

AGENDA

March 07, 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): 2332 813 8211
Meeting Password: AMaZUJnD734

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: 23328138211@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 21, 2022

5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2022-02 Use Variance to allow microblading at an existing salon - 3931 Lincoln way East - That Hair Place

Appeal No. 2022-04 Use Variance to allow microblading at existing salon - 1238 University Dr.

A public hearing on Vacation 2022-01 required by State Statute on behalf of by DEV 4506 Lincolnway East, LLC for the Right-of-way vacation for planned adjacent car wash development (Drive & Shine) located at Wayne Street and Pennsylvania Avenue (undeveloped).

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2022-04	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 withdrawal)
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. (Assigned to Land Use Planning Committee)
P.O. No. 2022-07	Right of Way Vacation for Planned Adjacent Car Wash Development Drive N' Shine - Wayne & Pennsylvania Ave. (Assigned to Land Use Planning 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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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 21, 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 21, 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 (P), 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 February 7, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following letter from the City Plan Commission regarding their recommendations from their February 08, 2022 meeting.

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

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

PROPOSED ORDINANCE NO. 2022-06

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

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-07

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.

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

(Assigned to Land Use Planning Committee)

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

RESOLUTION R2022-01

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

Ken Prince, Director of Planning Community Development Department, spoke in favor of and presented **RESOLUTION R2022-01**. Mr. Prince summarized the resolution by stating in 2004 was when the city originally adopted a municipal riverfront district with purposes of reduced liquor license as afforded by state law. Mr. Prince stated in 2018, they amended it drastically and what they did at that point in time was they said they did not want to be the arbitrator of the special districts established by the state and wanted to maximize the area involved. Mr. Prince stated since then, they had obtained that. Mr. Prince stated they took the floodplain that was identified on the FEMA flood maps for both the St. Joseph River and Juday Creek and extended it the maximum 1500 feet on both sides of the bank, so that created it as the area of the district in the city. MR. Prince stated they literally made every property eligible for a river walk license that would be zoned appropriate. Mr. Prince stated what they found out, which was brought to their attention by Mr. Hazen, was that there were areas of the river outside of the FEMA identified floodplain. Mr. Prince stated there were areas of open water that were not regulated as floodplain that was still part of the water body that would make other areas eligible for a Riverwalk license. Mr. Prince stated these were all located on the east side of the Twin Branch Dam. Mr. Prince stated they had amended the district and that was what the proposal was before them that evening to add the areas that had open water, which extended the Riverwalk district up along Lincoln Way. Mr. Prince stated the other area that was included was the area of Bittersweet Cove that extended parallel to Bittersweet and they had a channel that was open water creating a larger area for Riverwalk license eligibility. Mr. Prince stated that was the only purpose of the resolution before the council that evening and he would take questions.

Mr. Hixenbaugh thanked Mr. Hazen for his diligence in bringing the issue to light.

Question was called for at 7:09PM for **RESOLUTION R2022-01** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

RESOLUTION R2022-02

A RESOLUTION OPPOSING LEGISLATION REGARDING THE BUSINESS PROPERTY TAX OF THE CITY OF MISHAWAKA KNOWN AS REPLACE DON'T ERASE PERSONAL PROPERTY TAX

Mayor Wood spoke in favor of **RESOLUTION R2022-02**. Mayor Wood stated typically, he did not like resolutions like this with it being non-binding, but in this case and only in this case, where it was of immediate and significant consequence to the city of Mishawaka, would he think of supporting something like this. Mayor Wood stated this was the General Assembly's somewhat annual attempt recently to cut the business personal property tax and Indiana was in a favorable tax climate being better than most, if not all, states in many categories. Mayor Wood stated most of them did not mind being in that position because of the economic development activity that could happen with the impact on their businesses and such. Mayor Wood asked rhetorically 'why would we be opposed to this?' and went on stating the state was looking to cut part of it and it impacted local governments the most. Mayor Wood stated the proceeds from the business personal property tax did not go straight to the state, but they were a property tax that came to local communities. Mayor Wood stated for example, they had Baker Tilly look at what impact this would have if it were cut fully and that would be to the tune of about three million dollars. Mayor Wood stated the house bill being considered down state did not attempt to cut the entire amount, but these tax dollars were important because they went straight to their general fund. Mayor Wood stated that was the fund that supported police, fire and almost all of their payroll in the city of Mishawaka. Mayor Wood stated a cut of any kind to that without replacement would put them in a more precarious spot with their budget. Mayor Wood reminded them that they were spending out of deficit that year because of the property tax caps that were instituted and their preparation for that. Mayor Wood stated they also had not seen the assessed evaluation of their property really kick in. Mayor Wood stated they knew real estate was white hot but that would not impact them for some time to come, if it did impact them. Mayor Wood stated they had just recently caught up to 2008 levels just a couple of years ago, so they were in a position where they were giving their employees more and more raises and they believed it was justified because they deserved it. Mayor Wood stated they were in a position where they still had to buy firetrucks, they had thirty police cars with about eighteen on back order and twelve that were getting ready to be ordered, they had to equip their staff and provide training and finally the departments needed more people. Mayor Wood stated when you are faced with cuts and spending on a deficit such as this, it became more difficult. Mayor Wood asked rhetorically 'what would their options be?' and stated it would not be out of their general fund, which is what supported public safety with about half of their budget and most of the budget going to payroll. Mayor Wood stated if the council wanted more police and fire there was an option with it being the local option income tax for public safety. Mayor Wood stated the county was at 1.75 with the capacity being 2.5. Mayor Wood stated if the council decided to raise that tax, it would be about a 54 million dollar take for the county, assuming South Bend or Saint Joe County would go along with it and that would be roughly 9 million for the city of Mishawaka for public safety. Mayor Wood stated that was an option the council had in front of them, but they were there to talk about the business personal property tax and it was another attack into their local budget. Mayor Wood stated it was alive downstate and could pass in some form that year, so they wanted to send a good strong message, as had other towns and cities across the state of Indiana. Mayor Wood stated the message would be that it impacted them at the local level and if they attempted to make any cut of business personal property tax, they wanted to see a direct replacement decided on as part of that effort. Mayor Wood stated that was the emphasis of the resolution and

it was a very important signal they could send downstate to their legislators, who often wanted to cut but did not realize the impact of those cuts on their local community. Mayor Wood stated it also impacted their residents, because for the homeowners not up to the property tax caps, it acted as a shift to homeowners. Mayor Wood stated homeowner's taxes will go up to the tax caps to compensate for the business personal property tax cuts that would impact businesses in a positive way. Mayor Wood encouraged the council to support this and it was a vote of conscience and a vote that was non-binding in anyway other than them wanting to send a message downstate.

Bryon Woodward, Mishawaka Fire Chief, spoke in favor of **RESOLUTION R2022-02**. Chief Woodward stated everyone in the Mayor's administration had been great to them over his ten years of Fire Chief over the last five years. Chief Woodward stated they felt it was important to come show their support back to the city and a tax cut like this would adversely affect the plans they had trying to move forward. Chief Woodward stated as they continued to work with the administration, should they talk about things such as adding people. Chief Woodward stated this would not only significantly impact them, but also every employee working for the city. Chief Woodward stated they understood the amount of money they used out of the city budget, they did not want it to be more of an impact on the other city employees, and they tried to be very cognizant when they did that stuff. Chief Woodward stated they were present as a show of support for the city. Chief Woodward stated they had been very good to them and they felt it was important for them to be there to show that support back to them.

Frank Zappia, President of Mishawaka Professional Firefighters Local 360, spoke in favor of **RESOLUTION R2022-02**. Mr. Zappia stated he was in Indianapolis for a legislative conference for the state firefighters and he got to talk with some of their state leaders about the topic. Mr. Zappia stated they had worked directly with the replaced Stony Race and anything that was going to hurt the financial impact of the city for public safety is something they could not be for. Mr. Zappia stated Mayor Wood brought up increasing the county's public safety local option income tax and he knew increasing taxes was not something people wanted to hear about, but sometimes it was necessary and it was an option to look into. Mr. Zappia stated he was appreciative of the fact that the city was looking to go against what the state had proposed.

Rich Freeman, President of the Mishawaka Police Fraternal Order of Police Lodge 91, spoke in favor of **RESOLUTION R2022-02**. Mr. Freeman stated in attending some of the meetings and listening to the public, he seconded Chief Woodward and Mr. Zappia's stances as far as manpower and increasing police on the streets. Mr. Freeman stated he would say that not only was this a financial burden within the city on the general fund but in order to remain competitive in a field where they were finite with the interest in law enforcement in general, and even a smaller amount of people who were qualified, any type of hindering to the fund would hinder the process altogether. Mr. Freeman stated he was in favor of the resolution and would answer any questions.

Mr. Hixenbaugh thanked everyone who spoke that evening, including Mayor Wood for the work that went into drafting the resolution. Mr. Hixenbaugh stated as they touched on a number of times, he thought they were all in favor of looking to fully fund their public safety agencies including increasing manpower in both the police and fire department as they were able to do so. Mr. Hixenbaugh stated anything standing in the way of them doing the job to support public safety that they need to was something he was not in favor of. Mr. Hixenbaugh appreciated the work that went into this and the comments made that evening.

