

AGENDA

February 21, 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): 2340 923 0825
Meeting Password: eCAAEzvA473

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: 23409230825@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of February 07, 2022
5. Petitions, Communications, Remonstrance and Memorial

A Letter from the City Plan Commission regarding their
recommendations from their February 08, 2022 meeting.
6. Report of Special Committee
7. Ordinances on First Reading

P.O. No. 2022-06

Rezone from R-1 & C-4 to C-4 Auto Oriented
Commercial for proposed Car Wash Drive N'
Shine - NW corner of Lincoln Way &
Bittersweet Rd.

P.O. No. 2022-07 Right of Way Vacation for Planned Adjacent
Car Wash Development Drive N' Shine - Wayne &
Pennsylvania Ave.

8. Resolutions

R2022-01 Amending the City Municipal Riverfront District

R2022-02 Replace don't Erase Personal Property Tax

9. Ordinances on Second Reading

P.O. No. 2022-05 Amendment to Ordinance No. 5769 a Collective
Bargaining Between the City and Local 1392
IBEW.1-1-2022 thru 12-31-2024
(Assigned to Budget and Finance Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the
city of Mishawaka's Facebook page,
<https://www.facebook.com/cityofmishawaka/> and 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

February 7, 2022

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, February 7, 2022 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, led by Toby Prince. All were asked to remain standing for a moment of silence after the Pledge of Allegiance in remembrance of former Mishawaka City Councilman and longtime Mishawaka resident, Joe DeKever.

Clerk Block called the roll.

Roll Call.

Present: Mrs. DeMaegd (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (P), Mrs. Voelker (A), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel

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 January 17, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

Petition 2022-01 Rezone from R-1 & C-4 to C-4 Auto Oriented Commercial for proposed Car Wash Drive N'Shine – NW corner of Lincoln Way & Bittersweet Rd.

Petition 2022-02 Right of Way Vacation for Planned Adjacent Car Wash Development Drive N' Shine – Wayne & Pennsylvania Ave.

Presentation of voided two-year-old checks

The record reflected that the council complied with the statute.

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

PROPOSED ORDINANCE NO. 2022-05

AN ORDINANCE AMENDING ORDINANCE 5769 AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE EMPLOYEES OF THE MISHAWAKA UTILITIES

**REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL NUMBER 1392
Amendment to Ordinance No. 5769 a Collective Bargaining Between the City and Local
1392 IBEW.1-1-2022 thru 12-31-2024
(Petitioner Requesting Second Reading)**

The chair entertained a motion to suspend regular council rules and hold first and second reading on PROPOSED ORDINANCE NO. 2022-05 as requested by the petitioner. Mr. Compton made a motion, which was seconded by Mr. Banicki.

Mr. Hazen asked if this motion and proposed ordinance did not pass if it would affect the IBEW workers as far as in pay or anything like that. Mr. Hixenbaugh asked the representatives of the administration to step up to the podium and address Mr. Hazen's question.

Kevin Wasmer, Mishawaka Utilities Division Manager, spoke before the council. Mr. Wasmer stated the language was still the same but they moved it from where it was located in the beginning of the contract to the emergency only. Mr. Wasmer stated the purpose of the language was more to get the guys to take calls after hours emergencies. Mr. Wasmer stated the benefit of this would be if they were to come in at 4AM, go to work and stay all day long, they would stay at time and a half but it was a higher rate of pay once established. Mr. Wasmer stated the contents in the front of the contract address everything, which would have been scheduled overtime and they did not want it to be scheduled overtime 2 hours before the start of the day starting at 5 o'clock. Mr. Wasmer stated this was a way to give them a reward for taking calls after hours. Mr. Hazen asked if this was being practice now. Mr. Wasmer stated they had not had the situation occur yet, but it was anticipated to be practiced now.

Mrs. DeMaegd asked if a situation would arise where this would take place and the motion for first and second reading did not pass, what would the situation be for the workers. Mrs. DeMaegd also asked if they would still get that pay. Mr. Wasmer stated the way the contract was at that point, it would still apply and if they were to be called out that night and they worked, it would still be at a time and a half, but with a higher rate of pay. Mr. Wasmer stated this just was to move it so everyone would be on the same page and to make it clearer than putting it in the front of the contract.

Mr. Compton asked for clarification if this was collectively bargained and all they were doing was approving at the council level, putting it into ordinance form and approving the contract. Mr. Wasmer stated that was correct. Mr. Compton also asked if the IBEW in the city of Mishawaka had agreed to this, signed off on it and this was just a formality. Mr. Wasmer stated that was also correct and they had agreed to put it under the emergency call up.

Mrs. DeMaegd made a comment stating she found the first and second readings collectively not far to the voting members of the city or any member of the city where they were voting as a body to approve the ordinances. Mrs. DeMaegd stated they did not get the chance to thoroughly read

them and do some work on them to let the council know how they felt about them. Mrs. Demaegd stated this was the second time in two meetings it had happened and happened several times in the prior year. Mrs. DeMaegd felt the citizens of Mishawaka were being short-changed when this was happening and they did not get the chance to read and make their judgement, contact their representative and let them know how they felt.

Mr. Hazen stated he seconded that feeling and that was how he felt as well. Mr. Hazen stated this was not only a council rule that they should take two meetings to pass something but it was stable and he did not know how he was going to vote. Mr. Hazen stated they should give the public a chance to have two meetings to come and talk.

Mr. Hixenbaugh stated whatever the vote was that evening, he thought that there was a consensus it was not unanimity on the part of the council that their preference would be that the collective bargaining agreements be brought to them in a different order or timing. Mr. Hixenbaugh stated all of them on the dais had been involved in bargaining on some level and sometimes the year ran out on them and despite everyone's best intentions, you just run up against the deadline and that was understandable, but that should be the exception rather than the rule. Mr. Hixenbaugh stated he thought it was clear that their strong preference, no matter what happened that evening, was that they revisit the process and do everything possible to bring the agreements to them one time only as a complete package that had the changes highlighted, as Mrs. Kile was good enough to do for them that evening, with regard to language deleted and indicating new language with where it was placed. Mr. Hixenbaugh stated it sounded like it was a process issue but he agreed with his colleagues that there were substantive issues as well and although they had the flexibility to suspend their rules, he thought this council would prefer to do that fewer times than more frequently moving forward. Mr. Hixenbaugh stated if they could work together to accomplish that, the council would appreciate it.

Mr. Bellovich stated he would vote in favor of it that evening, but as Mr. Hazen said it had occurred more frequently and one of the issues that could solve that from a timing standpoint would be to start negotiations earlier, if it were necessary.

A motion was made and seconded to suspend their council rules and hold first and second reading on **PROPOSED ORDINANCE 2022-05**. Mr. Hixenbaugh called for the question and Clerk Block held a roll call vote on the question. Mrs. Demaegd voted no and by virtue of that one no vote in compliance with state law as well as council rules, the matter would not be heard under first and second reading but instead would go through their normal process and be acted upon at a subsequent council meeting. Mr. Hixenbaugh stated with that occurrence, he assigned **PROPOSED ORDINANCE NO. 2022-05** to the Budget and Finance Committee.

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

PROPOSED ORDINANCE 2022-02

AN ORDINANCE AMENDING ORDINANCE 5763 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT THE MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2022
Amending Ordinance No. 5763AA Civil City Salary Ordinance for 2022

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-02**. Mrs. Maguire stated she was present to amend the salary ordinance and the Planning Department had restructuring. Mrs. Maguire stated she mistakenly put one position at higher level and one position as a lower level as far as salary went and this ordinance was to correct it.

Question was called for at 7:21PM for **PROPOSED ORDINANCE NO. 2022-02. Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Hixenbaugh.** The proposed ordinance passed 8-0, thus becoming **ORDINANCE NO. 5780**

PROPOSED ORDINANCE NO. 2022-03

AN ORDINANCE DECLARING AN EMERGENCY IN DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2022

Addition Appropriation From: General Fund - Fire - Assistant Chief \$125,000.00 - Total: \$125,000.00

Clerk Block stated she had the proof of publications from both the South Bend Tribune and the Mishawaka Enterprise.

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-03**. Mrs. Maguire stated this additional appropriation was for an additional assistant chief in the fire department. Mrs. Maguire stated this was for approximately \$125,000, which was made up of the salary of \$79,223. Mrs. Maguire stated there was pension in there, a closing stipend and she also added health insurance at the higher rate as a family plan, because she expected a current firefighter to be promoted to assistant chief and a new employee would be added to the fire staff. Mrs. Maguire stated this was where the numbers were from and it was much simpler to put it in one line instead of trying to separate it out into different lines. Mrs. Maguire stated Chief Woodward was present to discuss the details of needing the additional staff.

Mr. Compton asked if the dollar amount that they saw of \$125,000 was all encompassing between the new assistant chief and the person brought on to replace them. Mrs. Maguire stated that was right. Mr. Compton stated it made sense and when he first looked at it, it seemed like a lot but now it made sense. Mrs. Maguire stated the promoted person was already having pension, clothing, insurance and additional costs with the new employee.

Mr. Hixenbaugh thanked Mrs. Maguire for the information she and the chief provided in advance of this and there were some obvious to adding the position with regard to the job the requirements he was sure the chief would share with them. Mr. Hixenbaugh asked if there was a reason why they could not add this position during the normal budgetary process in the fall rather than dealing with it after the first of the year. Mrs. Maguire stated it was her understanding that it was still in discussion and it had been brought up, but the administration had not finalized everything and made the final decision on that.

Bryon Woodward, Fire Chief, spoke before the council. Chief Woodward answered Mr. Hixenbaugh's question stating this was something in discussion with the administration and it was something worked out late in the end of the year to not push it through and felt it was best to wait until after the first of the year. Chief Woodward stated he also had a family thing occur at the end of the year so it tied him up for January and he apologized for that. Chief Woodward stated this position was very important to them and they said all the time that you could never train enough for a job that can kill you. Chief Woodward stated their training last year was up 29% with over 33,000 hours accumulated by all members of the Fire Department. Chief Woodward stated it was up from 26,000 in 2020, 24,000 and some change in 2019 and 19,000 in 2018. Chief Woodward stated he believed very much in training and it was the most important thing they could do. Chief Woodward stated there were five pillars to making their job work: hire good people, give them good policies to follow, train them to the policies, provide the necessary supervision and then you follow up with the discipline if they are not being supervised. Chief Woodward stated they were very good at all those pillars except for the training part so much. Chief Woodward stated their jobs had gotten so busy now with of the training going on and the thing they were starting to lose was everyone operating the same at all times. Chief Woodward stated the job was shared between their operations and the operations of the training chief. Chief Woodward stated all of the daily stuff was his responsibility, along with purchasing and making sure everyone was trained the same as well. Chief Woodward stated there were over 15 total types of medical certifications, 9 to 10 fire certifications they had to maintain continuous hour for, state, local, ISO, NFPA, and OSHA mandatory trainings every year. Chief Woodward stated the workload has overrun one person. Chief Woodward stated they had a battalion chief to assist him in these responsibilities, but every time the battalion chief worked most of the time he would get those things done during off duty time, which meant they had to pay him comp time or overtime and take him away from his off duty days. Chief Woodward stated they had five people retiring between the current year and next year. Chief Woodward stated with those five people leaving, it was about 165 years of experience leaving them. Chief Woodward stated the average age of employment dropped 13 years because they had gotten so young. Chief Woodward stated they hired 34 people in the last year and 31 people that day had their 20 years in and could retire. Chief Woodward stated of those 31, about 15 to 18 of them were close to the age of retirement, so within the next three to five years he foresaw the majority of those individuals being gone as

well. Chief Woodward stated 57 of the 107 right now, 57 of them had less than ten years on the job. Chief Woodward stated to make sure those people see 32 years job; they have got to train them and the world they lived in today was not the same world he came into in the fire service 27 years ago. Chief Woodward stated they were facing things today they had never thought they would face and they were busier than ever. Chief Woodward stated they did almost 9700 runs in 2021, which was a record year. Chief Woodward stated they were up 17% and they were already up 40% in January 2022 compared to January 2021. Chief Woodward stated January was the second busiest month as far as calls in their department with December being the busiest month. Chief Woodward stated they started the year in 2021 with 22 to 23 runs a day and that had increased to the high 30s and low 40s now. Chief Woodward stated COVID has also presented a ton of training challenges for them, but their people had been great about it. Chief Woodward stated they took it all in stride and he could not give them enough kudos. Chief Woodward stated they had the greatest men and women working on the fire department. Chief Woodward stated they had done what they needed to do to make sure they were prepared the best they could possibly be. Chief Woodward stated online training and in-house training had helped when COVID was a huge factor and he was hoping things would go the other way and it was time to get their hands dirty a lot more. Chief Woodward stated they were in the process of building a training tower where they could do a lot more live burn, a lot more propelling and a lot more of that stuff. Chief Woodward stated the training chief was important with that because he was the guy there every day to make sure all of the safety procedures were followed and everyone was trained how they wanted it done and the issue was, they could not dedicate that person there all the time every time. Chief Woodward stated if you were on overtime and not working on a shift you were normally on, pulling hose should be pulling hose the exact same way on any shift. Chief Woodward stated when coming off a truck, the expectations on the front of the truck and the back of the truck should be the same on another shift that is not your shift. Chief Woodward currently it was hard to make sure that was always working that well and synced up that well and because of the busyness, there was no one there that could dedicate 100% of their job to that. Chief Woodward stated they were also working to get through their training software, fire solutions, and they were working with the state. Chief Woodward stated for their medical certifications, every two years they had to renew. Chief Woodward stated when working with the state, they would be able to pull their training requirements right out of their in-house software. Chief Woodward stated they would give them rights to it and they would have access to go in and pull it out every two years with an automatic download for them. Chief Woodward stated it was a much more efficient way to do business, but they did not have the person to put in charge of running that project for them at that time. Chief Woodward stated Chief Ray had been doing an amazing job, but it was very overwhelming for one person to hold that much responsibility. Chief Woodward stated everyone in the county operated off the same incident command SOGs now and the same policy. Chief Woodward stated if the battalion chief from South Bend showed up in Mishawaka, he could run a house fire and use the same language that their battalion chief used in Mishawaka. Chief Woodward stated the way that came about was all of the operations chiefs from all of the departments in the county got together to go through and vet the policies. Chief Woodward stated they got the package they liked, it would come up to the fire chiefs and if they were all great with it and signed off on it then it goes right to the training chiefs who then go out and train all of their departments. Chief Woodward stated Chief Ray goes from the meeting to create all of this, into the meeting where it got approved and then goes with all of the training chiefs and has to push out to everybody else to get all of the training developed and

pushed out. Chief Woodward stated as a city and as a department, their most important thing was to provide for the safety and quality of their people and to make sure they went home every day and they all retired happy and healthy. Chief Woodward stated the most important way to do that was to train and he hoped the Council would consider this. Chief Woodward stated he could not speak highly enough about how well his department had worked through this and they were dynamic and committed.

Mr. Mammolenti thanked Chief Woodward and stated he was extremely sorry for his family's loss and what they had experienced over the past couple of months and his thoughts and prayers had been with them. Mr. Mammolenti thanked him for the information provided and stated he was a strong believer in training as well in any profession. Mr. Mammolenti then asked what the class rating was they were trying to achieve in terms of training hours. Chief Woodward stated it was the ISO rating and currently they were at two, which was the second highest you could have. Chief Woodward stated they just missed being a one by two quarters of a point, where if they had some of the training stuff in place they could have achieved a one. Chief Woodward stated what makes the ISO rating happen was the dispatch center, their water department was a big part of it and their people with the training hours they did and the work they put in that reflected on them. Chief Woodward stated they were up for review in a couple of years and he anticipated them making a leap. Mr. Mammolenti made a comment stating he had seen firsthand the amount of calls they received and how difficult it could be to squeeze in the training hours. Mr. Mammolenti believed a dedicated person could help get that going and make sure every minute counted. Mr. Mammolenti congratulated Chief Woodward and his members, because over the weekend a neighbor of his had a significant accident in his home and he explained to them the situation and how impressed he was with the response he received along with the quality. Mr. Mammolenti asked Chief Woodward to pass that onto the department and thanked him once again.

Mr. Compton thanked Chief Woodward for filling the Council in on this and it was very appreciated. Mr. Compton stated he was glad to hear that they were adding from the normal crew and not taking away them. Mr. Compton stated they often hear during negotiations that they needed to expand the crew and he just asked him to continue to work on that to expand their manpower and they needed more management folks as well as more people in the field. Mr. Compton thanked him for continuing the conversation.

Mr. Emmons thanked Chief Woodward for his presentation and giving them an update on what they planned on doing. Mr. Emmons asked if they had someone in mind for the new position. Chief Woodward stated they had several people who were qualified. Chief Woodward stated they would open up the interviewing process. Mr. Emmons asked if the title would be Assistant Chief of Training and Chief Woodward responded that that was correct. Mr. Emmons asked where they would be stationed and Chief Woodward stated they would be stationed at Station 4.

Mr. Hazen stated they had always done a great job with training and that he wished they would look at civilian post more than taking guys off the truck. Mr. Hazen stated they could probably hire a retired firefighter or someone like that who would not have to pay his pension and get him at a better price. Mr. Hazen stated they had some issues happening in the Police Department with

adding new positions and taking police officers off the road. Mr. Hazen stated he supported this and would be voting for it, but he would like them to look at civilian positions.

Mr. Hixenbaugh thanked Chief Woodward for the information and stated he always did a great job of flushing out the details. Mr. Hixenbaugh stated there was the obvious logic to the position and did well articulating it and the need for it, but he agreed that they also needed to look at the number of bodies jumping on a firetruck every day and making sure they were where they needed to be with that. Mr. Hixenbaugh stated he mentioned with the current assistant chief how the duties had morphed over time with taking on additional responsibility and clearly training would be the primary responsibility of the training and asked if they had other add-ons or loose odds and ends assigned to this job description as well. Chief Woodward stated some of the purchasing would be able to be taken away from Chief Ray that way Chief Ray could focus on more of the bigger purchases like equipment for the trucks and things of that nature. Chief Woodward stated the individual with the position would also do more of the budgeting aspect and would spearhead redoing all of their policies. Chief Woodward stated with the federal law was changing every day for the job they did and they wanted to reconstruct them from the ground up. Chief Woodward stated everything they had was at the point where it was antiquated and did not reflect the way they did business today, so that would be a giant endeavor on its own. Mr. Hixenbaugh went back to the description of the training he gave the Council and they clearly could never invest too much in training not just for the good of the individual firefighters, but also for the good of the citizens serviced by those firefighters. Mr. Hixenbaugh then wanted to make clear that this individual would have some training responsibilities not just for fire suppression activities but for the medical component as well. Chief Woodward stated the individual would oversee all training one hundred percent for everyone. Mr. Hixenbaugh then asked if they had a rough guess on how long it would take to identify, select and put in place the individual who would assume the position. Chief Woodward stated they would like to have it done in just a couple of weeks. Mr. Hixenbaugh referenced the ripple effect he and the Controller mentioned with regard to then having to add someone in the ranks and asked Chief Woodward to summarize for them and the citizens following the meeting what the timeframe would be to replace that body and add that additional firefighter to the ranks. Chief Woodward stated they already had their written test for the year and their physical agility test would be February 16th with March 5th being the last day for it. Chief Woodward stated when those numbers were done, they would receive a list of who passed it and they would schedule the first round of interviews the next two weeks. Chief Woodward they wanted to have them to be brought on before June, by May preferably. Chief Woodward stated they were already in the hiring process so it was nothing special they had to do and it just adds another number of a person they wanted to bring on. Mr. Hixenbaugh stated it sounded like there were three identified moving vacancies that would be filled, including the new one that would be the ripple effect of creating the new position. Chief Woodward stated that was correct and hopefully by June they would have it all wrapped up.

Mr. Emmons asked Chief Woodward what the date of the CPAT test was again. Chief Woodward stated the orientation day was February 16th and the last day was March 5th. Chief Woodward stated they would come to orientation day, go through the test and take practice rounds with March 5th being the final test day. Mr. Emmons asked about the written test and Chief Woodward stated that was done in January. Mr. Emmons thanked Chief Woodward.

Frank Zappia, President of Mishawaka Professional Firefighters local 360, spoke in favor of **PROPOSED ORDINANCE NO. 2022-03**. Mr. Zappia stated it was not one of their union positions and him speaking on it that evening showed how important it was. Mr. Zappia stated everything Chief Woodward said was completely accurate for the need of the position and it was something they had brought up multiple times in negotiation with the administration. Mr. Zappia stated as far as the people on the trucks; that number did not really go up. Mr. Zappia explained that the times it had gone up was when they went to three platoon, because they needed to make sure they had the same amount of people on the trucks, when they brought in their third ambulance and even a few years ago when they went from two assistant chiefs to three assistant chiefs. Mr. Zappia stated they promoted a battalion chief of EMS that was actually riding on an ambulance day in and day out to create that assistant chief's position, which was well needed. Mr. Zappia stated they also had three fire marshals whose workload was very expensive, so the city was adding one position to the department for a training chief and it was a lot easier to get one approved than three approved. Mr. Zappia mentioned Mayor Wood referencing each year in his State of the City Address about the world-class service and Mr. Zappia stated he had served alongside the best brothers and sisters you could ask for on the Mishawaka Fire Department. Mr. Zappia stated that being said, they had four fire stations in the city of Mishawaka since 1929 and the manpower increases just had not been there. Mr. Zappia stated they had good equipment and appreciated that, but getting people on trucks was an issue since they had two fire engines with four people on it and two fire engines with three people on it. Mr. Zappia stated they would love to see the two additional engines come up to four people on each truck. Mr. Zappia stated he was not against this, but he was just stating the need they had asked about for many years with their manpower. Mr. Zappia stated they had discussed in their negotiations that year how they asked for 18 additional manpower and the administration asked Chief Woodward if that was accurate and he explained it as not, because they were under selling it. Chief Woodward, in the negotiations, stated they would 24 to thirty that day. Mr. Zappia stated he knew money was part of it and it took time. Mr. Zappia stated they were looking to put in another ambulance with the amount of call numbers they were receiving. Mr. Zappia stated he worked an overtime shift the other day, making it his work shift and regular shift and someone he worked with every day did the same thing. Mr. Zappia stated the person he worked alongside was on the slowest ambulance in the city and in 48 hours, he made 23 calls. Mr. Zappia stated that was almost a call every two hours and from the start to finish of a call for the ambulance, it would be around an hour when accounting for the time they had to do the report and escort a patient to the hospital. Mr. Zappia that just demonstrated the numbers for the calls rising. Mr. Zappia stated he was in support of this, but also wanted to use his time to plead their case to add additional manpower throughout the rest of the department.

Mr. Hixenbaugh thanked Mr. Zappia for his comments and stated he knew from the conversations they had as a group and individually, but he felt very safe in saying that the council stood ready as it had for many years to partner with the administration and their firefighters with regard to any issues related to manpower. Mr. Hixenbaugh stated others do not always realize, whether it was additional police officers that they heard about at neighborhood meetings or additional firefighters, that those type of recommendations had to be initiated by the administration. Mr. Hixenbaugh stated the council as a fiscal body could certainly partner with the administration and work that into the budget, but it had to start with a proposal that was adequate at that podium to add manpower. Mr. Hixenbaugh stated they appreciated his comments and

hopefully he heard that evening that there was great interest on the part of the council to collaborate with everyone involved to make that happen and he thanked Mr. Zappia for his support in the matter directly in front of them.

