

AGENDA

August 15, 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): 2352 505 4593
Meeting Password: hbBR5zhdp33

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: 23525054593@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of August 01, 2022
5. Petitions, Communications, Remonstrance and Memorial

A letter from the Board of Zoning Appeals regarding their recommendations from their August 9, 2022 meeting.

A letter from the City Plan Commission regarding their recommendations from their August 9, 2022 meeting.
6. Report of Special Committee

7. Ordinances on First Reading

- P.O. NO. 2022-19 Rezone C-2 shopping center commercial to C-7 Auto Oriented Restaurant for speculative outlot- Lot 1 CAT Mishawaka, LLC. Minor Subdivision
- P.O. No. 2022-20 Rezone from C-1 (Existing Insurance Office) to R-1 Single Family Residential (Conversion back to house) - 2212 LWE
- P.O. No. 2022-21 Rezone from I-1 Light Industrial to R-1 Single Family Residential for an existing house - 805 S. Logan St.
- P.O. No. 2022-22 Annexation and Rezone to S-2 PUD for commercial use - 14325 Cleveland Rd.
- P.O. No. 2022-23 Rezone from C-1 to R-1 to rebuild single family residential house - 911 N. Main St.
- P.O. No. 2022-24 Rezone from C-2 Center Commercial & C-7 Auto oriented restaurant to C-4 Auto Oriented Commercial for Drive N' Shine Car Wash Facility - 3605 Bremen Highway
- P.O. No. 2022-25 Establishing the Cedar Street multiple site a Historic District.
- P.O. NO. 2022-26 Amusement and Entertainment Ordinance

8. Resolutions

- R2022-17 Use Variance to allow Food Truck in the parking lot of Pilo's Body Shop - 1017 Jefferson Blvd.
- R2022-18 Use Variance to allow retail sales in I-2 Light Industrial District - 702 S. Logan St.
- R2022-19 Consenting and Acknowledging House Enrolled Act 1002

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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

August 1, 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, August 1, 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.

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 July 25, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petitions by title.

Appeal No. 2022-27	Use Variance to allow Food Truck in the parking lot of Pilo's Body Shop – 1017 Jefferson Blvd.
Appeal No. 2022-29	Use Variance to allow retail sales in I-2 Light Industrial District – 702 S. Logan St.
Petition No. 2022-09	Rezone from C-1(Existing Insurance Office)to R-1 Single Family Residential (Conversion back to house) – 2212 LWE
Petition No. 2022-10	Rezone from I-1 Light Industrial to R-1 Single Family Residential for an existing house – 805 S. Logan St.
Petition No. 2022-11	Annexation and Rezone to S-2 PUD for commercial use – 14325 Cleveland Rd.

Petition No. 2022-12

Rezone from C-1 to R-1 to rebuild single family residential house – 911 N. Main St.

Petition No. 2022-13

Rezone from C-2 Center Commercial & C-7 Auto oriented restaurant to C-4 Auto Oriented Commercial for Drive N' Shine Car Wash Facility – 3605 Bremen Highway

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2022-14

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 I-1 Light Industrial to R-1 Single family Residential – 1816 W. Sixth St.

Mr. Hixenbaugh stated that the record would reflect that they had previously entered into the committee report as well as had two public hearings on the proposed ordinance. Mr. Hixenbaugh then opened the floor for questions and comments from the council.

Mr. Emmons stated invited Jason up to the podium for a few comments that he wanted to make on this.

Jason Van Desin, 1802 W 6th Street, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-14**. Mr. Van Desin stated he and Mr. Forslund had talked about this and they had not reached an agreement money wise on it. Mr. Van Desin stated they were 100% against losing more industrial property in the area and he would like to see it stay. Mr. Van Desin stated if he was going to run a business out of there or of that nature, he would be completely for it. Mr. Van Desin stated he did not agree with having a house that close to a commercial building at all and neither did his partner Wayne who was present that evening as well. Mr. Van Desin stated it was not something that they wanted, but if they got it forced down their throat and they had to, they would appreciate some stipulations on a privacy fence and some other things such as parking, with the entire north side of it being no parking and it had been that way forever and they did not want cars parked there. Mr. Van Desin stated if it was forced upon them, it should be forced upon everybody. Mr. Van Desin stated they did not want the sidewalks blocked with cars and stated if they did have to go down this road, then, he would appreciate if the committee stood behind them a bit on some of the terms but they were definitely 100% against it.

Mr. Emmons stated he had been by his facility and the house that was in question about being rezoned from industrial to residential and it was on a very tight lot. Mr. Emmons stated part of the neighbor's fence was in his yard and the yard itself was a mess, with it being loaded with concrete and asphalt. Mr. Emmons stated he did not see how it could be rezoned and an eye

opener for that area and he thought it would not be an asset but more of a distraction. Mr. Emmons stated it was very close to an industrial building and he was not in favor of spot zoning and this was what they would be doing if they changed the zoning. Mr. Emmons stated basically from Ironwood to Logan, there were 92 I-1 buildings and 15 commercial buildings and that only left about 14 houses that were zoned residential from Ironwood to Logan. Mr. Emmons stated basically, that track of land on the north side of 6th Street had gone from residential way back when he lived in that area to more commercial and industrial. Mr. Emmons stated it started back when Furman's Meat Packing Company rezoned it because they did not feel that the packing company was suitable for a residential area. Mr. Emmons stated what they then did was move it to another residential area and rezoned it. Mr. Emmons stated that's what had changed and made the whole corridor alter from residential to basically industrial and commercial. Mr. Emmons asked what his plans were for the building and the lot itself looking forward. Mr. Van Desin stated if they could purchase a lot, they would definitely be looking at putting a parking lot there for their employees. Mr. Van Desin stated it would have to have correct drainage, meet all of the zoning and everything else they would have to do to make it right. Mr. Van Desin stated it would ultimately benefit their company a lot but he was also not going to want the committee to sit there and be the mediator between a price on a piece of property either and that was not fair to the council and not right either. Mr. Van Desin stated he wished they could reach an agreement to purchase it and be done with it but they could not at that point. Mr. Emmons asked what about the house to the west. Mr. Van Desin stated they had been in contact with the owner and they wanted to purchase it when that time came. Mr. Van Desin stated that way, it would be all I-1 industrial from one end of that all the way to the corner of Alabama. Mr. Emmons asked if that was in the near future that he'd want to expand if he could get both pieces of property. Mr. Van Desin stated if he could, yes but he did not want the committee to be a mediator on pricing and that was not the reason they were present that evening.

Mr. Mammolenti stated they had put some pretty stringent stipulations with Mr. Forslund if they were to convert it to residential and he had agreed. Mr. Mammolenti asked if they were to keep it industrial and he were to purchase it, if he would be willing to stipulations well. Mr. Mammolenti stated his fear was he would but this property and then it sit there or perhaps it would make a great rental and keep that as a rental. Mr. Mammolenti asked his point was if he said they were going to tear it down and put a parking lot there, what the time frame would be. Mr. Van Desin stated as soon as humanly possible and that building seemed to be a draw for the wrong kind of crowd and it kept coming into that area. Mr. Van Desin stated the more they could rid of, the more they were going to lose the problem of people dumping in the alley and everything else that was taking place. Mr. Van Desin stated it was not uncommon for once or twice a week for somebody to drop a pickup truck load of stuff in the alley behind either that house or their building and the more they could open it up and make it more desirable, the less problems they were going to have with crime and those type of things he believed. Mr. Mammolenti stated to reiterate and asked the question again if he were to purchase it, if he would be comfortable with agreeing to perhaps 30 days to demolishing the home and starting on a parking lot. Mr. Van Desin stated he would like to say 60 and it was going to take a little bit to get everybody's ducks in a row in order to do what needed to be done. Mr. Mammolenti stated

he knew he had a purchase agreement in hand and that was torn up and asked if it went on the market. Mr. Van Desin stated yes he believed so. Mr. Mammolenti asked how come he didn't put an offer in. Mr. Van Desin stated it was never brought to their attention at all and stated he did not have an idea who it was through and that was the problem, because otherwise they would have chased after it.

Mr. Bellovich stated in the last meeting they had discussed the Fire Marshal and the close proximity of the buildings. Mr. Bellovich asked if the Fire Marshal talked with him at all. Mr. Van Desin stated he did and he was out. Mr. Bellovich asked what the results of those discussions were. Mr. Van Desin stated there really was not a whole lot of results out of it and as he put it, yes it was close but they did have a two-hour firewall there on their building which meant it was concrete block. Mr. Van Desin stated his personal belief was he did not know if the Fire Marshal took into consideration of the roof that was on their building, the complete wooden structure of that house and at that point that was all he could really say about it. Mr. Van Desin stated there was no real great conclusion between all of them on it.

Mr. Hixenbaugh thanked him for being there that evening and wanted to make sure that the understood what he shared with them in response to Mr. Emmons' questions. Mr. Hixenbaugh stated he heard a mention of a condition that if it was going to be rezoned, that he'd like to see a privacy fence and asked if that was correct. Mr. Van Desin stated yes. Mr. Hixenbaugh asked if that would be around the entire property or if he had one particular segment of property in mind. Mr. Van Desin stated obviously the east side of it where their building was at is where he would like to see it and him and Mr. Forslund had talked about it too. Mr. Van Desin stated he would like it to start at the corner of his house and come out as far as they could without blocking views and then go all the way to the other end into the back where the fence was. Mr. Hixenbaugh stated he heard his other two points about no parking on 6th Street and no cars parked over the sidewalk. Mr. Hixenbaugh stated he was going to defer on that and he was going to ask Mr. Prince to address both of those items because he believed that both of those items would already be independently covered in their city code; at least one of them. Mr. Hixenbaugh stated parking on the sidewalks was a code violation for anyone and quite frankly, that was one of the long-term complaints that they had with regard to the prior owner that he rectified and they appreciated that. Mr. Van Desin stated they were doing the best they could and they were still fighting. Mr. Hixenbaugh stated he understood and then he was not sure if he heard of another condition that he was suggesting and wanted to clarify that the conditions he suggested were the privacy fence, no parking on 6th street and no parking on the sidewalks were the three points he wanted them to consider. Mr. Van Desin stated that was it.

Mr. Hixenbaugh wanted to ask Mr. Forslund some questions and thanked him for being there that evening as well. Mr. Hixenbaugh stated it sounded like despite everybody's best intentions, there was not an agreement that you and he and the neighbor were able to reach but they appreciated both of them engaging in the effort nevertheless. Mr. Hixenbaugh stated they went through a fairly lengthy list of conditions the last time around and he was willing to voluntarily enter into those and they now just heard three additional conditions. Mr. Hixenbaugh stated two

of which he was going to ask Mr. Prince to address but he wanted to walk through them anyway. Mr. Hixenbaugh stated the first was with respect to a privacy fence on the east side of the property that he owned and stated it sounded like there had been some conversations. Mr. Hixenbaugh asked what if any condition and commitment was he willing to agree to with regard to this property having to do with the privacy fence. Mr. Forslund stated he thought the privacy fence was a good idea and he was planning on doing that already so that both property owners could have access to both sides without interrupting any kind of privacy. Mr. Hixenbaugh asked if he was willing to agree to a privacy fence on the east side of the property. Mr. Forslund stated yes. Mr. Hixenbaugh asked him if he had any comments that he wanted to share with regard to the concept of no parking on 6th Street in front of the home. Mr. Forslund stated there seemed to be parking on the south side, so there would just be parking in front of other people's houses. Mr. Hixenbaugh stated he would ask Mr. Prince to clarify, but stated let's assume for the purposes of the question that comprehensively, that it was not allowed on the north side of 6th Street. Mr. Forslund stated they would just park where they could. Mr. Hixenbaugh stated they knew from prior public hearings they knew that his intent was to sell it but to the extent that he could have control over the other buyers and asked if he had any objection to normal city code being enforced so that whomever owned the property could not park on the sidewalk. Mr. Forslund stated he had no objection. Mr. Hixenbaugh asked if there was anything else he wanted to share with the council that he had not had a chance to allow him to share based upon his questions. Mr. Forslund stated one thing he wanted to mention was that the lot size was included in all the residential lots the neighborhood and not just the north side of 6th Street and it was probably a little bigger than the average residential lot, so it was not a small lot and the backyard was pretty big. Mr. Forslund stated the side yards were small but the backyard was not. Mr. Hixenbaugh asked if he was still willing to voluntarily enter the conditions they ran through at the last meeting including paying for the recording of the written commitment that would memorialize his agreement with them if the property was successfully resumed and asked if that was correct. Mr. Forslund stated that was correct.

Mr. Emmons stated they had a gentleman present at the last meeting that stated his fence was on the gentleman's property and asked if that were true. Mr. Forslund stated he did not have anything in writing that had told him it was a fact but if it was, they could put it in the contract and it could be. Mr. Emmons also stated on the property entering from 6th Street and heading north, he had a lot of asphalt and concrete that was part of a drive and there was no garage there, so was just broken up concrete and asphalt and asked if that was correct. Mr. Forslund stated he believed so. Mr. Emmons stated and in the backyard, not including a driveway, there was concrete back in the backyard and asked if that was correct. Mr. Forslund stated there was a concrete slab where a garage used to be. Mr. Emmons asked if it was his intention then to remedy the lot by removing all the concrete. Mr. Forslund stated he believed they had talked about leaving the slab for the garage if it was buildable but if it needed to be torn out, then he would certainly do that. Mr. Emmons stated he did not know the exact amount of money that he paid for the lot but he assumed it was somewhere around \$41,000 in that area. Mr. Emmons asked what he surmised it was going to cost him to bring the house up to where somebody would want to buy that and live in it. Mr. Forslund stated it would be around 35 to 40. Mr. Forslund

asked Mr. Emmons if he had ever been inside the house. Mr. Emmons stated he had not but he had been around it and he had been walked up to it and had walked onto the front porch which was in dire need of repair. Mr. Hixenbaugh stated to Mr. Forslund that he knew from prior meetings that he heard him say that Mr. Emmons was gracious to answer his question but this was an opportunity for Mr. Emmons to ask him questions and not vice versa. Mr. Forslund apologized. Mr. Emmons stated Mr. Forslund had clarified at the last meeting that he was a realtor and asked if that were correct. Mr. Forslund stated it was correct. Mr. Emmons stated it was his understanding that when he purchased the property, he was not aware that it was zoned industrial and asked if that were correct. Mr. Forslund stated he knew and was told it was zoned industrial and was also told that the sellers were in communication with the city and they told them there were no issues with rezoning and he took their word. Mr. Emmons stated he questioned that and Mr. Forslund stated he had not lied one time. Mr. Emmons stated he was not stating he lied. Mr. Forslund stated they had mostly likely lied about it. Mr. Emmons stated when they finished the house and planned on selling it and the stipulation would be it can't be rented, he asked would that follow over. Mr. Emmons also asked if they could use the rental as a rental property. Mr. Hixenbaugh stated for the record he would ask Mr. Trippel, but it was his understanding that the statutory site for anybody who wanted to do some quick legal research was 3676-1015, commitments and enforcement and it did indicate that a commitment that was recorded was mining on a subsequent owner or any person who acquired an interest in the parcel, so once it was reduced in writing, once it was recorded, then all subsequent owners would be subject to the same conditions and asked Mr. Trippel if he agreed with that. Mr. Trippel stated yes.

