCEL: ANNEXATION AND REZONING LEGAL DESCRIPTION:

PART OF THE NORTHEAST QUARTER OF SECTION 22, AND THE NORTHWEST QUARTER OF SECTION 14, BOTH IN TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH (ALL BEARINGS ASSUMED) ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE ALSO BEING THE CENTERLINE OF FIR ROAD A DISTANCE OF 759.23 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE CONTINIUNG SOUTH ALONG SAID EAST LINE AND CENTERLINE A DISTANCE OF 60 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 561.68 FEET MORE OR LESS; THENCE SOUTH A DISTANCE OF 507.90 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 622.49 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 487.37 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 137.22 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 81.54 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 1321.44 FEET MORE OR LESS TO SAID EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF FIR ROAD TO THE POINT OF BEGINNING.

CONTAINING 9.15 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

Mishawaka City Plan Commission and
The Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

July 18, 2021

RE: Annexation and Rezoning request for
Byrkit Property Group LLC:

Dear Board Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission meeting(s) and the Mishawaka Common Council meeting(s) at which our Annexation and Rezoning requests will be heard for our property located in the 58200 Block of Fir Road, St. Joseph County, Indiana.

If you have any questions concerning this matter, please feel free to give me a call at 574-271-9952.

Sincerely,



Michael S. Krizman, Manager

For Byrkit Property Group LLC
51129 Shamrock Hills Court
Granger, Indiana 46530

File No. 210180 "C" Md.

PK 21-12

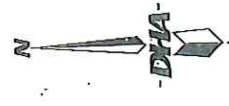
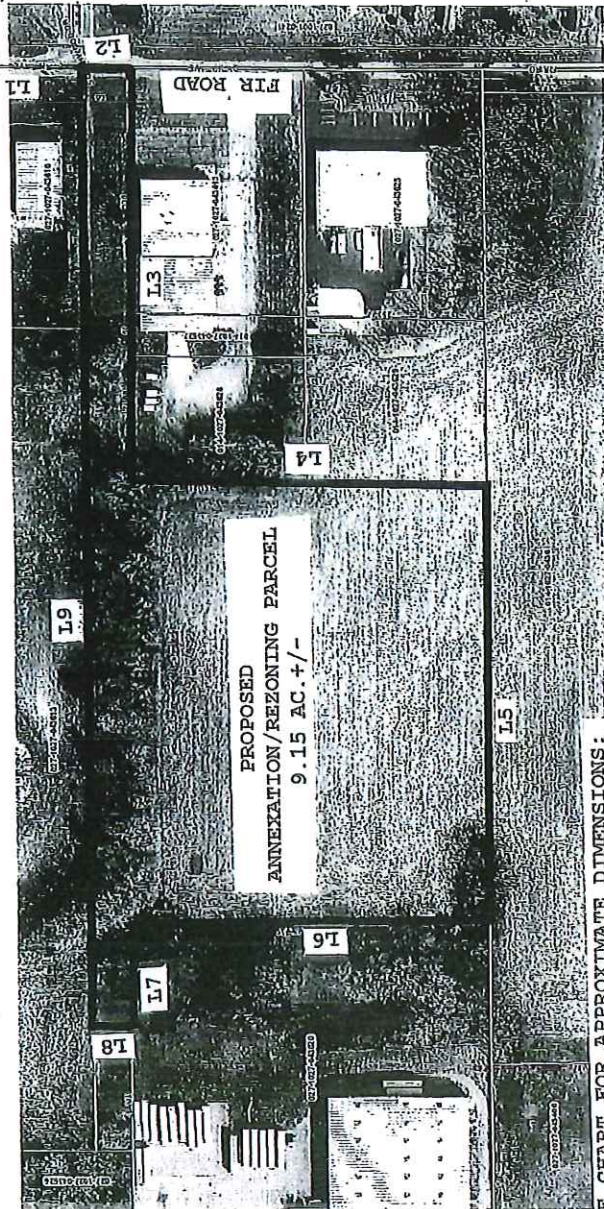
RECEIVED

JUL 21 2021

ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

ANNEXATION DIAGRAM

C/L 12TH STREET



Scale 1" = 200'±

LINE CHART FOR APPROXIMATE DIMENSIONS:

LINE	DIRECTION	DISTANCE +/-
L1	SOUTH	759.23 FT.
L2	SOUTH	60.00 FT.
L3	WEST	561.68 FT.
L4	SOUTH	507.90 FT.
L5	WEST	622.49 FT.
L6	NORTH	487.37 FT.
L7	WEST	137.22 FT.
L8	NORTH	81.54 FT.
L9	EAST	1321.44 FT.

