

AGENDA

December 06, 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): 2333 953 8840
Meeting Password: WYvwKUnQ623

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: 23339538840@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of November 15, 2021

5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2021-41	Use Variance to allow Microblading Services in existing salon - 420 W. Cleveland - The Tribe Salon
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Appeal No. 2021-42	Use Variance to allow Outdoor Storage Containers screened by 7' high fencing in C-2 Commercial District - 2572 Miracle Lane - Dunhams Sports
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Petition No. 2021-18	PUD Amendment to allow continued Single Family Residential Use with new 3,072 SF/20' high Accessory Building - 230 Ireland Rd.
Petition No. 2021-19	PUD Amendment to allow for Storage Facility - 512 W. Cleveland Rd.
Petition No. 2021-20	PUD Amendment to add Two Single Family Homes - The Village at Harrison Creek
Petition No. 2021-21	Rezone from R-1 SF Residential to R-3 Residential for Eight Residential Homes and Accessory Building - NE corner of E Jefferson Blvd & Maplehurst Ave. - (Troop Town)

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2021-41	Additional Funds:	
	Local Road and Street	\$250,000.00
	MVH Restricted	\$750,000.00
		<u>\$1,000,000.00</u>
P.O. No. 2021-42	Transfer from the General Fund, Public Safety LIT Fund, and the Cumulative Capital Development Fund in the amount of \$276,000.00	
P.O. No. 2021-43	2021 Salary Ordinance Amendment and Additional Appropriation from the ARP Fund in the amount of \$650,000.00	
P.O. No. 2021-44	Amending Ord 5712 the 2021 Salary Ordinance	

8. Resolutions

R2021-29	Adding property to the City's Acquisition List
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9. Ordinances on Second Reading

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

November 15, 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 15, 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 (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (E), 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 November 1, 2021 were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals regarding their recommendations from their November 9, 2021 meeting.

Appeal No. 2021-29 An appeal submitted by The Vineyard Church, Inc., requesting a Use Variance for 635 East Twelfth Street Indiana, to allow a parking lot for a mobile medical clinic.

The Board, with a vote of 5-0, recommended approval subject to the following condition:

1. The Use Variance be limited to a one-year period.

Appeal No. 2021-40 An appeal submitted by Cinemark USA, Inc., requesting a Use Variance for 6424 Grape Road to allow an indoor shooting range as part of retail firearm sales business in C-2 Shopping Center Commercial District.

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

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

RESOLUTION R2021-26

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT:

12452 and 12434 Lincolnway East, Osceola, IN 46561 including the adjacent S.R. 23 public right-of-way.

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-26**. Mr. Prince stated the parcel they were considering was the Bruno's Pizza and Foxfire Safety properties located directly east of the intersection of Bittersweet and Lincolnway and the property was 90% contiguous to the city. Mr. Prince stated as required by law, they had to prepare a fiscal plan for annexation and that was before the council that evening. Mr. Prince stated the fiscal plan required identification of any capital expenditures or operational expenditures required as result of the annexation and there were no capital expenditures. Mr. Prince stated all applicable departments had reviewed and identified they could serve the two acres within their existing budget. Mr. Prince concluded stating he was happy to answer any questions.

Question was called for at 7:05PM for **RESOLUTION R2021-26** **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 resolution passed 9-0.

RESOLUTION NO. 2021-27

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:

635 East Twelfth Street, Mishawaka, Indiana

Use Variance to allow parking lot for Mobile Medical Clinic – 635 E. 12th Street

Jeffery Schaffer, Abonmarche Consultants Inc., spoke in favor of **RESOLUTION NO. 2021-27**. Mr. Schaffer stated he was representing Vineyard Church and appreciated the council's time that evening. Mr. Schaffer stated briefly that they also appreciated Ken Prince, his staff and the Board of Public Works who worked with them on the situation. Mr. Schaffer stated they were granted a temporary event application, which allowed them to begin the process and see how it worked when going through the use variance process. Mr. Schaffer stated they were asking for a use variance for a 1-year period to allow the parking of a mobile medical unit on the property zoned on Vineyard Church. Mr. Schaffer stated the mobile medical unit served somewhere between 3 to 5 patients to day and it was not a traffic use. Mr. Schaffer stated the unit served one patient at a time and would be parked every Friday for a one-year period. Mr. Schaffer added Vineyard had plans for the property and they had a presence in the neighborhood for a number of years and would like to develop a physical presence in the neighborhood along with that. Mr. Schaffer stated they believed between the start of the one-year period and the end of it, Vineyard would be

moving forward with establishing that physical presence in the neighborhood. Mr. Schaffer stated he would answer any questions the council had.

Mr. Banicki asked where Vineyard Church was located at and what their physical address was. Mr. Schaffer stated their main campus was on Jackson Road just west of Bremen Highway. Mr. Schaffer stated they operated a community center in a rental space that they rented from the Housing Authority and they eventually wanted to open a full-fledged standalone community center on the property.

Mrs. Voelker stated Vineyard Church had done a lot of work in the community over the years and wanted Mr. Schaffer to express her appreciation to the rest of the church for the work they did. Mrs. Voelker also asked about fundraising and if they were in a fundraising campaign at that point to build a building there and if the future plan included building a building on that site. Mr. Schaffer stated he believed they did want to build a building on that site and his understanding was that they were working on fundraising to make that happen as quickly as possible. Mr. Schaffer stated the particular property was donated to them and they viewed it as a great opportunity to build a larger space that better served the community rather than continuing to rent space. Mrs. Voelker followed up by asking if members of the Vineyard Church or if it was affiliated with a health organization. Mr. Schaffer stated it was affiliated with a non-for-profit out of Elkhart and they had licensed medical staff there that operated the mobile medical units. Mrs. Voelker asked what the non-for-profit's name was. Mr. Schaffer stated it was Reta.

Mr. Mammolenti thanked Mr. Schaffer for his presentation and asked if this would be an appointment only establishment or if walk-ins would be available. Mr. Schaffer stated a vast majority of the patients are by appointment only and it was located there so people with transportation issues could walk in as well. Mr. Schaffer stated it was expected to be a low traffic and low volume situation. Mr. Schaffer stated out of the 3 weeks they operated, he believed three quarters of the patients were appointments and two patients were walk-ins. Mr. Mammolenti asked if it would only be there on Fridays and not during the week. Mr. Schaffer stated that was correct. Mr. Mammolenti asked what the hours of operation were. Mr. Schaffer stated they arrive around 9AM and leave closer to 4PM.

Mrs. Demaegd asked what kind of medical issues the mobile clinic saw to. Mr. Schaffer stated they mostly dealt with a lot of pre-natal care and a lot of younger men and women with family issues. Mr. Schaffer stated the organization started a lot with healthy mothers, healthy pre-natal care and that kind of thing. Mr. Schaffer stated one example of something they conducted was STD testing for young men and women. Mr. Schaffer stated that was the basis of the organization.

Mr. Compton stated this was unusual for him, because he did not normally think of a church as running a medical clinic, but he could see it being utilized by people of low means and low income. Mr. Compton asked if this was something the church had been involved with for a long time and if there were other ventures outside of their normal church that the group was involved in. Mr. Compton stated he was not opposing this at all and he was just curious with the connection. Mr. Schaffer stated Vineyard Church owned the property and they were allowing Reta to operate the medical clinic. Mr. Schaffer stated Reta was a separate organization that was

supported by many different churches. Mr. Schaffer stated for example, he lived in Elkhart and the church he went to was a big supporter of Reta. Mr. Schaffer stated in this particular situation, Vineyard had a relationship with Reta for a number of years and Reta expressed a desire to have a local medical clinic and have a better presence in the neighborhood. Mr. Schaffer stated Vineyard had the property donated to them and the two parties came together on the particular situation. Mr. Schaffer stated this was more of Vineyard providing a venue for another organization to do their work. Mr. Compton stated that was a good explanation and thanked Mr. Schaffer. Mr. Compton stated he had not heard of Reta prior to the public hearing, but it sounded like the Christian organizations were supportive of the clinic and they did good needs for people in the community of lesser means and needed the support. Mr. Compton once again thanked Mr. Schaffer.

Mr. Hixenbaugh thanked Mr. Schaffer for the information and Vineyard for the work they had done in the community. Mr. Hixenbaugh stated although he had been involved in this for a short time, he asked Mr. Schaffer if he were aware of any operational issues or anything they had to adjust or change as they dipped their toe in the water to make it an appealing activity in the neighborhood. Mr. Schaffer stated the biggest things that were operationally changed were the fact that on the first day the clinic put out a flag and the Planning Department gently told them they could not do that and the issue was resolved. Mr. Schaffer stated operationally, as part of their request for the BZA they did ask for a gravel driveway to get in and out, because initially parking was on the grass. Mr. Schaffer stated a couple of Fridays ago when they had a rainy Friday, there were two tow trucks and about an hour and a half to get the RV out, so they were going to do a gravel driveway. Mr. Schaffer stated beyond that, they believed it would be somewhat of a slow start. Mr. Schaffer stated part of it was the staffing being in the neighborhood and their willingness to work with the residents. Mr. Schaffer stated over two to three Fridays; they only had seen approximately eight patients. Mr. Schaffer believed they would see that grow a little bit, but it was a matter of establishing a presence in the neighborhood. Mr. Hixenbaugh stated he would be pleased to receive a flyer or some document that Vineyard or Reta could provide them to help the council more understand what they were doing and pass the information onto others. Mr. Hixenbaugh stated he brought up the driveway and that would be determined as a separate variance down the road. Mr. Hixenbaugh asked if the working plan was for the gravel driveway to remain a part of the property after the building was expanded or would it be a temporary measure. Mr. Schaffer stated the gravel driveway was for a one-year period and their expectation was they would be working through the construction process of building a full time community center with a paved parking lot that would have room for the same organization to operate within it. Mr. Schaffer stated their goal was for the gravel driveway on the property to only be used for a year and then they would move on from there. Mr. Hixenbaugh made a comment stating the way the pictures that were attached on the staff report made it look like the RV was a fair distance away from the house immediately to the south of the location. Mr. Hixenbaugh stated at the end of the year when it was hoped all went well and the extension of the use was granted, it stood for reason that one of the things the council would be interested in was to hear from all of the neighbors about how it was run, but in particular the neighbor who was most directly approximate. Mr. Hixenbaugh stated he had no reason to believe that he and the folks involved would not be good neighbors, but it was important that it not only be good for the people providing the service, but the ones using it as well, specifically the immediate neighborhood. Mr. Hixenbaugh stated hopefully that was what they would hear and asked if he

could pass that along to the client so it is known that it wasn't only important for their business model but for their relationship in Mishawaka. Mr. Schaffer assured Mr. Hixenbaugh they would do that. Mr. Schaffer thanked the council for their time.

Mrs. Voelker stated the Reta website made it look like a very great program and they had a catholic campaign for a building in Elkhart, which was fully funded. Mrs. Voelker felt it seemed like a sound organization and she would support it.

Question was called for at 7:19PM for **RESOLUTION R2021-27** **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 resolution passed 9-0.

RESOLUTION NO. 2021-28

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: 6424 Grape Road, Mishawaka,

Indiana

Use Variance to allow Indoor Gun Range as a part of a retail Firearm Sales Business – 6424 Grape Rd.

Ken Knuckles, Development Management Group out of Nashville represented the current property owners and the client who would be the new owner and developer for the project. Mr. Knuckles stated what they were proposing to purchase the property and fully redevelop it in the old Cinemark movie site. Mr. Knuckles stated the movie theater building had been removed and there were going to essentially take up all of the existing parking lot with improvements. Mr. Knuckles stated they would come back with a new 15,000 square foot building with parking and all of the necessary needs. Mr. Knuckles stated that was their overall big picture plan pertaining to the property. Mr. Knuckles stated that Shoot Point Blank, who were the tenants, had to reconstruct and their primary business was the sale of firearms, firearm accessories, etc. Mr. Knuckles stated a critical part of what they did, as a business was indoor ranges whether they were used as a way to train or to learn how to use weapons. Mr. Knuckles stated a lot of law enforcement, local, state and federal, used their facilities for certifying and for training as well. Mr. Knuckles stated their company was very strongly based off the element of safety and they did not like selling guns to people who did not know how to use guns and they were big on making sure anyone who purchased guns in their business knew how to use it safely. Mr. Knuckles also stated they had instructional classrooms in every one of their locations as well as safety courses included. Mr. Knuckles stated he was a business of C-2 zoning district, which allowed the retail sale of the guns and ammunition by right. Mr. Knuckles stated they were present that evening to talk with the council about their request to get special use approval to allow the indoor ranges. Mr. Knuckles stated he would answer all questions.

Mr. Bellovich asked what type of weapons they would be selling and what type of weapons would be allowed to be fired in the range once constructed.

Kevin Lee, Shoot Point Blank, answered the question. Mr. Lee stated they sold handguns and rifles as well. Mr. Lee stated in the range, they could shoot up to a .308 caliber rifle. Mr. Lee stated they could not shoot a .50 caliber, .300 win mags and hunting rifles were 99% of what was shot there. Mr. Lee stated they did sell AR-15s and those could be used on the range as well. Mr. Bellovich asked if there were no class three weapons of any time. Mr. Lee stated there were no incendiaries rounds, no steel tipped rounds and no rounds such as that. Mr. Bellovich stated as he understood it, a first time purchaser of a handgun or rifle would be eligible to have safety training at the indoor range and asked if that was correct. Mr. Lee stated they tried to offer and sell their customers basic handgun safety courses. Mr. Lee stated they were hesitant to send them out with a firearm and ammunition if they had had no training whatsoever. Mr. Lee stated they had a range safety officer in the range at all times and if it was not crowded, the range safety officer could help someone new with the basics of a handgun. Mr. Lee stated they strongly recommended either a group class or an individual lesson before someone went off and started to use a handgun. Mr. Lee stated last year, they educated over 75,000 people in some form of gun safety class, like their concealed carry class or a basic handgun class. Mr. Lee stated they offered this at all 32 of their locations and had an online educational program as well.

Mr. Emmons asked if there was any kind of background check for a person who purchased a firearm. Mr. Lee stated no one would buy a weapon without an FBI background track and they even went further than federal law. Mr. Lee stated federal law said that after three days of waiting for the ATF FBI 4473-background checks to return, if they had not received a clean answer after three days, they were allowed to let the individual leave with a firearm. Mr. Lee stated they did not do that and would not do that in any of their stores. Mr. Lee stated if they did not have a clear cut, green light from the ATF and the 4473-background check, no one would leave the store with a firearm. Mr. Lee stated that was over and above federal law and there was a basket full of rules that they had for themselves that were stricter than federal law. Mr. Lee stated they would never allow the sale of bomb stock, the sale of harshly completed lowers (piece of an AR-15) and if it was not completed, it was not serialized. Mr. Lee some places sell 80% complete and someone could complete it, which would in turn give them a gun the ATF did not know about. Mr. Lee stated they never sold that product nor would they ever. Mr. Emmons appreciated Mr. Lee's answers and commended him for the caution he took when selling the firearms.

