AGENDA

May 16, 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:1-408-418-9388
Meeting Number (access code): 2331 066 3311
Meeting Password: pJzZFRvP252

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: 23310663311@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of May 02, 2022

5. Petitions, Communications, Remonstrance and Memorial

A letter from the Board of Zoning Appeals regarding their recommendations from their May 10, 2022 meeting.

Mishawaka Optimist Club Youth Appreciation Awards Presentation

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

R2022-11 Adding property to the City's Acquisition List

R2022-12 Use Variance to allow Self storage in C-1 General Commercial- 1010 S. Merrifield

9. Ordinances on Second Reading

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment –

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, **https://www.facebook.com/cityofmishawaka/** and on the Michiana Access TV Facebook page, **https://www.facebook.com/MichianaAccessTV**

Council Packet Link:

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

May 2, 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, May 2, 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 the Local Boy Scouts. Following the Pledge of Allegiance, the Boy Scouts introduced themselves along with the school they attended.

Clerk Block called the roll.

Roll Call.
Present: Mrs. DeMaegd (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (A), 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 April 19, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petition by title.

Appeal No. 2022-10	Use Variance to allow Self storage in C-1 General Commercial-1010 S. Merrifield
Appeal No. 2022-13	Use Variance to allow Micro blading Services within a Multi-tenant Commercial Strip Center (C-1 District) – 4125 Grape Rd.
Petition No. 2022-03	Rezone from I-1 Light Industrial to R-1 Single family Residential 1816 W. Sixth St.

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

RESOLUTION R2022-10

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AMENDING RESOLUTION R2021-30, AS AMENDED WHICH ADOPTED A PLAN FOR DISTRIBUTION OF PROCEEDS OF THE CITY OF MISHAWAKA'S GRANT FROM THE AMERICAN RESCUE PLAN ACT OF 2021
Amending R2021-30AA the American Rescue Plan

Mr. Hixenbaugh stated for the record that in a relevant part, the amendment to their ARPA plan which was reflected in the resolution, referenced a fairly limited technical matter. Mr. Hixenbaugh stated in January of 2022, the federal government and the guidelines that came out from the US Treasury Department provided local communities, such as themselves, with enhanced flexibility to treat up to $10 million as lost revenue. Mr. Hixenbaugh stated this simplified and streamlined the reporting process and also allowed them to spend funds on any governmental purpose. Mr. Hixenbaugh stated that was the limited revision to their ARPA plan that was in front of them that evening and continued to open the public hearing.

Mr. Hixenbaugh thanked Mrs. Maguire for being very patient with him that week and helped him work through some conversations. Mr. Hixenbaugh stated as always, she was very helpful and they had a very collaborative process in place there. Mr. Hixenbaugh stated they appreciated the administration's willingness to work with them and they had a very productive meeting led by Mr. Mammolenti and the special committee. Mr. Hixenbaugh stated they were moving forward with this and the approval of the resolution was simply another step in the process.

Question was called for at 7:08PM for **RESOLUTION R2022-10 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 8-0.

UNFINISHED BUSINESS

<u>RESOLUTION R2022-07</u>

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2022-07**. Mr. Spier stated property owners that have applied for either a real or personal property tax abatement must file a report with the council and in turn, file with the auditor no later than May 15^{th}. Mr. Spier stated in the report, reports the extent of which they are in compliance with the goals set forth at the time when the payment was granted. Mr. Spier stated currently, they had 6 abatements in the city and all 6 required reporting for the year. Mr. Spier stated all property owners had responded to their request to complete the statement of benefits from and in summary, all 6 of the active abatements which required reporting were in compliance. Mr. Spier stated they had exceeded and nearly met or were working toward expectations. Mr. Spier stated construction for one of the active abatements, which was the Riverwalk Project, had not yet begun. Mr. Spier stated because of that, a new abatement must be submitted and reported for the existing abatement, because it would expire in May of that year. Mr. Spier stated since the prior reporting period, they had two abatements that dropped off of the active list and no longer required reporting. Mr. Spier stated the first one was for a real property abatement for a medical office building which was attached to the Saint Joseph county hospital and that was a 10-year abatement that recently expired. Mr. Spier stated the other one was for an assisted living facility for Bell Tower along Fir Road and that one just had expired as well. Mr. Spier began giving a summary of all 6 of the abatements going from the earliest that was approved to the most recent. Mr. Spier started with Barack River Rock who received an abatement back in 2013 for the first phase of a mixed-use apartment building and first floor retail space which was along Mishawaka Avenue. Mr. Spier stated although it was approved in 2013, construction did not begin until 2015 and was finished in 2016 and the required reporting would be required through 2022. Mr. Spier stated they said they had indicated that they had 5 to 8 jobs, so their reporting for the year had five jobs. Mr. Spier stated although not reported on the CF one, they also said they had a few additional jobs in some retail space that was actually along Mishawaka Avenue. Mr. Spier stated there was a spa there and then there was also another business called Bar Method that was now vacant and they said that they were going to anticipate on leasing that space, so there could be an additional three people in that space. Mr. Spier stated total payroll was listed at $230,000 which was higher than the $200,000 on the SB1 and they stated that they had actually invested $14 and a half million on that project which was an exceedance of the $14 to $17 million. Mr. Spier stated the project would be considered in compliance since they had been in exceedance of both their employee goals and their total investment. Mr. Spier stated the next one was WellPet. Mr. Spier stated this was for an abatement approved in 2015 for equipment for a high-speed packaging line. Mr. Spier stated installation began in 2016 for this equipment and it was currently in operation. Mr. Spier stated an annual report would be required through 2023 and the net values upon completion of the project were estimated at $17.3 million dollars in the SB one. Mr. Spier stated actual net values of the completed project was almost $26 million, so it nearly exceeded the values by nearly $8 million. Mr. Spier stated the total employment at the facility increased beyond what was originally projected and when the abatement was filed, they had 115 employees. Mr. Spier stated with an additional four jobs to be added, the total employment was reported at 120 employees. Mr. Spier stated since both the employment and payroll were higher and the investment was higher, they should be considered in substantial compliance at that time. Mr. Spier stated the Riverwalk Development Group received an abatement for a proposed project on city-owned property by the Riverwalk. Mr. Spier stated when originally submitted, it was supposed to be a $12.5 to a $13.5 million project and was to include 63 rental units. Mr. Spier stated they were reevaluating the project due to changes in the market downtown with some of the new apartments being built. Mr. Spier stated original intent was to start construction during the second quarter of 2020. Mr. Spier stated they had amended in the development agreement between the city and the developer, which extended the occupancy date until March of last year, but then COVID further delayed that even longer. Mr. Spier stated the development agreement would once again have to be amended and a new property tax submitted and approved, because the current abatement expired actually in May of 2022. Mr. Spier stated at that time, it should be considered in compliance to just because it was still ongoing and they needed a new abatement should they start the project. Mr. Spier stated Lippert Components was the next one and they received real and personal property abatement in 2017 for renovation of a building on Byrkit Avenue. Mr. Spier stated the proposed real estate improvements included in the statement were originally estimated at $7.4 million and they had been completed. Mr. Spier stated actual real estate improvements today were nearly twice that at $13 million. Mr. Spier stated the personal property improvements included in the abatement were estimated at just around $1.5 million and all of the investments had been purchased and installed and they had spent nearly $10 million on the SB one in personal property equipment. Mr. Spier stated since this abatement was required for 10 years, they were going to have to add due reporting for it through 2028 and when they filed, they had existing employment at 247 with an additional 200 jobs to be added. Mr. Spier stated at present, there were 392 jobs, which was a substantial increase from the 21 jobs originally filed but it’s similar to the 395 employees reported the year before. Mr. Spier stated they did think they were going to get additional employment growth and indicated in their SB one that they acquired Furian LLC, a distributor of appliances and electronics. Mr. Spier stated with that, they anticipated additional employee growth throughout the year. Mr. Spier stated they had their payroll listed at just over $20 million, which was more than twice that listed on the SB one when they originally filed their abatement. Mr. Spier stated given that total investment and payroll exceeding the projected amounts along with their employment levels increasing, they should be considered in substantial compliance. Mr. Spier stated the next one was Jamil Packaging Corporation. Mr. Spier stated they received an abatement in 2019 for a new folder and gluer for the property on Industrial Drive. Mr. Spier stated originally the said it was $1.5 million and the equipment was already installed and was installed in July 2019. Mr. Spier stated annual reporting as required through 2022 and when they filed, they said they had 139 employees with 12 positions to be added. Mr. Spier stated they did a total employee report and said they had only 112, which was a decrease of 27 positions and 39 less than what was projected. Mr. Spier stated employment did increase from the past year and with the COVID pandemic and disruption in business operations, they continued throughout the year. Mr. Spier stated they recovered initially from the slowdown a little bit, but they still struggled to find people to fill some of their vacant positions. Mr. Spier stated wages for employees though had been increased to retain talent and starting pay for the new employees had been increase. Mr. Spier stated even with the drop in employment over the last two years, total payroll was listed at over $6.2 million, which was 28% higher than the $4.8 million listed on the original SB one. Mr. Spier stated given payroll was higher than the projected amounts and the employee levels while decreasing over the last two years due to COVID, but leveling off with an increase in just four positions over the last year, this abatement was in substantial compliance. Mr. Spier stated the last one was WellPet. Mr. Spier stated this was for a building expansion and new equipment that was approved last year. Mr. Spier stated there was information in the packet which provided an update on the project with also both the real and personal property abatement. Mr. Spier stated construction on the real estate improvements included in the abatement was estimated at $14.7 million and it began last September, but after they did some engineering and design work, the decision was made to put it on hold. Mr. Spier stated they had spent just over $70,000 as they listed on their CF one and a majority of the personal property improvements included in the abatement listed at around $28 million, which was also on hold at that current time. Mr. Spier stated with the purchase and installation of the odor control equipment, the actual personal property investment today was $410,000 for the odor control equipment. Mr. Spier stated the equipment was supposed to be scheduled for the summer and installed by the first quarter of next year and the abatement approved the economic revitalization for a three-year period. Mr. Spier stated should the project start up again, anything the invested over the next three years in the property would have the benefit of the abatement. Mr. Spier stated when they filed, they had a decrease in some employment from when they filed last year with a listing of 120 positions, which was a decrease and loss of five position, but they did have an open workforce event and hiring event a couple of weeks back. Mr. Spier stated they stated they had hire 11 jobs because of these events, so their employment made an increase. Mr. Spier stated since they were currently actively working on the project, this one should also be considered in compliance at that time. Mr. Spier stated he would answer any questions.