Mr. Compton stated he knew there was some discussion about delaying this last week at the council meeting and one of the reasons Mr. Hixenbaugh stated he was willing to push it out another week was what they had heard about the fire code. Mr. Compton asked if there was any resolution to that. Mr. Hixenbaugh stated his intent was to ask Mr. Prince to address that issue for them and then asked Mr. Prince if he could come to the podium.

Ken Prince, Executive Director of Planning, spoke under the public hearing for **PROPOSED ORDINANCE NO. 2022-14**. Mr. Prince asked where they would like him to begin and Mr. Hixenbaugh stated they could start with Mr. Compton's question, both at the last meeting and that evening and particularly at the last meeting, his friend and colleague Mr. Emmons read a text that referenced an opinion that had been stated by one of their local Fire Marshals with regard to the habitability of the home. Mr. Hixenbaugh stated they also had some discussion with Mr. Spier about the staff report. Mr. Hixenbaugh asked if he would agree with him that the staff report did not reference any concerns on the part of the Fire Marshal. Mr. Prince stated in fact, the Fire Marshal reviewed the request and indicated approval without comment on their reply. Mr. Prince stated following the meeting, Mr. Spier confirmed with the Fire Marshal that he stood by that and that there were always concerns when you had homes in close proximity and he did in fact express that these homes were the two structures were close together but they had many of what he would call non-conforming situations where properties were close together and that would not preempt a zoning request. Mr. Prince stated essentially, that was what they dealt with

all over the city, so there was no factor regarding fire suppression and it was just they never wanted to build something that close now but it was a non-conforming situation. Mr. Hixenbaugh stated the close the loop on this point, their standard process with regard to these type of rezoning requests was to have all city departments, including the fire department review the request and asked if that were correct. Mr. Prince stated yes and all applicable departments. Mr. Hixenbaugh stated the Fire Department and the Fire Marshals approved the request and they received no concern. Mr. Hixenbaugh stated there was a concern that was expressed but there was not a recommendation made that the zoning be denied based upon that concern. Mr. Prince stated that was correct. Mr. Hixenbaugh stated they had some discussion that evening about the request of the neighbor to deal with two additional conditions and wanted to set aside the fence issue for the moment, since that appeared to be agreed on by Mr. Forslund as well. Mr. Hixenbaugh stated there was a discussion of a commitment with regard to no parking on 6th Street, on the north side of 6th Street more to the point and asked if 6th Street to his knowledge already comprehensively no parking on the north side. Mr. Prince stated he knew it was currently no parking in front of the business. Mr. Prince stated he needed to verify that that also moved further to the west. Mr. Prince stated he believed it would and it would be enforced just like any other ordinance in the city. Mr. Hixenbaugh asked with regard to parking on the sidewalk, as he referenced earlier was already had a city ordinance that prohibited anyone from parking over on the sidewalk and prohibited other individuals ability to traverse the sidewalk and asked if that was accurate. Mr. Prince stated it was accurate. Mr. Hixenbaugh asked then with regard to parking on the sidewalk, there was no need to build that commitment since it was already covered by a city ordinance that applied to all of them including the city. Mr. Prince stated the only thing that he had not investigated was that there was room to park and not block the sidewalk there, so if there was not room to park, it may be worth just referencing it in the commitments for the understanding of the property owner or anybody buying the property as you could understand, with Mr. Hixenbaugh being an attorney himself that if somebody did a title search and found that property of found that commitment, they may be better aware of it than trying to scour through pages of city ordinances to find it. Mr. Prince stated if it was going to be an issue, they would much rather have it that understanding of anybody going into the property than to bring it up as the conflict existed. Mr. Hixenbaugh stated that made sense and he appreciated the clarification. Mr. Hixenbaugh stated similarly, since subject to his additional research with regard to no parking on the north side of 6th Street, if it was already no parking, then he supposed that it was, again an additional notice to whomever purchased it that there was commitment with it. Mr. Prince stated he was less concerned with the parking because that applied to everyone whereas if there was not enough room to park on the property and they had an inherent conflict that could be more difficult. Mr. Hixenbaugh thanked Mr. Prince for the information.

Mr. Banicki asked if they voted no for the rezoning that evening, they could bring that back with a waiting period of how long. Mr. Prince stated he believed it was six months before they were able to bring it back. Mr. Prince stated he would refer to the council but he did believe that was by rule that it was six months and he was not sure if it required it to be substantially different or if it could just automatically be brought back in six months. Mr. Banicki stated let's say they

approved it that evening and then two months from then, they wanted to go back to I-1 and asked if they could bring that back and if there was a six month waiting period for that portion. Mr. Prince stated in that case, they could apply immediately and go back and forth.

Mr. Prince wanted to add something and his only question specifically was on the fence because he knew concerns had not been expressed by the owner of the industrial property regarding access and knowing the very small distance between it that might be worthwhile to look at some kind of common access easement between the two properties to allow both property owners to access it and to move the privacy fence to be in line with the house, moving back to the alley and have some kind of agreement cut it off. Mr. Prince stated he did not want to complicate things but this was a difficult situation and just by following the property line, he was not sure there was going to be room for either of them. Mr. Prince stated he was not sure where that property line was located relative to the house and relative to the commercial structure and if you could imagine, putting a fence right down the middle of it might not make any sense whatsoever. Mr. Prince stated he did not know if there was something that could be drafted perhaps by just wording it that it shall follow the property line unless a mutual agreement was struck between the property owners, which would give them the opportunity to look at it potentially and where it could be mutually beneficial to both parties. Mr. Hixenbaugh stated subject to how others felt, he would not have any objection to that being that condition with regard to the privacy fence being flushed out that way, as long as Mr. Trippel had enough that he could build out of that condition and they were going to be drafting it and the document would be drafted after the fact if this were approved. Mr. Hixenbaugh asked Mr. Forslund to come up to reiterate for the record that he would agree to that type of condition as well and since the adjoining landowner was not a party to the commitment, it was a little bit more nebulous to him how they would elicit that and build that into the document but he would rely on Mr. Trippel's legal acumen with regard to that point. Mr. Prince stated he thought the default would be only to follow the property line and leaving that and he also wanted to note for everybody was that any commitment that was voluntary made on the property still had to follow City Code, so the privacy fence could not protrude in front of the existing house.

Mrs. Voelker made a clarification stating her understanding was that the privacy fence that Mr. Forslund was talking about putting in was actually going to be put in a little bit back from the house and then going back to the property line along the railroad track and asked if that were correct. Mr. Forslund that was correct and he mentioned it last meeting and was open to talk about what everyone thought was best. Mrs. Voelker asked if it would be from the corner of the back of the house and then back to the property line along the railroad track across and then back down along the driveway to the river. Mr. Forslund stated the only thing that would need to be put at the front of the property would just be a gate so people could not just walk through, so the fence would end at the back of the house and then they would just build a gate on both ends. Mrs. Voelker stated so that was something he and the other property owner would have to work out and a lock gate that they both would have access to, but would not be available from the street to just any person walking back. Mr. Forslund stated yes.

Mrs. Voelker then asked Mr. Van Desin when talking about protecting both of their properties and if Mr. Forslund would put a fence from the corner of the house back to the property line and there was a walkway between the two buildings, if he would be in agreement to put a locked gate between the two buildings the he and Mr. Forslund had a key to. Mr. Van Desin stated he would be in agreement as long as they had an easement there that was large enough to at least get in there to do anything they needed to do in the center of their building. Mr. Van Desin stated there was also a very large tree stump, that was partially on Mr. Forslund's property as well, that was going to be in the way of this and would have to be dealt with.

Mr. Emmons wanted to state his opinion. Mr. Emmons stated as this had come through the Planning Commission and to the council for the third time, he wanted to restate that he was totally against spot zoning and that corridor had been residential since way back in the 50s and it slowly became commercial and industrial and now was over 90% commercial and industrial. Mr. Emmons stated there was no way that piece of property from Ironwood to Logan that butted up against the railroad track was ever going to be residential and changing one house back to residential being next door to an industrial building and next to another building that was also industrial, there was no way people would want to buy a house in that area. Mr. Emmons stated he knew Mr. Forslund was a realtor and he was not going to belittle him, but he could how he was going to take that piece of property in the shape it was in and do all the work necessary to bring it up to where someone would want to buy the house. Mr. Emmons stated with the property in its entirety and the shape it was in along with the basement, the front porch, he did not see how he could do all of that for \$35,000. Mr. Emmons stated in his mind, he would be throwing money away and it should be zoned industrial and maintain industrial, bought, torn down and made into a parking lot that would be conducive to the building and to the area. Mr. Emmons stated there was no way that the house should be zoned residential.

Mr. Banicki stated this was kind of a tough situation they had and it was kind of a he said, she said kind of deal and at the end of the day, this had been a bad corridor and they had problems from that block for quite some time. Mr. Banicki stated he thought part of the problem was that when the house was purchased, it was I-1 light industrial and Mr. Forslund was unfortunately told a little bit that the blessing of the city would be to change it and he just did not see that as being factual and it was just so close to the other building. Mr. Banicki stated he ran a business himself and he knew that there was noise and all kinds of things that could affect a next door neighbor and the thought like Mr. Emmons in the sense that he did not think this was the proper time to change it back to R-1 and he would be voting against it that evening.

Mr. Bellovich stated from his perspective, it did not matter how much money he would invest into this property and that was his business, but what he had an issue with was taking something that was light industrial at that point and if there was no home that was there currently, they would not allow a home to be built there and to his way of thinking, he thought if they would go ahead and approve what he wanted to do, he thought as a council they would be making a mistake and he would be voting against it as well.

Mr. Mammolenti stated he was still undecided at that point and he wanted to verbalize some of the notes he had taken throughout the lengthy process. Mr. Mammolenti stated first off, he drove by and to him it looked like a residential house and Mr. Forslund had agreed to many costly conditions and agreements and he trusted his expertise as this was his main occupation as a real estate agent. Mr. Mammolenti stated he must know he's a pretty good agent if he could sell this house with the conditions. Mr. Mammolenti he heard quite often that they had too many rentals in the city of Mishawaka and he thought with the conditions that it would not be a rental for a very, very long time. Mr. Mammolenti stated he thought with his reputation as a real estate agent that he would put a lot of hard work and money into the property with his name attached to it. Mr. Mammolenti stated he did not know at this point where he would land on it, but he wanted to get his thoughts out.

Mr. Hixenbaugh first thanked everyone who had appeared before them and spent time with them on three occasions for the information they shared and whatever the vote may be, hopefully this validated in the mind of anybody who had been a participant in the process that they took these issues seriously and wanted what was best for the neighborhood, but their charge under the law in his opinion was not just to do what was best or what they would prefer whether they did live there or not, but it was about following the law. Mr. Hixenbaugh stated he was compelled and on the horns of a dilemma like Mr. Mammolenti and this would never be built in this era and never look like this in this era but the fact was it was there nevertheless and on balance he was compelled by the bindings in the staff report that rezoning the property to R-1 would be compatible to the area and that it was the most desirable use for the property, that being a single family home and that it would have the effect of conserving property values in the immediate and surrounding residential neighborhood and that it was otherwise compatible with its historical use. Mr. Hixenbaugh stated there were reasonable arguments to be made on both sides of the equation in his opinion, but the final compelling factor to him was that zoning aside, there were 16 residential uses up and down the section of 6th Street in question. Mr. Hixenbaugh stated with respect to spot zoning, it had always been his experience that they were looking to invite people to interject less intensive uses in the neighborhood settings such as this rather than more intensive which was what a industrial zoning would be. Mr. Hixenbaugh stated he appreciated all of the comments and the time that everyone had put into this and were it not for the commitments that Mr. Forslund was willing to make, he would not vote in favor of it but they did not have the ability to be able to sit on the fence on every question and had the obligation to come down on one side or the other and he would be voting in favor of this that evening.

Question was called for at 7:47PM for **PROPOSED ORDINANCE NO. 2022-14 Motion carried by a majority roll call vote (summary: Yes = 6 No = 3).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

No: Mr. Banicki, Mr. Emmons, Mr. Bellovich. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5795.**

NEW BUSINESS

Mrs. DeMaegd reminded everyone that the West End Neighborhood Watch was inviting all of them to join them tomorrow evening at Merrifield Park for National Night Out from 5PM to 8PM. Mrs. DeMaegd stated representatives from both the Mishawaka Police Department and the Fire Department would be there with their trucks and more.

Mr. Mammolenti made a reminder that the Twin Branch Neighborhood Watch would be hosting a National Night Out tomorrow evening as well starting about 5:30PM at Twin Branch Park in the pavilion and was told they had received a plethora of donations that they would be raffling off for any kids and/or adults. Mr. Mammolenti stated there would be plenty of food and wanted anyone to feel free to stop by and enjoy.

Mr. Emmons made a reminder that the West End Neighborhood meeting would be August 18th and Mayor Wood would be leading their meeting through the new utility building, police station and city hall starting at 7PM. Mr. Emmons stated everybody was welcome and they would put out more information as for as where everyone would enter as the meeting got closer and as usual donuts would be provided from West End Bakery. Mr. Emmons stated it should be a good turnout and everyone was anxious to see what the new building looked like with a lot of the building being ready to go.

ADJOURNMENT 8:51PM

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

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 10, 2022

Deborah S. Block, AMC, MMC

AUG 11 2022

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 9, 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 Variances were considered:

APPEAL #22-27 An appeal submitted by Sharon A. Helman requesting a Use Variance for **1017 East Jefferson Boulevard** to allow a food truck in the parking lot.

The Board, with a vote of 3-2, recommended approval subject to the following conditions:

1. The truck shall be located a minimum of 10' from the north property line.
2. Hours of operation shall be no more than six hours per day, three days per week.
3. Use Variance shall expire one year from the date of Common Council approval.

APPEAL #22-29 An appeal submitted by Princess City Properties LLC requesting approval of a Use Variance at **702 South Logan Street** to allow retail sales in I-2 Heavy Industrial District.

The Board, with a vote of 5-0, recommended approval.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Pilo Bueno
Bryan Wynn

STAFF REPORT

Location: 1017 E. Jefferson Blvd.

Date: August 9, 2022

Appeal: 22 - 27

Prepared By: DJS

GENERAL INFORMATION

Applicant: Sharon A. Helman / Pilo Bueno d/b/a Pilo's Body Shop & Auto Sales
Status: Property Owner / Tenant & Land Contract Purchaser
Request: Use Variance to allow a food truck in C-1 General Commercial District
Zoning Classification: C-1 General Commercial District
Lot Size: Approximate 140'x155' (0.5 acres)
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-4 Automobile Oriented Commercial District (Automobile Repair & Service / Quality Automotive)
South: I-1 Light Industrial District (Industrial Electronics Repair & Machine Automation / TRS – Technical Repair Solutions & Vacant)
East: I-1 Light Industrial District (Automobile Sales)
West: C-4 Automobile Oriented Commercial District (Automobile Body Shop / Fred's Body Shop)

Thoroughfare: E. Jefferson Boulevard
School District: School City of Mishawka
Township: Penn
Public Utilities: All utilities are available and currently serve the property
Comprehensive Plan: Industrial

ANALYSIS

The Appellants, Sharon A. Helman and Pilo's Body Shop & Auto Sales (tenant), are requesting a Use Variance to allow a food truck to be located in the parking lot of an existing automotive repair and sales business. The property is bordered by automotive-related commercial and industrial uses.

In 2009, the current owner received a Use Variance (Appeal 09-28/Resolution 2009-20) to allow auto repair and sales within the approximate 3,500 sq. ft. building. The property had previously been occupied by several businesses including a retail bakery, truck storage and distribution facility, newspaper distribution center, and a children's fitness center. However, the building had been vacant for several months prior to the appeal being filed. The owner had not able to find a tenant for the property which was

zoned I-1 Light Industrial at that time. Following approval of the Use Variance, it appears that an auto repair and sales business did not immediately occupy the building or was only in business for a very short period.