Mr. Hixenbaugh stated the staff report and some of the supplementary information provided to the council touched on some of the enhanced measures that they would take to ensure safety, with regard to the range, and he asked that that be summarized for the public along with those participating remotely. Mr. Hixenbaugh stated they could begin by talking about projectiles and what should be done to reinforce the range and the building, so that it was safe for the range to be located in that spot. Mr. Lee stated the bullet trap system they used was the same thing the US government put into their military installation. Mr. Lee stated the shooting stalls they used were either bulletproof steel or bulletproof great tree glass. Mr. Lee stated their building was a concrete box inside of a concrete box, so the shooting range was encapsulated. Mr. Lee stated it was so encapsulated that they would not violate their noise ordinance on their retail floor. Mr. Lee stated they could hold a normal conversation on the retail floor while people were shooting and would be able to talk just fine. Mr. Lee stated the range was set up so there were steel capsules and if someone had a misfire, it would be encapsulated in that area where the projectile could not escape the range, let alone escape the building. Mr. Hixenbaugh stated he

appreciated the information and Mr. Lee shared a wealth of helpful information to someone who had not visited one of those facilities, himself included. Mr. Hixenbaugh stated it sounded good to him, but based upon the experience he had with more than 30 locations throughout the country and even with the measures taken, he had to ask if they had a documented occurrence where a projectile had been able to breach the capsule and get outside of the range. Mr. Lee stated there were zero cases of a projectile leaving the shooting range, let alone the building. Mr. Hixenbaugh stated with regard to the enhanced measures, they were going to take with respect to noise that should lessen the audible impact of the range for an individual who was on the sales floor inside of the building. Mr. Hixenbaugh asked if that was correct. Mr. Lee stated that was exactly what they were trying to communicate, which was on their retail floor customers could carry on a normal conversation without having to raise their voice when people were shooting. Mr. Lee stated outside of the building, it would not be silent but at the same time, it would be tiny and nowhere near violating the noise ordinance. Mr. Lee stated the highway noise would be much louder than the noise emitted from the building. Mr. Hixenbaugh asked if he were an employee of an adjacent business or someone in a vehicle outside of his building, he would be able to hear gunfire and asked if it was fair to say it would be vastly reduced in decibels from even what he would experience inside of the store. Mr. Lee stated absolutely, because they would have solid concrete walls with layers of installation on the roof, a sound absorbing foam sprayed in the range, sound absorbing and bullet absorbing rubber on many of the hard surfaces inside of the range. Mr. Lee stated after building this establishment over thirty times, they got good at containing sounds. Mr. Lee stated they did a good job in the beginning, but they learned some tricks and continued to get better. Mr. Lee concluded stating they were contiguous to residential in some of their locations and did just fine. Mr. Hixenbaugh asked if he could analogize to a noise that someone would be used to hearing who had never visited a range. Mr. Hixenbaugh stated for example, most of them had experienced hearing firecrackers whether as a child or in the present day and asked if he was outside of their building, if the sound would be louder or softer than a firecracker. Mr. Lee stated it was a very dull pop and nothing that would startle someone. Mr. Lee stated if someone was so moved to go to Merriville, Indiana or Carmel, Indiana and stood outside of the building, they might hear a very dull pop. Mr. Hixenbaugh asked if he could explain a little bit more about what he did to try to prevent exhaust being expelled from their building into the adjacent surrounding areas. Mr. Lee stated they utilized Carey's Ventilation Equipment and it was ventilation equipment very similar to what a hospital used for an operating room. Mr. Lee stated they wanted sterile air and clean air, so it was used to capture gunpowder, smoke, lead dust and so on. Mr. Lee stated it was about the size of a tractor-trailer with 4 pieces of machinery on the back of the building and they were pushing air downstream away from the shooters 1 foot per second. Mr. Lee further elaborated stating it would take the air downstream, ran it through a series of filters ranging from fifty to sixty filters and they started with long bags and finished with filters. Mr. Lee stated at their home office, they could measure the air pressure of every single unit and every single store. Mr. Lee stated they could see when the filters needed changed, because they could tell by the air pressure. Mr. Lee stated when the filters needed to be changed, they were put in a plastic lined box, which would be sealed and shipped off to a recycling company. Mr. Lee stated they had to keep documentation of when the filters were changed, whom they were sent to and their receipt for showing proper disposal. Mr. Lee stated as far as the lead shot, they vacuumed out the rubber and the only thing left on the ground was the lead. Mr. Lee stated the lead was then shoveled up, put into 55-gallon drums and recycled. Mr. Lee stated they could run a program where they could estimate them having about

35,000 to 45,000 pounds of lead in the bullet trap and they would receive a \$20,000 to \$25,000 check for the weight of the lead to be recycled. Mr. Hixenbaugh asked if the individual described earlier who was maybe in close proximity to the building on the exterior would be able to detect any noticeable odor along with the slight pop. Mr. Lee stated they would not detect any odor and the air left their building cleaner than when it came in. Mr. Hixenbaugh appreciated their patience with him when asking the questions. Mr. Lee noted that the ventilation equipment package cost about \$600,000.

Mrs. DeMaegd asked what the requirements of their safety instructors were. Mr. Lee stated they went to the NRA and went through about 30 hours of training between the NRA and themselves before they went in the building. Mr. Lee stated they pass the range safety officer's hearings and their blood lead level every 6 months to ensure they were safe and healthy as well. Mrs. DeMaegd asked if independent safety instructors could accompany someone there and not act as a range worker, but instruct someone who was not well versed in firearms. Mr. Lee stated they were all just for gun safety and someone wanted to bring a friend or another instructor in, they were welcome to do so. Mr. Lee stated there could be two people on the lane, but not two people side by side so their range safety officers would keep an eye on the two people working together. Mr. Lee stated they were more than welcome to have someone else help them inside of the shooting range. Mrs. DeMaegd asked if they normally used paper targets or metal. Mr. Lee stated they used paper.

Mr. Mammolenti thanked Mr. Knuckles and Mr. Ali for their extremely in depth presentation. Mr. Mammolenti then followed up regarding the range safety officer and asked if he could repeat their statement regarding the time they will be on the presence. Mr. Ali stated if there was one person shooting, they had a range safety officer in the range. Mr. Ali continued if there was ten people shooting, they might very well be two. Mr. Ali made it clear that they would always have a range safety officer present when someone was shooting in the range. Mr. Mammolenti thanked Mr. Ali for joining them remotely and he thoroughly enjoyed his presentation and answers. Mr. Ali stated they were excited about being in Mishawaka and they would like to grow in Indiana. Mr. Ali stated Indiana had been good to them and they were excited about being there.

Mark Addy, 580 Park Road Cincinnati, Ohio, was the Principal of ComptonAddy and developer of the particular Shoot Point Blank. Mr. Addy stated he could not get into the nitty gritty details, but he wanted to get into a little bit of the support they had for it. Mr. Addy stated he had been in Cincinnati 35 years and they did single tenant development projects all over the Midwest with 10 different states specifically. Mr. Addy stated he had been in business with Shoot Point Blank since he began his legal career many years ago. Mr. Addy stated he knew them to be excellent folks and as they got into it and were getting ready to develop for Shoot Point Blank across the United States, they had to also get comfortable with it. Mr. Addy stated himself and his family were not hunters, but they were recreational shooters and they were concerned for their own gun safety. Mr. Addy stated for each location they went out and operate when dealing with local governments, they did presentations such as the one they were conducting that evening. Mr. Addy stated they would continue to conduct their business in a professional way and he stated these projects were \$45 each. Mr. Addy stated the opened one in Chicago, they would be opening another one in the Detroit area, another in Wisconsin and they planned to expand in Michigan and outside of Pittsburgh. Mr. Addy stated it was something they had real conviction for that they were doing the right thing and would continue to do the right thing. Mr.

Addy stated he wanted to come up from Cincinnati to let them know how strong they felt and believed they would be a good citizen to the Mishawaka community.

Mr. Compton thanked all of the men who came up and spoke along with Mr. Lee who spoke online that evening. Mr. Compton stated he had several questions, but they were answered before they got to him. Mr. Compton stated he strongly believed with the weapons they had in their society that anything they could do to educate people about gun safety and how to handle weapons was a positive thing. Mr. Compton stated he appreciated the fact that besides gun sales that gun safety and gun safety programs were promoted as well. Mr. Compton also stated that he had no relationship to the ComptonAddy organization

Question was called for at 7:43PM for **RESOLUTION R2021-28** **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 resolution passed 9-0.

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

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
VOTE ONLY**

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

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 committee report passed 9-0.

Mr. Hixenbaugh stated they had held a public hearing on the matter at their previous council meeting, in compliance to state law. Mr. Hixenbaugh opened the floor for any additional questions or comments from the council.

Question was called for at 7:46PM for **PROPOSED ORDINANCE NO. 2021-39** **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. 5766.**

PRIVILEGE OF THE FLOOR

Joe Lord, 532 W. Brown Avenue, spoke under Privilege of the Floor. Mr. Lord stated he lived near the Midwest Gun Store and had been a resident of Mishawaka for 7 to 8 years. Mr. Lord stated he went from Runaway Bay to a home at the address he stated. Mr. Lord stated he had been picked on along with his family by the police and it had been going on for way too long. Mr. Lord stated the city and code enforcement would come by even after him keeping his grass and rest of his home where it needed to be. Mr. Lord stated he was a voter along with his family and this was one of the things that annoyed him. Mr. Lord stated Detective Yoder lied on a case and he went up to the police department to try to set up a meeting with the Chief. Mr. Lord stated he contacted one of the city attorneys but he wanted to come before the council to make sure he was heard. Mr. Lord stated he wanted it to stop and hopefully someone would get back with him to find a way to resolve it. Mr. Lord stated he did not know what could be done and that was why he was present that evening,

Mr. Hixenbaugh stated he appreciated his concerns and he would try to address the question. Mr. Hixenbaugh stated as the council, they were the legislative body of the city and they did not have day-to-day control over the operation of the Police Department, Code Enforcement or any departments of the city. Mr. Hixenbaugh stated that did not mean they were trying to wash their hands or avoid what went on, but with regard to the work they did, that was the role of the administration. Mr. Hixenbaugh encouraged him to have a conversation and some interaction with the administration. Mr. Hixenbaugh stated he liked the reference he made to their corporation legal counsel and that would be a good first step. Mr. Hixenbaugh stated that would be a better vehicle to try to address his concerns than anything they could do as a legislative body, because it was beyond their control to try to address what he was sharing with them that evening. Mr. Lord stated he just wanted it to be known what was going on with the police and he believed they were antagonizing people. Mr. Lord stated they were terrorized and he beat legal a case, so the next step was what he would do now as far as getting it to stop. Mr. Hixenbaugh stated the most effective way to deal with it would be to have that conversation with Mr. Hinkle so that they could learn more about the facts. Mr. Hixenbaugh appreciated the fact that he was sensitive to the time element of it and frankly, some of it would not be appropriate to talk about in that manner. Mr. Hixenbaugh once again stated a conversation where facts could be shared and some follow up could take place would be his suggestion on how to deal with it. Mr. Lord stated the Police Department did not have an open door policy and he could not simply go down and talk to them right away. Mr. Lord stated he wanted to rectify his issues rather than waiting two weeks to do so. Mr. Hixenbaugh stated the specifics of how their process worked was beyond the scope of his knowledge, but he did know it was common for the Police Department to hear from residents, and even non-residents, with regard to concerns they had about the operation of the Police Department and it had been his experience that the Police Department and all of the administration had been very responsive to listening to those concerns. Mr. Hixenbaugh stated that did not mean people would always agree with the outcome or what happened, but there needed to be an open door to listen to what had to be said and then what happened from that point remained to be seen. Mr. Hixenbaugh stated after they were done with the meeting, he encouraged Mr. Lord to have a conversation with Mr. Hinkle on where to go from there and how they would move forward. Mr. Lord stated it began with a call with the City Attorney and he wanted to set up a meeting with them regarding the pending case he beat with

the City of Mishawaka. Mr. Lord stated he wanted to start there rather than having to get on TV or something like that. Mr. Hixenbaugh stated he appreciated that and all of the things he identified remained his right to do. Mr. Hixenbaugh stated as an attorney, he never looked down his nose on anybody who wanted to talk to an attorney, but he had found that the administration and everyone who worked at the various departments were very responsive and willing to listen to someone even if they could not fix the problem. Mr. Lord stated he appreciated the council's time.

NEW BUSINESS

Mr. Mammolenti gave a brief reminder about that month's Twin Branch neighborhood watch meeting and they would be going off-site for that meeting on Wednesday November 17th at 7PM. Mr. Mammolenti stated it would be held at the St. Joseph County Juvenile Center and Judge Chicowicz welcomed them with open arms. Mr. Mammolenti stated beverages and snacks would be provided. Mr. Mammolenti stated the address was 1000 South Michigan Street South Bend, Indiana and they would meet in the lobby. Mr. Mammolenti stated if anyone needed a ride, Mr. and Mrs. Mullins along with himself would be willing to take anyone and if they needed a ride to come to Twin Branch school in Mishawaka at 6:20 to provide transportation.

Mr. Emmons announced his monthly meeting at St. Bavos would be Thursday November 18th and Ken Prince, City Planner, would be featured to talk about development in Mishawaka in the city and the outskirts of the city. Mr. Emmons stated it would begin at 7PM at St. Bavos and to enter through the parking lot. Mr. Emmons stated there would be refreshments from the West End Bakery and it should be a very interesting meeting.

ADJOURNMENT 7:56PM

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

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

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN



AP 21-41

DATE: 11/16/21

TO: Board of Zoning Appeals

City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

(owner of salon)

1. I, Beth Clark, am the owner of the following described real estate

BAUGOCREEK REALTY

located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-

wit: Tribe Salon at 420 Cleveland Rhode, Granger, Indiana 46530.

2. The above-described real estate presently has a zoning classification of C-1 general comer commercial District under the Zoning Ordinance of the City of Mishawaka.

3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: salon

4. Appellant desires to provide tattoo/microblading services.

5. The Zoning Ordinance of the City of Mishawaka requires C-1 zoning does not permit tattoo/microblading services.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. Less income

7. (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? No, service provider has taken the proper training needed to perform services.

(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? No because the salon is just simply adding a service that many other salons offer already.

(3) Does the need for the variance arise from some condition peculiar to the property involved? Yes, C-1 zoning does not permit tattoo/microblading services.

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship

if applied to the property for which the variance is sought? Yes, these services are similar to what would be found in a salon.

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

No this won't interfere with the Mishawaka Comprehensive plan because this is a service that is commonly found in many salons.

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

Signature of Property Owner/Title Holder

Beth A Clark

Print Name Here Print Name Here *Beth A. Clark*

CONTACT PERSON:

Name: Amanda Fansler-Johnson

Address: 305 Pepper Ridge Drive South North Liberty, Indiana 46554

Day Phone Number: (574)383-2005

Fax Number:

Email: ^S
mandijohnon422@gmail.com

BAUGO CREEK REALTY

O C CENTER CLEVELAND CENTER MINT LEAF PLAZA
NORTH LAKE CENTER HICKORY CROSSING
AIRPORT MINI STORAGE CHARLIES DEVELOPMENTS

AP 21-41

October 26, 2021

Board of Zoning Appeals
City of Mishawaka, Indiana

I, Dennis W. Rhodes, d/b/a Baugo Creek Realty, LLC, am the owner of the following described real estate located with the city of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-wit:

16533 Cleveland Road
Suite 420
Granger, IN 46530

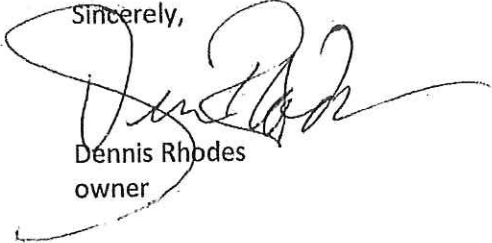
The above-described real estate property has a zoning classification of C-1 General Commercial District under the Zoning Ordinance of the City of Mishawaka.

Appellant presently occupies the above-described property in the following manner: The Tribe Salon.