Question was called for at 7:51PM for **PROPOSED ORDINANCE NO. 2022-03. Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Hixenbaugh.** The proposed ordinance passed 8-0, thus becoming **ORDINANCE NO. 5781**

PROPOSED ORDINANCE NO. 2022-04

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

Rezone from R-1 SF Residential to R-3 MF Residential for 8 Residential homes & Accessory Building – NE. Corner of E. Jefferson Blvd & Maplehurst Ave. – Troop Town (Petitioner requesting postponement)

Mr. Compton made a motion to honor the petitioner’s request and postpone this to the first meeting in March. The motion was made and seconded to postpone the second reading and public hearing on **PROPOSED ORDINANCE NO. 2022-04** until their first regular meeting in March. Clerk Block stated the first meeting in March would be on March 7th. Following a voice vote by the council, the matter was postponed until their regular council meeting of March 7th, 2022.

PRIVILEGE OF THE FLOOR

Mary Sisti, 1127 E Borley Avenue, spoke before the council regarding Troop Town as a whole and not speaking directly related to the rezoning processes of the north or south. Ms. Sisti read a prepared statement that she shared with the Clerk’s Office.

First, I want to thank the council for giving me the opportunity to speak tonight and also thank my fellow neighbors who are present this evening who may not feel comfortable standing up to speak for themselves, to allow me the opportunity to represent you. Please feel free to interject me if you need to add to, or are in opposition to, what I will be touching on tonight.

Since the last meeting in January, I’ve had the opportunity to gather my thoughts, write down my questions and attempt to seek clarity from our district council representative, Mike Compton. Recently, I’ve reached out to our Mayor, Dave Wood, to ask if he would be present tonight so he can hear both sides (Mayor Wood was not present due to the postponement of the matter). Deb Fleming, our county commissioner, is too, in opposition to the development of Troop Town being established in both locations. I hope she will get the opportunity to speak and be heard regarding her concerns as well come the next council meeting. I also spoke directly with Jim, the Troop Town representative, last Friday

evening to try and see if the neighbors can get the opportunity to sit down with him and go over the business proposal we feel is unclear and vague. He was very receptive to the idea and I'm just waiting on a date for us to come together. Lastly, my husband Jason and I have attempted on our days off from work to go door to door and have those conversations with some of our neighbors who, up until 24 hours ago, are still left in the dark about Troop Town. This has been a month long, time-consuming journey filled with a roller coaster of emotions of confusion and frustration but I am committed to the process of working with those involved to make this a better process for all. I'm hoping for a more grassroots community effort vs it feeling like a rushed institutionalized agenda.

So, I'm going to get right to it. From last month's council meeting and what Mike Compton stated to me, you say it's important for the community surrounding Troop Town to accept and welcome this plan in order for this to be fully approved, yet only those within a 300 foot radius were supposedly notified (and yes, I am aware that this is a state law and that's all that's minimally required...but in my opinion, for what it's worth, is NOT ideal for this specific situation. Mayor Wood even stated in his email to me and I quote: "It has been my experience being involved in Mishawaka govt. for 22 years as a Councilman and now Mayor that our representatives do a good job of listening to neighbors and taking their views into account. It has always been a priority and it sets Mishawaka apart." He also went on to say that, he was notified back in May of 2020 of the Troop Town proposal and that it passed the council by a unanimous vote. He stated "At that public hearing, no neighbors came out to oppose the project and the rezoning passed."

So, as you can assume, it was surprising and disappointing to hear my fellow neighbor who lives within this 300 foot radius wasn't notified of Troop Town until AFTER it was approved, much after this 5/2020 date. I will let her speak on her own volition but do you see how this may come off as setting a double standard to the neighbors? To hear you say you want to hear our views and yet we never had a chance to even be involved from the beginning? I personally was notified back on Dec 27th 2021 by a random petition letter in opposition to Troop Town, which was RIGHT before the Jan council meeting.

I can come to you with my main concerns regarding why, at this time, the majority of my neighbors and myself are having difficulty accepting Troop Town in between three housing developments and two parks but this would be putting the cart in front of the horse. The meeting scheduled last week between Troop Town and the neighbors got cancelled so again, a raincheck date will be in order...hopefully...before the next council meeting set for March 7th. In the meantime, I will make sure to continue to work directly with Jim Metherd from Troop Town and to notify and keep the neighbors up to date with this proposed meeting. I am hoping a lot of our questions will be addressed then and we will be all on the same page by this next council gathering. IF, in the case we meet with Troop Town and still share the same concerns, I want to ask that this council board remains open to the possibility of revisiting the original unanimous vote for rezoning. I understand this is asking you to do something unprecedented; however, we, the neighbors, are encouraging all 9 board members representing this community to hear us out, both individually and as a group, to allow us the opportunity to hold at least some stake on what is being developed in our backyard and to cast your vote AFTER you've heard us out.

I would also ask that you put a pause – NOT A STOP – but a pause on any future plans/votes to the future developments of this project (no matter what site you are looking at) until the neighbors have the opportunity to directly meet with Troop Town.

In short, us neighbors are simply trying to seek clarity here, to get the opportunity to have these crucial conversations with Troop Town, to let our voices be heard and to revisit the voting process. I feel like this council board owes us at least that much if we are to be expected to be open to the idea of this new development.

Thank you so much for your time and consideration.

Mr. Hixenbaugh thanked her for her comments and stated they all appreciated the passion she brought to the issues and he would try to address some of her specific concerns. Mr. Hixenbaugh stated this was the beginning of the discussion and not the end of it and he would consult with the council attorney. Mr. Hixenbaugh stated from his perspective as an attorney, there was not a ready-made ability under Indiana law for them to revisit a decision that was made last year. Mr. Hixenbaugh stated they had the ability, under their council rules to be able to revisit something that was approved at the next council meeting, but clearly, they were past that and could not go back that far in time. Mr. Hixenbaugh stated that was not to say that the dialogue, discussion and the clarification of issues she talked about should not occur; specifically the pause she referred to. Mr. Hixenbaugh stated what happened that evening was consistent with the pause and he would be shocked if the fact that they were not hearing the matter that evening was not directly related to Mr. Compton advocating for that kind of pause and for the issues to be better and flushed out. Mr. Hixenbaugh stated if a neighborhood meeting was appropriate, he was confident that would happen and that was the way for people who lived beyond the artificial 300 yard requirement that state law embedded to have an opportunity to pick up more information about a proposal and to have a chance to say what they thought. Mr. Hixenbaugh hoped that process would play out in everyone's best interest, including hers and their as a council, but one thing he could commit to her on was that the council took great pride in being very open minded with any issue that came in front of them, including this one. Mr. Hixenbaugh stated what happened in the past may be done, but that was not to say that all of the concerns expressed would have a fair opportunity to be vetted out as part of the process and she could absolutely rest assured the council would work with her and the other surrounding neighbors on this. Mr. Hixenbaugh stated the council looked forward to working with them on this and hopefully they could have a good dialogue, regardless of the final decision, about what the project looked like, how it would play out and how it would be in the best interest of the community, which ultimately drove all of their decisions. Mr. Hixenbaugh thanked her again for her thoughtful comments and points she made that evening and he was confident they would have a chance for more interaction moving forward.

NEW BUSINESS

Mr. Emmons announced the West End neighborhood meeting being held on Thursday February 17th with guest speaker Joe Van Nevel, Director of Code Enforcement. Mr. Emmons stated he would be there to update everyone on code, what the guidelines were and to answer any

questions they had. Mr. Emmons stated it would be on February 17th at 7PM at St. Bavos with baked goods from West End Bakery supplied.

Mr. Banicki thanked Debby Gregg in the Mayor's Office after calling this morning regarding streets on the northwest side that were not plowed until that day and it was disturbing, considering so many people drove down that way. Mr. Banicki stated he heard of people receiving warnings about sidewalks undone, but asked what about the city not doing their due diligence. Mr. Banicki stated also during the snowstorm, they had problems with trash service. Mr. Banicki stated they still had on the northwest side trash containers everywhere with trash in them. Mr. Banicki stated the trash service was supposed to come out either Friday or Saturday to pick them up and they still had not. Mr. Banicki stated he was hoping someone at the city level could reach out to the trash company and get it squared away before it got worse and worse and have trash all over the streets. Mr. Banicki stated he just wanted to point it out and if anyone had problems, he suggested they call the Mayor's Office at 574-258-1601.

Mrs. DeMaegd made a reminder that this month's West End neighborhood watch meeting would be the following day, Tuesday February 8th at St Bavos in the school activity room. Mrs. DeMaegd stated they had former Mishawaka police Chief George Obren who will join Bruce Faltynski in the discussion of policing: then versus now, along with what had changed in policing, what had not, how to work in the old ways before technology compared to today's information overload. Mrs. DeMaegd stated the meeting would be live streamed on the West End neighborhood watch Facebook page and parking would be in the lot on the south side of the church. Mrs. DeMaegd stated the meeting would run from 7PM to 8PM and the meeting was open to all residents of the city of Mishawaka.

Mr. Compton wanted to thank Clerk Block for receiving the zoning and planning emails along with the agenda and that was the first time he remembered getting those and he knew they requested them recently. Mr. Compton stated they were very helpful for himself and the remainder of the council as well. Mr. Compton pivoted stating Troop Town was a contentious issue and he thought a lot about it and a lot about what Jefferson was ten years ago when there were two trailer parks there with shootings in them and things going on that were detrimental to the neighborhood. Mr. Compton stated while the city was not direct in cleaning that area up, they were certainly behind the scenes. Mr. Compton stated there was a mental hospital within a half a mile from that neighborhood, specifically a behavior health mental hospital that most people did not even know was there. Mr. Compton stated now they had an opportunity to help veterans and everybody wants to help veterans until it comes time to help them in a situation like this. Mr. Compton stated that part he did not understand and people fly their flag in their front yard, but do not want to support this and he did not understand that. Mr. Compton stated he would listen and continue to listen, he worked to do what he thought was an acceptable answer which was to move this out of the neighborhood and back across the street to resolve some of the questions and he understood those questions. Mr. Compton stated he would support meetings but he was not sure there was anything that would resolve the not in my backyard arguments. Mr. Compton stated he was at a loss as to how to feel about this and how to approach it and he would leave it at that. Mr. Hixenbaugh thanked Mr. Compton for his work on this issue and he knew from prior conversations he had devoted a significant amount of time to this, as he always had done with

issues in his portion of the city and they appreciated the work he had done to this point and will continue to do on this issue.

ADJOURNMENT 8:05PM

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

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

February 9, 2022

Deborah S. Block, IAC, MMC

FEB 11 2022

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
February 8, 2022, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed Resolution and Ordinances were considered:

RESOLUTION #22-01 A resolution amending the City Municipal Riverfront District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #22-01 A petition submitted by Rebecca Parker as Trustee for Rose Glen & Mavis H., Raymond Jeziorski, and Matthew Bender requesting to rezone **107 Wayne Street, 119 Wayne Street, and 123 Wayne Street** from R-1 Single Family Residential District to C-4 Automobile Oriented Commercial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #22-02 A petition submitted by DEV 4506 Lincolnway East, LLC, Rebecca Parker as Trustee for Rose Glen R. and Mavis H., Raymond Jeziorski, Matthew Bender, Tiffany J. Gilbert, and Rousseve Properties, LLC, seeking vacation of Wayne Street and unimproved Pennsylvania Avenue right-of-way for planned adjacent car wash development (Drive N' Shine).

The Commission, with a vote of 7-0, recommended approval.

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed Resolution and ordinances regarding the above matters.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Steve Ruby

STAFF REPORT

Location: 4506 Lincolnway East & 107, 119, and 123 Wayne Street -
Northwest corner of Lincolnway East and Bittersweet Road

Date: February 8, 2022

Petition: 22- 01

Prepared By: DJS

GENERAL INFORMATION

Applicant: DEV 4506 Lincolnway East LLC (d/b/a Drive N' Shine); Matthew Bender, Raymond M. Jeziorski, and Rebecca Parker, Trustee for Glen R. & Mavis Rose; and Abonmarche Consultants

Status: Property Owner / Contingent Purchaser; Property Owners; Surveyor & Engineering Consultant

Request: To rezone from R-1 Single Family Residential to the C-4 Automobile Oriented Commercial District to allow for the construction of a new car wash and lube facility

Zoning Classification: R-1 Single Family Residential (107,119 & 123 Wayne St.) & C-4 Automobile Oriented Commercial District (4506 Lincolnway East)

Lot Size: Approximately 2.13 acres including portions of the Wayne Street and Pennsylvania Avenue (unimproved) rights-of-way proposed to be vacated (Petition 22-02)

Applicable Regulations: Section 137-379 thru 137-380 / C-4 Automobile Oriented Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Liquor Store / City-Wide)
South: C-1 General Commercial (Pharmacy & Retail / CVS) & C-7 Auto-Oriented Restaurant Commercial (Two Tenant Commercial Building / Verizon & Starbuck's)
East: S-2 Planned Unit Development (Restaurant with Drive-Thru / Arby's)
West: R-1 Single Family Residential (Single Family Homes & Contractor's Business approved per a Use Variance / Appeal 20-01 [Res. 2020-02]) & C-4 Automobile Oriented Commercial District (Automobile Repair / Fred's Transmission & Clutch)

Thoroughfare: Lincolnway East & Bittersweet Road

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the expense of the developer

Comprehensive Plan: General Commercial & Low Density Residential

ANALYSIS

The Petitioners, DEV 4506 Lincolnway East LLC, Matthew Bender, Raymond M. Jeziorski, and Rebecca Parking, Trustee for Glen R. & Mavis Rose, are requesting to rezone property at 107, 119, and 123 Wayne Street from R-1 Single Family Residential to C-4 Automobile Oriented Commercial to allow for the construction of a new Drive N' Shine car wash and lube facility. The property at 4506 Lincolnway East, immediately northwest of the Lincolnway East and Bittersweet Road intersection, is currently zoned C-4 Automobile Oriented Commercial.

The 2.13 acre site consists of four parcels of property, including Lots 223 through 233 in the Oakland 2nd Addition, and portions of the adjacent Wayne Street and unimproved Pennsylvania Avenue rights-of-way. A petition to vacate (Petition 22-02) these rights-of-way was submitted concurrently with the rezoning petition so that the adjacent property can be tied together for a cohesive redevelopment of the entire site.

The parcel at the northwest corner of Lincolnway East and Bittersweet Road (Tax Parcel 016-1101-3968 / 4506 Lincolnway East) is occupied by an automatic car wash facility and has been located on the property since 1988. This parcel, which is zoned C-4 Automobile Oriented Commercial, was acquired by DEV 4506 Lincolnway East LLC (Drive N' Shine) in June 2021. The three parcels on the west side of Wayne Street (Tax Parcels 016-1101-3956, 016-1101-3951.01, and 016-1101-3946 / 107, 119, and 123 Wayne Street), which are zoned R-1 Single Family Residential, are occupied by three single-family houses and several accessory structures. DEV 4506 Lincolnway East LLC is the contingent purchaser of these parcels. With the proposed redevelopment of the site, all existing structures and improvements will be razed.

Per the preliminary site plan, the property owner and contingent purchaser is proposing to construct a 9,785 sq. ft. automatic car wash facility and lube center, parking areas with spaces for employee and customer self-service vacuuming, and other required infrastructure (utilities, a stormwater collection system, etc.).

Access to the site is proposed from Bittersweet Road and will generally be in same location as the existing access drive for the current car wash facility. The access will allow for unrestricted turning movements to and from Bittersweet Road.

Based on 5.5 parking spaces per 1,000 sq. ft. of gross floor area, a total of 54 parking spaces are required for the proposed 9,785 sq. ft. building. A developmental variance petition was filed in conjunction with the rezoning petition to allow a minimum of 15 parking spaces. Planning Staff will support the request due to the nature of the business and how motor vehicles will use the facility.

Parking/pavement setbacks are required at 10' along the Lincolnway East and Bittersweet Road rights-of-way, and 5' along all other property lines. The developmental variance petition includes a reduction in the pavement setback to a 1' minimum setback between the petitioner's property and the single-family residential property to the west fronting Lincolnway East. Once the Wayne Street right-of-way is vacated, DEV 4506 Lincolnway East LLC will obtain the east half (30') of the vacated right-of-way where adjacent to the property at 4416 Lincolnway East. The west half (30') of this portion of the vacated right-of-way will be combined with the property to the west (Tax Parcel 016-1101-3967 / 4416 Lincolnway East). The reduced pavement setback will allow a circulation drive on the west side of the building to be located 1' from the property line, which is currently the centerline of Wayne Street. The proposed building and circulation drive had to be shifted to the west to be outside of a high tension power line easement encumbering a large part of the property. Planning Staff supports the request.

The conceptual site plan includes a row of self-service vacuums on the east side of the parking area along Bittersweet Road. The proposed vacuums and associated accessory building, if proposed, shall meet the required 12.5' building setback. If the setback cannot be adhered to along this property line, the vacuums must be relocated internal to the property.

Landscaping and screening, as conceptually shown, shall comply with the commercial landscaping and C-4 Automobile Oriented Commercial District requirements except for the required side yard landscaping between the petitioner's property and the one of the single-family residential properties to the west (4416

Lincolnway East). A reduction in the required landscaping along this side property line was included in the variance petition. Due to the proposed circulation drive being 1' from the property line, a planting area for the required overstory or understory trees along this side yard cannot be provided within the petitioner's property. These required trees along with a row of arborvitaes, or similar evergreen, will be planted on the adjacent parcel. It should be noted that a row of evergreen trees in this location is not a requirement of the city's landscape ordinance. However, the petitioner has met with the adjacent owner who has agreed to allow for both the required and proposed landscaping to be located on their property. Per the ordinance, a 7' high opaque (solid) screening fence shall be provided along all property lines contiguous to residentially-zoned property. This requirement is applicable to the entire west and part of the south property lines.

With of the exception of the above noted variances, the conceptual site plan shows the intent to comply with the height, area and developmental regulations for the C-4 Automobile Oriented Commercial District. If additional variances or a design review waiver for the proposed building materials or colors are required, the Board of Zoning Appeals and/or the Plan Commission shall be petitioned when the final site plan is submitted.

With this petition, the property owner and contingent purchaser are only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Since a majority of the property is currently zoned for commercial use and located along the Lincolnway East and Bittersweet Road commercial corridors, the Staff supports the request for rezoning. The proposed automatic car wash facility and lube center is not out of character, and with the required landscaping and screening, is compatible with the existing adjacent land uses. An automatic car wash facility currently exists on part of the property. The expanded use for a new facility is consistent with the current uses and recommended use per the comprehensive plan.

All pertinent City Departments has reviewed and approved the rezoning request.

RECOMMENDATION

Staff recommends Petition 22-01 to rezone property at 107, 119, and 123 Wayne Street from R-1 Single-Family Residential to C-4 Automobile Oriented Commercial for a proposed Drive N' Shine automatic car wash and lube facility be forwarded to the Common Council with a **favorable** recommendation. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject properties being rezoned and adjacent petitioner owned parcel consists of three single-family residential homes and an automatic carwash facility at the northwest corner of Lincolnway East and Bittersweet Road. These roads are highly travelled commercial corridors providing major east-west access, and to a lesser extent north-south access, through the City. Adjacent land uses include a liquor store to the north; single-family residential houses, a contractor's business, and automobile repair business to the west; a pharmacy and multi-tenant commercial building to the south across Lincolnway East; and a restaurant with drive-thru to the east across Bittersweet Road.
2. Character of Buildings – The character of the buildings in the area vary from single and multi-tenant commercial buildings to the north, east, and south; and single-family residential homes and a commercial building to the west.
3. The most desirable/highest and best use – Because of the property's location and adjacent existing commercial use as an automatic car wash facility, the most desirable use of the property is commercial. Although single-family residential properties are adjacent to the west, the high traffic volumes along Lincolnway East and Bittersweet Road make long term use of the current residentially zoned properties undesirable for residential purposes. Furthermore, a large part of the property to be redeveloped is currently zoned for commercial use.

4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area as the existing C-4 Automobile Oriented Commercial zoning classification permits commercial uses on a majority of the property. Landscaping and screening will be required per the C-4 district to adequately buffer the proposed use from the adjacent residential properties.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided low-density residential development and general commercial within the subject property and adjacent petitioner owned property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Petition, Preliminary/Conceptual Site Plan, Right-of-Way Vacation Exhibit (Petition 22-02); Location Map



Aerial Photograph
Northwest Corner of Lincolnway East & Bittersweet Road
4506 Lincolnway East & 107, 119, and 123 Wayne Street



P1. Looking southerly from the Wayne Street cul-de-sac toward the three existing homes to be rezoned and razed (right), and the existing car wash facility (left).



P2. Looking westerly toward 123 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P3. Looking westerly toward 119 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P4. Looking westerly toward 107 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P5. Looking southwesterly from Bittersweet Rd. toward the existing carwash facility at 4506 LWE to be razed.



P6. Looking northwesterly from LWE toward the existing carwash facility at 4506 to be razed.



P7. Looking northeasterly from LWE toward the existing carwash facility at 4506 LWE to be razed.



P8. Looking northerly toward the Wayne Street right-of-way to be vacated and the adjacent single-family residential property at 4416 LWE.

STAFF REPORT

Location: Wayne Street from Lincolnway East to the north terminus & Pennsylvania Avenue (unimproved) from Bittersweet Road to the west terminus

Date: February 8, 2022

Petition: 22-02

Prepared By: DJS

GENERAL INFORMATION

Applicant: DEV 4506 Lincolnway East LLC (d/b/a Drive N' Shine); Matthew Bender; Raymond M. Jeziorski; Rebecca Parker, Trustee for Glen R. & Mavis Rose; Tiffany J. Gilbert; and Rousseve Properties LLC / Abonmarche Consultants

Status: Adjacent Property Owners / Surveyor

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Liquor Store / City-Wide)
South: C-1 General Commercial (Pharmacy & Retail / CVS)
East: C-4 Automobile Oriented Commercial (Car Wash Facility to be razed) & S-2 Planned Unit Development (Restaurant with Drive-Thru / Arby's)
West: R-1 Single Family Residential (Single Family Homes proposed to be razed & Single Family Home and Contractor's Business approved per a Use Variance / Appeal 20-01 [Res. 2020-02])

Thoroughfare: Wayne Street & Pennsylvania Avenue (unimproved)

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: General Commercial & Low Density Residential

ANALYSIS

The Petitioners are requesting to vacate Wayne Street lying north of Lincolnway East and running approximately 392' to its northern terminus and Pennsylvania Avenue lying west of Bittersweet Road and running approximately 127' to Wayne Street. The rights-of-way are adjacent to Lots 190, 223 through 227, and 230 through 233 in the Oakland 2nd Addition, and Lot 2 in the Southbridge Subdivision. All of the adjacent property owners have signed the petition.

Drive N' Shine is proposing to construct a new 9,785 sq. ft. automatic care wash facility and lube center within a majority of the vacated rights-of-way and the adjacent lots in the Oakland 2nd Addition Subdivision. A conceptual site plan of the proposed development is attached.