In 2010, the property was then rezoned from the I-1 Light Industrial District to the C-1 General Commercial District (Petition 10-12/Ord. 5266) to allow for a take-out barbeque restaurant. No record of such a business operating from this property was found.

In 2011, a Use Variance (Appeal 11-14/Resolution 2011-04) was approved to again allow automobile repair and sales in the recently rezoned C-1 General Commercial property. Automotive repair and sales were no longer permitted due the property being rezoned the prior year. Following approval of the variance, the property appears to have been occupied by Fred's Body Shop until Pilo's Body Shop & Auto Sales occupying the property in early 2014.

The Appellant is proposing to operate a vending food truck from the premises within the far northeast corner of the property. Four designated parking spaces will be located in the west part of the parking lot, where highlighted on the site plan, for food orders only. Customers will walk up to the truck to order and will be given a pager to inform them when the food is ready for pick up. The proposed hours of operations are Thursday through Saturday from 10:00 am to 8:00 pm with potentially limited hours on Sunday.

The Appellant states that the goal of adding the food truck is to attract more business for the auto repair shop as well as create a secondary source of income. The truck will be owned and operated by Jose and Ernesto Bueno, who are the primary tenant's sons.

The zoning ordinance does not permit food trucks by right in any specific district including the C-1 General Commercial District. Planning Staff has had numerous discussions with the tenant beginning in July 2018 regarding the proposed food truck. Staff indicated that a use variance would likely be supported depending on where the truck would be placed, how parking would be addressed for the additional use, and the proposed hours of operation. The Engineering Department recommended that the truck be parked back away from the street approach/sidewalk to ensure proper sight distance for vehicles and pedestrians. The proposed parking spaces appear to be sufficient for the anticipated limited use of the food truck. The appellant previously indicated that the hours of operation would be very limited to include Thursday and Friday from 3:00 pm to 8:00 pm with limited hours on Saturday. Staff is recommending a condition be place on the Use Variance, if approved, to include these limited hours. The longer hours of operation, as requested in the appeal, are more appropriate for a permanent restaurant in another brick-and-mortar location and not as proposed as a secondary use on an existing commercial property.

The Fire Department commented that the food truck will be subject to inspections as an A-2 Use and Occupancy classification.

All other pertinent City Departments have reviewed and approved the Use Variance request without comments.

RECOMMENDATION

The Planning Staff recommends **approval** of Appeal #22-27 to allow a Use Variance for a food truck in the C-1 General Commercial District subject to the following Conditions:

1. The truck shall be located a minimum of 10' from the north property line.
2. The hours of operations shall be limited to Thursday and Friday from 3:00 pm to 8:00 pm with limited hours (less than 4 hours) on Saturday.

This recommendation is based on the following findings of fact:

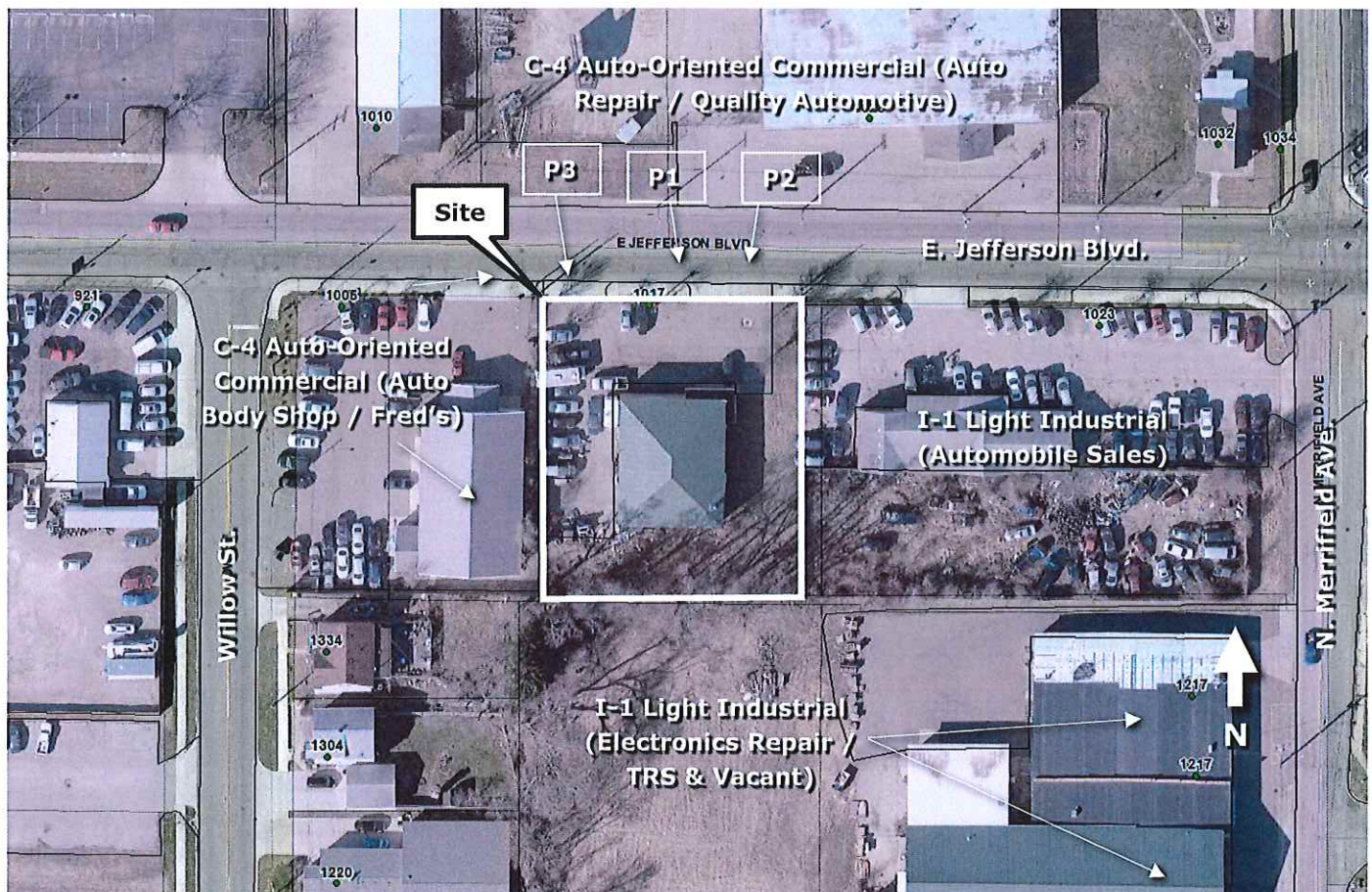
1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The secondary use of the property by adding a food truck is not anticipated to be injurious to the public health and safety due to its limited patronage. The operation of the truck

will also be subject to the applicable inspections and permitting by the County Health Department and City Fire Department.

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. Adjacent properties are currently zoned and occupied with various automotive related and industrial uses. Adding a food truck as a secondary use should not negatively impact the adjacent property uses or values.
3. The need for the variance arises from some condition peculiar to the property as the C-1 General Commercial Zoning District does not permit a food truck.
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 Appellant would not be able to add a food truck with limited hours of operation as a secondary use of the property.
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided industrial development within this property and commercial use along the E. Jefferson Boulevard corridor.

ATTACHMENTS

Aerial Photograph, Site Photographs, Appeal, Site Plan with Proposed Food Truck Location and Parking Spaces, Location Map



Aerial Photograph
1017 E. Jefferson Boulevard
Pilo's Body Shop & Auto Sales



P1. Looking southerly toward the property from E. Jefferson Blvd.



P2. Looking southerly toward the property and proposed food truck location.



P3. Looking southerly toward the property and the proposed location of the four parking spaces.

STAFF REPORT

Location: 702 South Logan Street

Date: August 9, 2022

Appeal: 22-29

Prepared By: CH

GENERAL INFORMATION

Applicant: Princess City Properties LLC

Status: Property Owner

Request: Use Variance

Zoning Classification: 1-2 Heavy Industrial

Lot Size: 100' x 283' (0.63 acres)

Applicable Regulations: Section 137-609 Permitted Uses in I-2 Heavy Industrial District
Section 137-42 / (4) Board of Zoning Appeals – Use Variance**SPECIAL INFORMATION**

Area Development Pattern: North: C-4 Automobile Oriented Commercial and I-1 Light Industrial
South: I-2 Heavy Industrial
East: C-1 General Commercial
West: C-1 General Commercial

Thoroughfares: Eighth Street and Logan Street

School District: Penn-Harris-Madison School Corporation

Public Utilities: Yes, all Utilities are available to the site.

Comprehensive Plan: Industrial – Manufacturing, Warehousing, Distribution

ANALYSIS

The Appellant, Princess City Properties LLC, is requesting a Use Variance to allow retail sales of home commodities for 12 months out of the year. A previous Use Variance in 2003 approved the sales of Fireworks from May 15 through July 15 of each year, and sales of Christmas items from December 1st to January 5th of the next year.

The property is zoned I-2 Industrial. Records in the Planning Department indicate that the subject property has been zoned for industrial uses since at least 1931. The current owner acquired the property in 2019.

The Use Variance will only apply to the west half of the building, more specifically, the areas identified as 1500 sf retail area and 1800 sf additional storage area on the attached site plan. The remaining 6045 sf will remain as storage with no intention to expand the retail use. Any new use, or change to this retail use, will need to go through the Use Variance procedure again.

The parking requirement for 3,300 sf of retail space would require 14 parking spaces. There are 25 spaces existing.

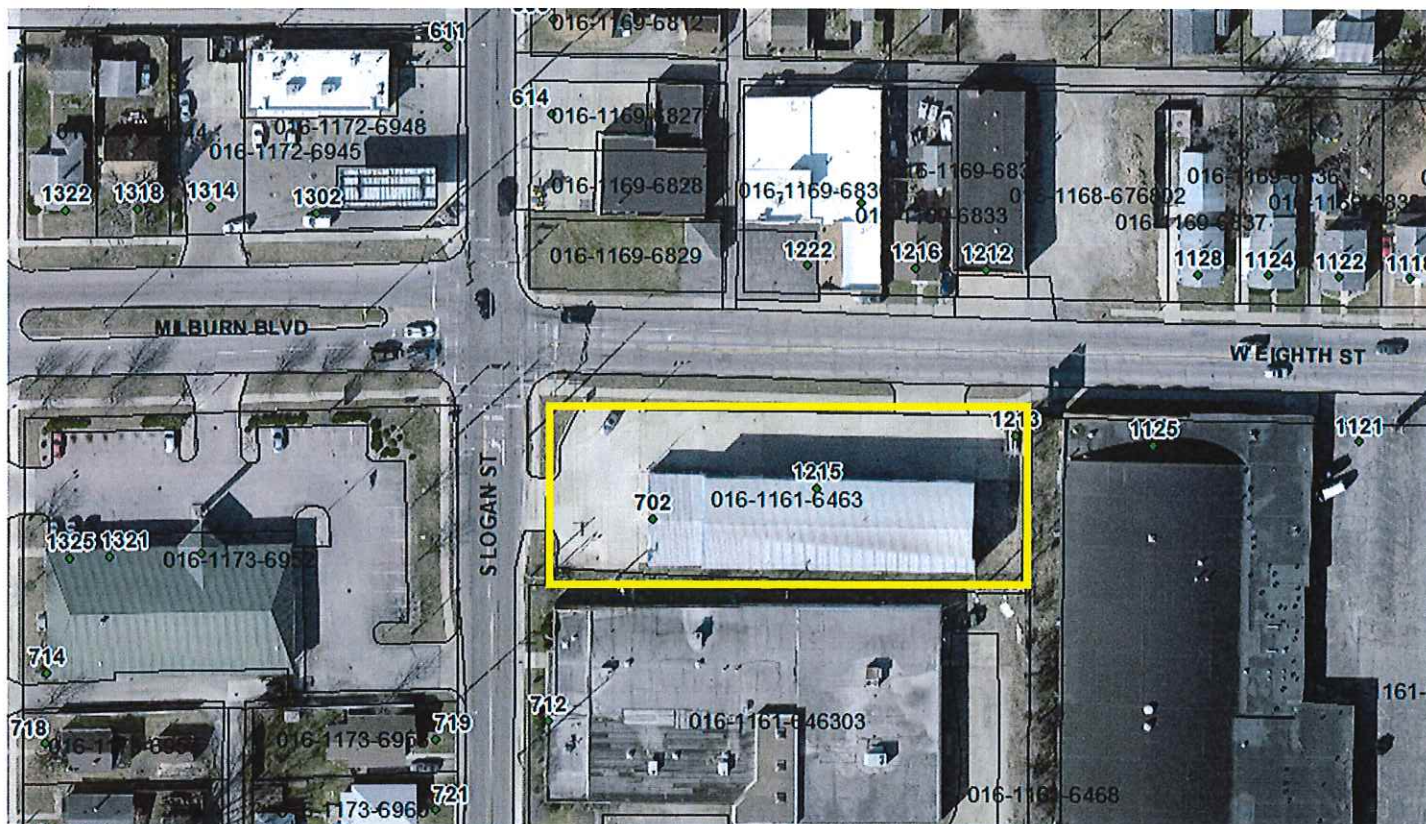
RECOMMENDATION

The Planning Department recommends approval of Appeal 22-29 to allow a Use Variance for retail sales of home commodities in the western 3,300 sf of the building at 702 S Logan. This recommendation is based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community. The intersection of Logan and Milburn/Eighth has a commercial use on the other three corners;
2. The use and value of the area will not be affected in a substantially adverse manner because the expanding retail sales 365 days a year in a building had has some history or retail sales and provides adequate parking for the proposed use;
3. The need for the variance arises from some condition peculiar to the property as the I-2 zoning district does not permit retail uses and the former use variance restricted the retail sales to certain times of the year;
4. The strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought as the Appellant is limited to have retail sales on specific dates, leaving vacant space the rest of the year; and
5. The approval does interfere substantially with the Comprehensive Plan. The subject property and the surrounding properties are designated for industrial use in the comprehensive plan.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, APPEAL, LOCATION MAP





The existing retail area facing Logan Street



The existing storage facing Eighth Street



Looking directly east across Logan Street



Looking directly south across Eighth Street



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 10, 2022

Deborah S. Block, IAC, MMC

AUG 11 2022

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
August 9, 2022, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #22-08 A petition submitted by CAT Mishawaka, LLC, requesting to rezone Lot 1 of CAT Mishawaka, LLC's Minor Subdivision from C-2 Shopping Center Commercial District to C-1 General Commercial District for speculative outlot.

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

PETITION #22-09 A petition submitted by Chris A. and Susan Skodinski requesting to rezone **2212 Lincolnway West** from C-1 General Commercial District to R-1 Single Family Residential District.

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

PETITION #22-10 A petition submitted by Brandon S. Cripe & Dawn Renee Cripe & Chloe Ann Cripe requesting to rezone **805 South Logan Street** from I-1 Light Industrial District to R-1 Single Family Residential district.

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

PETITION #22-11 A petition submitted by Robert Wright, Gary Wright, Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker, and Virginia & Terry DeFreeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest, Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life, requesting to annex and zone **14325 Cleveland Road, Granger**, to S-2 Planned Unit Development for commercial use.