Mr. Bellovich stated on Jamil, their jobs reduced but there was not any relocation of the positions out of Mishawaka and asked if that was correct. Mr. Spier stated that was correct and it was just a workforce issue.

Mr. Hixenbaugh thanked Mr. Spier for not only his thorough summary that evening but for the information that was provided in writing and that it was very helpful. Mr. Hixenbaugh had a couple of questions in regard to River walk Development. Mr. Hixenbaugh asked Mr. Spier as he made reference to the potential for them to reinitiate an abatement request on that property with a different business model or plan in mind, if he had in mind when the council should anticipate that coming before them or if that remained to be seen. Mr. Spier stated he thought it remained to be seen. Mr. Hixenbaugh also made a comment stating the pandemic and other unanticipated circumstances already were going to be in the backdrop with regard to these type of abatement requests, but his hope was with regard to this particular developer given the history there and with regard to the particular parcel that when they would decide to come before the council that it was with as much certitude as they possibly could have and would actually break ground and follow through on it. Mr. Hixenbaugh stated it seemed counterintuitive to have abatements hanging out there without any tangible signs of action and asked Mr. Spier to pass that along to them as one councilperson's request. Mr. Hixenbaugh appreciated Mr. Spier's summary for Wellness Pet and he wanted to restate what the takeaway was to make sure he was accurately receding the information. Mr. Hixenbaugh started with the real estate component and the construction of the building itself was on hold as they understood it based upon some decisions made on the corporate level with regard to not moving forward at that time with that portion of the abatement. Mr. Spier stated that was correct. Mr. Hixenbaugh stated as referenced in his written material and comments tonight, the odor remediation equipment had been purchased and it was their understand that that was in the process of being installed with a target date of the first quarter of 2023. Mr. Spier stated that was correct. Mr. Hixenbaugh stated so right now, the only taxes that were being abated were the taxes that were associated with the equipment, the personal property taxes for that purchased equipment, but there were no taxes that were being abated for the construction that had not yet begun. Mr. Spier stated that was correct. Mr. Hixenbaugh thanked Mr. Spier again for the information.

Ken Prince, Executive Director of Planning, spoke in favor of **RESOLUTION R2022-07**. Mr. Prince stated he thought it was important to note with Wellness Pet that they understood the frustration regarding not fully doing what they said they were going to do, with that being a real issue for him and his department as well. Mr. Prince stated his understanding was they hadn't received the equipment as of yet. Mr. Prince stated they wanted them to go full speed ahead on the equipment and if they could imagine, that had been a process and it started with no remediation and then it started with different equipment being installed and that equipment wasn't then effective. Mr. Prince stated they heard when they presented the proposal for this equipment, exactly how scientifically how it would reduce the odor and they could discuss the percentages all they wanted, but the reality was that the equipment as they understood it should make a significant difference. Mr. Prince stated they just wanted to stress that giving them no reason not to follow through as they had identified was very important and they hoped that they would follow through and do it. Mr. Prince stated the other thing he would say just on a level of his understanding of the tax abatement was he was not sure how much the assessed valuation of the odor control equipment and how much benefit they were going to get from the installation of the equipment. Mr. Prince stated with the building addition, they saw a very clear increase and assess valuation based on the increased production. Mr. Prince stated obviously there was a community benefit and a potential help with their litigation ongoing, but he was not sure how much of a financial incentive they were talking about from a city perspective that they were providing. Mr. Prince stated with factors considered, they wanted to council to consider it in compliance, reevaluate it as time moved on and give them every reason to install it as identified in the committee meeting.

Mr. Hazen asked if they had any clue from when they first purchased the building and the business to what they had cleaned up as far as percentage wise, did they. Mr. Prince stated it was indicated earlier at the committee meeting that the previous system that was installed at the best of intentions was an encapsulation system. Mr. Prince stated the idea was to encapsulate and then distribute it over a larger area where it had a distant and different diffusing impact where it would not impact so many people and what they heard that evening was they anticipated that affected basically 15% of the smell. Mr. Prince stated the other thing was he equated those percentages to noise. Mr. Prince stated so you would likely still smell the odor in some capacity, but it would have been reduced and tolerable in this case. Mr. Prince stated there was going to be a processing odor that came from it and the question was, was it tolerable or not tolerable. Mr. Prince stated and clearly, based on the discussion they had at nauseam, was that this was a much higher tech equipment than was installed last time and it had the best ability, in their mind, to take care of the issue which was the upmost importance from a community livability standpoint.

Mr. Compton asked if what common practice is for a company that they gave a tax abatement to come back to the city and talk to them and say where they were at or if it just kind of happened. Mr. Compton stated he knew he got in them and asked them if they notified the city even if there was no responsibility to do that because he thought that made sense to him. Mr. Prince answered Mr. Compton's question stating they concurred and typically they tried not to bother the businesses they had out there and would like to think they would notify them, but he also know from a corporate standpoint that the Jamil Packaging's of the world, who they had a personal relationship with locally, in this case those representing aren't the ones making the decision. Mr. Prince stated in terms of how it was presented, he thought it really relied on the process to bring out the answers to the questions that at a local company level, they would be freer and he did not think there was anything wrong with that particularly with large corporations. Mr. Prince stated at the same time though, there was accountability. Mr. Prince stated he wanted to mention one thing regarding the River walk one that was expiring which was from the administration side, they thought the moving forward on the projects had been an issue with their past development agreements and they were now drafting language that gave them a little extra time in terms of their execution or the development agreement would expire automatically. Mr. Prince stated they understood that COVID was an exception and they were hoping that did not go forward but at the same time, they were taking on the other side of that to try to move things forward or at a minimum be able to move forward on the property with somebody else.