150214
9/18/15

SMA



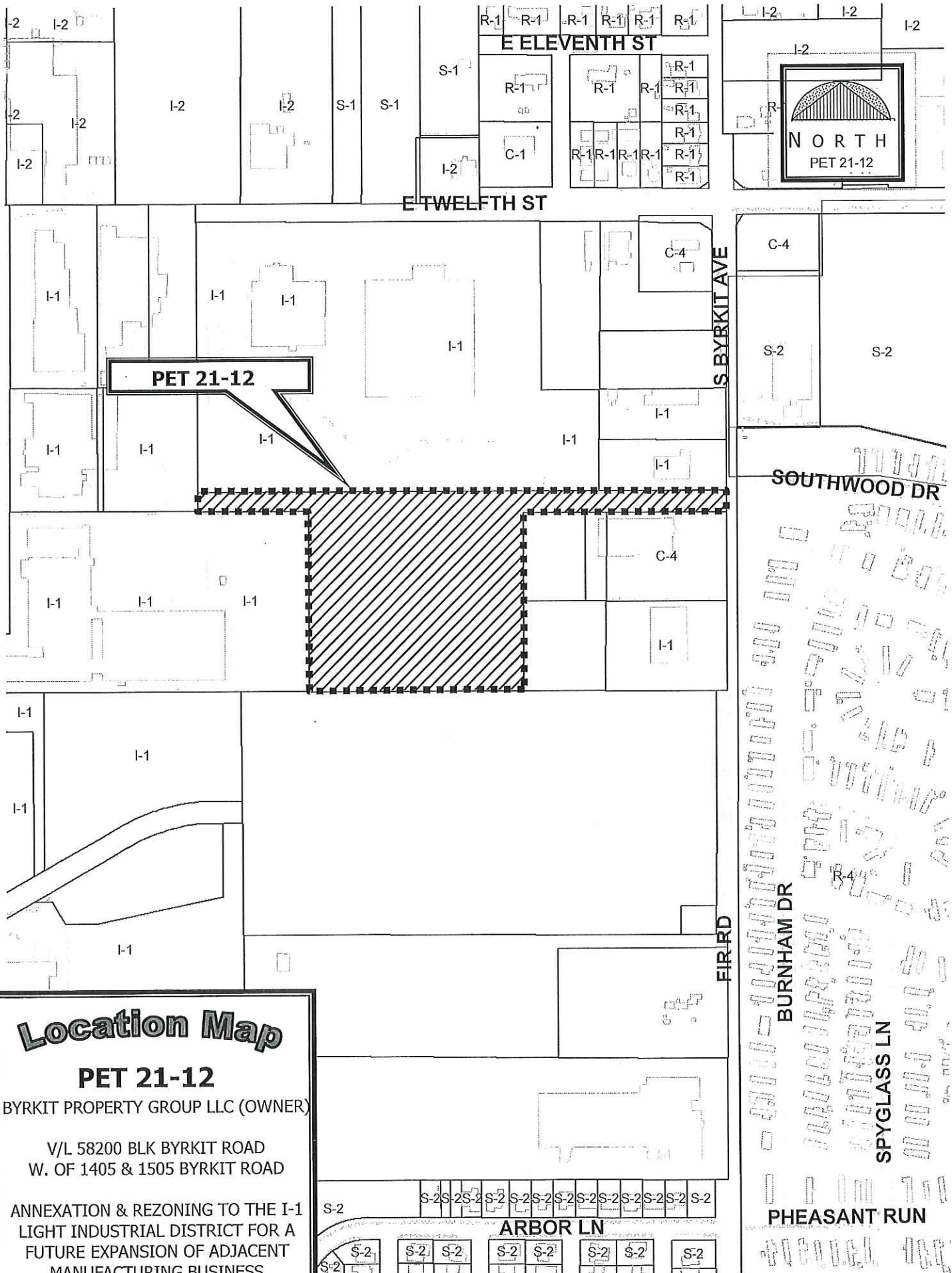
Danch, Harner & Associates, Inc.

