

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

