

# AGENDA

January 04, 2022

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): 2338 527 1140  
Meeting Password: H85BgGyrDY4

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: [23385271140@mishawaka.webex.com](https://23385271140@mishawaka.webex.com)

1. Call to Order
2. Pledge of Allegiance
3. Roll Call      **ELECTION OF OFFICERS**
4. Approval of the Minutes of the Regular Meeting of December 20, 2021
5. Petitions, Communications, Remonstrance and Memorial
6. Report of Special Committee
7. Ordinances on First Reading
8. Resolutions

R2021-32

Use Variance to allow Outdoor Storage  
Containers screened by 7' high fencing in C-2  
Commercial District - 2572 Miracle Lane -  
Dunhams Sports

## 9. Ordinances on Second Reading

- |                  |                                                                                                                                                                             |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| P.O. No. 2021-50 | PUD Amendment to allow continued Single Family Residential Use with new 3,072 SF/20' high Accessory Building - 230 Ireland Rd.<br>(Assigned to Land Use Planning Committee) |
| P.O. No. 2021-51 | PUD Amendment to allow for Storage Facility - 512 W. Cleveland Rd.<br>(Assigned to Land Use Planning Committee)                                                             |
| P.O. No. 2021-52 | PUD Amendment to add Two Single Family Homes - The Village at Harrison Creek<br>(Assigned to Land Use Planning Committee)                                                   |

## 10. Privilege of the Floor - Non-Agenda Items

## 11. Unfinished Business

## 12. New Business

- **Council Committees & Appointments**
- **Council Attorney**
- **Appointments to Various Boards and Commissions**
  - **MBA**
  - **Solid Waste**
  - **MACOG**
  - **Insurance Committee**
  - **Redevelopment Commission**
  - **Plan Commission**
  - **Historic Preservation Commission**
  - **Animal Control Board**
  - **PSAP Executive Board**
  - **School City of Mishawaka Liaison**
- **Acceptance of Conflict of Interest forms**

## 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**

**December 20, 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, December 7, 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, followed by a moment of silence in remembrance of former Mishawaka Chief of Police, longtime Mishawaka resident and all-around good man Vince Meribela. Mr. Hixenbaugh also added the council's condolences to their friend and colleague Mike Bellovich and his family for their loss.

### **Roll Call.**

**Present: Mrs. DeMaegd (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (A), 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 December 6, 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 December 14, 2021 meeting.

Clerk Block read a letter from the City Plan Commission regarding their recommendations from their December 14, 2021 meeting.

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

### **PROPOSED ORDINANCE NO. 2021-45**

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN  
THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS  
ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL  
ASSOCIATION OF FIREFIGHTERS, AFL - CIO  
Collective Bargaining between the City and Mishawaka's Firefighters Association Local  
No. 360 01-01-2022 thru 12-31-2024  
(Petitioner Requesting Second Reading)**

The chair entertained a motion to waive their standing council rules and conduct first and second reading on **PROPOSED ORDINANCE NO. 2021-45** that evening. The motion was made and seconded to suspend standing council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2021-45**, thus a voice vote was held. The motion carried and the council moved into the second reading of the proposed ordinance.

Bryan Woodward, Fire Chief, spoke in favor of **PROPOSED ORDINANCE NO. 2021-45**. Mr. Woodward stated they spent a lot of time on the contract and did a lot of language cleanup. Mr. Woodward stated the contract worked out well for both sides, with many benefits to the members of the department and many benefits to the citizens of the city. Mr. Woodward stated they gave up some important things and got some things back, but they understood the need and where they needed to do to better serve their citizens. Mr. Woodward concluded stating he would field any questions.

Mr. Hixenbaugh thanked Chief Woodward for his work on this as well as the summary he included with the information the council received. Mr. Hixenbaugh stated one of the things he highlighted that he thought was an exciting development was the enhanced opportunity for the city to provide additional ambulance services in the form of a fourth ambulance. Mr. Hixenbaugh asked him to touch on that briefly and how it played out in the contract. Mr. Woodward stated to put forth a fourth ambulance in an emergency type situation took a lot of time and when they tried to do it before, whatever event they needed it for in the past would usually be ending by the time they could do it. Mr. Woodward stated the way they have changed the language now would allow them now to put a fourth ambulance in service and not have to go through a contract negotiation again or do any type of bargaining if it happened before the contract were to expire. Mr. Woodward stated it was great facing that need. Mr. Woodward stated it was not going to get any slower and in one of their busiest days in the past couple weeks, they had 41 calls in 13 hours. Mr. Woodward stated language like this would really help and he could not say enough good things about the men and women in the department with the way they were tackling the challenge. Mr. Hixenbaugh followed up stating the council would be considering matters later on in the meeting related to federal money distributed to the city that allowed them to pay bonuses to their employees related to the pandemic. Mr. Hixenbaugh stated Chief Woodward and his department were one of the groups who stepped up and really went over and above throughout the pandemic while serving the best interests of the community in many different ways. Mr. Hixenbaugh stated they should all be appreciated and thanked Chief Woodward along with his department for the work they did. Mr. Hixenbaugh stated they were not through the pandemic as a whole yet, but they were a lot better off locally because of the work he and his firefighters had done. Mr. Woodward thanked Mr. Hixenbaugh for his comments and stated they faced it head on and he was humbled to work alongside of his department. Mr. Hixenbaugh stated another positive that came out of the contract was the resolution of lingering issues, namely some litigation that had been initiated some time ago. Mr. Hixenbaugh stated if Chief Woodward were not the appropriate person to talk about that, possibly the corporate counsel or someone else would speak about that. Mr. Hixenbaugh felt it was important for the record to reflect that the contract settlement, as he read it, was related to the resolution of the litigation. Mr. Hixenbaugh

asked if they had any feel for when the subsequent actions would take place to dismiss the lawsuit or if the question was better posed to the lawyer. Mr. Woodward stated it was better posed for the lawyer. Mr. Hixenbaugh thanked Mr. Woodward.

Mr. Bellovich stated members of Chief Woodward's team were out to his home two weeks ago that evening and they did an excellent job. Mr. Bellovich thanked Chief Woodward.

Mayor Wood urged the council to support the contract language and ordinance. Mayor Wood stated he personally got involved in the negotiations and there was a lot of hard work involved by the administration as well as the labor group at the fire department. Mayor Wood thanked them in particular for their outstanding job and it was obvious that they were represented as well as served by some of the best you would find anywhere and he appreciated them very much. Mayor Wood stated as mentioned, this resolved lingering legal issues and that would take place as soon as it was passed and the contract would take effect the first part of the year. Mayor Wood stated they were eager to get it behind them and put themselves on the correct path moving forward working in partnership with the council and the labor group. Mayor Wood stated it took all three of them to cooperate, get along and advance the department, which were all of their goals. Mayor Wood thanked the council for their support.

Mr. Hixenbaugh thanked Mayor Wood for the work he and his administration conducted to resolve several issues in the best interest of the community. Mr. Hixenbaugh asked when the matter was officially resolved, if he or the corporation counsel could let the council know and they would appreciate that confirmation. Mr. Hixenbaugh thanked Mayor Wood again.

Frank Zappia, President of Mishawaka Firefighters Local 360, spoke in favor of **PROPOSED ORDINANCE NO. 2021-45**. Mr. Zappia echoed the sentiments of the Chief and the Mayor and stated a lot of hard work from numerous people went into this. Mr. Zappia stated they were looking forward to everything in this and felt better for their brother and sister firefighters and the citizens of Mishawaka.

Mr. Hixenbaugh thanked him for the work he and his members did to bring this to fruition and thanked him on behalf of the city for the work he and the members of the firefighters union had done and would continue to do throughout the pandemic.

Question was called for at 7:16PM for **PROPOSED ORDINANCE NO. 2021-45** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5767**

**PROPOSED ORDINANCE NO. 2021-46**

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN CITY OF  
MISHAWAKA AND THE EMPLOYEES OF THE CENTRAL SERVICES  
DEPARTMENT REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS LOCAL NUMBER 364**

**Collective Bargaining between the City and Mishawaka's Central Services Dept. Local No.  
364 01-01-2022 thru 12-31-2023  
(Petitioner Requesting Second Reading)**

The chair entertained a motion to suspend their regular council rules and hold first and second reading that evening on **PROPOSED ORDINANCE 2021-46**. The motion was made and seconded to suspend standing council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2021-46**, thus a voice vote was held. The motion carried and the council moved into the second reading of the proposed ordinance.

Susan Kile, Director of Human Resources for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-46**. Mrs. Kile stated the City and the Central Services Department Teamster Division negotiated a new contract for the year. Mrs. Kile stated they cleaned up language regarding dates for vacations and eliminated one disciplinary to have six instead of seven before you are fired if you had attendance issues. Mrs. Kile stated as far as notices, if they would like to have an FTO or bonus day that they would need at least 30 minutes to rearrange their schedules. Mrs. Kile stated they added monetary value to each one of the uniform allowances to give employees more money to purchase the clothing and boots they needed. Mrs. Kile stated they added to the tool allowance for the mechanics and added something brand new for jobs classifications; if a Central Services Teamster had a tanker endorsement, a CDLB or a CDLA, they were awarded a monetary stipend too for that. Mrs. Kile stated those were the changes in the contract and it went really well. Mrs. Kile stated unfortunately one of their stewards tested positive for COVID and the other one got a new job, which delayed the negotiations a little bit. Mrs. Kile stated Tim Ryan, Craig Fitzpatrick, Pat Hinkle and herself worked very hard to get the contract approved and the employees enjoyed it. Mrs. Kile stated it only took one vote and they came to an agreement.

Mr. Hixenbaugh thanked Mrs. Kile for the work she and her team did and passed along their thanks to the Teamsters for the hard work they did to bring this to resolution.

Question was called for at 7:21PM for **PROPOSED ORDINANCE NO. 2021-46** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5768**

**PROPOSED ORDINANCE NO. 2021-47**

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN CITY OF  
MISHAWAKA AND THE EMPLOYEES OF THE ELECTRIC DEPARTMENT  
REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS LOCAL 1392**

**Collective Bargaining Between the City and Local 1392 IBEW 1-1-2022 thru 12-31-2025  
(Petitioner Requested Second Reading)**

The chair entertained a motion to suspend their regular council rules and hold first and second reading that evening on **PROPOSED ORDINANCE 2021-47**. The motion was made and seconded to suspend standing council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2021-47**, thus a voice vote was held. The motion carried and the council moved into the second reading of the proposed ordinance.

Susan Kile, Director of Human Resources for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-47**. Mrs. Kile stated IEBW and their representatives from Water, Electric, Wastewater and the Mishawaka Business Office met with the City, herself, Pat Hinkle, Carl Kopec, Dave Majewski, Ginny Fras and Kevin Wasmer to begin the negotiations. Mrs. Kile stated they had good negotiations with the IEBW and they were looking for certain things and were able to get those things. Mrs. Kile stated the employees were happy with what was offered and the City was happy with what they received. Mrs. Kile stated it was one of the best bargaining negotiations she had be involved in. Mrs. Kile stated they agreed on a 4 year contract term and they agreed on a 5% wage increase. Mrs. Kile stated the one change they made was usually when they got to be a class 4 operator, there was dollar an hour extra pay for that and they changed that to just a \$3,000 annual stipend and took the dollar away. Mrs. Kile stated it nearly evened out, because of the overtime they worked and it matched what the salary individuals got when they had that certification. Mrs. Kile stated the language changes in Article 26 and 23 were date changes and there was a rate of overtime pay in articles 14 and 15, with the change being that Wastewater would get paid double time if they worked on Christmas Day. Mrs. Kile stated the last change was they increased the longevity from \$125 to \$85 starting 1/1/2022 and it did not go back retro, but just started going forward. Mrs. Kile stated the grievance procedure changed to where it said the Mayor or his designee, since they did not have a current general manager. Mrs. Kile stated Wastewater and Water opted out of the Reasonable Available Policy, which meant they had to take 30% of all of their callouts and if it fell below that, they would receive disciplinary action. Mrs. Kile stated they also moved the heavy equipment operator A in Water to make the same wage as the heavy equipment operator in Electric.