Land Surveyors • Professional Engineers
Landscape Architects • Land Planners

Office: (574)234-4003 / (800)594-4003 • Fax: (574)234-4119
1643 Commerce Drive • South Bend, IN 46628

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1 / 2



Location Map

PET 21-12

BYRKIT PROPERTY GROUP LLC (OWNER)

V/L 58200 BLK BYRKIT ROAD
W. OF 1405 & 1505 BYRKIT ROAD

ANNEXATION & REZONING TO THE I-1
LIGHT INDUSTRIAL DISTRICT FOR A
FUTURE EXPANSION OF ADJACENT
MANUFACTURING BUSINESS

AUG 10 2021

City Clerk

Mishawaka, IN

RESOLUTION 2021-19
RESOLUTION MODIFYING LOCAL INCOME TAX RATES IN ST. JOSEPH
COUNTY, INDIANA

BE IT RESOLVED by the City of Mishawaka Common Council of St. Joseph County, Indiana, that a need now exists to modify the local income tax rates imposed in the following way:

Allocation Rate Category	Existing LIT Rate	Proposed LIT Rate
Certified Shares (IC 6-3.6-6-10)	.4996 %	.3596 %
Public Safety (IC 6-3.6-6-8)	.2500 %	.3900 %
Economic Development (IC 6-3.6-6-9)	.4000 %	.4000 %
Property Tax Relief Rate (IC 6-3.6-5 <i>et seq.</i>)	.6004 %	.6004 %
Special Purpose Rate (IC 6-3.6-7 <i>et seq.</i>)	.0000 %	.0000 %
Correctional or Rehabilitation Facilities (IC 6-3.6-6-2.7)	.0000 %	.0000 %

The additional revenue associated with the Public Safety rate shall be directed to the PSAP prior to the distribution of the remainder of the public safety revenue (IC 6-3.6-6-8)

Allocation Rate Category	Existing LIT Rate	Proposed LIT Rate
Public Safety (IC 6-3.6-6-8)	.2500	.3900

Local Income Tax Type	Existing PSAP Rate	Proposed PSAP Rate
Public Safety Access Point Rate (IC 6-3.6-6-8)	.0000	.1400

BE IT FURTHER RESOLVED that a public hearing was held on the proposed local income tax rate modifications on August 16, 2021. Proper notice of the public hearing was provided pursuant to IC 5-3-1.

BE IT FURTHER RESOLVED that the City of Mishawaka Common Council hereby votes in favor of St. Joseph County Income Tax Council Ordinance 2021-01.

BE IT RESOLVED that the City Clerk provide this Resolution to the County Auditor who, subject to IC 6-3.6-3-8, will provide to all other members of the St. Joseph County Income Tax Council within 10 days of passage with a request to consider adopting St. Joseph County Income Tax Council Ordinance 2021-01.

Duly adopted by the following vote of the members of said City of Mishawaka Common Council this 16th day of August, 2021.

AYE

NAY

Woody Emmons, 1st District

Woody Emmons, 1st District

Mike Bellovich, 2nd District

Mike Bellovich, 2nd District

Anthony “Tony” Hazen, 3rd District

Anthony “Tony” Hazen, 3rd District

Kate Voelker, 4th District

Kate Voelker, 4th District

Michael Compton, 5th District

Michael Compton, 5th District

Ron Banicki, 6th District

Ron Banicki, 6th District

Gregg A. Hixenbaugh, At Large

Gregg A. Hixenbaugh, At Large

Matt Mammolenti, At Large

Matt Mammolenti, At Large

Maggie DeMaegd, At Large

Maggie DeMaegd, At Large

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

Deborah S. [unclear]

