

AGENDA

September 07, 2021

Meetings of Standing Committees
Council Conference Room
6:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM

WebEx Telephone Number: 408-418-9388
Meeting Number (access code): 173 530 8539
Meeting Password: UwvpC8NJw52

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: 1735308539@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 16, 2021
5. Petitions, Communications, Remonstrance and Memorial

APPEAL NO. 2021-27	Use Variance to allow Dog Grooming and Cat Boarding - 318 & 320 W. Cleveland Road - Gordon's Grooming
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APPEAL NO. 2021-29	Use Variance to allow parking lot for Mobile Medical Clinic - 635 E. 12 th St.
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APPEAL NO. 2021-32	Use Variance for a three-tenant building, one with Drive-Thru Window-422 W. McKinley Ave.
PETITION NO. 2021-13	PUD Amendment to remove restrictions as a Senior Only Complex to become Market Rate Non-Age Restricted - Whispering Pine Apartments
PETITION NO. 2021-14	Rezoning for redevelopment with three tenant Commercial Building - 422 W. McKinley Ave.
PETITION NO. 2021-15	Rezoning from C-1 General Commercial & R-1 Single Family Residential to C-6 Linear Office Commercial - 821 W. Jefferson Bld.

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

9. Ordinances on Second Reading

P.O. NO.2021-28	Amendment to the Amusement and Entertainment Ordinance (Assigned to Public Health & Safety Committee)
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P.O NO. 2021-29	Rezone rear portion of property from C-1 General Commercial to R-1 Single Family Residential - 115 Kline St. (Assigned to Land Use Planning Committee)
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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. Public Hearing - No Vote
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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 16, 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 16, 2021 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, followed by a moment of silence in remembrance of former School City of Mishawaka teacher, coach, Mishawaka High School principal and administrator Bob Smith who had recently passed away.

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 August 2, 2021 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and City Plan Commission regarding their recommendations from August 10, 2021 meetings.

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

PROPOSED ORDINANCE NO. 2021-28

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.
Amendment to the Amusement and Entertainment Ordinance
(Assigned to Public Health & Safety Committee)

PROPOSED ORDINANCE NO. 2021-29

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

**Rezone rear portion of property from C-1 General Commercial to R-1 Single Family
Residential – 115 Kline St.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2021-30

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

**Annexation & Rezoning for 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.
(Assigned to Land Use Planning Committee)**

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

RESOLUTION R2021-19

**A RESOLUTION MODIFYING LOCAL INCOME TAX RATES IN ST. JOSEPH
COUNTY, INDIANA**

Mayor Wood supported **RESOLUTION R2021-19**. Mayor Wood stated the need to do this was they had a 911 communications center they consolidated within the past few years. Mayor Wood stated they had some growing pains there to be sure, but with the right leadership, technology and staff in place, they were ready to look at how it would be funded on a permanent basis. Mayor Wood stated he long believed the 911-communication center was a mission critical service that each person in St. Joseph County had equal access too and should be paid for equally. Mayor Wood stated that was not happening and unlike libraries where every citizen supported roughly equally with their tax dollars and the 911-communication center was not like that at all. Mayor Wood stated some citizens paid substantially more for the access and Mishawaka citizens were being double tasked. Mayor Wood stated that was the case, because it was funded three ways by the city of Mishawaka, the city of South Bend and St. Joseph County and if you lived in a rural part of the county, you would pay most likely from the St. Joseph County portion of your taxes. Mayor Wood stated if you lived in Mishawaka, you paid taxes in Mishawaka and paid taxes in St. Joseph County, both of which went to support the 911-communication center. Mayor Wood stated he believed every community should have roughly equal skin in the game. Mayor Wood stated the model proposal was not new and it was modified from what was recommended a couple of years ago. Mayor Wood stated they also asked for a public meeting and got one to receive some feedback. Mayor Wood stated the proposal was similar to what was recommended originally and they had a representative present at the meeting that evening who could explain it further if the council preferred. Mayor Wood stated he saw the proposal as a more equitable way of funding the vital service every citizen had access to. Mayor Wood stated more importantly, no tax increase was needed for it and it was a tax shift, which then would fund it. Mayor Wood stated lastly it would not impact school funding. Mayor Wood stated that was a few key reasons why he supported the resolution and hoped the council would do the same.

Mr. Hixenbaugh thanked Mayor Wood for his comments and for his partnership between himself, the administration and the council as they worked through the process over the past couple of years. Mr. Hixenbaugh stated it was fair to say that, to a certain extent, COVID-19 along with other issues altered the timeline and the period with regard to that issue and he was very pleased with the work they had done in conjunction. Mr. Hixenbaugh stated anyone who was part of the meetings would agree with the Mayor on the fact that Mishawaka had spoken with one voice throughout the process. Mr. Hixenbaugh thanked Mayor Wood again.

Mayor Wood thanked Mr. Hixenbaugh for his comments and the council as a whole. Mayor Wood stated it was an important message that they were all there looking at the issue and thanked them for taking it on.

Mr. Hixenbaugh thanked all involved in the process of putting the resolution together and acknowledged Councilman Emmons and Councilman Hazen, who participated in the meetings at various times, along with himself. Mr. Hixenbaugh stated those meetings included their friends from St. Joseph County government and the city of South Bend and they appreciated the opportunity to collaborate with them and work through the issue. Mr. Hixenbaugh stated the Mayor's comments were well taken and they could not underscore too frequently the fact that this was a tax shift and not a tax increase for any individual taxpayer or entity that paid taxes in St. Joseph County, Indiana. Mr. Hixenbaugh stated it had the additional benefit of not only bringing equity into the funding formula, but allowing them to free up additional revenue and this was one way to accomplish that. Mr. Hixenbaugh appreciated the work and collaboration throughout the process.

Question was called for at 7:13PM for **RESOLUTION R2021-19** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

Clerk Block asked for all of the councilmembers to stay after meeting to sign the resolution.

Mr. Hixenbaugh stated the record should also reflect that this was the first step in a multi-stage process. Mr. Hixenbaugh stated pursuant to the law, Clerk Block would now formally notify the county auditor of the action that took place that evening which would set the stage for other legislative bodies who served as part of the income tax counsel to take action as they saw fit to do so. Mr. Hixenbaugh concluded thanking everyone involved in the process and thanked Clerk Block for her assistance.

RESOLUTION R2021-20

**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**

Use Variance to allow Microblading/Permanent Makeup – 218 W. Cleveland Rd.

Autumn Spitler, 2006 Ontario Rd. #85 Niles, Michigan 49120, spoke in favor of **RESOLUTION R2021-20**. Ms. Spitler stated she was present that evening to support the use variance to allow microblading and permanent makeup at their studio 16th lawn at 218 West Cleveland Road.

Mrs. Voelker stated she drove by her facility today and she noticed she had a great sign. Mrs. Voelker asked how long she had been there. Ms. Spitler stated they moved in the first week of April. Mrs. Voelker congratulated her and welcomed her to Mishawaka.

Mrs. DeMaegd asked if she could tell the council a little bit about the pre procedure instructions she gives her clients and stated she realized it was not a walk-ins welcome procedure type of salon. Ms. Spitler stated they would do an initial consultation with the client and give them some requirements before they could even have the treatment, which required they not be on certain medicines, blood thinners, retinols and things of that nature. Ms. Spitler stated they ran their clients through long list of questions. Mrs. DeMaegd asked if she had the clients sign waivers. Ms. Spitler stated they absolutely did.

Question was called for at 7:17PM for **RESOLUTION R2021-20** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

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

PROPOSED ORDINANCE NO. 2021-25

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

Transfer of Funds and Additional Appropriation Motor Vehicle Highway Restricted Fund - \$386,620.00 TO: Local Bridge and Road Matching Grant Fund Additional Appropriation of Funds to: Local Bridge and Road Matching Grant Fund - \$765,240.00

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

Debbie Block, Mishawaka City Clerk, spoke in favor of **PROPOSED ORDINANCE NO. 2021-25**. Clerk Block stated this was the third time the ordinance had come before the council and it seemed like publications had been difficult to deal with for this one, but they had been done correctly that time. Clerk Block stated they were all set now with this ordinance and asked they vote favorably.

Question was called for at 7:20PM for **PROPOSED ORDINANCE NO. 2021-25** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5753.**

PROPOSED ORDINANCE NO. 2021-26

**AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE
EXPENDITURE OF 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**

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-26**. Mrs. Maguire stated this was an appropriation of CARES Act Provider Relief Fund money they received last year due to them servicing Medicare patients with their ambulances. Mrs. Maguire stated the Fire Department would use this to purchase a new Tahoe to replace an aging Tahoe in their fleet and Chief Woodward wrote a letter detailing that it was used as a first responder vehicle and there was always a medic on it. Mrs. Maguire stated it was very useful for the department and it was used also to deliver COVID PPE supplies to the various departments.

Mr. Hixenbaugh echoed the Controller's comments and thanked Chief Woodward for the information he submitted in his letter. Mr. Hixenbaugh stated it was easy to understand and he appreciated all the detail included.

Question was called for at 7:23PM for **PROPOSED ORDINANCE NO. 2021-26** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5754.**

PROPOSED ORDINANCE NO. 2021-27

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

**Additional Appropriation: Cumulative Capital Development Other Services & Charges
417-50-435-90 Service Contract/Software Maintenance \$75,000.00**

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-27**. Mrs. Maguire stated this was an additional appropriation for the Cumulative Capital Development Fund and there had been a city increase in service contract needs and software maintenance. Mrs. Maguire stated they were appropriating an additional \$75,000.00 to make it through the rest of the year.