Mr. Compton thanked Mrs. Kile for the update in the contract and asked if Christmas was the only holiday where double time pay was involved. Mrs. Kile stated it was all the federal holidays the City of Mishawaka recognized and the Board of Public Works put together. Mrs. Kile stated she was just using Christmas as an example.

Mr. Hixenbaugh asked Mrs. Kile to pass their thanks along to the IBEW negotiating team for their hard work on this.

Mayor Wood spoke in favor of these contract bargaining agreements as well as the Central Services and the Sewer Department coming up and in the interest of time limited it to one comment to appeal to all. Mayor Wood stated sometimes these things took a lot to sit at the table, negotiate, work through all the issues, come to agreements and then to structure all of these to get votes from membership. Mayor Wood stated they had a good team involved in that and wanted to give a particular shoutout to Susan Kile for her work in not only keeping the things on track and moving forward, but all of the other work she had to do on a daily basis. Mayor Wood stated without her hard work, they would not be there that evening and thanked her along with the department managers for the various departments and labor groups represented. Mayor Wood stated they made this process go as smoothly as it could go for any organization. Mayor Wood stated to have all of these groups be successful as they are was the way Mishawaka worked and there was no surprise in that. Mayor Wood thanked the council for their support in all of them.

Question was called for at 7:30PM for **PROPOSED ORDINANCE NO. 2021-47** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5769**

#### **PROPOSED ORDINANCE NO. 2021-48**

#### **AN ORDINANCE APPROVING AN AGREEMENT BETWEEN CITY OF MISHAWAKA AND THE EMPLOYEES OF THE SEWER DEPARTMENT REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 364**

**Collective Bargaining Agreement Between the City and Local 364 Sewer Dept. 1-1-2022  
thru 12-31-2024  
(Petitioner Requesting Second Reading)**

The chair entertained a motion to suspend their regular council rules and hold first and second reading that evening on **PROPOSED ORDINANCE 2021-48**. The motion was made and seconded to suspend standing council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2021-48**, thus a voice vote was held. The motion carried and the council moved into the second reading of the proposed ordinance.

Susan Kile, Director of Human Resources for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-48**. Mrs. Kile stated there were four changes in the Sewer Department agreement itself and it took a while to get this contract passed by working with the Sewer Department Central Service Teamsters, Craig Fitzpatrick and their negotiating team. Susan Kile stated there were negotiations back and forth for about 8 weeks and the Sewer Department employees then agreed to the contract. Mrs. Kile stated everyone involved worked hard on this to reach an agreement. Mrs. Kile stated the biggest change in the Sewer contract was

they had a callout like the Electric company did; the 70/30 rule. Mrs. Kile stated they wanted the Sewer Department to have a program that was fair to all the employees in the department and they too could not go below 30% in their callouts. Mrs. Kile stated they gained some things also in their contract with them having a \$175 increase per year in their agreement for clothing in article 23. Mrs. Kile stated they had their longevity bonus increased by \$5 every year and it did go retro back. Mrs. Kile stated they also received a tanker endorsement with a class A and class B stipend if they had those. Mrs. Kile stated, for example, if they had class A and a tanker endorsement, they would receive \$500 plus a \$125 stipend each year for having those. Mrs. Kile stated it was hard to find CDLAB and especially tanker endorsements, so they wanted to reward them. Mrs. Kile concluded stating the tenure to the contract was three years.

Mr. Hixenbaugh thanked her team and the teamsters who represented the work group for their hard work on the contract.

Question was called for at 7:35PM for **PROPOSED ORDINANCE NO. 2021-48** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5770**

#### **PROPOSED ORDINANCE NO. 2021-49**

#### **AN ORDINANCE APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF SOUTH BEND, INDIANA, THE CITY OF MISHAWAKA, INDIANA AND ST. JOSEPH COUNTY, INDIANA, FOR THE MUTUAL OPERATION OF THE SPECIAL VICTIMS UNITS ADDRESSING CRIMES OF SPECIAL GRAVITY IN ST. JOSEPH COUNTY (Petitioner Requesting Second Reading)**

The chair entertained a motion to suspend their regular council rules and hold first and second reading that evening on **PROPOSED ORDINANCE 2021-49**. The motion was made and seconded to suspend standing council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2021-49**, thus a voice vote was held. The motion carried and the council moved into the second reading of the proposed ordinance.

Ken Witkowski, Police Chief, spoke in favor of **PROPOSED ORDINANCE NO. 2021-49**. Mr. Witkowski stated this would be business as usual for the last 20 years except there were exceptions. Mr. Witkowski stated they would do all domestic cases in house with a detective that used to be at the SVU unit. Mr. Witkowski stated they would keep one detective over there and he would deal with all sex crimes along with child abuse cases. Mr. Witkowski stated that was the big change and they still had access to the officer doing domestic cases from in house and access to the cases center and everything else that went along with that. Mr. Witkowski stated everything else really stayed the same.

Mr. Mammolenti thanked Chief Witkowski for his presentation that evening. Mr. Mammolenti stated he had mentioned the term in-house and asked his thoughts on the new City Hall building they would be having and they would have more capabilities with being able to take more things in house. Mr. Mammolenti asked if they would have those capabilities to do things on a greater scale with the new facility. Chief Witkowski stated they could but not so much in ordinance with this, because the casing center provided advocates and everything else over there. Mr. Witkowski stated they would not take more on in the new building than where they were at that time and it was advantageous to keep their other person there doing sex crimes and child abuse, because of everyone else involved over there.

Mr. Hixenbaugh thanked Chief Witkowski for the information and work on this. Mr. Hixenbaugh stated based upon what he described in the past about some services coming back in house in Mishawaka, his recollection was that he thought as though they were still well equipped to be able to meet the needs of the community in this area. Mr. Hixenbaugh asked if Chief Witkowski could touch on that a little bit and asked if he was correct. Mr. Witkowski stated yes very much so and he believed Mr. Hixenbaugh was speaking more to the homicide cases. Mr. Witkowski stated they had to make changes with that regarding the detectives and crime scene techs and they hired a new forensic civilian for crime scenes. Mr. Witkowski stated they were very capable of handling that situation and they had some callouts recently and was impressed with how they handled it. Mr. Hixenbaugh stated to reiterate, both with regard to the Special Victims Units and the other county units, it sounded like he felt like public safety in Mishawaka was still being well served by their Police Department as it always had been. Mr. Witkowski agreed with that and stated they had not missed a beat.

Question was called for at 7:41PM for **PROPOSED ORDINANCE NO. 2021-49** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5771**

#### **PROPOSED ORDINANCE NO. 2021-50**

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

**PUD Amendment to allow continued Single family Residential Use with new 3,072 SF/20’ high Accessory Building – 230 Ireland Rd.  
(Assigned to Land Use Planning Committee)**

**PROPOSED ORDINANCE NO. 2021-51**

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

**PUD Amendment to allow for Storage Facility – 512 W. Cleveland Rd.  
(Assigned to Land Use Planning Committee)**

**PROPOSED ORDINANCE NO. 2021-52**

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

**PUD Amendment to add Two Single Family Homes – The Village at Harrison Creek  
(Assigned to Land Use Planning Committee)**

**RESOLUTION NO. 2021 – 30**

**A Resolution of the Common Council of the City of Mishawaka Adopting a Plan for Distribution of the Proceeds of the City of Mishawaka’s Grant from the American Rescue Plan Act of 2021**

**As requested by the City Controller and Financial Consultants, President Hixenbaugh entertained a motion to amend RESOLUTION NO. 2021-30 by adding additional language to paragraph D, line no. 5 to read as followed;**

**5. Civil City Full Time Employees \$1,570.00**

**(Includes Park, Redevelopment and Utility employees)**

**Ron Banicki made a motion to suspend council rules to allow second reading on Resolution No. 2021-30, upon a second by Kate Voelker, motion carried.**

Mayor Wood spoke in support of resolution no. 2021-30. He said this is the first of many to come to the council as they distribute the funds from the American Rescue Plan Act. Mayor Wood went on to say as a result they had a public meeting a couple months back to receive input from the public and the council on how to distribute the funds. He explained the first the thing he felt they should do was to reward the employees, who have gone above and beyond their duties to serve since the pandemic hit, despite everything they responded and showed up. Mayor Wood said his initial plan was half of what was being proposed at \$5,000, but the council felt they should double it at \$1,000,000, and he was very supportive of it. He explained this is a one-time only, this year and broke it down as followed:

|                                                      |            |
|------------------------------------------------------|------------|
| 1. Lead Medic                                        | \$3,000.00 |
| 2. Sworn Fire and Police                             | \$2,500.00 |
| 3. Non-Lead Medic and Advanced EMT                   | \$1,000.00 |
| 4. Teamsters and Certain IT Employees                | \$2,000.00 |
| 5. Civil City Full Time Employees                    | \$1,570.00 |
| (Includes Park, Redevelopment and Utility employees) |            |

Mayor Wood went on to say this is for recognition for what the employees have done, staying open who are passionate to serve. He said there is competition out there for outside consideration that could be attractive to our employees, and this way to show appreciation and to keep our employees and to make sure they feel this is the place to be. He added this does not include the elected officials. Mayor Wood asked for council support.

Frank Zappia Mishawaka Fire Department Local No. 360, President thanked on the behalf of brother and sister firefighters, EMT's. He said they are going in to more homes, since COVID. He said they do not do it for the money, but it was appreciated.

Mr. Hazen said he has worked for the city for a long time and he has never been more proud of the City of Mishawaka since this pandemic. He said he could not think of a better way to spend on than the employees, the city never closed down, it shows they are here to serve the citizens, even when the times got tough, they delivered. Mr. Hazen continued to say there is no amount of money to pay to reward city employees.

Mr. Mammolenti echoed Mr. Hazen's comments. He went on to say he was extremely proud to vote in favor of this. He thanked all involved.

Mr. Hixenbaugh thanked everyone involved. He went on to say they anticipate they will continue to be a collaborative process to take advantage of this opportunity to do good within and for the community. Mr. Hixenbaugh continued to thank Rebecca Maguire, City Controller, Bakery and Tilly, and Council Attorney, who were all very valuable and helpful throughout the process. He went on to say what excites him about this is, this set the stage for even bigger and better things, and this is the beginning of establishing a framework that will allow them to make use of the money received from the federal government to do good things. Mr. Hixenbaugh said they are being asked tonight to do good by recognizing the employees, and this will not only benefit the employees but he believed the dollars the employees will receive, will be spent at local restaurants and other businesses throughout the community, it is their own mini economic plan. He continued to say this plan will allow them, within the categories the federal statute establish to do other good things, to help the community get through the pandemic. Mr. Hixenbaugh said this is designed to be a work in progress, to try to address the pandemic and spend the money in the best interest of the community. He pointed out his favorite sentence of the resolution was

simple but powerful, “These City employees put their physical wellbeing at risk to meet the daily needs of the community and to provide care for others.” He said in a nut shell, it justifies the action they are being asked to take, not just on behalf as elected officials, but on behalf of the community they represent, because without the employees providing the services they provide on the daily basis, nothing works in Mishawaka. He thanked all involved worked they did on this, and he looks forward to meeting with Mammolenti and his committee on the ways to make further use of the funds.

Question was called for at 8:02PM for **RESOLUTION R2021-30** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

### **RESOLUTION R2021-31**

**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:**

**420 West Cleveland Road, Granger, Indiana – The Tribe Salon**

Beth Clark, owner of Tribe Salon explained micro blading has become very popular and there is a need in the area. She continues to say it has become a common practice in salons, and they have no interest in tattooing. She said this would create new jobs in her salon, the pandemic has had hit on salon industry.

Mr. Compton thanked Ms. Clark for her patients. He expressed his support and wished her luck.

Mrs. Voelker asked did she have talent to provide the service. Ms. Clark replied yes, Mandy Johnson, who will pay to do the service. She explained there use to be micro blading at the property but it was a new service back then, it was later discovered the process to provide micro blading was not done properly.