AUG 11 2021

City Clerk
Mishawaka, IN

APPEAL #21-24

RESOLUTION NO. 2021- 20

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

218 West Cleveland Road, Granger, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **218 West Cleveland Road, Granger, Indiana**, more particularly known and described as follows:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA BEING DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD) WHICH IS NORTH 90-00'-00" EAST, 656.26 FEET FROM THE SOUTH QUARTER POST OF SAID SECTION, SAID POINT ALSO ON THE CENTERLINE OF LEO STREET, THENCE NORTH 00-00'-46" WEST ALONG SAID CENTERLINE, 363.26 FEET TO THE SOUTH LINE OF THE RECORDED PLAT OF COUNTRY SIDE ESTATES SECTION 3; THENCE SOUTH 90-00'-00" EAST ALONG SAID SOUTH LINE, 667.79 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00-00'-46" EAST ALONG SAID EAST LINE, 363.26 FEET TO THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD); THENCE NORTH 90-00'-00" WEST ALONG SAID SOUTH LINE AND CENTERLINE, 667.79 FEET TO THE POINT OF THE BEGINNING. SUBJECT TO ALL LEGAL HIGHWAYS OF RECORD.

The Use Variance will allow microblading/semi-permanent make up services in the C-2 Shopping Center Commercial District.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the existing business provides similar personal services/salon uses;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because it is included in a commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and is in close proximity to one of the largest consolidated retail areas in the State of Indiana.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: 218 W. Cleveland Rd., Granger

Date: August 10, 2021

Appeal: 21 24

Prepared By: KM

GENERAL INFORMATION

Applicant: John Shea Sr & Rosemary Revocable Living Trust/Studio Sixteen
Status: Property Owner/Tenant
Request: Use Variance to allow microblading/semi-permanent make-up services
Zoning Classification: C-2 Shopping Center Commercial
Lot Size: Approximately 4+ acres, more or less
Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County
South: S-1 Extensive Open Space and Public Use District
East: S-2 Planned Unit Development
West: C-5 Neighborhood Commercial District

Thoroughfare: Cleveland Road east of Grape Road

School District: Penn-Harris-Madison

Public Utilities: All utilities are available

Comprehensive Plan: General Commercial

ANALYSIS

The Appellants are requesting a Use Variance to allow for microblading services within Salon Sixteen at Centennial Place. Microblading is a form of semi-permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

In the past year, we have received several requests for microblading. The latest request was inside an existing salon at the Outpost Center.

It should be noted that while microblading is a service that can be found in a spa or beauty salon, it is a form of tattoo and not specifically permitted within the zoning district. The need for a Use Variance arises from the fact that a tattoo establishment is not an approved use within the C-2 zoning district.

All pertinent City departments have reviewed and approved of the request.

RECOMMENDATION (S)

Staff recommends in **favor** of Appeal #21-24 to allow microblading services at Salon Sixteen, Centennial Place, 218 W. Cleveland Road, Granger. This recommendation is based upon the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the existing business provides similar personal services/salon uses;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because it is included in a commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit a tattoo establishment, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development; and
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and is in close proximity to one of the largest consolidated retail areas in the State of Indiana.

ATTACHMENTS

Photographs, Appeal, Aerial, Location Map



Salon Sixteen



View of Center looking west

Deborah S. Block, IAMC, MMC

JUL 28 2021

City Clerk
Mishawaka, IN

DATE: June 25, 2021

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. **SHEA JOHN C SR & ROSEMARY REVOCABLE LIVING TRUST JOHN C & ROSEMARY SHEA TRUSTEE (represented by Mark Shea)**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

The parcel is legally described as: THAT PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA BEING DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD) WHICH IS NORTH 90-00'-00" EAST, 656.26 FEET FROM THE SOUTH QUARTER POST OF SAID SECTION, SAID POINT ALSO ON THE CENTERLINE OF LEO STREET, THENCE NORTH 00-00'-46" WEST ALONG SAID CENTERLINE, 363.26 FEET TO THE SOUTH LINE OF THE RECORDED PLAT OF COUNTRY SIDE ESTATES SECTION 3; THENCE SOUTH 90-00'-00" EAST ALONG SAID SOUTH LINE, 667.79 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00-00'-46" EAST ALONG SAID EAST LINE, 363.26 FEET TO THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD); THENCE NORTH 90-00'-00" WEST ALONG SAID SOUTH LINE AND CENTERLINE, 667.79 FEET TO THE POINT OF THE BEGINNING. SUBJECT TO ALL LEGAL HIGHWAYS OF RECORD.