Question was called for at 7:26PM for **PROPOSED ORDINANCE NO. 2021-27** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5755**.

NEW BUSINESS

Mrs. Voelker complimented the City of Mishawaka Police, Fire and Central Services for all of the work they had done on the cleanup from the storm the week prior to the meeting. Mrs. Voelker stated Lincoln way was a mess, traffic stopped in both directions for a number of hours and they did an amazing job getting huge trees cleaned up. Mrs. Voelker stated even that day; they were out picking up debris. Mrs. Voelker concluded thanking them for their efforts and she really appreciated it.

Mr. Hixenbaugh thanked those agencies of city government along with the Parks Department and any of the other individuals who deserved accolades for their participation in the National Night Out Against Crime. Mr. Hixenbaugh stated it was a well-attended event in both locations of Merrifield and Twin Branch. Mr. Hixenbaugh stated the weather was good; people were enjoying themselves and he thanked all who were involved for their work in putting the events together.

ADJOURNMENT 7:29PM

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

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

Deborah S. Block, IAMC, MMC

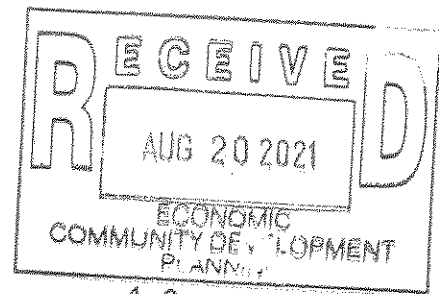
SFP 01 2021

City Clerk
Mishawaka, IN

DATE: August 20, 2021

TO: Board of Zoning Appeals

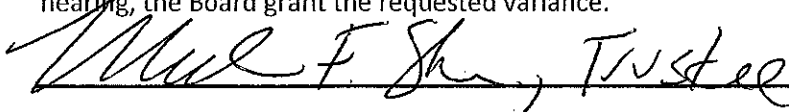
City of Mishawaka, Indiana



The undersigned appellant respectfully shows the Board:

1. I, Mark Shea, Trustee for The Rosemary & John C. Shea Revocable Trusts represent the owners of the following described Real Estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana to wit: W 1/2 Sec 1/4 Sec 21-38-3e Beg 40' N & 142.77' W Se Cor W 513.93' N 363' E 667.35' S 23' W 142.58' S 300' and Centennial Place 340 W Cleveland Rd. Gordon's Grooming is located at 318 & 320 W Cleveland Rd.
2. The above-described real estate presently has a zoning classification of C2 District under the zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above described property with retail stores as tenants and in accordance with the zoning district.
4. Appellant desires to expand a current retail tenant space to allow for Veterinary Services and pet boarding to be performed within approximately 3600 square feet of the existing Centennial Place building.
5. The Zoning Ordinance of the City of Mishawaka requires a use variance for providers of Veterinary Services within the C-2 Commercial Shopping Center Zoning District.
6. The Appellants' tenant Gordons Grooming relies on the revenue from pet grooming services in addition to their retail pet goods and supplies line of business. Limiting Gordon's to only retail pet goods sales would be detrimental to the business.
7. The approved use variance will not be injurious to the public health, safety, morals or general welfare of the community since all services will be performed indoors and within the existing retail store space. In fact, high quality services and sales of healthy pet products will improve the well being of pets and pet owners throughout the area. The use and value of adjacent property of Centennial Place will not be impacted either positively or negatively. Adding veterinary services to an existing store will be unnoticeable to adjacent property owners unless they are customers. All services will be performed in the existing store front at Centennial Place. The need for the variance only arises because the ordinance did not contemplate combination veterinary services and retail pet product sales within one store and Limiting Gordon's to only retail pet goods sales would be detrimental to the business. The Appellant believes this proposed use is consistent with the general commercial development directed by the Mishawaka 2000 Comprehensive Plan primarily because other combination use stores have been approved.

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

A handwritten signature in dark ink, appearing to read "Mark F. Shea, Trustee". The signature is written over a horizontal line.

Mark F Shea, Trustee

Contact:

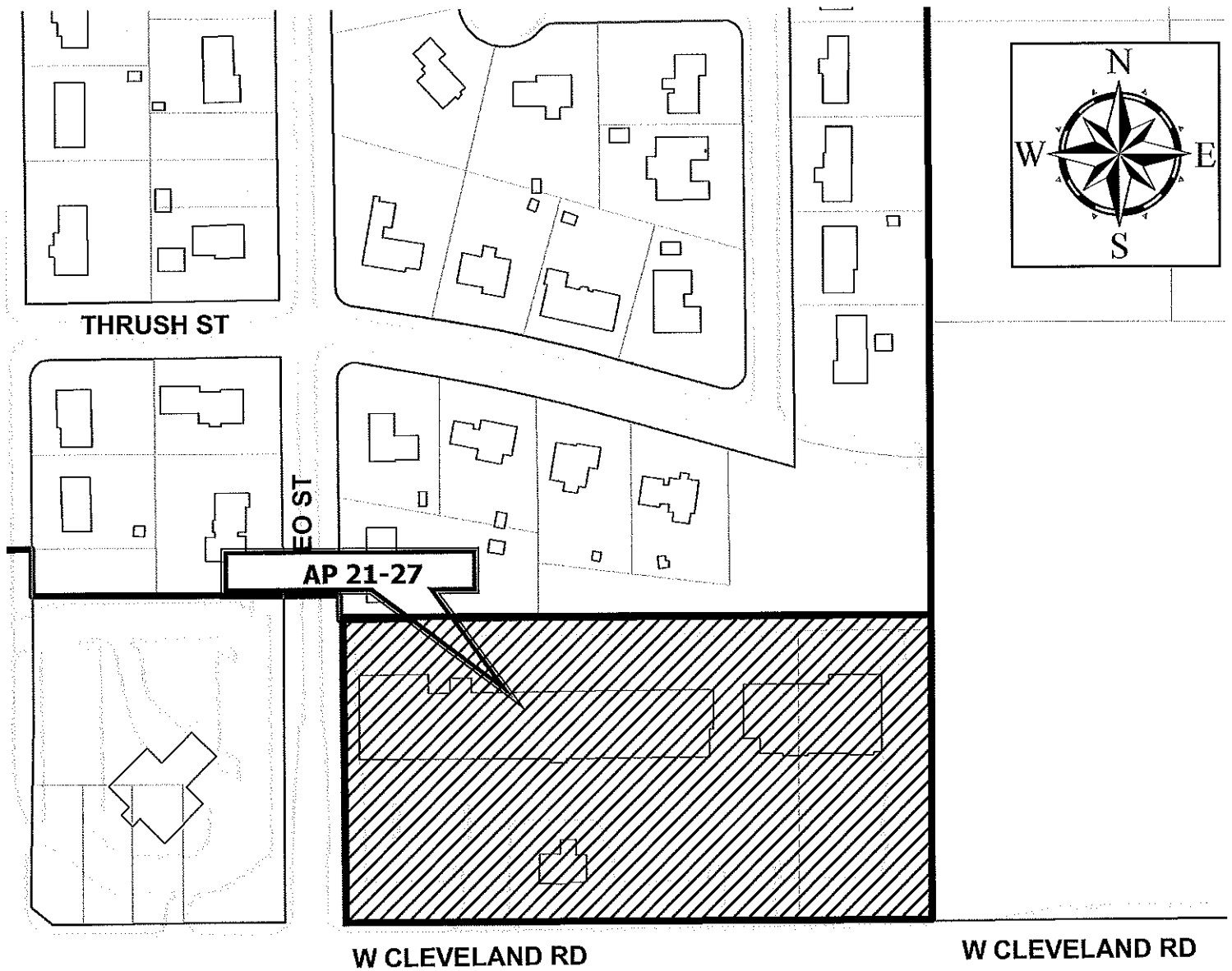
Mark Shea

466 S Prospect Avenue

Elmhurst, IL 60126

M: 630.258.3065

E: mshea24@comcast.net



Location Map

APPEAL 21-27

JOHN C. & ROSEMARY SHEA
CENTENNIAL PLACE

318 & 320 W. CLEVELAND ROAD
GORDON'S GROOMING

USE VARIANCE TO ALLOW
DOG GROOMING AND
CAT BOARDING

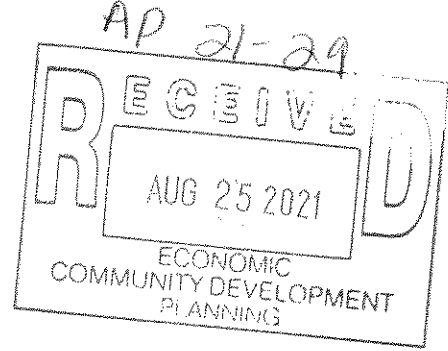
Deborah S. Block, IAMC, MMC

DATE: August 25, 2021

SEP 01 2021

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

City Clerk
Mishawaka, IN



The undersigned appellant respectfully shows the Board:

- 1) I, THE VINEYARD CHURCH, INC., 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:

Lots 5, 6, 7, and 8, Dodge Renewal Area Three

635 East 12th Street, Mishawaka, Indiana

- 2) The above-described real estate presently has a zoning classification of R-2/R-3 Districts under the Zoning Ordinance of the City of Mishawaka.