Mrs. Voelker questioned would she be following through the health department requirements. Ms. Voelker said she will, as well as Mandy who has done a lot of the paperwork for the service. She said whatever is required she will get it done, she is very excited to provide the service.

Mrs. DeMaegd questioned who will do the procedure and what clients should not have micro blading done. Ms. Clark explained she will not be doing the procedure, it is a both rent salon, as it will be someone who is licensed to perform the procedure. She went on to say she was not aware of clients who should not have micro blading done, but the person doing the procedure will be licensed and hold insurance and will know the requirements, but it would be information she will learn.

Question was called for at 8:08PM for **RESOLUTION R2021-31** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

**RESOLUTION NO. 2021-32**

**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:**

**2572 Miracle Lane, Mishawaka, Indiana  
Use Variance to allow Outdoor Storage Containers screened by 7' high fencing in  
C-2 Commercial District – Dunhams Sports**

**Mr. Compton made a motion to postpone resolution No. 2021-32 until January 04, 2021, upon a second by Mr. Banicki, motion carried**

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

**PROPOSED ORDINANCE NO. 2021-41**

**AN ORDINANCE DECLARING AN EMERGENCY AND  
DETERMINING THE EXPENDITURE OF ADDITIONAL  
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021  
Additional Funds in the amount of \$1, 000,000  
(Assigned to Budget and Finance Committee)**

Clerk Block provided proof of publication and explained there was an error with a publication and by law they need to have a public hearing.

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

Question was called for at 8:13PM for **PROPOSED ORDINANCE NO. 2021-41** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5772**

**PROPOSED ORDINANCE NO. 2021-42**

**AN ORDINANCE DECLARING AN EMERGENCY AND  
TRANSFERRING AND REAPPROPRIATING FUNDS  
WITHIN THE BUDGET ADOPTED FOR THE  
CALENDAR YEAR ENDING DECEMBER 31, 2021  
Transferring funds in the amount of \$260,000 within multiple funds  
(Assigned to Budget and Finance Committee)**

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

Rebecca Maguire, City Controller explained this is a cleanup for year end. She said in the General Fund, Health Services Account Line, Public Safety LIT Fund, Debt Serves Principal Payments, they were not budgeted correctly, and they are able transfer money from another line to cover it. She also explained the Cumulative CAP Development Fund, there was more contractual obligation this year as to oppose to hardware and software purchases, and they needed to transfer money to hardware and software line to the professional services.

Question was called for at 8:16PM for **PROPOSED ORDINANCE NO. 2021-42** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5773**

#### **PROPOSED ORDINANCE NO. 2021-43AA**

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

**Additional Funds in the amount of \$1,190,000  
(Assigned to Budget and Finance Committee)**

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

Rebecca Maguire, City Controller explained this is an additional ordinance, which will appropriate funds needed to pay the premium pay discussed earlier. She said this would pay for premium pay, social security. Medicare and PERF funding for the employees portion.

Question was called for at 8:19PM for **PROPOSED ORDINANCE NO. 2021-43AA** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5774**

**PROPOSED ORDINANCE NO. 2021-44AA**

**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.**

**Amending Ord 5712 the 2021 Salary Ordinance  
(Assigned to Budget and Finance Committee)**

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

Rebecca Maguire, City Controller explained this amends the salary ordinance to pay the premium pay to Civil City full time employees.

Question was called for at 8:22PM for **PROPOSED ORDINANCE NO. 2021-44AA Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh.** The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5775**

**PRIVILEGE OF THE FLOOR**

Rhonda Douglas a resident and business owner looking to establish a Hookah Lounge/ Entertainment Center in Mishawaka.

President Hixenbaugh Thanked Ms. Douglas for her interest in doing business in Mishawaka. He directed her to speak with Ken Prince, City Planner for assistance.

**NEW BUSINESS**

Matt Mammolenti announced the First Twin Branch Neighborhood meeting will be January 19<sup>th</sup> for a tour of the 911 Dispatch Center at 7pm.

Woody Emmons announced rooms are full at St. Bavos in January, he will announce a new location at later date for the 1<sup>st</sup> District Neighborhood meeting.

Mr. Hixenbaugh announced the 1<sup>st</sup> meeting due to the holiday, city hall will be closed on Monday January 3<sup>rd</sup>, the next meeting will be held on Tuesday January 04, 2022.

ADJOURNMENT 8:30PM

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

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

APPEAL #21-42

DEC 15 2021

RESOLUTION NO. 2021- 32

City Clerk  
Mishawaka, IN

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:

**2572 Miracle Lane, Mishawaka, Indiana**

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **2572 Miracle Lane, Mishawaka, Indiana**, more particularly known and described as follows:

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 Use Variance will allow an outdoor storage container screened by a 7' solid fence in C-2 Shopping Center Commercial District.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the adjacent commercial or residential uses.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because a fence is being added to help screen the view of the containers. The storage container is over 200' from McKinley Ave.
3. The need for a variance arises from the large-scale size of the merchandise sold at this location, specifically furniture, and the lack of storage space indoors.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use for the shopping center by allowing the more intense uses of that district.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

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

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

\_\_\_\_\_  
Presiding Officer

RESOLUTION #2021-32  
2572 Miracle Lane  
Page 3 of 3

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_ 2021,  
at \_\_\_\_\_ o'clock \_\_\_\_m.

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at  
\_\_\_\_\_ o'clock \_\_\_\_m.

\_\_\_\_\_  
David A. Wood, Mayor

**STAFF REPORT**

General Location: 2572 Miracle Lane

Date: December 14,  
2021

Appeal: 21-42

Prepared By: CH

**GENERAL INFORMATION**

Applicants: McKinley Town and Country, LP/Dunham's Discount Sports

Status: Property Owner/Tenant

Request: Use Variance for outside storage

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: 37.44 Acres

Applicable Regulations: Section 137-326 C-2 Uses  
Section 137-42 (4) Board of Zoning Appeals**SPECIAL INFORMATION**

|                              |        |                                                                                                              |
|------------------------------|--------|--------------------------------------------------------------------------------------------------------------|
| Area Development<br>Pattern: | North: | C-2 Shopping Center Commercial (Town & Country)                                                              |
|                              | South: | C-4 Automobile Oriented Commercial (Firestone) and C-7<br>Automobile Oriented Restaurant Commercial (Arby's) |
|                              | East:  | C-4 Automobile Oriented Commercial (Gates Chevy World)                                                       |
|                              | West:  | C-2 Shopping Center Commercial (Town & Country)                                                              |

Thoroughfare: McKinley Avenue and Hickory Road

School District: School City of Mishawaka

Public Utilities: All public utilities are available and existing.

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies the north east corner of this intersection as General Commercial.

**ANALYSIS**

Town and Country Shopping Center occupies the northeast corner of McKinley Avenue and Hickory Road. Dunham's Discount Sports is located at the southern and eastern end.

Storage in accessory buildings is not allowed in commercial districts per Section 137-302 (5) c. Outside storage is only permitted as a conditional use in I-2 Heavy Industrial.

In October of 2017 a similar variance was approved for three storage containers behind Big Lots, which was located, at that time, at the western end, near Hickory. The Planning Department noticed an increase in the number of businesses using temporary storage containers as a permanent solution, and worked with businesses like Big Lots and Dick's Sporting Goods on a solution where they could keep their existing storage containers.

The Appellant is requesting to move the storage container in order to provide closer access for the Dunham's store. This storage container had previously been located in a fenced in area at the northeast corner of the shopping center behind the Comfort Sleep warehouse. In an attempt to lessen the impact on neighboring properties, the Appellant has agreed to install a 7' opaque fence to block the view from McKinley Highway.

If the variance is approved, an Improvement Location Permit will need to be issued before the installation of the fence.

All pertinent City departments have reviewed and approved the request.

### **RECOMMENDATION**

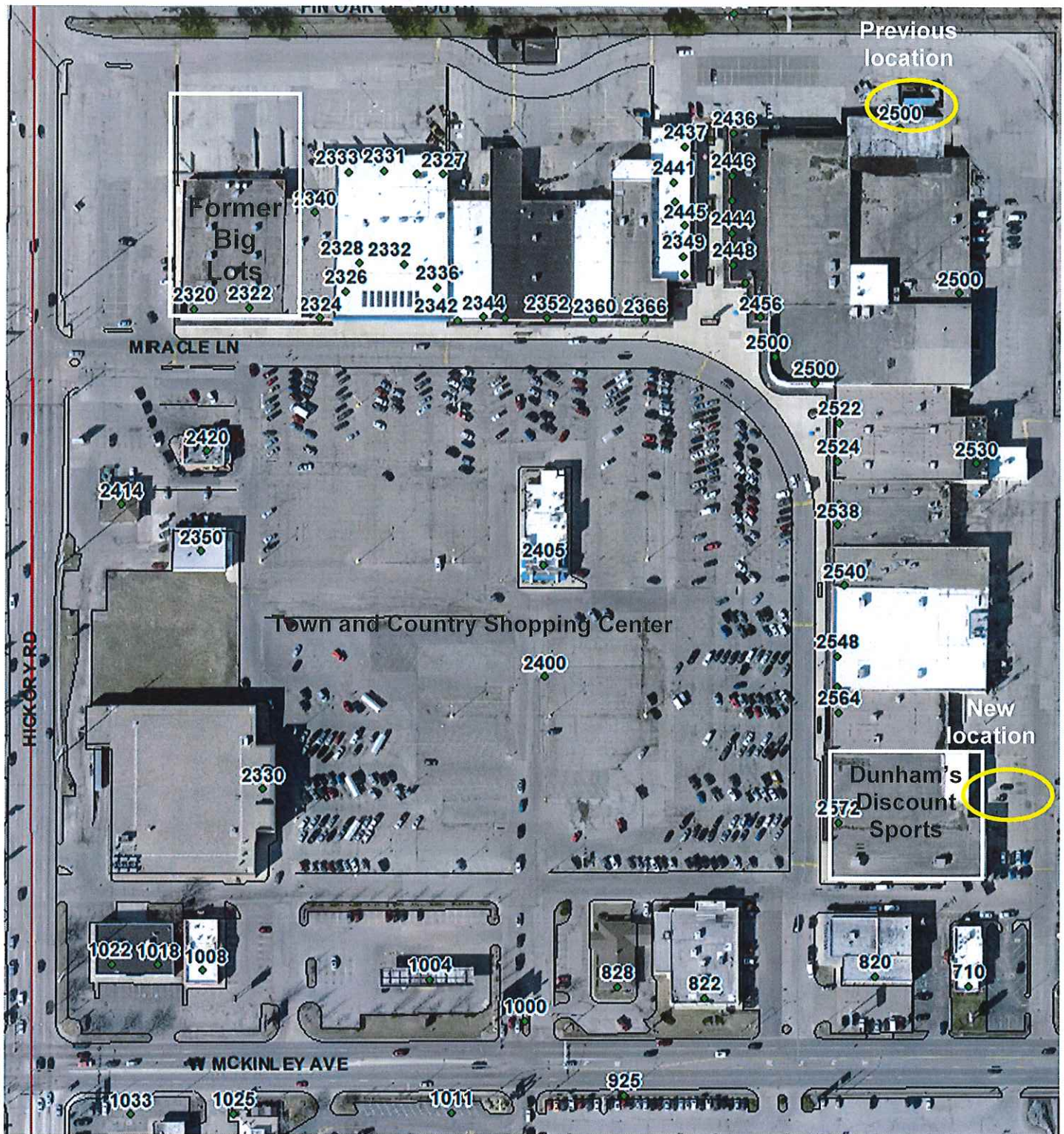
The Staff recommends in favor of Appeal 21-42, a Use Variance to allow outside storage in three existing containers for property located at 2572 Miracle Ln, subject to installing a 7' opaque fence on the south side of the container.