Commonly known as 218 W Cleveland Rd.

2. The above-described real estate presently has a zoning classification of C-2 Shopping Center Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Hair Salon (Business Name: Salon Sixteen)
4. Appellant desires to add microblading service to already existing hair salon that resides in the complex.
 - a. Autumn Spittler is certified in Permanent Makeup which is a cosmetic technique which employs tattoos as a means of producing designs that resemble makeup, such as eyelining and other permanent enhancing colors to the skin of the face, lips, and eyelids. Permanent makeup, also called a cosmetic tattoo or micropigmentation, is done with the use of a hand tool containing a number of small needles or a tattooing pen that tattoos the skin to create the look of makeup. A tattoo can mimic eyeliner or lipstick, or it can darken and create the look of thicker eyebrows. It can last anywhere from 1 to 5 years depending on skin type, skin care routines, sun exposure and other things.
5. The Zoning Ordinance of the City of Mishawaka equates microblading to tattooing, which is not a permitted use by right in any district.
6. The strict adherence to the ordinance requirements creates an unusual hardship because it doesn't list microblading as a use in any zoning area.
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

No it will not be injurious to the public health, safety, morals or general welfare of the community.

Autumn Spittler has been in the beauty industry for 10 years, as



a licensed cosmetologist in the state of Indiana and Michigan. Before that, she worked in the Healthcare industry for 13 years. She has been certified in bloodborne pathogens and hazardous waste since October of 2019. Autumn completed her training under Stacy Nielson at New You Face and Body in Portage, Mi. October of 2019.



- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the business will be located in a building that is surrounded by various commercial uses.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the need for the variance arises from some condition peculiar to the property involved. The current zoning does not permit microblading, but does allow the salon where the process is taking place, thus requiring the use variance for the proposed use.

- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes, this constitutes an unnecessary hardship because the current zoning does not permit microblading, but does allow the salon where the process is taking place.

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No this approval will not interfere substantially with the Mishawaka 2000 Comprehensive plan. This is a personal/cosmetic service similar to the hair/beauty salon that currently resides in the complex.

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.


Owner's Signature

CONTACT PERSON:

Name: Celeste Mojarrad
Address: 53191 Juday Creek Blvd., Granger, In
Day Phone Number: 574.387.0232
Fax Number:
Email: c.mojarrad@gmail.com

Name: Autumn Spiller
Address: 2006 Ontario Rd, #85, Niles, MI
Day Phone Number: 269.357.3013
Fax Number:
Email: autumnspiller@gmail.com

July 16, 2021

To whom it may concern,

The management of Centennial Place support our tenant Studio 16 in the initiative to provide permanent make up services to their customers. We have a Lease in effect that clearly describes Studio 16's responsibilities to abide by all local and state guidelines and requirements.