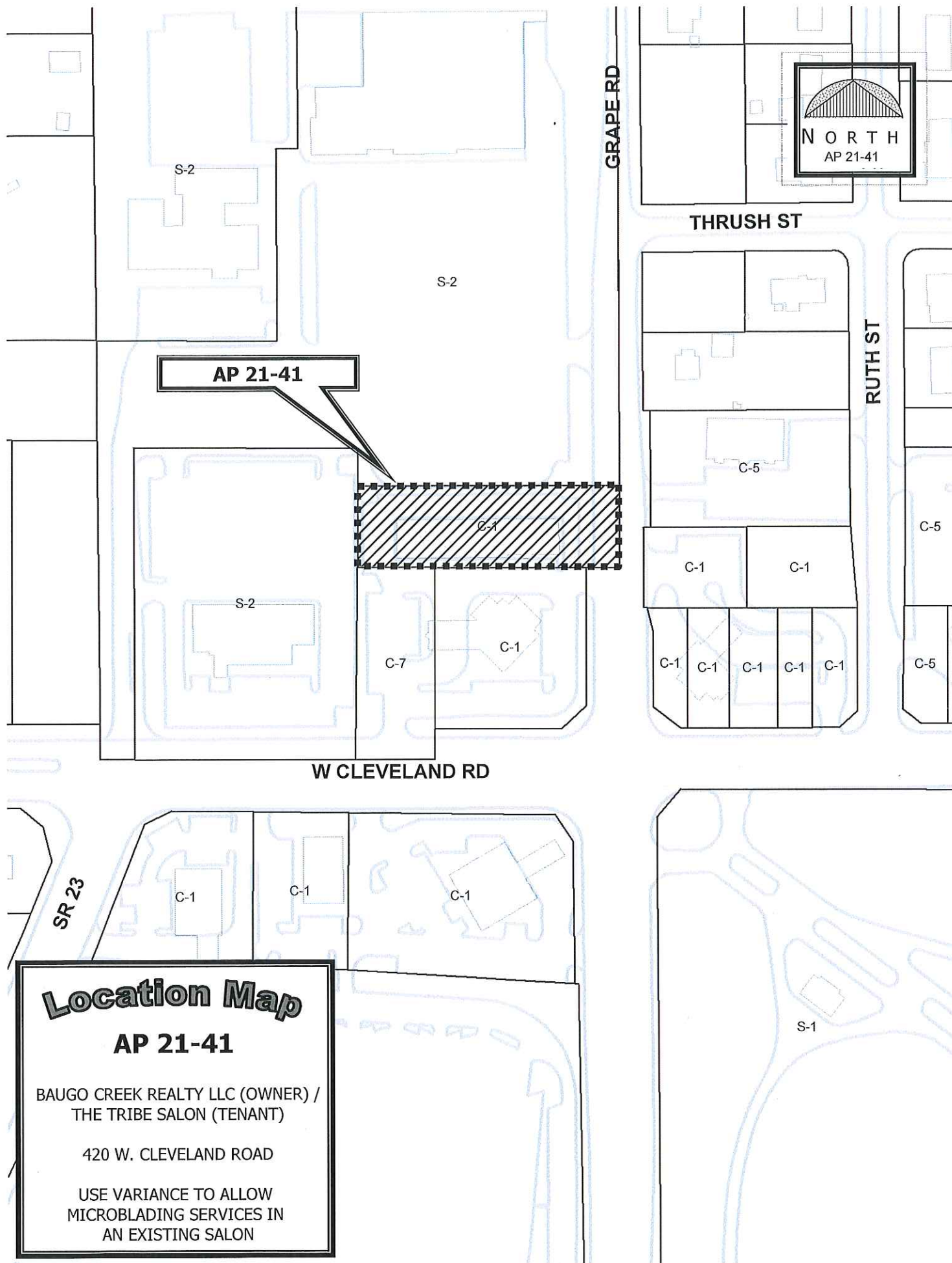
Appellant desires to offer microblading services.

As the property owner, I am requesting that Beth Clark, The Tribe, appear on my behalf to pursue the Use Variance Procedure.

Sincerely,


Dennis Rhodes
owner





Location Map

AP 21-41

BAUGO CREEK REALTY LLC (OWNER) /
THE TRIBE SALON (TENANT)

420 W. CLEVELAND ROAD

USE VARIANCE TO ALLOW
MICROBLADING SERVICES IN
AN EXISTING SALON

November 17, 2021

To: Board of Zoning Appeals
City of Mishawaka, Indiana

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN



McKinley Town and Country LP shows the Board that it is the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, Indiana, with an address of 2400 Miracle Lane, Mishawaka, Indiana 46545. Part of the West Half of the Southwest Quarter of Section 4, Township 37 North, Range 3 East, Mishawaka, Indiana, described as follows:

Commencing at the Southwest corner of Section 4; thence North on the West line of Section 4, a distance of 210.00 feet; thence right (Easterly) 89°28'21", parallel with the South line of Section 4, a distance of 40.00 feet to the East line of Hickory Road and the point of beginning; thence left (Northerly) 89°28'21", parallel with the West line of Section 4 and on the East line of Hickory Road, a distance of 1110.87 feet; thence right (Easterly) 89°28'36", a distance of 1279.31 feet to the Southwest corner of Imus Addition in Penn Township, St. Joseph County, Indiana; thence right (Southerly) 90°11'20' on the East line of the West Half of the Southwest Quarter of Section 4, a distance of 1280.76 feet to the North line of McKinley Avenue; thence right (Westerly) 89°48'25" on the North line of McKinley Avenue, a distance of 526.50 feet; thence right (Northerly) 90°11'35", parallel with the East line of the West Half of the Southwest Quarter of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°11'35", parallel with the North line of McKinley Avenue, a distance of 129.60 feet; thence left (Southerly) 89°12'29", a distance of 170.02 feet to the North line of McKinley Avenue; thence right (Westerly) 89°12'29" on the North line of McKinley Avenue, being 40.00 feet North of and parallel with the South line of Section 4, a distance of 402.84 feet; thence right (Northerly) 90°31'39", parallel with the West line of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°31'39", parallel with the South line of Section 4, a distance of 225.70 feet to the point of beginning.

The above described real estate has a current zoning classification of C-2 Shopping Center Commercial District under the zoning ordinance of the City of Mishawaka.

Appellant currently occupies the above described property in the following manner: Town and Country Shopping Center.

Appellant desires to place a permanent outside storage container (8' x 40') in the rear of Dunham's Discount Sports, located at 2572 Miracle Lane.

The Zoning Ordinance of the City of Mishawaka, Sec. 137-608 (a) and Sec. 137-610 (9)c, only permits outdoor storage in the I-2 Heavy Industrial District, therefore a use variance is required to allow outdoor storage in any other district.

Approval of this request will not be injurious to the public health, safety, morals or general welfare of the community as it will not change the business carried out on the property and introduces no health, safety, moral or welfare issues. The use and value of the area adjacent to this property, Gates Chevrolet and Arby's, will not be affected in a substantially adverse manner. Gates has outdoor storage in this area and Arby's view of the unit will be blocked by an 7' tall opaque fence to block the view from McKinley Highway.

The need for this variance arises from the seasonal changing of goods, storage of goods awaiting placement and currently the supply chain disruptions and the need to obtain goods when they are available. The strict application of the terms of this chapter will constitute an unnecessary hardship because the inability to store merchandise will affect sales and limit the stores ability to compete and succeed. Your approval of this request will not interfere substantially with the Mishawaka 2000 Comprehensive plan as it changes no designated uses in this and surrounding properties and continues their current zoning.

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

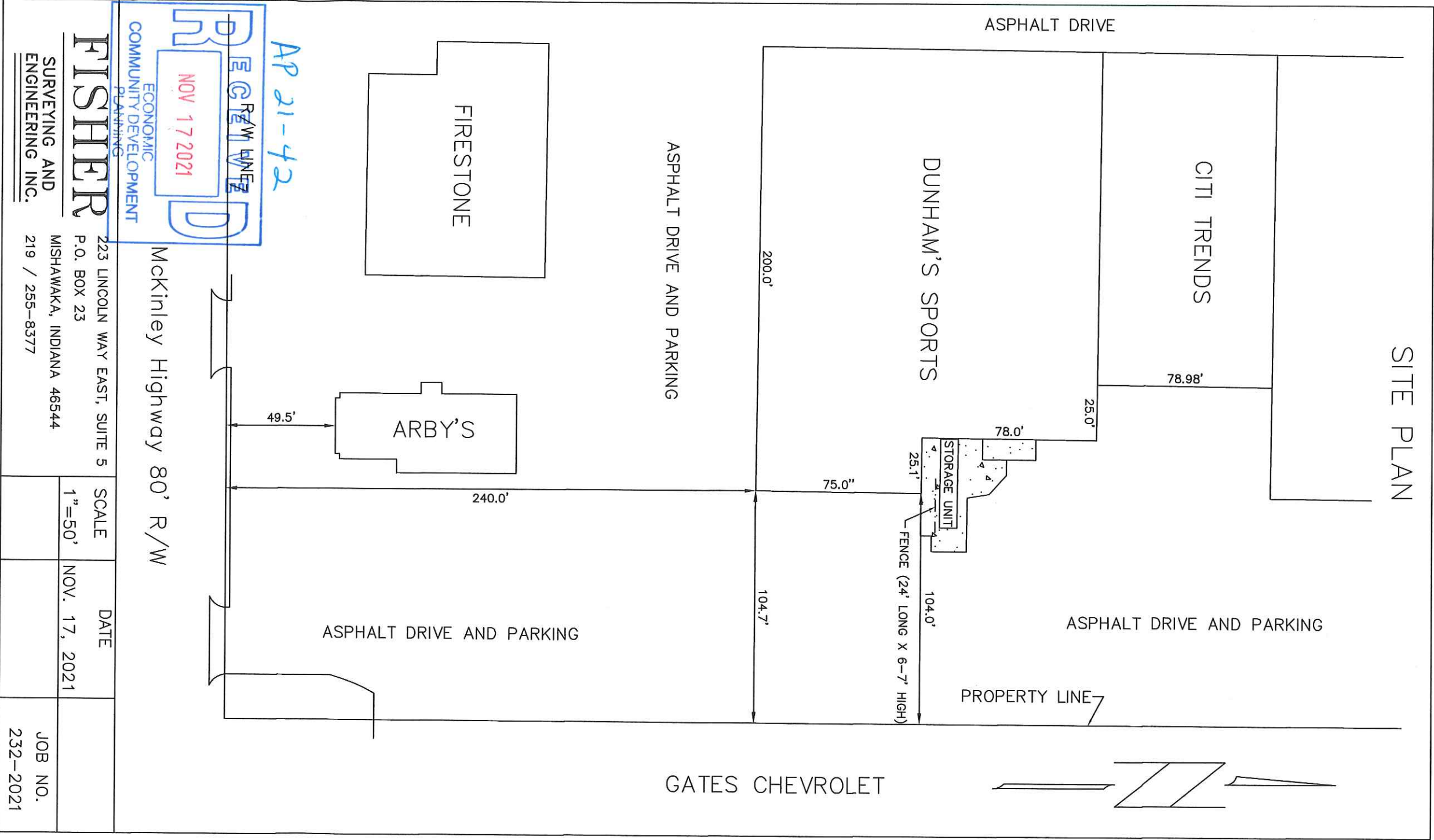
McKinley Town & Country, L.P.


John Becker, Manager

Contact person:

Edward M. Fisher
Fisher Land Surveying Services Inc.
303 East Third Street
Mishawaka, Indiana 46544

(574) 255-8377



Date: November 4, 2021

To Whom It May Concern:

Edward M. Fisher has permission to represent McKinley Town & Country, L.P. in all matters concerning our property located at 2400 Miracle Lane, Mishawaka, Indiana 46545

McKinley Town & Country, L.P.

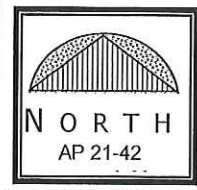

John Becker, Manager



PART OF TOWN & COUNTRY
SHOPPING CENTER
(TAX PARCEL #016-2058-1939.02)

AP 21-42

MIRACLE LN



W MCKINLEY AVE

BENTON ST

FOREST AVE

W RUSS AVE

W LASALLE AVE

Location Map AP 21-42

MCKINLEY TOWN AND COUNTRY LP
(OWNER) / DUNHAM'S DISCOUNT
SPORTS (TENANT)

2572 MIRACLE LN.

USE VARIANCE TO ALLOW AN
OUTDOOR STORAGE CONTAINER
SCREENED BY A 7' HIGH FENCE IN
THE C-2 COMMERCIAL DISTRICT

Deborah S. Block, IAMC, MMC

October 27, 2021

DEC 02 2021

City Clerk
Mishawaka, IN



Pet 21-18

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 William Sinkovics respectfully show he is the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

THAT PART OF THE NORTHEAST QUARTER AND SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF LOT #9 OF "HECKATHORN'S 1ST SUBDIVISION" AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE S. 00°00'00" E., 60.00 FEET MORE OR LESS TO THE SOUTH LINE OF IRELAND ROAD; THENCE S. 90°00'00" W. ALONG SAID SOUTH LINE, 114.53 FEET MORE OR LESS; THENCE N. 00°00'00" E., 693.82 FEET MORE OR LESS ALONG THE WEST LINE OF LOTS #9 AND 10 IN SAID SUBDIVISION AND SAID WEST LINE'S SOUTHERLY EXTENSION TO A POINT

ON THE NORTH LINE OF SAID SUBDIVISION; THENCE N. 90°00'00" E. ALONG THE NORTH LINE OF SAID SUBDIVISION 114.53 FEET TO THE NORTHEAST CORNER OF SAID LOT #10; THENCE S. 00°00'00" W., 633.82 FEET MORE OR LESS ALONG THE EAST LINE OF LOTS TO THE POINT OF BEGINNING. CONTAINING 1.82 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: 230 IRELAND ROAD, MISHAWAKA, IN 46544

Petitioner(s) own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for C-1 general uses, low volume restaurant uses with drive-up windows (non-fast food), financial institutions with drive-up windows, and multi-tenant retail buildings.

Petitioner desires said real estate to be amended to allow for continued single family residential use with a new accessory structure not to exceed 3,072 sq. ft. The accessory structure will be a pole barn that will be 48 ft. X 64 ft., 20 ft. in height.

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

Signature(s) of Property Owner(s)



William Sinkovics

CONTACT PERSON:

William Sinkovics
230 Ireland Rd.
Mishawaka, IN. 46544
Cell-574-532-7005
E-mail: ssb52@yahoo.com



S-2

PART OF BREMEN
HWY. NORTH PUD

PET 21-18

R-1

S-2

S-2

S-2

S-2

S-2

IRELAND RD

Location Map

PET 21-18

WILLIAM SINKOVICS (OWNER)

230 IRELAND ROAD

PUD AMENDMENT TO ALLOW FOR
CONTINUED SINGLE FAMILY
RESIDENTIAL USE WITH NEW
3,072 SF/20' HIGH ACCESSORY BLDG.

C-4

C-2

C-1

C-2

C-7

C-7

C-7

November 9, 2021

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



RE: PETITION FOR PUD AMENDMENT FOR ORDINANCE 5484

The undersigned Sorce USA Realty, Inc. and King's Buffet of Granger Inc. respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, ALONG THE SOUTH LINE THEREOF, 662.56 FEET TO THE TRUE PLACE OF BEGINNING; THENCE NORTH 00 DEGREES 10 MINUTES 31 SECONDS EAST, 413.00 FEET; THENCE SOUTH 89 DEGREES 44 MINUTES 40 SECONDS EAST, 334.30 FEET TO THE PC OF A 130.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID 130.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 28 DEGREES 00 MINUTES 18 SECONDS, A CHORD LENGTH OF 62.91 FEET, AN ARC DISTANCE OF 63.54 FEET TO THE PC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID 75.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 28 DEGREES 00 MINUTES 18 SECONDS, A CHORD LENGTH OF 36.29 FEET; AN ARC DISTANCE OF 36.66 FEET; THENCE SOUTH 89 DEGREES 44 MINUTES 40 SECONDS EAST, 230.85 FEET TO THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID EAST LINE, 24.00 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, 230.96 FEET TO THE PC OF A 99.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG SAID 99.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 28 DEGREES 00 MINUTES 18 SECONDS, A CHORD LENGTH OF 47.90 FEET, AN ARC DISTANCE OF 48.38 FEET TO THE PC OF A 106.00 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG SAID 106.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 28 DEGREES 00' MINUTES 18 SECONDS, A CHORD LENGTH OF 51.29 FEET, AN ARC DISTANCE OF 51.80 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, 279.95 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 32 SECONDS WEST, 389.00 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, ALONG THE SOUTH LINE THEREOF, 54.31 FEET TO THE PLACE OF BEGINNING.