This recommendation is based on the following reasons:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the adjacent commercial or residential uses.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because a fence is being added to help screen the view of the containers. The storage container is over 200' from McKinley Ave.
3. The need for a variance arises from the large scale size of the merchandise sold at this location, specifically furniture, and the lack of storage space indoors.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use for the shopping center by allowing the more intense uses of that district.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

### **ATTACHMENTS**

Aerial Photograph, Photographs of Site, Petition, Location Map





Close up from the east



Close up from the south



From Arby's Drive thru



From McKinley entrance drive between Arby's and Gates

November 17, 2021

DEC 02 2021

To: Board of Zoning Appeals  
City of Mishawaka, Indiana

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

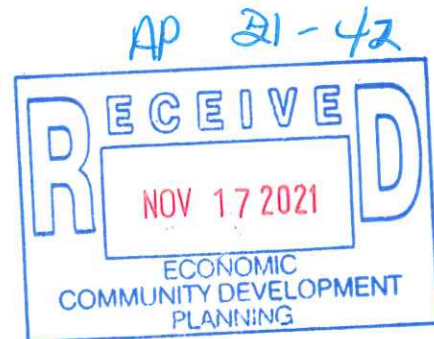
Date: November 4, 2021

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



# SITE PLAN

ASPHALT DRIVE

CITI TRENDS

78.98'

25.0'

78.0'

DUNHAM'S SPORTS

STORAGE UNIT

25.1'

75.0'

200.0'

104.7'

ASPHALT DRIVE AND PARKING

FIRESTONE

ARBY'S

240.0'

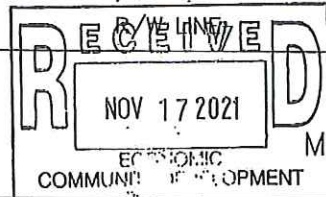
49.5'

ASPHALT DRIVE AND PARKING

ASPHALT DRIVE AND PARKING

PROPERTY LINE

GATES CHEVROLET



McKinley Highway 80' R/W

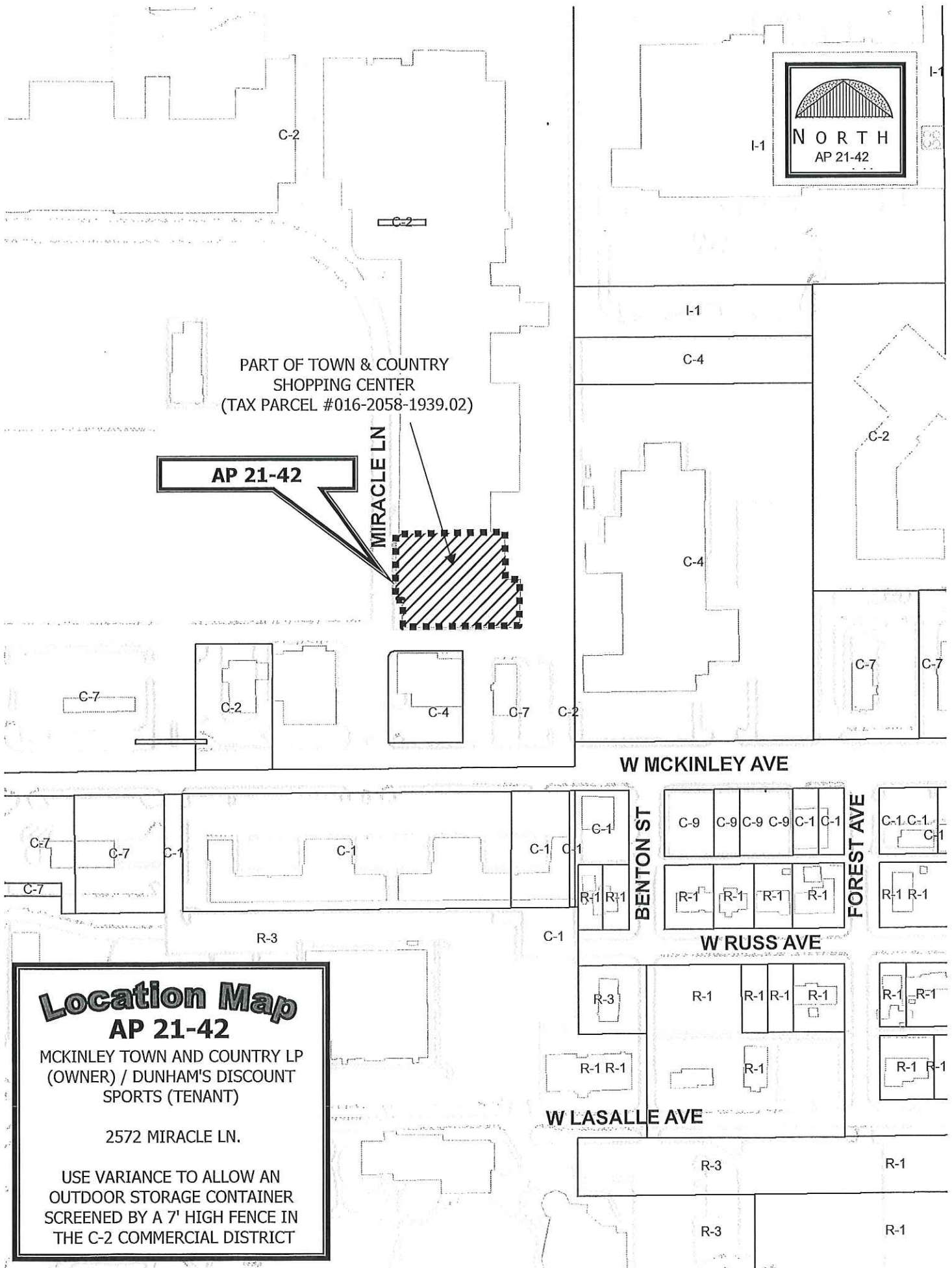
**FISHER**  
SURVEYING AND  
ENGINEERING INC.

223 LINCOLN WAY EAST, SUITE 5  
P.O. BOX 23  
MISHAWAKA, INDIANA 46544  
219 / 255-8377

SCALE  
1"=50'

DATE  
NOV. 17, 2021

JOB NO.  
232-2021



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

DEC 15 2021

City Clerk  
Mishawaka, IN

PETITION 21-18  
CITY OF MISHAWAKA, INDIANA  
PROPOSED ORDINANCE NO. 2021-50  
ORDINANCE NO. \_\_\_\_\_

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made a favorable recommendation regarding the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

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 1<sup>ST</sup> 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 ORE LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: 230 Ireland Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow the continued use of single-family residential along with the construction of an oversized (3,072 sqft) 20' tall accessory structure.

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

Proposed Ordinance No: 2021-50

Ordinance No: \_\_\_\_\_

1. Existing Conditions – The property is currently a residential structure and will continue to be used as such.
2. Character of Buildings in Area – There are other residential properties in the immediate area south and west of the subject property.
3. The Most Desirable/Highest and Best Use – Due to the property's location near other residential properties its continued use as a single-family residence will be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed amendment will not be injurious to property values in the surrounding area because the use remains the same and the construction of the accessory structure represents an improvement in the area.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential as currently exists to the south and west.

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

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

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

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

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

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

\_\_\_\_\_  
David A. Wood, Mayor

**STAFF REPORT**

Location: 230 Ireland Road

Date: December 14, 2021

Petition: 21- 18

Prepared By: KM

**GENERAL INFORMATION**

Applicant: William Sinkovics

Status: Property Owner

Request: Amend the Bremen Highway North Planned Unit Development (PUD) to allow continuation of residential use and oversize accessory structure

Zoning Classification: S-2 Planned Unit Development (Permitted Uses include C-1 General Commercial uses)

Lot Size: 1.63 acres

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

**SPECIAL INFORMATION**

Area Development Pattern: North: S-2 Planned Unit Development  
South: Unincorporated St. Joseph County  
East: S-2 Planned Unit Development (Tractor Supply Company)  
West: Unincorporated St. Joseph County

Thoroughfare: Ireland Road west of Bremen Highway

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: All utilities are available and currently serve the site

Comprehensive Plan: Low Density Residential

**ANALYSIS**

The Petitioner is requesting to amend the Bremen Highway North Planned Unit Development, approved in 2008 (Ordinance 5185), to allow the continued use of single-family residential along with the construction of an oversized (3,072 sqft) accessory structure.

The parcel is part of the PUD established in 2008 and is located immediately west of the Tractor Supply Company on Ireland Road. When established, this parcel called for C-1 general uses but this site, built as a single-family home, has been continuously used as such. The Petitioner recently purchased the property and intends to continue its residential use. Without the PUD Amendment, the petitioner would not be allowed to expand or make improvements to his property as the use was identified as commercial in the original PUD Ordinance.

Also part of the amendment, Petitioner is requesting to construct a 3,072 sqft (48' X 64'), 20' tall accessory structure to store his personal items. The Zoning Ordinance restricts the size of accessory structures to 720 sqft, 15' in height. Given the large size of the property, the petitioner could build several 720 sqft accessory structures, but it is more practical to build one large structure to accommodate his items. It should also be noted that the property directly to the west (county property) is currently constructing an oversized accessory structure.

All pertinent City Departments have reviewed and approved the PUD amendment request.

### RECOMMENDATION

Staff recommends **approval** of Petition #21-18 to amend the Bremen Highway North Planned Unit Development (PUD), approved in 2008, to allow the continued residential use of the property and construct an oversized accessory structure. The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently a residential structure and will continue to be used as such.
2. Character of Buildings in Area – There are other residential properties in the immediate area south and west of the subject property.
3. The Most Desirable/Highest and Best Use – Due to the property's location near other residential properties its continued use as a single-family residence will be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed amendment will not be injurious to property values in the surrounding area because the use remains the same and the construction of the accessory structure represents an improvement in the area.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential as currently exists to the south and west.

### ATTACHMENTS

Photographs, Petition, Site Plan, Aerial, Location Map



230 Ireland Road



Adjacent property accessory structure construction



View of property from Tractor Supply Company

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 1<sup>ST</sup> 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)*



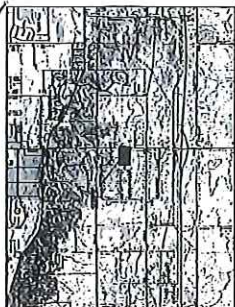
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William Sinkovics