- 3) Appellant presently proposes to occupy the above-described property in the following manner:

The Appellant proposes to develop a parking lot with a driveway approach from Michigan Avenue for a regularly scheduled mobile medical clinic.

- 4) Appellant desires to:

The Appellant desires a Use Variance from Sections 137-187(a) and 137-216 to allow for the primary use of the property to be a parking lot for a regularly scheduled mobile medical clinic in an R-2/R-3 District.

- 5) The Zoning Ordinance of the City of Mishawaka requires:

Medical clinic is not an allowed use in an R-2 District [Section 137-187(a)]. Parking is not allowed as a primary use in an R-2 District [Section 137-187(a)] or in an R-3 District [Section 137-216].

- 6) Explain why strict adherence to the Ordinance requirements would create an unusual hardship.

The mobile medical clinic does not require a building; however, the best location for the mobile medical clinic is within a residential neighborhood. As a parking lot is not a permitted primary use in a residential zoning district, this Use Variance is required to allow the mobile medical clinic to operate within a residential neighborhood.

- 7) Answer the following necessary questions for a **USE VARIANCE**:

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

No, the use of the property as a parking lot will be limited in nature and the mobile medical clinic will provide a need service to the neighborhood.

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

No, the use of the property as a parking lot will be limited in nature and the condition of the property will not be substantially changed from its current condition.

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

Yes, a parking lot for a mobile medical clinic is not an allowed permitted use within a residential zoning district.

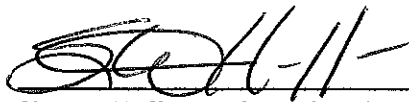
- d) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes, the mobile medical clinic would otherwise be required to be located in a parking lot for either a business use or multi-family residential use, which might be a hardship for that primary use.

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

No, the development of the parking lot and use of the property for a mobile medical clinic is limited in nature and does not impact the overall nature of the neighborhood.

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



Steven Huffman, Secretary/Treasurer
The Vineyard Church, Inc.

CONTACT PERSON:

Jeffrey Schaffer / Mike Huber
Abonmarche
315 West Jefferson Boulevard
South Bend, Indiana 46601
(574) 232-8700
jschaffer@abonmarche.com

E ELEVENTH ST

MICHIGAN AVE

LAUREL ST

E TWELFTH ST

AP 21-29

KENSARD CT

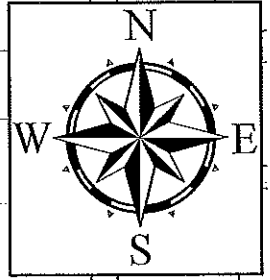
Location Map

APPEAL 21-29

THE VINEYARD CHURCH

635 E TWELFTH ST

USE VARIANCE
TO ALLOW PARKING LOT
FOR MOBILE MEDICAL CLINIC



Deborah S. Block, IAMC, MMC

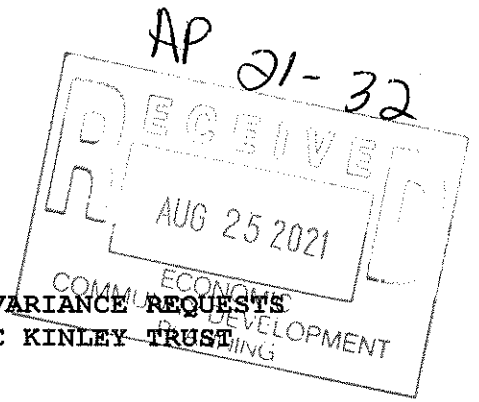
SEP 01 2021

City Clerk
Mishawaka, IN

DATE: AUGUST 20, 2021

MISHAWAKA BOARD
OF ZONING APPEALS

RE: LAND USE VARIANCE REQUESTS
FOR: GLC-MAP MC KINLEY TRUST



PETITION ADDRESS: 422 WEST MC KINLEY AVENUE,
MISHAWAKA, INDIANA 46545

The undersigned Appellants respectfully show the Board:

- 1). That they are the owners of the below-described real estate located in the City of Mishawaka, Indiana, to-wit:

PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF MC KINLEY AVENUE WHICH IS NORTH 89°35'02" EAST, A DISTANCE OF 20.93 FEET MORE OR LESS AND NORTH 00°14'42" WEST, A DISTANCE OF 40.00 FEET MORE OR LESS AND NORTH 89°35'02" EAST, A DISTANCE OF 749.94 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 91.44 FEET MORE OR LESS; THENCE NORTH 06°08'18" EAST, A DISTANCE OF 34.49 FEET MORE OR LESS; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 124.11 FEET MORE OR LESS; THENCE NORTH 89°35'02" EAST, A DISTANCE OF 282.44 FEET MORE OR LESS; THENCE SOUTH 00°32'48" EAST, A DISTANCE OF 249.00 FEET MORE OR LESS TO THE NORTH LINE OF SAID MC KINLEY AVENUE; THENCE SOUTH 89°35'02" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 286.45 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 1.62 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as 422 West mc Kinley Avenue, Mishawaka, Indiana 46545.

- 2). The above described, real estate presently has a Zoning classification of "C-2" Shopping Center Commercial, "C-4" Auto-Oriented Commercial and C-7" Auto-Oriented Restaurant Commercial Districts under the Zoning Ordinance of the City of Mishawaka.
- 3). The Appellants have owned the property as shown in the records of the St. Joseph County Auditor's Office. Their property presently contains one large Building that was previously used for a Tire Store and Vehicle maintenance facility.

The Appellants have been approached by a party that desires to redevelop the property into a new multi-tenant building comprised of a

proposed restaurant facility with a drive-thru, a retail store and a small sit-down restaurant on the approximate 1.62-acre parcel. The property is present split by three commercial zoning classifications.

The owner's representative met with the Planning staff to determine the best procedure to follow to allow for the proposed development. The staff suggested that the best procedures to continue to have a consistent land use pattern along this portion of the Mc Kinley Avenue commercial corridor, would be to rezone the property to "C-1" Commercial District and request a Land Use Variance to allow for the proposed restaurant facility with a drive-thru and having three tenants in a single building zoned "C-1" Commercial. This process would help insure the desirable commercial uses in the Mc Kinley Avenue corridor.

4). More specifically, the Appellants are requesting the following Variances:

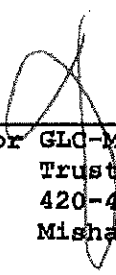
- a). A Land Use Variance to allow for a restaurant facility with a drive-thru in a "C-1" Commercial District;
- b). A Land Use Variance to allow a maximum of three (3) tenants in a single-building in a "C-1" Commercial District as shown;

The appellants would ask to be allowed to have a small restaurant facility with a drive-thru and a maximum of three (3) tenants in the shown proposed commercial building in the requested "C-1" Commercial District. The appellants agree with the Planning staff that cleaning up the zoning splits on the property and asking for approval of the Land Use Variances would be the best solution for the property and allow for the protection for the mc Kinley Avenue corridor. This solution would keep more intense and undesirable uses from being introduced into the area. Appellants would contend that approval of the requested Land Use Variances:

For the above stated reasons, the Appellants would contend that approval of the Land Use Variances would not be injurious to the public health, safety, morals and general welfare of the Community. The use and value of the area adjacent to the property included in the above request will not be affected in a substantially adverse manner. The need for the above requested Land Use Variances arises from a condition peculiar to the Appellant's property and that the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the Appellant's property. The Appellants and contingent purchasers would also state that approval of the requested Land Use Variances would not interfere substantially with the Comprehensive Plan for this entire area.

The Appellants and contingent purchasers therefore prays and respectfully requests a hearing on this appeal and that after such hearing the Board recommends approval of the Land Use Variances to the Mishawaka Common Council.

For the above reasons, the appellants would ask for approval of their Land Use Variance requests.



1-513-792-5000

For GLC-MAP McKinley Trust
Trustee - John Silverman
420-424 McKinley Avenue
Mishawaka, Indiana 46545

PETITION PREPARED BY & CONTACT PERSON:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628, (574) 234-4003

Mishawaka Board of Zoning Appeals &
Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

August 20, 2021

RE: GLC-MAP McKinley Trust
Land Use Variance Requests:

Dear Board and Council Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Board of Zoning Appeals meeting(s) and at the Mishawaka Common Council meeting(s) at which our Land Use Variance Requests will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 513-792-5000.

