

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

November 1, 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, November 1, 2021 at 7:00PM. The meeting was called to order by Council 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 (E), Mr. Emmons (A), 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 October 25, 2021 were approved as received from the Clerk's Office.

Clerk Block read an appeal by title.

Appeal No. 2021-40 Use Variance to allow Indoor Gun Range as a part of a retail Firearm Sale Business – 6424 Grape Rd.

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

PROPOSED ORDINANCE NO. 2021-38

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.

Rezoning Future Outlot from C-2 Shopping Center to C-7 Automobile Oriented Restaurant Commercial- vacant land north of 210 W. McKinley Ave.

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried. Clerk Block then took a roll call vote on the committee report.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Bellovich, Mr. Compton Mrs. Voelker, Mr. Hixenbaugh. The committee report passed 8-0.

Mike Huber, Abonmarche Consultants, spoke in favor of **PROPOSED ORDINANCE NO. 2021-38**. Mr. Huber represented the petitioner who was also in the audience and he appreciated the council's consideration of their request. Mr. Huber stated they were petitioning to have a proposed new out lot created just north of the new John's Auto Spa. Mr. Huber stated it would be adjacent to Grape Road and looking at the land uses around there, in addition to the C-7 drive thru, they had Burger King in there along with the automotive use with John's Auto Spa. Mr. Huber felt like it would fit the character of the McKinley and Grape Road corridors to have the land use permitted from a C-2 to a C-7. Mr. Huber stated they submitted a site plan to Engineering with the Plan Commission and received feedback on it with concerns about the turn in from the right in on Grape Road. Mr. Huber stated they were not at the final site plan development stage at that point, but they did recognize the concerns and understood them. Mr. Huber stated he had conversations with Mr. Banicki about the concerns as well and they were well aware of anticipated traffic with John's Auto Spa in the same vicinity. Mr. Huber stated they were exploring different opportunities to shift the entrance from the east to the west or opportunities that may not utilize the ingress egress at all. Mr. Huber stated they were looking at a couple different options, working with a client and working diligently with the City Engineering department to come up with a plan that would work for their approval and the Plan Commission's approval. Mr. Huber stated they received Plan Commission recommendation favorable unanimously when they brought the rezoning before them. Mr. Huber stated their clients were successful owners of one of the franchises they were already proposing in Mishawaka's market area as well. Mr. Huber stated they were excited about the opportunity to expand, bring another franchise to Mishawaka, bring new life to Mishawaka and revitalize the McKinley commons shopping plaza.

Mr. Banicki thanked Mr. Huber for the conversations they had about the traffic concerns and he believed it would be very tight, especially with the Starbucks being in the same parking lot. Mr. Banicki stated he was afraid something would spill over with the amount of traffic on Grape Road, especially during the holiday season. Mr. Banicki stated he thought Mr. Huber had a good grasp on how things were going and he understood his concerns on both of the entrances off Grape Road and McKinley and he stated once again he was worried. Mr. Huber stated with the current site plan they provided the Plan Commission and after speaking with their clients, they anticipated they had about an average service time between 1.25 to 1.5 minutes from the time you would order to the time you would get your beverage. Mr. Huber stated knowing that, they could process through between 43 and 48 cars in a peak hour. Mr. Huber stated their peak volume times at their current store were in the 40 to 50-car radius in those peak hours. Mr. Huber stated they were able to accommodate the amount of volume they were having in their peak hours with stacking of two or three cars and the current plan they had had stacking of 6 cars prior to the drive thru window and 3 cars after the drive thru window. Mr. Huber stated they should have more than enough capacity, but they were still very sensitive to the concerns of the city and understood the use would live beyond the current climate and could have different opportunities in the future.

Josh and Lauren Jester, 7410 Gilmore Road, made themselves available to answer any questions about the operation of the business and as Mr. Huber said, in their territory their drive thru times were number one out of Smoothie King's corporate territory area. Mr. Jester stated their sales

were sixth in the world and they were very proud of that and excited to bring another store into Mishawaka.

Mr. Banicki asked what their hours of operation were. Ms. Jester stated 7AM to 9PM during the week and 8AM to 9PM on Saturdays and 10AM to 8PM on Sundays. Mr. Banicki asked if they had problems ever retaining help. Ms. Jester stated they did not, fortunately.

Mr. Hixenbaugh congratulated them on their business venture and stated he would certainly visit the new location.

Mr. Hixenbaugh stated for the record, the indication was Smoothie King was the franchise that would be located in Mishawaka and there was reference to Starbucks as well. Mr. Hixenbaugh stated Starbucks was the establishment before them not too long ago. Mr. Hixenbaugh stated for the record once again that Smoothie King was the Jester's business franchise.