The parcel at the northwest corner of Lincolnway East and Bittersweet Road (Tax Parcel 016-1101-3968 / 4506 Lincolnway East), which includes Lots 227 through 233, is owned by DEV 4506 Lincolnway East LLC and occupied by an automatic car facility. Three parcels on the west side of Wayne Street (Tax Parcels 016-1101-3956, 016-1101-3951.01, and 016-1101-3946 / 107, 119, and 123 Wayne Street), which includes Lots 223 through 226, are currently under contract to be purchased by DEV 4506 Lincolnway East. The parcels include three single-family houses and several accessory structures. With the proposed redevelopment of the site, all existing structures will be razed.

The Wayne Street right-of-way, which is currently an improved street ending in a cul-de-sac, provides access to three houses at 107, 119, and 123 Wayne Street. The houses will be demolished with the proposed redevelopment of the adjacent property. Since these properties are currently zoned R-1 Single Family Residential, a rezoning petition (Petition 22-01) was submitted concurrently with the vacation to allow the property to be redeveloped. Following vacation of this right-of-way, DEV 4506 Lincolnway East LLC will obtain the east half (30') of the vacated right-of-way adjacent to the property fronting Lincolnway East (Tax Parcel 016-1101-3967 / 4416 Lincolnway East). The west half (30') of this part of the vacated right-of-way will be combined with the property to the west and improved with a private drive and landscaping.

As a condition of approval, DEV 4506 Lincolnway East LLC must provide documentation committing to construct the necessary improvements, including but not limited to landscaping and improvements associated with a private drive, on the adjacent parcel (4416 Lincolnway East / Tax Parcel 016-1101-3967 including the 30' west half the Wayne Street right-of-way). The required documentation and logistical plan shall be provided prior to recording the right-of-way vacation. The improvements will be at the developer's expense and will permit continued access to Lincolnway East for the adjacent house.

The Pennsylvania Street right-of-way is unimproved, and therefore, does not provide access to any adjacent structures. Following vacation of this right-of-way, DEV 4506 Lincolnway East will obtain the south half (30') of the vacated right-of-way with the north half (30') being combined with the property to the north (Tax Parcel 016-1102-4005 / Lot 2 in Southbridge Subdivision – 305 Bittersweet Road). The conceptual site plan shows the northern half (30') being part of the Drive N' Shine property. The Final Site will not show this area as a part of the site since the property owner to the north (Rousseve Properties, LLC) did not agree to sell the property.

A water main is currently located within the Wayne Street right-of-way and serves several commercial buildings to the north on Bittersweet Road. This water main shall remain or be relocated at the cost of the developer. Overhead electric lines are present within both the Wayne Street and Pennsylvania rights-of-way. These lines shall be relocated at the cost of the developer, as required, to maintain service to any adjacent property. The presence of any other underground private utility is unknown. Since the petition does not request the release of any utility easement rights, easements will remain within the vacated areas unless a subdivision plat is submitted and recorded to establish new easements.

All City departments have reviewed the proposed right-of-way vacation and recommend approval.

RECOMMENDATION

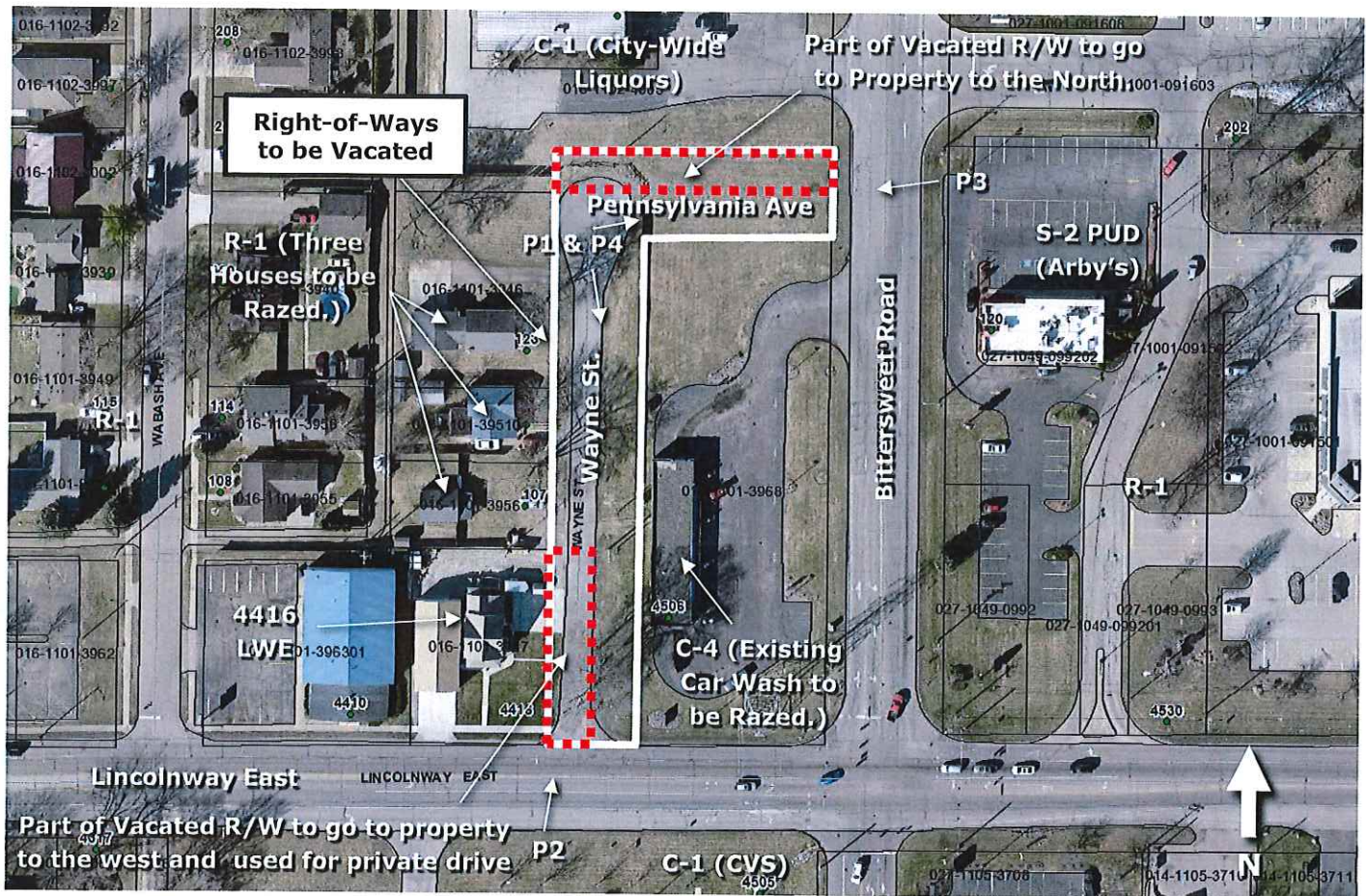
Staff recommends in favor of Petition 22-02 to vacate Wayne Street from Lincolnway East to the north terminus and Pennsylvania Avenue (unimproved) from Bittersweet Road to the west terminus. As a condition of approval, DEV 4506 Lincolnway East LLC must provide documentation committing to construct the necessary improvements, including but not limited to landscaping and improvements associated with a private drive, on the adjacent parcel (4416 Lincolnway East including the 30' west half the Wayne Street right-of-way). The required documentation and logistical plan shall be provided prior to recording the right-of-way vacation. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with a new automatic car wash facility and lube center.

- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Three existing homes along Wayne Street will be razed to accommodate the future redevelopment of the adjacent property. The single-family house at 4416 Lincolnway East will utilize the west part of the vacated right-of-way adjacent to their property for a private drive. Pennsylvania Street is unimproved, and therefore, does not provide access to any adjacent structures.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph of Area to be Vacated, Photos, Petition, Conceptual Site Plan for Redevelopment of Adjacent Property, Title Survey showing Rights-of-Way to be Vacated, Location Map



Aerial Photograph
Wayne Street and Pennsylvania Avenue (unimproved) to be vacated.



P1. Looking southerly from the Wayne Street cul-de-sac toward the three existing homes (right) and the existing car wash facility (left) all to be razed.



P2. Looking northerly toward the Wayne Street right-of-way to be vacated and the adjacent single-family residential property at 4416 LWE.



P3. Looking westerly from Bittersweet Road along the unimproved Pennsylvania Avenue right-of-way to be vacated.



P4. Looking easterly from the northern Wayne Street cul-de-sac toward the unimproved Pennsylvania Avenue right-of-way to be vacated.

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-01
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-06
ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

FEB 11 2022

City Clerk
Mishawaka, IN

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has
recommended the reclassification of the zoning as herein set forth of the real estate
hereinafter described.

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

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

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

LOTS NUMBERED 227, 228, 229, 230, 231, 232, AND 233 AS SHOWN ON THE
RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA,
RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 139, TOGETHER WITH THE VACATED
ALLEY LYING EAST OF AND ADJACENT TO SAID LOTS NUMBERED 230, 231, 232, AND 233,
ALSO TOGETHER WITH THE VACATED ALLEY LYING NORTH OF LOTS 227, 228 AND 229
AND SOUTH OF LOT 230. LOT NUMBERED TWO HUNDRED TWENTY-FIVE (225) AS SHOWN
ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA,
RECORDED IN PLAT BOOK 11, PAGE 139 OF THE ST. JOSEPH COUNTY RECORDS.

LOT NUMBERED TWO HUNDRED TWENTY-SIX (226) AS SHOWN ON THE RECORDED PLAT
OF OAKLAND SECOND ADDITION, NOW WITHIN AND A PART OF THE CITY OF MISHAWAKA
RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138 IN THE OFFICE OF THE
RECORDER OF ST. JOSEPH COUNTY, INDIANA, TOGETHER WITH THE NORTH HALF OF THE
VACATED ALLEY LYING SOUTH AND ADJACENT TO SAID LOT. LOTS NUMBERED TWO
HUNDRED TWENTY-THREE (223) AND TWO HUNDRED TWENTY-FOUR (224) IN OAKLAND
SECOND ADDITION TO THE CITY OF MISHAWAKA, TOGETHER WITH THE SOUTH HALF OF
THAT PART OF VACATED PENNSYLVANIA AVENUE NORTH OF AND ADJOINING LOT 223,
RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138, IN THE OFFICE OF THE
RECORDER OF ST. JOSEPH COUNTY, INDIANA.

COMMON ADDRESSES: 107 Wayne Street, 119 Wayne Street, and 123 Wayne Street

which real estate is now classified as R-1 Single Family Residential District shall hereafter be
within and a part of that District known as C-4 Automobile Oriented Commercial District
designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: 2022-006

Ordinance No: _____

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

1. Existing Conditions – The subject properties being rezoned and adjacent petitioner owned parcel consists of three single-family residential homes and an automatic carwash facility at the northwest corner of Lincolnway East and Bittersweet Road. These roads are highly travelled commercial corridors providing major east-west access, and to a lesser extent north-south access, through the City. Adjacent land uses include a liquor store to the north; single-family residential houses, a contractor's business, and automobile repair business to the west; a pharmacy and multi-tenant commercial building to the south across Lincolnway East; and a restaurant with drive-thru to the east across Bittersweet Road.
2. Character of Buildings – The character of the buildings in the area vary from single and multi-tenant commercial buildings to the north, east, and south; and single-family residential homes and a commercial building to the west.
3. The most desirable/highest and best use – Because of the property's location and adjacent existing commercial use as an automatic car wash facility, the most desirable use of the property is commercial. Although single-family residential properties are adjacent to the west, the high traffic volumes along Lincolnway East and Bittersweet Road make long term use of the current residentially zoned properties undesirable for residential purposes. Furthermore, a large part of the property to be redeveloped is currently zoned for commercial use.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area as the existing C-4 Automobile Oriented Commercial zoning classification permits commercial uses on a majority of the property. Landscaping and screening will be required per the C-4 district to adequately buffer the proposed use from the adjacent residential properties.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided low-density residential development and general commercial within the subject property and adjacent petitioner owned property. The proposal is consistent with the Comprehensive Plan.

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 _____, 2022, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2022-06

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____, 2022,
at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2022, at
_____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: 4506 Lincolnway East & 107, 119, and 123 Wayne Street -
Northwest corner of Lincolnway East and Bittersweet Road

Date: February 8, 2022

Petition: 22- 01

Prepared By: DJS

GENERAL INFORMATION

Applicant: DEV 4506 Lincolnway East LLC (d/b/a Drive N' Shine); Matthew Bender, Raymond M. Jeziorski, and Rebecca Parker, Trustee for Glen R. & Mavis Rose; and Abonmarche Consultants

Status: Property Owner / Contingent Purchaser; Property Owners; Surveyor & Engineering Consultant

Request: To rezone from R-1 Single Family Residential to the C-4 Automobile Oriented Commercial District to allow for the construction of a new car wash and lube facility

Zoning Classification: R-1 Single Family Residential (107,119 & 123 Wayne St.) & C-4 Automobile Oriented Commercial District (4506 Lincolnway East)

Lot Size: Approximately 2.13 acres including portions of the Wayne Street and Pennsylvania Avenue (unimproved) rights-of-way proposed to be vacated (Petition 22-02)

Applicable Regulations: Section 137-379 thru 137-380 / C-4 Automobile Oriented Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Liquor Store / City-Wide)
South: C-1 General Commercial (Pharmacy & Retail / CVS) & C-7 Auto-Oriented Restaurant Commercial (Two Tenant Commercial Building / Verizon & Starbuck's)
East: S-2 Planned Unit Development (Restaurant with Drive-Thru / Arby's)
West: R-1 Single Family Residential (Single Family Homes & Contractor's Business approved per a Use Variance / Appeal 20-01 [Res. 2020-02]) & C-4 Automobile Oriented Commercial District (Automobile Repair / Fred's Transmission & Clutch)

Thoroughfare: Lincolnway East & Bittersweet Road

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the expense of the developer

Comprehensive Plan: General Commercial & Low Density Residential

ANALYSIS

The Petitioners, DEV 4506 Lincolnway East LLC, Matthew Bender, Raymond M. Jeziorski, and Rebecca Parking, Trustee for Glen R. & Mavis Rose, are requesting to rezone property at 107, 119, and 123 Wayne Street from R-1 Single Family Residential to C-4 Automobile Oriented Commercial to allow for the construction of a new Drive N' Shine car wash and lube facility. The property at 4506 Lincolnway East, immediately northwest of the Lincolnway East and Bittersweet Road intersection, is currently zoned C-4 Automobile Oriented Commercial.

The 2.13 acre site consists of four parcels of property, including Lots 223 through 233 in the Oakland 2nd Addition, and portions of the adjacent Wayne Street and unimproved Pennsylvania Avenue rights-of-way. A petition to vacate (Petition 22-02) these rights-of-way was submitted concurrently with the rezoning petition so that the adjacent property can be tied together for a cohesive redevelopment of the entire site.

The parcel at the northwest corner of Lincolnway East and Bittersweet Road (Tax Parcel 016-1101-3968 / 4506 Lincolnway East) is occupied by an automatic car wash facility and has been located on the property since 1988. This parcel, which is zoned C-4 Automobile Oriented Commercial, was acquired by DEV 4506 Lincolnway East LLC (Drive N' Shine) in June 2021. The three parcels on the west side of Wayne Street (Tax Parcels 016-1101-3956, 016-1101-3951.01, and 016-1101-3946 / 107, 119, and 123 Wayne Street), which are zoned R-1 Single Family Residential, are occupied by three single-family houses and several accessory structures. DEV 4506 Lincolnway East LLC is the contingent purchaser of these parcels. With the proposed redevelopment of the site, all existing structures and improvements will be razed.

Per the preliminary site plan, the property owner and contingent purchaser is proposing to construct a 9,785 sq. ft. automatic car wash facility and lube center, parking areas with spaces for employee and customer self-service vacuuming, and other required infrastructure (utilities, a stormwater collection system, etc.).

Access to the site is proposed from Bittersweet Road and will generally be in same location as the existing access drive for the current car wash facility. The access will allow for unrestricted turning movements to and from Bittersweet Road.

Based on 5.5 parking spaces per 1,000 sq. ft. of gross floor area, a total of 54 parking spaces are required for the proposed 9,785 sq. ft. building. A developmental variance petition was filed in conjunction with the rezoning petition to allow a minimum of 15 parking spaces. Planning Staff will support the request due to the nature of the business and how motor vehicles will use the facility.

Parking/pavement setbacks are required at 10' along the Lincolnway East and Bittersweet Road rights-of-way, and 5' along all other property lines. The developmental variance petition includes a reduction in the pavement setback to a 1' minimum setback between the petitioner's property and the single-family residential property to the west fronting Lincolnway East. Once the Wayne Street right-of-way is vacated, DEV 4506 Lincolnway East LLC will obtain the east half (30') of the vacated right-of-way where adjacent to the property at 4416 Lincolnway East. The west half (30') of this portion of the vacated right-of-way will be combined with the property to the west (Tax Parcel 016-1101-3967 / 4416 Lincolnway East). The reduced pavement setback will allow a circulation drive on the west side of the building to be located 1' from the property line, which is currently the centerline of Wayne Street. The proposed building and circulation drive had to be shifted to the west to be outside of a high tension power line easement encumbering a large part of the property. Planning Staff supports the request.

The conceptual site plan includes a row of self-service vacuums on the east side of the parking area along Bittersweet Road. The proposed vacuums and associated accessory building, if proposed, shall meet the required 12.5' building setback. If the setback cannot be adhered to along this property line, the vacuums must be relocated internal to the property.

Landscaping and screening, as conceptually shown, shall comply with the commercial landscaping and C-4 Automobile Oriented Commercial District requirements except for the required side yard landscaping between the petitioner's property and the one of the single-family residential properties to the west (4416

Lincolnway East). A reduction in the required landscaping along this side property line was included in the variance petition. Due to the proposed circulation drive being 1' from the property line, a planting area for the required overstory or understory trees along this side yard cannot be provided within the petitioner's property. These required trees along with a row of arborvitaes, or similar evergreen, will be planted on the adjacent parcel. It should be noted that a row of evergreen trees in this location is not a requirement of the city's landscape ordinance. However, the petitioner has met with the adjacent owner who has agreed to allow for both the required and proposed landscaping to be located on their property. Per the ordinance, a 7' high opaque (solid) screening fence shall be provided along all property lines contiguous to residentially-zoned property. This requirement is applicable to the entire west and part of the south property lines.

With the exception of the above noted variances, the conceptual site plan shows the intent to comply with the height, area and developmental regulations for the C-4 Automobile Oriented Commercial District. If additional variances or a design review waiver for the proposed building materials or colors are required, the Board of Zoning Appeals and/or the Plan Commission shall be petitioned when the final site plan is submitted.

With this petition, the property owner and contingent purchaser are only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Since a majority of the property is currently zoned for commercial use and located along the Lincolnway East and Bittersweet Road commercial corridors, the Staff supports the request for rezoning. The proposed automatic car wash facility and lube center is not out of character, and with the required landscaping and screening, is compatible with the existing adjacent land uses. An automatic car wash facility currently exists on part of the property. The expanded use for a new facility is consistent with the current uses and recommended use per the comprehensive plan.

All pertinent City Departments has reviewed and approved the rezoning request.

RECOMMENDATION

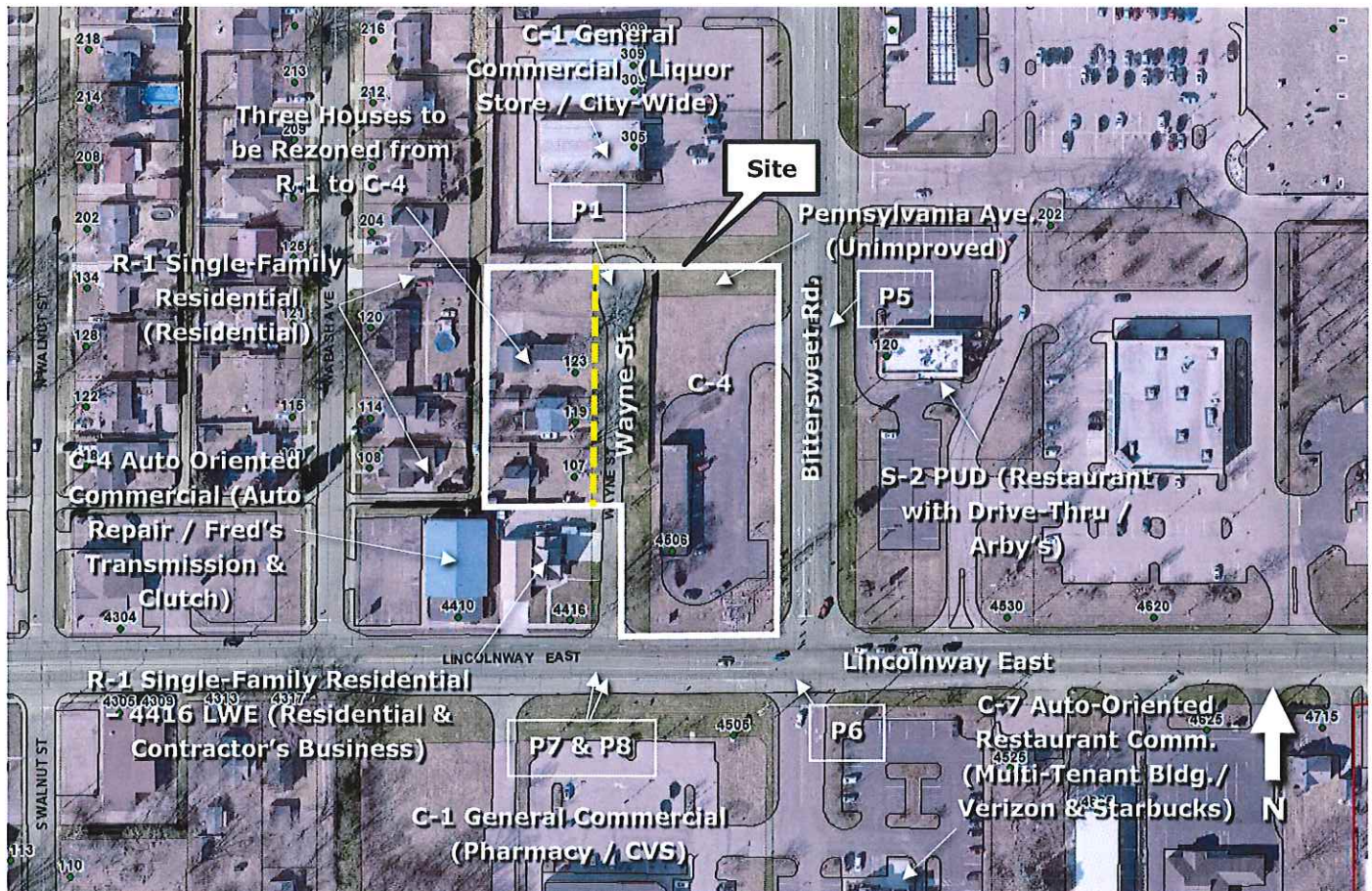
Staff recommends Petition 22-01 to rezone property at 107, 119, and 123 Wayne Street from R-1 Single-Family Residential to C-4 Automobile Oriented Commercial for a proposed Drive N' Shine automatic car wash and lube facility be forwarded to the Common Council with a **favorable** recommendation. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject properties being rezoned and adjacent petitioner owned parcel consists of three single-family residential homes and an automatic carwash facility at the northwest corner of Lincolnway East and Bittersweet Road. These roads are highly travelled commercial corridors providing major east-west access, and to a lesser extent north-south access, through the City. Adjacent land uses include a liquor store to the north; single-family residential houses, a contractor's business, and automobile repair business to the west; a pharmacy and multi-tenant commercial building to the south across Lincolnway East; and a restaurant with drive-thru to the east across Bittersweet Road.
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4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area as the existing C-4 Automobile Oriented Commercial zoning classification permits commercial uses on a majority of the property. Landscaping and screening will be required per the C-4 district to adequately buffer the proposed use from the adjacent residential properties.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided low-density residential development and general commercial within the subject property and adjacent petitioner owned property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Petition, Preliminary/Conceptual Site Plan, Right-of-Way Vacation Exhibit (Petition 22-02); Location Map



Aerial Photograph
Northwest Corner of Lincolnway East & Bittersweet Road
4506 Lincolnway East & 107,119, and 123 Wayne Street



P1. Looking southerly from the Wayne Street cul-de-sac toward the three existing homes to be rezoned and razed (right), and the existing car wash facility (left).