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN

Petitioner(s) own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for a now closed Asian Restaurant.

Petitioner desires said real estate to be amended to allow for

1. Ordinance 5484 is to be amended for Parcel A to allow for a Self-Contained, Climate Controlled Self-Storage Facility. Additionally, to be amended to allow for a three (3) story building gross square footage to be 106,000 sq ft with a height of forty-eight (48) feet. As shown on the attached site plan.

2. Ordinance 5484 is to be amended for Parcel B to allow for retail in the configuration as shown on the attached site plan. As shown on the attached site plan.

SEE ATTACHED PROPOSED USES +
DEVELOPMENT REGULATIONS

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

Signature(s) of Property Owner(s)

DocuSigned by:
[Signature]

Typewritten name also

Wei Zheng

CONTACT PERSON:

Name C Brody Glenn

Address PO Box 10588 Greenville. SC 29603

Phone Number/ Fax 864-271-3894

Email jasont@capllc.com

ANGLE OF 28 DEGREES 00 MINUTES 18 SECONDS, A CHORD LENGTH OF 47.90 FEET, AN ARC DISTANCE OF 48.38 FEET TO THE PC OF A 106.00 FOOT RADIUS CURVE TO THE LEFT, THENCE ALONG SAID 106.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 28 DEGREES 00' MINUTES 18 SECONDS, A CHORD LENGTH OF 51.29 FEET, AN ARC DISTANCE OF 51.80 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, 279.95 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 32 SECONDS WEST, 389.00 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 44 MINUTES 40 SECONDS WEST, ALONG THE SOUTH LINE THEREOF, 54.31 FEET TO THE PLACE OF BEGINNING.

Commonly known as: 512 West Cleveland Road, Granger, Indiana, which real estate is now classified as S-2 Planned Unit Development District and shall hereafter be amended to allow the subdivision in to Parcel A and Parcel B. Parcel A is to be designated the "Storage Facility"; Parcel B is to be designated as "Retail Parcel", subject to the following:

USES:

1. Ordinance 5484 is to be amended for Parcel A to allow for a Self-Contained, Climate Controlled Self-Storage Facility. Additionally, to be amended to allow for a three (3) story building gross square footage to be 106,000 sq ft with a height of forty-eight (48) feet. As shown on the attached site plan.
2. Ordinance 5484 is to be amended for Parcel B to allow for retail to include all uses permitted in C-1 and a drive-thru restaurant in the configuration as shown on the attached site plan.

FRONTAGE

1. 0' of public road frontage is requested for Parcel A.

BUILDING SETBACKS:

1. Parcel A will conform to the setbacks set forth in the attached site plan, with a 15' side setback on the Western side, 25' side setback from the Eastern side and a 25' setback from the Northern side and a minimum of a 10' setback from the Southern property line.
2. Parcel B will conform to the setbacks set forth in the attached site plan with setbacks of 25' from the North, West and East. The South setback

DUMPSTER ENCLOSURE:

1. Minimum 5 ft. setback from any property line.
2. Enclosure must be located behind the buildings for Parcel A
3. Enclosure for Parcel B will be located to the side of the building and screened from Cleveland Road
4. A 25-ft sight triangle shall be provided at internal drive and road/ingress- egress easement intersection.

PARKING:

1. Parcel A will conform to the site plan provided and will only require 15 parking stalls along the common access drive.
2. Parcel B will conform to C-7 District, 15 spaces per 1000 sq. ft. of gross floor area is required for the south lot (QSR with drive-thru).

PARKING SETBACKS:

1. Parcel A will conform to the setbacks set forth in the attached site plan, 13' from center property line.
2. Parcel B will conform to the setbacks set forth in the attached site plan, 16' from Cleveland Road.

LANDSCAPE/SCREENING:

1. Landscaping shall generally comply with the Commercial C-1 General Commercial Landscape Ordinance.
2. Required landscaping may be eliminated along the center property line to provide for parking areas off of the ingress/egress easement.

GREASE INTERCEPTOR:

1. For Parcel A no grease interceptor is not required.
2. For Parcel B a grease interceptor shall be installed per the City Department of Engineering.

SIGNAGE:

1. One Multi-tenant sign will be permitted: no separate monument sign for Parcel B.
2. Appropriate C-2 Shopping Center Commercial building signage will be permitted.

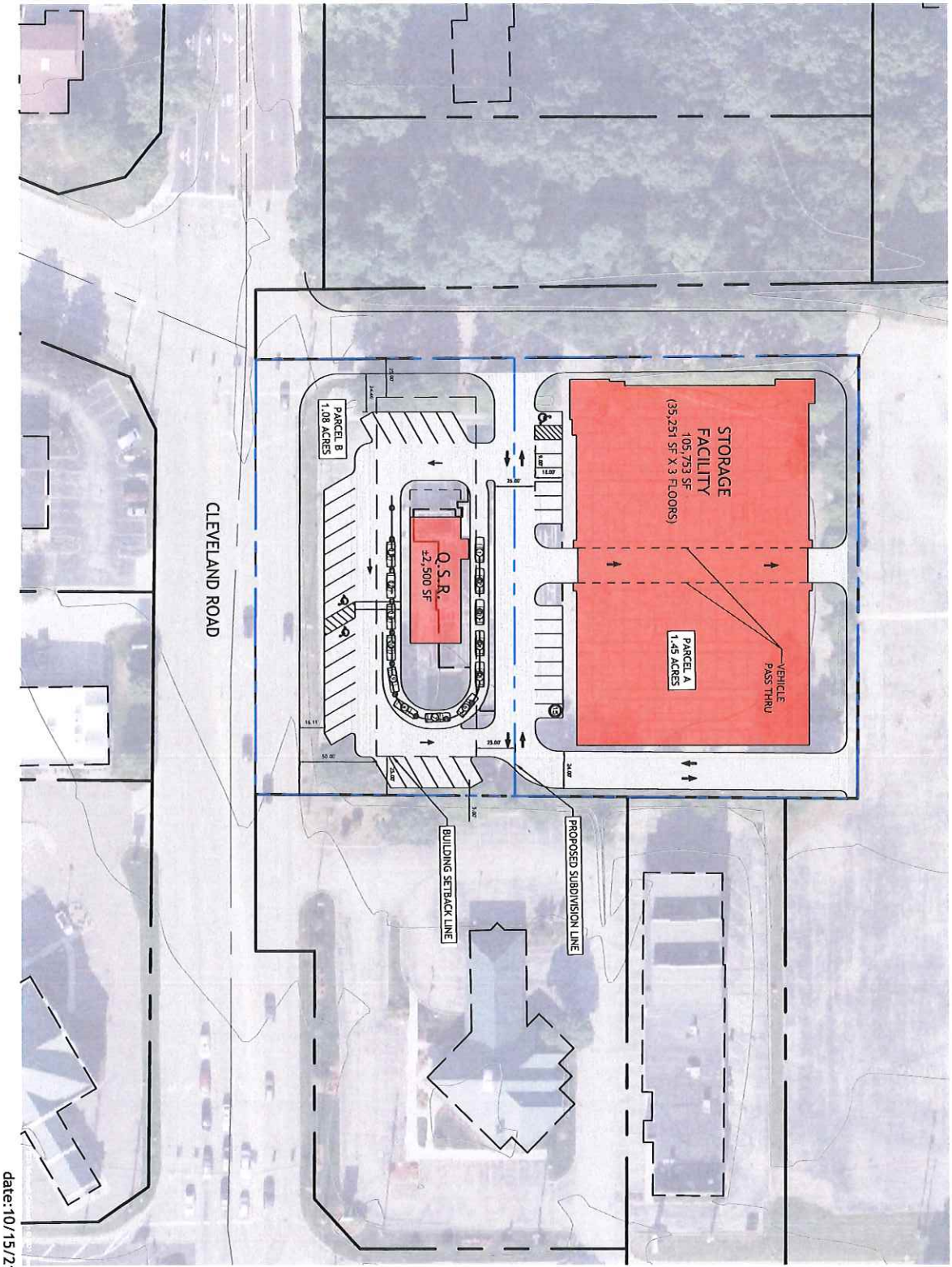
OTHER:

1. Parcel A will conform C-1 General Commercial District Standards.
2. Parcel B will conform C-7 Auto Oriented Restaurant Commercial District Standards.

Section 2. finds that:

~~The Common Council of the City of Mishawaka, Indiana, hereby~~

- ~~1. Existing Conditions - The proposal is in keeping with the existing area by maintaining commercial uses.~~
- ~~2. Character of Buildings in Area - The character of the buildings located in the area is commercial. The proposed facility will be commercial in nature.~~
- ~~3. The most desirable/highest and best use - Due to the presence of the commercial activity in the surrounding area, the most desirable/highest use is the proposed commercial use.~~



date:10/15/21

blueWATER
civil design
Bluewater Civil Design, LLC
718 Landon Hill Road • Greenville, SC 29607
www.bluewatercivil.com • info@bluewatercivil.com

site data

Jurisdiction: City of Mishawaka
tax map no.: 029-1003-020001
zoning: PUD
parcel area: 2.25 Ac (Total)
setback: Varies (See PUD)
building area: ±105,753 sf (Storage)
parking: 15 spaces (Storage)
27 spaces (OSR)



scale: 1" = 60'

CAP SOUTH BEND
MISHAKAWA,
INDIANA

STUDY PLAN SP-1



S-2

S-2

PET 21-19

PART OF UNIVERSITY
MARKETPLACE PUD

C-5

C-1

C-1

S-2

C-7

C-1

C-1

C-1

TIMBERLAND DR

W CLEVELAND RD

S.R. 23

C-1

C-1

C-1

GRAPE RD

S-1

Location Map

PET 21-19

SORCE USA REALTY INC. (OWNER)/
CENTENNIAL AMERICAN PROPERTIES
(CONTINGENT DEVELOPER)

512 W. CLEVELAND ROAD

PUD AMENDMENT TO ALLOW FOR
A STORAGE FACILITY

C-2

DATE: November 3, 2021

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

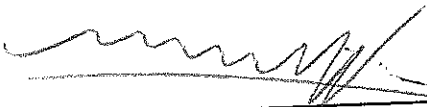
RE: PETITION FOR PUD AMENDMENT

The undersigned, Barak Group, LLC respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit: Part of the Northeast Quarter of Section 24, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being that 0.59 acre parcel surveyed by Lang, Feeney & Associates, Inc. Terance D. Lang, Indiana Professional Surveyor No. 80040523 and shown on a site plan of that survey certified on November 2, 2021 as 143-63 (all monuments referenced herein are set or found on the aforesaid Lang survey), being more particularly described as follows: Commencing at the northwest corner of Lot 3 as shown on the Recorded plat of The Villages at Harrison Creek in the Office of the Recorder of St. Joseph County, Indiana as Instrument No. 0108192; thence for the next two courses along the west line of said plat; the first being South 00°10'30" East, a distance of 155.04 feet to a 5/8" rebar iron set with Lang Feeney S0309 S0523 cap; thence South 88°21'27" West, a distance of 165.06 feet to a point on the east right of way line of Beacon Drive said point being a 5/8" rebar iron set with Lang Feeney S0309 S0523 cap; thence North 00°10'30" West along said east line, a distance of 155.11 feet to the south line of 12th Street, said point being a 5/8" rebar iron set with Lang Feeney S0309 S0523 cap; thence North 88°22'55" East along said south line, a distance of 165.06 feet to the point of beginning. Subject to the legal rights of a public highway, any easements, covenants or restrictions of record.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for reserved off-site storm water retention area for future use for The Village at Harrison Creek.

Petitioner(s) desire said real estate to be amended to allow for R-1 Planned Unit Development containing two single family lots and to continue the retention basin area.
And allow for Lot 2 to have 50' frontage instead of the required 60'.

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


Barak Group, LLC
300 S. St. Louis Blvd, Ste. 103
South Bend, Indiana 46634

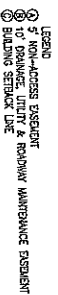
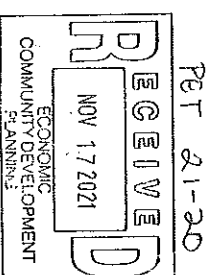
Nir Davison, Member
(Print Name)

CONTACT PERSON:

Lang, Feeney & Associates, Inc. c/o Terry Lang
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
Terry@LangFeeney.com

PART OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 37 NORTH,
RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

NORTHEAST CORNER
NORTHWEST QUARTER,
NORTHEAST QUARTER
SECTION 24, TWP. 37
NORTH, RANGE 3 EAST.

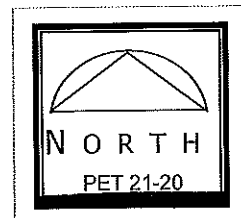
[illegible]

LA

Long & Associates, Inc.
 715 S. Jackson Street
 Suite 202, Indio 44501
 Phone (951) 232-1641

Land Surveyor * Soil Scientist

State	CA	License No.	505
Exp. Date	11-27-91	Exp. Date	11-27-91
Exp. Date		Exp. Date	10/1/90



WOODHOUSE DR

R-1

R-3

HARRISON RD

PET 21-20

BEACON DR

CANOE LANDING CT

CEDARWOOD LN

WARRINGTON CT

FAR POND CIR

PIONEER PL

WESTBOROUGH DR

Location Map

PET 21-20

BARAK GROUP
(OWNER)

THE VILLAGE AT
HARRISON CREEK

PUD AMENDMENT TO ADD
TWO SINGLE FAMILY HOMES



DEC 02 2021

City Clerk
Mishawaka, IN

Date: November 11, 2021

To The: Honorable Members of the Common Council of the
City of Mishawaka, Indiana



RE: VFW Rezoning

Northeast corner of E. Jefferson Boulevard and Maplehurst Avenue , Mishawaka, Indiana:

The undersigned, respectfully show that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana, to wit:

116'x283' SOUTHWEST CORNER LOT 40 GEORGE F. EBERHART'S PROPOSED ADDITION

Also commonly known the northeast corner of E. Jefferson Boulevard and Maplehurst Avenue in Mishawaka, Indiana 46545.

The above described parcel of land is presently zoned "R-1" Single Family Residential District.

The Petitioners desire said real estate, to be Rezoned to the "R-3" Residential District classification. The purpose for the Rezoning is to allow for the real estate to be purchased by an interested party who desires to build eight (8) starter homes for rental to returning veterans.

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.



Dwayne Kent
VFW MISHAWAKA POST 360
1307 E. Jefferson Boulevard
Mishawaka, IN 46545

Contact person: Greg Shearon- Danch, Harner & Associates, Inc.
1643 Commerce Drive, South Bend, Indiana 46628
(574) 234-4003.