The Commission, with a vote of 6-1, recommended approval subject to the attached conditions.

PETITION #22-12 A petition submitted by Pierre Smith & Germaine Smith requesting to rezone **911 North Main Street** from C-1 General Commercial District to R-1 Single Family Residential District.

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

PETITION #22-13 A petition submitted by LaFree Properties, LLC ½ INT & Piraccini John A. and Jayne L. ½ INT requesting to rezone **3605 Bremen Highway** from C-2 Shopping Center Commercial and C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District.

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 ordinances regarding the above matters.

Respectfully,



Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Mike Gilbert
Chris Skodinski
Dawn Cripe
Greg Shearon
Pierre Smith
John Piraccini

**PETITION #22-11
14325 Cleveland Road
Conditions of Approval**

Uses:

1. Permitted uses shall be limited to those uses identified in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash zoning districts, except where noted herein, based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council.
2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.
4. Filling stations shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of utility and road improvements, including internal collector drives associated with this project, shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. Private collector road connections shall be provided through the site as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site may be required. Internal stacking and turning movements at intersections shall be provided and protected as necessary. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Cleveland Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering as required to protect the City Wellfield at Juday Creek.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering. Utilities, including municipal water and sewer, must be in place prior to the occupancy of any phase of the proposed development.

Lighting:

1. All site lighting shall be limited to a maximum of 30 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 25' in height and shall include a masonry base. Animated/Electronic Reader boards shall be limited to no more than 50 square feet per sign.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 15' in height and contain a display area of no more than 90 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings on the south half of the property shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest. Buildings on the north half of the property shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended, only where visible from adjacent public right-of-way.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along the heavily travelled Cleveland Road corridor. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include the Indiana Toll Road and various medical related uses to the north; a church to the west located within unincorporated St. Joseph County; several single-family houses and agricultural land to the south located within unincorporated St. Joseph County, and a single-family residential house and agricultural land to the east located in unincorporated St. Joseph County.
2. Character of Buildings in the Area – The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Capital Road vary greatly and include single and multi-family residential, assisted living/memory care, religious, and medical land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north, planned extension of Veteran's Parkway to Cleveland Road, and commercial zoning for the Penn farm property to the south, commercial development is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing and planned land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed development to include commercial uses is reasonably consistent the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka.

STAFF REPORT

Location: Part of 655 W. University Drive – Proposed Lot 1 of the CAT
Mishawaka, LLC's Minor Subdivision (Plat 22-06)

Date: August 9, 2022

Petition: 22- 08

Prepared By: DJS

GENERAL INFORMATION

Applicant: CAT Mishawaka LLC / Development Management Group LLC

Status: Property Owner / Consulting Representative

Request: To rezone from C-2 Shopping Center Commercial District to C-1 General Commercial for a speculative commercial outlot

Zoning Classification: C-2 Shopping Center Commercial District

Lot Size: 1.0 acres being a part of an approximate 4.38 acre parent parcel – Area to be rezoned is not currently a separate parcel or subdivided lot, but is proposed to be subdivided per Plat 22-06

Applicable Regulations: Section 137-300 thru 137-303 / C-1 General Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-1 Extensive Open Space (Cemetery / St. Joseph Valley Memorial Park)

South: C-2 Shopping Center Commercial (Retail & Indoor Shooting Range / Range USA – Proposed Lot 2 of Plat 22-06)

East: C-1 General Commercial (Hotels / Quality Inn, Fairfield Inn and Best Western & Vacant / Outlot)

West: C-2 Shopping Center Commercial (Retail & Indoor Shooting Range / Range USA – Proposed Lot 2 of Plat 22-06)

Thoroughfare: W. University Drive

School District: South Bend Community School Corporation

Township: Clay

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

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

ANALYSIS

The Petitioners, CAT Mishawaka LLC and Development Management Group LLC, are requesting to rezone property located south of W. University Drive approximately 1,145' east of Grape Road from C-2 Shopping Center Commercial District to C-1 General Commercial District for a speculative commercial outlot. The rezoning will allow the owner to market the future outlet for any permitted use in the C-1 District.

Adjacent land uses include the St. Joseph Valley Memorial Park (cemetery) to the north; a retail firearms business and indoor shooting range under construction to the west and south; and Quality Inn, Fairfield Inn, Best Western, and a vacant commercial outlot to the east.

The 1.0 acre area to be rezoned is part of an approximate 4.38 acre parent parcel (Tax Parcel 029-1002-0103.02) partially under development for Range USA, a retail firearms business and indoor shooting range. The property was previously occupied by a movie theatre until demolished in 2019. Range USA will be located on a 3.38 acre lot being proposed Lot 2 (Plat 22-06) with the speculative 1.0 acre outlot being Lot 1. A copy of the proposed subdivision plat, which was submitted concurrently with the rezoning petition, is attached.

In November 2021, a Use Variance (Appeal 21-40/Resolution 2021-28) was approved to allow for the indoor shooting range component of the firearms retail business. Planning Staff recommended that a petition be filed concurrent with the Use Variance to rezone the entire 4.38 acre property from the C-2 Shopping Center Commercial District to the C-1 General Commercial District. Staff informed the applicant that the C-2 District has greater building and parking setbacks than the C-1 District that would impact how the property and any future outlot could be developed. Since the C-2 District with the approval of the Use Variance allowed the property to be initially developed as desired, the applicant chose not to file a rezoning petition at that time.

The rezoning petition initially proposed future Lot 1 be rezoned to the C-7 Automobile Oriented Commercial District but was later amended to the C-1 General Commercial District. The Engineering Department recommended denial of the C-7 District, which would permit a restaurant with drive-thru, due to the required improvements within the W. University Drive right-of-way. Planning Staff then recommended that the rezoning petition be revised to the C-1 General Commercial District. The C-1 District omits drive-thru restaurants, which are higher traffic generators, as a permitted use. Engineering Staff stated that the C-1 District would be supported with the applicant's understanding that additional right-of-way improvements, including but not limited to a new right-turn lane, would likely still be required. It appears that such improvements should be more easily accommodated within the limits of the property and right-of-way. In short, the City's position is that Lot 1 should not be rezoned to the C-7 District to allow the property to be marketed for uses that may ultimately be deemed unfeasible.

The conceptual site plan shows the owner's intent to comply with the required height, area and developmental regulations of the C-1 General Commercial District. However, the plan does include a proposed restaurant with drive-thru, which is a C-7 permitted use that would not be permitted in the C-1 District. If developmental variances or design review waivers are required, the Board of Zoning Appeals and/or Plan Commission shall be petition when a final site plan is submitted.

With this petition, the property owner is only seeking to establish the proper zoning required for a yet to be determined commercial use. The C-1 District will also allow for less restrictive building and parking setbacks than currently required in the C-2 District. 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 the property is currently zoned for similar intensive commercial uses as those permitted in the C-1 District and located along W. University Drive commercial corridor, Staff supports the request for rezoning. C-1 District uses will not be out of character and will be compatible with the existing adjacent land uses and zoning. Furthermore, commercial use is consistent with the recommended use per the comprehensive plan.

Excluding the above Engineering Department comments, all other pertinent City Departments have reviewed and approved the request without comment.

RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 22-08 to rezone a 1.0 acre area, more specifically being proposed Lot 1 of the CAT Mishawaka, LLC's Minor Subdivision, from C-2 Shopping Center Commercial District to C-1 General Commercial District for a speculative commercial outlot. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property, which includes vacant land previously occupied by part of a parking lot for a former movie theater, is currently zoned for commercial use and located along a predominantly commercial corridor. Adjacent land uses include a cemetery to the north; a retail firearms business and indoor shooting range under construction to the west and south; and hotels and a vacant commercial outlot to the east.
2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including retail and hotels.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. Permitted C-1 General Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Petition, Preliminary Site Plan, Subdivision Plat (Plat 22-06), Location Map



Aerial Photograph
Proposed Lot 1 of CAT Mishawaka, LLC's Minor Subdivision



P1. Looking southwesterly from the northeast corner of the property along W. University Drive.



P2. Looking into proposed Lot 1 from the current access point along W. University Drive.



P3. Looking into proposed Lot 2 (Range USA - 655 W. University Dr.) currently under construction from the existing and future access drive.

STAFF REPORT

Location: 2212 Lincolnway West

Date: Aug. 9, 2022

Petition: 22 09

Prepared By: KM

GENERAL INFORMATION

Applicant: Chris A. and Susan Skodinski

Status: Property Owners

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 39' X 191.5'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: St. Joseph River
South: C-4 Automobile Oriented Commercial District
East: R-3 Multi-Family Residential District (vacant land)
West: R-1 Single Family Residential District

Thoroughfare: Northeast corner of Lincolnway West and Byerly Court

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner is requesting to rezone 2212 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on the northeast corner of Lincolnway West and Byerly Court. The neighborhood is a mix of residential and commercial uses along Lincolnway.

The Petitioner is selling the property and said all parties who have expressed interest want to use as a single-family residence. Built in 1928 as a single-family residence, it has been used as an office since 1998 and is currently vacant.

Prior to the 1980's residential uses were permitted in commercially zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-09 to rezone 2212 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are commercial uses located along Lincolnway West and residential uses to the west of the property, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area with adjacent residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with other historic residential uses in the area.

ATTACHMENTS

PHOTOGRAPHS, PETITION, AERIAL, LOCATION MAP



2212 Lincolnway West



View of empty lot to the east



View of residential to the west

STAFF REPORT

Location: 805 S. Logan St.

Date: Aug. 9, 2022

Petition: 22 10

Prepared By: KM

GENERAL INFORMATION

Applicant: Brandon S. Cripe, Dawn Renee Cripe, Chloe Ann Cripe

Status: Property Owners

Request: Rezone from I-1 Light Industrial District to R-1 Single Family Residential

Zoning Classification: I-1 Light Industrial District

Lot Size: 39' X 115'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial District
South: R-1 Single Family Residential District
East: I-2 Heavy Industrial District
West: R-1 Single Family Residential District

Thoroughfare: Logan Street south of Milburn Boulevard

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioners are requesting to rezone 805 S. Logan Street from I-1 Light Industrial District to R-1 Single Family Residential District. The property is located south of Milburn Boulevard. The neighborhood is a mix of residential and industrial uses (mainly east of the property).

The Petitioners are selling the property to a family member and is not able to obtain financing until the property is rezoned. The house was built in 1954 as a single family residence and has been used as a single family residence.

Prior to the 1980's residential uses were permitted in industrial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-10 to rezone 805 S. Logan Street from I-1 Light Industrial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are industrial uses north and east of the property, but the neighborhood surrounding the property, mainly to the west, is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of limited industrial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls low density residential and would be compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP



805 S. Logan Street

STAFF REPORT

Location: 14325 Cleveland Road including four tax parcels
Property is generally bound by Cleveland Road to south, the
Indiana Toll Road to the north, and Capital Avenue to the east

Date: August 9, 2022

Petition: 22- 11

Prepared By: DJS

GENERAL INFORMATION

Applicant: Robert A. Wright; Gary E. Wright; Rosalie McCay, a Revocable Trust and as Trustee, and George A. Walker and Virginia & Terry De Freeuw Trust and as Trustee, and Carolyn Bulkin and Jerome Frances Walker each with 1/5 interest; and Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life / Danch, Harner & Associates, Inc.

Status: Property Owners / Site Design, Engineering & Surveying Consultant

Request: To annex, establish zoning, and approve a preliminary site plan for a mixed use development containing commercial uses as permitted in the C-1, C-2, C-4, C-7, C-9, and C-10 Districts

Existing Zoning: Unincorporated St. Joseph County (R Single Family District)

Proposed Zoning: S-2 Planned Unit Development

Lot Size: 51.52 acres

Applicable Regulations: Section 137-300 to 137-303 / C-1 General Commercial & Section 137-41 / Amendments to Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern:

North:	Indiana Toll Road, Capital Avenue & S-2 Planned Unit Development (Medical & Office / Beacon Campus north of the Toll Road)
South:	Unincorporated St. Joseph County – R Single Family (Single-Family Residential & Agricultural)
East:	Unincorporated St. Joseph County – R Single Family (Single-Family Residential & Agricultural)
West:	Unincorporated St. Joseph County – R Single Family (Church / Michiana Covenant Presbyterian)

Thoroughfare: Cleveland Road

School District: Penn-Harris-Madison

Township: Harris

Public Utilities: All utilities will be extended to/throughout the site at the developer's/contingent owner's expense including all required roadway improvements.

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan. The Capital Avenue Land Use Plan jointly prepared by St. Joseph County and the City of Mishawaka identifies this parcel as an area for Residential Growth.

ANALYSIS

Proposal:

The applicant is proposing to annex, establish zoning, and approve a preliminary planned unit development site plan to allow for commercial uses as permitted in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash Districts. It is our understanding that the property owners have a contingent purchaser for all the parcels who is interested in a phased commercial development to include several automobile dealerships and related accessory uses.

The 51.52 acre site, which includes four separate parcels (Tax Parcels 006-1011-0132.03, -0132.04, -0132.06, and 006-1008-0093), is located on the north side of Cleveland Road approximately 820' west of Capital Avenue. The southwest parcel appears to include a small single family residential home and a large accessory structure. All other parcels are vacant of structures and are currently tillable farmland. The adjacent properties to the north of the Toll Road were annexed into the City of Mishawaka in 2008 and 2012 with S-2 Planned Unit Development zoning classification allowing all C-1 General Commercial permitted uses. Portions of these PUDs have been subsequently amended to allow for other commercial uses and deviations from the original development regulations.

As indicated on the preliminary site plan, the commercial develop will include several new and used automobile dealerships and accessory uses, including but not limited to, automobile repair, service, and body shops. No specific users or contingent purchaser has been identified. Although development phasing is not shown on the plan, the property will likely be developed in multiple phases.

The applicant is requesting that all permitted uses per the above referenced commercial districts be allowed. Planning Staff believes that all of these uses, except for a filling station, as conceptually shown in the southwest corner of the site plan, are appropriate. The filling station use is not appropriate because the site is located within the City's Judy Creek Wellfield, 5-year time of travel, and the underground fuel storage tanks pose a potential threat to the wellfield. Staff is recommending that the property and each individual development parcel shall adhere to the required area, height, and development regulations of the most restrictive zoning district in which the use would be permitted unless otherwise outlined in the conditions of approval.

Two access locations off of Cleveland Road are being proposed to serve the development. These locations and all required roadway improvements, including but not limited to deceleration/acceleration lanes, passing blisters, and turning lanes, shall be subject to review and approval by the Engineering Department as a part of the planned unit development site plan review for each specific development parcel.

Due to the project being located within a future Juday Creek 5-year well head protection area, stormwater runoff cannot be handled on-site via a system of drywells. All runoff will have to maintained on-site via a surface stormwater retention or detention basin.

Although conceptual in nature, the plan shows landscaping along the perimeter of the property, within landscaping islands, and along access drives internal to the development. More detailed landscaping plans shall be submitted with each planned unit development site plan, and are subject to review and approval by the Planning Staff.

If the proposed rezoning and annexation request is approved, a detailed final site plan for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

In 2008 and 2012, the Toll Road and adjacent properties to the north were annexed into the City and zoned S-2 Planned Unit Development for commercial use. Portions of the property have been developed with various medical related buildings (Beacon Medical Group).