Mr. Hixenbaugh thanked Mr. Spier and the staff for the information they provided and the information Mr. Prince and Mr. Spier shared that evening. Mr. Hixenbaugh stated one of the things that jumped out at him was as conversations took place throughout the city with regard to tax abatement, it was powerful information they had in the council packet which was also available to the public, but he suspected most people would not be able to identify how many abatements were done in the history of Mishawaka going way back when and if they spreadsheet they had was accurate, they were at just over 60 of them. Mr. Hixenbaugh stated they always say they were judicious with tax abatements and it was important to the administration and the council that they were careful with how they made the investments in their corporate partners and he believed they had been judicious over the course of time. Mr. Hixenbaugh stated as was referenced earlier prior to that evening's meeting, they engaged in a meeting of their Budget and Finance Committee to take a look at the most recent Wellness Pet tax abatement that had the odor control component explicitly embedded within it and the Wellness Pet continued to be, in his opinion, a good corporate citizen of Mishawaka. Mr. Hixenbaugh stated their local representatives who had appeared in front of them, both that evening and in the past in his experience, had always been forthright with them and shared information and he appreciated what they heard from everyone. Mr. Hixenbaugh stated since their colleague Mr. Emmons was not present that evening, he felt duty to somewhat speak on his behalf. Mr. Hixenbaugh stated it continued to be a monumental issue for the people who lived in close proximity to Wellness Pet. Mr. Hixenbaugh stated the odor had not been a remediated and he thought it was fair to look at it not only in the context of the most recent abatement, but going back to a series of abatements where odor control equipment had once before at least been approved by the council. Mr. Hixenbaugh stated what they had been led to believe was when they approved the last one that they were going to be as high as the ninetieth percentile. Mr. Hixenbaugh stated things had happened, unintended consequences had arisen and some decisions had been made at the corporate level that he did not think were in keeping with their expectations as a community with regard to how the project would play out. Mr. Hixenbaugh stated as he said in the committee meeting, if this was the initial vote on the Wellness Pet tax abatement, although Mr. Prince made valuable points and although they wanted to continue to partner with Wellness Pet, he would have voted against it if this was the presentation that evening. Mr. Hixenbaugh stated he had given serious consideration on voting against the compliance report as being in substantial compliance, but on balance he was willing to give it one last opportunity to work. Mr. Hixenbaugh stated he appreciated the leap of faith Wellness Pet had made to continue to put the odor remediation equipment in place even though the construction of the building itself that it was attached to had not occurred and that was an act of good faith in his mind. Mr. Hixenbaugh stated he really had not thought about that until Mr. Prince brought it up, so Wellness Pet was to be congratulated for that. Mr. Hixenbaugh stated construction schedules, supply chain problems and cost of labor aside, if next year when the report was in front of them, from his opinion, if they were no further down the line to the odor having been significantly remediated, he would never vote in favor of compliance for this tax abatement again. Mr. Hixenbaugh stated he would not think it would be fair to the people who lived in that neighborhood to do so. Mr. Hixenbaugh stated whatever could be done that was humanly possible to bring it much more compliance needed to get done and there had to be a heck of a lot more compliance than 15% and he would not vote in favor of a 15% solution ever again. Mr. Hixenbaugh stated the would continue to work with Wellness Pet and value them as a corporate citizen and appreciated the fact that those jobs were in Mishawaka and had been kept in the community for low many years, but it had to get done. Mr. Hixenbaugh stated sooner or later, the benefit of the bargain that they thought they were obtaining when they approved the tax abatement goes away when there was not a noticeable improvement in the odor control. Mr. Hixenbaugh stated so if Wellness Pet could stay in touch with them and the more they knew about this, the better they would feel and the more that they could communicate with their constituents who were really on their backs about this and the better it would be for everybody including Wellness Pet. Mr. Hixenbaugh once again thanked the local representatives for being there, but he wanted the record to reflect that he would never vote in favor of anything having to do with the Wellness Pet tax abatement unless there was significant progress and improvement in the odor remediation between that point and next year.

Mr. Bellovich stated he knew over the last couple of years because of COVID, they had not had the companies represented at council meetings physically, but he hoped they would begin to attend the meetings as the moved forward in the future. Mr. Bellovich stated even though all of the companies may be in compliance, he thought it was a good idea that if they had questions, they would be there and they would have an opportunity to ask those questions. Mr. Prince stated they kind of cut that out of their normal operating procedure but he would not that they only ever had them come in when there had been questions. Mr. Prince stated they had at any point in time and even during COVID they would have the ability to do it through Zoon and be able to ask them to participate and receive questions. Mr. Prince stated to Mr. Bellovich that anytime he had a question even outside of the process, they had the ability to call them and ask those questions. Mr. Prince stated as a matter of ordinary operating procedure though, they did not feel the need if the abatement was in compliance because like everybody they had too much on their plate already. Mr. Prince stated they only wanted to call them in if they did in fact have questions and could resolve it. Mr. Hixenbaugh agreed with Mr. Prince in the fact that the administration had been very helpful in facilitating the meetings when they requested specific tax abatement recipients to come in and he could not recall a recipient who had not availed themselves of the opportunity to come in and speak to them. Mr. Hixenbaugh stated they certainly still could review the process going forward and tailor it as meets the needs of the council.

Mr. Hazen posed a question to either Mr. Hixenbaugh or their Council Attorney, Mike Trippel, and asked if he voted this as a whole report yes that evening, if that would bind him to a yes vote on one that would expire in a month. Mr. Trippel stated it would.

Question was called for at 7:39PM for **RESOLUTION R2022-07 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 8-0.

NEW BUSINESS

Mrs. DeMaegd announced the West End Neighborhood Watch Meeting would be Tuesday May 10th at 7PM and would be held in the activity room at St. Bavos School. Mrs. DeMaegd the guest would Mishawaka Police Department's Sergeant Bartlett from the Street Crimes Unit along with his partner, K9 Officer Bailey. Mrs. DeMaegd stated due to the sensitivity of issues discussed, there would be no live stream available for the meeting and she also wanted to advise parents that some of the material discussed may not be suitable for young children. Mrs. DeMaegd stated parking would be in the fenced area located in the lot south of the church at Eighth and West and all were welcome and encouraged to attend.

Mr. Mammolenti announced the Twin Branch Neighborhood Watch Meeting would be pushed back from May 18th to June 15th, due to Mayor Dave Wood having another engagement to attend which was the Mishawaka Police Memorial Service on May 18th. Mr. Mammolenti stated the now June 15th meeting would be at 7PM at Fire Station Number Four and as of that time the guest speaker remained to be Mayor Dave Wood.

Mr. Hixenbaugh made a couple of brief reminders and started with announcing Election Day being the next day, Tuesday May 3rd and stated no matter the political affiliation of the council, they were all in favor of a maximum number of people exercising their franchise and going out to vote. Mr. Hixenbaugh stated what better way is to participate in a democracy is in the vote and asked those to please consider voting tomorrow. Mr. Hixenbaugh asked one of the Boy Scout members who arrived to the council meeting after the introduction of the other Boy Scouts to introduce himself and tell the council what school he attended. Mr. Hixenbaugh thanked the Boy Scouts for being there that evening and asked the council to stick around afterwards to answer any questions they had.

ADJOURNMENT 7:43PM

Deborah S. Block /s/	Gregg A. Hixenbaugh /s/
Deborah S. Block, IAMC, MMC, City Clerk	Gregg A. Hixenbaugh, President

City of Mishawaka

DAVID A. WOOD, MAYOR **DEPARTMENT OF CITY PLANNING**

Deborah S. Block, IAMC, MMC
MAY 1 1 2022
City Clerk
Mishawaka, IN

May 11, 2022

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
May 10, 2022, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above referenced date at which time the following Use Variance was considered:

APPEAL #22-10 An appeal submitted by MCC Self Storage LLC requesting a Use Variance for **1010 South Merrifield Avenue** to allow self-storage in C-1 General Commercial zoning.

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

1. No outdoor storage shall be permitted.
2. Lighting shall be provided in the existing parking area. All lights shall be shielded per the C-1 General Commercial District development regulations.
3. Parking lot shall be repaired, sealed, and restriped in all areas, excluding the proposed future outlot, compliant with the conceptual site plan.
4. Additional landscaping shall be provided (where necessary) in all areas, excluding the proposed future outlot, compliant with the minimum landscaping and screening regulations (Section 137-815).
5. An Administrative Site Plan shall be filed and approved compliant with the above conditions prior to utilizing the building for indoor storage or issuance of a Certificate of Occupancy.
6. A subdivision plat shall be submitted and recorded to establish an outlot west of the multi-tenant commercial building prior to issuance of a Certificate of Occupancy for the indoor storage use.

Sincerely,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Austin Blomeke

City Hall, 600 East Third Street, Mishawaka, IN 46544-2241 (574) 258-1625 FAX (574) 968-6999
E-mail planning @ Mishawaka.in.gov

STAFF REPORT

Location: 1010 S. Merrifield Avenue	Date: May 10, 2022
Appeal: 22 - 10	Prepared By: DJS

GENERAL INFORMATION

Applicant:	MCC Self Storage LLC, Brad Beer / Jones Petrie Rafinski
Status:	Property Owner / Surveyor & Engineer
Request:	Use Variance to allow an indoor climate controlled self-storage facility
Zoning Classification:	C-1 General Commercial District
Lot Size:	0.82 acres (tax parcel #016-1125-4937.13) being the building only with the parking and access drives (tax parcel #016-1125-4937.10) being 79% owned by the applicant
Applicable Regulations:	Section 137-42 / (4) Board of Zoning Appeals – Use Variance & Section 137-300 to 137-303 / C-1 General Commercial District

SPECIAL INFORMATION

Area Development Pattern:	North:	C-2 Shopping Center Commercial District (Multi-Tenant Building / Merrifield Plaza anchored by Kroger) & C-7 Auto Oriented Restaurant Commercial (Retail / Dollar General)
	South:	C-2 Shopping Center Commercial District (Vacant) & I-1 Light Industrial District (Automotive & Industrial Paint Supplier / FinishMaster & Groundwater & Wastewater Product Manufacturer / Jackel, Inc. - HQ Offices)
	East:	I-2 Heavy Industrial (Steel Fabrication / Builder Iron Works)
	West:	R-1 Single Family Residential (Residential)

Thoroughfare:	S. Merrifield Avenue & E. 12th Street
School District:	School City of Mishawka
Township:	Penn
Public Utilities:	All utilities are available and currently serve the property
Comprehensive Plan:	General Commercial

ANALYSIS

The Appellant, MMC Self Storage LLC, is requesting a Use Variance to allow an indoor climate controlled self-storage unit facility within an existing multi-tenant commercial building. The proposed location is the former Morris Bingo Hall originally built in 1977 and occupied by Kroger until 1988. Kroger then constructed and relocated to Merrifield Plaza, the multi-tenant strip center to the north. The property is bordered by industrial, commercial, and residential uses.