Question was called for at 7:23PM for **RESOLUTION R2022-02** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

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

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

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

Mayor Wood respectfully requested that they approve **PROPOSED ORDINANCE NO. 2022-05**. Mayor Wood stated it had already been approved through the collective bargaining agreement between the city of Mishawaka, Mishawaka Utilities and the International Brotherhood of Electrical Workers Local Number 1392. Mayor Wood stated essentially what this did was strike a sentence from one section and recreate the sentence in another section that was more appropriate for the sentence to be. Mayor Wood stated it referred to emergency callout language and it was something he would almost call a scrivener's error. Mayor Wood stated when they first realized they needed to do this, they were advised they could do it by memo, which they usually liked to be transparent and go through the council on these things. Mayor Wood stated they were then advised, has been tradition even since when he was on the City Council, to request first and second reading for this. Mayor Wood stated they did that in part because it was a minor thing and would never attempt to request first and second reading if it were a fiscal matter or something of consequence to the city, unless it were an emergency. Mayor Wood stated they came in part to not clog up their agenda and get it over with; being that it was a minor scrivener's error. Mayor Wood stated the rules had evidently changed and they recognized that and they would not be bringing them to the council unless they requested first

and second reading. Mayor Wood stated there was no attempt to not be transparent in this nor were they trying to slide something through and were not trying to be shift in any way. Mayor Wood stated they knew the lay of the land so they would adhere to that and they could count on that from his administration. Mayor Wood requested they approve the proposed ordinance that evening.

Mr. Banicki thanked the Mayor for bringing this to the council and in the 18 years he had been on the council, they had done a lot of first and second reading and there was nothing that had been underhanded. Mr. Banicki stated if it was ever questionable, they had always done the right thing and done first and second reading separately. Mr. Banicki stated he appreciated the Mayor's efforts and by no means did he see that as being other than wanting to get it over with and move on.

Question was called for at 7:28PM for **PROPOSED ORDINANCE NO. 2022-05 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **Ordinance No. 5782.**

PRIVILEGE OF THE FLOOR

Mayor Wood wanted to address another issue that was brought up at the last council meeting and that had to do with snowplowing. Mayor Wood stated he would tell them that there was no one more proud of the efforts of the Mishawaka Street Department, Central Services Department, Sewer Department and others in snowplowing than he was. Mayor Wood stated he was their biggest supporter but he also expected more out of them than anyone else. Mayor Wood stated that was only because he knew that they were up to any challenge or any goal that they threw out there. Mayor Wood stated their challenges were bigger because of what was going on around the country with the times. Mayor Wood stated they had salt that they had ordered by contract and they would get regular shipments of it. Mayor Wood stated they had product and a supplier but there were no trucks to get it there and it was starting to show up slowly. Mayor Wood stated they actually had to pay trucks to go pick up that product and had to pay for that even though it was a part of a contract to be delivered to them. Mayor Wood stated they were doing that to make sure they did not run out of salt and they would not run out of salt. Mayor Wood stated they would seek restitution as they could and they had a significant fleet of trucks. Mayor Wood stated not all of which liked snow and especially not like the snow and cold mix and so when a truck broke down, they had a good fleet but they still broke down. Mayor Wood stated when they did break down, they could not get the parts like they used to and they would sit in a shop for a significant period of time. Mayor Wood stated the goals were still the same and they would not change. Mayor Wood stated the public should not expect less of them and they would not deliver less. Mayor Wood stated they would see now as a result of some of the issues they were having that pickup trucks plowed nine or ten formations on their five, six seven, eight, nine lane roads and they would never have seen that in the past. Mayor Wood stated that was because the

goal had not changed and they would put everything in their power out and run around the clock with it, with the first significant snow always being a tester for them. Mayor Wood stated that one came and it was rain right before the snow so they couldn't pre-treat and pre-treatment was good for them because it prevented snow from packing. Mayor Wood stated in this case, they could not pre-treat so the snow packed and when it packed, it was almost like they had to continuously plow because as it loosened and melted up it would still be there on the street. Mayor Wood stated they appreciated the patience of their citizens but oftentimes, they plowed snow into their driveways and he knew it was frustrating. Mayor Wood stated he knew this from personal experience and having to clear the snow out of his driveway multiple times after the plow truck came through. Mayor Wood stated though he did not shovel the snow back into the street, because he knew it would just come right back into his driveway. Mayor Wood stated they had danced that dance with the public many times and they also tried to plow their streets multiple times. Mayor Wood stated one of the main reasons they plowed their streets was so that if there were an emergency, public safety personnel and equipment could get to that doorstep no matter what and that was their goal. Mayor Wood stated the complaints last week ranged from the plows did not come through to they came through too much and the beauty of their equipment was that it had GPS. Mayor Wood stated that helped them be able to tell the time, date and how fast the truck came to their neighborhoods and he knew that they came through their neighborhoods and could pull the data to further demonstrate that. Mayor Wood stated they knew there was frustration that came with snowplowing on all of their citizens. Mayor Wood stated they got a lot of compliments about their first effort of the year and then again last week from the public. Mayor Wood invited those who had frustrations to give them a call and not sit with pent up feelings until the next council meeting. Mayor Wood stated they were there to work with them and all of their department managers were available to them not just during the day but 24/7 because they were that dedicated to their job. Mayor Wood stated if they did have an issue to please feel free to give them a call and if they didn't get anywhere with them, to call him personally and they would make sure to give them the response the citizens deserved. Mayor Wood stated that held true or other things as well no matter what the issue. Mayor Wood stated they also heard some complaints about sidewalks and they lived in a city where they had no school buses, so kids often had to walk to their schools. Mayor Wood stated that meant they had to do a better job than most communities to make sure there was at least one shovel swipe through the neighborhoods, especially closer to schools, so kids could walk on the sidewalks without having to walk on the streets. Mayor Wood stated their Code Enforcement department really made a big effort of clearing at least one path and they would work with citizens no matter what the issue was and if there were citizens who had no way to get their shovel, they would work to try to find somebody to help with the shoveling. Mayor Wood stated at the end of the day they had to put out those expectations, because people had a reasonable expectation to have their kids walk to school safely. Mayor Wood stated they wanted to assist with that to the extent they could and it was one of those things that when they did that, a lot of people complain but it was their job to make sure that they were as open as they possibly could be and that started with them. Mayor stated they tried to put a good example out there and with that, he would take any questions on the snow removal effort.

Mrs. Voelker stated she didn't have a question but did have a comment and stated she lived on Lincolnway where kids walked to school every day and it was very, very important that those sidewalks be clear. Mrs. Voelker stated she appreciated the efforts and she personally appreciated it, because she walked a lot on those sidewalks herself.

NEW BUSINESS

Mr. Hixenbaugh announced there was a discussion of changing the council meetings in April from April 4th to April 11th and April 18th to April 19th. The chair entertained a motion to change their two meetings in April with the first meeting in April now taking place on Monday April 11th and the second meeting in April would take place on Tuesday April 19th. The motion was made and seconded to change the meeting dates for the council in the month of April. The motion passed and Mr. Hixenbaugh stated he would notify all of the interested parties of those date changes.

Mr. Emmons made a reminder that there would be no regular meeting in the 1st District in March. Mr. Emmons stated they would start again in April on the third Thursday in April.

ADJOURNMENT 7:38PM

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

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

Deborah S. Block, IAMC, MMC

MAR 02 2022

City Clerk
Mishawaka, IN



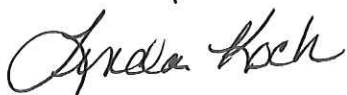
DATE: February 14, 2022
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. We, Stephen and Linda Koch, are the owners of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 1 Koch's Minor Subdivision
Address of: 3931 Lincolnway E., Mishawaka, IN 46545
2. The above-described real estate presently has a zoning classification of C-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner:
Hair Salon.
4. Appellant desires to provide microblading services in conjunction with other salon services.
5. The Zoning Ordinance of the City of Mishawaka does not permit the proposed use in the C-1 District.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. The permitted uses do not allow for the proposed use which is of a similar intensity and comparable to other permitted uses in the district.
7. Answer the following necessary questions for a **USE VARIANCE**:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? **No. Microblading is the shaping, forming and coloring of semi-permanent eyebrows. Our licensed Aestheticians have taken a class to learn this procedure.**
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? **No. The Aesthetician services currently include facials, eyelashes etc. and will be augmented by adding microblading. The clientele, stylist schedule and parking will remain the same.**
 - (3) Does the need for the variance arise from some condition peculiar to the property involved? **No. Adding the service provided by our Licensed Aestheticians allow them to compete with others providing the same service and operating in the city of Mishawaka under their use variance.**
 - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? **Yes. Denying access to the microblading service creates an economic hardship for our licensed Aestheticians as others are operating within the city limits of Mishawaka under a Use Variance. The two Aestheticians will have completed their training before the filing date of this use variance petition.**
 - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? **No. As others currently have been granted the use variance granting our Hair Salon the variance would show us compliant with the Mishawaka 2000 Comprehensive Plan.**