P2. Looking westerly toward 123 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P3. Looking westerly toward 119 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P4. Looking westerly toward 107 Wayne Street, one of three parcels to be rezoned and the buildings razed.



P5. Looking southwesterly from Bittersweet Rd. toward the existing carwash facility at 4506 LWE to be razed.



P6. Looking northwesterly from LWE toward the existing carwash facility at 4506 to be razed.



P7. Looking northeasterly from LWE toward the existing carwash facility at 4506 LWE to be razed.

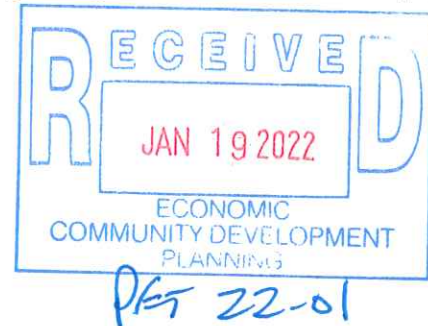


P8. Looking northerly toward the Wayne Street right-of-way to be vacated and the adjacent single-family residential property at 4416 LWE.

DATE: January 19, 2022

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

FROM: Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 360-9804
sruby@abonmarhce.com



Deborah S. Block, IAMC, MMC

FEB 01 2022

City Clerk
Mishawaka, IN

RE: Petition for Re-Zoning Classification - DEV 4506 Linconlway East, LLC

The undersigned Drive & Shine, Inc respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PROVIDED LEGAL DESCRIPTION:

1. LOTS NUMBERED 227, 228, 229, 230, 231, 232, AND 233 AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 139, TOGETHER WITH THE VACATED ALLEY LYING EAST OF AND ADJACENT TO SAID LOTS NULJBERED 230, 231, 232, AND 233, ALSO TOGETHER WITH THE VACATED ALLEY LYING NORTH OF LOTS 227, 228 AND 229 AND SOUTH OF LOT 230.
2. LOT NUMBERED TWO HUNDRED TWENTY-FIVE (225) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 11, PAGE 139 OF THE ST. JOSEPH COUNTY RECORDS.
3. LOT NUMBERED TWO HUNDRED TWENTY-SIX (226) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION, NOW WITHIN AND A PART OF THE CITY OF MISHAWAKA RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, TOGETHER WITH THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH AND ADJACENT TO SAID LOT.
4. LOTS NUMBERED TWO HUNDRED TWENTY-THREE (223) AND TWO HUNDRED TWENTY-FOUR (224) IN OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, TOGETHER WITH THE SOUTH HALF OF THAT PART OF VACATED PENNSYLVANIA AVENUE NORTH OF AND ADJOINING LOT 223, RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

5. ~~Lots Numbered One Hundred Eighty-Nine (189) and One Hundred Ninety (190) as shown on the recorded Plat of Oakland Second Addition to the, City of Mishawaka, in St. Joseph, County, Indiana, together with the South One-half of the vacated alley lying North and adjacent to said lots. Excepting therefrom that part taken off of the South End of said lots for the widening of Lincoln Way at.~~
6. ~~Lots Numbered Two Hundred Sixteen (216) through Two Hundred Twenty-two (222) and Lots Numbered Two Hundred Thirty-four (234) through Two Hundred Forty (-240) as shown on the recorded Plat of Oakland Second Addition now a part of the City of Mishawaka, together with the vacated Eight (8) foot alley lying East of and adjacent to Lots 234-240; also together with that portion of vacated Wayne Street lying between Lots 216-222 and 234-240; also together with the South Half of vacated Franklin Avenue lying between the West line of Lot 216 extended Northerly and the East line of the vacated alley which lies East and adjacent to Lot 240 extended Northerly; also together with the North Half of vacated Pennsylvania Avenue lying South South of and adjacent to said Lot 222.~~

EXCEPT

~~Lots Numbered Two Hundred Sixteen (216), Two Hundred Seventeen (217), Two Hundred Thirty-nine (239) and Two Hundred Forty (240) and part of Lots Numbered Two Hundred Eighteen (218) and Two Hundred Thirty-eight (238), part of vacated Franklin Avenue, part of vacated Wayne Street and part of the vacated alley lying East of and adjacent to Lots 238, 239 and 240, Oakland Second Addition to the City" of Mishawaka, Indiana more particularly described as follows:~~

Petitioners own one-hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana. The petitioners desire to have the above said properties rezoned from the Current R-1 Residential ~~to C-1 Commercial (General Commercial)~~ to a C-4 Commercial (Auto Oriented Commercial) to be used as an automatic carwash facility.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and the location of the proposed building structures.

Petitioners further show this proposed re-zoning to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be rezoned and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above-described parcel of real estate to the City of Mishawaka with a C4-Commercial District zoning classification.


Haji Tehrani – Owner (Lots 227-233 - Drive & Shine Inc.)


Printed

Sheila M. Rose (119 Wayne Street Lot 225)

Printed



5. ~~Lots Numbered One Hundred Eighty-Nine (189) and One Hundred Ninety (190) as shown on the recorded Plat of Oakland Second Addition to the City of Mishawaka, in St. Joseph, County, Indiana, together with the South One-half of the vacated alley lying North and adjacent to said lots. Excepting therefrom that part taken off of the South End of said lots for the widening of Lincoln Way at.~~
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Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and the location of the proposed building structures.

Petitioners further show this proposed re-zoning to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be rezoned and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above-described parcel of real estate to the City of Mishawaka with a C4-Commercial District zoning classification.

Haji Tehrani – Owner (Lots 227-233 - Drive & Shine Inc.)

Printed

Rebecca Parker, Trustee
Sheila M. Rose (119 Wayne Street Lot 225)

Rebecca Parker
Printed



Raymond M Jeziorski

Raymond M. Jeziorski (107 Wayne St., Lot 226)

Raymond M Jeziorski

Printed

Matthew Bender

Matthew Bender (123 Wayne St. Lot 223-224)

Mat Bender

Printed

~~Tiffany J Gilbert (4416 Lincolnway E, Lot 189-190)~~

~~Printed~~

~~Rousseve Properties LLC (Lot 2 South Bridge)~~

~~Printed~~

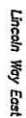


SECONDS EAST, 360.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 15 SECONDS EAST, 435.02 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE NORTH 89 DEGREES 57 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27, A DISTANCE OF 845.10 FEET TO THE NORTHEAST CORNER OF AUTUMN RIDGE, PHASE II; THENCE CONTINUING NORTH 89 DEGREES 57 MINUTES 36 SECONDS EAST, ALONG THE NORTH LINE OF SAID AUTUMN RIDGE, PHASE II, A DISTANCE OF 354.79 FEET TO THE POINT OF BEGINNING. CONTAINING 19.04 ACRES, MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

PETITION #22-01 A petition submitted by Rebecca Parker as Trustee for Rose Glen & Mavis H., Raymond Jeziorski, and Matthew Bender requesting to rezone 107 Wayne Street, 119 Wayne Street, and 123 Wayne Street, Mishawaka, Indiana, from R-1 Single Family Residential District to C-4 Automobile Oriented Commercial District. The parcels are legally described as: LOTS NUMBERED 227, 228, 229, 230, 231, 232, AND 233 AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED MARCH 31, 1924 IN PLAT BOOK 1 1, PAGE 139, TOGETHER WITH THE VACATED ALLEY LYING EAST OF AND ADJACENT TO SAID LOTS NUMBERED 230, 231, 232, AND 233, ALSO TOGETHER WITH THE VACATED ALLEY LYING NORTH OF LOTS 227, 228 AND 229 AND SOUTH OF LOT 230. LOT NUMBERED TWO HUNDRED TWENTY-FIVE (225) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 11, PAGE 139 OF THE ST. JOSEPH COUNTY RECORDS. LOT NUMBERED TWO HUNDRED TWENTY-SIX (226) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION, NOW WITHIN AND A PART OF THE CITY OF MISHAWAKA RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, TOGETHER WITH THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH AND ADJACENT TO SAID LOT. LOTS NUMBERED TWO HUNDRED TWENTY-THREE (223) AND TWO HUNDRED TWENTY-FOUR (224) IN OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, TOGETHER WITH THE SOUTH HALF OF THAT PART OF VACATED PENNSYLVANIA AVENUE NORTH OF AND ADJOINING LOT 223, RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PETITION #22-02 A petition submitted by DEV 4506 Lincolnway East, LLC, Rebecca Parker as Trustee for Rose Glen R. and Mavis H., Raymond Jeziorski, Matthew Bender, Tiffany J. Gilbert, and Rousseve Properties, LLC, seeking vacation of Wayne Street and unimproved Pennsylvania Avenue right-of-way for planned adjacent car wash development (Drive N' Shine). The parcel is legally described as: RIGHT-OF-WAY LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

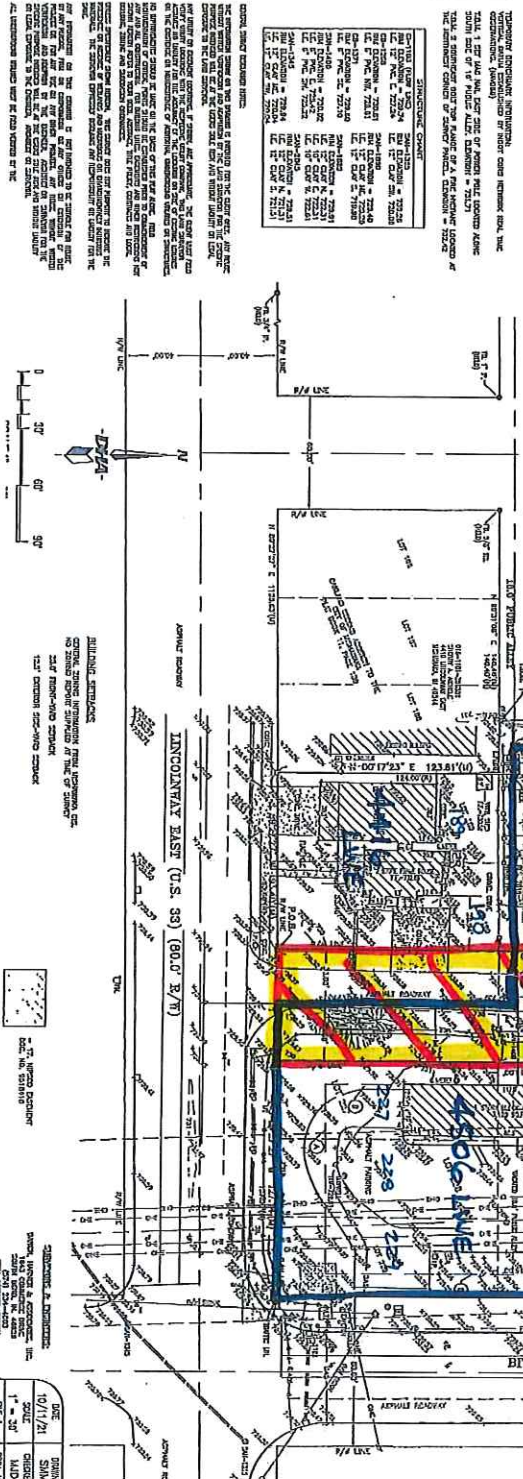
BEGINNING AT A POINT ON THE WESTERLY RIGHT-OF-WAY OF WAYNE STREET AND THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 392 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 187 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF BITTERSWEET ROAD; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 60 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY, 127 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF WAYNE STREET; THENCE SOUTHERLY



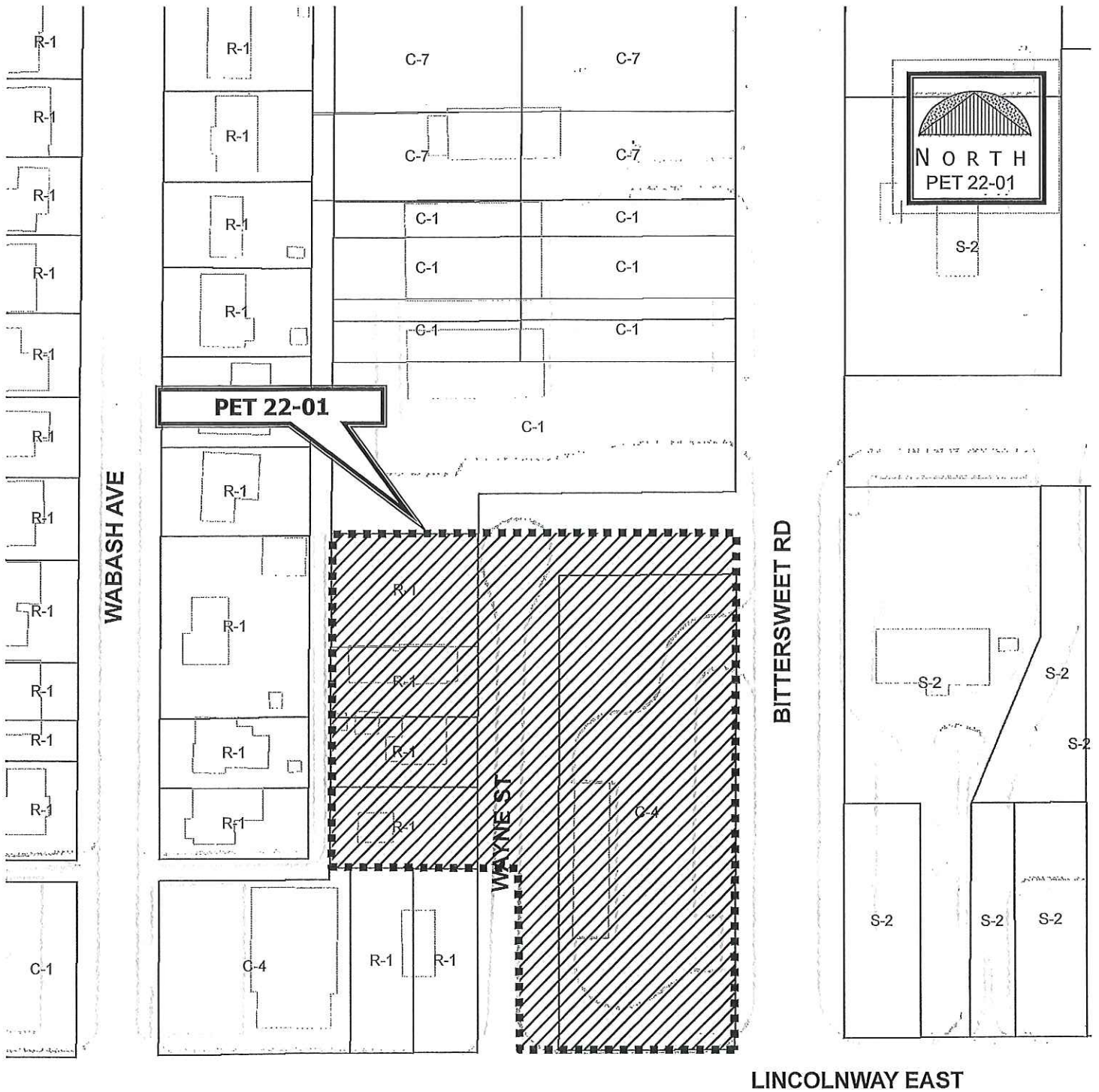
ALTA/NSPS LAND TITLE SURVEY
PART OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST,
PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

AREA

PROPERTY — 305 BITTER SWEET RD

[illegible]

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Location Map

PET 22-01

4506 LINCOLN WAY EAST LLC
(OWNER/CONTINGENT OWNER)

NW CORNER OF LINCOLNWAY E. &
BITTERSWEET ROAD

REZONING FROM R-1 & C-4 TO C-4
AUTO ORIENTED COMMERCIAL FOR
A PROPOSED NEW CAR WASH
(DRIVE N' SHINE)

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

FEB 11 2022

City Clerk
Mishawaka, IN

PETITION #22-02

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-07

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, DEV 4506 Lincolnway East LLC, Matthew Bender, Raymond M. Jeziorski, and Rebecca Parker, Trustee for Glen R. & Mavis Rose, Tiffany J. Gilbert, and Rousseve Properties, LLC, have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners own all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

- As a condition of approval, DEV 4506 Lincolnway East LLC, must provide documentation committing to construct the necessary improvements, including but not limited to landscaping and improvements associated with a private drive, on the adjacent parcel (4416 Lincolnway East including the 30' west half of the Wayne street right-of-way).

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

PROPOSED ORDINANCE NO. 2022-07

ORDINANCE NO. __

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:

RIGHT-OF-WAY LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY RIGHT-OF-WAY OF WAYNE STREET AND THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 392 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 187 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF BITTERSWEET ROAD; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 60 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY, 127 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF WAYNE STREET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY, 332 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 60 FEET TO THE POINT OF BEGINNING, SAID RIGHT-OF-WAY CONTAINING 0.71 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS OF RECORD.

COMMONLY KNOWN AS: Wayne Street lying north of Lincolnway East and running approximately 392' to its northern terminus and Pennsylvania Avenue lying west of Bittersweet Road and running approximately 127' to Wayne street

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with a new automatic car wash facility and lube center.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Three existing homes along Wayne Street will be razed to accommodate the future redevelopment of the adjacent property. The single-family house at 4416 Lincolnway East will utilize the west part of the vacated right-of-way adjacent to their property for a private drive. Pennsylvania Street is unimproved, and therefore, does not provide access to any adjacent structures.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PROPOSED ORDINANCE NO. 2022-07

ORDINANCE NO. __

PASSED by the Common Council of the City of Mishawaka, Indiana, this ____
day of _____, 2022.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2022, at
____ o'clock __.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2022, at ____ o'clock
____.M.

David A. Wood, Mayor

STAFF REPORT

Location: Wayne Street from Lincolnway East to the north terminus & Pennsylvania Avenue (unimproved) from Bittersweet Road to the west terminus

Date: February 8, 2022

Petition: 22-02

Prepared By: DJS

GENERAL INFORMATION

Applicant: DEV 4506 Lincolnway East LLC (d/b/a Drive N' Shine); Matthew Bender; Raymond M. Jeziorski; Rebecca Parker, Trustee for Glen R. & Mavis Rose; Tiffany J. Gilbert; and Rousseve Properties LLC / Abonmarche Consultants

Status: Adjacent Property Owners / Surveyor

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Liquor Store / City-Wide)
South: C-1 General Commercial (Pharmacy & Retail / CVS)
East: C-4 Automobile Oriented Commercial (Car Wash Facility to be razed) & S-2 Planned Unit Development (Restaurant with Drive-Thru / Arby's)
West: R-1 Single Family Residential (Single Family Homes proposed to be razed & Single Family Home and Contractor's Business approved per a Use Variance / Appeal 20-01 [Res. 2020-02])

Thoroughfare: Wayne Street & Pennsylvania Avenue (unimproved)

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: General Commercial & Low Density Residential

ANALYSIS

The Petitioners are requesting to vacate Wayne Street lying north of Lincolnway East and running approximately 392' to its northern terminus and Pennsylvania Avenue lying west of Bittersweet Road and running approximately 127' to Wayne Street. The rights-of-way are adjacent to Lots 190, 223 through 227, and 230 through 233 in the Oakland 2nd Addition, and Lot 2 in the Southbridge Subdivision. All of the adjacent property owners have signed the petition.

Drive N' Shine is proposing to construct a new 9,785 sq. ft. automatic care wash facility and lube center within a majority of the vacated rights-of-way and the adjacent lots in the Oakland 2nd Addition Subdivision. A conceptual site plan of the proposed development is attached.

The parcel at the northwest corner of Lincolnway East and Bittersweet Road (Tax Parcel 016-1101-3968 / 4506 Lincolnway East), which includes Lots 227 through 233, is owned by DEV 4506 Lincolnway East LLC and occupied by an automatic car facility. Three parcels on the west side of Wayne Street (Tax Parcels 016-1101-3956, 016-1101-3951.01, and 016-1101-3946 / 107, 119, and 123 Wayne Street), which includes Lots 223 through 226, are currently under contract to be purchased by DEV 4506 Lincolnway East. The parcels include three single-family houses and several accessory structures. With the proposed redevelopment of the site, all existing structures will be razed.

The Wayne Street right-of-way, which is currently an improved street ending in a cul-de-sac, provides access to three houses at 107, 119, and 123 Wayne Street. The houses will be demolished with the proposed redevelopment of the adjacent property. Since these properties are currently zoned R-1 Single Family Residential, a rezoning petition (Petition 22-01) was submitted concurrently with the vacation to allow the property to be redeveloped. Following vacation of this right-of-way, DEV 4506 Lincolnway East LLC will obtain the east half (30') of the vacated right-of-way adjacent to the property fronting Lincolnway East (Tax Parcel 016-1101-3967 / 4416 Lincolnway East). The west half (30') of this part of the vacated right-of-way will be combined with the property to the west and improved with a private drive and landscaping.

As a condition of approval, DEV 4506 Lincolnway East LLC must provide documentation committing to construct the necessary improvements, including but not limited to landscaping and improvements associated with a private drive, on the adjacent parcel (4416 Lincolnway East / Tax Parcel 016-1101-3967 including the 30' west half the Wayne Street right-of-way). The required documentation and logistical plan shall be provided prior to recording the right-of-way vacation. The improvements will be at the developer's expense and will permit continued access to Lincolnway East for the adjacent house.

The Pennsylvania Street right-of-way is unimproved, and therefore, does not provide access to any adjacent structures. Following vacation of this right-of-way, DEV 4506 Lincolnway East will obtain the south half (30') of the vacated right-of-way with the north half (30') being combined with the property to the north (Tax Parcel 016-1102-4005 / Lot 2 in Southbridge Subdivision – 305 Bittersweet Road). The conceptual site plan shows the northern half (30') being part of the Drive N' Shine property. The Final Site will not show this area as a part of the site since the property owner to the north (Rousseve Properties, LLC) did not agree to sell the property.

A water main is currently located within the Wayne Street right-of-way and serves several commercial buildings to the north on Bittersweet Road. This water main shall remain or be relocated at the cost of the developer. Overhead electric lines are present within both the Wayne Street and Pennsylvania rights-of-way. These lines shall be relocated at the cost of the developer, as required, to maintain service to any adjacent property. The presence of any other underground private utility is unknown. Since the petition does not request the release of any utility easement rights, easements will remain within the vacated areas unless a subdivision plat is submitted and recorded to establish new easements.

All City departments have reviewed the proposed right-of-way vacation and recommend approval.