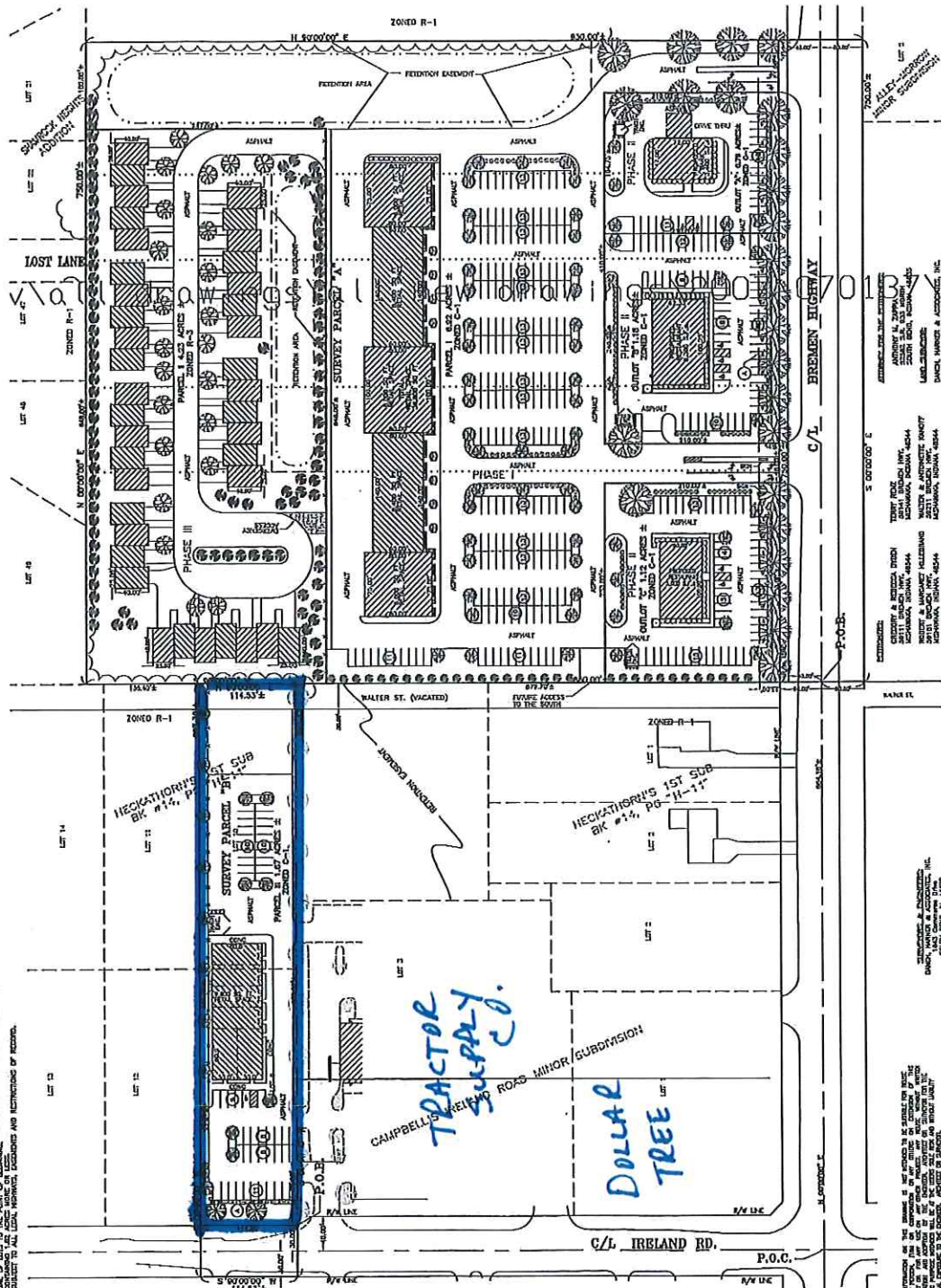
**CONTACT PERSON:**

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

A PART OF THE NORTHEAST QUARTER OF SECTION 28, T. 37 N., R. 3 E.  
PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA

[illegible]

REPORT OF THE MEMBERS OF THE COMMITTEE ON THE CONSTITUTION OF THE UNITED STATES, AS COMMISSIONED BY THE HOUSE OF REPRESENTATIVES, IN 1865, TO EXAMINE THE CONSTITUTION OF THE UNITED STATES, AND TO REPORT THEREON TO THE HOUSE OF REPRESENTATIVES, IN 1866.

[illegible]

FORWARD ON THE BASIS OF THE INFORMATION IN THE ATTACHED FOR YOUR REVIEW. THE INFORMATION IN THE ATTACHED IS NOT TO BE USED FOR ANY OTHER PURPOSE, AND NO PART THEREOF IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE NATIONAL ARCHIVES. THE INFORMATION IN THE ATTACHED IS NOT TO BE USED FOR ANY OTHER PURPOSE, AND NO PART THEREOF IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE NATIONAL ARCHIVES.

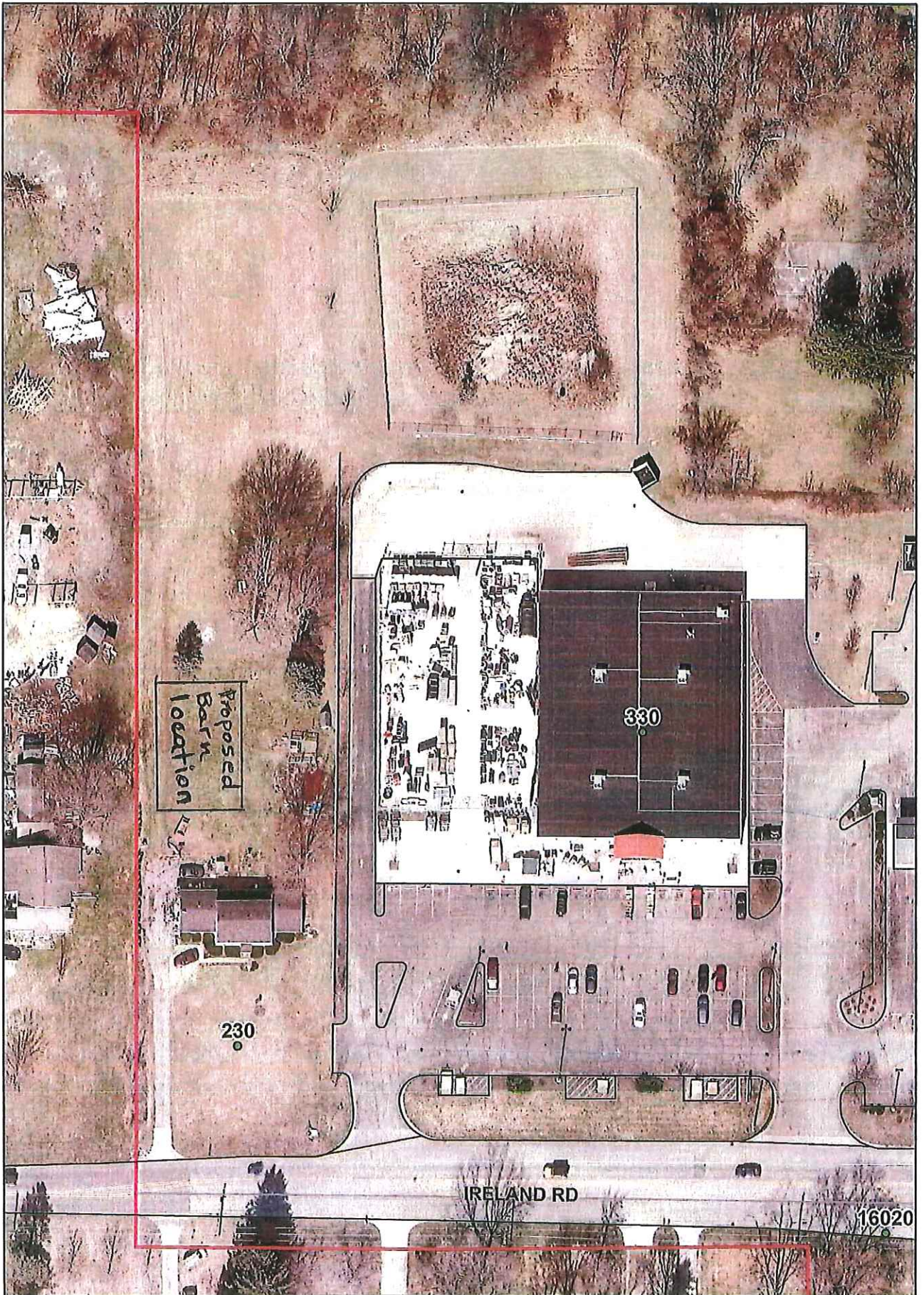
STEWART & DANIELSON, HANCOCK & ASSOCIATES, INC.  
1343 Commerce Drive  
SOUTH BEND, IN 46708  
(317) 334-6003  
ATTN: MICHAEL BANCY

[illegible]

11-11-11

[illegible]
$$\frac{1}{1} \text{ or } \frac{1}{1}$$

**DH4**  
**Darch, Haurer & Associates, Inc.**  
Land Surveyors • Professional Engineers  
Landscape Architects • Land Planners  
One To One / One To One • One To One / One To One  
One To One / One To One • One To One / One To One





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

DEC 15 2021

City Clerk  
Mishawaka, IN

PETITION 21-19

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-51

ORDINANCE NO. \_\_\_\_\_

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made a favorable recommendation regarding the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Clay Township, St. Joseph County, 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

Proposed Ordinance No: 2021-51

Ordinance No: \_\_\_\_\_

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.

COMMON ADDRESS: 512 West Cleveland Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a three-story self-storage facility within the northern part of the property and restaurant with drive-thru facilities within the southern part of the property fronting Cleveland Road, subject to the following conditions:

**Uses:**

1. Permitted uses on Parcel A shall include a three-story self-storage facility.
2. Permitted uses on Parcel B shall include a restaurant with drive-thru facilities and all C-1 General Commercial permitted uses.
3. Freestanding off-premise signs (i.e. billboards) shall not be permitted.

**Frontage:**

1. Parcel A shall have 0' of frontage on a public right-of-way.

**Building Setbacks:**

1. Parcel A shall conform to the setbacks per the attached site plan with a 15' side setback to the west, a 25' side setback to the east, a 25' rear setback to the north, and a 25' front setback to the south.
2. Parcel B shall conform to the setbacks per the attached site plan with 25' setbacks from all property lines.

**Dumpster Enclosure:**

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

**Parking:**

1. Parcel A shall have a minimum of 15 parking spaces.
2. Parcel B shall have a minimum of 10 parking spaces per 1,000 sq. ft. of gross floor area.

**Parking / Pavement Setbacks:**

1. Parcel A shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west and north, 5' to the east, and 0' to the south along the common access drive between Parcel A and B.
2. Parcel B shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west, 5' to the east, 10' to the

Proposed Ordinance No: 2021-51

Ordinance No: \_\_\_\_\_

south from the additional right-of-way to be dedicated along Cleveland Road, and 0' to the north.

**Landscaping and Screening:**

1. Landscaping shall be provided as required per the C-1 General Commercial District for Parcel A and per the C-7 Auto-Oriented Restaurant Commercial District for Parcel B.
2. Landscaping may be eliminated along the common lot line between Parcel A and B to accommodate a shared access drive within an ingress/egress easement.

**Utilities:**

1. The developer shall connect to the City of Mishawaka sanitary sewer and water, as directed by applicable codes, the City Director of Engineering, and the Manager of the Water Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

**Stormwater Management Infrastructure:**

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

**Grease Interceptor:**

1. A grease interceptor shall not be required for the proposed self-storage facility on Parcel A.
2. A grease interceptor shall be required for the proposed restaurant with drive-thru facilities on Parcel B.

**Lighting:**

1. All site lighting shall be limited to 25' in height. 90 degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A photometric lighting plan shall be submitted as part of the final site plan for each parcel.

**Signage:**

1. One multi-tenant sign shall be permitted on Parcel B to accommodate signage for both Parcels A & B.

**Right-of-Way Dedication:**

1. Additional right-of-way shall be required along Cleveland Road as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of the subdivision plat.

Proposed Ordinance No: 2021-51

Ordinance No: \_\_\_\_\_

**Architectural Requirements:**

1. Building materials and colors shall comply with the C-1 General Commercial District for Parcel A and with the C-7 Auto-Oriented Commercial District for Parcel B. Fiber cement board siding and trim shall be considered an appropriate material for both Parcels A & B.

**Other:**

1. Parcel A shall conform to all other C-1 General Commercial District height, area, and development regulations unless otherwise noted above.
2. Parcel B shall conform to all other C-7 Auto-Oriented Restaurant Commercial District height, area, and development regulations unless otherwise noted above.

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

1. Existing Conditions – The property is currently developed with a vacant restaurant, parking areas, and adjacent common access drives to W. Cleveland Road and Grape Road. Adjacent uses include a vacant retail building and design-build contractor to north, a common access drive serving the multiple parcels to the west, a bank and walk-in medical clinic to the south, and a multi-tenant commercial building and bank to the east. The property is located at the northern edge of the Grape Road commercial corridor.
2. Character of Buildings in Area – The buildings along the Grape Road and W. Cleveland Road corridors are primarily single and multi-tenant commercial/retail buildings including University Park Mall, a large regional shopping center. Low density single-family residential properties are located to the west.
3. The Most Desirable/Highest and Best Use – Due to the property's location at the northern edge of a highly travelled commercial corridor, the most desirable use of the property is for continued commercial use. The proposed uses are similar to the prior existing use of the property and those currently permitted which include all C-2 Shopping Center Commercial District uses.
4. Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area. Currently, commercial land uses, including similarly intensive uses than those proposed, are permitted within the portion of the PUD being amended.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for general commercial development (retail sales and shopping centers).