Sincerely,



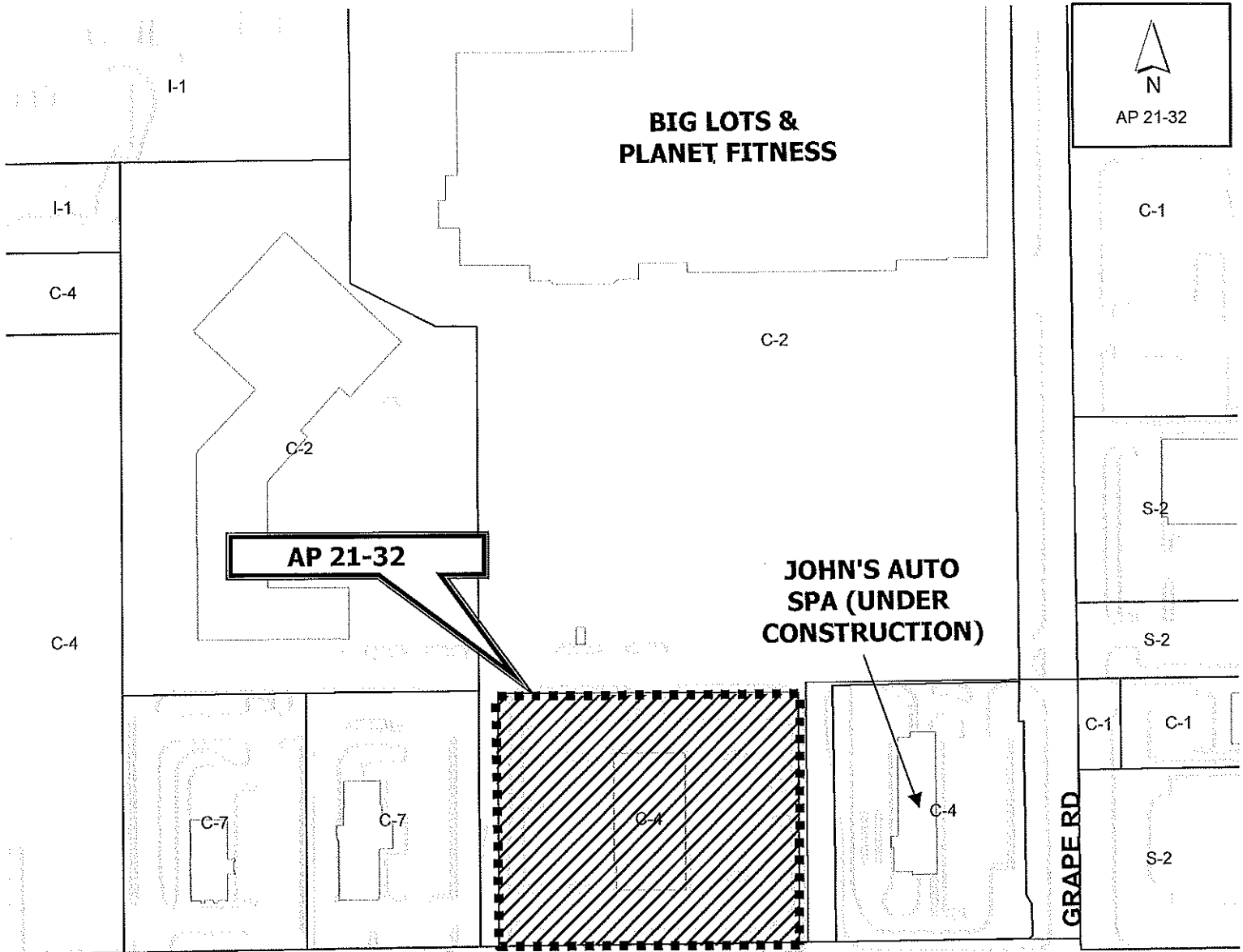
For GLC-MAP McKinley Trust
Trustee - John Silverman
420-424 McKinley Avenue
Mishawaka, Indiana 46545

File No. 210211 "C" Md.

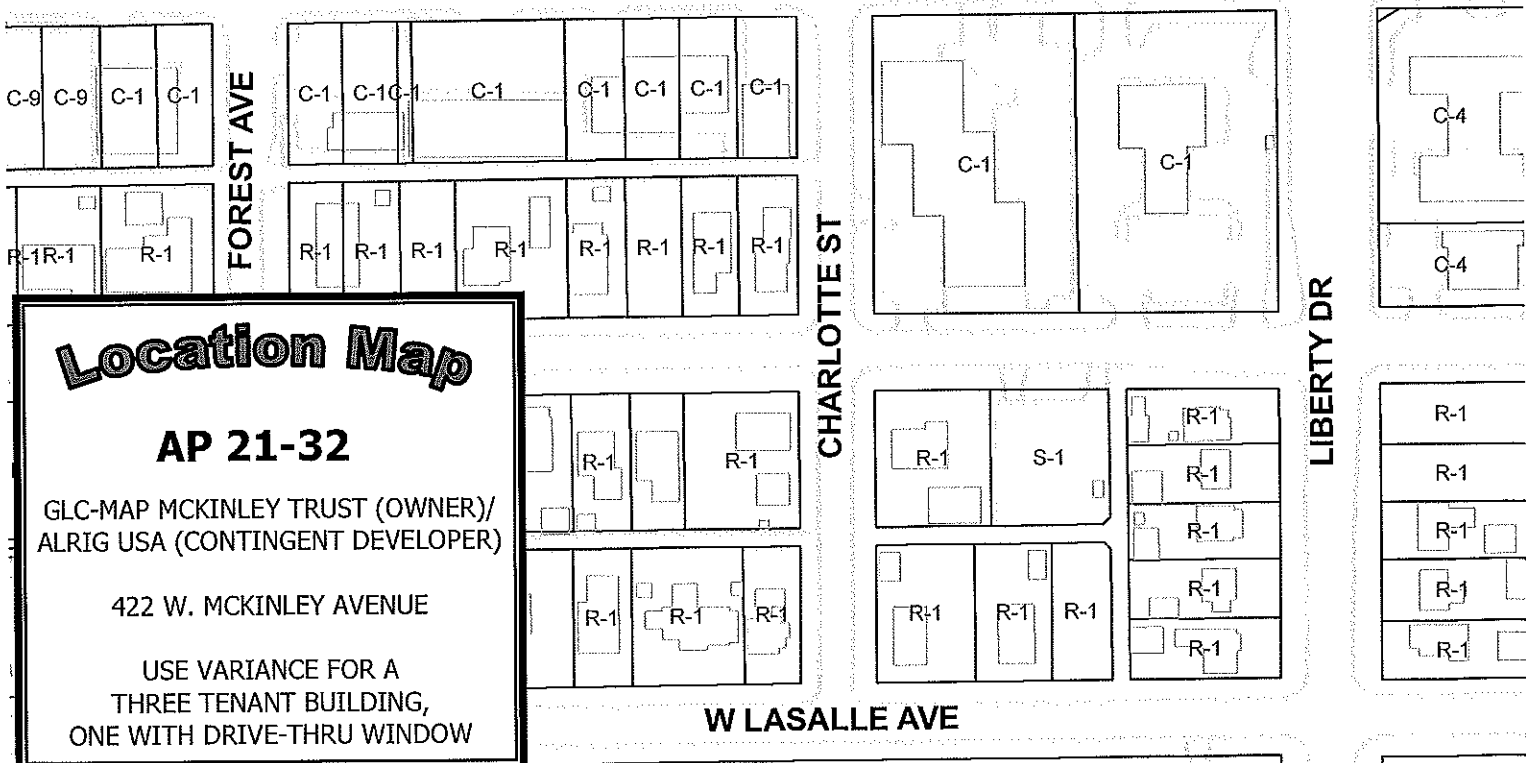
LEGAL DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF MC KINLEY AVENUE WHICH IS NORTH 89°35'02" EAST, A DISTANCE OF 20.93 FEET MORE OR LESS AND NORTH 00°14'42" WEST, A DISTANCE OF 40.00 FEET MORE OR LESS AND NORTH 89°35'02" EAST, A DISTANCE OF 749.94 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 91.44 FEET MORE OR LESS; THENCE NORTH 06°08'18" EAST, A DISTANCE OF 34.49 FEET MORE OR LESS; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 124.11 FEET MORE OR LESS; THENCE NORTH 89°35'02" EAST, A DISTANCE OF 282.44 FEET MORE OR LESS; THENCE SOUTH 00°32'48" EAST, A DISTANCE OF 249.00 FEET MORE OR LESS TO THE NORTH LINE OF SAID MC KINLEY AVENUE; THENCE SOUTH 89°35'02" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 286.45 FEET MORE OR LESS TO THE POINT OF BEGINNING.
CONTAINING 1.62 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as 422 West Mc Kinley Avenue, Mishawaka, Indiana 46545.



W MCKINLEY AVE



8-18-21

Deborah S. Block, IAMC, MMC

SEP 01 2021

City Clerk
Mishawaka, IN



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

RE: Petition For PUD Amendment

The undersigned MFD II, LLC (Miller Family Development, LLC) of record 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:

See Attached – Property addresses include 712, 717, 722, 803, 806, 817 and 818 Green Pine Court, and 715, 720, 801, 804, 815, and 816 Spruce Court, Mishawaka, IN 46545

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for Senior Only Apt. Complex.

Petitioner desires said real estate to be amended to allow for Market Rate Apt. Complex.

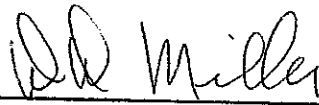
My name is Dennis Miller I am the operating member of Miller Family Development II, LLC. Our office is located at 806 Green Pine Ct. Mishawaka, In. We built, own and operate the S-2 PUD Senior Only, Whispering Pines Apt. Located east of Hickory Rd. at the end of the Corby St. cul-de-sac.

We have been operating as a market rents “Senior Only” property for tenants 55 years and older since 2002. The Fair Housing Act does allow for up to 20% of the occupants to be under age 55.

We are retiring and are under contract to sell. Buyer’s lender is requiring the “Senior Only” restriction be changed to Market Rate property.

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

Thank you for your consideration.