The approximate 32,500 sq. ft. area proposed to be used for indoor storage is the largest of three tenant spaces in the building. Ozark Pawn Shop occupies the 8,700 sq. ft. northern space. Mishawaka Fireworks is located in a 1,500 sq. ft. area in the southeast corner of the building and fronts E. 12th Street. Unlike most multi-tenant commercial buildings, each tenant space within the building is individually owned with the parking area and common access drives being owned by the appellant (79%) and Morris Sales, Inc. / Mishawaka Fireworks (21%). Excluding the proposed change in use, no immediate improvements are planned for the property. The footprints of the buildings will remain as is with no changes to the existing parking area and access drives.

The C-1 General Commercial District does not allow indoor storage as a permitted use. Planning Staff recommended that a use variance be filed as opposed to rezoning to the I-1 Light Industrial District. A use variance will allow the proposed indoor storage while maintaining the underlying C-1 General Commercial zoning for future uses. Rezoning would also permit other undesirable industrial uses.

Staff indicated that a use variance would only be supported if a commercial outlot was subdivided within the western part of the existing parking area and rezoned, if desired, based upon the future anticipated use. Development of an outlot will establish a more active commercial use likely resulting in increased vehicular traffic in a presently underutilized commercial property. The proposed indoor storage facility would have minimal usage on a daily basis.

The petition and attached conceptual site plan indicates that a subdivision plat and rezoning petition will be filed next month for the outlot. The proposed rezoning will be to the C-7 Auto Oriented Restaurant Commercial District. Once rezoned, the outlot could be marketed for a potential restaurant with drive-thru or other permitted commercial use.

All pertinent City Departments have reviewed and approved the use variance request.

The Building Department commented that permits will be required for any remodeling/interior improvements and change of occupancy.

RECOMMENDATION

The Planning Staff recommends **approval** of Appeal 22-10 to allow a Use Variance for an indoor climate controlled self-storage facility in the C-1 General Commercial District subject to the following Conditions:

1. No outdoor storage shall be permitted.
2. Lighting shall be provided in the existing parking area. All lights shall be shielded per the C-1 General Commercial District development regulations.
3. Parking lot shall be repaired, sealed, and restriped in all areas, excluding the proposed future outlot, compliant with the conceptual site plan.
4. Additional landscaping shall be provided (where necessary) in all areas, excluding the proposed future outlot, compliant with the minimum landscaping and screening regulations (Section 137-815).
5. An Administrative Site Plan shall be filed and approved compliant with the above conditions prior to utilizing the building for indoor storage or issuance of a Certificate of Occupancy.
6. A subdivision plat shall be submitted and recorded to establish an outlot west of the multi-tenant commercial building prior to issuance of a Certificate of Occupancy for the indoor storage use.

This recommendation is based on the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed indoor self-storage facility in an existing underutilized multi-tenant commercial building is consistent and compatible with the adjacent existing uses and prior use of the property.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The proposed indoor storage facility will have minimal

patronage on daily basis and be less of traffic generator than the prior commercial use of the property.

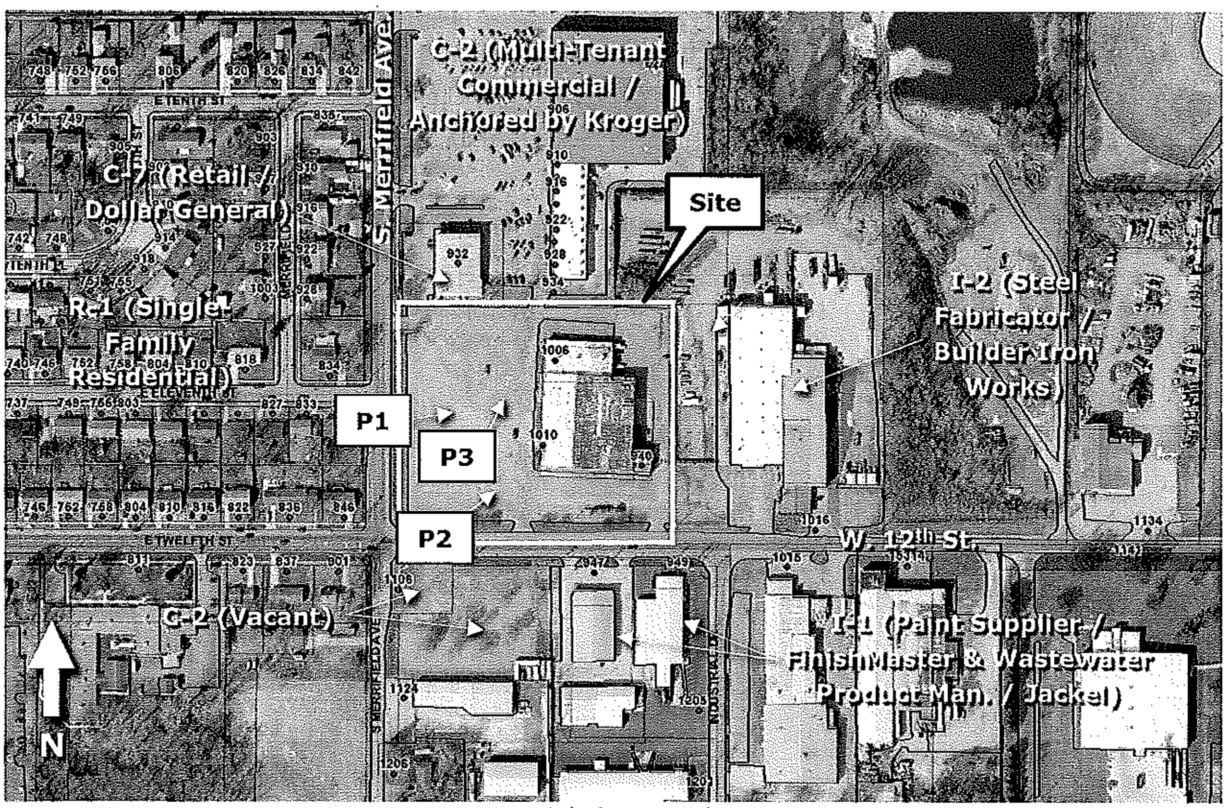
3. The need for the variance arises from some condition peculiar to the property. The C-1 General Commercial District does not permit the use as an indoor storage facility. Interior renovation of the existing building is highly amenable for repurposing for the proposed use due to the size and open floor plan. Furthermore, rezoning to an industrial district for the proposed use is not preferred since it would permit other undesirable use of the property.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. The current zoning of the property does not allow for reuse of a vacant commercial building for an indoor storage facility. The preferred means by which to allow the proposed use is through the use variance process.