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

Proposed Ordinance No: 2021-51

Ordinance No: \_\_\_\_\_

PASSED by the Common Council of the City of Mishawaka, Indiana, this  
\_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at  
\_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
David A. Wood, Mayor

**PETITION #21-19  
UNIVERSITY MARKETPLACE PUD AMEND  
CONDITIONS OF APPROVAL**

**Uses:**

1. Permitted uses on Parcel A shall include a three-story self-storage facility.
2. Permitted uses on Parcel B shall include a restaurant with drive-thru facilities and all C-1 General Commercial permitted uses.
3. Freestanding off-premise signs (i.e. billboards) shall not be permitted.

**Frontage:**

1. Parcel A shall have 0' of frontage on a public right-of-way.

**Building Setbacks:**

1. Parcel A shall conform to the setbacks per the attached site plan with a 15' side setback to the west, a 25' side setback to the east, a 25' rear setback to the north, and a 25' front setback to the south.
2. Parcel B shall conform to the setbacks per the attached site plan with 25' setbacks from all property lines.

**Dumpster Enclosure:**

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

**Parking:**

1. Parcel A shall have a minimum of 15 parking spaces.
2. Parcel B shall have a minimum of 10 parking spaces per 1,000 sq. ft. of gross floor area.

**Parking / Pavement Setbacks:**

1. Parcel A shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west and north, 5' to the east, and 0' to the south along the common access drive between Parcel A and B.
2. Parcel B shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west, 5' to the east, 10' to the south from the additional right-of-way to be dedicated along Cleveland Road, and 0' to the north.

**Landscaping and Screening:**

1. Landscaping shall be provided as required per the C-1 General Commercial District for Parcel A and per the C-7 Auto-Oriented Restaurant Commercial District for Parcel B.
2. Landscaping may be eliminated along the common lot line between Parcel A and B to accommodate a shared access drive within an ingress/egress easement.

**Utilities:**

1. The developer shall connect to the City of Mishawaka sanitary sewer and water, as directed by applicable codes, the City Director of Engineering, and the Manager of the Water Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

**Stormwater Management Infrastructure:**

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

**Grease Interceptor:**

1. A grease interceptor shall not be required for the proposed self-storage facility on Parcel A.
2. A grease interceptor shall be required for the proposed restaurant with drive-thru facilities on Parcel B.

**Lighting:**

1. All site lighting shall be limited to 25' in height. 90 degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A photometric lighting plan shall be submitted as part of the final site plan for each parcel.

**Signage:**

1. One multi-tenant sign shall be permitted on Parcel B to accommodate signage for both Parcels A & B.

**Right-of-Way Dedication:**

1. Additional right-of-way shall be required along Cleveland Road as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of the subdivision plat.

**Architectural Requirements:**

1. Building materials and colors shall comply with the C-1 General Commercial District for Parcel A and with the C-7 Auto-Oriented Commercial District for Parcel B. Fiber cement board siding and trim shall be considered an appropriate material for both Parcels A & B.

**Other:**

1. Parcel A shall conform to all other C-1 General Commercial District height, area, and development regulations unless otherwise noted above.
2. Parcel B shall conform to all other C-7 Auto-Oriented Restaurant Commercial District height, area, and development regulations unless otherwise noted above.

**STAFF REPORT**

Location: 512 W. Cleveland Road – Northeast Corner of  
W. Cleveland Road and State Road 23

Date: December 14, 2021

Petition: 21- 19

Prepared By: DJS

**GENERAL INFORMATION**

Applicant: Sorce USA Realty Inc. / Centennial American Properties

Status: Property Owner / Contingent Owner & Developer

Request: Amend part of the University Marketplace Planned Unit Development (PUD) to allow a three-story self-storage facility and restaurant with drive-thru

Zoning Classification: S-2 Planned Unit Development (Permitted Uses on the portion of the PUD to be amended include all C-2 Shopping Center Commercial uses)

Lot Size: Approximately 2.25 acres excluding the existing right-of-way

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

**SPECIAL INFORMATION**

Area Development Pattern: North: S-2 Planned Unit Development (Part of University Marketplace PUD / Vacant Retail Building formerly J.C. Penney Home Store & Anchor Construction)

South: C-1 General Commercial (Bank / KeyBank & Medical Clinic / Physicians Urgent Care)

East: C-1 General Commercial (Multi-Tenant Commercial / Vacant Bar & Restaurant formerly The Pub, Fyzical Therapy, and The Tribe Salon) & C-7 Auto-Oriented Restaurant Commercial / C-1 General Commercial (Bank / Northwest Bank)

West: S-2 Planned Unit Development (Part of University Marketplace PUD / Common Access Drive) & Unincorporated St. Joseph County – R Residential (Residential)

Thoroughfare: W. Cleveland Road (S.R. 23)

School District: South Bend Community School Corporation

Township: Clay

Public Utilities: All utilities are available and currently serve the site

Comprehensive Plan: General Commercial (Retail Sales & Shopping Centers)

**ANALYSIS**

The petitioner, Centennial American Properties, is requesting to amend part of the University Marketplace Planned Unit Development (PUD) to allow a three-story self-storage facility within the northern part of the

property and restaurant with drive thru facilities within the southern part of the property fronting Cleveland Road.

Prior to filing the amendment, Planning Staff instructed that the petitioner review all required C-1 General Commercial District height, area, and development regulations which will be applicable for the self-storage facility on the future north lot (Parcel A), and all required C-7 Auto-Oriented Restaurant Commercial District height, area, and development regulations which will be applicable for the restaurant with drive-thru facility on the future south lot (Parcel B). The petition was only to include deviations from these regulations. The petition and conceptual site plan, as provided, includes several proposed developmental regulations for each of the future individual lots. After reviewing the petition, it appears that a thorough review of the required development regulations was not completed. A majority of proposed regulations, as requested, are included in the staff recommendation with modifications, deletions, and additions as deemed necessary.

The portion of the PUD to be amended is an approximate 2.25 acre parcel located just northeast of the Cleveland Road and State Road 23 intersection. The property is currently occupied by a vacant restaurant, most recently being Tequilas Jalisco, and is bound by a vacant retail building and design-build contractor to the north, a common access drive serving the multiple parcels to the west, a bank and walk-in medical clinic to the south, and a multi-tenant commercial building and bank to the east. The vacant restaurant and all existing improvements will be razed with the proposed redevelopment.

The current PUD regulations applicable to the property, which were approved in 2015 (Petition 15-13/Ord. 5484), permitted all C-2 Shopping Center District uses. The property was proposed for redevelopment with a two building multi-tenant commercial strip center. The redevelopment plans never materialized.

Per the conceptual site plan, a 105,753 sq. ft. three-story self-storage facility is proposed on the approximate 1.45 acre northern lot (Parcel A). The first floor will cover 35,251 sq. ft. The future lot will have no frontage on a public right-of-way. An approximate 2,500 sq. ft. restaurant with drive thru facilities is proposed on the approximate 1.08 acre southern lot (Parcel B) fronting Cleveland Road.

Access to the site will be maintained as is with primary access provided via an existing common drive to the west at the Cleveland Road and State Road 23 intersection. Additional access will be from the north of Parcel A off of an existing access drive and parking area associated with the former J.C. Penney Home Store property. Cross access (ingress/egress) easements to include the adjacent drives shall be dedicated on the future subdivision plat or a reciprocal easement agreement recorded if not currently in place. No new access points are proposed onto the public right-of-way.

Based on 4 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the self-storage facility, a total of 423 parking spaces are required for the 105,753 sq. ft. building on Parcel A. Due to the minimal parking demand for this use, a total of 15 parking spaces are proposed. Based on 15 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the restaurant with drive-thru, a total 38 parking spaces are required to the approximate 2,500 sq. ft. building on Parcel B. A total of 27 parking spaces are proposed due to the limited size of the property and anticipated future use. Staff will support a minimum parking ratio of 10 spaces per 1,000 sq. ft. of gross floor area for this lot.

The C-1 and C-7 development regulations require a 10' minimum parking setback from the public right-of-way, private access easement, or internal vehicular collector drives, and 5' minimum parking setback from any adjacent property line. A minimum 10' parking/pavement setback will be required for Parcel B from the additional right-of-way to be dedicated along Cleveland Road. A minimum 5' or 6' parking/pavement setback will be required from all other lot lines excluding a 0' setback along the common lot line between the future lots (Parcels A & B).

For the landscaping and screening, no landscaping will be required along the common lot line between Parcels A & B due to the shared common access drive. Landscaping compliant with the commercial landscaping regulations will be required along all other property lines and interior to the parking areas.

The architectural materials and colors of the building shall comply with the commercial design regulations with the exception of allowing fiber cement board siding and trim on all buildings.

All development regulations and conditions, as established per this PUD amendment, will be applicable when final site plans are submitted for each lot. Planning Staff recommended that a survey be prepared prior to filing the PUD amendment petition to establish more accurate development regulations especially those relating to setbacks. The conceptual site plan appears to have been designed without the benefit of a survey. If a future survey reveals that the site design will have to be altered which would not comply with the established regulations, an additional PUD amendment or developmental variances may be required.

Similar to when the prior Planned Unit Development amendment was approved, the petitioner is only proposing to establish, or in this case, amend the permitted uses and basic development requirements of the planned unit development. If approved, a detailed final site plan must be submitted for each future lot to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements. A subdivision plat will be required to establish legal lots of record for proposed Parcels A & B.

All pertinent City Departments have reviewed and approved the PUD amendment request.

The Engineering Department provided the following comments that shall be addressed with the final site plan:

1. Additional right-of-way shall be dedicated along the Cleveland Road frontage to encompass a new dedicated right-turn lane into the site.
2. Right turn lane into the site shall be designed per Engineering Department standards.
3. Extend the sidewalk at the northwest corner of the Cleveland Road and State Road 23 intersection and add crosswalk with ADA accessible ramps across existing access drive to the site.
4. Coordinate all construction activities on Cleveland Road (S.R. 23) with the INDOT Traffic Division since it is a state maintained road.
5. All utility connections are off the rear of the existing building and shall be located as such for the new proposed buildings.

The Electric Department commented that the property is not within the city's electric service territory.

|                       |
|-----------------------|
| <b>RECOMMENDATION</b> |
|-----------------------|

Staff recommends **approval** of Petition 21-19 to amend part of the University Marketplace Planned Unit Development (PUD) to allow a three-story self-storage facility and restaurant with drive-thru subject to the following conditions:

**Uses:**

1. Permitted uses on Parcel A shall include a three-story self-storage facility.
2. Permitted uses on Parcel B shall include a restaurant with drive-thru facilities and all C-1 General Commercial permitted uses.
3. Freestanding off-premise signs (i.e. billboards) shall not be permitted.

**Frontage:**

1. Parcel A shall have 0' of frontage on a public right-of-way.

**Building Setbacks:**

1. Parcel A shall conform to the setbacks per the attached site plan with a 15' side setback to the west, a 25' side setback to the east, a 25' rear setback to the north, and a 25' front setback to the south.
2. Parcel B shall conform to the setbacks per the attached site plan with 25' setbacks from all property lines.

**Dumpster Enclosure:**

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

**Parking:**

1. Parcel A shall have a minimum of 15 parking spaces.
2. Parcel B shall have a minimum of 10 parking spaces per 1,000 sq. ft. of gross floor area.

**Parking / Pavement Setbacks:**

1. Parcel A shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west and north, 5' to the east, and 0' to the south along the common access drive between Parcel A and B.
2. Parcel B shall have minimum parking/pavement setbacks of 6' from the ingress/egress easement or edge of pavement to the west, 5' to the east, 10' to the south from the additional right-of-way to be dedicated along Cleveland Road, and 0' to the north.

**Landscaping and Screening:**

1. Landscaping shall be provided as required per the C-1 General Commercial District for Parcel A and per the C-7 Auto-Oriented Restaurant Commercial District for Parcel B.
2. Landscaping may be eliminated along the common lot line between Parcel A and B to accommodate a shared access drive within an ingress/egress easement.

**Utilities:**

1. The developer shall connect to the City of Mishawaka sanitary sewer and water, as directed by applicable codes, the City Director of Engineering, and the Manager of the Water Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

**Stormwater Management Infrastructure:**

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

**Grease Interceptor:**

1. A grease interceptor shall not be required for the proposed self-storage facility on Parcel A.
2. A grease interceptor shall be required for the proposed restaurant with drive-thru facilities on Parcel B.