Dennis D. Miller

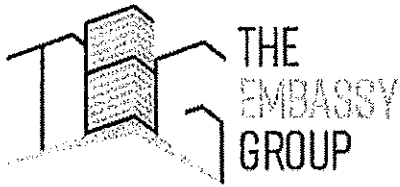
Gen. opr. Mgr.

806 Green Pine Ct.

Mish., IN. 46545

Ddm build@ATT.NET

574-876-9945



August 12, 2021

The Embassy Group is currently under contract to purchase Whispering Pines Apartments in Mishawaka, IN. from Miller Family Development II LLC. The Embassy Group is a national investment group that prides itself on providing high-end housing for the community and its residents. We have been a landlord throughout many of the local Indiana markets for many years and are continuously looking to expand our footprint in this market. While working to purchase Whispering Pines we became aware that there was a Senior Only restriction tied to the property that even the current owner was unaware of. Due to the type of lending that we use to purchase properties, our lender is requiring the Senior Only status to be removed. We are requesting that this status be removed and changed to "Market Rate" so we can continue the purchase of this property. Our plan is to continue to run the community with professionalism and something that we are proud to own and operate. We thank you for your consideration and are hopeful that this will be approved so that we can add to our presence in Indiana.

TEG Acquisitions LLC

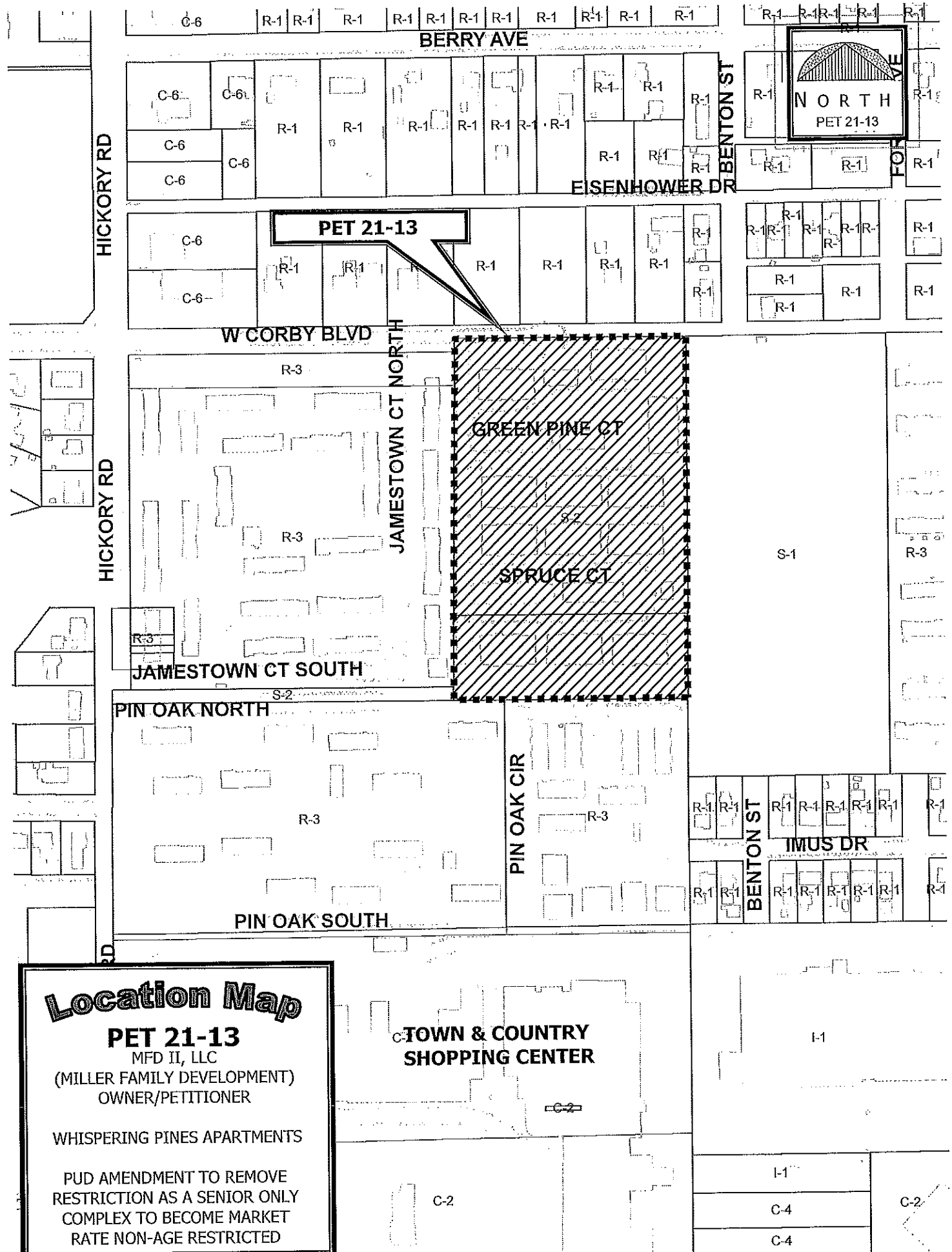
By: 
Name: Yshia David Willner
Title: Managing Member

LEGAL:

A tract of land in the West One half (W1/2) of the Southwest One Quarter (SW1/4) of Section Four (4), Township Thirty Seven (37) North, Range Three (3) East, in St. Joseph County, State of Indiana, described as follows - Beginning at a stone set for the Northwest Corner of the Southwest One Quarter of Section 4, T37N, R3E, thence East Thirteen Hundred Eighteen (1318) feet along the North Line of said quarter section, thence South Eight Hundred One and four tenths (801.4) feet; thence West Thirteen Hundred Eighteen (1318) feet to the West line of said section; thence North Thirty (30) feet; thence East Seven Hundred Seventy Seven and two tenths (777.2) feet; thence North Seven Hundred Forty Two and Three Tenth (742.3) feet; thence West Seven Hundred Seventy Seven and Two Tenths (777.2) feet; thence North Thirty (30) feet to the place of beginning.

N/A
ADDER
FLAT
N/A
BASE
ECONOM
WALL

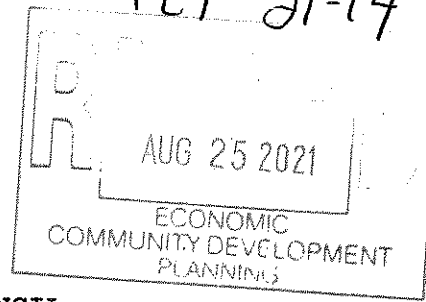
Commonly known as 2730 Hickory Road, Mishawaka, Indiana 46545.



Deborah S. Block, IAMC, MMC

SEP 01 2021

City Clerk
Mishawaka, IN



DATE: August 20, 2021

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

RE: PETITION FOR REZONING FOR: GLC-MAP MC KINLEY TRUST
PETITION ADDRESS: 422 WEST MC KINLEY AVENUE,
MISHAWAKA, INDIANA 46545

THE UNDERSIGNED, GLC-MAP MC KINLEY TRUST, RESPECTFULLY SHOW THAT THEY ARE THE OWNERS OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA:

PARCEL: REZONING LEGAL DESCRIPTION:

PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF MC KINLEY AVENUE WHICH IS NORTH 89°35'02" EAST, A DISTANCE OF 20.93 FEET MORE OR LESS AND NORTH 00°14'42" WEST, A DISTANCE OF 40.00 FEET MORE OR LESS AND NORTH 89°35'02" EAST, A DISTANCE OF 749.94 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 91.44 FEET MORE OR LESS; THENCE NORTH 06°08'18" EAST, A DISTANCE OF 34.49 FEET MORE OR LESS; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 124.11 FEET MORE OR LESS; THENCE NORTH 89°35'02" EAST, A DISTANCE OF 282.44 FEET MORE OR LESS; THENCE SOUTH 00°32'48" EAST, A DISTANCE OF 249.00 FEET MORE OR LESS TO THE NORTH LINE OF SAID MC KINLEY AVENUE; THENCE SOUTH 89°35'02" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 286.45 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 1.62 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD.

PROPERTY ADDRESS: 422 WEST MC KINLEY AVENUE, MISHAWAKA, INDIANA 46545.

THE ABOVE-DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED: "C-2" SHOPPING CENTER COMMERCIAL, "C-4" AUTO-ORIENTED COMMERCIAL AND C-7" AUTO-ORIENTED RESTAURANT COMMERCIAL DISTRICTS UNDER THE ZONING ORDINANCE OF THE CITY OF MISHAWAKA. PETITIONERS DESIRE TO REZONE THE ABOVE-DESCRIBED DESCRIBED ABOVE TO THE "C-1" COMMERCIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE REZONING IS TO ALLOW FOR A REDVELOPMENT OF THE PROPERTY TO BUILD A NEW STRUCTURE THAT WILL CONTAIN THREE TENANTS, INCLUDING A RESTAURANT WITH A DRIVE-THRU FACILITY, A RETAIL STORE AND A SIT-DOWN RESTAURANT IN A SINGLE BUILDING.

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 REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA.



FOR: GLC-MAP MC KINLEY TRUST
TRUSTEE JOHN SILVERMAN
420-424 MC KINLEY AVENUE
MISHAWAKA, INDIANA 46545

PH. NO. 1-513-792-5000

CONTACT PERSON:

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

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

August 20, 2021

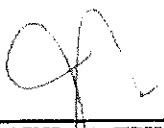
RE: Rezoning request for
GLC-MAP MC KINLEY TRUST:

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 Rezoning request will be heard for our property located at 422 West Mc Kinley Avenue, Mishawaka, Indiana.