RECOMMENDATION

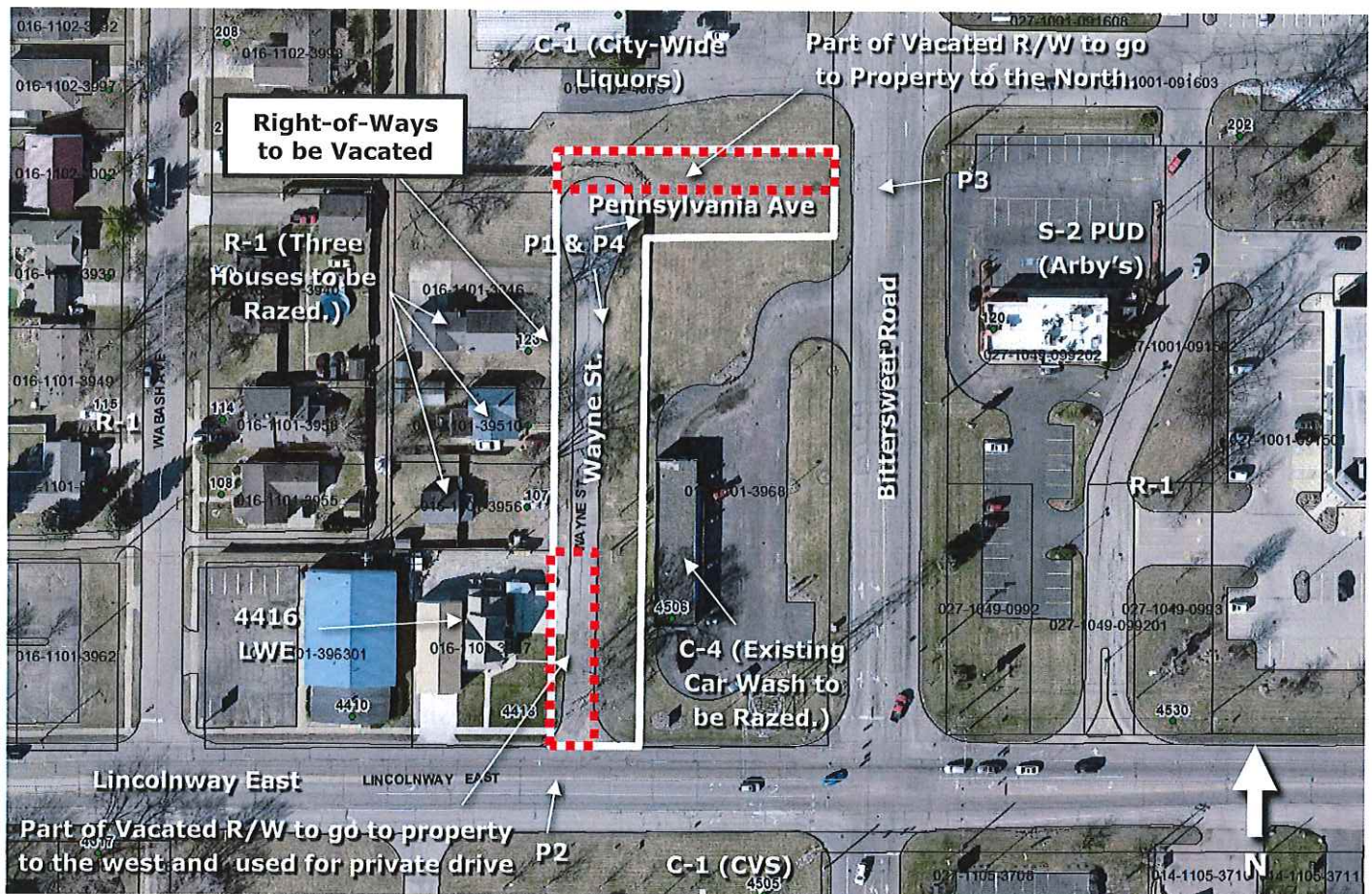
Staff recommends in favor of Petition 22-02 to vacate Wayne Street from Lincolnway East to the north terminus and Pennsylvania Avenue (unimproved) from Bittersweet Road to the west terminus. As a condition of approval, DEV 4506 Lincolnway East LLC must provide documentation committing to construct the necessary improvements, including but not limited to landscaping and improvements associated with a private drive, on the adjacent parcel (4416 Lincolnway East including the 30' west half the Wayne Street right-of-way). The required documentation and logistical plan shall be provided prior to recording the right-of-way vacation. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with a new automatic car wash facility and lube center.

- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Three existing homes along Wayne Street will be razed to accommodate the future redevelopment of the adjacent property. The single-family house at 4416 Lincolnway East will utilize the west part of the vacated right-of-way adjacent to their property for a private drive. Pennsylvania Street is unimproved, and therefore, does not provide access to any adjacent structures.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph of Area to be Vacated, Photos, Petition, Conceptual Site Plan for Redevelopment of Adjacent Property, Title Survey showing Rights-of-Way to be Vacated, Location Map



Aerial Photograph
Wayne Street and Pennsylvania Avenue (unimproved) to be vacated.



P1. Looking southerly from the Wayne Street cul-de-sac toward the three existing homes (right) and the existing car wash facility (left) all to be razed.



P2. Looking northerly toward the Wayne Street right-of-way to be vacated and the adjacent single-family residential property at 4416 LWE.



P3. Looking westerly from Bittersweet Road along the unimproved Pennsylvania Avenue right-of-way to be vacated.



P4. Looking easterly from the northern Wayne Street cul-de-sac toward the unimproved Pennsylvania Avenue right-of-way to be vacated.

DATE: January 19, 2022

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

FROM: Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 360-9804
sruby@abonmarhce.com



Deborah S. Block, IAMC, MMC

FEB 01 2022

**City Clerk
Mishawaka, IN**

RE: Petition for Right of Way Vacation - DEV 4506 Linconlway East, LLC

The undersigned Drive & Shine, Inc respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PROVIDED LEGAL DESCRIPTION:

EXHIBIT A

LEGAL DESCRIPTION – RIGHT-OF-WAY VACATION (WAYNE ST & PENNSYLVANIA AVE, MISHAWAKA, IN.)

RIGHT-OF-WAY LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY RIGHT-OF-WAY OF WAYNE STREET AND THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 392 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 187 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF BITTERSWEET ROAD; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 60 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY, 127 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF WAYNE STREET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY, 332 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 60 FEET TO THE POINT OF BEGINNING, SAID RIGHT-OF-WAY CONTAINING 0.71 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS OF RECORD.

5. Lots Numbered One Hundred Eighty-Nine (189) and One Hundred Ninety (190) as shown on the recorded Plat of Oakland Second Addition to the, City of Mishawaka, in St. Joseph, County, Indiana, together with the South One-half of the vacated alley lying North and adjacent to said lots. Excepting therefrom that part taken off of the South End of said lots for the widening of Lincoln Way at.
6. Lots Numbered Two Hundred Sixteen (216) through Two Hundred Twenty-two (222) and Lots Numbered Two Hundred Thirty-four (234) through Two Hundred Forty (-240) as shown on the recorded Plat of Oakland Second Addition now a part of the City of Mishawaka, together with the vacated Eight (8) foot alley lying East of and adjacent to Lots 234-240; also together with that portion of vacated Wayne Street lying between Lots 216-222 and 234-240; also together with the South Half of vacated Franklin Avenue lying between the West line of Lot 216 extended Northerly and the East line of the vacated alley which lies East and adjacent to Lot 240 extended Northerly; also together with the North Half of vacated Pennsylvania Avenue lying South South of and adjacent to said Lot 222.

EXCEPT

Lots Numbered Two Hundred Sixteen (216), Two Hundred Seventeen (217), Two Hundred Thirty-nine (239) and Two Hundred Forty (240) and part of Lots Numbered Two Hundred Eighteen (218) and Two Hundred Thirty-eight (238), part of vacated Franklin Avenue, part of vacated Wayne Street and part of the vacated alley lying East of and adjacent to Lots 238, 239 and 240, Oakland Second Addition to the City" of Mishawaka, Indiana more particularly described as follows:

Petitioners own one-hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana. The petitioners desire to have the Right of Way of Wayne Street and of Pennsylvania Ave. be vacated from the City of Mishawaka, Indiana, to the above said properties.

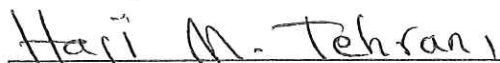
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and the location of the proposed building structures.

Petitioners further show this proposed Public Right of Way Vacation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be rezoned and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners 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 vacation to the above-described parcel of real estate to the City of Mishawaka.



Haji Tehran – Owner (Lots 227-233 - Drive & Shine Inc.)



Printed

Sheila M. Rose (119 Wayne Street Lot 225)

Printed



5. Lots Numbered One Hundred Eighty-Nine (189) and One Hundred Ninety (190) as shown on the recorded Plat of Oakland Second Addition to the, City of Mishawaka, in St. Joseph, County, Indiana, together with the South One-half of the vacated alley lying North and adjacent to said lots. Excepting therefrom that part taken off of the South End of said lots for the widening of Lincoln Way at.
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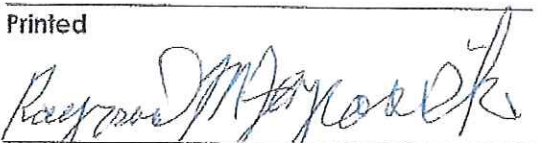
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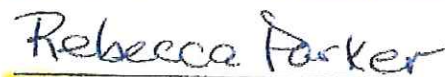
Haji Tehrani – Owner (Lots 227-233 - Drive & Shine Inc.)

Printed


Raymond M. Jeziorski (407 Wayne St., Lot 226)




Sheila M. Rose (119 Wayne Street Lot 225)


Printed


Matthew Bender (123 Wayne St. Lot 223-224)

Raymond M Teziorski

Printed

Matt Barber

Printed

Tiffany J Gilbert (4416 Lincolnway E., Lot 189-190)

Printed

Rousseve Properties LLC (Lot 2 South Bridge)

Printed



Printed

Tiffany J Gilbert (4416 Lincolnway E., Lot 189-190)

Printed

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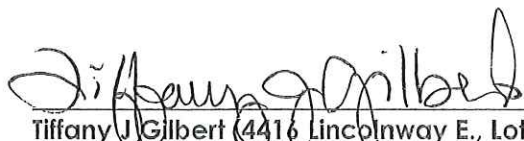
Sandra A. Rousseve
Rousseve Properties LLC (Lot 2 South Bridge)

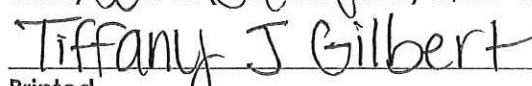
Sandra A. Rousseve
Printed



Raymond M. Jeziorski (107 Wayne St., Lot 226)

Printed



Tiffany J. Gilbert (4416 Lincolnway E., Lot 189-190)


Printed

Matthew Bender (123 Wayne St. Lot 223-224)

Printed

Rousseve Properties LLC (Lot 2 South Bridge)

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SECONDS EAST, 360.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 15 SECONDS EAST, 435.02 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE NORTH 89 DEGREES 57 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27, A DISTANCE OF 845.10 FEET TO THE NORTHEAST CORNER OF AUTUMN RIDGE, PHASE II; THENCE CONTINUING NORTH 89 DEGREES 57 MINUTES 36 SECONDS EAST, ALONG THE NORTH LINE OF SAID AUTUMN RIDGE, PHASE II, A DISTANCE OF 354.79 FEET TO THE POINT OF BEGINNING. CONTAINING 19.04 ACRES, MORE OR LESS AND SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

PETITION #22-01 A petition submitted by Rebecca Parker as Trustee for Rose Glen & Mavis H., Raymond Jeziorski, and Matthew Bender requesting to rezone 107 Wayne Street, 119 Wayne Street, and 123 Wayne Street, Mishawaka, Indiana, from R-1 Single Family Residential District to C-4 Automobile Oriented Commercial District. The parcels are legally described as: LOTS NUMBERED 227, 228, 229, 230, 231, 232, AND 233 AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED MARCH 31, 1924 IN PLAT BOOK 1 1, PAGE 139, TOGETHER WITH THE VACATED ALLEY LYING EAST OF AND ADJACENT TO SAID LOTS NUMBERED 230, 231, 232, AND 233, ALSO TOGETHER WITH THE VACATED ALLEY LYING NORTH OF LOTS 227, 228 AND 229 AND SOUTH OF LOT 230. LOT NUMBERED TWO HUNDRED TWENTY-FIVE (225) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 11, PAGE 139 OF THE ST. JOSEPH COUNTY RECORDS. LOT NUMBERED TWO HUNDRED TWENTY-SIX (226) AS SHOWN ON THE RECORDED PLAT OF OAKLAND SECOND ADDITION, NOW WITHIN AND A PART OF THE CITY OF MISHAWAKA RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, TOGETHER WITH THE NORTH HALF OF THE VACATED ALLEY LYING SOUTH AND ADJACENT TO SAID LOT. LOTS NUMBERED TWO HUNDRED TWENTY-THREE (223) AND TWO HUNDRED TWENTY-FOUR (224) IN OAKLAND SECOND ADDITION TO THE CITY OF MISHAWAKA, TOGETHER WITH THE SOUTH HALF OF THAT PART OF VACATED PENNSYLVANIA AVENUE NORTH OF AND ADJOINING LOT 223, RECORDED MARCH 31, 1924 IN PLAT BOOK 11, PAGE 138, IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PETITION #22-02 A petition submitted by DEV 4506 Lincolnway East, LLC, Rebecca Parker as Trustee for Rose Glen R. and Mavis H., Raymond Jeziorski, Matthew Bender, Tiffany J. Gilbert, and Rousseve Properties, LLC, seeking vacation of Wayne Street and unimproved Pennsylvania Avenue right-of-way for planned adjacent car wash development (Drive N' Shine). The parcel is legally described as: RIGHT-OF-WAY LOCATED IN THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY RIGHT-OF-WAY OF WAYNE STREET AND THE NORTHERLY RIGHT-OF-WAY OF LINCOLNWAY EAST; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 392 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY, 187 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF BITTERSWEET ROAD; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 60 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF PENNSYLVANIA AVENUE; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY, 127 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF WAYNE STREET; THENCE SOUTHERLY

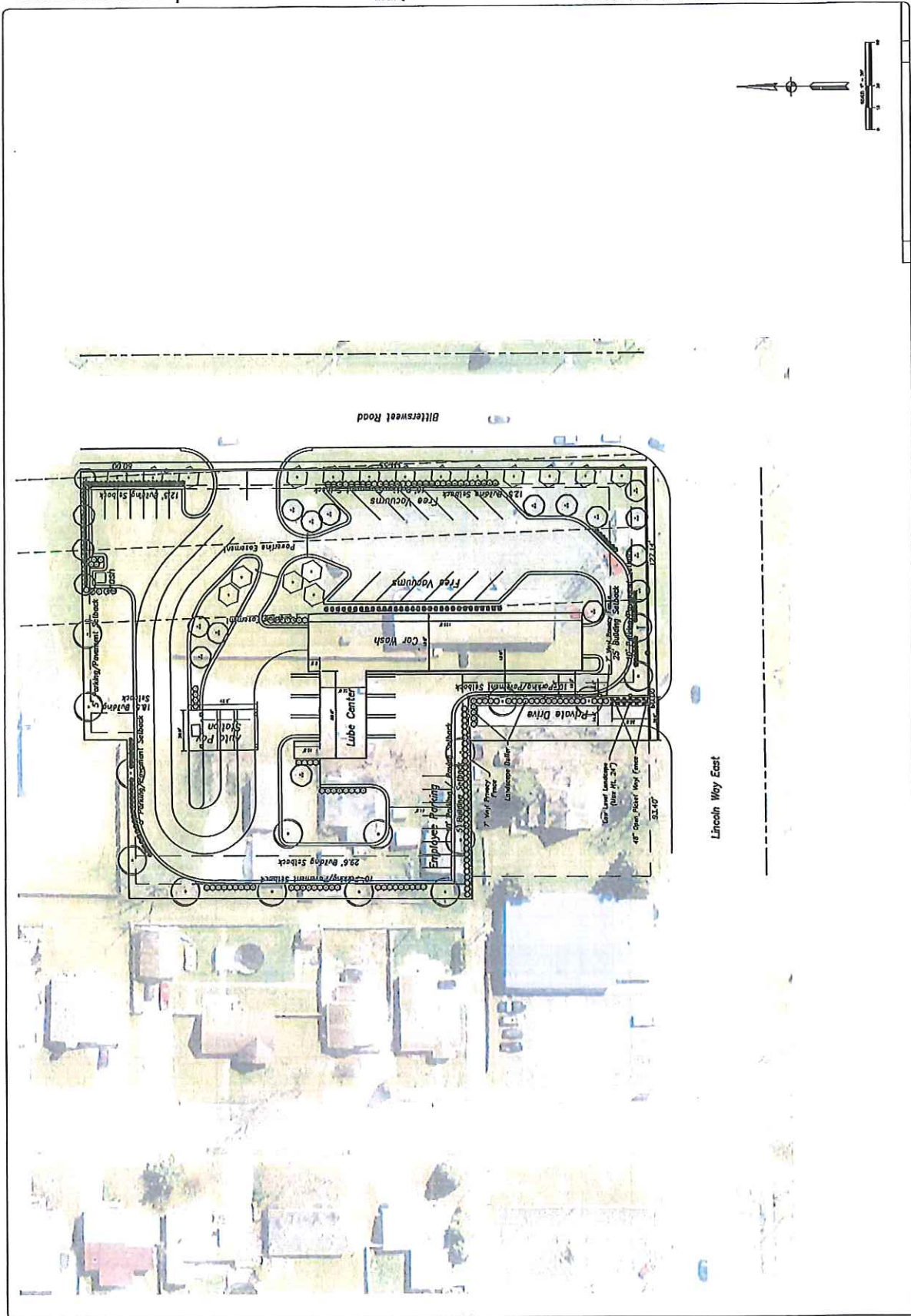
CONCEPTUAL LAYOUT

DRIVE & SHINE
LINCOLN WAY & BITTERSWEET
MISHAWAKA, INDIANA

ABONNARCHE

115 rue de Valenciennes - 75019 Paris
Tél. 01 47 27 61 00 - Fax 01 47 27 61 01
E-mail: abon@abon.arche.fr
Site Internet: www.abon.arche.fr

115 rue de Valenciennes - 75019 Paris
Tél. 01 47 27 61 00 - Fax 01 47 27 61 01
E-mail: abon@abon.arche.fr
Site Internet: www.abon.arche.fr



SURVEY PREPARED FOR: DRIVE AND SHINE
 SURVEY DATED: 10/9/21
 FILE # 210214

EXISTING LEGEND

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ALTA/NSPS LAND TITLE SURVEY PART OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

PROPERTY LIMITS

305 BITTERSWEET RD.

123 WAYNE

105 WAYNE

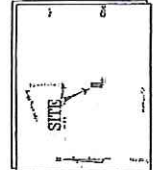
123 WAYNE

105 WAYNE

123 WAYNE

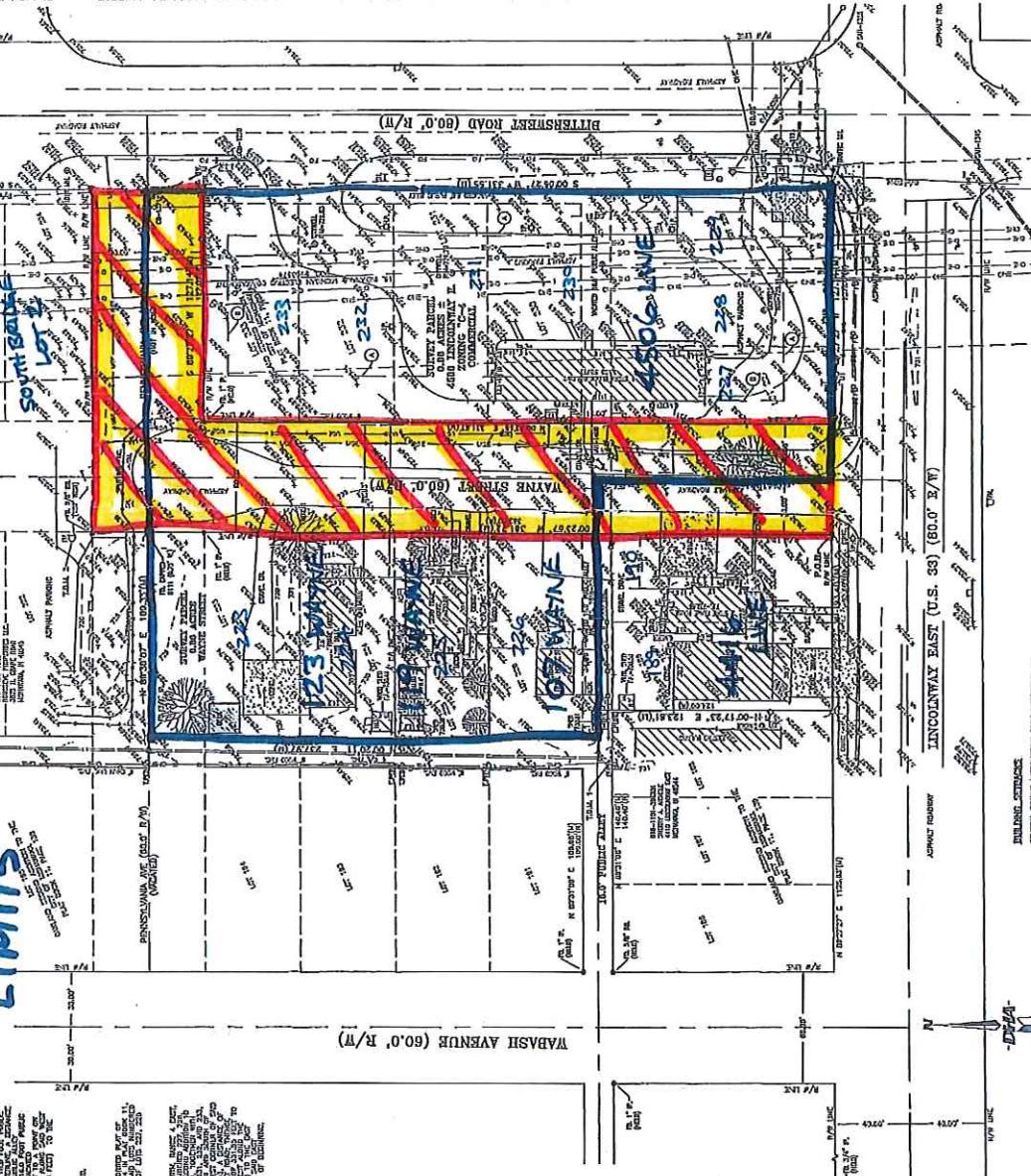
105 WAYNE

AREA BEING VACATED



REVISIONS

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DRIVE AND SHINE

REVISIONS

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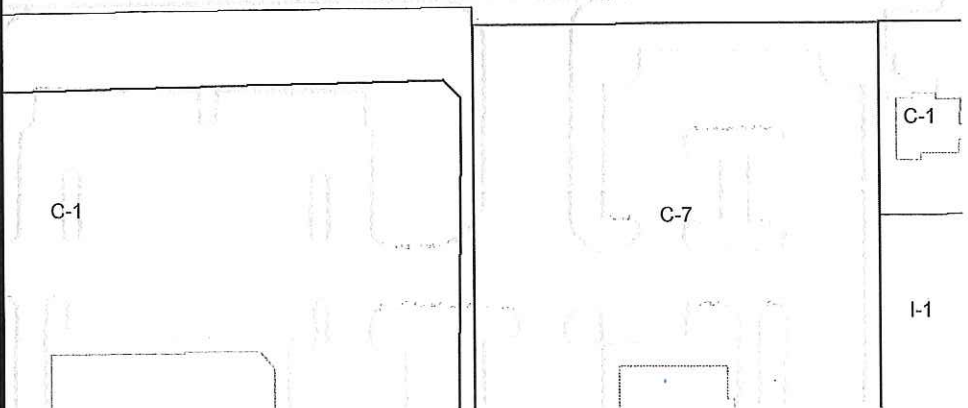
Location Map