**Lighting:**

1. All site lighting shall be limited to 25' in height. 90 degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A photometric lighting plan shall be submitted as part of the final site plan for each parcel.

**Signage:**

1. One multi-tenant sign shall be permitted on Parcel B to accommodate signage for both Parcels A & B.

**Right-of-Way Dedication:**

1. Additional right-of-way shall be required along Cleveland Road as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of the subdivision plat.

**Architectural Requirements:**

1. Building materials and colors shall comply with the C-1 General Commercial District for Parcel A and with the C-7 Auto-Oriented Commercial District for Parcel B. Fiber cement board siding and trim shall be considered an appropriate material for both Parcels A & B.

**Other:**

1. Parcel A shall conform to all other C-1 General Commercial District height, area, and development regulations unless otherwise noted above.
2. Parcel B shall conform to all other C-7 Auto-Oriented Restaurant Commercial District height, area, and development regulations unless otherwise noted above.

The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently developed with a vacant restaurant, parking areas, and adjacent common access drives to W. Cleveland Road and Grape Road. Adjacent uses include a vacant retail building and design-build contractor to north, a common access drive serving the multiple parcels to the west, a bank and walk-in medical clinic to the south, and a multi-tenant commercial building and bank to the east. The property is located at the northern edge of the Grape Road commercial corridor.
2. Character of Buildings in Area – The buildings along the Grape Road and W. Cleveland Road corridors are primarily single and multi-tenant commercial/retail buildings including University Park Mall, a large regional shopping center. Low density single-family residential properties are located to the west.
3. The Most Desirable/Highest and Best Use – Due to the property's location at the northern edge of a highly travelled commercial corridor, the most desirable use of the property is for continued commercial use. The proposed uses are similar to the prior existing use of the property and those currently permitted which include all C-2 Shopping Center Commercial District uses.
4. Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area. Currently, commercial land uses, including similarly intensive uses than those proposed, are permitted within the portion of the PUD being amended.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for general commercial development (retail sales and shopping centers).

|                    |
|--------------------|
| <b>ATTACHMENTS</b> |
|--------------------|

Photographs, Petition, Conceptual Site Plan, Location Map



Aerial Photograph  
Existing Vacant Restaurant – 512 W. Cleveland Road  
Part of the University Marketplace PUD



P1. Looking northeasterly toward the existing restaurant from the Cleveland Rd. (S.R. 23) access.



P2. Looking northerly along the existing common access drive to the west.



P3. Looking southeasterly toward the property from the adjacent access drives.



P4. Looking easterly along the north property line of Parcel B and adjacent access drive.



P5. Looking southwesterly toward the property from the adjacent access drive to the north.



P6. Looking northwesterly toward of the existing building from the east.



P7. Looking northerly toward the property and existing building from south of S.R. 23.

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:  


\_\_\_\_\_  
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.

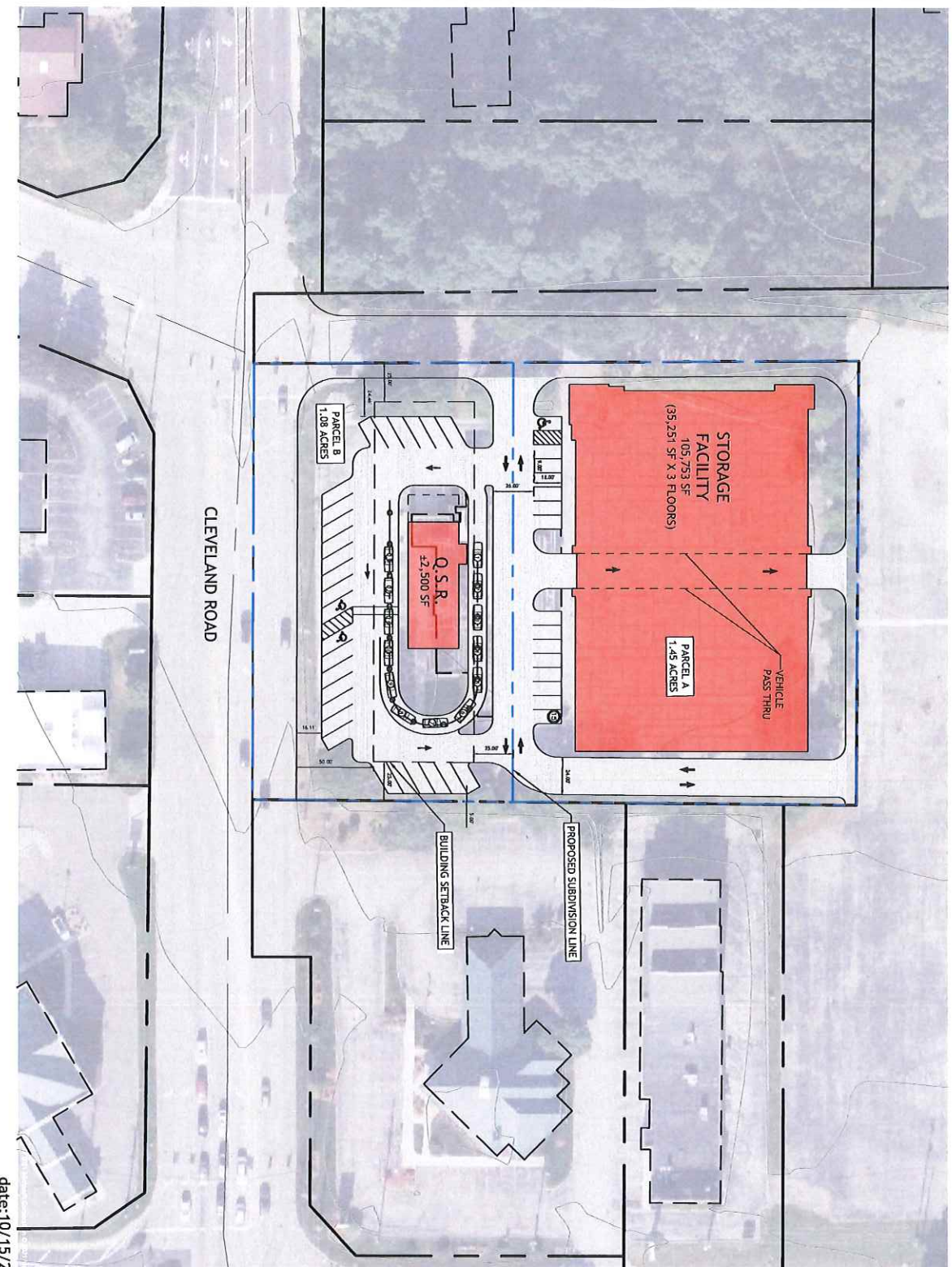
**OTHER:**

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.~~

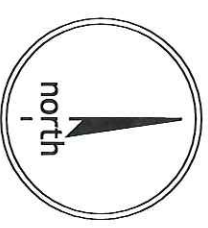


date:10/15/21

**blueWATER**  
civil design  
Bluewater Civil Design, LLC  
718 Lander 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)  
±2,500 sf (QSR)  
parking: 15 spaces (Storage)  
27 spaces (QSR)



scale: 1" = 60'

CAP SOUTH BEND  
MISHAKAWA,  
INDIANA

## STUDY PLAN

# SP-1



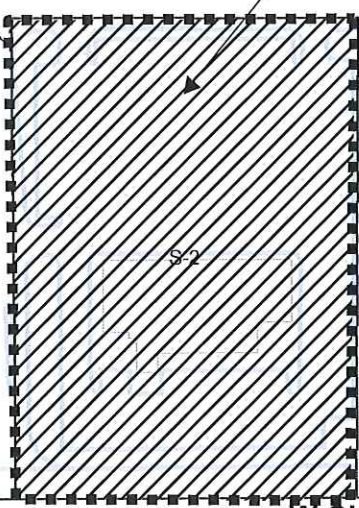
S-2

S-2

**PET 21-19**

PART OF UNIVERSITY  
MARKETPLACE PUD

TIMBERLAND DR



C-1

C-5

C-1

C-7

C-1

C-1

C-1

W CLEVELAND RD

S.R. 23

C-1

C-1

C-1

GRAPE RD

S-1

C-2

## 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

PETITION 21-20

Deborah S. Block, IAMC, MMC

CITY OF MISHAWAKA, INDIANA

DEC 15 2021

PROPOSED ORDINANCE NO. 2021-52

City Clerk  
Mishawaka, IN

ORDINANCE NO. \_\_\_\_\_

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made a favorable recommendation regarding the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Part of the 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. Terrance 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.

COMMON ADDRESS: Southeast Corner of Harrison Road and Beacon Drive

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow the addition of two (2) additional single-family homes with R-1 Single Family Residential standards with the lot frontage reduced to 50' for Lot 2.

Proposed Ordinance No: 2021-52

Ordinance No: \_\_\_\_\_

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

1. Existing Conditions – The property is currently adjacent to other single-family developments in the area.
2. Character of Buildings in Area – The development south of Harrison Road is exclusively residential. Some of the neighboring developments have smaller lots and villa style homes.
3. The Most Desirable/Highest and Best Use – Due to the property's location in a single-family area, the addition of two more homes would be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area because the use is very similar.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for multi-family residential (apartment complexes and nursing facilities) which, even though these are single family homes, is reflected by the density of the smaller homes and lots.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
David A. Wood, Mayor

**STAFF REPORT**

Location: The Village at Harrison Creek  
Southeast corner of Harrison Rd & Beacon Drive

Date: December 14, 2021

Petition: 21- 20

Prepared By: CH

**GENERAL INFORMATION**

Applicant: Barak Group LLC/Lang, Feeney & Associates, Inc.

Status: Property Owner / Surveyor

Request: Amend the Village at Harrison Creek Planned Unit Development to allow two additional single family homes with R-1 standards in an area previously reserved for water retention.

Zoning Classification: S-2 Planned Unit Development (Permitted Uses include 54 single family homes)

Lot Size: 0.59 acres

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

**SPECIAL INFORMATION**

Area Development Pattern: North: R-3 Multi-Family Residential (Epic Church)  
South: S-2 Planned Unit Development (Village at Harrison Creek)  
East: S-2 Planned Unit Development (Villas at Reverewood)  
West: S-2 Planned Unit Development (Village at Harrison Creek)

Thoroughfare: Harrison Road

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to serve the site

Comprehensive Plan: Medium Density Residential (apartment complexes and nursing facilities)

**ANALYSIS**

The petitioner, Barak Group LLC is requesting to amend the Village at Harrison Creek Planned Unit Development (PUD), approved in 2000, to add two additional single family homes with R-1 standards in an area previously reserved for water retention. The original PUD was approved for 54 homes, and all 54 homes have been developed. Staff has been in discussion with the owner and the owner's surveyor for over two years to bring about a functional PUD amendment. The proposed use is permitted in the R-1 Single-Family Residential District, thus the height, area, and developmental regulations for this district will be applicable to the property unless otherwise noted. The frontage on Lot 2 will be reduced to 50'. The R-1 standards require 60' of frontage.

The area being affected by this PUD amendment is the southeast corner of Harrison Road and Beacon Dr, which was previously reserved for water retention. This PUD is bounded by The Cove at Harrison Creek on the west; Epic Church to the north; the Villas at Reverewood on the east; and Reverewood subdivision to the south.

The current PUD regulations applicable to the property, which were approved in 2000 (Petition 00-24/Ord. 4516), permit 54 single family houses. The property was subsequently subdivided into 54 lots in 2000 as Village at Harrison Creek (Recording No. 0108192).

A preliminary site plan shows two lots with building envelopes for two single family homes, but maintains the retention easement where the existing retention basin is. Access to both lots will be from Beacon Drive. Access cannot be from Cedarwood Ln because there is a landscape easement the current developer does not own between this parcel and the road. A subdivision will be required to officially divide the lots and establish any easements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

### RECOMMENDATION

Staff recommends **approval** of Petition 21-20 to amend the Village at Harrison Creek Planned Unit Development, to allow two additional single family homes with the lot frontage reduced to 50' for Lot 2.