If you have any questions concerning this matter, please feel free to give me a call at 513-792-5000.

Sincerely,



For GLC-MAP MC KINLEY TRUST
Trustee John Silverman
420-424 Mc Kinley Avenue
Mishawaka, Indiana 46545

File No. 210211 "C" Md.

REZONING LEGAL DESCRIPTION:

PART OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA: BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF MC KINLEY AVENUE WHICH IS NORTH 89°35'02" EAST, A DISTANCE OF 20.93 FEET MORE OR LESS AND NORTH 00°14'42" WEST, A DISTANCE OF 40.00 FEET MORE OR LESS AND NORTH 89°35'02" EAST, A DISTANCE OF 749.94 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 91.44 FEET MORE OR LESS; THENCE NORTH 06°08'18" EAST, A DISTANCE OF 34.49 FEET MORE OR LESS; THENCE NORTH 00°32'48" WEST, A DISTANCE OF 124.11 FEET MORE OR LESS; THENCE NORTH 89°35'02" EAST, A DISTANCE OF 282.44 FEET MORE OR LESS; THENCE SOUTH 00°32'48" EAST, A DISTANCE OF 249.00 FEET MORE OR LESS TO THE NORTH LINE OF SAID MC KINLEY AVENUE; THENCE SOUTH 89°35'02" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 286.45 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 1.62 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAY, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as 422 West mc Kinley Avenue, Mishawaka, Indiana 46545.

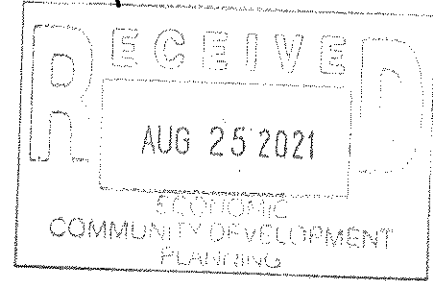
DATE: August 24, 2021

Deborah S. Block, IAMC, MMC

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

SEP 01 2021

City Clerk
Mishawaka, IN



RE: PETITION TO REZONE

The undersigned, Stephen J. Miller and Joellen Miller, 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:

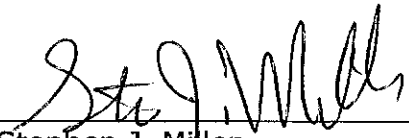
Lot 76 and Lot 77 as shown on the recorded plat Broadway Heights Addition in the office of the recorder of St. Joseph County, Indiana in Plat Book 11, Page 147.

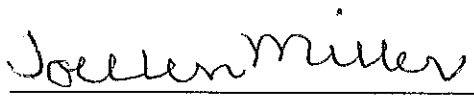
Commonly known as: 821 West Jefferson Boulevard

Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 Commercial and R-1 Single Family District. Said property is a parking lot and guitar lesson studio.

Petitioner's desires said real estate to be rezoned to C-6 Commercial District. Petitioner's further state that they intend to utilize said land for small office use while having minimal impact on surrounding residential areas.

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.


Stephen J. Miller


Joellen Miller

CONTACT PERSON:

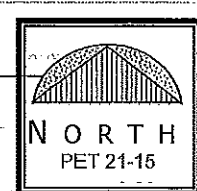
LANG FEENEY & ASSOCIATES, INC.
TERRY LANG
715 S. MICHIGAN STREET
SOUTH BEND, INDIANA 46601
574-233-1841
TERRY@LANGFEENEY.COM

R-1 R-1 R-1 R-1 R-1

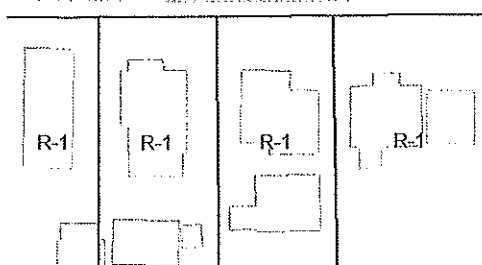
R-1 R-1 R-1 R-1 R-1 R-1

R-3

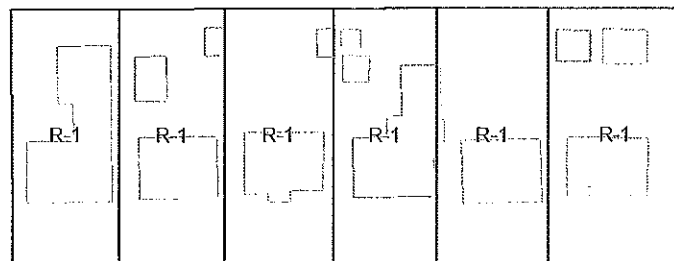
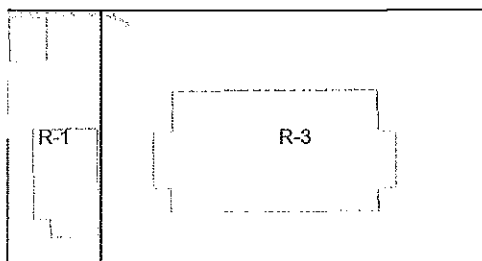
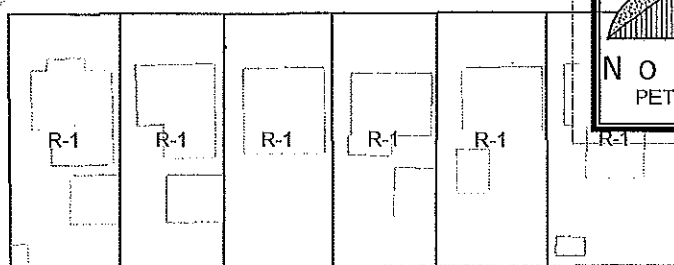
W BORLEY AVE



R-3



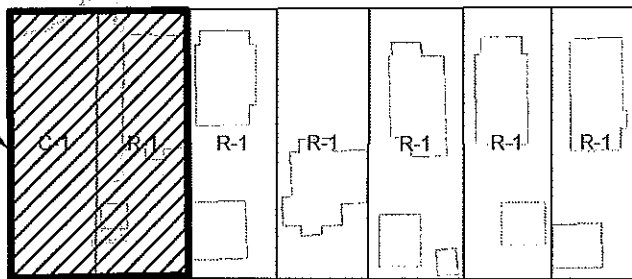
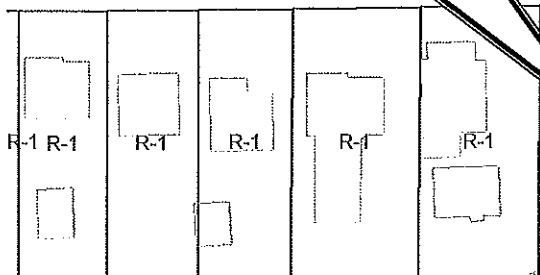
WEBSTER ST



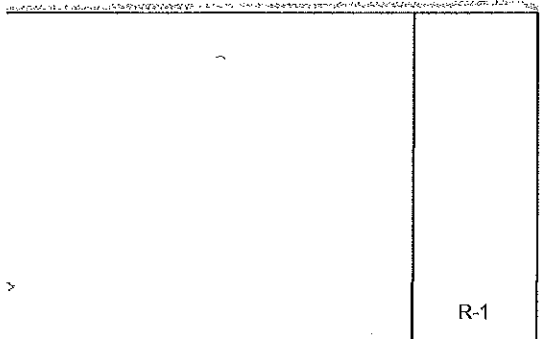
C-1

W JEFFERSON BLVD

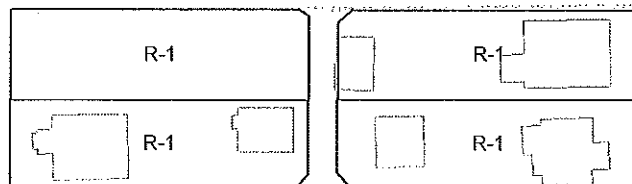
PET 21-15



C-1



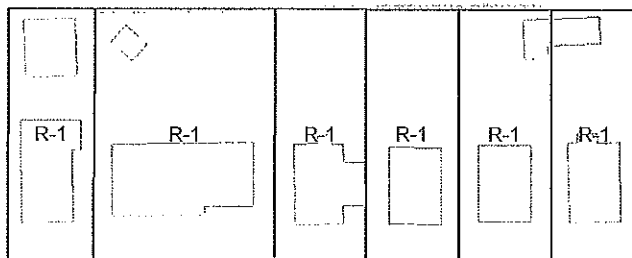
R-1



CLAY ST

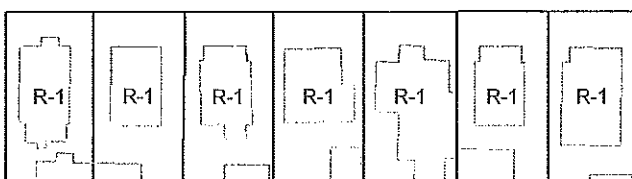
R-1

R-1



R-1

FAIRMOUNT AVE



R-1

Location Map

PET 21-15

STEPHEN J. & JOELLEN MILLER
(OWNERS)

821 W. JEFFERSON BLVD.

REZONING FROM C-1 GENERAL
COMMERCIAL & R-1 SINGLE-FAMILY
RESIDENTIAL TO C-6 LINEAR
OFFICE COMMERCIAL

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.