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexations as outlined above, approximately 1515.57 feet, or 22.4%, of the total 6,751.72 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located to the north of Cleveland Road approximately 820' west of Capital Avenue, and is bordered to the north by the Indiana Toll Road and various medical related uses; to the west by a church located within unincorporated St. Joseph County; to the south by several single-family houses and agricultural land located within unincorporated St. Joseph County, and to the east by a single-family residential house and agricultural land located in unincorporated St. Joseph County. The Cleveland Road corridor between State Road 23 and Capital Avenue includes a variety of single and multi-family residential, assisted living/memory care, religious, and medical land uses.

Zoning Change:

Staff believes that the proposed zoning of this property to the S-2 Planned Unit Development District for various commercial uses is appropriate given the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka. With the completion of Beacon Parkway to the north, providing a major gateway into the City from the Toll Road and northeast part of St. Joseph County, development pressures within this portion of the city and county will only intensify in the future. Although located a quarter of a mile to south, the 250 acre Penn Farm properties were also annexed into the City in 2012 and zoned for C-1, C-5 Neighborhood Commercial, C-7, and C-8 High Density Suburban Commercial uses.

Transportation/Roads:

According to the latest available traffic counts, there were 10,999 annual average daily trips (AADT) (March 2022) along Cleveland Road east of Fir Road and 11,997 AADT (May 2022) along Cleveland Road west of Currant Road. The counts at these locations have increased over the last 15 years ranging from just under 8,900 AADT to their current peaks. With the existing and anticipated increase in commercial and residential development in the northern Mishawaka and Granger areas, it is anticipated that traffic volumes will remain relatively consistent and/or continue to increase in future years.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, includes a grade separation project for the Canadian National railroad at Cleveland Road west of Capital Avenue. The construction date for this project is estimated for 2024. Added travel lanes are proposed along Cleveland Road between Ash Road (County Line) and Bittersweet Road for construction in 2025. A small road west of the Indiana Toll Road connecting Beacon Parkway to Cleveland Road is proposed for construction in 2030. Veteran's Parkway is proposed to be extended from its current northern terminus to Cleveland Road which would provide a connection to Douglas Road. This extension is proposed for construction in 2035. Anticipated completion dates for the above project may be amended in future years dependent on projected travel demand and funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning with the Engineering, Electric, and Water Departments providing the following comments:

Engineering Department:

1. There are currently no utilities serving this site.
2. Approaches onto Cleveland Road shall be constructed with the extension of Veteran's Parkway.

Electric Department:

1. The property is outside of the Mishawaka Utilities Electric Division service territory.

Water Department:

1. The project is located within a future Juday Creek 5-year well head protection area pending the construction of a new well field to the northeast of the Douglas Road and Fir Road intersection.

RECOMMENDATION

Staff recommends approval of Petition 22-11 to annex 51.52 acres of land and zone to S-2 Planned Unit Development to allow for a mixed use development containing commercial uses as permitted in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash Districts subject to the following conditions.

Conditions of Approval

Uses:

1. Permitted uses shall be limited to those uses identified in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash zoning districts based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council.
2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.
4. Filling stations shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. Private collector road connections shall be provided through the site as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by

the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Cleveland. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along the heavily travelled Cleveland Road corridor. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include the Indiana Toll Road and various medical related uses to the north; a church to the west located within unincorporated St. Joseph County; several single-family houses and agricultural land to the south located within unincorporated St.

Joseph County, and a single-family residential house and agricultural land to the east located in unincorporated St. Joseph County.

2. Character of Buildings in the Area – The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Capital Road vary greatly and include single and multi-family residential, assisted living/memory care, religious, and medical land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north, planned extension of Veteran's Parkway to Cleveland Road, and commercial zoning for the Penn farm property to the south, commercial development is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing and planned land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed development to include commercial uses is reasonably consistent the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka.

ATTACHMENTS

Aerial Map, Photographs, Rezoning & Annexation Petition, Preliminary Site Plan, and Location Map



Aerial Photograph
14325 Cleveland Road including four parcels
Proposed Commercial Development



P1. Looking northerly into the annexation area from the southwest corner of property.



P2. Looking southwesterly into the property from the Capital Avenue bridge over the Toll Road.

STAFF REPORT

Location: 911 N. Main Street

Date: Aug. 9, 2022

Petition: 22 12

Prepared By: KM

GENERAL INFORMATION

Applicant: Pierre Smith and Germaine Smith

Status: Property Owners

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 33' X 121'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial District (residential use)
South: C-1 General Commercial District (residential use)
East: C-5 Neighborhood Commercial District (Battell Center)
West: R-1 Single Family Residential District

Thoroughfare: Main Street between Broadway and Battell

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners are requesting to rezone 911 North Main Street from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on Main Street between Broadway and Battell Streets and the neighborhood is mainly residential in nature.

The home, built in 1905, was damaged by fire and the Petitioners plan to demolish the existing structure and build a new house on the property. The property needs to be rezoned to R-1 to allow a new home to be built.

Prior to the 1980's residential uses were permitted in commercial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-12 to rezone 911 N. Main Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are a few commercial uses south of the property, but the neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of limited commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for General Commercial but its use as residential would be compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, PLOT PLAN, AERIAL, LOCATION MAP



911 N. Main Street



View of home to the south

STAFF REPORT

Location: 3605 Bremen Highway

Date: August 9, 2022

Petition: 22 13

Prepared By: CH

GENERAL INFORMATION

Applicant: LaFree Properties LLC & John A & Jayne L Piraccini/Abonmarche Consultants/Drive & Shine

Status: Property Owners/Representative/Contingent Purchaser and Business

Request: Rezone from C-2 Shopping Center Commercial and C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District

Zoning Classification: C-2 Shopping Center Commercial & C-7 Automobile Oriented Restaurant Commercial District

Lot Size: 4.33 acres

Applicable Regulations: Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-7 Automobile Oriented Restaurant Commercial (hair salon) and unincorporated St. Joseph County R Residential (single family homes)
South: S-2 Planned Unit Development (Taco Bell & single family home)
East: C-1 General Commercial (Meijer) and C-7 Automobile Oriented Restaurant Commercial (McDonalds)
West: Unincorporated St. Joseph County R Residential (single family homes)

Thoroughfare: Bremen Highway

School District: Penn-Harris-Madison

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's expense

Comprehensive Plan: General Commercial (Downtown, Retail Sales, and Shopping Centers)

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-2 Shopping Center Commercial & C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District. The property is located on the west side of Bremen Highway between Ireland Road and Meijer Drive.

The eastern 300' of the property was annexed in 1995 and rezoned C-7 for a drive thru restaurant. The remainder was annexed in 1998 and rezoned C-2 Shopping Center Commercial. The hair salon and outbuilding were split off in 2011, leaving 4.33 acre Lot 2 vacant for development. In 2020, Elmwood Avenue (to the south) was vacated and demolished as a part of the realignment which included the extension of Meijer Drive to the south and construction of Veldman Drive to the west.

The reason for the change to C-4 Automobile Oriented Commercial District is to allow a Drive & Shine car wash. The Drive & Shine on Main & Douglas has been in operation for over 25 years. A Drive & Shine car wash is currently under construction at the northwest corner of Lincolnway East and Bittersweet.

The Engineering Department had no concerns with the change in zoning, however, did have comments about the location of the drive approach, additional right of way to be dedicated, and coordinate with the St. Joseph County Drainage Board regarding Laing Ditch legal drain. Those comments were shared with Abonmarche to aid in developing the site plan.

The Planning Department shares Engineering's concerns about the access point and the drainage board. Laing Ditch is located within the property along the west property line. Planning Staff believes that the ditch is a county regulated drain subject to all rules and regulations of the St. Joseph County Surveyor and Drainage Board.

The Electric Department noted that Mishawaka Utilities shares territory with AEP. Again, these comments do not apply to the rezoning, but may be needed in developing the site.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #22-13 to rezone the property at 3605 Bremen Highway to C-4 Automobile Oriented Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions. The southern shopping district along Bremen Highway is a busy commercial corridor, and the majority of the properties along Bremen Highway are commercial in use and would be compatible to the area, most recently the addition of Taco Bell immediately to the south and All Secure Storage along the bypass ramp.
2. Character of Buildings - The character of the buildings along Bremen Highway from Ireland to the St. Joseph Valley Parkway are predominantly commercial;
3. The most desirable/highest and best use - Because the parcel is located near retail, gas stations, and drive thru restaurants, the rezoning to C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as Bremen Highway is the southern commercial corridor which permits multiples commercial uses; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location on Bremen Highway, the proposed commercial use is consistent with the Plan.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





Looking south from hair salon



Looking north from Taco Bell

AUG 1 2022

City Clerk
Mishawaka, IN

PETITION 22-08

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-19

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:

A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF INTERSECT OF THE NORTH LINE OF INDIANA TOLL ROAD RIGHT OF WAY WITH THE EAST LINE OF GRAPE ROAD RIGHT OF WAY, SAID POINT ALSO BEING ON THE SOUTH LINE AND 110.00 FEET EAST OF THE WEST LINE OF SAID NORTHEAST 1/4 OF SECTION 28; THENCE N 89°30'42" E ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 811.32 FEET TO A POINT; THENCE N 00°29'18" W A DISTANCE OF 972.65 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF UNIVERSITY DRIVE; THENCE N 89°30'42" E ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 165.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°30'42" E ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 189.50 FEET; THENCE S 00°29'18" E A DISTANCE OF 230.00 FEET TO A POINT; THENCE S 89°30'42" W A DISTANCE OF 189.50 FEET TO A POINT; THENCE N 00°29'18" W A DISTANCE OF 230.00 FEET THE POINT OF BEGINNING AND CONTAINING 1.0 ACRES OF LAND MORE OR LESS.

COMMON ADDRESS: Vacant land at 625 West University Drive

which real estate is now classified as C-2 Shopping Center Commercial District shall hereafter be within and a part of that District known as C-1 General Commercial 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, which includes vacant land previously occupied by part of a parking lot for a former movie theater, is currently zoned for

Proposed Ordinance No: 2022-19

Ordinance No: _____

commercial use and located along a predominantly commercial corridor. Adjacent land uses include a cemetery to the north; a retail firearms business and indoor shooting range under construction to the west and south; and hotels and a vacant commercial outlot to the east.

2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including retail and hotels.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. Permitted C-1 General Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this 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

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: Part of 655 W. University Drive – Proposed Lot 1 of the CAT
Mishawaka, LLC's Minor Subdivision (Plat 22-06)

Date: August 9, 2022

Petition: 22- 08

Prepared By: DJS

GENERAL INFORMATION

Applicant: CAT Mishawaka LLC / Development Management Group LLC

Status: Property Owner / Consulting Representative

Request: To rezone from C-2 Shopping Center Commercial District to C-1 General Commercial for a speculative commercial outlot

Zoning Classification: C-2 Shopping Center Commercial District

Lot Size: 1.0 acres being a part of an approximate 4.38 acre parent parcel – Area to be rezoned is not currently a separate parcel or subdivided lot, but is proposed to be subdivided per Plat 22-06

Applicable Regulations: Section 137-300 thru 137-303 / C-1 General Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-1 Extensive Open Space (Cemetery / St. Joseph Valley Memorial Park)

South: C-2 Shopping Center Commercial (Retail & Indoor Shooting Range / Range USA – Proposed Lot 2 of Plat 22-06)

East: C-1 General Commercial (Hotels / Quality Inn, Fairfield Inn and Best Western & Vacant / Outlot)

West: C-2 Shopping Center Commercial (Retail & Indoor Shooting Range / Range USA – Proposed Lot 2 of Plat 22-06)

Thoroughfare: W. University Drive

School District: South Bend Community School Corporation

Township: Clay

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

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

ANALYSIS

The Petitioners, CAT Mishawaka LLC and Development Management Group LLC, are requesting to rezone property located south of W. University Drive approximately 1,145' east of Grape Road from C-2 Shopping Center Commercial District to C-1 General Commercial District for a speculative commercial outlot. The rezoning will allow the owner to market the future outlet for any permitted use in the C-1 District.

Adjacent land uses include the St. Joseph Valley Memorial Park (cemetery) to the north; a retail firearms business and indoor shooting range under construction to the west and south; and Quality Inn, Fairfield Inn, Best Western, and a vacant commercial outlot to the east.

The 1.0 acre area to be rezoned is part of an approximate 4.38 acre parent parcel (Tax Parcel 029-1002-0103.02) partially under development for Range USA, a retail firearms business and indoor shooting range. The property was previously occupied by a movie theatre until demolished in 2019. Range USA will be located on a 3.38 acre lot being proposed Lot 2 (Plat 22-06) with the speculative 1.0 acre outlot being Lot 1. A copy of the proposed subdivision plat, which was submitted concurrently with the rezoning petition, is attached.

In November 2021, a Use Variance (Appeal 21-40/Resolution 2021-28) was approved to allow for the indoor shooting range component of the firearms retail business. Planning Staff recommended that a petition be filed concurrent with the Use Variance to rezone the entire 4.38 acre property from the C-2 Shopping Center Commercial District to the C-1 General Commercial District. Staff informed the applicant that the C-2 District has greater building and parking setbacks than the C-1 District that would impact how the property and any future outlot could be developed. Since the C-2 District with the approval of the Use Variance allowed the property to be initially developed as desired, the applicant chose not to file a rezoning petition at that time.

The rezoning petition initially proposed future Lot 1 be rezoned to the C-7 Automobile Oriented Commercial District but was later amended to the C-1 General Commercial District. The Engineering Department recommended denial of the C-7 District, which would permit a restaurant with drive-thru, due to the required improvements within the W. University Drive right-of-way. Planning Staff then recommended that the rezoning petition be revised to the C-1 General Commercial District. The C-1 District omits drive-thru restaurants, which are higher traffic generators, as a permitted use. Engineering Staff stated that the C-1 District would be supported with the applicant's understanding that additional right-of-way improvements, including but not limited to a new right-turn lane, would likely still be required. It appears that such improvements should be more easily accommodated within the limits of the property and right-of-way. In short, the City's position is that Lot 1 should not be rezoned to the C-7 District to allow the property to be marketed for uses that may ultimately be deemed unfeasible.

The conceptual site plan shows the owner's intent to comply with the required height, area and developmental regulations of the C-1 General Commercial District. However, the plan does include a proposed restaurant with drive-thru, which is a C-7 permitted use that would not be permitted in the C-1 District. If developmental variances or design review waivers are required, the Board of Zoning Appeals and/or Plan Commission shall be petitioned when a final site plan is submitted.

With this petition, the property owner is only seeking to establish the proper zoning required for a yet to be determined commercial use. The C-1 District will also allow for less restrictive building and parking setbacks than currently required in the C-2 District. 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 the property is currently zoned for similar intensive commercial uses as those permitted in the C-1 District and located along W. University Drive commercial corridor, Staff supports the request for rezoning. C-1 District uses will not be out of character and will be compatible with the existing adjacent land uses and zoning. Furthermore, commercial use is consistent with the recommended use per the comprehensive plan.

Excluding the above Engineering Department comments, all other pertinent City Departments have reviewed and approved the request without comment.