The recommendation is based on the following findings of fact:

1. Existing Conditions – The property is currently adjacent to other single family developments in the area.
2. Character of Buildings in Area – The development south of Harrison Road is exclusively residential. Some of the neighboring developments have smaller lots and villa style homes.
3. The Most Desirable/Highest and Best Use – Due to the property's location in a single family area, the addition of two more homes would be compatible with the existing adjacent land uses.
4. Conservation of Property Values – The proposed zoning should not be injurious to property values in the surrounding area because the use is very similar.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for multi-family residential (apartment complexes and nursing facilities) which, even though these are single family homes, is reflected by the density of the smaller homes and lots.

### ATTACHMENTS

Aerial, Photographs, Petition, Location Map



A view from the intersection of Harrison Road and Beacon Dr



A view northeast from the intersection of Beacon Dr and Cedarwood Ln



A view north from Cedarwood Ln from the eastern edge of the affected area

PET 21-20

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk  
Mishawaka, IN

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.



Nir Davison, Member  
(Print Name)

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

**CONTACT PERSON:**

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





[illegible]

OWEN'S CERTIFICATION:  
THIS IS TO CERTIFY THAT THE UNDERSIGNED, LAMON, ROSS, LEE, IS  
THE OWNER OF THE LAND DESCRIBED HEREIN, AND THAT THEY HAVE  
CAUSED THE SAME TO BE SURVEYED AND SUBDIVIDED AS HEREIN  
HEREON, FOR THE USES AND PURPOSES THEREIN SET FORTH, AND  
DO HEREBY ADMIT, CONFIRM AND ADOPT THE PLAN UNDER THE TITLE  
AND TITLE HEREON SUBMITTED.

LAMSON & JONES, LLC  
 828 E. JOHNSON BLVD.  
 SUITE 300, INDIANAPOLIS, IN 46207  
 DATED THIS 1<sup>ST</sup> DAY OF NOV., 2004.

DAVID J. LAMSON  
 PARTNER  
 VIRGINIA A. LAMSON  
 PARTNER

*David J. Lamson*  
*Virginia A. Lamson*

COUNTY OF HENRIETTA,  
 STATE OF NEW YORK,  
 IN SENATE OF ST. JOSEPH,  
 1883.  
 I, the undersigned Notary Public, in and for said County and State,  
 do hereby certify that the within and voided A. LAURENCE and COMPANY  
 have been duly organized as a Voluntary Ass'n for 1883 for  
 the purpose of raising money for the HENRIETTA REFORM SOCIETY.  
 IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of my  
 said Commission, this 13th day of November, 1883.  
 Notary Public.  
 Signed and Sealed at  
 Seneca Falls, N.Y.  
 in presence of  
 Eldredge F. Russell  
 and  
 Stephen D. Russell  
 Witnesses.

The within and voided A. LAURENCE and COMPANY, HENRIETTA,  
 NEW YORK, is a RECEIPT OF ST. JOSEPH COUNTY, NEW YORK.

1883.

RECORDS DOCUMENTS USED FOR THE SURVEY WERE AS FOLLOWS:

[illegible]

A HAMMOND-HAMMER was FOUND AT THE NORTHWEST CORNER OF SAID SECTION 26, PER COUNTY RECORD, A.1. BOB WAS FOUND AT THE NORTH-EAST CORNER OF SAID SECTION 26, PER COUNTY RECORD. A 3/4" IRON PIPE WAS FOUND IN THE EAST END OF LOT NUMBERED 719 IN REVENUE-ROAD, SOUTH SECTION 26, PER COUNTY RECORD. IT MEASURED 27'-0" IN THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26 AND BE THEREABOUTS 3'-0" HIGH FOUND. 27'-0", OTHER MEASUREMENTS WERE 27'-0" AND 27'-0". THE TOTAL AREA OF THE SITE IS 18,000 SQ. FT. THE SITE IS BEING USED FOR STORAGE OF LOGS AND LUMBER.

[illegible][illegible][illegible][illegible]

02-27-2001 3:14:28  
RECORDED ON  
TERRI J. BETHLAK  
ST. JOSEPH COUNTY  
RECORDER  
REC. FEE: 23.00  
PAGES:

**THE VILLAGE AT  
HARRISON CREEK**

**DEVELOPER: STM**  
LANDOWNERS: HERRINGTON, L.L.  
1000 E. JEFFERSON AVE.  
SOUTH BEND, INDIANA 46617

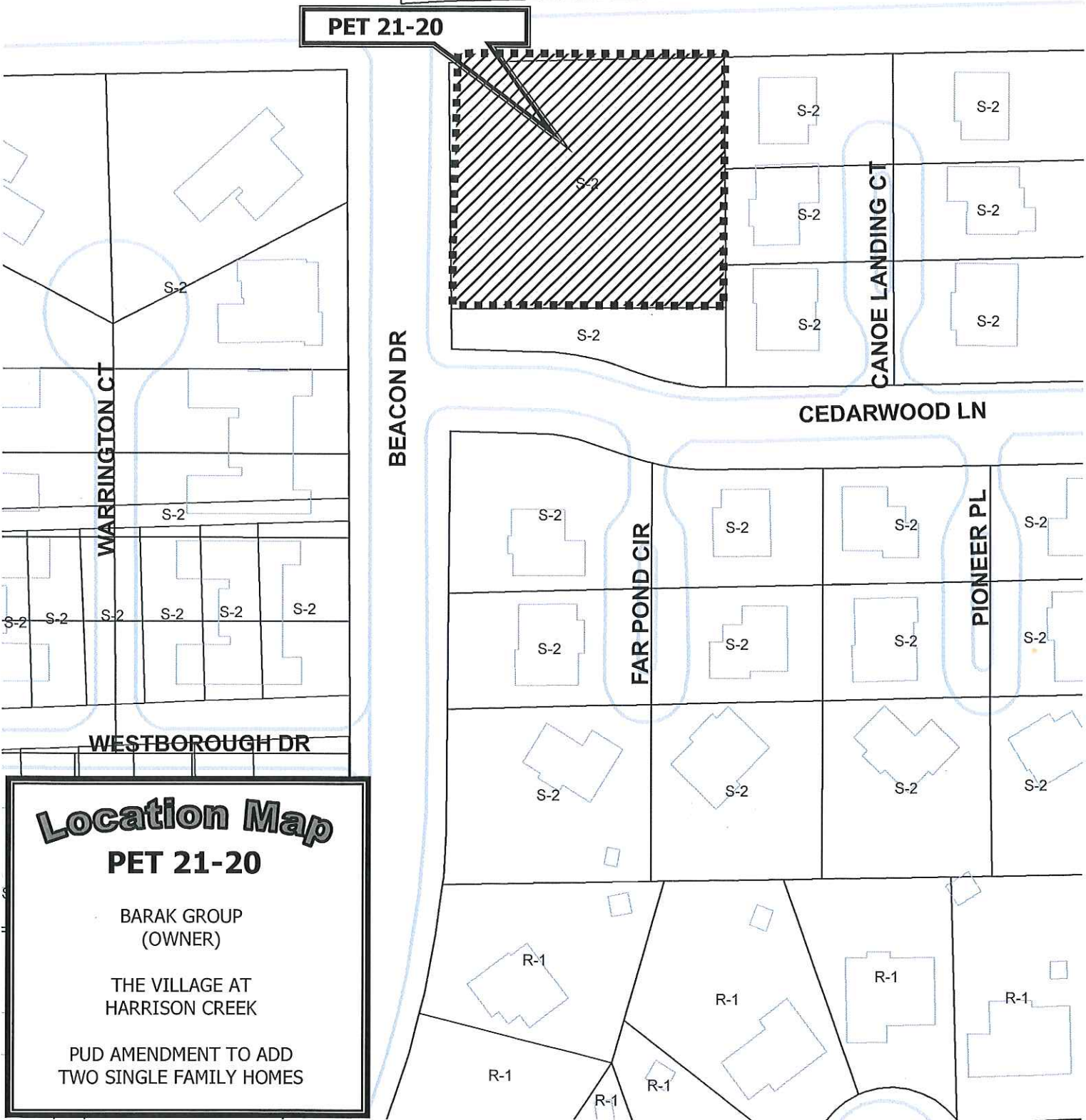
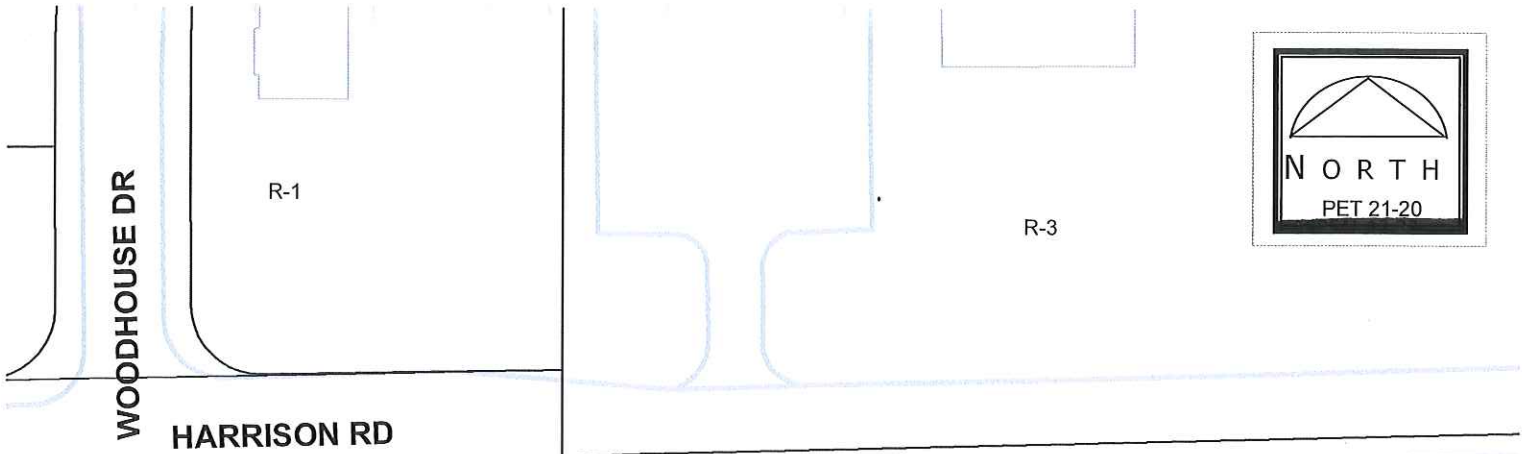
**ADJACENT OWNERS:** MC  
7711 E. HERRINGTON AVE.  
SOUTH BEND, INDIANA 46605

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

**ABONMARCHÉ CONSULTANTS, L.L.C.**  
10000 N. 10TH AVE. SUITE 200  
DENVER, CO 80231  
TEL: 303-755-2200  
FAX: 303-755-2203  
WWW.ABONMARCHE.COM

ABONMARCHÉ CONSULTANTS, L.L.C. is a  
subsidiary of J. ABONMARCHÉ & SONS, INC.  
10000 N. 10TH AVE. SUITE 200  
DENVER, CO 80231

|                                                                                     |  |                            |  |
|-------------------------------------------------------------------------------------|--|----------------------------|--|
|  |  | SHEET<br>3                 |  |
| DATE: 10/19/02<br>DESIGNED: CSD<br>DRAWN: JLS<br>APPROVED: JAC<br>CIP NO. 1000000   |  | PROJECT:<br>RECONSTRUCTION |  |



## Location Map PET 21-20

BARAK GROUP  
(OWNER)

THE VILLAGE AT  
HARRISON CREEK

PUD AMENDMENT TO ADD  
TWO SINGLE FAMILY HOMES

DATE: November 3, 2021

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

Deborah S. Block, IAMC, MMC

DEC 02 2021

City Clerk  
Mishawaka, IN



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Nir Davison, Member

Barak Group, LLC  
300 S. St. Louis Blvd, Ste. 103  
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(Print Name)

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