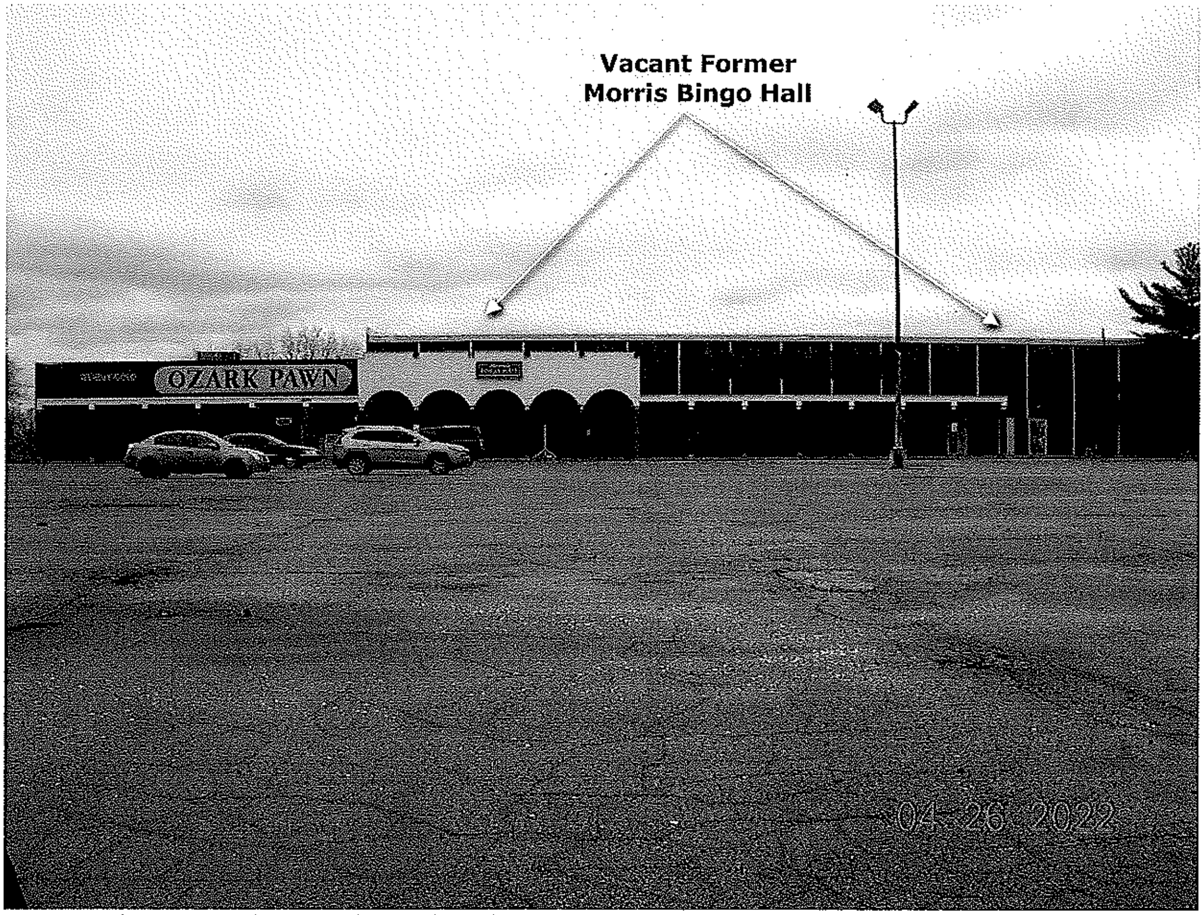
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed use is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Appeal, Conceptual Site Plan, Location Map

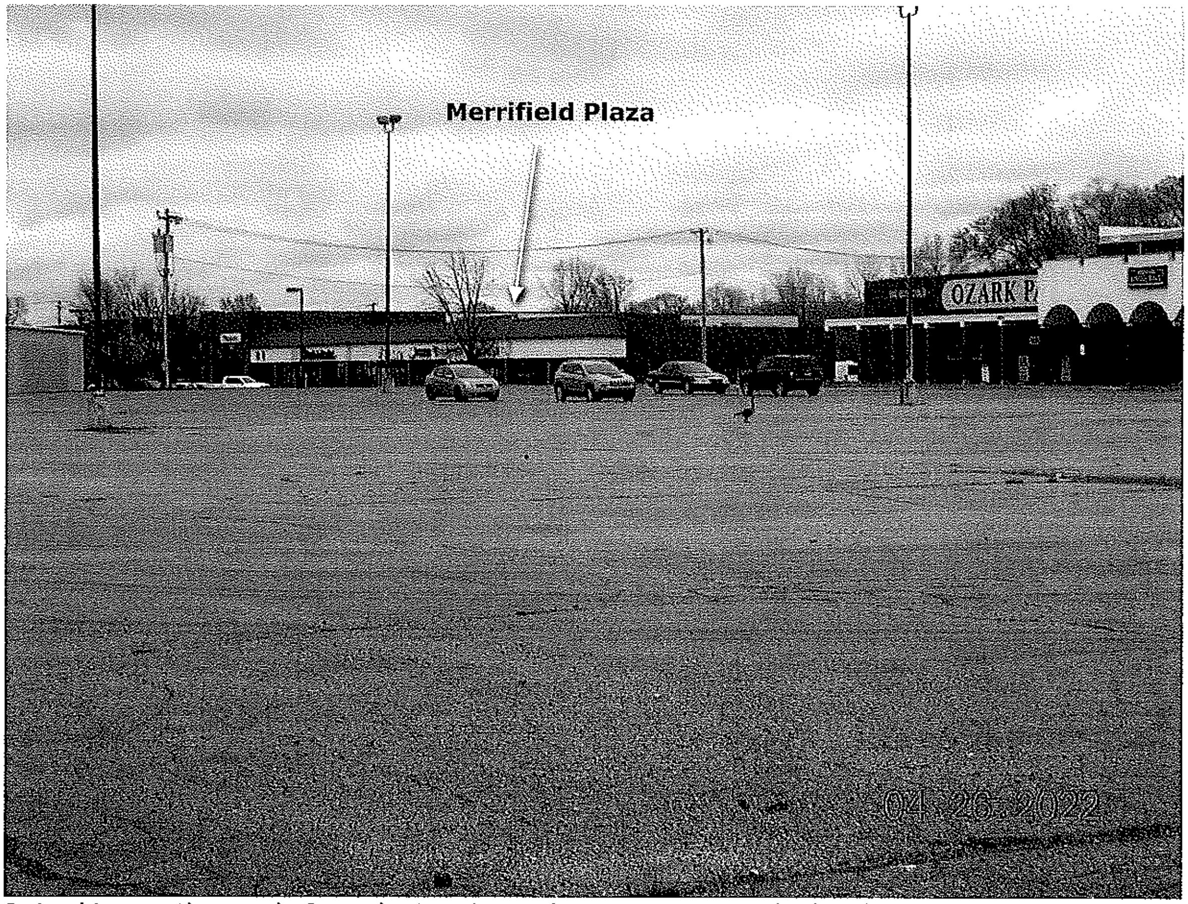


Aerial Photograph
Existing Multi-Tenant Commercial Building
Proposed for Reuse as Indoor Storage
1010 S. Merrifield Ave.



P1. Looking easterly from the parking lot toward the existing multi-tenant commercial building.

P2. Looking northeasterly from the existing parking lot toward the multi-tenant commercial building.



P3. Looking northeasterly from the interior parking area west of the building toward Merrifield Plaza.

P4. Looking northerly from E. 12th Street toward Mishawaka Fireworks in the southeast corner of the building.

RESOLUTION NO. 2022-11
Miscellaneous Property Acquisitions

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

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

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

WHEREAS, on March 11, 2014, the City of Mishawaka Plan Commission (the "Plan Commission") adopted and approved its resolution 2014-01, determining that the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, conform to the plan of development for the City and approving, ratifying and confirming the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, and designated such resolution as the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, as required by Section 16 of the Act (the "Plan Commission Order"); and

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

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

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

WHEREAS, a number of those projects including the redevelopment of the 100 Center were included in the economic development plan; and

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

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

Former Kamm Island Apartments/Motel

Legal Description:

- Tax Parcel #016-1014-057709
- Pts Of A Hurds Out Lots Cont 36 518 Being Part Of Center 100 Motel, roughly 0.77 Acres
- As graphically depicted on attached Exhibit A.

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

1. The referenced parcel is hereby added to the City's acquisition list as part of the consolidated area improvement projects

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

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on May _______, 2022.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

____
Gregg Hixenbaugh, President

ATTEST:

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

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ______ day of May ______, 2022, at the hour of _______ ____.m.

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

This Resolution approved and signed by me on the ____ day of May, 2022, at the hour of _________ ___.m.