To The: Honorable Members of the
Common Council of the
City of Mishawaka, Indiana

November 11, 2021

To The: Honorable Members of the
Plan Commission of the City of Mishawaka, Indiana,

RE: VFW Rezoning

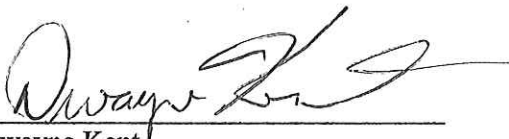
Northeast corner of E. Jefferson Boulevard and Maplehurst Avenue , Mishawaka, Indiana:

Dear Council & Plan Commission Members,

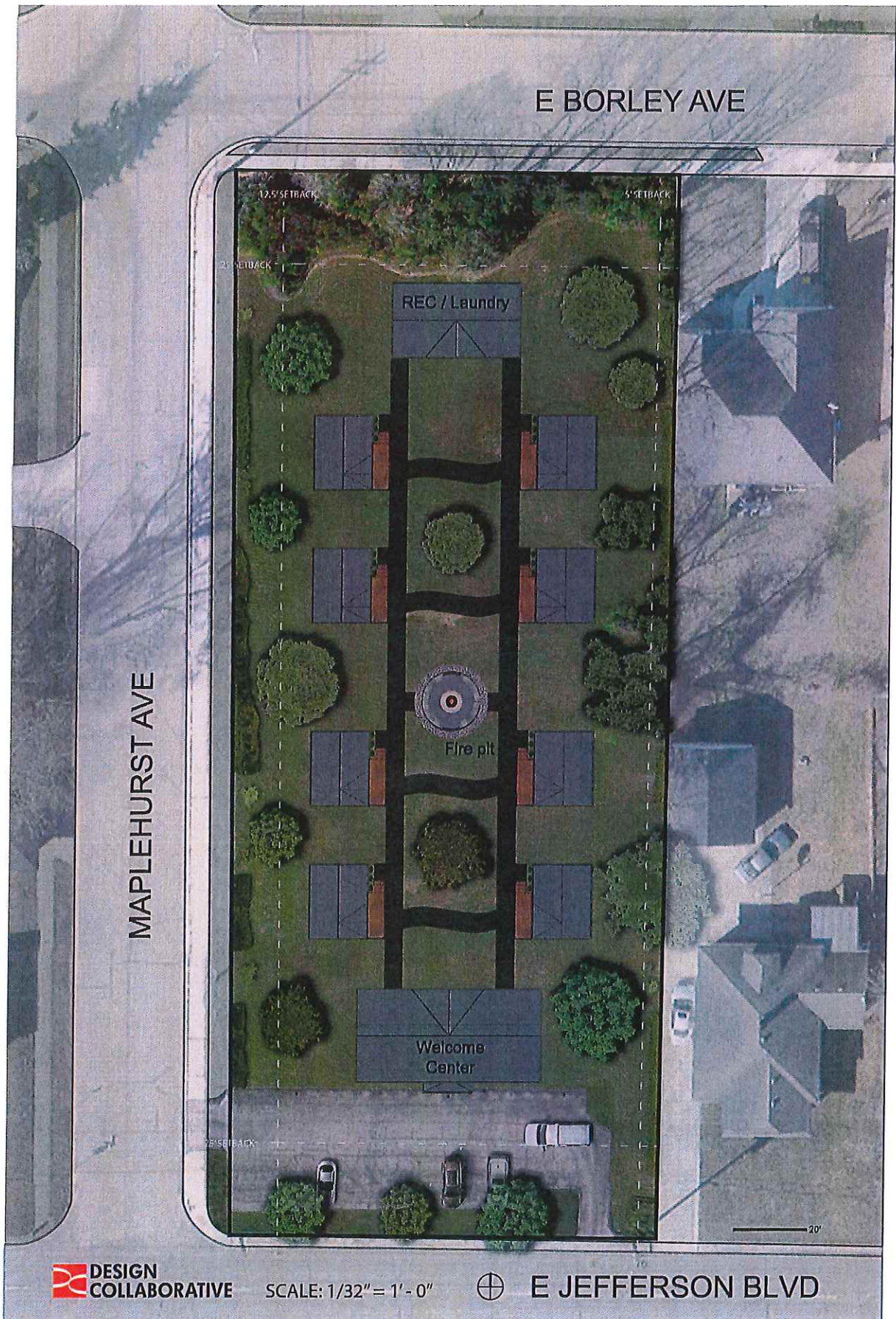
This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request will be heard.

If you have any questions concerning this matter, please feel free to give me (us) a call at 574-²³⁴⁻⁴⁰⁰³~~271-4060~~.

Sincerely,



Dwayne Kent
VFW MISHAWAKA POST 360
1307 E. Jefferson Boulevard
Mishawaka, IN 46545



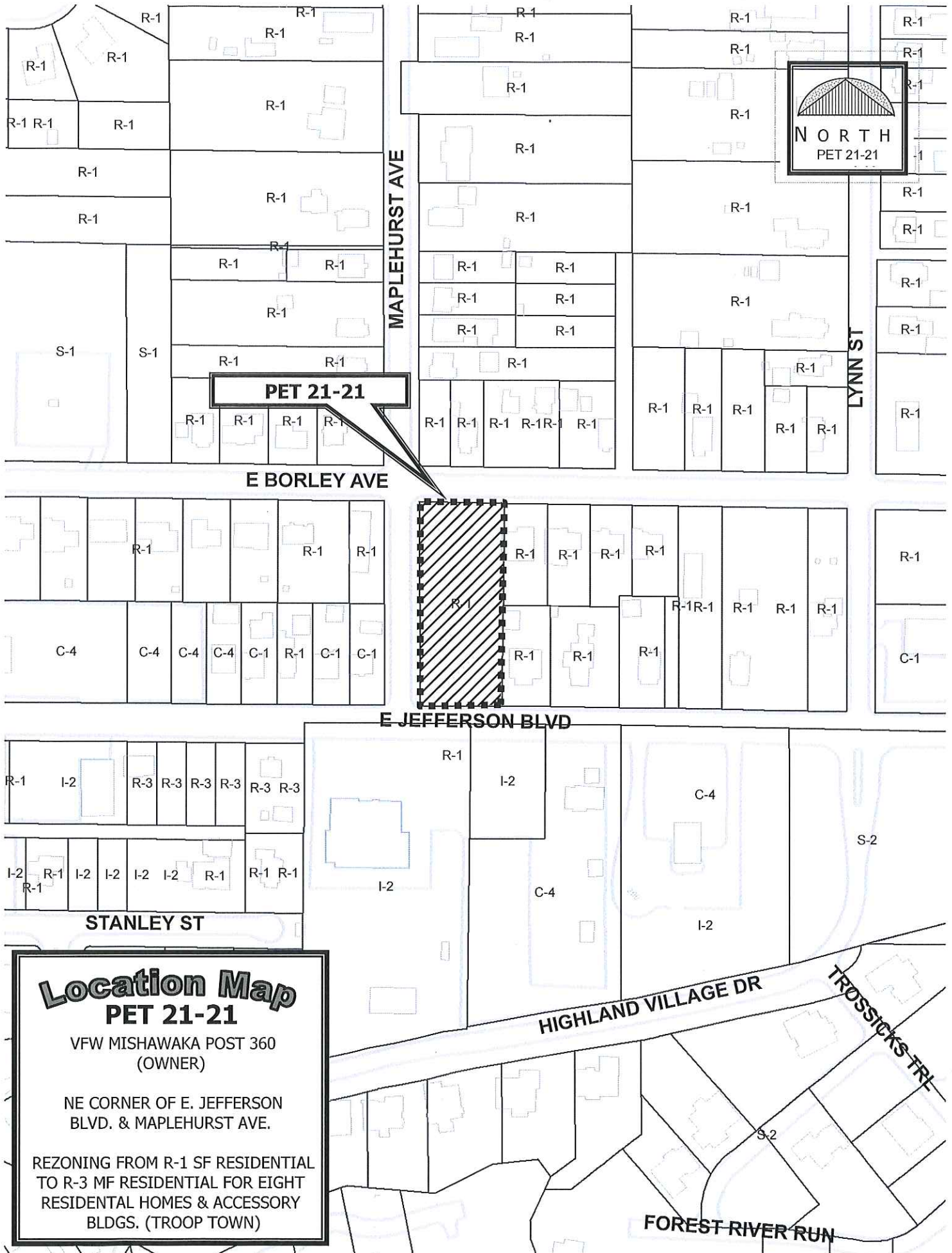
MAPLEHURST AVE

E BORLEY AVE

REC / Laundry

Fire pit

Welcome Center



PET 21-21

E BORLEY AVE

E JEFFERSON BLVD

STANLEY ST

HIGHLAND VILLAGE DR

TROSSICKS TRL

FOREST RIVER RUN

Location Map PET 21-21

VFW MISHAWAKA POST 360
(OWNER)

NE CORNER OF E. JEFFERSON
BLVD. & MAPLEHURST AVE.

REZONING FROM R-1 SF RESIDENTIAL
TO R-3 MF RESIDENTIAL FOR EIGHT
RESIDENTIAL HOMES & ACCESSORY
BLDGs. (TROOP TOWN)

PROPOSED ORDINANCE NO. 2021-41

ORDINANCE NO. _____

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

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

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

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

Street Paving

Local Road and Street

Capital Outlays

202-50-442-01	Summer Street Program	\$250,000.00
---------------	-----------------------	--------------

Motor Vehicle Highway Restricted

Capital Outlays

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

\$1,000,000.00

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

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

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

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2021 at _____ o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2021 at
_____ o'clock, _____. M.

David A. Wood, Mayor

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-42

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2021

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the General Fund, Public Safety LIT, and the Cumulative Capital Development Fund for the budget adopted for the fiscal year ending December 31, 2021.

Section 2. There is hereby transferred and reappropriated the sum of \$276,000 as follows:

General Fund

From: <u>Personal Services</u>		
101-20-413-05	Employee Health Insurance	\$110,000.00
To: <u>Other Services and Charges</u>		
101-20-431-09	Health Services	\$110,000.00

Public Safety LIT Fund

From: <u>Capital Outlays</u>		
211-50-445-09	Police Cars	\$ 96,000.00
To: <u>Debt Service</u>		
211-50-438-01	Principal	\$ 96,000.00

Cumulative Capital Development Fund

From: Capital Outlays
417-50-445-11 Computer Equip/Software \$ 70,000.00

To: Other Services and Charges
417-50-431-04 Professional Services \$ 70,000.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this _____ day of _____, 2021 at _____ o'clock, _____. M.

Gregg Hixenbaugh, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN

Date: December 2, 2021
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Transfer of Funds – Police, Public Safety LIT, and Cumulative Capital Development (CCD)**

For first reading on December 6th I am requesting transfers for three items in the budget.

First, in the original budget the health services line for police was not set up correctly. This transfer funds those expenses spent this year.

Second, the 2020 police car lease payment was set up with one payment and not two as was needed for 2021. This transfer funds this shortage.

Lastly, in CCD I am transferring funds from the capital line to the contractual line. IT needs can vary from year to year, and in 2021 the contractual expenses were greater than usual due to service contracts and more work requiring outside vendors.

Please contact me with any questions.

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

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-43

ORDINANCE NO. _____

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

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

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

Section 2. There is hereby appropriated from the American Rescue Plan Coronavirus Local Fiscal Recovery Grant fund in the sum of \$650,000.00 for assignment as follows:

ARP Coronavirus Local Fiscal Recovery Grant

Personal Services

180-50-411-69	Premium Pay	\$605,000.00
180-50-413-01	Social Security	\$ 16,000.00
180-50-413-02	Medicare	\$ 10,000.00
180-50-413-03	INPRS	<u>\$ 19,000.00</u>

Total \$650,000.00

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

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

on this _____ day of _____, 2021 at _____

o'clock, ____ M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2021 at _____
o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2021 at
_____ o'clock, _____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk
Mishawaka, IN

Date: December 2, 2021
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Salary Ordinance amendment and corresponding Additional
Appropriation for the ARP Coronavirus Local Fiscal Recovery Grant
Fund**

For first reading on December 6th is a 2021 salary ordinance amendment and the corresponding additional appropriation from the ARP fund.

One use of the ARP funds desired by both the Mayor and Council is premium pay for full time employees.

Necessary to make this happen is amending the salary ordinance and appropriating the funds. The funds must come out of ARP fund #180 as no transfers to other funds are allowed.

This premium pay is allocated in tiers as was the additional compensation that was administered in 2020.

Please contact me with any questions.

c: David A. Wood – Mayor
Council President Hixenbaugh

PROPOSED ORDINANCE NO. 2021- 44

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 5712 THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2021.

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

Section 1. Ordinance number 5712AA passed by the Common Council of the City of Mishawaka, Indiana, on the 5th of October, 2020 is hereby amended as follows:

	<u>ANNUAL/MISC PREMIUM PAY</u>
LEAD MEDIC	\$3,000
SWORN FIRE AND POLICE	\$1,250
NON-LEAD MEDIC and A - EMT	\$1,000
TEAMSTERS and CERTAIN IT EMPLOYEES	\$1,000
CIVIL CITY FULL TIME EMPLOYEES	\$785

Section 2. This ordinance shall be in full force and effect from and after its signing and attestation.

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

this _____ day of December 2021, at _____ o'clock, _____. m.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME, to the Mayor on this _____ day of December 2021, at _____ o'clock, _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of December, 2021, at _____ o'clock, ____, m.

David A. Wood, Mayor

NOV 22 2021

City Clerk
Mishawaka, IN

**RESOLUTION NO. 2021-29
Miscellaneous Property Acquisitions**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S
PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY
APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH
APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN
COMMISSION APPROVING A CERTAIN DECLARATORY
RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE
NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION
OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE
NORTHWEST IMPROVEMENT PROJECT INTO ONE
CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN
AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE
CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY
THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION**

WHEREAS, on February 24, 2014, the City of Mishawaka Redevelopment Commission (the "Commission") approved and adopted its Resolution No. 2014-03 entitled "Resolution of the City of Mishawaka Redevelopment Commission Designating and Declaring Certain Areas as Economic Development Areas, Amending the Boundaries of the Northwest Area Improvement Project, Consolidating the Southside Economic Development Area and the Northwest Area Improvement Project Into One Area, And Amending the Economic Development Plan for the Consolidated Area Improvement Project" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution (i) designated and declared certain areas within the City of Mishawaka, Indiana (the "City") to be economic development areas (the "Expansion Areas") for purposes of tax increment financing pursuant to Section 39 of Indiana Code 36-7-14 (the "Act") to expand the existing Northwest Area Improvement Project (the "Northwest Area"); (ii) removed certain parcels from the Northwest Area; (iii) consolidated the Southside Economic Development Area (the "Southside Area") and the Northwest Area into one area (to be known as the Consolidated Area Improvement Project) (the "Consolidated Area"); and (iv) approved an amendment (the "Plan Amendment") to the Economic Development Plan for the Northwest Area (the "Economic Development Plan") to provide for such Economic Development as amended to serve as the economic development plan for the Consolidated Area Improvement Project (as amended by the Plan Amendment shall hereinafter be referred to as the "Economic Development Plan"); and

WHEREAS, on March 11, 2014, the City of Mishawaka Plan Commission (the "Plan Commission") adopted and approved its resolution 2014-01, determining that the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, conform to the plan of development for the City and approving, ratifying and

confirming the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, and designated such resolution as the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, as required by Section 16 of the Act (the "Plan Commission Order"); and

WHEREAS, Section 16 of the Act prohibits the Commission from proceeding until the Plan Commission Order is approved by the legislative body of the City; and

WHEREAS, the Common Council of the City (the "Common Council") previously approved the Plan Commission Order by Common Council Resolution 2014-07; and

WHEREAS, as part of the previous approval various public improvement projects were listed as part of the Economic Development Plan; and

WHEREAS, a number of those projects including the acquisition of blighted properties and improvements to Jefferson Boulevard and the development of large infrastructure and economic development projects in close proximity to Capital Avenue which are both improvement projects that were included in the economic development plan; and

WHEREAS, the Administration is asking the legislative body for its review and approval of adding certain properties to the City's acquisition list to implement a portion of these projects; and

WHEREAS, the description of the properties proposed to be added is as follows:

- 1307 North Liberty Drive: Lot 1 & N End Lot 2 Posts Prop & 121 X 10ft Vac Alley N & Adj 04-05 Vac Ord #4741, Tax key number: 016-2063-2156, Parcel Number: 71-09-09-187-012.000-023

and

- Property north of 5801 Veterans Parkway: Encumbers Tax Key #71-04-27-200-032.000-036

A part of Lot 4 of Juday Creek Business Park Subdivision in the City of Mishawaka, Harris Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #1811362 in the Office of the Recorder of St. Joseph County, Indiana and being that part lying within the parcel lines shown on the attached Parcel Plat marked Exhibit 'B', surveyed by Michelle M.G. Slack, Professional Land Surveyor #LS29900016, of Lawson-Fisher Associates P.C., on November 3, 2021, LFA Job Number 202120.30, described as follows:

COMMENCING at the far northwest corner of said Lot 4, located within the limits of Lateral #1 Coquillard Drain; thence South 00 degrees 23 minutes 28 seconds East (bearing for this and all subsequent bearings is based on the bearing system of the plat for Juday Creek Business Park) 660.67 feet along the west line of said Lot 4 to the **POINT OF BEGINNING** of this description; thence North 89

degrees 12 minutes 56 seconds East 655.68 feet to the proposed westerly right-of-way line of Veterans Parkway; thence along the proposed westerly and northwesterly right-of-way lines of said Veterans Parkway for the following fifteen (15) calls:

- 1) South 01 degree 21 minutes 00 seconds West 55.43 feet;
- 2) thence South 30 degrees 40 minutes 18 seconds East 22.77 feet;
- 3) thence South 04 degrees 07 minutes 16 seconds West 94.88 feet;
- 4) thence Southwesterly 449.44 feet along an arc to the right and having a radius of 778.50 feet and subtended by a long chord having a bearing of South 28 degrees 22 minutes 58 seconds West 443.22 feet;
- 5) thence South 44 degrees 55 minutes 21 seconds West 622.47 feet;
- 6) thence South 34 degrees 37 minutes 04 seconds West 55.90 feet;
- 7) thence South 61 degrees 37 minutes 19 seconds West 62.64 feet;
- 8) thence North 77 degrees 48 minutes 45 seconds West 49.93 feet;
- 9) thence North 49 degrees 06 minutes 54 seconds West 85.21 feet;
- 10) thence South 44 degrees 55 minutes 21 seconds West 100.00 feet;
- 11) thence South 35 degrees 04 minutes 10 seconds East 86.31 feet;
- 12) thence South 05 degrees 58 minutes 00 seconds West 60.44 feet;
- 13) thence South 38 degrees 03 minutes 14 seconds West 58.53 feet;
- 14) thence South 38 degrees 08 minutes 51 seconds West 143.91 feet;
- 15) thence South 34 degrees 55 minutes 14 seconds West 149.11 feet to an east corner of Lot 2 of said Juday Creek Business Park Subdivision, also being a corner of said Lot 4;

thence North 43 degrees 19 minutes 01 second West 439.81 feet (distance quoted from Instrument #1811362) along a southwestern line of said Lot 4;

thence North 46 degrees 40 minutes 59 seconds East 1,008.58 feet (distance quoted from Instrument #1811362) along a northwestern line of said Lot 4;

thence North 00 degrees 23 minutes 28 seconds West 472.00 feet (distance quoted from Instrument #1811362) along a west line of said Lot 4 to the **POINT OF BEGINNING** and containing 17.03 acres, more or less.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. The referenced parcel is hereby added to the City's acquisition list as part of the consolidated area improvement projects
2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on December 6th, 2021.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the _____
day of December _____, 2021, at the hour of _____ .m.

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of December, 2021,
at the hour of _____ .m.

David A. Wood
Mayor of the City of Mishawaka, Indiana

BUY- SELL DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into as of the 15th day of November, 2021 by and between LARRY J. & BECKY L. PENN TRUST TRUSTEES and PAUL D & KAREN S PENN 1/2 INTEREST REVOCABLE LIVING TRUST, 14669 Douglas Road, Mishawaka, Indiana 46545 (hereinafter referred to as "Seller"), and the **CITY OF MISHAWAKA, INDIANA**, acting by and through its Redevelopment Commission, 600 East Third Street, Mishawaka, Indiana 46544 (hereinafter referred to as "Buyer").

WITNESSETH THAT:

The Seller promises and agrees to sell and convey to the Buyer, and the Buyer promises and agrees to purchase of and from the Seller, 17.03 acres of land as identified in for the sum of three hundred and fifty thousand seven hundred and fifty dollars (\$350,750) subject to the provisions contained herein. City of Mishawaka, St. Joseph County, Indiana, more particularly described in Exhibit "A" attached hereto.

Section 1- Buyer (City) Obligations:

1. The Buyer shall extend a 3-lane collector boulevard currently identified as Veterans Parkway (one travel lane in each direction with a center turn lane in specific locations) running north-south within the Penn Family Farm property to serve the proposed Athletic complex property just north of Juday Creek as generally identified in Exhibit C. A center landscape median has not been proposed for Phase 1 section of Veteran's Parkway. A landscape median may be included in Phase 2 and will be re-assessed concurrent with future development by both the Buyer and Seller.
2. The Buyer shall terminate Phase 1 of the extension of Veterans Parkway just north of a proposed roundabout as minimally necessary to complete the roundabout. As part of future phases, the Buyer shall construct a temporary turn-around(s) as minimally necessary to serve the further development of the surrounding property until such a time as Veterans Parkway is extended to Cleveland Road.
3. The Buyer shall extend water and sewer utilities within Veterans Parkway concurrently with the proposed phasing of the road. The Buyer shall also build a sanitary sewer lift station on property currently owned by the Buyer or located within public right of way. The capacity of the lift station, as well as, the water and sanitary sewer lines shall be sized to serve the remaining portion of the Seller's property as determined by the City Director of Engineering (Penn Family Farm).
4. Within Veterans Parkway, the Buyer shall install ornamental street lights comparable to previously constructed portions of Veteran's parkway. Any landscaping installed by the Buyer within the road right-of-way of Veterans Parkway within this section shall be maintained by the adjacent property owners. The Buyer, or the Buyer's designee, shall be responsible for any maintenance required in the center of the proposed roundabout.
5. The Buyer shall prepare a plat of all areas of property to be sold including easement and right-of-way dedication, The Buyer shall provide the Seller an opportunity to review and approve the construction drawings of public improvements within public right-of-way and easements prior to bidding for each phase of Veterans Parkway.

6. The Buyer commits to meet the schedules identified herein under Section 3: Estimated Schedule/Project Phasing, noting that the Buyer cannot be held responsible for the timely reviews of the Seller, or the other government/regulatory entities that may require approval of one or more elements of the project which are outside of the control of the Buyer.
7. The Buyer understands that the Seller's property is of a low elevation near Juday Creek and that the Seller desires to retain any excess excavated material on site as part of the Buyer's construction of roads, utilities and retention areas. If available, the Buyer shall place any excess material in a designated stockpile area from the proposed construction of Veterans Parkway improvements on the Seller's property south of Juday Creek. It is understood that, if available, the Buyer is only stockpiling material and that the Seller would be responsible for spreading, compacting, re-using the material. It is also understood that this provision shall not be required of any subsequent owner of the property being purchased by the Buyer for development of a sports complex. If desired, a separate agreement concerning the disposal of excess topsoil would need to be negotiated and agreed to between the sports complex developer and the Seller.
8. It is understood that the Seller is providing areas for storm drainage retention area(s) for Veterans Parkway, and that storm water will not be controlled exclusively within the public right-of-way of Veterans Parkway. It is also noted that the Buyer, and/or subsequent property owners shall be responsible for addressing storm drainage retention/detention for the sports complex and that additional property or easements will not be provided by the Seller for that purpose.

Section 2- Additional Seller Obligations:

1. The Seller shall be required to execute the plat as prepared by the Buyer that will include all right-of-way and easements required for the construction of Veterans Parkway as may be determined by the design being performed by the Buyer noted in "Buyer's Obligations" herein. This shall include all easements located outside of the right-of-way needed for the construction of the project including but not limited to public easements for storm drainage, multiuse paths, and electric utilities as may be required.
2. Once improvements are installed, the Seller agrees to retain, maintain, replace, and not modify without prior consent, any of the improvements being installed by the Buyer as part of this agreement without prior written consent of the Buyer subject to the following:
 - a) This shall specifically include construction and modifications to utilities, streets and similar hardscape infrastructure installed by the Buyer to fulfill this agreement.
 - b) The Buyer may require the Seller to fully compensate the Buyer for the past construction cost of any Buyer installed improvement proposed to be modified/alterd as determined through a quote or estimate prepared by a licensed engineer or contractor. The Buyer shall determine if compensation is necessary based on the Buyer's sole discretion if the need for the modification substantially benefits the tax payers of the City or not.
 - c) This provision shall remain in place for a period of eight years from the effective date of this agreement.
 - d) This provision shall exclude incidental maintenance on landscaping and irrigation systems, where applicable.

- e) This provision shall also exclude any work required based on damage or repair that is outside the control of the Seller.
3. The Seller agrees to prepare and record covenants and restrictions, or extend existing covenants, over the Seller's remaining property to create an association or other entity to provide for the perpetual maintenance of public improvements, as well as, create limitations on the use of the property that are consistent with the Buyer's municipal wellfield adjacent to the site. Specifically, the Seller shall prohibit the use of underground fuel storage tanks, restrict the type of fertilizers and chemicals that can be stored or used on the property, prohibit the construction of new wells on the property, limit the means and methods of storm water retention, and otherwise identify that the all applicable requirements of the City, State, and Federal governments relating to well head protection, as may be modified over time, shall be complied with in full. If already executed, demonstration of the binding applicability of the properties in question is all that is required.
 4. The Seller shall create or extend architectural and use standards for the Seller's property that are of high quality, similar to those that are contained in the Edison Lakes Corporate Park. A copy of these standards shall be presented to City staff for review and approval prior to recording. If already executed, demonstration of the binding applicability of the properties in question is all that is required.
 5. The Seller acknowledges that the property to be purchased by the Buyer is for the private development of a regional sports complex that will be supported in part by innkeepers tax dollars as authorized by the State of Indiana. As such, it is acknowledged that the Buyer will need relief from the association restrictions and architectural covenants and restrictions as may be proposed or already in place. As such, it is understood that the Buyer will build proposed buildings and amenities on the property to be purchased from the seller to look like large indoor recreation facilities, which are essentially large metal buildings with wide open clear spaces. Care will be taken to dress up and create architectural interest as directed by the Buyer as part of the standard City of Mishawaka final site plan approval process.
 6. The Seller will exempt any property purchased by the Buyer from any and all on-going maintenance fees, dues, or assessments as may be proposed by the association or other entity put in place for the perpetual maintenance of common areas, landscaping, landscape medians, signage, seasonal decorations and the like for all the property associated with the proposed regional sports complex. The Buyer, or subsequent land owner, shall be responsible for the maintenance of the respective property frontage adjacent to Veteran's Parkway being purchased by the Buyer.

Section 3- Estimated Schedule/Project Phasing

1. November 2021- Buyer and Seller enter into Buy-Sell Development Agreement.
2. November 2021- Buyer presents property to the Mishawaka Common Council for addition to the the City's property acquisition list.
3. December 2021- Buyer creates plat for Seller's review and required execution.
4. December 2021- The Buyer closes on the property identified in Exhibit A.

5. Spring/Summer 2022- The Buyer presents plans for the Phase 1 extension of Veterans Parkway to the Seller for review prior to bidding.
6. Summer of 2022- Construction begins on Veterans Parkway Phase 1 including the sanitary lift station, roundabout, and any construction access roads required in Road right of way for the development of the sports complex. These projects may be phased. Estimated completion will be early 2023.
7. Winter 2022/2023- Estimated earliest start of construction of proposed sports complex.
8. The Buyer, at its sole discretion, may combine phases and accelerate these completion times. If the Buyer chooses to accelerate estimated completion times, notice shall be communicated to the Seller.

Section 4- Technical Provisions

1. Hold Harmless: To the extent permitted by law, the Seller shall indemnify, hold harmless, and defend the Buyer, the Commission, the City of Mishawaka, Mishawaka Utilities, and all City entities from and against any and all claims, judgments, liabilities, losses, costs, and expenses (including, without limitation, reasonable attorneys' fees and court costs) directly arising from or connected with the intentional or negligent actions of the Seller or its employees, agents, or contractors; the performance of the Seller's work; and/or the default by the Seller of any term or condition on its part to be performed or observed under this Agreement. Reciprocally, to the extent permitted by law, the Buyer shall indemnify, hold harmless, and defend the Seller from and against any and all claims, judgments, liabilities, losses, costs, and expenses (including, without limitation, reasonable attorneys' fees and court costs) directly arising from or connected with the intentional or negligent actions of the Buyer or its employees, agents, or contractors; the performance of the Buyer's work; and/or the default by the Buyer of any term or condition on its part to be performed or observed under this Agreement.
2. The Buyer represents and warrants to the Seller, that: (a) the Buyer shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a default of this Agreement; (b) the Commission is a governing authority of the City organized and existing under the laws of the State of Indiana; and (c) the Commission has the power to enter into this Agreement and to perform its obligations hereunder, and this Agreement is the legal, valid, and binding obligation of Commission; and (d) the Commission is a governing body of the City's Department of Redevelopment and the Redevelopment District of the City.
3. The Seller represents and warrants to the Buyer that: (a) the Seller shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a default of this Agreement; (b) the Seller is duly authorized to do business in the State of Indiana; and (c) the Seller has the power to enter into this Agreement and to perform its obligations hereunder, and this Agreement is the legal, valid, and binding obligation of the Seller.
4. Simultaneously with the execution of this Agreement, the Seller shall provide the Right of Entry to the Buyer to all portions of the Sellers property referenced herein for the purposes of testing, performing surveys, and like activities. Prior to any invasive testing, the Buyer, or its consultant, shall coordinate the activity with the Seller.
5. As of the Closing Date, no action or proceeding before a court or other governmental body, agency, or instrumentality shall be pending (and no such action or proceeding shall be threatened) that would prevent the commitments of each party from being carried out in

accordance with this Agreement. It shall be the responsibility of both the Buyer and Seller to make the other aware of any such action or proceeding known to them and to cooperate to prevent the entry of such an order or decree.

6. Coordination: The Buyer and Seller acknowledge that the Buyer's Work on the Buyer's Site, including public right-of-way and easement areas, and the Buyer's activity on the adjacent owned property may be performed simultaneously, and that each party agrees to coordinate to: (a) facilitate the completion of such work in accordance with the appropriate plans and schedules; and (b) minimize interference with the performance of any such work. The Buyer and Seller shall coordinate and actively cooperate with each other's consultants, contractors, and time schedule in executing the work to be performed by them.
7. Upon reasonable written notice delivered to each party, each party may perform inspections of each other's work to determine compliance with this Agreement. This provision only pertains to the provisions of this Agreement and does not pertain to normal inspections required by applicable authorities concurrent with any construction project such as building department, utility, and other regulatory compliance inspections.
8. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, in accordance with this Agreement.
9. Cooperation in the event of a legal challenge: In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall the Buyer be required to bear the fees and costs of the Seller's attorneys nor shall the Seller be required to bear the fees and costs of the Buyer's attorneys. The Parties agree that this Section shall constitute a separate Agreement entered into concurrently with this Agreement which shall survive the termination of this agreement, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification, or setting aside.
10. Conflict of Interest: Commission Representatives Not Individually Liable: No member, official, or employee of the Buyer or any City entity shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any private corporation, partnership, or association in which he/she is, directly or indirectly, interested. No member, official, or employee of the Buyer shall be personally liable to the Seller, or any successor in interest, in the event of any default or breach by the Buyer or for any amount which may become due to the Seller or successor or assign or on any obligations under the terms of the Agreement.
11. Severability: If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.
12. Other Necessary Acts. Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to accomplish the

- commitments contemplated by this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.
13. Waiver of Jury Trial. The parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute or proceeding based upon, or related to the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally, and voluntarily made by both parties.
 14. Recordation. This Agreement or a Memorandum of Agreement may be recorded in the office of the St. Joseph County Recorder subsequent to its execution.
 15. Titles of Articles and Sections. Any titles of the several parts, sections, and paragraphs of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.
 16. Counterparts. This Agreement may be executed in counterparts, all of which shall be deemed originals.
 17. Notices and Demands. A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered electronically by e-mail with electronic verification of delivery, with respect to contacts as that party may from time to time designate in writing and forward to the other.
 18. Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State of Indiana. The initial venue for any legal action filed by either the Buyer or the Seller related to this agreement shall be located in St. Joseph County Indiana.
 19. Corporate Authority. The undersigned persons executing and delivering this Agreement on behalf of the Seller represent and certify that they are the duly authorized agent and have been fully empowered to execute and deliver this Agreement.
 20. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the parties herein.
 21. Assignment. The Seller shall not change or assign its rights under this Agreement without the prior written consent of the Buyer; provided, however that the Seller may assign its rights under this Agreement to a special purpose entity set up to develop this property without the consent of the Buyer, so long as such entity is owned in whole or in majority part by the Seller.
 22. Further Assurances. The parties agree that they will each take any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement. Without limitation, this shall include the furnishing of any documents or signatures identified herein.