PET 22-02

4506 LINCOLN WAY EAST LLC, ET AL.
(ADJACENT OWNERS)

WAYNE ST. AND PENNSYLVANIA
AVENUE (UNIMPROVED)

RIGHT-OF-WAY VACATION FOR
PLANNED ADJACENT CAR WASH
DEVELOPMENT (DRIVE N' SHINE)



FEB 11 2022

City Clerk
Mishawaka, IN

RESOLUTION NO. 2022-01

**A RESOLUTION OF THE CITY OF MISHAWAKA COMMON COUNCIL
APPROVING THE DESIGNATION OF CERTAIN AREAS AS
REDEVELOPMENT PROJECT AREAS FOR ESTABLISHMENT AS A
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT**

WHEREAS, the City of Mishawaka Redevelopment Commission (the "Commission"), governing body of the City of Mishawaka Department of Redevelopment (the "Department") and the Redevelopment District of the City of Mishawaka, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in Indiana Code 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, the Commission desires to establish certain areas (the "Areas") described in Exhibits A, B, C, D, and E as attached hereto as a Riverfront Redevelopment Area. This shall be considered separate to and not intended to modify any properties located in previously established redevelopment project areas including any parcels within the described areas which are already designated economic development areas, allocation areas, redevelopment project areas, urban renewal areas or other designations as provided in Title 36, Article 7 of the Indiana Code, as a Redevelopment Project Area in accordance with Section 15 of the Act; and

WHEREAS, in the Areas, the Commission finds that normal development and occupancy are either difficult, undesirable, or impossible because of lack of development and cessation of growth, and unrealized potential, and are therefore "areas in need of redevelopment" as defined by Indiana Code 36-7-1-3; and

WHEREAS, the Commission finds that the lack of development and cessation of growth cannot be corrected in the Areas by regulatory processes or the ordinary operations of private enterprise without resort to the Act; and

WHEREAS, the Commission finds that the public health and welfare will be benefited by the redevelopment of the Areas; and

WHEREAS, the Commission has caused to be prepared maps and legal descriptions, attached as Exhibits A through E, showing the boundaries of the area in which property would be affected by the establishment of the Redevelopment Project Area and the location of various parcels of property, streets, alleys, and other notable features of the area which may affect the future acquisition, clearance, remediation, re-platting, re-planning, rezoning, or redevelopment of the area; and

WHEREAS, the Commission, at its regularly scheduled meeting of November 15, 2021, designed the Areas as a Redevelopment Project Area; and

WHEREAS, the City of Mishawaka Plan Commission, at its regularly scheduled meeting of February 8, 2022, approved the designation of the Areas as a Redevelopment Project Area;

NOW THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council that the proposal is consistent with the approved comprehensive plans of the City, and that it concurs with the Redevelopment and Plan Commissions as follows:

1. The area needing development is currently limited relative to the social and economic interest of the unit and its inhabitants.

2. It will be of public utility and benefit to establish the Areas and allow them to develop them under the Act.

3. The Areas are designated as a Redevelopment Project Area for the purposes of the Act.

4. The Commission does not currently intend to acquire any property pursuant to declaration of the Areas as a Redevelopment Project Area except those that are placed on the City acquisition list which are and would be defined by a separate process.

5. The Commission has found and determined that declaration of the Redevelopment Project Area conforms to other development and redevelopment plans for the City.

6. Nothing in this resolution shall be construed as to modify or supersede any elements of Common Council Resolution R82-31 establishing the Central Business District, or of Redevelopment Commission Resolution 2014-03 establishing the Consolidated Area Improvement Project.

7. This Resolution shall modify and supersede Common Council Resolution R2018-07 approving the designation of certain areas as Redevelopment Project Areas for establishment as a Municipal Riverfront Project Area.

8. The maps and plats of the Redevelopment Project Area showing its boundaries, the location of the various parcels of property, streets, alleys, and other features affecting the potential acquisition, clearance, replatting, replanning, rezoning, or redevelopment of the Redevelopment Project Area, that are to be devoted to public ways, levees, sewerage, parks, playgrounds, are hereby approved and adopted as the maps and plats for the Redevelopment Project Area.

9. This Resolution, together with supporting data, shall be submitted to public hearing and remonstrance as provided by Section 17 of the Act and Indiana Code 5-3-1 and after all required filings with governmental agencies and officers have been made pursuant to Section 17(b) of the Act.

10. This Resolution does not affect any rights or liabilities accrued, penalties incurred, offenses committed, or (except as otherwise provided herein) proceedings begun before the effective date of this Resolution.

11. This Resolution shall be in full force and effect from and after its adoption by the Common Council.

* * * * *

PASSED by the Common Council of the City of Mishawaka, Indiana, this 7th day of March, 2022, at _____ o'clock ____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of March, 2022, at _____ o'clock ____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of March, 2022, at _____ o'clock ____ M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

February 10, 2022

Mishawaka Common Council
600 E. Third Street
Mishawaka, IN 46544

Deborah S. Block, IAMC, MMC

FEB 11 2022

City Clerk
Mishawaka, IN

Dear Council Members and Clerk:

I respectfully request your approval of the attached proposed resolution, approving the designation of certain areas in Mishawaka as redevelopment project areas. The ultimate purpose of this designation is to establish an expanded Municipal Riverfront Development Project ("MRDP"), more commonly referred to as a Riverfront District.

In order for an MRDP to be established, the area(s) must first have been designated one of four economic development areas under Indiana Code Title 36, Article 7, one of which is a redevelopment project area (IC 36-7-14-15). Designation as a redevelopment project area first requires designation by the Redevelopment Commission, which was accomplished by the Commission's Resolution No. 2021-04 (attached), adopted and approved on November 15, 2021. The next requirement is submission to the Plan Commission for approval. Such approval was granted by the Mishawaka Plan Commission on February 8, 2022 by its Resolution 2022-01 (also attached). Once approved by the Plan Commission, approval by the Common Council is required. Should you approve this resolution, the final step in designating the redevelopment project area is a public remonstrance hearing, conducted by the Redevelopment Commission, before final designation by the Commission.

Upon final designation of the redevelopment project area by the Redevelopment Commission, a proposed resolution shall be submitted to the Council for approving the expanded designated redevelopment project area as an MRDP. Planning Staff will be present March 7, 2022 meeting to answer any questions.

You may remember that the same process for establishing an expanded MRDP was approved by all the aforementioned Commissions in 2018. The reasons for amending and expanding the previously approved MRDP are outlined in a Memorandum to the City of Mishawaka Planning Commission dated February 8, 2022 (attached) for approved Resolution No. 2021-04.

Thank you in advance for your consideration.

Please contact me if you have any questions.

Sincerely,

Derek J. Spier, AICP
City Planner

cc: Kenneth B. Prince, ASLA, AICP, Executive Director Planning & Community Development

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241

Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999

Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999

E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING

MEMORANDUM

DATE: February 8, 2022

TO: City of Mishawaka Planning Commission

FROM: Derek J. Spier, City Planner

RE: Amending the City Municipal Riverfront District Resolution 2022-01

This memo has been drafted to provide the background information for Resolution 2022-01 which re-establishes the redevelopment project area for the City Municipal Riverfront District. The role of the Planning Commission in this process is primarily to determine compliance with the City's Comprehensive Plan.

The original boundary was established in 2004 and was further amended in 2018 to maximize the area eligible within the City district. As you may or may not be aware, the primary objective in originally establishing the district was to afford businesses the opportunity to take advantage of a provision in State Law that allows for special river development district liquor licenses to be obtained if you are within 1500 lineal feet of a waterway. In 2004, this boundary was created in and around the St. Joseph River predominantly downtown. The boundary was significantly expanded in 2018 to include all property within 1500 lineal feet from the entire length of the St. Joseph River and Juday Creek, and adjacent public parks and the Eberhart-Petro golf course being city-owned undevelopable property.

When the boundary was expanded, the 1500 foot distance was established from the floodway for both the St. Joseph River and Juday Creek. After it was adopted, we discovered that the boundary did not maximize the benefit afforded by law. There are areas south of the St. Joseph River between the Twin Branch Dam and Bittersweet Road that are open water but are not within the floodway. The revised map includes these areas as measured from the special flood hazard areas (SHFA), which closely mirrors the water's edge, to maximize the entire area that we believe would be eligible based on our understanding of the law.

This does not change where the sale of alcohol is permitted. Restaurants, bars, and night clubs are all further regulated by the City as part of the Zoning Ordinance. In fact, the vast majority of the proposed area is not zoned for that type of use, and being in the district would not in and of itself be a valid reason for changing a zoning classification.

The reason for amending and maximizing the area is that 3-way liquor licenses can be a barrier to some restaurants and businesses. It can cost hundreds of thousands of dollars for a 3-way liquor license in Mishawaka and be a detriment in establishing a new restaurant or for an existing restaurant in the City. We are aware of one restaurant, being the Curve Café, which would benefit from the expanded boundary as they would be located within the district, if approved. This restaurant has previously inquired on their eligibility of obtaining a special river development district liquor license.

This Resolution was prepared by Planning Staff using the previously adopted Resolution 18-01 prepared by the City Department of Law. Amending the district requires multiple resolutions before the Redevelopment Commission, the Planning Commission, and the Common Council. Approval of this resolution would be next step in the process. If you have any specific questions prior to the meeting, please let me know. If the Commission approves the resolution, a similar one will be drafted and forwarded to the Common Council for final consideration.

EXHIBIT A

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
OVERALL MAP: ST. JOSEPH RIVER & JUDAY CREEK

Legend

-  City Limits
-  1,500 ft Boundary from Floodway & Selected Floodplain and City Parks
-  Floodway Area & Zone AE per effective FEMA FIRMs
-  City Parks - Adjacent to St. Joseph River
-  Existing Municipal Riverfront Development Project Area (Resolution No. 2004-24)

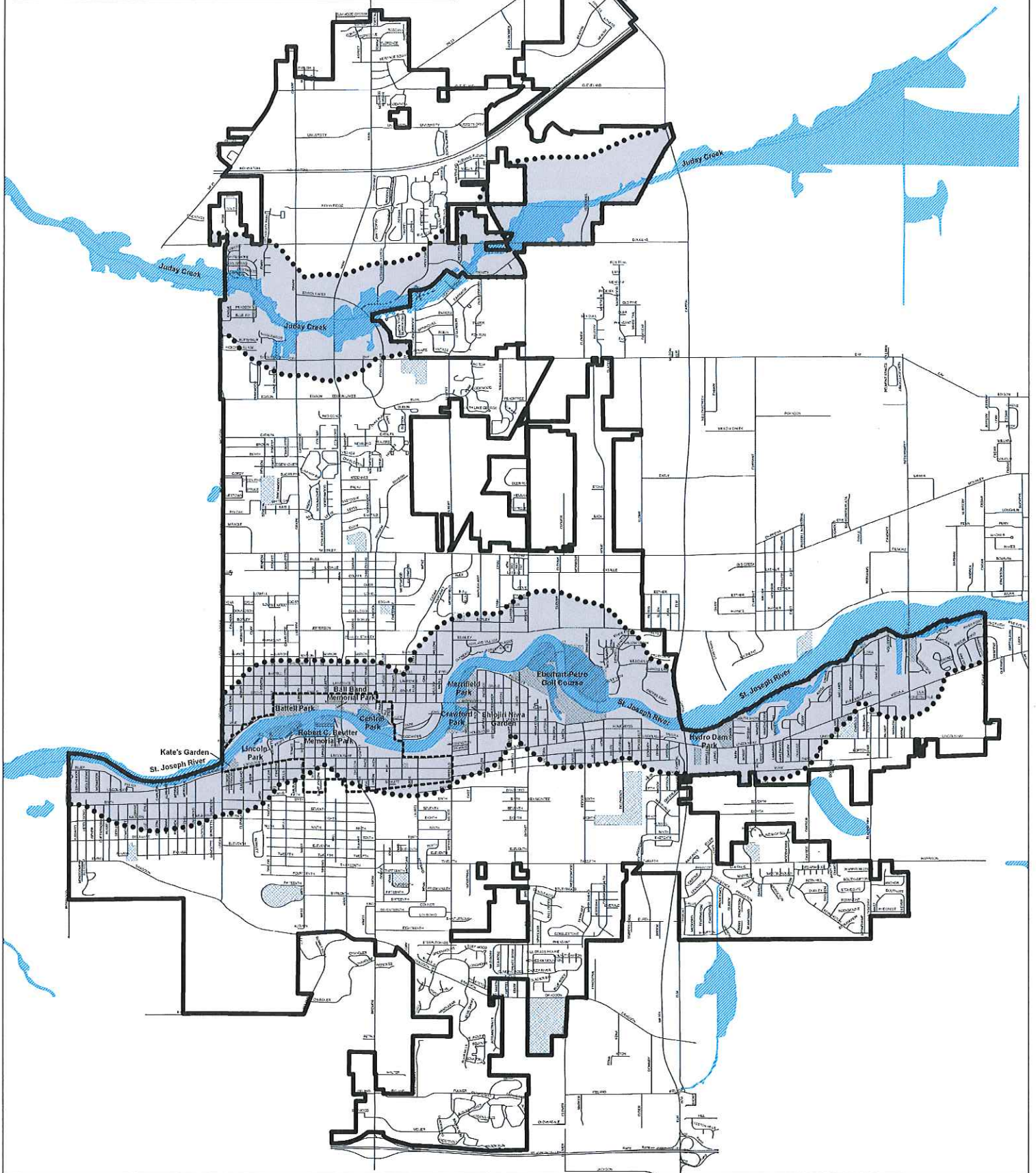


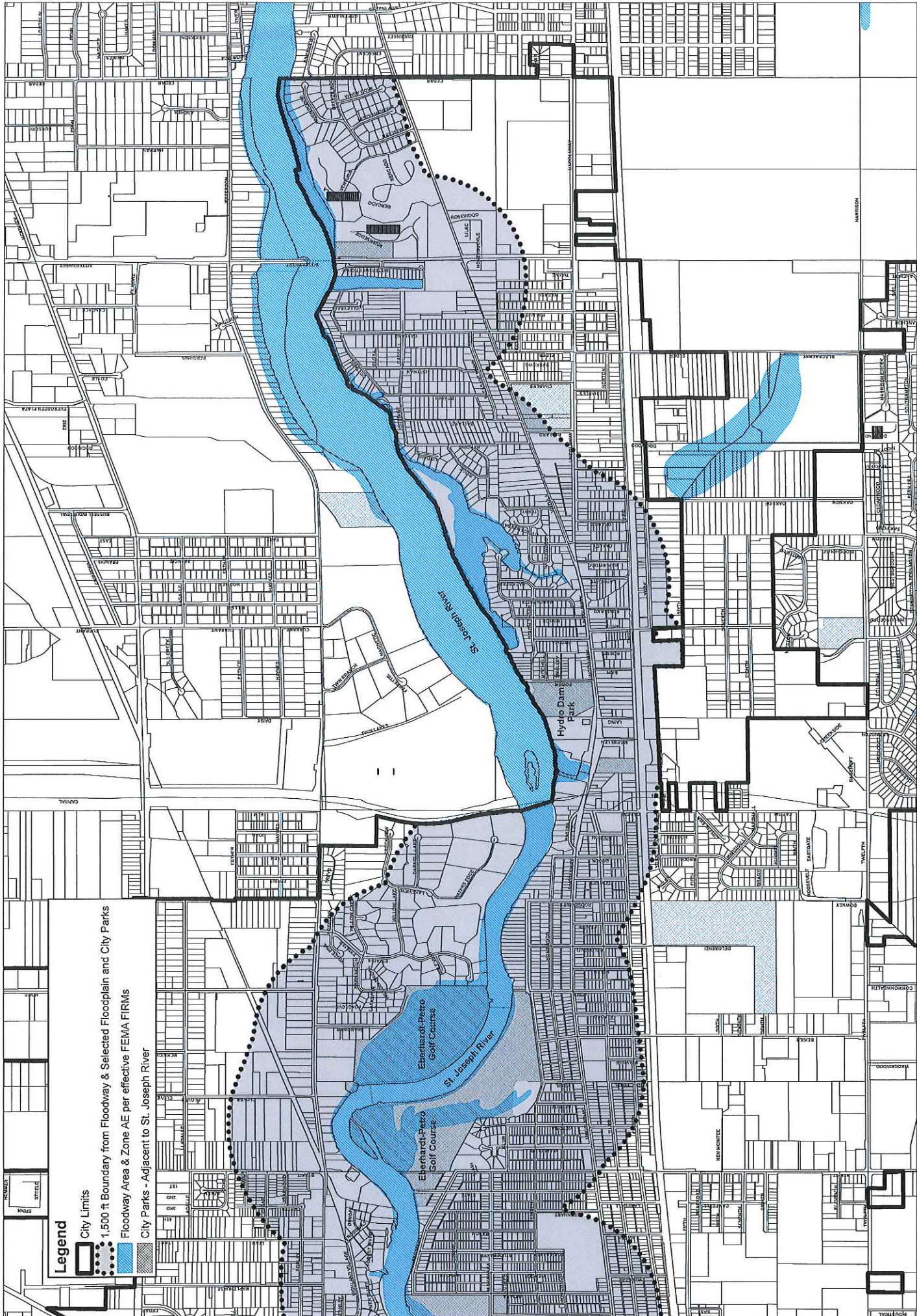
EXHIBIT B

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: WEST PORTION ALONG THE ST. JOSEPH RIVER



EXHIBIT C

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: EAST PORTION ALONG THE ST. JOSEPH RIVER



Legend

- City Limits
- 1,500 ft Boundary from Floodway & Selected Floodplain and City Parks
- Floodway Area & Zone AE per effective FEMA FIRMs
- City Parks - Adjacent to St. Joseph River

CITY OF MISHAWAKA - MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
EXHIBIT C - EAST PORTION ALONG THE ST. JOSEPH RIVER

EXHIBIT D

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: JUDAY CREEK



PREPARED BY: DEPARTMENT OF CITY PLANNING
DATE: NOVEMBER 28, 2017 (REVISED 2/20/2018 & 6/20/2018)

EXHIBIT E

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
LEGAL DESCRIPTION

EXHIBIT E

MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA

SOUTH OF THE ST. JOSEPH RIVER

A PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE NORTHEAST QUARTER, AND THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 17; PART OF THE NORTHWEST AND NORTHEAST QUARTER, THE NORTH HALF OF THE SOUTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16; PART OF THE NORTHWEST AND NORTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 15; PART OF THE SOUTHEAST QUARTER OF SECTION 10; PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11; PART OF NORTHWEST AND NORTHEAST QUARTER OF SECTION 14; PART OF THE NORTHWEST AND NORTHEAST QUARTER OF SECTION 13; PART OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA; AND A PART OF THE SOUTHWEST AND SOUTHEAST QUARTER AND THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 7, AND PART OF THE NORTH HALF OF THE NORTHWEST QUARTER AND NORTHWEST QUARTER OF THE NORTHEAST OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE SOUTH BANK OF THE ST. JOSEPH RIVER SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0212D AND 18141C0216D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011, AND FIRM PANEL NUMBERS 18141C0217E AND 18141C0236E WITH AN EFFECTIVE DATE OF DECEMBER 16, 2015, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY; FROM THE SPECIAL FLOOD HAZARD AREA (SFHA) – ZONE AE CONTIGUOUS TO SAID FLOODWAY BOUNDARY SHOWN ON FIRM PANEL NUMBERS 18141C0217E AND 18141C0236E AND BOUND BY THE TWIN BRANCH DAM TO THE WEST AND BITTERSWEET ROAD TO THE EAST; AND FROM THE FOLLOWING PROPERTY OWNED BY THE CITY OF MISHAWAKA AND THE INDIANA AND MICHIGAN ELECTRIC COMPANY: KATE'S GARDEN BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, LOGAN STREET TO THE WEST, LINCOLNWAY WEST TO THE SOUTH AND PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCEL 016-1014-9999) BEING THE CITY WASTEWATER TREATMENT PLANT TO THE EAST; ROBERT C. BEUTTER RIVERFRONT PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, THE RIVER RACE TO THE WEST AND SOUTH, AND NORTH MAIN STREET TO THE EAST; CRAWFORD PARK BOUND BY MISHAWAKA AVENUE TO THE NORTH, THE ST. JOSEPH RIVER TO THE WEST, NILES AVENUE TO THE EAST, AND PROPERTY OWNED BY JAMES P. AND CRISTAL M. CAMPBELL (TAX PARCEL 016-1030-123301 AS DESCRIBED IN A QUIT CLAIM DEED RECORDED UNDER INSTRUMENT NUMBER 1128203 IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA), LOT 66 OF MERRIFIELD PARK ADDITION REVISED, NORTH MERRIFIELD AVENUE, AND A 15' WIDE EAST-WEST ALLEY NORTH OF LOTS 39 THROUGH 48 IN MERRIFIELD PARK ADDITION REVISED TO THE SOUTH; SHIOJIRI NIWA GARDEN BOUND BY MISHAWAKA AVENUE TO THE NORTH, NILES AVENUE TO THE WEST, ST. JOSEPH STREET TO THE SOUTH, AND INDIANA AVENUE TO THE EAST; MERRIFIELD PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH AND WEST, INDIANA AVENUE TO THE EAST, AND MISHAWAKA AVENUE TO THE SOUTH; EBERHART-PETRO GOLF COURSE BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, LOT 60 OF RIVERCREST ADDITION TO THE EAST, LINDEN AVENUE TO

THE SOUTH, AND LOTS 24, 25, 26, AND 57 OF STARK REALTY CO. ADDITION INCLUDING A 16' ALLEY BETWEEN SAID LOTS, LOTS 1, 5, AND 6 OF EBERHARDT ESTATES, PROPERTY OWNED BY JENNIFER A. ZIMMERMAN (TAX PARCEL 016-1052-221801 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0424492 IN THE OFFICE OF SAID RECORDER), A 14' WIDE ALLEY WEST OF LOTS 6 THROUGH 14 OF KELLYS SUBDIVISION OF LOT A LINCOLN GARDENS REALTY COMPANY 1ST ADDITION, AND LOT 34 OF SAID KELLYS SUBDIVISION TO THE WEST; AND THE HYDRO DAM PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, POWER DRIVE TO THE EAST, LINCOLNWAY EAST TO THE SOUTH, AND PROPERTIES OWNED BY DENNIS D. MILLER (TAX PARCEL 016-1082-325101 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9944636 IN THE OFFICE OF SAID RECORDER) AND TWIN BRANCH RETAIL CENTER LLC (TAX PARCEL 016-1082-3252 AS DESCRIBED IN A CORPORATE WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0425588 IN THE OFFICE OF SAID RECORDER) TO THE SOUTH.