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

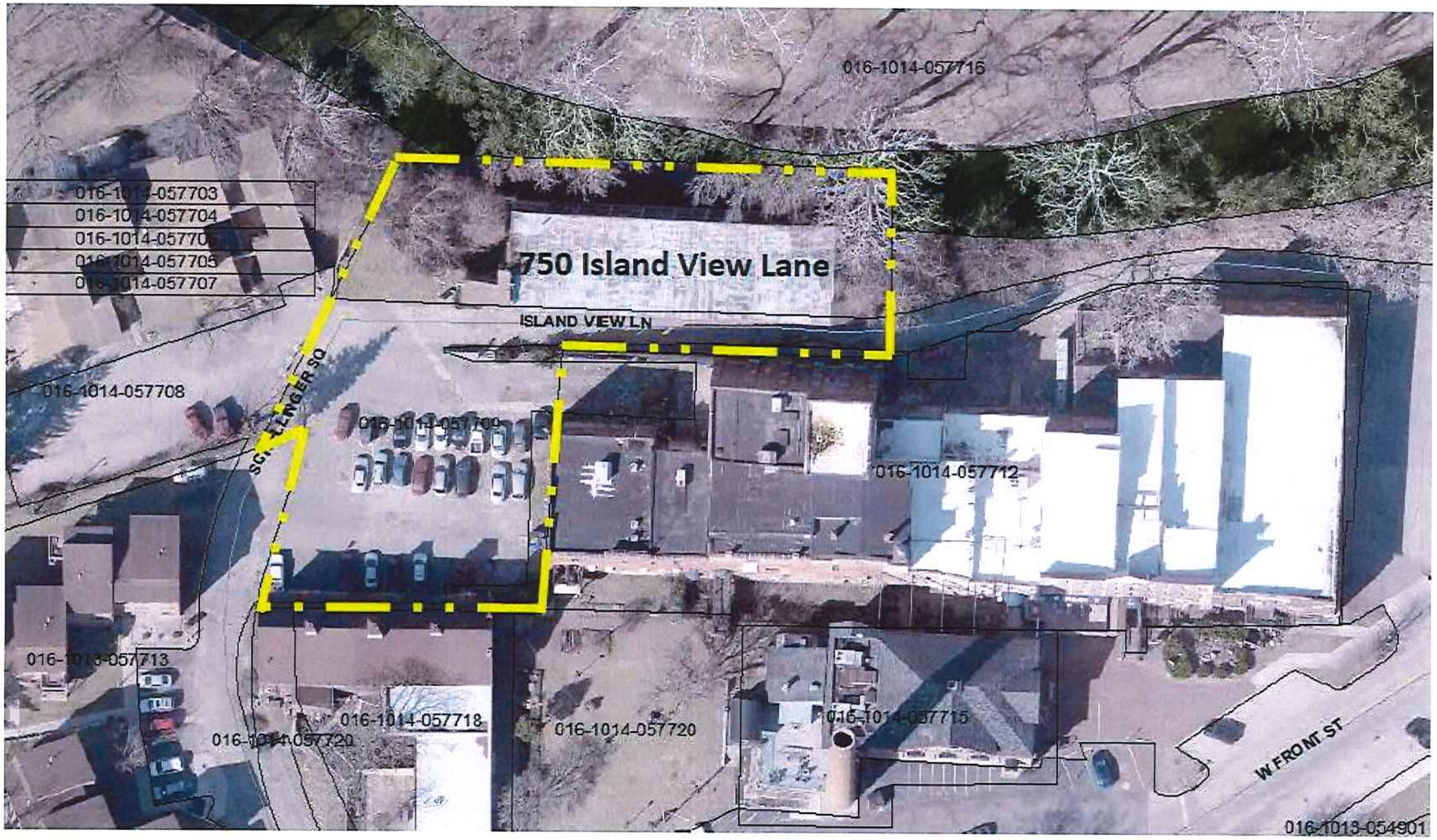


Exhibit A

Location of 750 Island View Lane

Deborah S. Block, IAMC, MMC

MAY 1 1 2022

City Clerk
Mishawaka, IN

APPEAL #22-10

RESOLUTION NO. 2022-12

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

1010 South Merrifield Avenue, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **1010 South Merrifield Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

A parcel of land being a part of the Southeast Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the South Quarter corner of said Section 15; thence South 89 degrees 53'00" East along the South line of said Section 15, a distance of 306.72 feet; thence North 0 degrees 07'00" East, a distance of 139.77 feet to the place of beginning; thence North 2 degrees 33'03" East, a distance of 177.06 feet; thence South 87 degrees 26'37" East, a distance of 175.00 feet; thence South 2 degrees 33'03" West, a distance of 34.06 feet; thence South 87 degrees 26'57" East, a distance of 36.00 feet; thence South 2 degrees 33'03" West, a distance of 143.00 feet; thence North 87 degrees 26'37" West, a distance of 211.00 feet to the place of beginning containing 36,133.50 square feet, more or less.

The Use Variance will allow self-storage in C-1 General Commercial District subject to the following conditions:

1. No outdoor storage shall be permitted.
2. Lighting shall be provided in the existing parking area. All lights shall be shielded per the C-1 General Commercial District development regulations.
3. Parking lot shall be repaired, sealed, and restriped in all areas, excluding the proposed future outlot, compliant with the conceptual site plan.

4. Additional landscaping shall be provided (where necessary) in all areas, excluding the proposed future outlot, compliant with the minimum landscaping and screening regulations (Section 137-815).
5. An Administrative Site Plan shall be filed and approved compliant with the above conditions prior to utilizing the building for indoor storage or issuance of a Certificate of Occupancy.
6. A subdivision plat shall be submitted and recorded to establish an outlot west of the multi-tenant commercial building prior to issuance of a Certificate of Occupancy for the indoor storage use.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed indoor self-storage facility in an existing underutilized multi-tenant commercial building is consistent and compatible with the adjacent existing uses and prior use of the property.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The proposed indoor storage facility will have minimal patronage on daily basis and be less of traffic generator than the prior commercial use of the property.

3. The need for the variance arises from some condition peculiar to the property. The C-1 General Commercial District does not permit the use as an indoor storage facility. Interior renovation of the existing building is highly amenable for repurposing for the proposed use due to the size and open floor plan. Furthermore, rezoning to an industrial district for the proposed use is not preferred since it would permit other undesirable use of the property.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. The current zoning of the property does not allow for reuse of a vacant commercial building for an indoor storage facility. The preferred means by which to allow the proposed use is through the use variance process.

5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed use is consistent with the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _______ day of___________________, 2022, at ______o'clock ____ .m.

____
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: 1010 S. Merrifield Avenue	Date: May 10, 2022
Appeal: 22 - 10	Prepared By: DJS

GENERAL INFORMATION

Applicant:	MCC Self Storage LLC, Brad Beer / Jones Petrie Rafinski
Status:	Property Owner / Surveyor & Engineer
Request:	Use Variance to allow an indoor climate controlled self-storage facility
Zoning Classification:	C-1 General Commercial District
Lot Size:	0.82 acres (tax parcel #016-1125-4937.13) being the building only with the parking and access drives (tax parcel #016-1125-4937.10) being 79% owned by the applicant
Applicable Regulations:	Section 137-42 / (4) Board of Zoning Appeals – Use Variance & Section 137-300 to 137-303 / C-1 General Commercial District

SPECIAL INFORMATION

Area Development Pattern:	North:	C-2 Shopping Center Commercial District (Multi-Tenant Building / Merrifield Plaza anchored by Kroger) & C-7 Auto Oriented Restaurant Commercial (Retail / Dollar General)
	South:	C-2 Shopping Center Commercial District (Vacant) & I-1 Light Industrial District (Automotive & Industrial Paint Supplier / FinishMaster & Groundwater & Wastewater Product Manufacturer / Jackel, Inc. - HQ Offices)
	East:	I-2 Heavy Industrial (Steel Fabrication / Builder Iron Works)
	West:	R-1 Single Family Residential (Residential)
Thoroughfare:	S. Merrifield Avenue & E. 12th Street	
School District:	School City of Mishawka	
Township:	Penn	
Public Utilities:	All utilities are available and currently serve the property	
Comprehensive Plan:	General Commercial	

ANALYSIS

The Appellant, MMC Self Storage LLC, is requesting a Use Variance to allow an indoor climate controlled self-storage unit facility within an existing multi-tenant commercial building. The proposed location is the former Morris Bingo Hall originally built in 1977 and occupied by Kroger until 1988. Kroger then constructed and relocated to Merrifield Plaza, the multi-tenant strip center to the north. The property is bordered by industrial, commercial, and residential uses.

The approximate 32,500 sq. ft. area proposed to be used for indoor storage is the largest of three tenant spaces in the building. Ozark Pawn Shop occupies the 8,700 sq. ft. northern space. Mishawaka Fireworks is located in a 1,500 sq. ft. area in the southeast corner of the building and fronts E. 12th Street. Unlike most multi-tenant commercial buildings, each tenant space within the building is individually owned with the parking area and common access drives being owned by the appellant (79%) and Morris Sales, Inc. / Mishawaka Fireworks (21%). Excluding the proposed change in use, no immediate improvements are planned for the property. The footprints of the buildings will remain as is with no changes to the existing parking area and access drives.

The C-1 General Commercial District does not allow indoor storage as a permitted use. Planning Staff recommended that a use variance be filed as opposed to rezoning to the I-1 Light Industrial District. A use variance will allow the proposed indoor storage while maintaining the underlying C-1 General Commercial zoning for future uses. Rezoning would also permit other undesirable industrial uses.

Staff indicated that a use variance would only be supported if a commercial outlot was subdivided within the western part of the existing parking area and rezoned, if desired, based upon the future anticipated use. Development of an outlot will establish a more active commercial use likely resulting in increased vehicular traffic in a presently underutilized commercial property. The proposed indoor storage facility would have minimal usage on a daily basis.

The petition and attached conceptual site plan indicates that a subdivision plat and rezoning petition will be filed next month for the outlot. The proposed rezoning will be to the C-7 Auto Oriented Restaurant Commercial District. Once rezoned, the outlot could be marketed for a potential restaurant with drive-thru or other permitted commercial use.

All pertinent City Departments have reviewed and approved the use variance request.

The Building Department commented that permits will be required for any remodeling/interior improvements and change of occupancy.