Section 5-Terms and Conditions of the Property Sale

1. Buyer shall obtain, at Buyer's expense, a commitment for a Seller's Policy of Title Insurance, in the amount equal to the sale price of the property as identified herein, and brought down to a date subsequent to the date of this Agreement and disclosing a merchantable title in the Seller. Buyer shall have a reasonable time in which to cause the title insurance commitment to be examined. Any defects in title which tend to render the same unmerchantable shall be submitted by the Buyer to the Seller in writing and the Seller shall be given a reasonable time to correct the same. If Seller shall fail or refuse to cause such defects to be corrected within such time, Buyer shall have the option of accepting title subject to such defects, or clearing such defects at Seller's expense by deducting the cost thereof from the sale price at the time of closing, or of terminating this Agreement.
2. In addition to any other obligations assumed by Seller hereunder, Seller shall pay, for deed preparation, and one-half (1/2) of Metropolitan Title Company closing fees. Buyer shall pay the other one-half (1/2) of closing fees, plus the costs associated with recording the deed.
3. After the title to the described real estate has been approved by the Buyer, and upon payment of the purchase price by the Buyer to the Seller, the Seller shall execute and deliver all necessary documents conveying the real estate interests above described to the Buyer, free and clear of all liens and encumbrances, except as provided herein, and subject to all covenants, restrictions, easements, and zoning ordinances of record.
4. It is understood and agreed by the parties hereto that Buyer is purchasing the real estate and personal property covered by this agreement in an "as is" condition and that Seller has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.
5. This Transaction shall be closed in December of 2021 in accordance with the provisions contained herein.
6. Seller shall deliver possession of the real estate above described to the Buyer at the time of closing. The Seller agrees to deliver possession to the buyer with no tenants occupying the premises nor with any tenants holding any lease hold interest in the property. The Buyer shall be permitted to inspect the property on the day of closing to insure it is not occupied.
7. Risk of loss or damage to any improvements located upon the real estate above described shall remain with the Seller until the time of delivery of the documents conveying title from Seller to Buyer and possession of the premises by Buyer.
8. Seller acknowledges that because Federal Funds may be used by the Buyer in the purchase of the subject property that the sale on behalf of the Seller is voluntary. Seller acknowledges that the estimate of the fair market value of the property to be identical to the proposed purchase price identified herein. Seller further acknowledges that since the purchase is a voluntary, arm's length transaction, Seller would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation.
9. Seller shall pay all real estate taxes for the current year and all prior taxes up to the date of closing. Taxes for the current year, shall be prorated to the date of closing based upon the last official tax rate.
10. The covenants, agreements, and conditions herein contained shall be binding upon the parties hereto and shall also extend to and be binding upon their respective heirs, legal representatives, and assigns.

11. The Buyer represents that the Buyer has not entered into any real estate contract associated with this purchase and that no commissions are due and owing to any party from the Buyer with respect to this transaction. If Seller real estate commissions are due, these commissions shall be paid exclusively out of the Seller's proceeds and shall not be an incurred cost of the Buyer.
12. The Seller represents and warrants the following to be true and accurate as of the effective date of this Agreement:
 - (a) The Seller warrants and represents that it has no knowledge of: a) any hazardous substance at, under (including the groundwater) or upon the Property; or b) any hazardous substances released from the Property onto any other property or into the waters of the State, the groundwater or any publicly or privately owned well.
 - (b) To the best of Seller's knowledge, neither the Property nor the Seller, due to any of the Seller's past operations on the Property, are subject to any judicial or administrative proceedings or to any order from, or agreement with, any Governmental Authority respecting: (i) any violation or alleged violation of any environmental laws or (ii) any remedial action or (iii) any claims arising from the release or threatened release of a hazardous substance to, at or from the Property.
 - (c) The Seller has not received any written or, to the best of Seller's knowledge, any oral communications from any Governmental Authority informing the Seller of any investigation being or to be conducted by a Governmental Authority with regard to the release or threatened release of a hazardous substance to, at or from the Property.
 - (d) No environmental lien has attached to or been asserted against all or any portion of the Property.
 - (e) The Seller agrees to assume liability and to indemnify, hold harmless and defend the Buyer, its employees and agents, from and against any and all liabilities, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, of whatever kind and nature imposed on, incurred by or asserted against the Buyer, its employees or agents, arising out of or from the environmental condition of the Property occurring and/or in existence prior to or at the time of Closing Date over, underneath, in or upon the Property or in the groundwater, only if caused by the Seller, brought by a third party or a Governmental Authority against the Buyer.
13. This Agreement embodies the entire agreement between the parties and cannot be varied except by the written agreement of the parties. No representation, promise, or inducement not included in this Agreement shall be binding upon the parties hereto.
14. This Agreement shall not be effective or binding until fully executed by the parties hereto. This Agreement may be executed in counterparts.
15. This Agreement will survive closing.
16. This Agreement was negotiated by the parties at arm's length and each of the parties hereto has reviewed the agreement after the opportunity to consult with independent counsel. Neither party shall maintain that the language in this Agreement shall be construed against any signatory hereto.
17. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Section 6- Effective Date and Termination

1. Effective Date. This Agreement shall become effective upon the date this Agreement is executed by both the Buyer and the Seller, and the approval/favorable action on the three contingent sale items noted in Section 7 herein. The last approval/completion date of these items as communicated to both parties shall constitute the Effective Date.
2. Term. The term of this Agreement ("Term") shall commence upon the Effective Date and shall continue until this Agreement is terminated in accordance with the provisions herein.
3. Termination. Upon completion of all provisions of this Agreement required of the Buyer, the Buyer shall notify the Seller and request a final review of the improvements. The Seller shall then review the agreement and identify any outstanding items or deficiencies within 30 calendar days. If there are no outstanding items or deficiencies, the Seller shall provide written correspondence to the Buyer identifying that the agreement has been satisfactorily completed. If deficiencies are identified, the Buyer shall have an opportunity to respond and or correct the deficiency within a reasonable time and shall provide subsequent notification to the Seller until such a time as no discrepancies are identified or if an impasse is reached. If no response is received within 30 calendar days, the Buyer's commitments contained herein shall be considered met for the purposes of fulfilling this agreement. Reciprocally, upon completion of all provisions of this Agreement required of the Seller, the Seller shall notify the Buyer and request a final review. The Buyer shall then review the agreement and identify any outstanding items or deficiencies within 30 calendar days. If there are no outstanding items or deficiencies, the Buyer shall provide written correspondence to the Seller identifying that the Agreement has been satisfactorily completed. If deficiencies are identified, the Seller shall have an opportunity to respond and or correct the deficiency within a reasonable time and shall provide subsequent notification to the Buyer until such a time as no discrepancies are identified or if an impasse is reached. If no response is received within 30 calendar days, the Seller's commitments contained herein shall be considered met for the purposes of fulfilling this agreement.
4. Impasse. If an impasse is reached between the Buyer and Seller, the dispute shall be resolved through litigation between the parties unless another means of settlement is mutually agreed to by both parties.

Section 7- Third Party Approval/Contingent Sale

It is known and understood by both parties that this Agreement requires actions and approvals outside of the control of both the Buyer and Seller. As such, this agreement is contingent on the following:

1. It is known and understood that the Buyer is working to procure the private development of a large indoor sports complex which is integral to all efforts and actions identified in this agreement. It is understood that the City Administration through the Redevelopment Commission will be requesting Common Council approval of amending the existing planned unit development zoning to include the area identified in Exhibit A. It is understood that the Buyer and Seller want to see the development of said sports complex. If for whatever reason, the Buyer decides not to move forward with procuring the development of a sports complex, the Buyer shall offer the property identified in Exhibit A back to the Seller for purchase at the same rate per acre identified within this agreement.

This buy back provision shall expire once either an Improvement Location Permit is pulled for the sports complex or one year after written notice has been provided from the Buyer to the Seller that the sports complex is not moving forward, whichever comes first.

2. As a public entity, the Buyer is subject to specific purchasing laws identified by the Indiana Code. This includes adding this property to an official acquisition list that requires the approval of the Common Council of the City of Mishawaka.
3. To purchase property, the Buyer must conduct two independent appraisals of the property. The appraisal amount must be determined equal to or greater than the agreed upon purchase price.

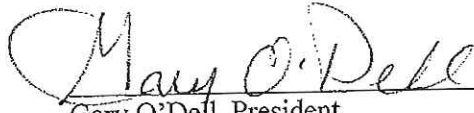
Should any of the contingent items noted above not be approved or meet the minimum thresholds identified, this agreement in its entirety shall be considered null and void, and nothing contained herein shall be binding on either party.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement on the dates first written below.

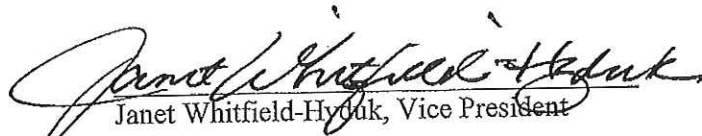
COMMISSION:

BUYER:

CITY OF MISHAWAKA, BY ITS
REDEVELOPMENT COMMISSION



Gary O'Dell, President

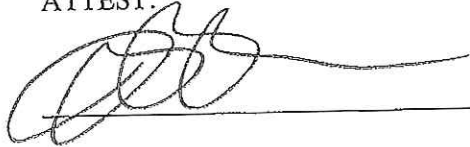


Janet Whitfield-Hyduk, Vice President



Kris Ermeti, Secretary

ATTEST:



STATE OF INDIANA)

)SS:

ST. JOSEPH COUNTY)

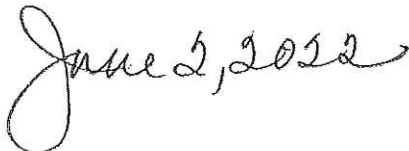
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gary L. O'Dell, Janet Whitfield-Hyduk and Kris Ermeti known to me to be President, Vice President, and Secretary of the City of Mishawaka Redevelopment Commission and acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the 5th day of November, 2021.



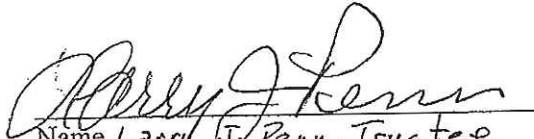
Notary Public
Residing in St. Joseph County, Indiana

My Commission Expires:


June 2, 2022

SELLER:

LARRY J. & BECKY L. PENN TRUST TRUSTEES


Name Larry J. Penn, Trustee

PAUL D & KAREN S PENN 1/2 INTEREST
REVOCABLE LIVING TRUST


Name Paul D. Penn, Trustee

STATE OF INDIANA)

)SS:

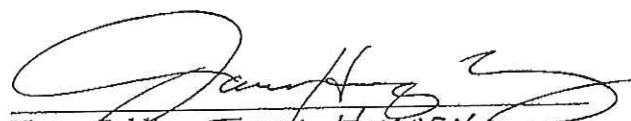
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Larry J. Penn, Trustee of Larry J. & Becky L. Penn Trust and Paul D. Penn, Trustee of Paul D & Karen S. Penn Revocable Trust who acknowledged the execution of the foregoing Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on 15TH day of November, 2021.

My Commission Expires: 6-30-24

Comm No. 687379


Notary Public JAMES HUGHEY
Residing in St. Joseph County, Indiana
Elkhart

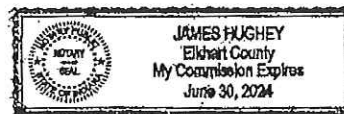


EXHIBIT "A"

Encumbers Tax Key #71-04-27-200-032.000-036

A part of Lot 4 of Juday Creek Business Park Subdivision in the City of Mishawaka, Harris Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #1811362 in the Office of the Recorder of St. Joseph County, Indiana and being that part lying within the parcel lines shown on the attached Parcel Plat marked Exhibit 'B', surveyed by Michelle M.G. Slack, Professional Land Surveyor #LS29900016, of Lawson-Fisher Associates P.C., on November 3, 2021, LFA Job Number 202120.30, described as follows: **COMMENCING** at the far northwest corner of said Lot 4, located within the limits of Lateral #1 Coquillard Drain; thence South 00 degrees 23 minutes 28 seconds East (bearing for this and all subsequent bearings is based on the bearing system of the plat for Juday Creek Business Park) 660.67 feet along the west line of said Lot 4 to the **POINT OF BEGINNING** of this description; thence North 89 degrees 12 minutes 56 seconds East 655.68 feet to the proposed westerly right-of-way line of Veterans Parkway; thence along the proposed westerly and northwesterly right-of-way lines of said Veterans Parkway for the following fifteen (15) calls:

- 1) South 01 degree 21 minutes 00 seconds West 55.43 feet;
- 2) thence South 30 degrees 40 minutes 18 seconds East 22.77 feet;
- 3) thence South 04 degrees 07 minutes 16 seconds West 94.88 feet;
- 4) thence Southwesterly 449.44 feet along an arc to the right and having a radius of 778.50 feet and subtended by a long chord having a bearing of South 28 degrees 22 minutes 58 seconds West 443.22 feet;
- 5) thence South 44 degrees 55 minutes 21 seconds West 622.47 feet;
- 6) thence South 34 degrees 37 minutes 04 seconds West 55.90 feet;
- 7) thence South 61 degrees 37 minutes 19 seconds West 62.64 feet;
- 8) thence North 77 degrees 48 minutes 45 seconds West 49.93 feet;
- 9) thence North 49 degrees 06 minutes 54 seconds West 85.21 feet;
- 10) thence South 44 degrees 55 minutes 21 seconds West 100.00 feet;
- 11) thence South 35 degrees 04 minutes 10 seconds East 86.31 feet;
- 12) thence South 05 degrees 58 minutes 00 seconds West 60.44 feet;
- 13) thence South 38 degrees 03 minutes 14 seconds West 58.53 feet;
- 14) thence South 38 degrees 08 minutes 51 seconds West 143.91 feet;
- 15) thence South 34 degrees 55 minutes 14 seconds West 149.11 feet to an east corner of Lot 2 of said Juday Creek Business Park Subdivision, also being a corner of said Lot 4;

thence North 43 degrees 19 minutes 01 second West 439.81 feet (distance quoted from Instrument #1811362) along a southwestern line of said Lot 4;
thence North 46 degrees 40 minutes 59 seconds East 1,008.58 feet (distance quoted from Instrument #1811362) along a northwestern line of said Lot 4;
thence North 00 degrees 23 minutes 28 seconds West 472.00 feet (distance quoted from Instrument #1811362) along a west line of said Lot 4 to the **POINT OF BEGINNING** and containing 17.03 acres, more or less.