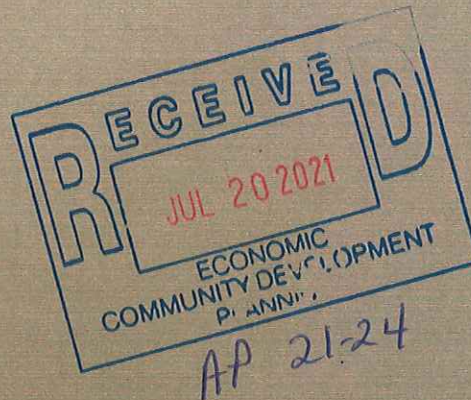
Sincerely,

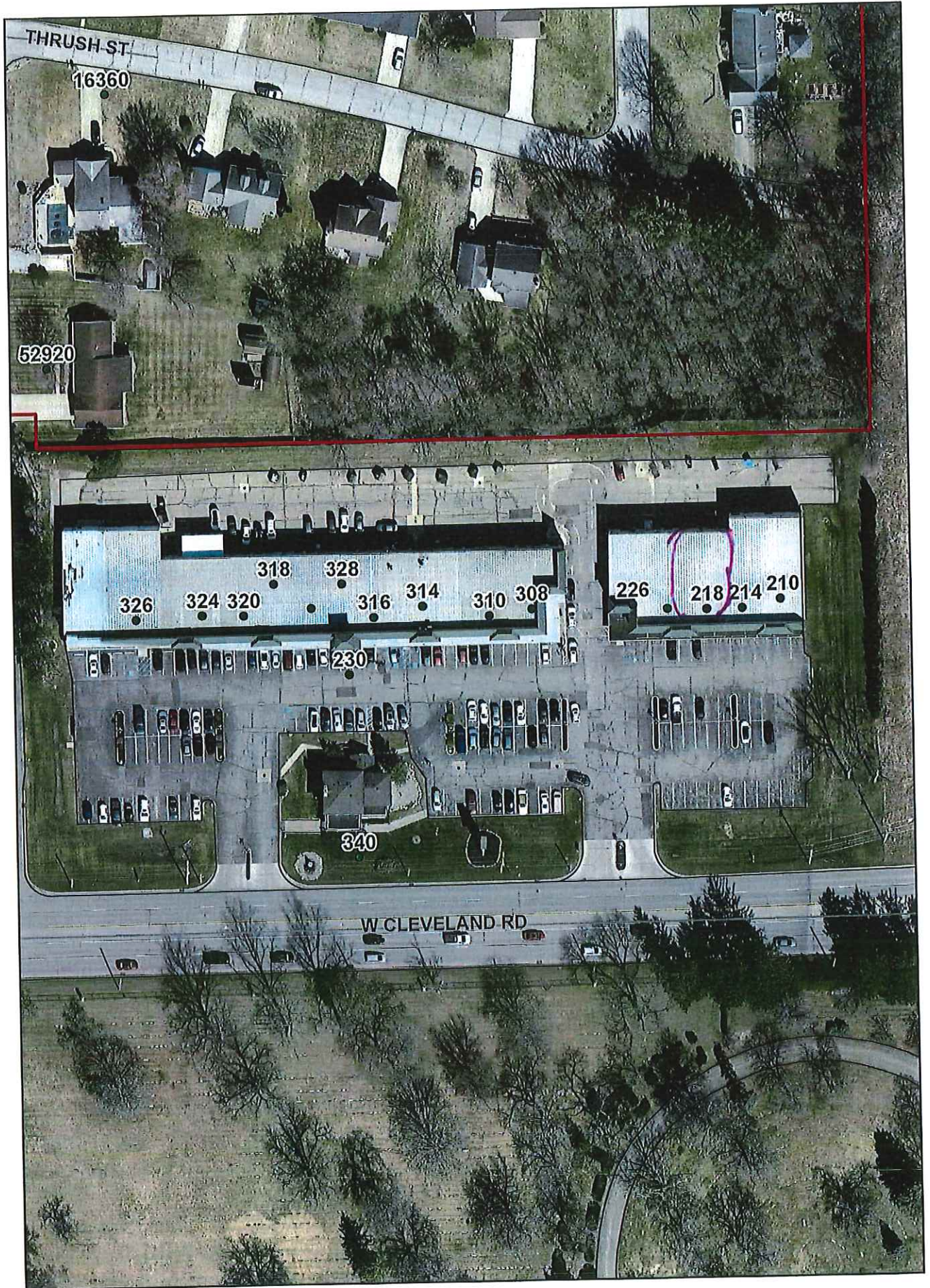
Mark F. Shea

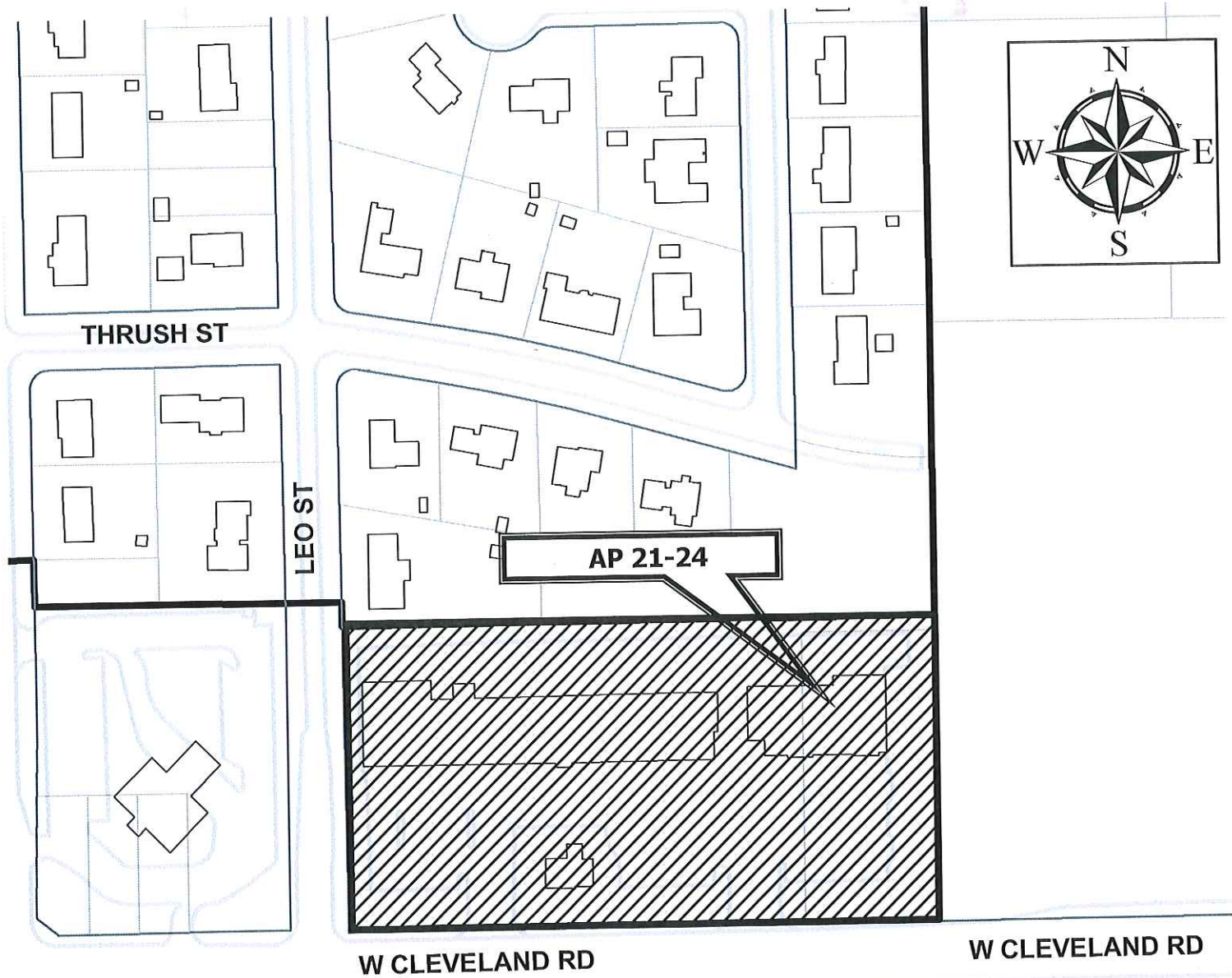


Centennial Place

General Manager







Location Map

APPEAL 21-24

JOHN C. & ROSEMARY SHEA
CENTENNIAL PLACE

218 W. CLEVELAND ROAD
STUDIO SIXTEEN

USE VARIANCE TO ALLOW
MICROBLADING/
PERMANENT MAKEUP

JUL 23 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-25

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

JUL 29 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-26

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 CARES Provider Relief Fund the sum of \$44,576.00 for assignment as follows:

CARES Provider Relief Fund

Capital Outlays

264-50-445-07

Medical Equipment

\$44,576.00

Total

\$44,576.00

Section 3. 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, President

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. Maguire, Controller
Kurtis D. Vardaman, Deputy Controller

Deborah S. Block, IAMC, MMC

JUL 29 2021

City Clerk
Mishawaka, IN

Date: July 29, 2021
To: Honorable Members of the Common Council
From: Rebecca Maguire – Controller
Re: **Additional Appropriation CARES Provider Relief fund**

For first reading on August 2nd is an additional appropriation for the CARES Provider Relief Fund.