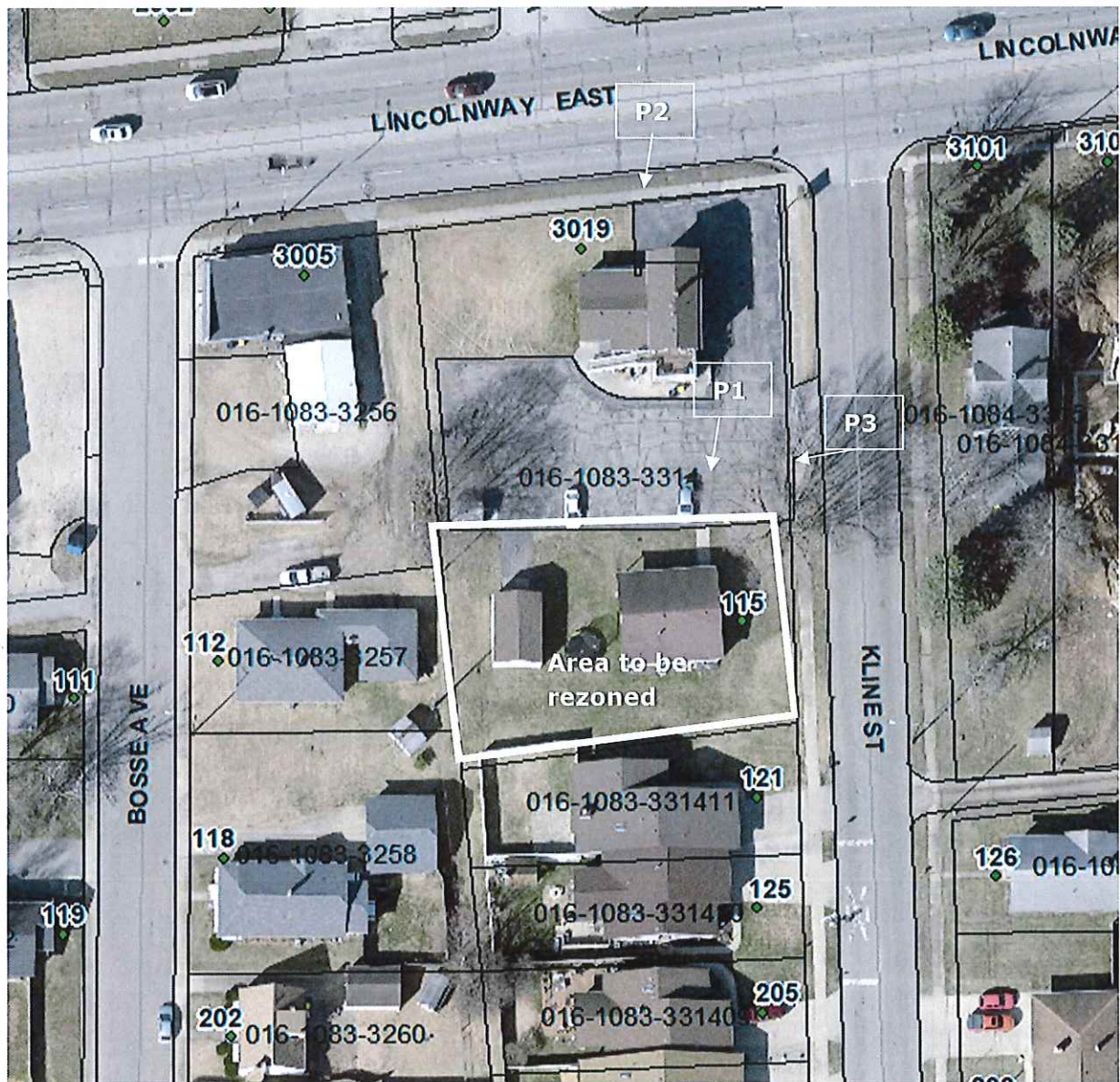
RECOMMENDATION

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.

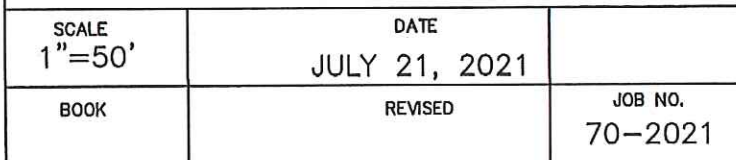
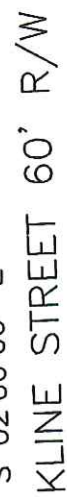