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



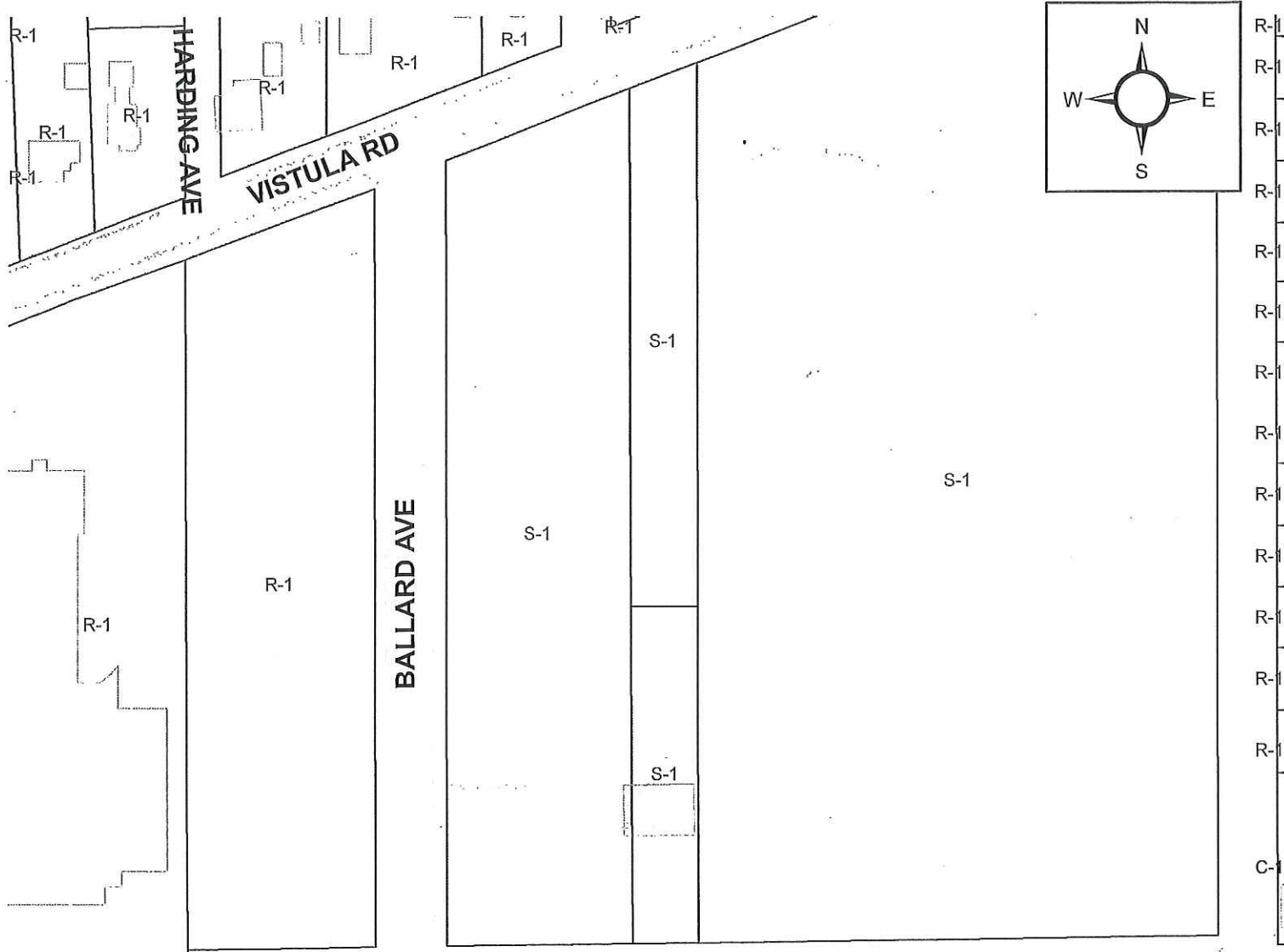
Linda Koch
President of That Hair Place LLC
Co-owner of 3931 Lincolnway E.
Mishawaka, In. 46544



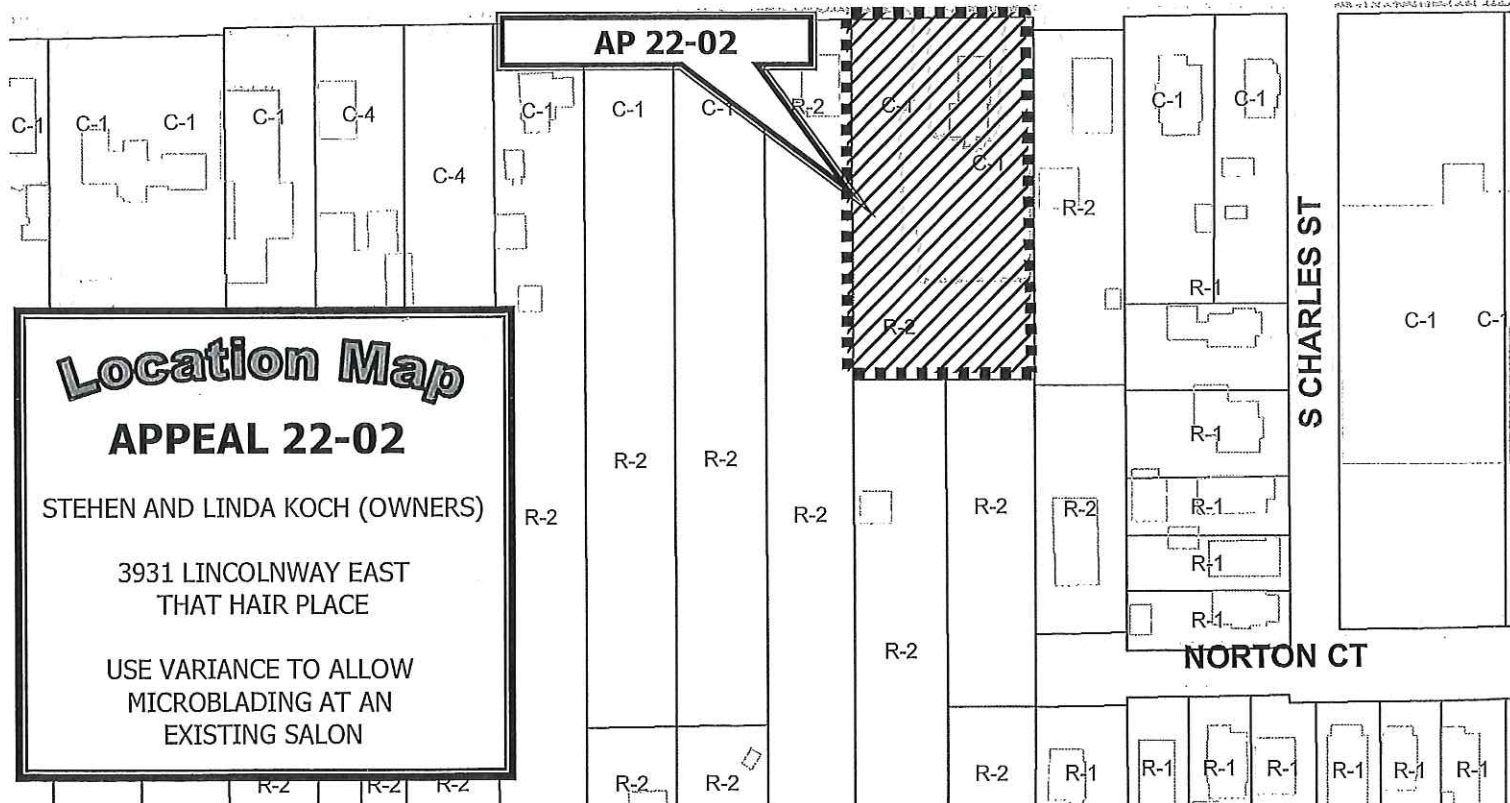
Stephen Koch
Co-owner of 3931 Lincolnway E.
Mishawaka, In. 46544

CONTACT PERSON:

Name: Stephen Koch
Address: 14600 Lindy Dr., Granger, IN 46530
Day Phone Number: (574) 274-0779 m
Fax Number:
Email: skoch48072@yahoo.com



LINCOLNWAY EAST



Filing for Use Variance

DATE: February 16, 2022

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

Deborah S. Block, IAMC, MMC

MAR 02 2022

City Clerk
Mishawaka, IN



The undersigned appellant respectfully shows the Board:

1. I, **Jefferson Sola LLC**, am the owner of the Sola Salons operating at the following described real estate located within the City of Mishawaka, Harris Township, St. Joseph County, State of Indiana, to-wit:

City Plaza North PUD Phase I as recorded under Instrument #0538674 in the Office of Recorder of St. Joseph County, Indiana – 1238 E University Dr, Granger, IN 46530

The owner of this above-described real estate, Five City Plaza LLC has authorized Jefferson Sola LLC to petition/seek approval from the Board of Zoning Appeals for a use variance.

2. The above-described real estate presently has a zoning classification of S-2 Planned Unit Development District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Hair and Beauty Salon
4. Appellant desires to allow licensed occupants to provide microblading services in conjunction with other salon services.
5. The Zoning Ordinance of the City of Mishawaka does not permit the proposed use in the S-2 Planned Unit Development District (Section 137-672) which identified C-2 Shopping Center Commercial as the permitted uses (Ord. 4938).
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. The permitted uses do not allow for the proposed use which is of a similar intensity and comparable to other permitted uses in the district.
7. Answer the following necessary questions for a **USE VARIANCE**:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? **YES OR NO and explain your reason why.**
No. As above, microblading is of similar intensity and comparable to other permitted uses in salons. Further, these services would be performed in a private, appointment only setting. All providers would be licensed and insured.
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? **YES OR NO and explain your reason why.**
No, it aligns with the current permitted uses and business practices currently being performed.
 - (3) Does the need for the variance arise from some condition peculiar to the property involved? **YES OR NO and explain your reason why.**
Yes, the existing zoning does not permit a tattoo business or microblading services, but does allow the salon where the process is taking place, thus requiring the Use Variance for the proposed use.
 - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? **YES OR NO and explain your reason why.**
Yes. The permitted uses do not allow for the proposed use which is of a similar intensity and comparable to other permitted uses in the district.
 - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? **YES OR NO and explain your reason why.**
No, the proposed use is of a similar intensity and comparable to other permitted uses in the district.

Two City Plaza, LLC

1230 E. University Drive, Granger IN 46530



Board of Zoning Appeals
City of Mishawaka
600 E. 3rd St.
Mishawaka, IN 46544

To Whom it May Concern:

This letter shall confirm that Jefferson Sola LLC, d/b/a Sola salon Studios is a tenant occupying 1238 E. University Drive, in Granger, Indiana and that Two City Plaza LLC, is the landlord and title holder of said space. This letter shall also confirm that the landlord does not have any objection to the tenant's petitions to the city of Mishawaka for a use variance limited to microblading and application of permanent makeup in 1238 E. University Drive in Granger, Indiana.