RECOMMENDATION

The Planning Staff recommends **approval** of Appeal 22-10 to allow a Use Variance for an indoor climate controlled self-storage facility in the C-1 General Commercial District subject to the following Conditions:

1. No outdoor storage shall be permitted.
2. Lighting shall be provided in the existing parking area. All lights shall be shielded per the C-1 General Commercial District development regulations.
3. Parking lot shall be repaired, sealed, and restriped in all areas, excluding the proposed future outlot, compliant with the conceptual site plan.
4. Additional landscaping shall be provided (where necessary) in all areas, excluding the proposed future outlot, compliant with the minimum landscaping and screening regulations (Section 137-815).
5. An Administrative Site Plan shall be filed and approved compliant with the above conditions prior to utilizing the building for indoor storage or issuance of a Certificate of Occupancy.
6. A subdivision plat shall be submitted and recorded to establish an outlot west of the multi-tenant commercial building prior to issuance of a Certificate of Occupancy for the indoor storage use.

This recommendation is based on the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed indoor self-storage facility in an existing underutilized multi-tenant commercial building is consistent and compatible with the adjacent existing uses and prior use of the property.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. The proposed indoor storage facility will have minimal

patronage on daily basis and be less of traffic generator than the prior commercial use of the property.

3. The need for the variance arises from some condition peculiar to the property. The C-1 General Commercial District does not permit the use as an indoor storage facility. Interior renovation of the existing building is highly amenable for repurposing for the proposed use due to the size and open floor plan. Furthermore, rezoning to an industrial district for the proposed use is not preferred since it would permit other undesirable use of the property.

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought. The current zoning of the property does not allow for reuse of a vacant commercial building for an indoor storage facility. The preferred means by which to allow the proposed use is through the use variance process.

5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed use is consistent with the Comprehensive Plan.

Attachments

Aerial Photograph, Site Photographs, Appeal, Conceptual Site Plan, Location Map

Aerial Photograph
Existing Multi-Tenant Commercial Building
Proposed for Reuse as Indoor Storage
1010 S. Merrifield Ave.

P1. Looking easterly from the parking lot toward the existing multi-tenant commercial building.

P2. Looking northeasterly from the existing parking lot toward the multi-tenant commercial building.

P3. Looking northeasterly from the interior parking area west of the building toward Merrifield Plaza.

P4. Looking northerly from E. 12th Street toward Mishawaka Fireworks in the southeast corner of the building.

AP 22-10

Date: April 20, 2022

To: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, Brad Beer, owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:
    a. Please refer to parcel 1 description in the attached deed.
    b. Commonly known as 1010 S Merrifield Ave, Mishawaka, 46544
2. The above-described real estate presently has a zoning classification of C-1 (General Commercial) District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the above-described property as a vacant bingo hall. It is the largest of three buildings on site. Adjacent retail property owners occupy a pawn shop, and firework store.
4. Appellant desires to utilize this main building as an indoor climate-controlled self-storage unit facility. The building footprint will not change.
5. Per the Zoning Ordinance of the City of Mishawaka the C-1 Zoning District is identified as follows:
    a. **Sec. 137-300. - Intent.**
        i. The purpose of this general commercial district is to provide convenient retail and service establishments for the day-to-day needs of a large area with minimum impact on surrounding residential areas. This district is designed to provide for freestanding commercial uses which require limited comparison shopping. Customers usually arrive by automobile, making a separate stop for each errand.
    b. **Sec. 137-301.** - Uses.
        i. *Permitted uses.*
            1. Indoor climate-controlled self-storage facility is not listed as one of the more than 134 permitted uses.
6. Strict adherence to the Ordinance would not allow for the proposed use of the existing vacant bingo hall to be redeveloped into the desired use and future plan for this commercial development. As part of this use variance petition, appellant will be rezoning and platting an outlot west of this proposed indoor storage facility, at the northeast corner of the 12th Street and Merrifield Avenue intersection.
7. Responses to Questions for a Use Variance
    a. *Will approval be injurious to the public health, safety, morals or general welfare of the community?* Approval of this Use Variance request will not be injurious to the health, safety, morals, or general welfare of the community since this proposed use will be repurposing the existing structure for a safe and reputable self-storage business.
    b. *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 value of the adjacent property will

not be affected in a substantially adverse manner. The proposed use will not cause an increase in vehicular traffic, and it will be minimal at any one-time. Furthermore, there will be no visual evidence of the personal storage from S Merrifield Avenue or 12th Street since it will be indoors.

c. *Does the need for the variance arise from some condition peculiar to the property involved?* The client is interested in renovating the existing building because of its amenability to redeveloping as an indoor storage facility. In this instance, the existing vacant bingo hall is of a size and floor plan conducive to repurposing as an indoor self-storage facility. The existing building is to remain, but will be renovated to standards for the desired use. The adjacent retail uses will also remain.
d. *Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?* The development of this existing property and future outlot development is dependent upon approval of this petition. Therefore, strict application of the terms of this chapter will constitute an unnecessary hardship if applied to this property.
e. *Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?* We believe that the approval of this Use Variance request will not substantially interfere with the Mishawaka 2000 Comprehensive Plan.

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

AuthentiSIGN
Brad Beer
4/19/2022 2:10:20 AM GMT

Brad Beer, Owner/Developer
MCC Self Storage, LLC.

Contact Person:
Austin Blomeke
Jones Petrie Rafinski
325 South Lafayette Blvd.
South Bend, Indiana, 46601
Phone: 574-232-4388
Email: ablomeke@jpr1source.com

A hentisign ID: 1C7DF762-11CC-4665-AB84-968D3C98BBB3

JONES
PETRIE
RAFINSKI

Land Surveying · Civil Engineering · Planning · Architectutre · Project Funding · GIS · Environmental · Renewable Energy · Landscape Architecture

April 20, 2022

Board of Zoning Appeals, City of Mishawaka, Indiana

Dear Board of Zoning Appeals Members,

Please allow this letter to serve as authorization to allow representatives from Jones Petrie Rafinski to apply for and seek your approval for a use variance to allow an indoor climate controlled self-storage facility for the property located at 1006 South Merrifield Avenue, currently zoned C1.

Property Owner

Brad Beer

Printed Name:

Owner, Member

Title:

AuthentiSIGN
Brad Beer
4/19/2022 2:10:18 AM GMT

Signature:

April 20, 2022

H:\2022 Projects\2022-0058\Submittal

Hold Morris Recon

MAIL DEED TO: **MAIL TAX BILLS TO:** Yeshiva Rabbi Naftali Riff, Inc.
3207-B
South High Street
South Bend, In.
46614

AUDITOR'S RECORD

Transfer No. 10053
Taxing Unit Mish
Date 12.19.00
Key No. 16-1125-493710

WARRANTY DEED

MORRIS SALES, INC., an Indiana Corporation, the Grantor

Conveys and Warrants to

YESHIVA RABBI NAFTALI RIFF, INC., an Indiana Not for Profit Corporation, its successors and assigns, the Grantee

for and in consideration of Ten ($10.00) Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, Real Estate in St. Joseph County, in the State of Indiana, described as follows:

Parcel I: A parcel of land being a part of the Southeast Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the South Quarter corner of said Section 15; thence South 89 degrees 53' 00" East along the South line of said Section 15, a distance of 306.72 feet; thence North 0 degrees 07'00" East, a distance of 139.77 feet to the place of beginning; thence North 2 degrees 33'03" East, a distance of 177.06 feet; thence South 87 degrees 26'57" East, a distance of 175.00 feet; thence South 2 degrees 33'03" West, a distance of 34.06 feet; thence South 87 degrees 26'57" East, a distance of 36.00 feet; thence South 2 degrees 33'03" West, a distance of 143.00 feet; thence North 87 degrees 26'57" West, a distance of 211.00 feet to the place of beginning containing 36,133.50 square feet, more or less.

Parcel II: An undivided 79% interest in a parcel of land being a part of the Southeast Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows:

Beginning at the South Quarter corner of said Section 15; thence North 00 degrees 00' 00" East (bearing assumed) along the North-South centerline of said Section 15, a distance of 449.05 feet; thence South 89 degrees 53' 00" East

DULY ENTERED FOR TAXATION
JOSEPH F. NAGY
AUDITOR
ST. JOSEPH CO. INDIANA

December 31, 1992, in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 9248758, and further terms and provisions as contained in such mortgage. (Collateral Assignment of Mortgage dated March 18, 1997, and recorded April 8, 1997, as Instrument No. 9712390.)

Signed and dated on the 18 day of December, 2000.

MORRIS SALES, INC.,
an Indiana Corporation

By: Charles A. Long
Charles A. Long, President

State of Indiana, St. Joseph County, ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Charles A. Long, President, Morris Sales, Inc., an Indiana Corporation, and acknowledged the execution of the foregoing Deed on the 18th day of December, 2000.