NORTH OF THE ST. JOSEPH RIVER

A PART OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 16; PART OF THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 9; PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 15; PART OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE NORTHEAST QUARTER, AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 10; PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF SECTION 11; AND PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE NORTH BANK OF THE ST. JOSEPH RIVER SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0212D AND 18141C0216D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011, AND FIRM PANEL NUMBER 18141C0217E WITH AN EFFECTIVE DATE OF DECEMBER 16, 2015, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND FROM THE FOLLOWING PROPERTY OWNED BY THE CITY OF MISHAWAKA: BATTELL PARK BOUND BY FOREST STREET TO THE WEST, MISHAWAKA AVENUE TO THE NORTH, THE ST. JOSEPH RIVER TO THE SOUTH, AND LOT 1 OF RIVERWALK 2ND MINOR SUBDIVISION AND LOT 3 OF BATTELL PARK ADDITION TO THE EAST; BALL BAND MEMORIAL PARK BOUND BY LOT 12 OF RIVERWALK 2ND ADDITION AND PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCEL 016-2023-0766 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9932355 IN THE OFFICE OF SAID RECORDER) TO THE WEST, MISHAWAKA AVENUE TO THE NORTH, NORTH MAIN STREET TO THE EAST, AND THE ST. JOSEPH RIVER TO THE SOUTH; CENTRAL PARK BOUND BY LOTS 5, 6, 7, AND 8 OF WILLIAM SCHINDLER'S SUBDIVISION INCLUDING THE EAST HALF OF A VACATED 10' WIDE ALLEY AND THE NORTH 155' OF LOT C IN MISHAWAKA HYDRAULIC CO. ADDITION TO THE WEST, THE SOUTH LINE OF THE NORTH 155' OF SAID LOT C, MISHAWAKA AVENUE, PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCELS 016-2075-2564 AND 016-2076-2625 AS DESCRIBED IN A CORPORATE WARRANTY DEED AND WARRANTY DEED AS RECORDED UNDER INSTRUMENT NUMBER 0513582 AND 1602083, RESPECTIVELY, IN THE OFFICE OF SAID RECORDER), LOT 4 OF O'CONNER'S ADDITION, THE SOUTH RIGHT-OF-WAY OF O'CONNER STREET, LOT 5 OF O'CONNER'S ADDITION EXCLUDING THE NORTH 44', LOT 10 OF V. BRUNNERS SUBDIVISION, THE SOUTH RIGHT-OF-

WAY LINE OF ELL STREET, AND PROPERTY OWNED BY MICHAEL C. AND CATHERINE L. GRANT (TAX PARCEL 016-2076-2626 AS DESCRIBED IN A QUIT CLAIM DEED RECORDED UNDER INSTRUMENT NUMBER 9247514 IN THE OFFICE OF SAID RECORDER) TO THE NORTH, PINE STREET TO THE EAST, AND THE ST. JOSEPH RIVER, LOTS B AND C OF CENTER OF HOSPICE SUBDIVISION, AND PROPERTY OWNED BY THE STATE OF INDIANA DEPARTMENT OF NATURAL RESOURCES (TAX PARCEL 016-2075-255801 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 8912144 IN THE OFFICE OF SAID RECORDER) TO THE SOUTH; EBERHARD-PETRO GOLF COURSE BOUND BY PROPERTY OWNED BY LARRY D. AND KAY GREEN (TAX PARCEL 027-1001-0488 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0360082 IN THE OFFICE OF SAID RECORDER), DAVID J. AND TRACY REED-CASE (TAX PARCEL 027-1001-0490 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9639764 IN THE OFFICE OF SAID RECORDER), RUTH ANN MURPHY (TAX PARCEL 027-1001-0491 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0822169 IN THE OFFICE OF SAID RECORDER), MATTHEW E. AND KATHERINE M. KENT AND MARGARET KENT (TAX PARCEL 027-1001-0518 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 1505481 IN THE OFFICE OF SAID RECORDER), LOTS 9 AND 12 OF PETRO PARK ADDITION, THE SOUTH RIGHT-OF-WAY LINE OF SHANOWER DRIVE, AND LOTS 83, 88, AND 90 OF BARRINGTON ESTATES AREA 4 6TH REVISION TO THE NORTH, LOT 83 OF BARRINGTON ESTATES AREA 4 6TH REVISION, LOTS 52, 59 AND 60 OF BARRINGTON ESTATES AREA 1 6TH REVISION, AND LOT 54A OF MANN'S REPLAT TO THE EAST, AND THE ST. JOSEPH RIVER TO THE SOUTH AND WEST.

SOUTH OF JUDAY CREEK

A PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 33; PART OF THE WEST HALF OF THE SOUTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 34; PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27; AND PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE SOUTH BANK OF JUDAY CREEK SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0204D, 18141C0208D, AND 18141C0209D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011.

NORTH OF JUDAY CREEK

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29; PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28; PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE NORTHWEST AND NORTHEAST QUARTER OF SECTION 33; PART OF THE NORTHWEST QUARTER AND NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 34; PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 27; AND PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER,

THE SOUTH HALF THE NORTHEAST QUARTER, AND THE NORTH HALF OF THE SOUTHEAST OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE NORTH BANK OF JUDAY CREEK SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0204D, 18141C0208D, AND 18141C0209D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011.

RESOLUTION NO. 2022-01

RESOLUTION OF THE CITY OF MISHAWAKA PLANNING COMMISSION CONCERNING THE DESIGNATING AND DECLARING CERTAIN AREAS AS REDEVELOPMENT PROJECT AREAS SPECIFICALLY RE-ESTABLISHING THE CITY MUNICIPAL RIVERFRONT DISTRICT

WHEREAS, the City of Mishawaka Redevelopment Commission (the "Commission"), governing body of the City of Mishawaka Department of Redevelopment (the "Department") and the Redevelopment District of the City of Mishawaka, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in Indiana Code 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, the Commission desires to establish certain areas (the "Areas") described in Exhibits A, B, C, D, and E as attached hereto as a Riverfront Redevelopment Area. This shall be considered separate to and not intended to modify any properties located in previously established redevelopment project areas including any parcels within the described areas which are already designated economic development areas, allocation areas, redevelopment project areas, urban renewal areas or other designations as provided in Title 36, Article 7 of the Indiana Code, as a Redevelopment Project Area in accordance with Section 15 of the Act; and

WHEREAS, in the Areas, the Commission finds that normal development and occupancy are either difficult, undesirable, or impossible because of lack of development and cessation of growth, and unrealized potential, and are therefore "areas in need of redevelopment" as defined by Indiana Code 36-7-1-3; and

WHEREAS, the Commission finds that the lack of development and cessation of growth cannot be corrected in the Areas by regulatory processes or the ordinary operations of private enterprise without resort to the Act; and

WHEREAS, the Commission finds that the public health and welfare will be benefited by the redevelopment of the Areas; and

WHEREAS, the Commission has caused to be prepared maps and legal descriptions, attached as Exhibits A through E, showing the boundaries of the area in which property would be affected by the establishment of the Redevelopment Project Area and the location of various parcels of property, streets, alleys, and other notable features of the area which may affect the future acquisition, clearance, remediation, re-platting, re-planning, rezoning, or redevelopment of the area; and

WHEREAS, the responsibility of the Planning Commission is to evaluate the proposal relative to the Comprehensive Plan for the City of Mishawaka;

NOW THEREFORE, BE IT RESOLVED by the City of Mishawaka Planning Commission that the proposal is consistent with the approved comprehensive plans of the City, and that it concurs with the Redevelopment Commission as follows:

1. The area needing development is currently limited relative to the social and economic interest of the unit and its inhabitants.

2. It will be of public utility and benefit to establish the Areas and allow them to develop them under the Act.

3. The Areas are designated as a Redevelopment Project Area for the purposes of the Act.

4. The Commission does not currently intend to acquire any property pursuant to declaration of the Areas as a Redevelopment Project Area except those that are placed on the City acquisition list which are and would be defined by a separate process.

5. The Commission hereby finds and determines that declaration of the Redevelopment Project Area conforms to other development and redevelopment plans for the City.

6. Nothing in this resolution shall be construed as to modify or supersede any elements of Common Council Resolution R82-31 establishing the Central Business District, or of Redevelopment Commission Resolution 2014-03 establishing the Consolidated Area Improvement Project.

7. This Resolution shall modify and supersede Planning Commission Resolution 2018-01 establishing a Municipal Riverfront Project Area.

8. The maps and plats of the Redevelopment Project Area showing its boundaries, the location of the various parcels of property, streets, alleys, and other features affecting the potential acquisition, clearance, replatting, replanning, rezoning, or redevelopment of the Redevelopment Project Area, that are to be devoted to public ways, levees, sewerage, parks, playgrounds, are hereby approved and adopted as the maps and plats for the Redevelopment Project Area.

9. This Resolution, together with supporting data, shall be submitted to the City Common Council, as provided by Section 16 of the Act, for the approval of the Resolution, and if approved by the Common Council, the Resolution shall be submitted to public hearing and remonstrance as provided by Section 17 of the Act and Indiana Code 5-3-1 and after all required filings with governmental agencies and officers have been made pursuant to Section 17(b) of the Act.

10. This Resolution does not affect any rights or liabilities accrued, penalties incurred, offenses committed, or (except as otherwise provided herein) proceedings begun before the effective date of this Resolution.

11. This Resolution shall be in full force and effect from and after its adoption by the Commission.

* * * * *

ADOPTED AND APPROVED at a meeting of the City of Mishawaka Planning Commission held on the 8th day of February, 2022.

CITY OF MISHAWAKA
PLANNING COMMISSION

Val E. Freeman
VICE- President

ATTEST:

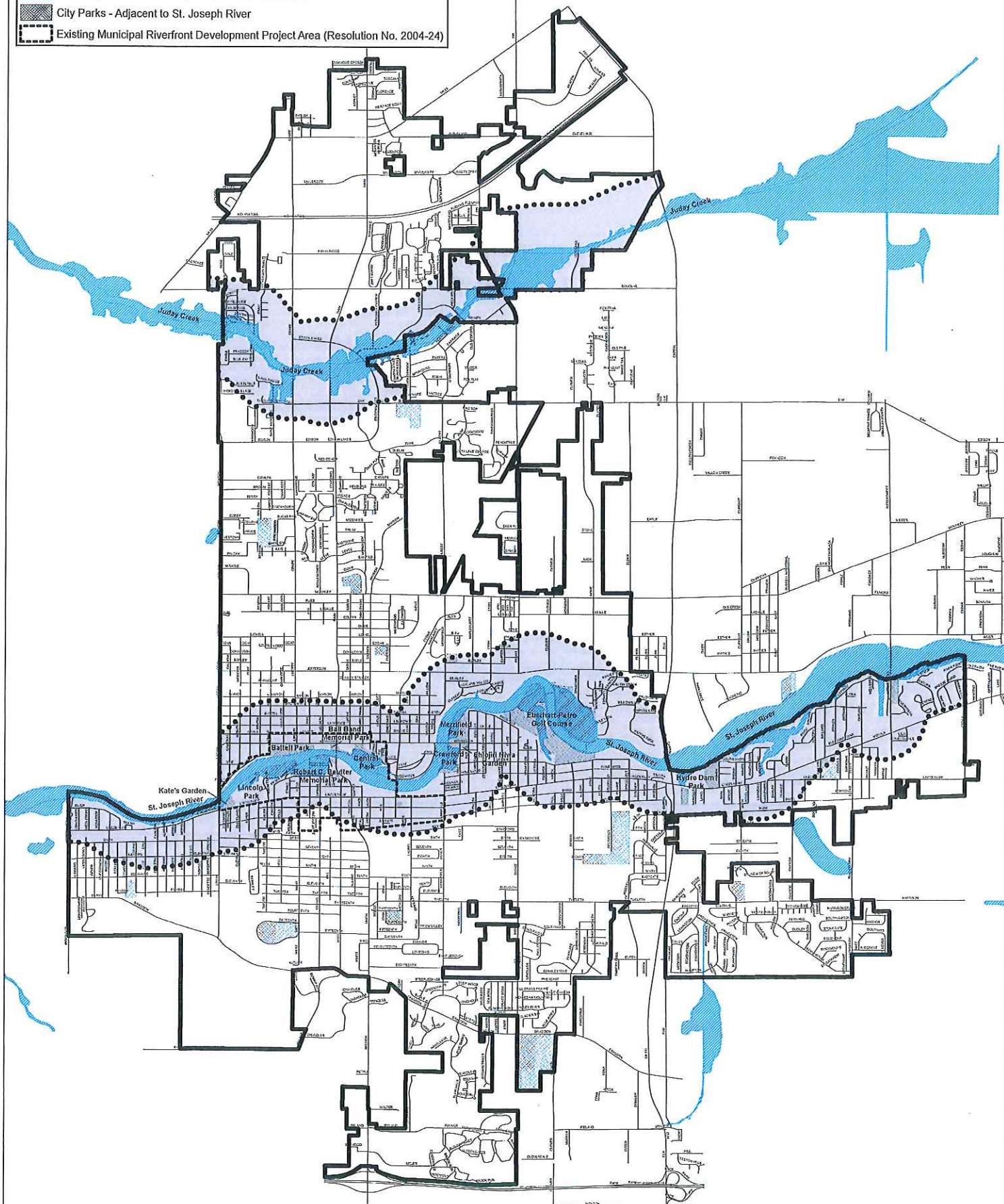
Kari Myers
Secretary

EXHIBIT A

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
OVERALL MAP: ST. JOSEPH RIVER & JUDAY CREEK

Legend

-  City Limits
-  1,500 ft Boundary from Floodway & Selected Floodplain and City Parks
-  Floodway Area & Zone AE per effective FEMA FIRMs
-  City Parks - Adjacent to St. Joseph River
-  Existing Municipal Riverfront Development Project Area (Resolution No. 2004-24)



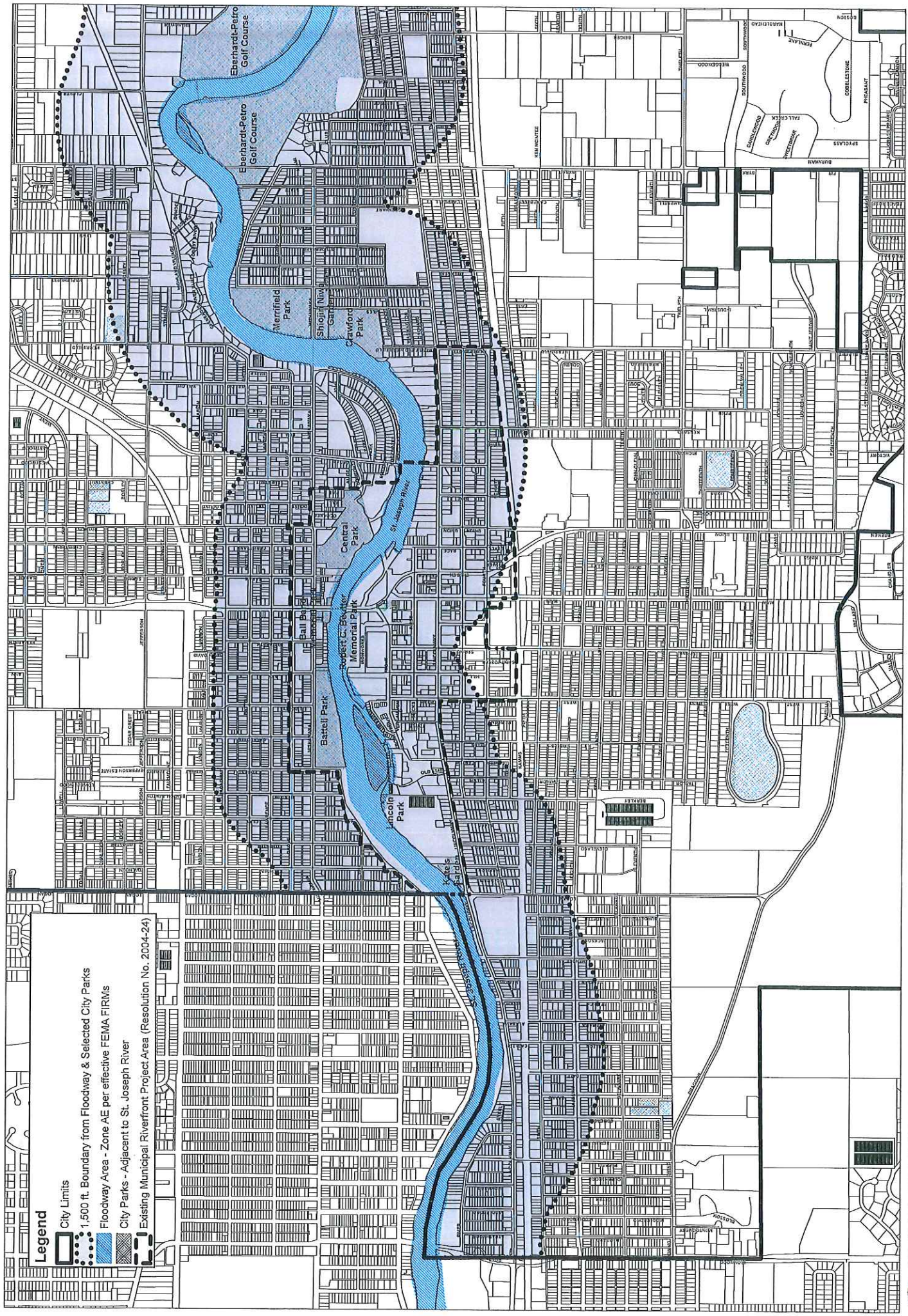
CITY OF MISHAWAKA - MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA EXHIBIT A - ST. JOSEPH RIVER & JUDAY CREEK

PREPARED BY: DEPARTMENT OF CITY PLANNING
DATE: AUGUST 16, 2017 (REVISED 2/26/2018 & 6/9/2021)



EXHIBIT B

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: WEST PORTION ALONG THE ST. JOSEPH RIVER



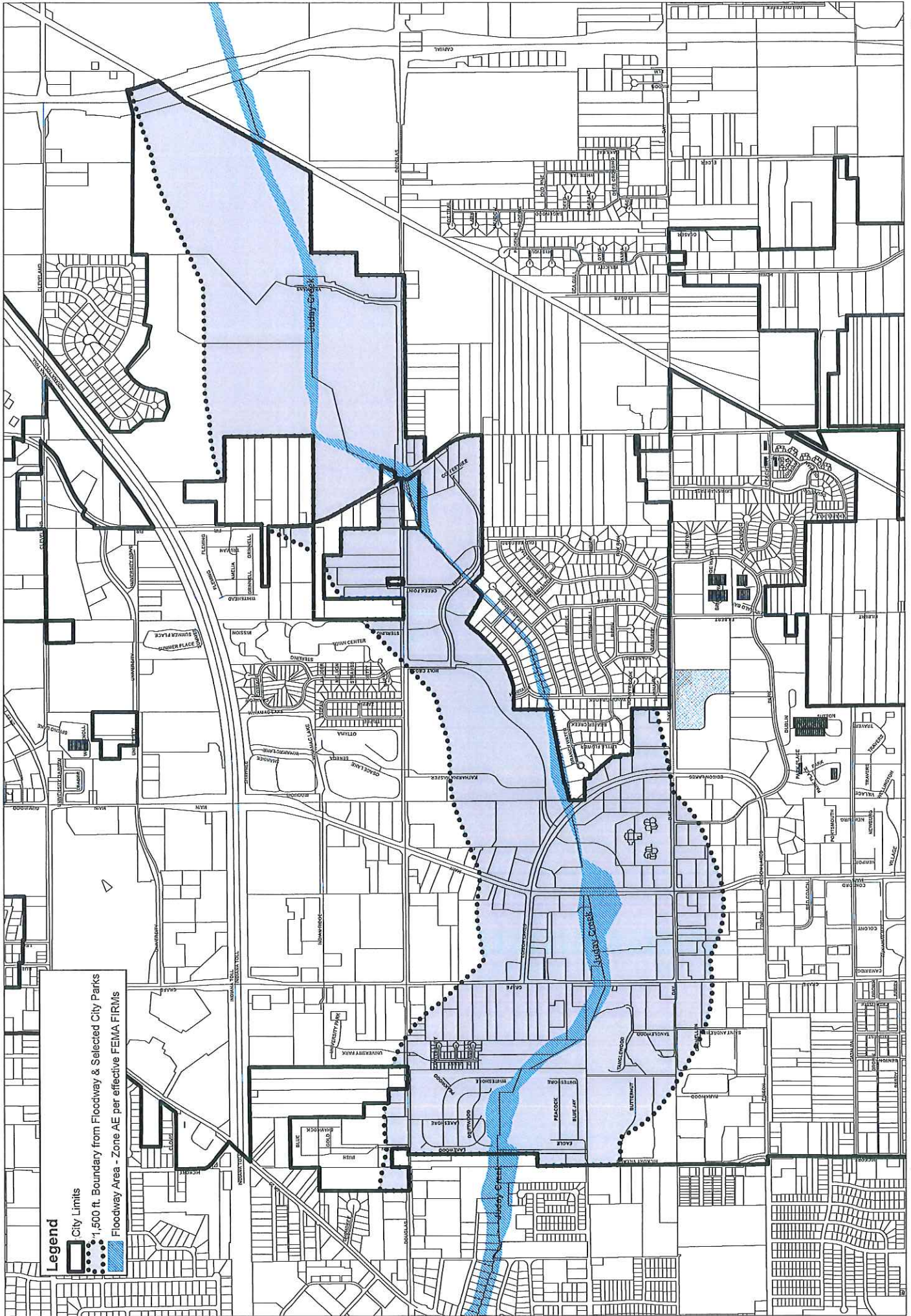
CITY OF MISHAWAKA - MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
EXHIBIT B - WEST PORTION ALONG THE ST. JOSEPH RIVER

EXHIBIT C

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: EAST PORTION ALONG THE ST. JOSEPH RIVER

EXHIBIT D

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
MAP: JUDAY CREEK



Legend

City Limits

1,500 ft. Boundary from Floodway & Selected City Parks

Floodway Area - Zone AE per effective FEMA FIRMs

**CITY OF MISHAWAKA - MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
EXHIBIT D - JUDAY CREEK**



EXHIBIT E

CITY OF MISHAWAKA-
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA
LEGAL DESCRIPTION