Please advise if there are any questions.

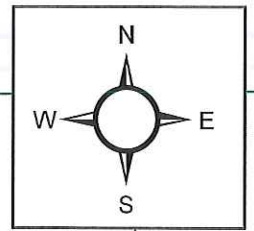
Sincerely,

Two City Plaza, LLC

By: Great Lakes Capital Management, LLC, its manager

By:   
7529A3DF-4916416...
Ryan Rans
Its: Manager
2/11/2022
Date

CLEVELAND RD



C-1

S-2

AP 22-04

S-2

FIR RD

E UNIVERSITY DR

S-2

C-1

Location Map

APPEAL 22-04

JEFFERSON SOLA LLC

1238 E UNIVERSITY

USE VARIANCE TO ALLOW
MICROBLADING AT AN
EXISTING SALON

UNIVERSITY DRIVE CT

S-2

S-2

N FIR RD

FIR RD



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2022-01</u>
PETITION NO.	<u>2022-02</u>
DATE of HEARING	<u>03-07-2022</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by DEV 4506 Lincolnway East, LLC

**Right-of-way vacation for planned adjacent car wash development (Drive & Shine)
located at Wayne Street and Pennsylvania Avenue (undeveloped)**

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on March 07, 2022 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

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.

Respectfully, 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

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

JAN 13 2022

City Clerk
Mishawaka, IN

PETITION 21-21
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-04
ORDINANCE NO. _____

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has 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:

116' X 283' SOUTHWEST CORNER LOT 40 GEORGE F. EBERHART'S PROPOSED ADDITION, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

COMMON ADDRESS: Northeast corner of Jefferson Boulevard and Maplehurst Avenue

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 R-3 Multi-Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The subject property is currently a vacant parcel of land located at the E. Jefferson Boulevard and Maplehurst Avenue intersection. E. Jefferson Boulevard is a moderately travelled corridor providing east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include single family residential to the north, west, and east; and a nonprofit veteran's service organization to the south.
2. Character of Buildings – The character of the buildings in the area vary from single family residential to the north, west, and east; and a commercial building to the south. The proposed development will be consistent with the character of the adjacent residential and commercial buildings.

Proposed Ordinance No: 2022-04

Ordinance No: _____

3. The most desirable/highest and best use – Due to the property's location on E. Jefferson Boulevard, a moderately travelled roadway, and the adjacent residential and commercial uses, the most desirable use for the property is residential or commercial.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. Although the property is being rezoned to the R-3 Multiple Family Residential District, the proposed development is to include individual single family residential dwelling units and two accessory buildings. Following development, the VFW, in conjunction with the contingent developer, will be overseeing the continued maintenance and upkeep of the property.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within the south part of the property and residential within the north part of the property. The proposed residential use 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

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



Deb Block <debbie.block@gmail.com>

MTT city council hearing

3 messages

gann.danny <gann.danny@att.net>
To: debbie.block@gmail.com

Tue, Feb 1, 2022 at 11:39 AM

Deborah S. Block, IAMC, MMC

JAN 31 2022

**City Clerk
Mishawaka, IN**

Debbie,

Mishawaka troop town would like to get a continuance for our hearing to the first meeting in March.

Sincerely
Dan Gann
Vice President
Mishawaka Troop Town
Sent from my Verizon, Samsung Galaxy smartphone

Deb Block <debbie.block@gmail.com>
To: Raven Boston <rboston@mishawaka.in.gov>

Tue, Feb 1, 2022 at 12:03 PM

[Quoted text hidden]

--

Debbie
Debbie Ladyga-Block
574-274-3146(cell)

Deb Block <debbie.block@gmail.com>
To: "gann.danny" <gann.danny@att.net>, Raven Boston <rboston@mishawaka.in.gov>, Gregg Hixenbaugh <gahix63@gmail.com>, Deb Block <dblock@mishawakacity.com>

Tue, Feb 1, 2022 at 1:08 PM

Hi Dan - You sent this to me on my personal email. I have forwarded to my city email and I have included my Chief Deputy Raven and Gregg H in this email so they have this information. Thank you.

[Quoted text hidden]

[Quoted text hidden]

STAFF REPORT

Location: Northeast Corner of E. Jefferson Boulevard & Maplehurst Avenue

Date: December 14, 2021

Petition: 21- 21

Prepared By: DJS

GENERAL INFORMATION

Applicant: VFW Mishawaka Post 360 / Mishawaka Troop Town / Danch, Harner & Associates, Inc.

Status: Property Owner / Contingent Developer / Surveyor, Engineer and Site Design Consultant

Request: To rezone from R-1 Single Family Residential District to R-3 Multiple Family Residential District to allow for the construction of eight (8) starter homes for rental to returning veterans, a welcome center, and recreation/laundry building

Zoning Classification: R-1 Single Family Residential District

Lot Size: 0.75 acres

Applicable Regulations: Section 137-216 thru 137-217 / R-3 Multiple Family Residential & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential (Residential)
South: I-2 Heavy Industrial & R-1 Single Family Residential (Nonprofit Veteran's Service Organization / VFW Post 360)
East: R-1 Single Family Residential (Residential)
West: R-1 Single Family Residential (Residential) & C-1 General Commercial District (Residential)

Thoroughfare: E. Jefferson Boulevard, Maplehurst Avenue, and E. Borley Avenue

School District: School City of Mishawaka

Township: Penn Township

Public Utilities: All utilities are available and will be extended/connected to the site at the developer's cost

Comprehensive Plan: General Commercial & Low Density Residential

ANALYSIS

The Petitioner, VFW Mishawaka Post 360, is requesting to rezone a 0.75 acre parcel from R-1 Single Family Residential District to R-3 Multiple Family Residential District to allow for the construction of eight (8) starter homes for rental to returning veterans, a welcome center, and a recreation/laundry building. The property, which is currently vacant, is located at the northeast corner of E. Jefferson Boulevard and Maplehurst Avenue.

Per the conceptual site plan, Mishawaka Troop Town is proposing to construct eight (8) single family units situated around a common central courtyard. The project will also include an approximate 1,250 sq. ft. welcome center along E. Jefferson Boulevard and a 750 sq. ft. recreation/laundry building within the northern part of the property. A parking area for the units will be situated south of the welcome center and is proposed to be accessible from both E. Jefferson Boulevard and Maplehurst Avenue. A total of eight (8) parking spaces are proposed at a ratio of 1 space per unit. Construction phasing was not indicated on either the site plan or within the petition and is subject to an on-going fundraising campaign.

A developmental variance petition (AP 21-43) was submitted concurrently with the rezoning request to allow a total of eight (8) parking spaces instead of the required 16 parking spaces per ordinance. The petition will be considered by the Board of Zoning Appeals prior to the Plan Commission meeting.

The required parking space ratios are 1.5 spaces per dwelling unit and two (2) spaces per 1,000 sq. ft. for the welcome center and recreation/laundry building. The proposed parking should meet the needs of the proposed use. The number of persons per dwelling unit and vehicular ownership are expected be minimal. Furthermore, the welcome center and recreation/laundry building will be utilized mostly only by the residents. The Petitioner also owns additional property across E. Jefferson Boulevard, the current VFW site, which could be utilized for additional parking, if needed.

With of the exception of the above noted variance, the conceptual site plan shows the intent to comply with the height, area and developmental regulations for the R-3 Multiple Family Residential District. If additional variances are required, the Board of Zoning Appeals shall be petitioned when the final site plan is submitted. The proposed parking lot, where shown on the conceptual site plan, does not meet the required 10' parking/pavement setback from the public right-of-way. The Petitioner's surveyor is aware of the required setback and indicated that the final site plan will be in compliance.

With this petition, the property owner and contingent developer 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, soil erosion control, and all other required improvements pertinent to the proposed development.

Since the parcel is currently zoned for single family residential use and identified in the Mishawaka 2000 Comprehensive Plan for general commercial or residential use, Staff supports the request for rezoning. The rezoning will allow the project to be developed with multiple single family dwelling units and two (2) accessory buildings on a single parcel which is not permitted in the current R-1 Single Family District. Although not a traditional apartment complex that includes buildings with multiple units, the project will function similar to such a complex. The proposed single family residential dwelling units are not out of character with the adjacent single family homes and VFW. Furthermore, the proposed use is consistent with the recommended uses per the comprehensive plan.

The rezoning petition and conceptual site plan have been routed to all applicable City Departments for review and comment. All departments have reviewed and approved the request.

The Building Department commented that all individual dwelling units shall meet the minimum square footage requirements for specified rooms based on the number of occupants and other applicable residential requirements.

The Fire Department commented that a sidewalk shall be provided around the welcome center to connect the dwelling units and adjacent internal sidewalks to the parking area within the south part of the property. Also, if extensive landscaping and solid hedgerow are proposed along Maplehurst Avenue, gaps shall be provided in the landscaping to allow for adequate fire department access. These comments shall be addressed with the final site plan.

RECOMMENDATION

Staff recommends in **favor** of Petition 21-21 to rezone a 0.75 acre parcel at the northeast corner of E. Jefferson Boulevard and Maplehurst Avenue from R-1 Single Family Residential District to R-3 Multiple

Family Residential District to allow for the construction of eight (8) starter homes for rental to returning veterans, a welcome center, and recreation/laundry building. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property is currently a vacant parcel of land located at the E. Jefferson Boulevard and Maplehurst Avenue intersection. E. Jefferson Boulevard is a moderately travelled corridor providing east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include single family residential to the north, west, and east; and a nonprofit veteran's service organization to the south.
2. Character of Buildings – The character of the buildings in the area vary from single family residential to the north, west, and east; and a commercial building to the south. The proposed development will be consistent with the character of the adjacent residential and commercial buildings.
3. The most desirable/highest and best use – Due to the property's location on E. Jefferson Boulevard, a moderately travelled roadway, and the adjacent residential and commercial uses, the most desirable use for the property is residential or commercial.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. Although the property is being rezoned to the R-3 Multiple Family Residential District, the proposed development is to include individual single family residential dwelling units and two accessory buildings. Following development, the VFW, in conjunction with the contingent developer, will be overseeing the continued maintenance and upkeep of the property.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within the south part of the property and residential within the north part of the property. The proposed residential use is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial, Photographs, Petition, Conceptual Site Plan, Location Map



Aerial Photograph – Northeast Corner of E. Jefferson Blvd. & Maplehurst Ave.
Proposed Eight (8) Residential Dwelling Units & Accessory Buildings



P1. Looking northerly toward the property to be rezoned
from the VFW Post 360 parking lot to the south.