EXHIBIT "B"

A part of Lot 4 of Juday Creek Business Park Subdivision in the City of Mishawaka, Harris Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #1811362 in the Office of the Recorder of St. Joseph County, Indiana and being that part lying within the parcel lines shown on the attached Parcel Plat marked Exhibit 'B', surveyed by Michelle M.G. Slack, Professional Land Surveyor #LS29900016, of Lawson-Fisher Associates P.C., on November 3, 2021, LFA Job Number 202120.30, described as follows: **COMMENCING** at the far northwest corner of said Lot 4, located within the limits of Lateral #1 Coquillard Drain, thence South 89 degrees 58 minutes 24 seconds East (bearing for this and all subsequent bearings is based on the bearing system of the plat for Juday Creek Business Park) 671.68 feet along a north line of said Lot 4 to the proposed westerly right-of-way line of Veterans Parkway and the **POINT OF BEGINNING** of this description; thence South 89 degrees 58 minutes 24 seconds East 80.01 feet continuing along said north line to the easterly right-of-way line of said Veterans Parkway; thence along the proposed easterly and southeasterly right-of-way lines of said Veterans Parkway for the following seventeen (17) calls:

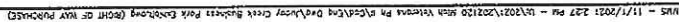
- 1) thence South 00 degrees 44 minutes 39 seconds East 619.91 feet;
- 2) thence South 45 degrees 44 minutes 39 seconds East 28.28 feet;
- 3) thence South 01 degree 03 minutes 49 seconds West 74.37 feet;
- 4) thence South 35 degrees 31 minutes 51 seconds West 24.96 feet;
- 5) thence Southwesterly 105.74 feet along an arc to the right and having a radius of 865.50 feet and subtended by a long chord having a bearing of South 08 degrees 20 minutes 39 seconds West and a length of 105.68 feet;
- 6) thence South 19 degrees 08 minutes 32 seconds West 105.48 feet;
- 7) thence Southwesterly 390.75 feet along an arc to the right and having a radius of 858.50 feet and subtended by a long chord having a bearing of South 31 degrees 53 minutes 00 seconds West and a length of 387.39 feet;
- 8) thence South 44 degrees 55 minutes 21 seconds West 622.46 feet;
- 9) thence South 35 degrees 27 minutes 37 seconds West 91.24 feet;
- 10) thence South 02 degrees 06 minutes 30 seconds East 99.76 feet;
- 11) thence South 45 degrees 04 minutes 39 seconds East 52.00 feet;
- 12) thence South 44 degrees 55 minutes 21 seconds West 90.00 feet;
- 13) thence North 68 degrees 16 minutes 34 seconds West 76.16 feet;
- 14) thence North 88 degrees 28 minutes 17 seconds West 75.69 feet;
- 15) thence South 66 degrees 24 minutes 22 seconds West 40.96 feet;
- 16) thence Southwesterly 272.87 feet along an arc to the left and having a radius of 778.50 feet and subtended by a long chord having a bearing of South 34 degrees 52 minutes 53 seconds West and a length of 271.47 feet;
- 17) thence South 16 degrees 31 minutes 22 seconds West 111.19 feet to a northeast corner of the existing platted right-of-way of Veterans Parkway;

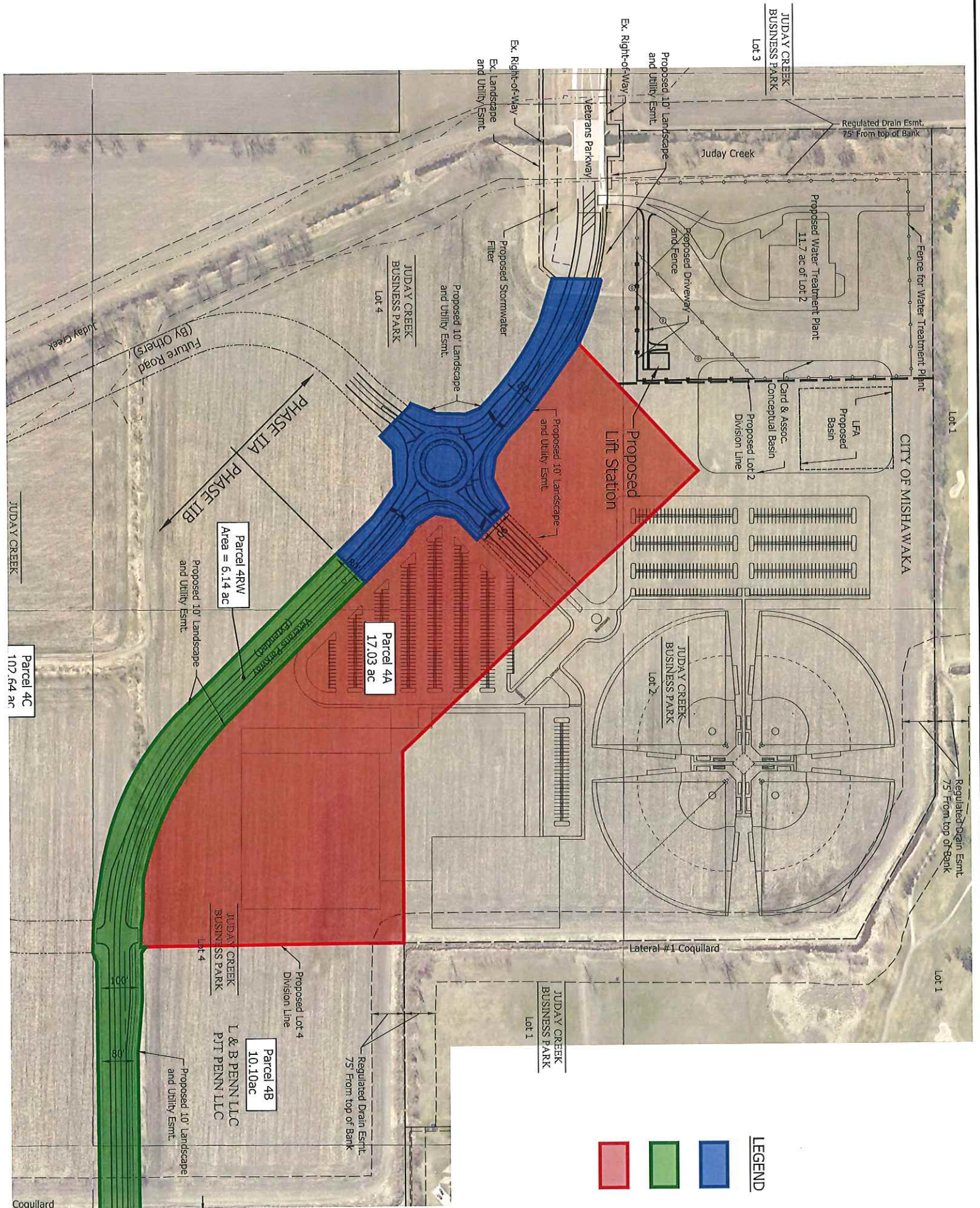
thence South 89 degrees 35 minutes 21 seconds West 101.09 feet along the north line of the existing right-of-way of said Veterans Parkway, also being a south line of said Lot 4, to a western line of said Lot 4;

thence along said western line Northeasterly 163.86 feet along an arc to the right and having a radius of 863.51 feet and subtended by a long chord having a bearing of North 19 degrees 05 minutes 46 seconds East and a length of 163.61 feet to an east corner of Lot 2 of said Juday Creek Business Park Subdivision, also being a corner of said Lot 4;

thence along the proposed northwesterly and westerly right-of-way lines of said Veterans Parkway for the following nineteen (19) calls:

- 1) North 34 degrees 55 minutes 14 seconds East 149.11 feet;
- 2) thence North 38 degrees 08 minutes 51 seconds East 143.91 feet;
- 3) thence North 38 degrees 03 minutes 14 seconds East 58.53 feet;
- 4) thence North 05 degrees 58 minutes 00 seconds East 60.44 feet;
- 5) thence North 35 degrees 04 minutes 10 seconds West 86.31 feet;
- 6) thence North 44 degrees 55 minutes 21 seconds East 100.00 feet;
- 7) thence South 49 degrees 06 minutes 54 seconds East 85.21 feet;
- 8) thence South 77 degrees 48 minutes 45 seconds East 49.93 feet;
- 9) thence North 61 degrees 37 minutes 19 seconds East 62.64 feet;
- 10) thence North 34 degrees 37 minutes 04 seconds East 55.90 feet;
- 11) thence North 44 degrees 55 minutes 21 seconds East 622.46 feet;
- 12) thence Northeasterly 449.45 feet along an arc to the left and having a radius of 778.50 feet and subtended by a long chord having a bearing of North 28 degrees 23 minutes 00 seconds East and a length of 443.23 feet;
- 13) thence North 04 degrees 07 minutes 16 seconds East 94.88 feet;
- 14) thence North 30 degrees 40 minutes 18 seconds West 22.77 feet;
- 15) thence North 01 degree 21 minutes 00 seconds East 55.43 feet to the proposed division line for Lot 4;
- 16) thence North 37 degrees 26 minutes 29 seconds East 12.94 feet;
- 17) thence North 00 degrees 44 minutes 39 seconds West 120.00 feet;
- 18) thence North 04 degrees 31 minutes 47 seconds East 130.55 feet;
- 19) thence North 00 degrees 44 minutes 39 seconds West 390.99 feet to the **POINT OF BEGINNING** and containing 6.14 acres, more or less.





BUY AND SELL AGREEMENT

THIS AGREEMENT made and entered into as of the 27th. day of October, 2021 by and between Eddie L & Sheila Ford, hereinafter referred to as "Seller", and **CITY OF MISHAWAKA**, acting by and through its Redevelopment Commission, hereinafter referred to as "Buyer", All of St. Joseph County, State of Indiana,

WITNESSETH THAT:

The Seller promises and agrees to sell and convey to the Buyer, and the Buyer promises and agrees to purchase of and from the Seller, for the sum of Forty Thousand dollars (\$40,000), the property's located at 1307 Liberty Drive, City of Mishawaka, 46545 St. Joseph County, Indiana, more particularly described as follows:

Lot 1 & N End Lot 2 Posts Prop & 121 X 10ft Vac Alley N & Adj 04-05 Vac Ord #4741

Tax key number: 016-2063-2156

Parcel Number: 71-09-09-187-012.000-023

This purchase is contingent on the following:

1. Upon the Seller's approval of his agreement, the Buyer will order two appraisals of the properties. The average of the two property appraisals must meet or exceed the offer price, or this agreement shall be considered null and void, unless a reduction in price is jointly agreed upon by both the Buyer and Seller.
2. As a public entity, the Buyer is subject to specific purchasing laws identified by the Indiana Code. This includes adding this property to an official acquisition list that requires the approval of the Common Council of the City of Mishawaka.
3. The Seller shall remove any items, material, or debris stored within the building and properly dispose of any chemicals or materials in accordance with applicable laws and restrictions.

4. It is understood and agreed by the parties hereto that Buyer is purchasing the real estate and personal property covered by this agreement in an "as is" condition and that Seller has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.

Subject to and upon the terms and conditions hereinafter set forth:

1. Buyer shall obtain, at Buyer's expense, a commitment for a \$40,000 Owner's Policy of Title Insurance in which the title insurance company shall agree to insure merchantable title in the name of the Buyer after delivery of a Deed to Buyer from Seller. Any defects in title which tend to render the same un-merchantable shall be submitted by the Buyer to the Seller in writing and the Seller shall be given reasonable time to correct the same. If the Seller shall fail or refuse to cause such defects to be corrected, Buyer shall have the option of accepting title subject to defects, or of terminating this Agreement.
2. After the title to the described real estate has been approved by the Buyer, and upon payment of the balance of the purchase price by the Buyer to the Seller, the Seller shall execute and deliver a Warranty Deed conveying the real estate above described to the Buyer, free and clear of all liens and encumbrances, except as provided herein, and subject to all covenants, restrictions, easements, and zoning ordinances of record.
3. It is understood and agreed by the parties hereto that Buyer is purchasing the real estate and personal property covered by this agreement in an "as is" condition and that Seller has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.
4. Pending the timely delivery of the aforementioned appraisals, this Transaction shall be closed on or about the 15th. day of December, 2021.

5. Seller shall deliver possession of the real estate above described to the Buyer at the time of closing. The Seller has identified that no tenants are currently residing on the property. Furthermore, the Seller agrees to deliver possession to the buyer with no tenants occupying the premises nor with any tenants holding any lease hold interest in the property. The Buyer shall be permitted to inspect the premises on the day of closing to insure the building is not occupied.
6. Seller, at his option, shall have the right to limited salvage rights in the real estate. All such salvage rights are to be approved by the Buyer prior to Seller exercising his salvage rights. Salvage shall specifically not include anything that would structurally modify or impact the structure. As part of any salvage, the Seller shall be responsible for maintaining a secure structure not creating any openings that would freely allow birds, animals, or people to enter the building. The Seller shall have the time up to the closing of the transaction to complete any salvage work.
7. Risk of loss or damage to any improvements located upon the real estate above described shall remain with the Seller until the time of delivery of the Warranty Deed conveying title from Seller to Buyer and possession of the premises by Buyer.
8. Seller acknowledges that because Federal Funds may be used by the Buyer in the purchase of the subject property that the sale on behalf of the Seller is voluntary. Seller further acknowledges that the Buyer will not use the power of eminent domain to acquire the property. Seller acknowledges that the estimate of the fair market value of the property to be \$40,000. Seller further acknowledges that since the purchase is a voluntary, arm's length transaction, Seller would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation.

9. Seller shall pay any unpaid taxes and assessments for prior years. Taxes for the year 2021, payable in 2022, shall be prorated to the date of closing based upon the last official tax rate.
10. The covenants, agreements, and conditions herein contained shall be binding upon the parties hereto and shall also extend to and be binding upon their respective heirs, legal representatives, and assigns.
11. The seller shall assist with and provide any documentation relative to known environmental conditions on the property including but not limited to underground tanks and other existing conditions on the property of an environmental nature. This shall include any existing environmental reports such as a phase 1 or Phase 2 environmental study.
12. Vendor's Affidavit. Seller shall provide Buyer with an executed Vendor's Affidavit at the Closing in form acceptable to the Title Company.
13. In addition to any other obligations assumed by Seller hereunder, Seller shall pay, for deed preparation, and one-half (1/2) of Metropolitan Title Company closing fees. Buyer shall pay the other one-half (1/2) of closing fees, plus the costs associated with recording the deed.
14. Seller shall be responsible for maintaining the property until Closing and for paying for all necessary maintenance and repairs. Seller shall also maintain a proper insurance on the property until Closing, fully insuring it against loss.
15. In the event that the Seller or Buyer breaches any of the terms of this Agreement and the party not in default employs attorneys to protect or to enforce its rights hereunder and prevails, then the party in default agrees to pay all reasonable costs, attorney fees, and expenses incurred by the party not in default in enforcing the covenants and agreements contained herein.

16. No modification to this Agreement shall be valid unless in writing and signed by all parties.

17. If any provision of this Agreement is deemed void or unenforceable, the same shall in no way impair the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

18. It is expressly agreed and understood that this Agreement contains all of the agreements of the parties and that no verbal agreements of any kind shall be binding upon the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

BUYER

SELLER

CITY OF MISHAWAKA, acting by and
Through its Redevelopment Commission

Eddie L. & Sheila A. Ford
1307 Liberty Drive
Mishawaka, Indiana 46544

By:

Gary O'Dell, President

Eddie L. Ford

Kris Ermeti, Secretary

Sheila A. Ford