EXHIBIT E

MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA

SOUTH OF THE ST. JOSEPH RIVER

A PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE NORTHEAST QUARTER, AND THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 17; PART OF THE NORTHWEST AND NORTHEAST QUARTER, THE NORTH HALF OF THE SOUTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16; PART OF THE NORTHWEST AND NORTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 15; PART OF THE SOUTHEAST QUARTER OF SECTION 10; PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11; PART OF NORTHWEST AND NORTHEAST QUARTER OF SECTION 14; PART OF THE NORTHWEST AND NORTHEAST QUARTER OF SECTION 13; PART OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA; AND A PART OF THE SOUTHWEST AND SOUTHEAST QUARTER AND THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 7, AND PART OF THE NORTH HALF OF THE NORTHWEST QUARTER AND NORTHWEST QUARTER OF THE NORTHEAST OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE SOUTH BANK OF THE ST. JOSEPH RIVER SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0212D AND 18141C0216D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011, AND FIRM PANEL NUMBERS 18141C0217E AND 18141C0236E WITH AN EFFECTIVE DATE OF DECEMBER 16, 2015, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY; FROM THE SPECIAL FLOOD HAZARD AREA (SFHA) – ZONE AE CONTIGUOUS TO SAID FLOODWAY BOUNDARY SHOWN ON FIRM PANEL NUMBERS 18141C0217E AND 18141C0236E AND BOUND BY THE TWIN BRANCH DAM TO THE WEST AND BITTERSWEET ROAD TO THE EAST; AND FROM THE FOLLOWING PROPERTY OWNED BY THE CITY OF MISHAWAKA AND THE INDIANA AND MICHIGAN ELECTRIC COMPANY: KATE'S GARDEN BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, LOGAN STREET TO THE WEST, LINCOLNWAY WEST TO THE SOUTH AND PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCEL 016-1014-9999) BEING THE CITY WASTEWATER TREATMENT PLANT TO THE EAST; ROBERT C. BEUTTER RIVERFRONT PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, THE RIVER RACE TO THE WEST AND SOUTH, AND NORTH MAIN STREET TO THE EAST; CRAWFORD PARK BOUND BY MISHAWAKA AVENUE TO THE NORTH, THE ST. JOSEPH RIVER TO THE WEST, NILES AVENUE TO THE EAST, AND PROPERTY OWNED BY JAMES P. AND CRISTAL M. CAMPBELL (TAX PARCEL 016-1030-123301 AS DESCRIBED IN A QUIT CLAIM DEED RECORDED UNDER INSTRUMENT NUMBER 1128203 IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA), LOT 66 OF MERRIFIELD PARK ADDITION REVISED, NORTH MERRIFIELD AVENUE, AND A 15' WIDE EAST-WEST ALLEY NORTH OF LOTS 39 THROUGH 48 IN MERRIFIELD PARK ADDITION REVISED TO THE SOUTH; SHIOJIRI NIWA GARDEN BOUND BY MISHAWAKA AVENUE TO THE NORTH, NILES AVENUE TO THE WEST, ST. JOSEPH STREET TO THE SOUTH, AND INDIANA AVENUE TO THE EAST; MERRIFIELD PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH AND WEST, INDIANA AVENUE TO THE EAST, AND MISHAWAKA AVENUE TO THE SOUTH; EBERHART-PETRO GOLF COURSE BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, LOT 60 OF RIVERCREST ADDITION TO THE EAST, LINDEN AVENUE TO

THE SOUTH, AND LOTS 24, 25, 26, AND 57 OF STARK REALTY CO. ADDITION INCLUDING A 16' ALLEY BETWEEN SAID LOTS, LOTS 1, 5, AND 6 OF EBERHARDT ESTATES, PROPERTY OWNED BY JENNIFER A. ZIMMERMAN (TAX PARCEL 016-1052-221801 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0424492 IN THE OFFICE OF SAID RECORDER), A 14' WIDE ALLEY WEST OF LOTS 6 THROUGH 14 OF KELLYS SUBDIVISION OF LOT A LINCOLN GARDENS REALTY COMPANY 1ST ADDITION, AND LOT 34 OF SAID KELLYS SUBDIVISION TO THE WEST; AND THE HYDRO DAM PARK BOUND BY THE ST. JOSEPH RIVER TO THE NORTH, POWER DRIVE TO THE EAST, LINCOLNWAY EAST TO THE SOUTH, AND PROPERTIES OWNED BY DENNIS D. MILLER (TAX PARCEL 016-1082-325101 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9944636 IN THE OFFICE OF SAID RECORDER) AND TWIN BRANCH RETAIL CENTER LLC (TAX PARCEL 016-1082-3252 AS DESCRIBED IN A CORPORATE WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0425588 IN THE OFFICE OF SAID RECORDER) TO THE SOUTH.

NORTH OF THE ST. JOSEPH RIVER

A PART OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 16; PART OF THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 9; PART OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 15; PART OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE NORTHEAST QUARTER, AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 10; PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF SECTION 11; AND PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE NORTH BANK OF THE ST. JOSEPH RIVER SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0212D AND 18141C0216D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011, AND FIRM PANEL NUMBER 18141C0217E WITH AN EFFECTIVE DATE OF DECEMBER 16, 2015, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND FROM THE FOLLOWING PROPERTY OWNED BY THE CITY OF MISHAWAKA: BATTELL PARK BOUND BY FOREST STREET TO THE WEST, MISHAWAKA AVENUE TO THE NORTH, THE ST. JOSEPH RIVER TO THE SOUTH, AND LOT 1 OF RIVERWALK 2ND MINOR SUBDIVISION AND LOT 3 OF BATTELL PARK ADDITION TO THE EAST; BALL BAND MEMORIAL PARK BOUND BY LOT 12 OF RIVERWALK 2ND ADDITION AND PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCEL 016-2023-0766 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9932355 IN THE OFFICE OF SAID RECORDER) TO THE WEST, MISHAWAKA AVENUE TO THE NORTH, NORTH MAIN STREET TO THE EAST, AND THE ST. JOSEPH RIVER TO THE SOUTH; CENTRAL PARK BOUND BY LOTS 5, 6, 7, AND 8 OF WILLIAM SCHINDLER'S SUBDIVISION INCLUDING THE EAST HALF OF A VACATED 10' WIDE ALLEY AND THE NORTH 155' OF LOT C IN MISHAWAKA HYDRAULIC CO. ADDITION TO THE WEST, THE SOUTH LINE OF THE NORTH 155' OF SAID LOT C, MISHAWAKA AVENUE, PROPERTY OWNED BY THE CITY OF MISHAWAKA (TAX PARCELS 016-2075-2564 AND 016-2076-2625 AS DESCRIBED IN A CORPORATE WARRANTY DEED AND WARRANTY DEED AS RECORDED UNDER INSTRUMENT NUMBER 0513582 AND 1602083, RESPECTIVELY, IN THE OFFICE OF SAID RECORDER), LOT 4 OF O'CONNER'S ADDITION, THE SOUTH RIGHT-OF-WAY OF O'CONNER STREET, LOT 5 OF O'CONNER'S ADDITION EXCLUDING THE NORTH 44', LOT 10 OF V. BRUNNERS SUBDIVISION, THE SOUTH RIGHT-OF-

WAY LINE OF ELL STREET, AND PROPERTY OWNED BY MICHAEL C. AND CATHERINE L. GRANT (TAX PARCEL 016-2076-2626 AS DESCRIBED IN A QUIT CLAIM DEED RECORDED UNDER INSTRUMENT NUMBER 9247514 IN THE OFFICE OF SAID RECORDER) TO THE NORTH, PINE STREET TO THE EAST, AND THE ST. JOSEPH RIVER, LOTS B AND C OF CENTER OF HOSPICE SUBDIVISION, AND PROPERTY OWNED BY THE STATE OF INDIANA DEPARTMENT OF NATURAL RESOURCES (TAX PARCEL 016-2075-255801 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 8912144 IN THE OFFICE OF SAID RECORDER) TO THE SOUTH; EBERHARD-PETRO GOLF COURSE BOUND BY PROPERTY OWNED BY LARRY D. AND KAY GREEN (TAX PARCEL 027-1001-0488 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0360082 IN THE OFFICE OF SAID RECORDER), DAVID J. AND TRACY REED-CASE (TAX PARCEL 027-1001-0490 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 9639764 IN THE OFFICE OF SAID RECORDER), RUTH ANN MURPHY (TAX PARCEL 027-1001-0491 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 0822169 IN THE OFFICE OF SAID RECORDER), MATTHEW E. AND KATHERINE M. KENT AND MARGARET KENT (TAX PARCEL 027-1001-0518 AS DESCRIBED IN A WARRANTY DEED RECORDED UNDER INSTRUMENT NUMBER 1505481 IN THE OFFICE OF SAID RECORDER), LOTS 9 AND 12 OF PETRO PARK ADDITION, THE SOUTH RIGHT-OF-WAY LINE OF SHANOWER DRIVE, AND LOTS 83, 88, AND 90 OF BARRINGTON ESTATES AREA 4 6TH REVISION TO THE NORTH, LOT 83 OF BARRINGTON ESTATES AREA 4 6TH REVISION, LOTS 52, 59 AND 60 OF BARRINGTON ESTATES AREA 1 6TH REVISION, AND LOT 54A OF MANN'S REPLAT TO THE EAST, AND THE ST. JOSEPH RIVER TO THE SOUTH AND WEST.

SOUTH OF JUDAY CREEK

A PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHWEST AND SOUTHEAST QUARTER OF SECTION 33; PART OF THE WEST HALF OF THE SOUTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 34; PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27; AND PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE SOUTH BANK OF JUDAY CREEK SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0204D, 18141C0208D, AND 18141C0209D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011.

NORTH OF JUDAY CREEK

A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29; PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28; PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE NORTHWEST AND NORTHEAST QUARTER OF SECTION 33; PART OF THE NORTHWEST QUARTER AND NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 34; PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 27; AND PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER,

THE SOUTH HALF THE NORTHEAST QUARTER, AND THE NORTH HALF OF THE SOUTHEAST OF SECTION 26, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 1,500 FOOT OFFSET FROM THE FLOODWAY BOUNDARY ALONG THE NORTH BANK OF JUDAY CREEK SHOWN AS A FLOODWAY AREA IN ZONE AE PER THE FLOOD INSURANCE RATE MAPS (FIRMS) PANEL NUMBERS 18141C0204D, 18141C0208D, AND 18141C0209D WITH AN EFFECTIVE DATE OF JANUARY 6, 2011.

RESOLUTION NO. 2021-04

**RESOLUTION OF THE CITY OF MISHAWAKA REDEVELOPMENT
COMMISSION DESIGNATING AND DECLARING CERTAIN AREAS AS
REDEVELOPMENT PROJECT AREAS SPECIFICALLY RE-
ESTABLISHING THE CITY MUNICIPAL RIVERFRONT DISTRICT**

WHEREAS, the City of Mishawaka Redevelopment Commission (the "Commission"), governing body of the City of Mishawaka Department of Redevelopment (the "Department") and the Redevelopment District of the City of Mishawaka, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in Indiana Code 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, the Commission desires to establish certain areas (the "Areas") described in Exhibits A, B, C, D, and E as attached hereto as a Riverfront Redevelopment Area. This shall be considered separate to and not intended to modify any properties located in previously established redevelopment project areas including any parcels within the described areas which are already designated economic development areas, allocation areas, redevelopment project areas, urban renewal areas or other designations as provided in Title 36, Article 7 of the Indiana Code, as a Redevelopment Project Area in accordance with Section 15 of the Act; and

WHEREAS, in the Areas, the Commission finds that normal development and occupancy are either difficult, undesirable, or impossible because of lack of development and cessation of growth, and unrealized potential, and are therefore "areas in need of redevelopment" as defined by Indiana Code 36-7-1-3; and

WHEREAS, the Commission finds that the lack of development and cessation of growth cannot be corrected in the Areas by regulatory processes or the ordinary operations of private enterprise without resort to the Act; and

WHEREAS, the Commission finds that the public health and welfare will be benefited by the redevelopment of the Areas; and

WHEREAS, the Commission has caused to be prepared maps and legal descriptions, attached as Exhibits A through E, showing the boundaries of the area in which property would be affected by the establishment of the Redevelopment Project Area and the location of various parcels of property, streets, alleys, and other notable features of the area which may affect the future acquisition, clearance, remediation, re-platting, re-planning, rezoning, or redevelopment of the area; and

WHEREAS, this resolution conforms to the Comprehensive Plan for the City of Mishawaka;

NOW THEREFORE, BE IT RESOLVED by the City of Mishawaka Redevelopment Commission as follows:

1. The area needing development is currently limited relative to the social and economic interest of the unit and its inhabitants.

2. It will be of public utility and benefit to establish the Areas and allow them to develop them under the Act.

3. The Areas are designated as a Redevelopment Project Area for the purposes of the Act.

4. The Commission does not currently intend to acquire any property pursuant to declaration of the Areas as a Redevelopment Project Area except those that are placed on the City acquisition list which are and would be defined by a separate process.

5. The Commission hereby finds and determines that declaration of the Redevelopment Project Area conforms to other development and redevelopment plans for the City.

6. Nothing in this resolution shall be construed as to modify or supersede any elements of Common Council Resolution R82-31 establishing the Central Business District, or of Redevelopment Commission Resolution 2014-03 establishing the Consolidated Area Improvement Project.

7. This Resolution shall modify and supersede Redevelopment Commission Resolution 2018-02 establishing a Municipal Riverfront Project Area.

8. The maps and plats of the Redevelopment Project Area showing its boundaries, the location of the various parcels of property, streets, alleys, and other features affecting the potential acquisition, clearance, replatting, replanning, rezoning, or redevelopment of the Redevelopment Project Area, that are to be devoted to public ways, levees, sewerage, parks, playgrounds, are hereby approved and adopted as the maps and plats for the Redevelopment Project Area.

9. This Resolution, together with supporting data, shall be submitted to the City Plan Commission, and the City Common Council, as provided by Section 16 of the Act, for the approval of the Resolution, and if approved by both bodies, the Resolution shall be submitted to public hearing and remonstrance as provided by Section 17 of the Act and Indiana Code 5-3-1 and after all required filings with governmental agencies and officers have been made pursuant to Section 17(b) of the Act.

10. This Resolution does not affect any rights or liabilities accrued, penalties incurred, offenses committed, or (except as otherwise provided herein) proceedings begun before the effective date of this Resolution.

11. This Resolution shall be in full force and effect from and after its adoption by the Commission.

* * * * *

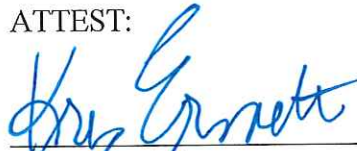
ADOPTED AND APPROVED at a meeting of the City of Mishawaka
Redevelopment Commission held on the 15th day of November, 2021.

CITY OF MISHAWAKA
REDEVELOPMENT COMMISSION



Gary L. O'Dell, President

ATTEST:



Kris Ermeti, Secretary

RESOLUTION NO. R 2022-02

**A RESOLUTION OPPOSING LEGISLATION REGARDING
THE BUSINESS PROPERTY TAX
OF THE CITY OF MISHAWAKA**

WHEREAS, the Indiana Legislature proposed changes to the depreciation floor and other aspects of Indiana's business personal property tax as a priority in their 2022 Legislative Agenda; and,

WHEREAS, the City of Mishawaka opposes all legislation that contemplates eliminating any portion of the personal property tax without permanent FULL replacement guaranteed by the State of Indiana; and,

WHEREAS, any contemplated revenue replacement must be a source of revenue that continues to grow over time just as a property tax base would in order to allow growing communities to meet the demand for services; and,

WHEREAS, a permanent state tax credit applied to ALL proposed business personal property tax reductions, holidays, phase-outs, etc., could eliminate unnecessary burden on local government in order to continue building healthy Indiana communities; and,

WHEREAS, the personal property tax is a relied upon method for funding local government; and,

WHEREAS, for taxing units not at the caps, a reduction in the tax base could result in property owners paying more in residential property taxes. For those communities at the caps, any phase-out of the business personal property tax means a loss in revenue for local units of government; and,

WHEREAS, the City of Mishawaka in St. Joseph County would lose an estimated \$3 million in tax revenues; and,

WHEREAS, significantly reducing the business personal property tax will have a dramatic impact on the City of Mishawaka and with the reduction in TIF revenue, significant projects will be pushed back or canceled altogether; and,

WHEREAS, Public Safety: Police, Fire and EMS utilize 46% of the City of Mishawaka's General fund. The reduction in the business personal property tax could have an impact on Public Safety for the City of Mishawaka affecting residents, businesses and surrounding communities; and,

WHEREAS, The Tax Foundation 2022 State Business Tax Climate Index lists Indiana as number one ranking for property tax; and,

WHEREAS, Indiana consistently ranks in the top states with an attractive business tax climate, yet a community's quality of life is an increasingly greater influencer of business relocation and growth decisions; and,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka that we hereby oppose all legislation that contemplates eliminating any portion of the business personal property tax without full and permanent replacement guaranteed by the State of Indiana.

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 _____, 2022, at _____ o'clock ____m.

Dale "Woody" Emmons,
1st District

Ron Banicki, 6th District
Vice President

Mike Bellovich, 2nd District

Gregg Hixenbaugh,
President, At Large

Anthony "Tony" Hazen,
3rd District

Matt Mammolenti,
At Large

Kate Voelker, 4th District

Maggie DeMaegd, At Large

S. Michael Compton,
5th District

Deborah S. Block, IAMC, MMC
City Clerk

David A. Wood, Mayor

Deborah S. Block, IAMC, MMC

FEB 01 2022

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2022-05

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE 5770 AN AGREEMENT
BETWEEN THE CITY OF MISHAWAKA AND THE EMPLOYEES OF THE
SEWER DEPARTMENT, REPRESENTED BY THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS LOCAL NO. 364**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana/Mishawaka Utilities and the International Brotherhood of Electrical Workers Local No. 1992 have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2021; and

WHEREAS, the members of the International Brotherhood of Electrical Workers Local No. 1392 have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the new Agreement on their behalf; and

WHEREAS, on the 14th day of December, 2021, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the new Collective Bargaining Agreement with the International Brotherhood of Electrical Workers No. 1392 and the Mishawaka Common Council approved the contract by passing Ordinance 5769 on December 20, 2021. This Ordinance replaces Ordinance 5769 with corrections.

WHEREAS, Ordinance No. 1666 requires all Corrections to the Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The Correction to the Collective Bargaining Agreement executed the 14th day of December, 2021, effective January 1, 2022, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the International Brotherhood of Electrical Workers Local No. 1392 and the Mishawaka Common Council is hereby approved.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2022, at _____ o'clock _____ M.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2022, at
_____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF HR

January 31, 2022

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Deborah S. Brook, MMC, MMC

FEB 01 2022

City Clerk
Mishawaka, IN

Mr. President and Honorable Members of the Council:

I respectfully request your approval of the attached proposed ordinance, approving the correction to the collective bargaining agreement between the City of Mishawaka, Indiana, Mishawaka Utilities and the International Brotherhood of Electrical Workers, Local No. 1392. I would like to have the First and Second Reading together.

Myself and Kevin Wasmer, plan to attend the meeting to speak in favor of approval and to be available to answer questions at the pre-Council meeting that evening. Feel free to contact me prior to the meeting at 574-258-1615 or at skile@mishawaka.in.gov.

Thank you in advance for your consideration.

Sincerely,

Susan W. Kile

Susan W. Kile, PHR
Human Resources Director

MEMORANDUM

To: Mishawaka Common Council
From: Kevin Wasmer and Susan Kile
RE: IBEW Contract language & Article location for “*Higher Rate of Pay*”
Date: January 31, 2022

During our IBEW contract negotiations last year we discussed and agreed to add new language that would allow employees to keep their higher rate of pay when called out for emergency's. Examples discussed were when an employee is called out on a Sunday or Holiday and works beyond midnight (12:01 a.m.) the employee would be able to stay at double time pay and it shall not decrease until released from work by the company or the employee transitions into their regular scheduled shift hours.

We have heard from some Union Employees that it is a little confusing the way it was recorded in the IBEW Contract under Article 14: A, 3. *Once a higher rate of pay has been earned the rate of pay shall not decrease until released from work by the company.*

Some seem to think it means they now get time and a half all day during their normal shift if they are scheduled for overtime before 7:30 a.m. We never agreed to employees staying at a higher rate of pay for scheduled overtime work that may run over into their regular shift.

I believe this language should be moved to the Emergency call-out section under Article 16: A., *The minimum time allowed for an emergency call outside of normal working hours covered by this contract shall be two (2) hours. Once a higher rate of pay has been earned the rate of pay shall not decrease until released from work by the company.* This should help clarify what the higher rate of pay language was intended for.

D. The Mayor (or his designee) may approve deviations from seniority in layoffs when seniority alone would result in retaining employees unable to maintain a satisfactory level of performance. In such cases, the affected employees shall be given written notice of the determination and the reasons therefore, as well as the opportunity for a formal hearing with Union representation following such notification. Unsatisfactory hearing determinations may be grieved directly to Step Four of the grievance procedure.

E. Recall:

1. Recall shall be accomplished so that the employees recalled shall be those with the skill, ability and experience necessary to perform the available work.
2. Where not in conflict with the principle expressed in subsection (1) above, recall shall be by seniority.

ARTICLE 14: HOURS AND OVERTIME, NON-SHIFT EMPLOYEES

A. For record purposes:

1. The work week shall consist of seven (7) consecutive calendar days, beginning at 12:00 A.M. on Saturday and ending at midnight on Friday.
2. The work day shall be a period of twenty-four (24) hours starting and ending at midnight.
3. ~~Once a higher rate of pay has been earned the rate of pay shall not decrease until released from work by the company.~~

B. Employees shall normally be scheduled to work eight (8) hours during a work day and forty (40) hours during a work week. However, this provision shall not be construed as a guarantee of hours of work or pay.

C. Regular work schedules within the work week are Monday through Friday. Regular work shifts within the work schedule are eight (8) consecutive hours, exclusive of the lunch period provided for in Article 22. Regular work shifts are:

Business Office	8:00 a.m. to 5:00 p.m.
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All Other Divisions	7:30 a.m. to 4:00 p.m.
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Deviation from the above regular schedules and shifts for current jobs may be arranged at any time between management, affected personnel and the Union. Senior employees will be given preference for any such deviation in the following order of priority: 1) classification, 2) work group, and 3) seniority unit (as defined in Article 11, Section E). Newly posted jobs may deviate from the above regular schedules and shifts.

- G. Shift workers who work first and third shifts shall receive a shift bonus, to be negotiated with wages and listed in the salary ordinance.
- H. Shift workers shall not be required to change shifts to cover a one-day absence of a fellow shift worker.
- I. Shift workers who have similar qualifications shall be allowed to exchange shifts with approval of the Division Manager.
- J. For those workers who have been assigned to the current 6-2 rotation, it is understood that this provision is not intended by either party to guarantee nor mandate continuation of the currently-configured six (6)-day, forty-eight (48)-hour shift work schedule rotation.

ARTICLE 16: EMERGENCY CALL-OUT

- A. The minimum time allowed for an emergency call outside of normal working hours covered by this contract shall be two (2) hours. **Once a higher rate of pay has been earned the rate of pay shall not decrease until released from work by the company.** ~~If a two (2)-hour period extends beyond the beginning time of the employee's normal working day, the regular pay for hours worked on such day shall commence at the regular beginning time of such employee on that day.~~
- B. Regardless of the time worked by the employee or the number of times called during such two (2)-hour period, the compensation for such full period shall be limited to two (2) hours at the applicable overtime rate. In the event the time worked by the employee is less than two (2) hours during such call-out, the employee shall make himself available for the full two (2)-hour period.

ARTICLE 17: INCLEMENT WEATHER

- A. Employees who are unable to work outside because of inclement weather shall be provided other safe work or training.
- B. Inclement weather will be deemed to mean weather conditions that will make the work unsafe. It is understood and agreed that such determination shall be the right of the Department or Division Manager or the Mayor (or his designee).
- C. Emergency work shall be performed regardless of the weather conditions.

ARTICLE 18: TEMPORARY ASSIGNMENTS