P2. Looking northeasterly toward the property to be rezoned from the VFW Post 360 parking lot to the south.



P3. Looking southeasterly toward the property to be rezoned from Maplehurst Avenue & E. Borley Avenue intersection.

DEC 02 2021

City Clerk
Mishawaka, IN

Date: November 11, 2021

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



RE: VFW Rezoning

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

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

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

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

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

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

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of real estate located in the City of Mishawaka.

A handwritten signature in black ink, appearing to read "Dwayne Kent", written over a horizontal line.

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

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

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

November 11, 2021

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

RE: VFW Rezoning

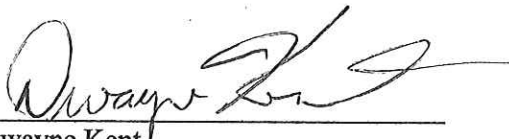
Northeast corner of E. Jefferson Boulevard and Maplehurst Avenue , Mishawaka, Indiana:

Dear Council & Plan Commission Members,

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

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

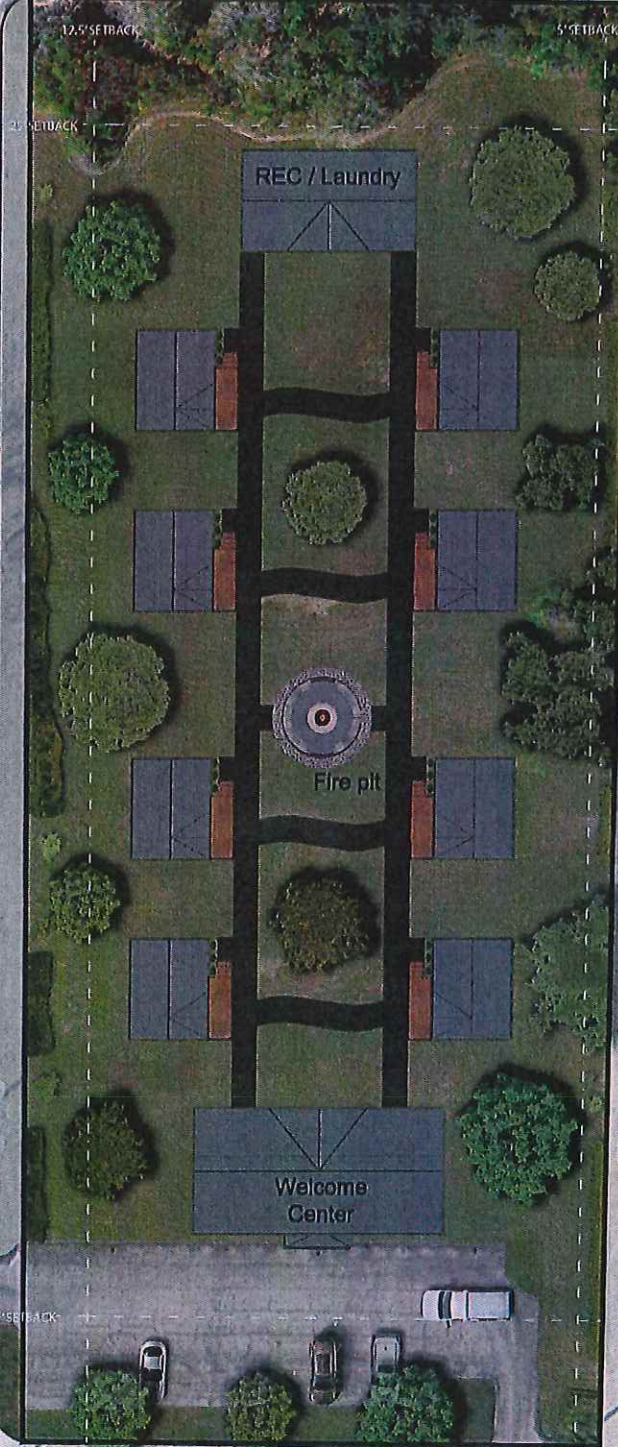
Sincerely,

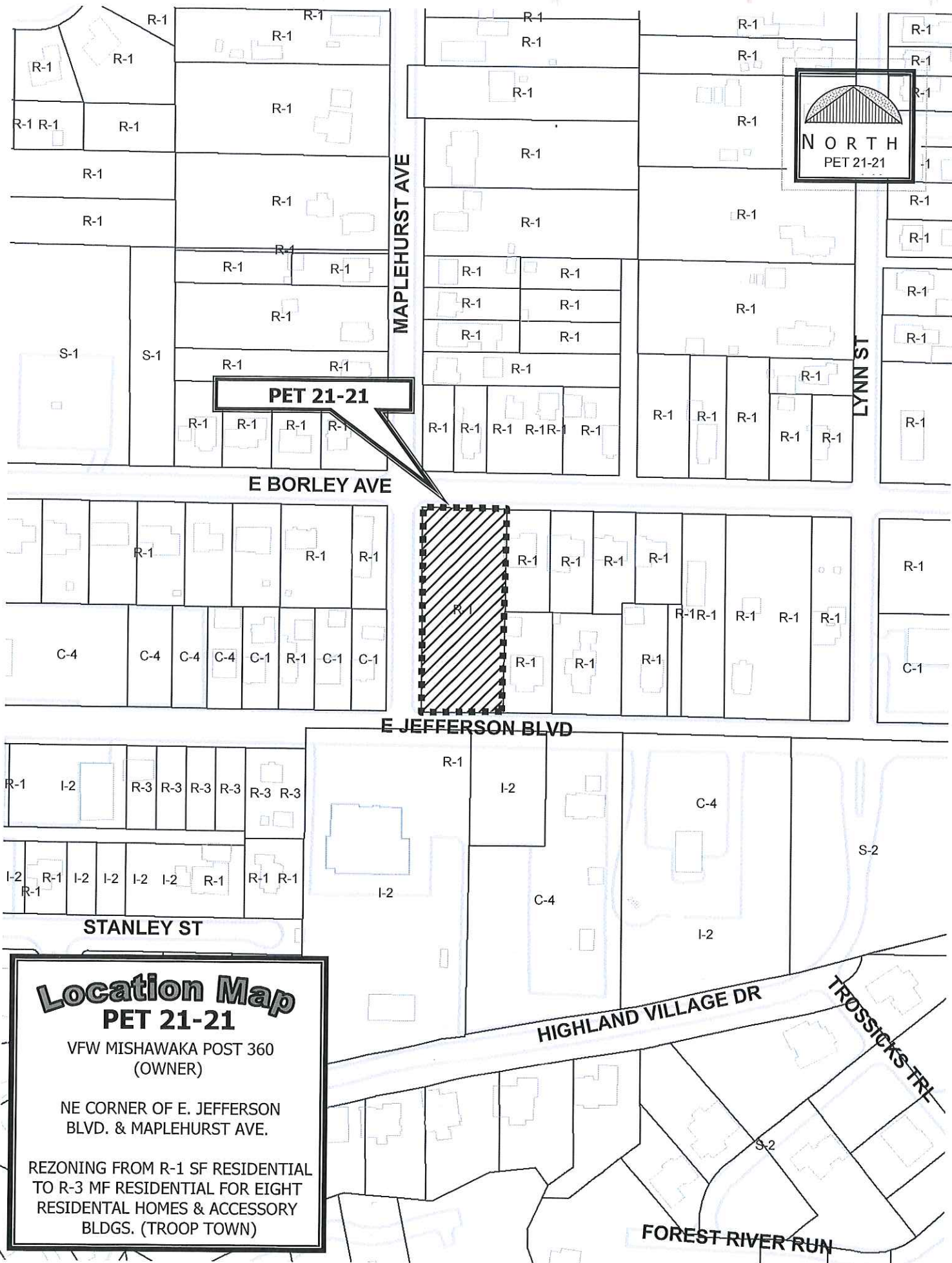


Dwayne Kent
VFW MISHAWAKA POST 360
1307 E. Jefferson Boulevard
Mishawaka, IN 46545

E BORLEY AVE

MAPLEHURST AVE





Fwd: Mishawaka Troop Town

DEC 09 2021

City Clerk
Mishawaka, IN

Deb Block <dblock@mishawaka.in.gov>

Thu 12/9/2021 9:02 AM

To: DL-Council <DL-Council@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>; Michael Hixenbaugh <mhixenbaugh@mishawaka.in.gov>

See email from Petitioner requesting postponement until January below.

Sent from my iPhone

Begin forwarded message:

From: Ken Prince <kprince@mishawaka.in.gov>**Date:** December 8, 2021 at 4:36:26 PM EST**To:** Deb Block <dblock@mishawaka.in.gov>, Derek Spier <dspier@mishawaka.in.gov>**Subject: FW: Mishawaka Troop Town**

Sorry I missed forwarding this last night when it came in.