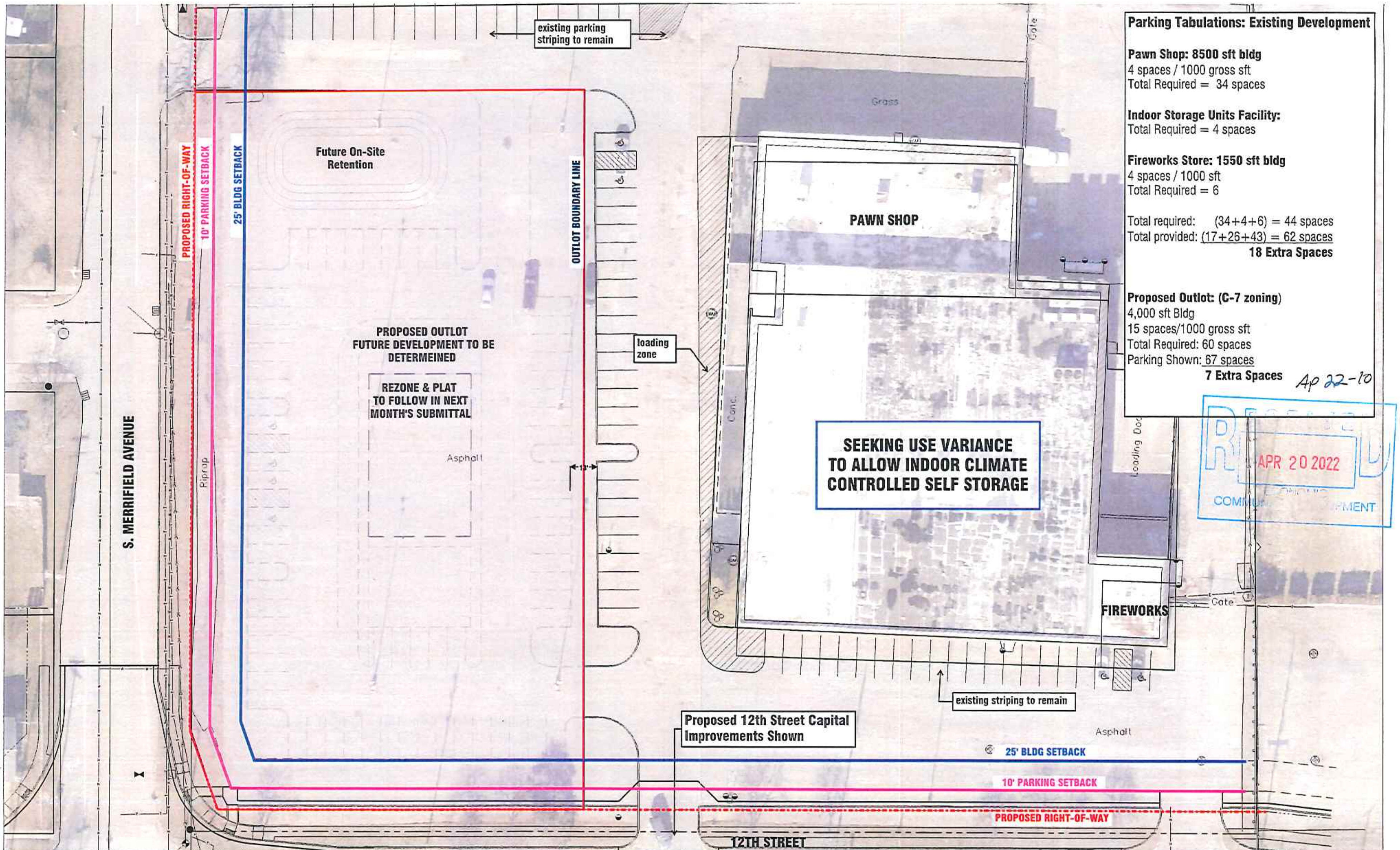
NOTARY PUBLIC SEAL

My Commission Expires:
May 28, 2007

Amy A. Chartier
Amy A. Chartier, Notary Public
Residing in St. Joseph County,
Indiana

0057894
RECORDED ON
12-19-2000 9:27:34
TERRI J. RETHLAKE
ST. JOSEPH COUNTY
RECORDER
REC. FEE: 18.00
PAGES: 3

Prepared by: Morris Rosen, Attorney at Law, 112 W. Jefferson Blvd., Suite 501, South Bend, IN 46601 (phone: 219-232-1419), Attorney #6197-71

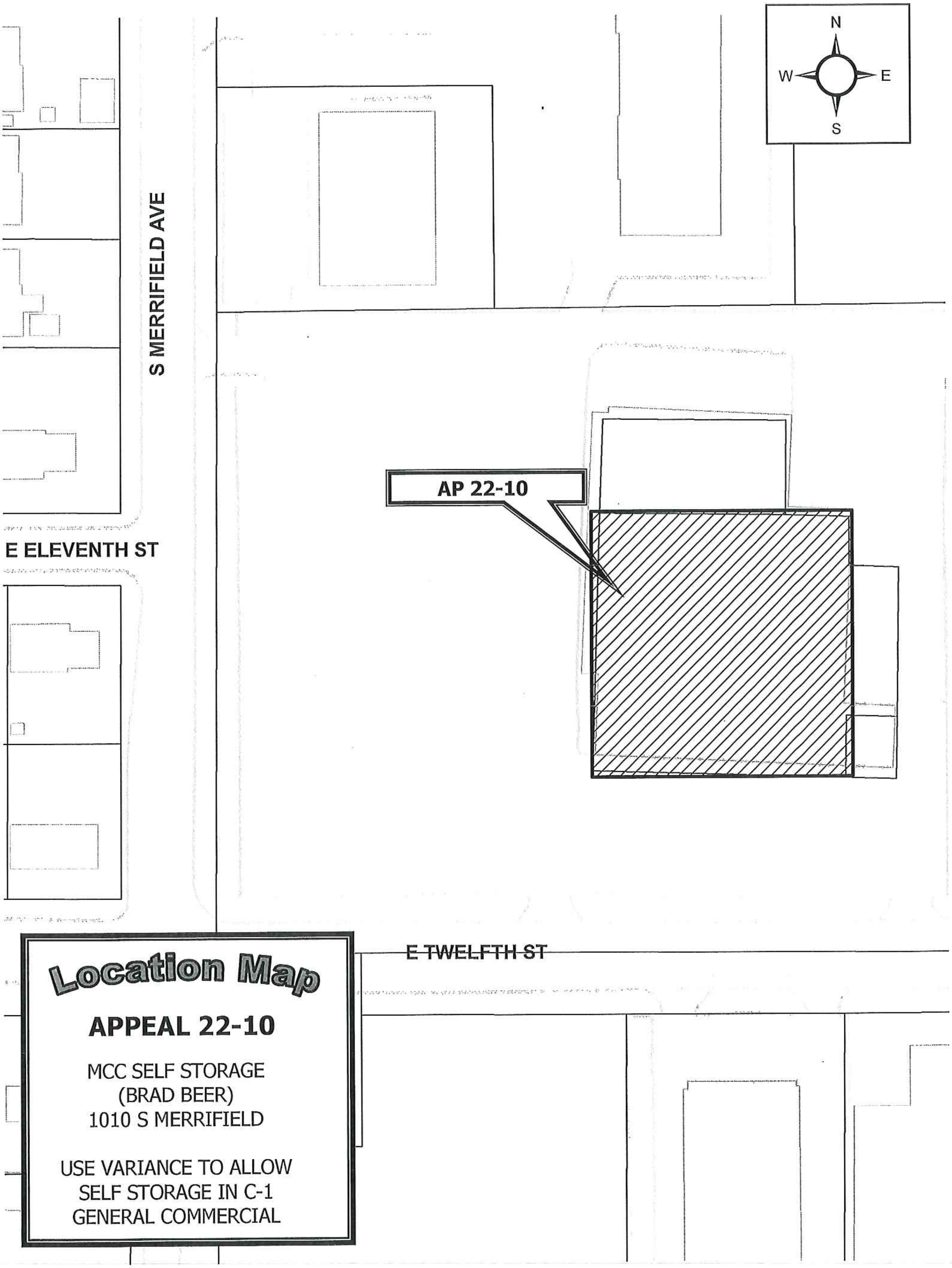


Merrifield Indoor Self Storage & Outlot

Conceptual Site Plan

APRIL 2022

JONES PETRIE RAFINSKI


N
W
E
S
S MERRIFIELD AVE
AP 22-10
E ELEVENTH ST
E TWELFTH ST
Location Map
APPEAL 22-10
MCC SELF STORAGE
(BRAD BEER)
1010 S MERRIFIELD
USE VARIANCE TO ALLOW
SELF STORAGE IN C-1
GENERAL COMMERCIAL