In 2020 the City received funds based on certain criteria from the City's ambulance runs.

These funds will be used for a new Tahoe for the Fire Department. See Chief Woodward's letter for further explanation.

c: David A. Wood – Mayor



CITY OF MISHAWAKA



DAVID A. WOOD, MAYOR

MISHAWAKA FIRE DEPARTMENT
Bryon Woodward
Chief of Department

Date: June 14, 2021

To: Rebecca Miller, City Controller

From: Bryon Woodward, Fire Chief

Re: New vehicle purchase

I am requesting to utilize CARES Provider Relief Funding to the amount of \$44,575.58 for the purchase a new 2021 Chevy Tahoe to replace our current Battalion 1, 2013 Chevy Tahoe. This pandemic has caused a vast amount of changes for everyone and we are no different, specifically for this vehicle COVID has increased its routine workload.

One of the three Battalion Chiefs, who are assigned to it every day, along with two Station 4 Captains who fill in the vehicle when a Battalion Chief is off duty, are Lead paramedics and at no time is there less than an EMT-B assigned to the vehicle. This is important because Battalion 1 is stationed at the far east side of the city in our only station that does not have an ambulance housed in it. Because of the levels of medical certification that are staffed in Battalion One it responds as another mobile, medical provider. It has been outfitted with all necessary medical equipment, now including COVID related PPE, so they can respond along with other units assigned to any call. A benefit to our community of having paramedics ride in this vehicle is they can provide advanced levels of care to patients well before an ambulance were to arrive.

Also, is it has become the COVID PPE supply vehicle. Every morning a COVID PPE supply list is phoned in to the Battalion Chief from the stations and then the Battalion transports the necessary PPE out to restock frontline apparatus to their original par levels. Also, throughout the 24-hour shift anytime a piece of apparatus starts running low on its stock again, it requires the Battalion to make multiple trips to the stations to deliver PPE. All of the normal EMS supplies are housed at St. 3 on the far north side of the city but due to lack of space and a need for more constant oversight of COVID related PPE, all of those supplies are housed at Station 4.

Simply put, the mission and routine workload of Battalion One has changed and with that comes additional wear, tear and maintenance on a vehicle that is already having mechanical issues. We had hoped to replace it through the budget process in 2022 but

this is not fiscally feasible due to ordering other needed apparatus, which puts it two years away at best before any replacement can happen.

Thank you,

A handwritten signature in black ink, reading "Bryon Woodward". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bryon Woodward
Fire Chief

JUL 29 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-27

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 Cumulative Capital Development (CCD) fund of the City of Mishawaka the sum of \$75,000.00 for assignment as follows:

Cumulative Capital Development

Other Services and Charges

417-50-436-90

Service Contracts/
Software Maintenance

\$75,000.00

Total

\$75,000.00

Section 3. 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, President

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, 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. Maguire, Controller
Kurtis D. Vardaman, Deputy Controller

Deborah S. Block, IAMC, MMC

JUL 29 2021

City Clerk
Mishawaka, IN

Date: July 29, 2021
To: Honorable Members of the Common Council
From: Rebecca Maguire – Controller
Re: **Additional Appropriation Cumulative Capital Development CCD**

For first reading on August 2nd is an additional appropriation for the Cumulative Capital Development Fund.

The CCD fund #417 is used exclusively for Information Technology hardware, software, maintenance agreements, and service contracts.

Due to a steady increase in projects and price increases, there is a need to add additional funds to the budget to pay for service contracts and maintenance agreements for 2021.

Please contact Patrick with any questions.

c: David A. Wood – Mayor
Patrick Stokes – IT Director