Ken

-----Original Message-----

From: james metherd <jim.metherd@gmail.com>

Sent: Tuesday, December 7, 2021 9:08 PM

To: gshearon danchharner.com <gshearon@danchharner.com>; Ken Prince <kprince@mishawaka.in.gov>

Subject: Mishawaka Troop Town

FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Gentlemen,

After discussion with a Council member we have decided to postpone presenting our new plans until next month. Greg my understanding is the fee will be held but I'll allow Ken to advise if the paperwork needs to be resubmitted.

Regards,

Jim Metherd

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

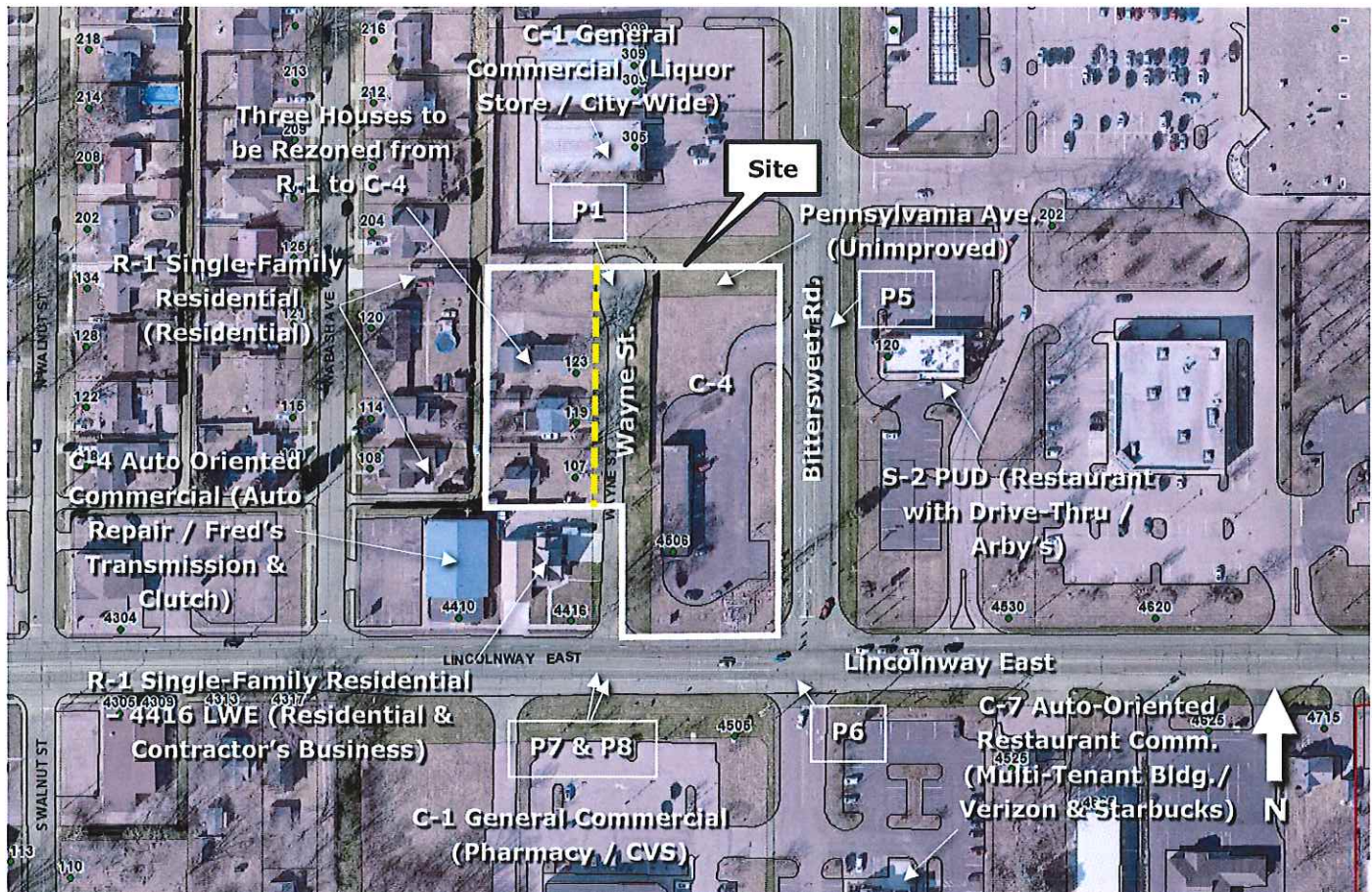
Staff recommends Petition 22-01 to rezone property at 107, 119, and 123 Wayne Street from R-1 Single-Family Residential to C-4 Automobile Oriented Commercial for a proposed Drive N' Shine automatic car wash and lube facility be forwarded to the Common Council with a **favorable** recommendation. This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

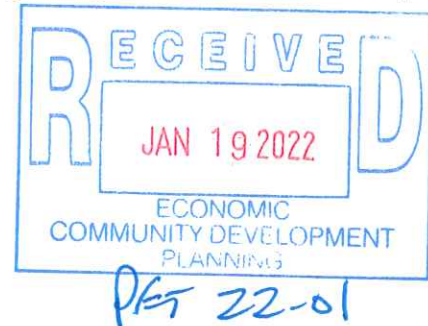


P8. Looking northerly toward the Wayne Street right-of-way to be vacated and the adjacent single-family residential property at 4416 LWE.

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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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~~

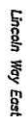


SECONDS EAST, 360.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 15 SECONDS EAST, 435.02 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE NORTH 89 DEGREES 57 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST 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 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.

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

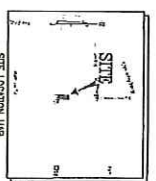


SURVEY PREPARED FOR: DRIVE AND SHINE
 SURVEY DATED: 10/8/21
 FILE #: 210214

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
 BEING
 VACATED**



**PROPERTY
 LIMITS**
305 BITTER SWEET RD.

EXISTING LEGEND

AS SHOWN ON THE SURVEY MAP, THE FOLLOWING ARE THE EXISTING CONDITIONS:

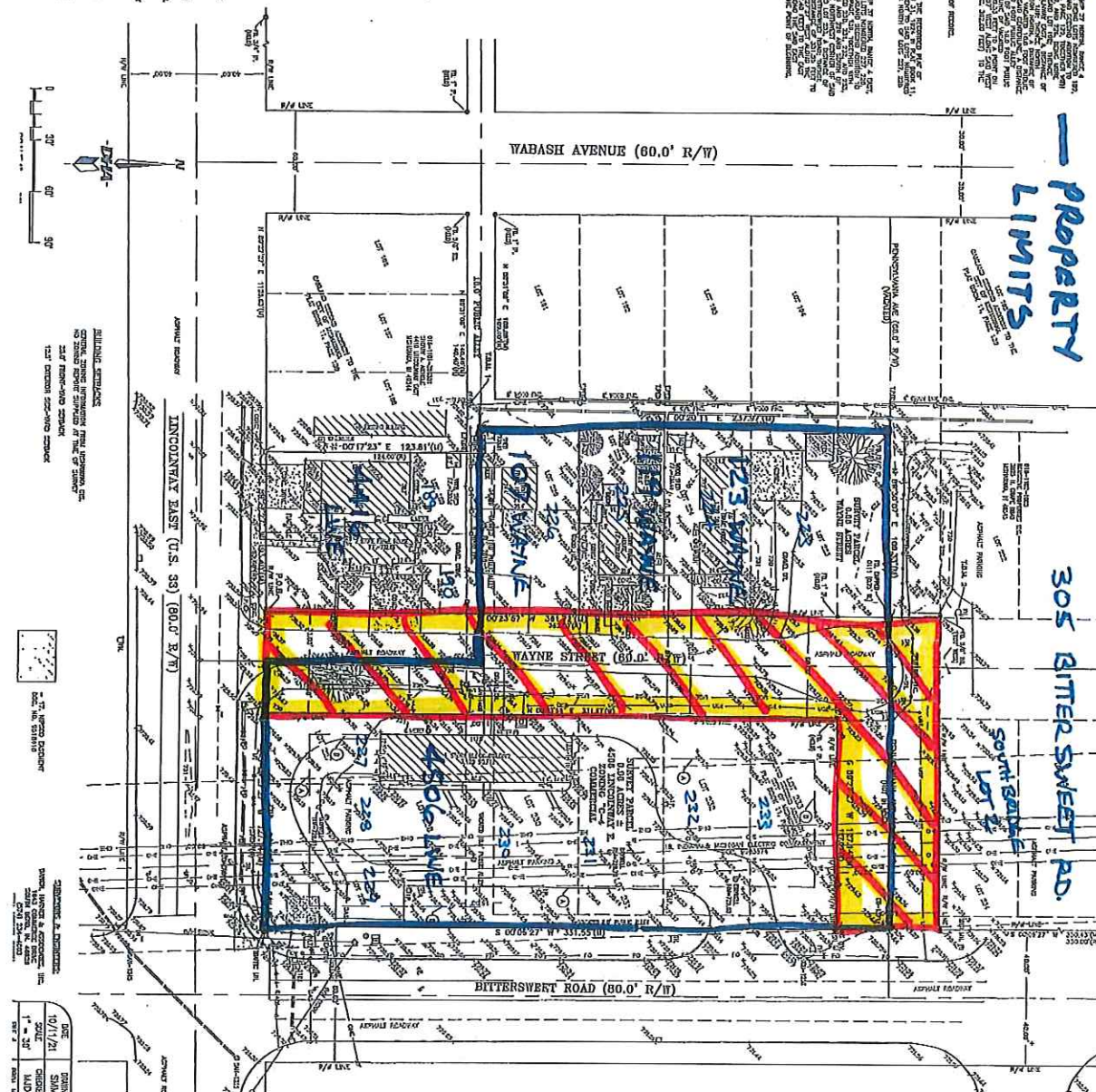
- 1. ALL EXISTING BUILDINGS, STRUCTURES, AND OTHER IMPROVEMENTS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 2. ALL EXISTING EASEMENTS, RIGHTS-OF-WAY, AND OTHER INTERESTS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 3. ALL EXISTING CORNERS AND MONUMENTS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 4. ALL EXISTING ADJACENT PROPERTIES ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 5. ALL EXISTING RECORDS AND DOCUMENTS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 6. ALL EXISTING SURVEYS AND MAPS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 7. ALL EXISTING UTILITIES AND SERVICES ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 8. ALL EXISTING FENCES AND BARRIERS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 9. ALL EXISTING TREES AND PLANTS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 10. ALL EXISTING WATER BODIES AND DRAINAGE ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 11. ALL EXISTING ROADS AND HIGHWAYS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 12. ALL EXISTING AIRPORTS AND FIELDS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 13. ALL EXISTING PORTS AND MARINAS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 14. ALL EXISTING AIRCRAFT ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 15. ALL EXISTING VESSELS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
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- 19. ALL EXISTING AIRCRAFT AND VESSELS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.
- 20. ALL EXISTING AIRCRAFT AND VESSELS ARE SHOWN AS THEY EXIST ON THE DATE OF THE SURVEY.