Mr. Banicki wished the Jester's good luck and hoped everything would work out well.

Mrs. Voelker stated she had been to their Smoothie King and she stated it was quick. Mrs. Voelker thanked them again.

Mr. Mammolenti stated he had known the Jester family for many years and had known employees that worked in their establishment and they always had been held in high regards. Mr. Mammolenti stated the city of Mishawaka was lucky to have them come to their great city and wished them nothing but the best. Mr. Mammolenti concluded stating he would be voting in favor of the proposed ordinance.

Question was called for at 7:15PM for **PROPOSED ORDINANCE NO. 2021-38** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Bellovich, Mr. Compton Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed, thus it became **ORDINANCE NO. 5765**

PROPOSED ORDINANCE NO. 2021-39

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

Annexation and Rezoning of 12452 & 12434 Lincoln way East from I-1 to C-1 General Commercial and I-1 Light Industrial PUBLIC HEARING – NO VOTE

Ken Prince, City Planner, spoke in favor of **PROPOSED ORDINANCE NO. 2021-39**. Mr. Prince stated he was before the council to represent the two property owners involved, Foxfire Safety and Bruno's Pizza. Mr. Prince stated over 20 years ago in his first tenure with the city, Foxfire had proposed an annexation and at that time, they started the process and decided not to proceed. Mr. Prince stated they assigned a city address as part of the annexation process and since that time, they proceeded with the improvement in the county and they had the multiple

address that had been proving to be a headache for dispatch since that time. Mr. Prince stated they then came back with a request to resolve it and they suggested going forward with the annexation. Mr. Prince stated if they went forward with the annexation, they would help them in terms of putting the petition together and getting it into the city. Mr. Prince stated because of their jagged tooth of a border, they also asked Bruno's if they would be willing to come in at that time so they would not have an island surrounded there. Mr. Prince stated they agreed to come into the city and at that moment, there were no improvements planned for the business and it was simply switching from the unincorporated area to the city with the reflected zoning classifications. Mr. Prince stated the area in question was a little under two acres and was happy to answer any questions.

Mr. Compton asked if either of the locations were hooked up to City Utilities. Mr. Prince stated he believed they both were. Mr. Compton also asked an unrelated question about the toll road access and saw Panzica had a sign next to the medical hospital. Mr. Compton then asked what was going there. Mr. Prince stated it was a surgery center and the Planning Commission already approved the plans last month. Mr. Compton stated he was just curious about it and thanked Mr. Prince.

The public hearing for **PROPOSED ORDINANCE NO. 2021-39** closed at 7:19PM and the matter would appear on the agenda, with action taken on it at a subsequent council meeting consistent with the requirements of Indiana law.

PRIVILEGE OF THE FLOOR

Mrs. DeMaegd spoke on two issues. Mrs. DeMaegd stated the first issue was that last Wednesday October 27th, federal agents coordinated several raids throughout the northern Indiana region as part of an investigation into the members of the Sin City Disciples motorcycle club. Mrs. DeMaegd stated one of the warrants was served in South Bend near the Edison and Mayflower roads and there were officers from the St. Joseph County Metro SWAT team, which included officers from St. Joseph County Police and the Mishawaka Police Department. Mrs. DeMaegd stated the massive raid was executed safely and without incidents. Mrs. DeMaegd thanked all of the officers and off schedule agents who took part in their operation and specifically thanked the Mishawaka SWAT members. Mrs. DeMaegd then announced the first meeting of the West End Neighborhood Watch. Mrs. DeMaegd stated the meeting would take place Tuesday November 9th at 7PM at St. Bavos. Mrs. DeMaegd stated there was plenty of parking in the fenced lot south of the church and stated they would be joined by Officer Fultinski. Mrs. DeMaegd stated the meeting would focus on neighborhood crime prevention and what they could all do to keep their neighbors and neighborhoods safe. Mrs. DeMaegd stated the meetings were planned to be held on the second Tuesday of the month and everyone was welcome to attend. Mrs. DeMaegd concluded thanking Father Peter and everyone at St. Bavos for allowing them to use their facility for the meetings.

Mr. Mammolenti announced that all were welcome to attend the neighborhood watch meeting taking place November 17th at 7PM. Mr. Mammolenti stated they would be taking the meeting off-site and do a tour of the St. Joseph County Juvenile Center located at 1000 S Michigan Street

South Bend, Indiana. Mr. Mammolenti stated Judge Cichowicz would provide a detailed tour and description of what he and the facility did on a daily basis, along with speaking in regards to his agreement with School City of Mishawaka.

ADJOURNMENT 7:23PM

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

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