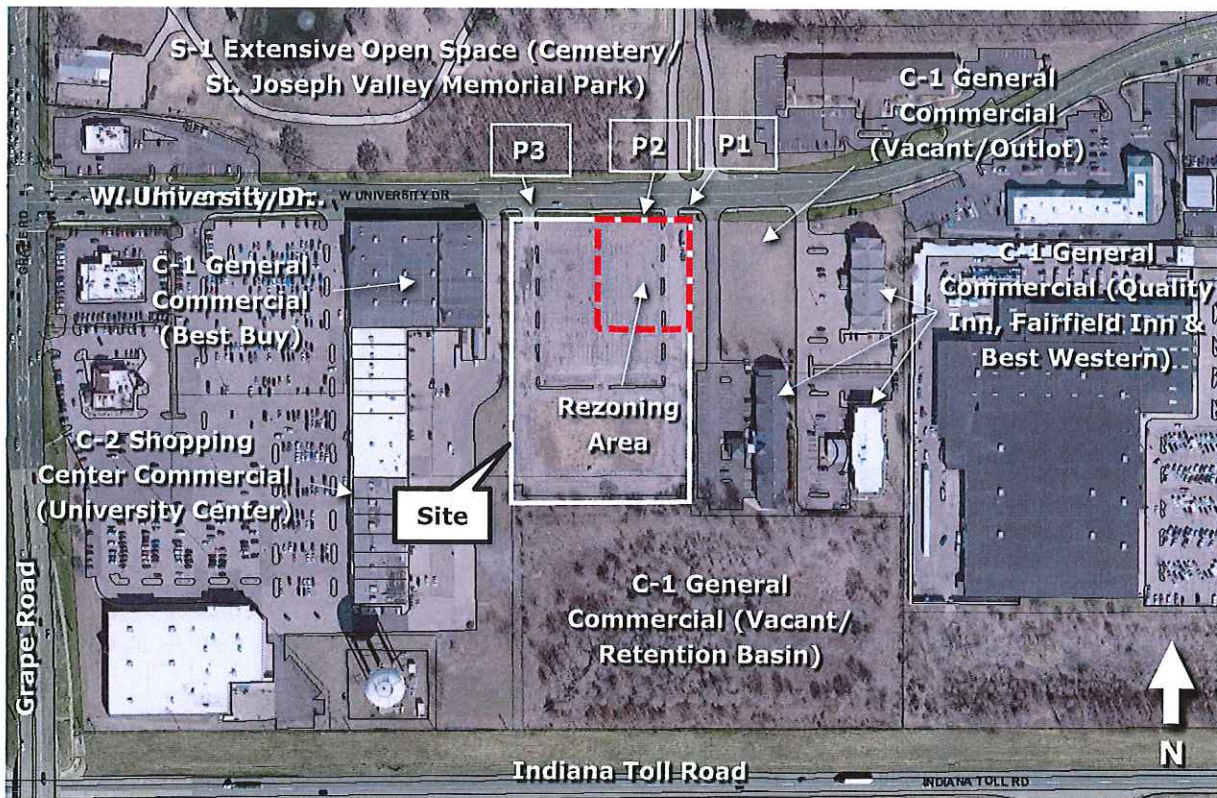
RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 22-08 to rezone a 1.0 acre area, more specifically being proposed Lot 1 of the CAT Mishawaka, LLC's Minor Subdivision, from C-2 Shopping Center Commercial District to C-1 General Commercial District for a speculative commercial outlot. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property, which includes vacant land previously occupied by part of a parking lot for a former movie theater, is currently zoned for commercial use and located along a predominantly commercial corridor. Adjacent land uses include a cemetery to the north; a retail firearms business and indoor shooting range under construction to the west and south; and hotels and a vacant commercial outlot to the east.
2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial including retail and hotels.
3. The most desirable/highest and best use – Because of the property's location and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. Permitted C-1 General Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Petition, Preliminary Site Plan, Subdivision Plat (Plat 22-06), Location Map



Aerial Photograph
Proposed Lot 1 of CAT Mishawaka, LLC's Minor Subdivision



P1. Looking southwesterly from the northeast corner of the property along W. University Drive.



P2. Looking into proposed Lot 1 from the current access point along W. University Drive.



P3. Looking into proposed Lot 2 (Range USA - 655 W. University Dr.) currently under construction from the existing and future access drive.



June 21, 2022

Deborah S. Block, IAC, MMC

PHONE (513) 784-0010

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

JUN 30 2022

City Clerk
Mishawaka, IN

ADDRESS 3805 Edwards Rd. Suite 390
Cincinnati, OH 45209

WEB comptonaddy.com

EMAIL marketing@comptonaddy.com

RE: **PETITION TO REZONE**
Portion of Property at 655 West University
Parcel ID #029-1002-010302
Tax Parcel #71-04-28-251-007.000-005

The undersigned, **CAT Mishawaka, LLC** respectfully shows they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

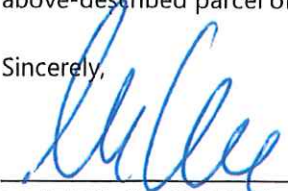
A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT OF INTERSECT OF THE NORTH LINE OF INDIANA TOLL ROAD RIGHT OF WAY WITH THE EAST LINE OF GRAPE ROAD RIGHT OF WAY, SAID POINT ALSO BEING ON THE SOUTH LINE AND 110.00 FEET EAST OF THE WEST LINE OF SAID NORTHEAST 1/4 OF SECTION 28; THENCE N 89°30'42" E ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 811.32 FEET TO A POINT; THENCE N 00°29'18" W A DISTANCE OF 972.65 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF UNIVERSITY DRIVE; THENCE N 89°30'42" E ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 165.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 89°30'42" E ALONG SAID SOUTH RIGHT OF WAY A DISTANCE OF 189.50 FEET; THENCE S 00°29'18" E A DISTANCE OF 230.00 FEET TO A POINT; THENCE S 89°30'42" W A DISTANCE OF 189.50 FEET TO A POINT; THENCE N 00°29'18" W A DISTANCE OF 230.00 FEET THE POINT OF BEGINNING AND CONTAINING 1.0 ACRES OF LAND MORE OR LESS.

Petitioner(s) own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of 'C-2' District. Said property is currently being developed for use as an indoor gun range.

Petitioner(s) desire said real estate to be **rezoned to 'C-7' District**. Petitioner(s) further state that they intend to utilize said land for the development of a restaurant with drive-thru service, a use permitted by right under the desired zoning classification.

Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above-described parcel of land located in the City of Mishawaka.

Sincerely,


Mark Wilhoite, CAT Mishawaka, LLC
3805 Edwards Road, Suite 309
Cincinnati, OH 452029
(513) 852-1231

6-22-22
Date

CONTACT PERSON
DEVELOPMENT MANAGEMENT
GROUP LLC - c/o KEN KNUCKLES
4209 GAUATIN PIKE
NASHVILLE, TN 37216
(615) 227-5863
KKNUCKLES@DMGNASHVILLE.COM



S-1

ST. JOE VALLEY
CEMETERY

PET 22-08

C-7

W UNIVERSITY DR

S-2

C-1

BEST BUY

C-2

C-1

FAIRFIELD
INN

C-1

QUALITY
INN

C-1

BEST
WESTERN

C-1

UNIVERSITY
CENTER

C-2

C-1

Location Map **PET 22-08**

CAT MISHAWAKA LLC

LOT 1 OF CAT MISHAWAKA LLC'S
MINOR SUBDIVISION (PLAT 22-06)

REZONING FROM C-2 SHOPPING
CENTER COMMERCIAL TO C-7
AUTO ORIENTED RESTAURANT
COMMERCIAL FOR SPECULATIVE
OUTLOT

INDIANA TOLL RD

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-09
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-20
ORDINANCE NO. _____

Deborah S. Block, AMC, MMC

AUG 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:

Lot 4, Byerley Sub

COMMON ADDRESS: 2212 Lincolnway West

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-1 Single 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. There are commercial uses located along Lincolnway West and residential uses to the west of the property, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area with adjacent residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2022-20

Ordinance No: _____

4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with other historic residential uses in the area.

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

STAFF REPORT

Location: 2212 Lincolnway West

Date: Aug. 9, 2022

Petition: 22 09

Prepared By: KM

GENERAL INFORMATION

Applicant: Chris A. and Susan Skodinski

Status: Property Owners

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 39' X 191.5'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: St. Joseph River
South: C-4 Automobile Oriented Commercial District
East: R-3 Multi-Family Residential District (vacant land)
West: R-1 Single Family Residential District

Thoroughfare: Northeast corner of Lincolnway West and Byerly Court

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner is requesting to rezone 2212 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on the northeast corner of Lincolnway West and Byerly Court. The neighborhood is a mix of residential and commercial uses along Lincolnway.

The Petitioner is selling the property and said all parties who have expressed interest want to use as a single-family residence. Built in 1928 as a single-family residence, it has been used as an office since 1998 and is currently vacant.

Prior to the 1980's residential uses were permitted in commercially zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-09 to rezone 2212 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are commercial uses located along Lincolnway West and residential uses to the west of the property, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area with adjacent residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with other historic residential uses in the area.

ATTACHMENTS

PHOTOGRAPHS, PETITION, AERIAL, LOCATION MAP



2212 Lincolnway West



View of empty lot to the east



View of residential to the west

JUL 27 2022

City Clerk
Mishawaka, IN



Pkt 22-09

July 5, 2022

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

RE: PETITION TO REZONE

The undersigned Chris A. & Susan Skodinski respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Lot 4 Byerley Sub, Rarceel Number 71-09-17-327-014-000-023,
Known as 2212 Lincolnway West, Mishawaka, Indiana 46544.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C1 District. Said property is vacant.

Petitioner(s) desire said real estate to be rezoned to R1 District. Petitioner(s) further state that they intend to utilize said for rezoning back to residential for sale.

Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above discribed parcel of land located in the City of Mishawaka.

Signature(s) of Property Owner(s)

Chris A. Skodinski

Signatures(s) of Property Owners(s)

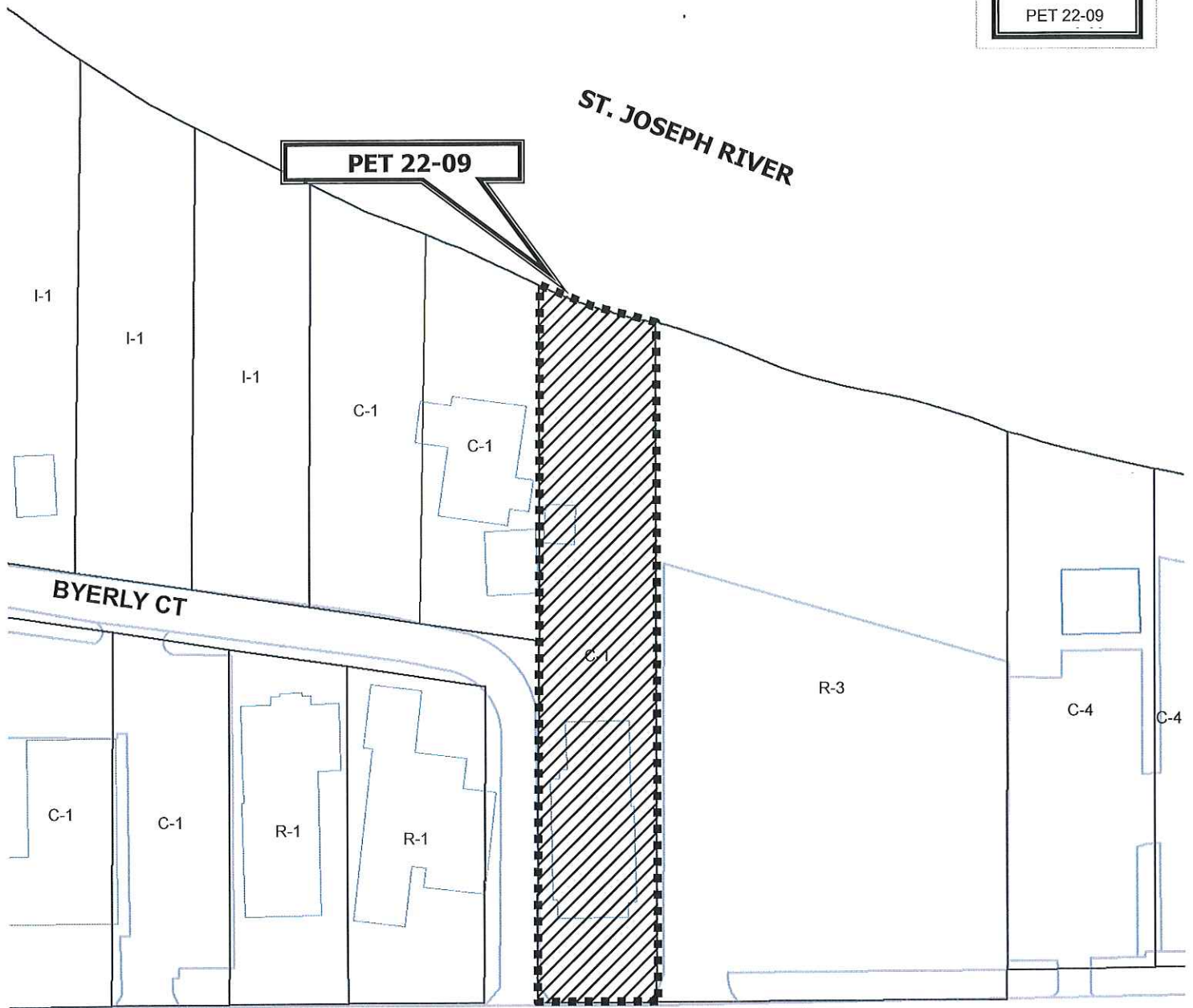
Susan Skodinski

CONTACT PERSON:

Name: Chris Skodinski
Address: 59308 Downey Ave.
Mishawaka, IN 46544
Phone: 574-257-1415
Fax: 574-257-1422
Email: chrisbenefits@datacruz.com

This aerial map displays a section of Lincolnway West, with property lots outlined and labeled with parcel numbers. The map includes the following labels:

- Parcel Numbers:** 016-1216-871, 016-1216-8703, 016-1216-87105, 016-1217-8715, 016-1217-8718, 016-1217-87110, 016-1217-8720, 016-1217-8722, 016-1217-8729, 016-1217-873, 016-1217-87340, 016-1217-8736, 016-1217-8735, 016-1218-8715, 016-1218-8724, 016-1218-8727, 016-1218-8728, 016-1218-8729, 016-1218-873, 016-1218-8734, 016-1218-8737, 016-1218-8740, 016-1218-8741, 016-1218-8742, 016-1218-8744, 016-1218-8745, 016-1218-8746, 016-1218-8747, 016-1218-8750, 016-1218-8753, 016-1218-8754, 016-1218-8755, 016-1218-8756, 016-1218-8757, 016-1218-8758, 016-1218-8759, 016-1218-8760, 016-1218-8761, 016-1218-8762, 016-1218-8763, 016-1218-8764, 016-1218-8765, 016-1218-8766, 016-1218-8767, 016-1218-8768, 016-1218-8769, 016-1218-8770, 016-1218-8771, 016-1218-8772, 016-1218-8773, 016-1218-8774, 016-1218-8775, 016-1218-8776, 016-1218-8777, 016-1218-8778, 016-1218-8779, 016-1218-8780, 016-1218-8781, 016-1218-8782, 016-1218-8783, 016-1218-8784, 016-1218-8785, 016-1218-8786, 016-1218-8787, 016-1218-8788, 016-1218-8789, 016-1218-8790, 016-1218-8791, 016-1218-8792, 016-1218-8793, 016-1218-8794, 016-1218-8795, 016-1218-8796, 016-1218-8797, 016-1218-8798, 016-1218-8799, 016-1218-8800, 016-1218-8801, 016-1218-8802, 016-1218-8803, 016-1218-8804, 016-1218-8805, 016-1218-8806, 016-1218-8807, 016-1218-8808, 016-1218-8809, 016-1218-8810, 016-1218-8811, 016-1218-8812, 016-1218-8813, 016-1218-8814, 016-1218-8815, 016-1218-8816, 016-1218-8817, 016-1218-8818, 016-1218-8819, 016-1218-8820, 016-1218-8821, 016-1218-8822, 016-1218-8823, 016-1218-8824, 016-1218-8825, 016-1218-8826, 016-1218-8827, 016-1218-8828, 016-1218-8829, 016-1218-8830, 016-1218-8831, 016-1218-8832, 016-1218-8833, 016-1218-8834, 016-1218-8835, 016-1218-8836, 016-1218-8837, 016-1218-8838, 016-1218-8839, 016-1218-8840, 016-1218-8841, 016-1218-8842, 016-1218-8843, 016-1218-8844, 016-1218-8845, 016-1218-8846, 016-1218-8847, 016-1218-8848, 016-1218-8849, 016-1218-8850, 016-1218-8851, 016-1218-8852, 016-1218-8853, 016-1218-8854, 016-1218-8855, 016-1218-8856, 016-1218-8857, 016-1218-8858, 016-1218-8859, 016-1218-8860, 016-1218-8861, 016-1218-8862, 016-1218-8863, 016-1218-8864, 016-1218-8865, 016-1218-8866, 016-1218-8867, 016-1218-8868, 016-1218-8869, 016-1218-8870, 016-1218-8871, 016-1218-8872, 016-1218-8873, 016-1218-8874, 016-1218-8875, 016-1218-8876, 016-1218-8877, 016-1218-8878, 016-1218-8879, 016-1218-8880, 016-1218-8881, 016-1218-8882, 016-1218-8883, 016-1218-8884, 016-1218-8885, 016-1218-8886, 016-1218-8887, 016-1218-8888, 016-1218-8889, 016-1218-8890, 016-1218-8891, 016-1218-8892, 016-1218-8893, 016-1218-8894, 016-1218-8895, 016-1218-8896, 016-1218-8897, 016-1218-8898, 016-1218-8899, 016-1218-8900, 016-1218-8901, 016-1218-8902, 016-1218-8903, 016-1218-8904, 016-1218-8905, 016-1218-8906, 016-1218-8907, 016-1218-8908, 016-1218-8909, 016-1218-8910, 016-1218-8911, 016-1218-8912, 016-1218-8913, 016-1218-8914, 016-1218-8915, 016-1218-8916, 016-1218-8917, 016-1218-8918, 016-1218-8919, 016-1218-8920, 016-1218-8921, 016-1218-8922, 016-1218-8923, 016-1218-8924, 016-1218-8925, 016-1218-8926, 016-1218-8927, 016-1218-8928, 016-1218-8929, 016-1218-8930, 016-1218-8931, 016-1218-8932, 016-1218-8933, 016-1218-8934, 016-1218-8935, 016-1218-8936, 016-1218-8937, 016-1218-8938, 016-1218-8939, 016-1218-8940, 016-1218-8941, 016-1218-8942, 016-1218-8943, 016-1218-8944, 016-1218-8945, 016-1218-8946, 016-1218-8947, 016-1218-8948, 016-1218-8949, 016-1218-8950, 016-1218-8951, 016-1218-8952, 016-1218-8953, 016-1218-8954, 016-1218-8955, 016-1218-8956, 016-1218-8957, 016-1218-8958, 016-1218-8959, 016-1218-8960, 016-1218-8961, 016-1218-8962, 016-1218-8963, 016-1218-8964, 016-1218-8965, 016-1218-8966, 016-1218-8967, 016-1218-8968, 016-1218-8969, 016-1218-8970, 016-1218-8971, 016-1218-8972, 016-1218-8973, 016-1218-8974, 016-1218-8975, 016-1218-8976, 016-1218-8977, 016-1218-8978, 016-1218-8979, 016-1218-8980, 016-1218-8981, 016-1218-8982, 016-1218-8983, 016-1218-8984, 016-1218-8985, 016-1218-8986, 016-1218-8987, 016-1218-8988, 016-1218-8989, 016-1218-8990, 016-1218-8991, 016-1218-



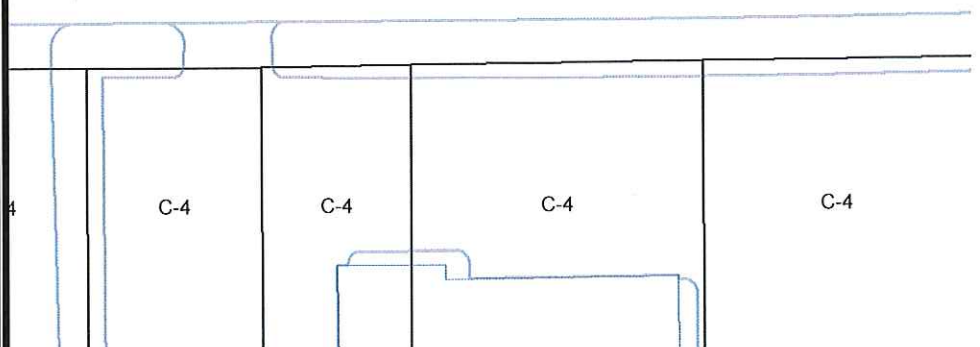
Location Map

PET 22-09

CHRIS A. & SUSAN SKODINSKI
(OWNERS)

2212 LINCOLN WAY EAST

REZONING FROM C-1 GENERAL
COMMERCIAL (EXISTING INSURANCE
OFFICE) TO R-1 SINGLE-FAMILY
RESIDENTIAL (CONVERSION
BACK TO HOUSE)



1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-10

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-21

ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

AUG 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:

Lot 43, Morgan Park

COMMON ADDRESS: 805 South Logan Street

which real estate is now classified as I-1 Light Industrial District shall hereafter be within and a part of that District known as R-1 Single 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. There are industrial uses north and east of the property, but the neighborhood surrounding the property, mainly to the west, is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2022-21

Ordinance No: _____

4. As opposed to the range of limited industrial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls low density residential and would be compatible and consistent with the historic residential uses in the area.

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

STAFF REPORT

Location: 805 S. Logan St.

Date: Aug. 9, 2022

Petition: 22 10

Prepared By: KM

GENERAL INFORMATION

Applicant: Brandon S. Cripe, Dawn Renee Cripe, Chloe Ann Cripe

Status: Property Owners

Request: Rezone from I-1 Light Industrial District to R-1 Single Family Residential

Zoning Classification: I-1 Light Industrial District

Lot Size: 39' X 115'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial District
South: R-1 Single Family Residential District
East: I-2 Heavy Industrial District
West: R-1 Single Family Residential District

Thoroughfare: Logan Street south of Milburn Boulevard

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioners are requesting to rezone 805 S. Logan Street from I-1 Light Industrial District to R-1 Single Family Residential District. The property is located south of Milburn Boulevard. The neighborhood is a mix of residential and industrial uses (mainly east of the property).

The Petitioners are selling the property to a family member and is not able to obtain financing until the property is rezoned. The house was built in 1954 as a single family residence and has been used as a single family residence.

Prior to the 1980's residential uses were permitted in industrial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-10 to rezone 805 S. Logan Street from I-1 Light Industrial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are industrial uses north and east of the property, but the neighborhood surrounding the property, mainly to the west, is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of limited industrial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls low density residential and would be compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP



805 S. Logan Street

Deborah S. Block, MMC, MMC

JUL 27 2022

City Clerk
Mishawaka, IN



DATE: July 11, 2022
Common Council
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION TO REZONE

The undersigned Brandon S. Cripe & Dawn Renee Cripe & Chloe Ann Cripe respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

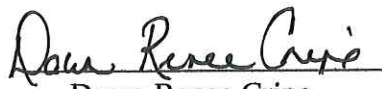
One story home located at 805 South Logan Street, Mishawaka Indiana 46544.

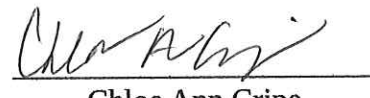
Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of I-1 District. Said property is a signal family home.

Petitioners desire said real estate to be rezone to R-1 District. Petitioners further state that they intend to utilize said land for a home.

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 the after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.


Brandon S. Cripe


Dawn Renee Cripe


Chloe Ann Cripe

CONTACT PERSON:

Dawn Cripe
11650 E 310 S, LaGrange IN 46761
574-254-0563
bdecruise@att.net

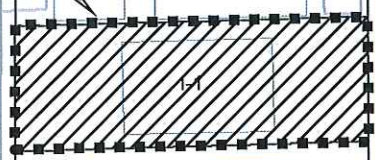
[illegible]



BURDETTE ST

S LOGAN ST

PET 22-10



Location Map

PET 22-10

BRANDON S., DAWN RENEE &
CHLOE ANN CRIPE
(OWNERS)

805 S. LOGAN STREET

REZONING FROM I-1 LIGHT
INDUSTRIAL TO R-1 SINGLE-
FAMILY RESIDENTIAL FOR AN
EXISTING HOUSE

RE ST

DELAWARE ST.

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #22-11

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-22

ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

AUG 11 2022

City Clerk
Mishawaka, IN

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23 AND THE NORTHEAST QUARTER OF SECTION 26, BOTH IN TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 23; THENCE NORTH 00°25'31" WEST ALONG THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION 23, A DISTANCE OF 1040.59 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF INDIANA EAST-WEST TOLL ROAD (I 80-90); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR THE NEXT TWO (2) COURSES, NORTH 51°26'34"EAST, A DISTANCE OF 1322.08 FEET, AND NORTH 55°30'54" EAST, A DISTANCE OF 193.49 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CAPITAL AVENUE; THENCE NORTHWESTERLY A DISTANCE OF 321.50 FEET MORE OR LESS TO THE POINT OF INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID INDIANA EAST-WEST TOLL ROAD WITH THE WESTERLY RIGHT-OF-WAY LINE OF CAPITAL AVENUE; THENCE NORTHEASTERLY A DISTANCE OF 285 FEET MORE OR LESS TO A POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID CAPITAL AVENUE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SAID INDIANA EAST-WEST TOLL ROAD; THENCE SOUTHEASTERLY A DISTANCE OF 346 FEET MORE OR LESS TO A POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID CAPITAL AVENUE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID INDIANA EAST-WEST TOLL ROAD; THENCE CONTINUING SOUTHEASTERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID CAPITAL AVENUE, A DISTANCE OF 883.75 FEET MORE OR LESS; THENCE SOUTHWESTERLY A DISTANCE OF 213.50 FEET MORE OR LESS TO POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID CAPITAL AVENUE, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A PARCEL OF GROUND HAVING A TAX KEY NUMBER OF 006-1008-0093 AS SHOWN IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA ASSESSOR'S OFFICE; THENCE ALONG THE SOUTH LINE OF SAID PARCEL WHICH IS ALSO THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 23, NORTH 89°51'36" WEST, A DISTANCE OF 535.00 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF

Ordinance No. _____

THE SOUTHEAST QUARTER OF SAID SECTION 23; THENCE SOUTH 00°32'43" EAST ALONG SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 1357.98 FEET MORE OR LESS TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF CLEVELAND ROAD; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF CLEVELAND ROAD FOR THE NEXT THREE COURSES, NORTH 89°41'58" WEST, A DISTANCE OF 330.00 FEET MORE OR LESS; AND NORTH 00°00'00" WEST (ASSUMED BEARINGS), A DISTANCE OF 20.00 FEET MORE OR LESS AND NORTH 89°41'58" WEST, A DISTANCE OF 993.83 FEET MORE OR LESS TO THE NORTH-SOUTH QUARTER LINE OF SAID SECTION 26; THENCE NORTH 00°00'00" WEST, ALONG SAID NORTH-SOUTH QUARTER LINE, A DISTANCE OF 20.00 FEET MORE OR LESS TO THE POINT THE POINT OF BEGINNING. CONTAINING 60.01 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: 14325 Cleveland Road, Granger

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development District, subject to the attached conditions.

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

1. Existing Conditions – The subject property is located along the heavily travelled Cleveland Road corridor. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include the Indiana Toll Road and various medical related uses to the north; a church to the west located within unincorporated St. Joseph County; several single-family houses and agricultural land to the south located within unincorporated St. Joseph County, and a single-family residential house and agricultural land to the east located in unincorporated St. Joseph County.
2. Character of Buildings in the Area – The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Capital Road vary greatly and include single and multi-family residential, assisted living/memory care, religious, and medical land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north, planned extension of Veteran's Parkway to Cleveland Road, and commercial zoning for the Penn farm property to the south, commercial development is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing and planned land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed development to include commercial

Proposed Ordinance No. _____

Ordinance No. _____

uses is reasonably consistent the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka.

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

**PETITION #22-11
14325 Cleveland Road
Conditions of Approval**

Uses:

1. Permitted uses shall be limited to those uses identified in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash zoning districts, except where noted herein, based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council.
2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.
4. Filling stations shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of utility and road improvements, including internal collector drives associated with this project, shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. Private collector road connections shall be provided through the site as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site may be required. Internal stacking and turning movements at intersections shall be provided and protected as necessary. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Cleveland Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering as required to protect the City Wellfield at Juday Creek.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering. Utilities, including municipal water and sewer, must be in place prior to the occupancy of any phase of the proposed development.

Lighting:

1. All site lighting shall be limited to a maximum of 30 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 25' in height and shall include a masonry base. Animated/Electronic Reader boards shall be limited to no more than 50 square feet per sign.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 15' in height and contain a display area of no more than 90 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings on the south half of the property shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest. Buildings on the north half of the property shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended, only where visible from adjacent public right-of-way.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along the heavily travelled Cleveland Road corridor. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include the Indiana Toll Road and various medical related uses to the north; a church to the west located within unincorporated St. Joseph County; several single-family houses and agricultural land to the south located within unincorporated St. Joseph County, and a single-family residential house and agricultural land to the east located in unincorporated St. Joseph County.
2. Character of Buildings in the Area – The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Capital Road vary greatly and include single and multi-family residential, assisted living/memory care, religious, and medical land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north, planned extension of Veteran's Parkway to Cleveland Road, and commercial zoning for the Penn farm property to the south, commercial development is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing and planned land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed development to include commercial uses is reasonably consistent the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka.

STAFF REPORT

Location: 14325 Cleveland Road including four tax parcels
Property is generally bound by Cleveland Road to south, the
Indiana Toll Road to the north, and Capital Avenue to the east

Date: August 9, 2022

Petition: 22- 11

Prepared By: DJS

GENERAL INFORMATION

Applicant: Robert A. Wright; Gary E. Wright; Rosalie McCay, a Revocable Trust and as Trustee, and George A. Walker and Virginia & Terry De Freeuw Trust and as Trustee, and Carolyn Bulkin and Jerome Frances Walker each with 1/5 interest; and Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life / Danch, Harner & Associates, Inc.

Status: Property Owners / Site Design, Engineering & Surveying Consultant

Request: To annex, establish zoning, and approve a preliminary site plan for a mixed use development containing commercial uses as permitted in the C-1, C-2, C-4, C-7, C-9, and C-10 Districts

Existing Zoning: Unincorporated St. Joseph County (R Single Family District)

Proposed Zoning: S-2 Planned Unit Development

Lot Size: 51.52 acres

Applicable Regulations: Section 137-300 to 137-303 / C-1 General Commercial & Section 137-41 / Amendments to Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern:

North:	Indiana Toll Road, Capital Avenue & S-2 Planned Unit Development (Medical & Office / Beacon Campus north of the Toll Road)
South:	Unincorporated St. Joseph County – R Single Family (Single-Family Residential & Agricultural)
East:	Unincorporated St. Joseph County – R Single Family (Single-Family Residential & Agricultural)
West:	Unincorporated St. Joseph County – R Single Family (Church / Michiana Covenant Presbyterian)

Thoroughfare: Cleveland Road

School District: Penn-Harris-Madison

Township: Harris

Public Utilities: All utilities will be extended to/throughout the site at the developer's/contingent owner's expense including all required roadway improvements.