YABASH AVENUE (60.0' R/W)

WAYNE STREET (60.0' R/W)

BITTERSWEET ROAD (60.0' R/W)

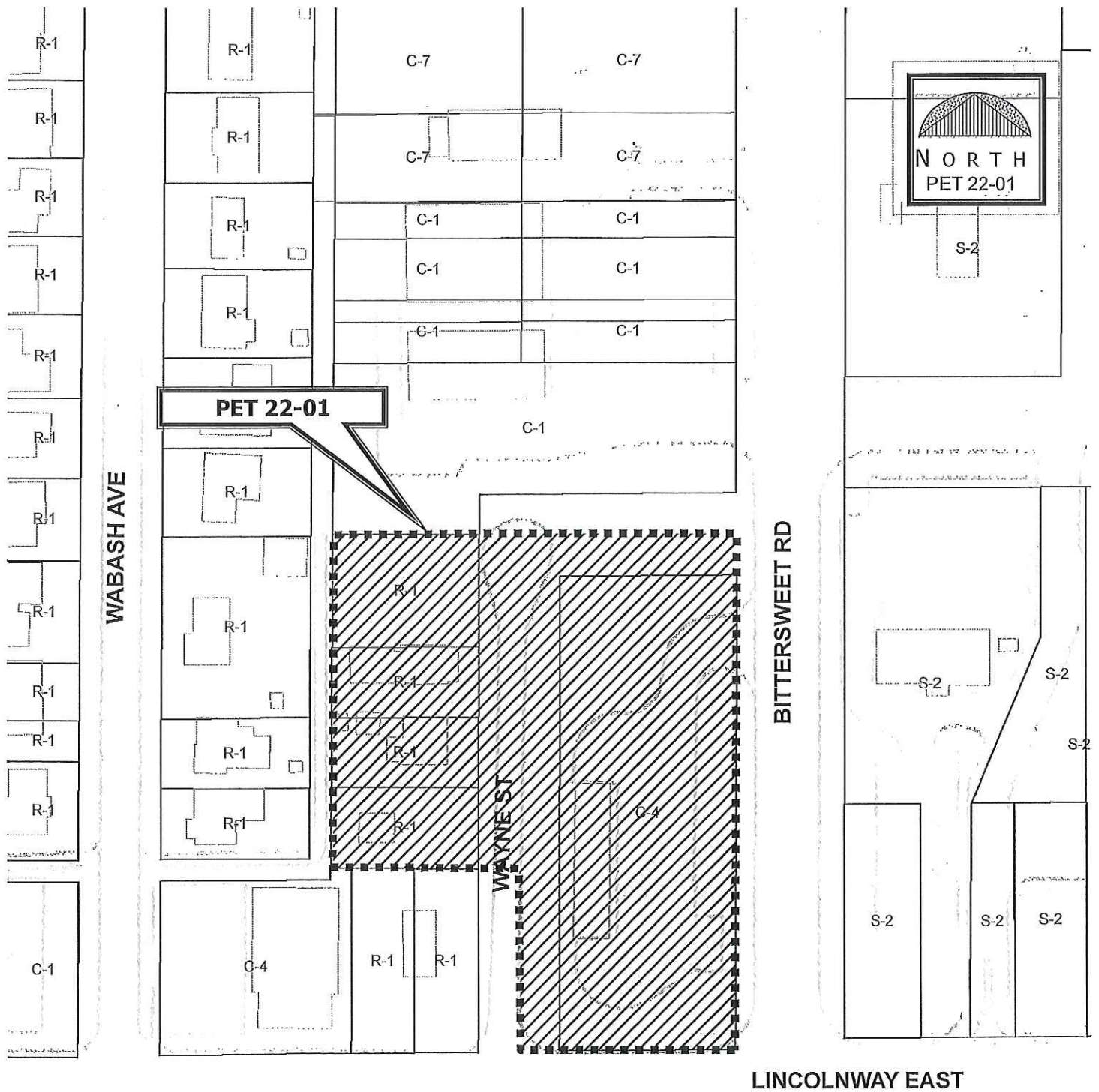
INCORPORATED EAST (U.S. 33) (60.0' R/W)



REVISIONS

DATE	BY	REVISION
10/11/21	SMW	1
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10/11/21	SMW	3
10/11/21	SMW	4
10/11/21	SMW	5
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10/11/21	SMW	78
10/11/21	SMW	79
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10/11/21	SMW	81
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10/11/21	SMW	94
10/11/21	SMW	95
10/11/21	SMW	96
10/11/21	SMW	97
10/11/21	SMW	98
10/11/21	SMW	99
10/11/21	SMW	100

Danck, Harner & Associates, Inc.
 Land Surveyors - Professional Engineers
 Landscape Architects - Land Planners
 1014 Commerce Drive • Suite 100 • Ellettsburg, IA 52601
 Phone: (319) 335-1111 • Fax: (319) 335-1112
 Email: info@danckharner.com • Website: www.danckharner.com



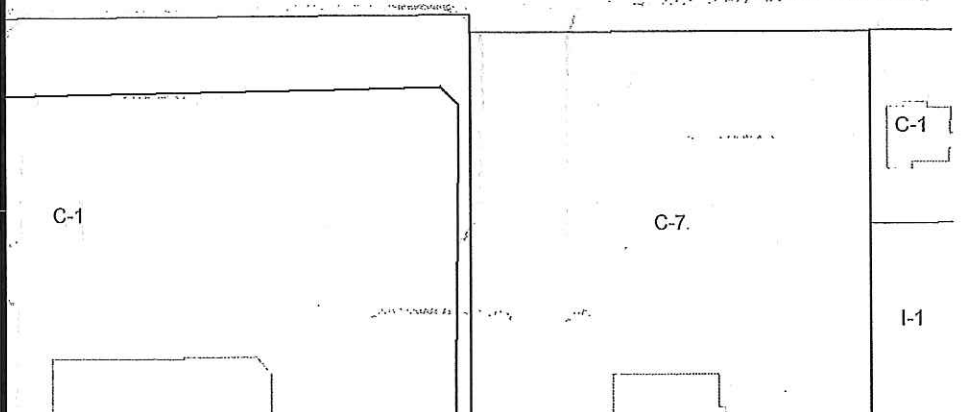
Location Map

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

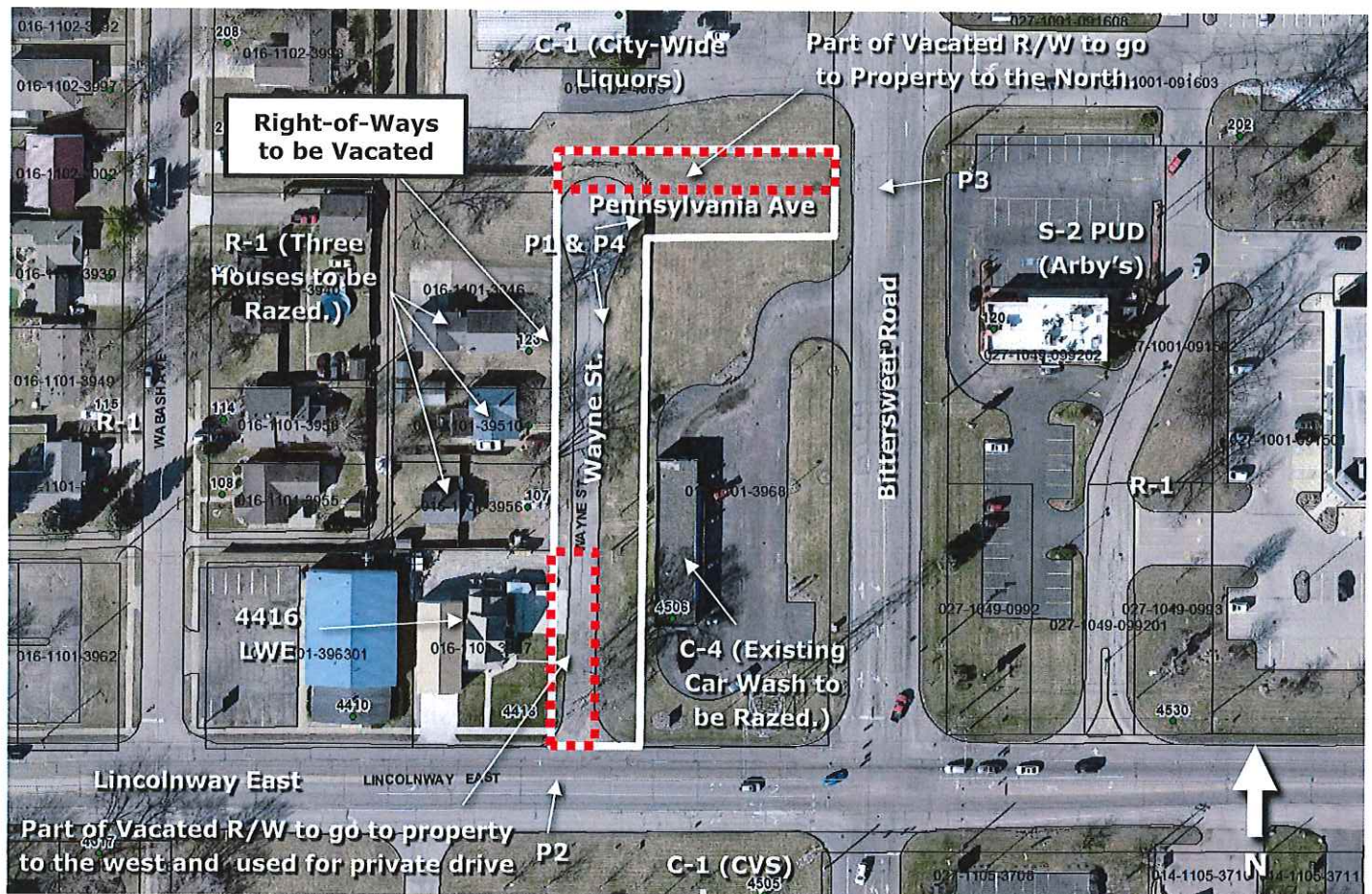
Staff recommends in favor of Petition 22-02 to vacate Wayne Street from Lincolnway East to the north terminus and Pennsylvania Avenue (unimproved) from Bittersweet Road to the west terminus. As a condition of approval, DEV 4506 Lincolnway East LLC must provide documentation committing to construct the 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.