John Connon

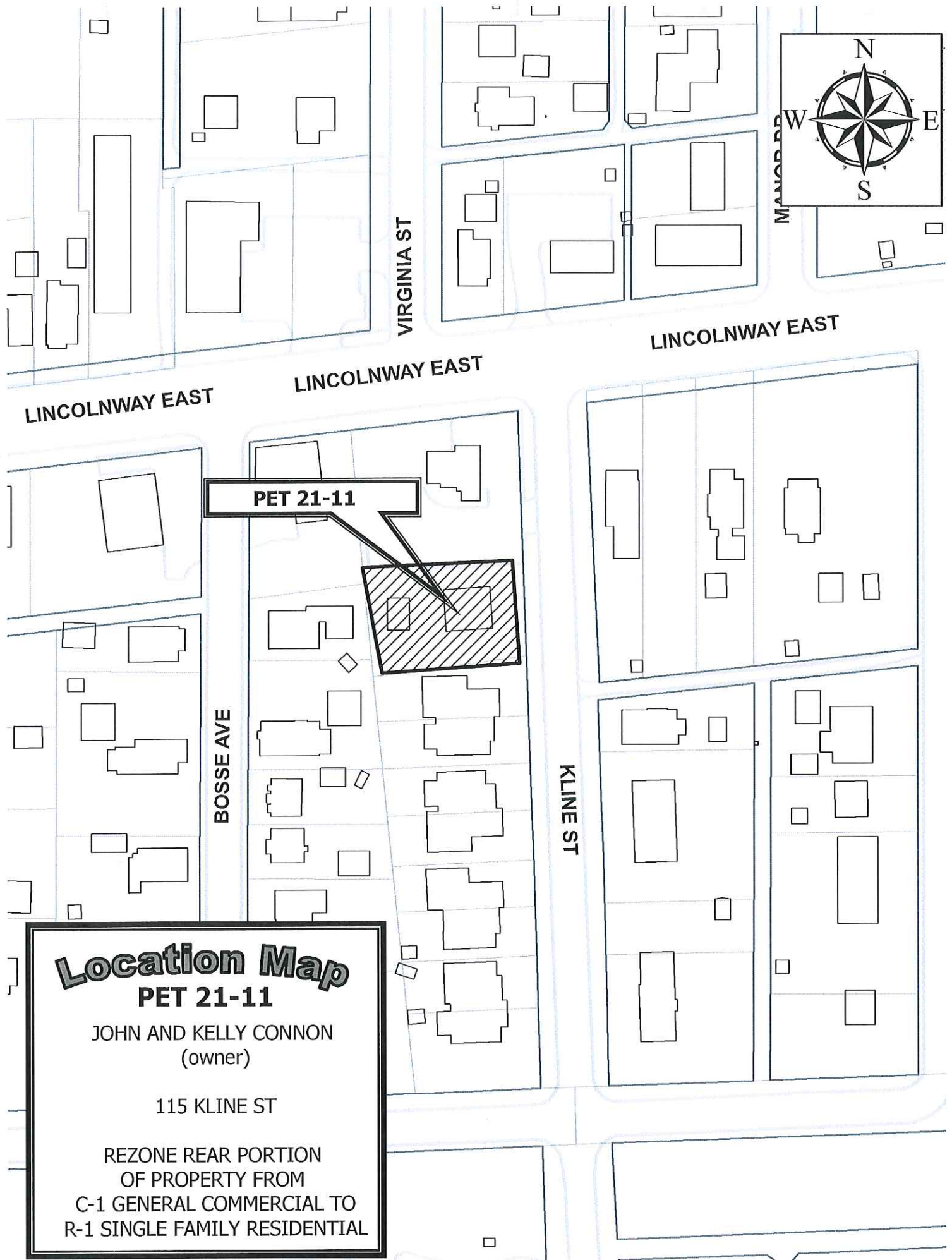

Kelly Connon

CONTACT PERSON

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

LINCOLN WAY EAST





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

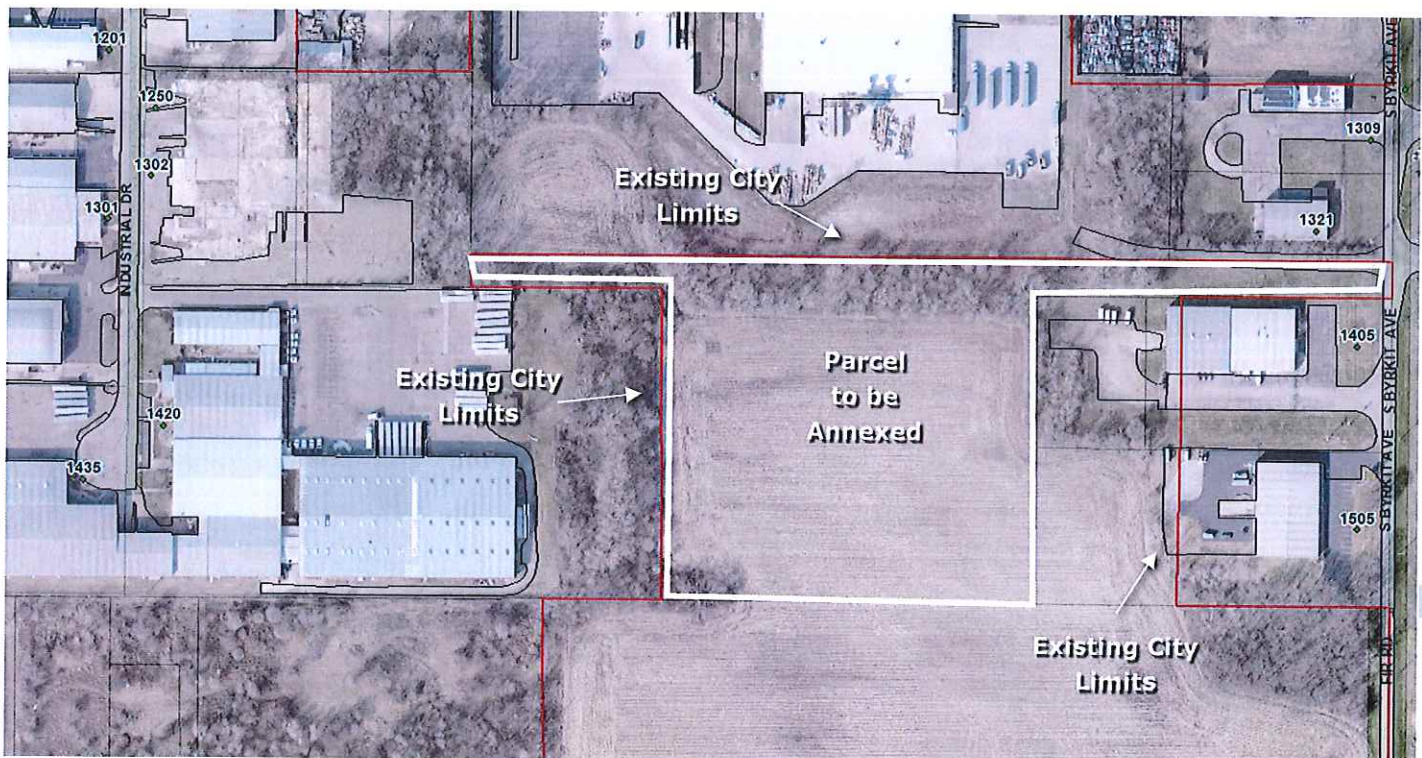
Staff recommends approval of Petition 21-12 to annex and establish zoning to the I-1 Light Industrial District for property east of and adjacent to 1420 Industrial Drive.

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

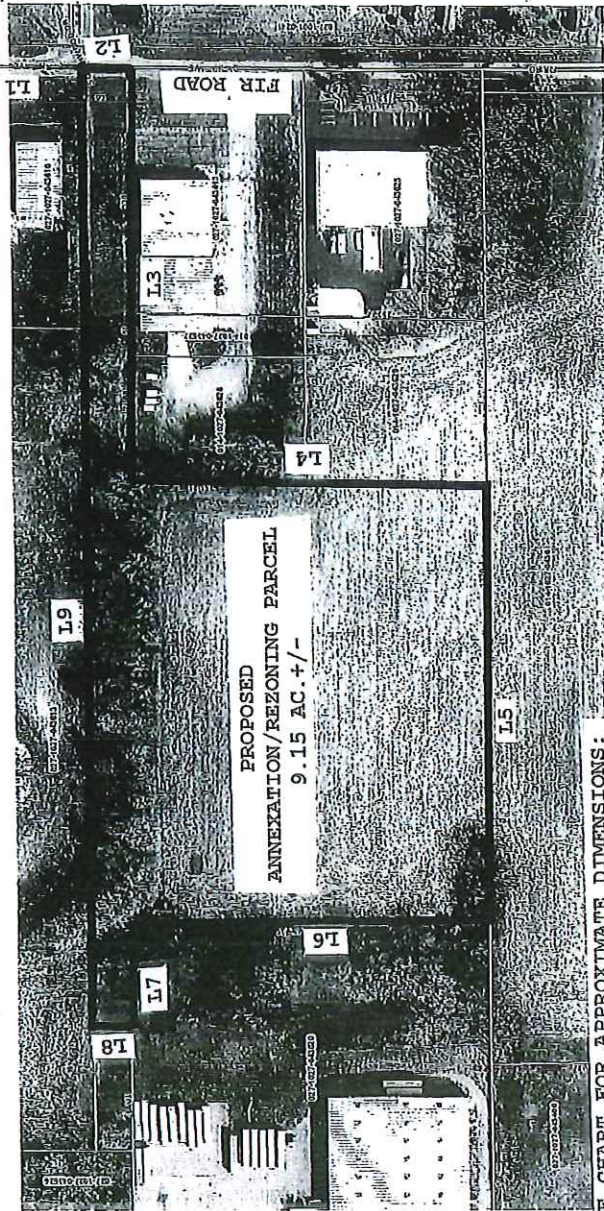
RECEIVED

JUL 21 2021

ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

ANNEXATION DIAGRAM

STREET
C/L 12TH



N
-DHA-
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



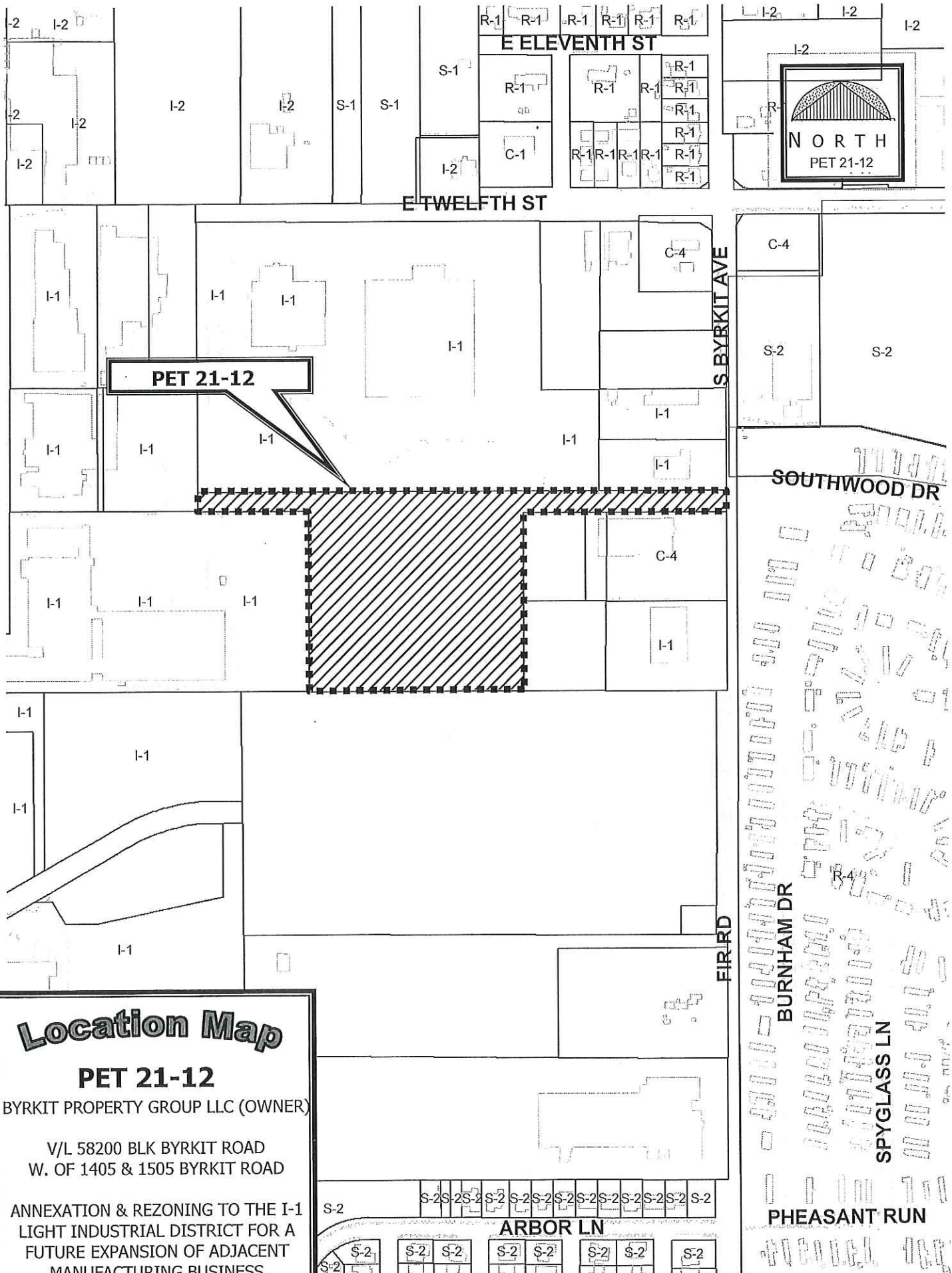
Danch, Harner & Associates, Inc.

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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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