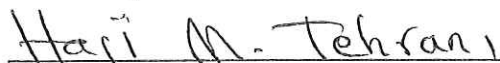
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and the location of the proposed building structures.

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.
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 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)

Rebecca Parker

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

Printed

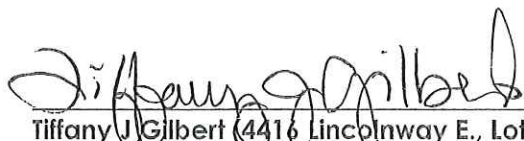
Sandra A. Rousseve
Rousseve Properties LLC (Lot 2 South Bridge)

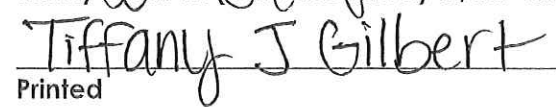
Sandra A. Rousseve
Printed



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)

Printed



AREA
BEING
VALUATED

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CONDUCTED IN THE UNITED STATES IN THE COURSE OF THE PAST FEW YEARS. THE RESULTS OF THESE STUDIES HAVE BEEN REPORTED IN THE LITERATURE OF THE PAST FEW YEARS. THE RESULTS OF THESE STUDIES HAVE BEEN REPORTED IN THE LITERATURE OF THE PAST FEW YEARS.

[illegible]

1909 AS INSTRUMENT NUMBER 263374 OF THE ST. JOSEPH COUNTY RECORDS, (PARENTS GUNTER PARCEL, 3600)

18. RIGHTS OF THE PEOPLE, THE STATE OF INDIANA AND/OR THE MANUFACTURE, AND OTHERS ENTITLED THEREIN TO AND TO HAVE PART OF THE LANDS AND/OR OF USED FOR PUBLIC PURPOSES.

20. RIGHTS OF WAY FOR DRAINAGE TILES, UTILITIES, FEEDERS AND LATERALS, IF ANY.

STATEMENT OF DISCLOSURES:

[illegible][illegible]

• 37, NIPSCO DESIGN
302, RD. 931913

15.0' FRONT-YARD SETBACK
2.5' EXTERIOR SIDE-YARD SETBACK

[illegible]

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

AREA
BEING
VALUED

4. **Preparation of the test solution**

[illegible]

TELEPHONY BENCHMARK INFORMATION
NATURAL DATA ESTABLISHED BY 1900T CONS NETWORKS FOR THE
SUBSTATION. (NABAS)

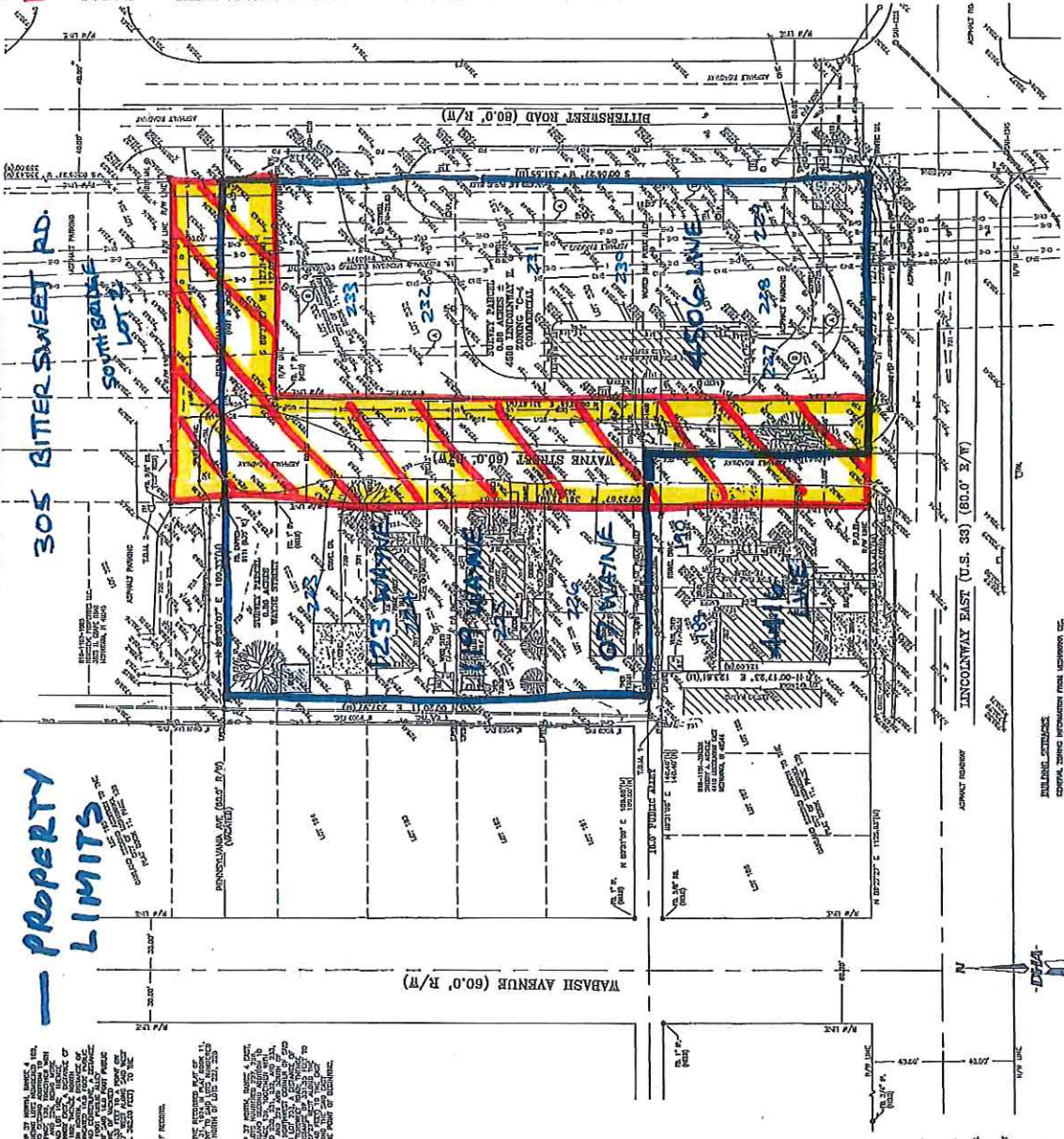
TEAM 1 SET WAS FULL EAST SIDE OF POWER POLE LOCATED ALONG
CROWN SIDE OF 16' PAVING ALLEY. ELEVATION = 751.71

TEAM 2 SUBSTANT BOLT TOP PLANE OF A TREE TRUNK LOCATED
THE SUBSTANT CORNER OF THE POWER PLANT. ELEVATION = 750.42

STRUCTURAL CHART		
24N-1323	24N-1810	24N-1819
RM CLOSET	RM CLOSET	RM CLOSET
LC 12' CLO' PNC	LC 12' CLO' PNC	LC 12' CLO' PNC
725.26	725.40	725.21
725.06	725.25	725.21
24N-1324	24N-1820	24N-1820
RM CLOSET	RM CLOSET	RM CLOSET
LC 12' CLO' PNC	LC 12' CLO' PNC	LC 12' CLO' PNC
725.24	725.25	725.21
725.04	725.25	725.21
24N-1325	24N-1821	24N-1821
RM CLOSET	RM CLOSET	RM CLOSET
LC 12' CLO' PNC	LC 12' CLO' PNC	LC 12' CLO' PNC
725.24	725.25	725.21
725.04	725.25	725.21

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BUILDING STRINGS

ADDITIONAL ZONING INFORMATION FROM MEMPHIS AREA
AND ZONING REPORT SUPPLIED AT TIME OF COUNCIL
ACTION

— 17. NIPZCO DUCHEF
BOC. NO. 6319418

BUNCH, HARRISON & ASSOCIATES, INC.
1643 CONSUMERS DRIVE
SOUTH BORO, N.J. 08929
(201) 234-4000

REVISIONS

1

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LINCOLNWAY EAST

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)