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan. The Capital Avenue Land Use Plan jointly prepared by St. Joseph County and the City of Mishawaka identifies this parcel as an area for Residential Growth.

ANALYSIS

Proposal:

The applicant is proposing to annex, establish zoning, and approve a preliminary planned unit development site plan to allow for commercial uses as permitted in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash Districts. It is our understanding that the property owners have a contingent purchaser for all the parcels who is interested in a phased commercial development to include several automobile dealerships and related accessory uses.

The 51.52 acre site, which includes four separate parcels (Tax Parcels 006-1011-0132.03, -0132.04, -0132.06, and 006-1008-0093), is located on the north side of Cleveland Road approximately 820' west of Capital Avenue. The southwest parcel appears to include a small single family residential home and a large accessory structure. All other parcels are vacant of structures and are currently tillable farmland. The adjacent properties to the north of the Toll Road were annexed into the City of Mishawaka in 2008 and 2012 with S-2 Planned Unit Development zoning classification allowing all C-1 General Commercial permitted uses. Portions of these PUDs have been subsequently amended to allow for other commercial uses and deviations from the original development regulations.

As indicated on the preliminary site plan, the commercial develop will include several new and used automobile dealerships and accessory uses, including but not limited to, automobile repair, service, and body shops. No specific users or contingent purchaser has been identified. Although development phasing is not shown on the plan, the property will likely be developed in multiple phases.

The applicant is requesting that all permitted uses per the above referenced commercial districts be allowed. Planning Staff believes that all of these uses, except for a filling station, as conceptually shown in the southwest corner of the site plan, are appropriate. The filling station use is not appropriate because the site is located within the City's Judy Creek Wellfield, 5-year time of travel, and the underground fuel storage tanks pose a potential threat to the wellfield. Staff is recommending that the property and each individual development parcel shall adhere to the required area, height, and development regulations of the most restrictive zoning district in which the use would be permitted unless otherwise outlined in the conditions of approval.

Two access locations off of Cleveland Road are being proposed to serve the development. These locations and all required roadway improvements, including but not limited to deceleration/acceleration lanes, passing blisters, and turning lanes, shall be subject to review and approval by the Engineering Department as a part of the planned unit development site plan review for each specific development parcel.

Due to the project being located within a future Juday Creek 5-year well head protection area, stormwater runoff cannot be handled on-site via a system of drywells. All runoff will have to maintained on-site via a surface stormwater retention or detention basin.

Although conceptual in nature, the plan shows landscaping along the perimeter of the property, within landscaping islands, and along access drives internal to the development. More detailed landscaping plans shall be submitted with each planned unit development site plan, and are subject to review and approval by the Planning Staff.

If the proposed rezoning and annexation request is approved, a detailed final site plan for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

In 2008 and 2012, the Toll Road and adjacent properties to the north were annexed into the City and zoned S-2 Planned Unit Development for commercial use. Portions of the property have been developed with various medical related buildings (Beacon Medical Group).

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexations as outlined above, approximately 1515.57 feet, or 22.4%, of the total 6,751.72 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located to the north of Cleveland Road approximately 820' west of Capital Avenue, and is bordered to the north by the Indiana Toll Road and various medical related uses; to the west by a church located within unincorporated St. Joseph County; to the south by several single-family houses and agricultural land located within unincorporated St. Joseph County, and to the east by a single-family residential house and agricultural land located in unincorporated St. Joseph County. The Cleveland Road corridor between State Road 23 and Capital Avenue includes a variety of single and multi-family residential, assisted living/memory care, religious, and medical land uses.

Zoning Change:

Staff believes that the proposed zoning of this property to the S-2 Planned Unit Development District for various commercial uses is appropriate given the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka. With the completion of Beacon Parkway to the north, providing a major gateway into the City from the Toll Road and northeast part of St. Joseph County, development pressures within this portion of the city and county will only intensify in the future. Although located a quarter of a mile to south, the 250 acre Penn Farm properties were also annexed into the City in 2012 and zoned for C-1, C-5 Neighborhood Commercial, C-7, and C-8 High Density Suburban Commercial uses.

Transportation/Roads:

According to the latest available traffic counts, there were 10,999 annual average daily trips (AADT) (March 2022) along Cleveland Road east of Fir Road and 11,997 AADT (May 2022) along Cleveland Road west of Currant Road. The counts at these locations have increased over the last 15 years ranging from just under 8,900 AADT to their current peaks. With the existing and anticipated increase in commercial and residential development in the northern Mishawaka and Granger areas, it is anticipated that traffic volumes will remain relatively consistent and/or continue to increase in future years.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, includes a grade separation project for the Canadian National railroad at Cleveland Road west of Capital Avenue. The construction date for this project is estimated for 2024. Added travel lanes are proposed along Cleveland Road between Ash Road (County Line) and Bittersweet Road for construction in 2025. A small road west of the Indiana Toll Road connecting Beacon Parkway to Cleveland Road is proposed for construction in 2030. Veteran's Parkway is proposed to be extended from its current northern terminus to Cleveland Road which would provide a connection to Douglas Road. This extension is proposed for construction in 2035. Anticipated completion dates for the above project may be amended in future years dependent on projected travel demand and funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning with the Engineering, Electric, and Water Departments providing the following comments:

Engineering Department:

1. There are currently no utilities serving this site.
2. Approaches onto Cleveland Road shall be constructed with the extension of Veteran's Parkway.

Electric Department:

1. The property is outside of the Mishawaka Utilities Electric Division service territory.

Water Department:

1. The project is located within a future Juday Creek 5-year well head protection area pending the construction of a new well field to the northeast of the Douglas Road and Fir Road intersection.

RECOMMENDATION

Staff recommends approval of Petition 22-11 to annex 51.52 acres of land and zone to S-2 Planned Unit Development to allow for a mixed use development containing commercial uses as permitted in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash Districts subject to the following conditions.

Conditions of Approval

Uses:

1. Permitted uses shall be limited to those uses identified in the C-1 General Commercial, C-2 Shopping Center Commercial, C-4 Automobile Oriented Commercial, C-7 Auto Oriented Restaurant Commercial, C-9 Auto and Vehicle Sales, and C-10 Filling Station/Car Wash zoning districts based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council.
2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.
4. Filling stations shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. Private collector road connections shall be provided through the site as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by

the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Cleveland. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along the heavily travelled Cleveland Road corridor. Traffic volumes in the immediate vicinity are expected to increase due to commercial and residential development in the northwest part of the City and northeastern St. Joseph County. With the completion of Beacon Parkway, Fir Road now serves as the primary gateway into the City from the Indiana Toll Road. Adjacent land uses include the Indiana Toll Road and various medical related uses to the north; a church to the west located within unincorporated St. Joseph County; several single-family houses and agricultural land to the south located within unincorporated St.

Joseph County, and a single-family residential house and agricultural land to the east located in unincorporated St. Joseph County.

2. Character of Buildings in the Area – The character of buildings and land uses located along the Cleveland Road corridor between State Road 23 and Capital Road vary greatly and include single and multi-family residential, assisted living/memory care, religious, and medical land uses.
3. The most desirable/highest and best use – With the completion of Beacon Parkway to the north, planned extension of Veteran's Parkway to Cleveland Road, and commercial zoning for the Penn farm property to the south, commercial development is anticipated to increase in future years. Therefore, the most desirable use for the property is either commercial or other non-single family residential use reflecting the changing and planned land use patterns in the area.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. Landscaping and screening compliant with the commercial regulations is required to adequately screen the adjacent existing single-family residential properties.
5. Comprehensive Plan – This property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, the proposed development to include commercial uses is reasonably consistent the existing commercial growth that has occurred to the north of property along Beacon Parkway and within northern Mishawaka.

ATTACHMENTS

Aerial Map, Photographs, Rezoning & Annexation Petition, Preliminary Site Plan, and Location Map



Aerial Photograph
14325 Cleveland Road including four parcels
Proposed Commercial Development



P1. Looking northerly into the annexation area from the southwest corner of property.



P2. Looking southwesterly into the property from the Capital Avenue bridge over the Toll Road.

JUL 27 2022

City Clerk
Mishawaka, IN

Date: June 25, 2022

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

Re: Petition for Annexation & Rezoning for:

Robert Wright
14492 Cleveland Road
Granger, Indiana 46530

Gary Wright
19499 Darden Road
South Bend, Indiana 46637

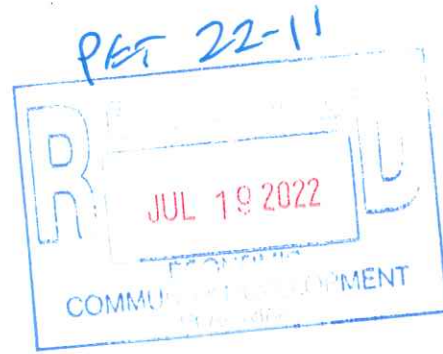
Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and
Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and
Jerome Francis Walker each with 1/5 interest.

Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate
during natural life.

The undersigned, respectfully show that they are the owners of the following described real estate
located in the unincorporated portion of St. Joseph County, Indiana:

Annexation and Rezoning Legal Description:

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23 AND THE
NORTHEAST QUARTER OF SECTION 26, BOTH IN TOWNSHIP 38 NORTH, RANGE 3
EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE
PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTH QUARTER CORNER OF
SAID SECTION 23; THENCE NORTH 00°25'31" WEST ALONG THE NORTH AND SOUTH
QUARTER LINE OF SAID SECTION 23, A DISTANCE OF 1040.59 FEET TO A POINT ON
THE SOUTHERLY RIGHT-OF-WAY LINE OF INDIANA EAST-WEST TOLL ROAD (I 80-
90); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR THE NEXT TWO
(2) COURSES, NORTH 51°26'34"EAST, A DISTANCE OF 1322.08 FEET, AND NORTH
55°30'54" EAST, A DISTANCE OF 193.49 FEET TO A POINT ON THE WESTERLY RIGHT-
OF-WAY LINE OF CAPITAL AVENUE; THENCE ALONG SAID WESTERLY RIGHT-OF-
WAY LINE OF CAPITAL AVENUE FOR THE NEXT FIVE (5) COURSES, SOUTH
42°40'53" EAST, A DISTANCE OF 31.28 FEET (REC. SOUTH 42°34'37" EAST, 28.51 FEET),
AND SOUTH 45°32'38" EAST, A DISTANCE OF 100.12 FEET (REC. SOUTH 45°26'22"
EAST, 100.12), AND THENCE SOUTH 48°23'31" EAST, A DISTANCE OF 402.00 FEET
(REC. SOUTH 48°17'15" EAST, 402.00 FEET), AND SOUTH 41°51'47" EAST, A DISTANCE
OF 350.13 FEET (REC. SOUTH 41°45'31" EAST, 350.13 FEET), AND SOUTH 37°41'14"
EAST, A DISTANCE OF 55.20 FEET (REC. SOUTH 37°34'58" WEST. 55.20 FEET) TO A
POINT ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER
OF SAID SECTION 23; THENCE NORTH 89°51'36" WEST ALONG SAID NORTH LINE OF
THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 23, A
DISTANCE OF 535.00 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST
QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 23; THENCE SOUTH
00°32'43" EAST ALONG SAID EAST LINE OF THE SOUTHWEST QUARTER OF THE
SOUTHEAST QUARTER OF SAID SECTION 23, A DISTANCE OF 1357.98 FEET MORE
OR LESS TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF CLEVELAND ROAD;



THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF CLEVELAND ROAD FOR THE NEXT THREE COURSES, NORTH 89°41'58" WEST, A DISTANCE OF 330.00 FEET MORE OR LESS; AND NORTH 00°00'00" WEST (ASSUMED BEARINGS), A DISTANCE OF 20.00 FEET MORE OR LESS AND NORTH 89°41'58" WEST, A DISTANCE OF 993.83 FEET MORE OR LESS TO THE NORTH-SOUTH QUARTER LINE OF SAID SECTION 26; THENCE NORTH 00°00'00" WEST, ALONG SAID NORTH-SOUTH QUARTER LINE, A DISTANCE OF 20.00 FEET MORE OR LESS TO THE POINT THE POINT OF BEGINNING. CONTAINING 51.52 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

Also commonly known as 14201 Block of Cleveland Road (A.K.A. 52590 Evergreen Road), 14301 Block of Cleveland Road, 14325 Cleveland Road, Granger, IN 46530.

The above-described parcels of land are presently zoned "R" Single Family District in the unincorporated county.

Petitioners desire to annex and rezone the real estate described above to the "S-2" Planned Unit Development District classification. The purpose for the annexation and rezoning is to allow for a mixed land use development allowing uses permitted in the following Districts: "C-1" Commercial, "C-2" Commercial, "C-4" Commercial, "C-7" Commercial, "C-9" Commercial and "C-10" Commercial.

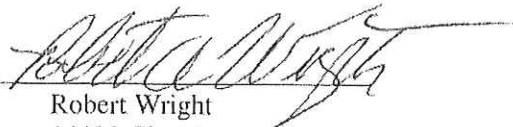
Wherefore, the petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexation and rezoning the above-described parcel of real estate located in the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

Robert Wright
14492 Cleveland Road
Granger, Indiana 46530
Ph. No. _____

Gary Wright
Gary Wright
19499 Darden Road
South Bend, Indiana 46637
Ph. No. 574-318-6497

For: Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and
Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and
Jerome Francis Walker each with 1/5 interest.
Ph. No. _____

Lane Wright Dora Pauline Wright
For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life
Estate during natural life.
Ph. No. 574-272-2081



Robert Wright

14492 Cleveland Road

Granger, Indiana 46530

Ph. No. 574 245 0051

Gary Wright

19499 Darden Road

South Bend, Indiana 46637

Ph. No. _____

For: Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

Ph. No. _____

For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.

Ph. No. _____

Robert Wright

14492 Cleveland Road

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Ph. No. _____

Gary Wright

19499 Darden Road

South Bend, Indiana 46637

Ph. No. _____

For: Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

Ph. No. 574-298-9690 Rosalie McCay X
574-248-7772 Virginia DeFreeuw X

Darlene S. Walker ph. 574-520-9505 X

For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.

Ph. No. _____

Sandra Walker, 574-876-1350

X Sandra Walker

Rosalie McCay
Virginia DeFreeuw
Darlene S. Walker

Mishawaka Common Council
Mishawaka Plan Commission
600 East Third Street
Mishawaka, Indiana 46544

June 25, 2022

Re: Petition for Annexation & Rezoning for:

Robert Wright
14492 Cleveland Road
Granger, Indiana 46530

Gary Wright
19499 Darden Road
South Bend, Indiana 46637

Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

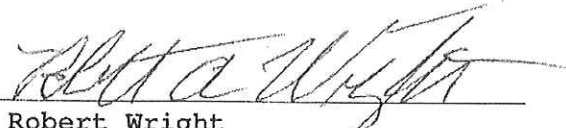
Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.

Dear Common Council and 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 Common Council and Plan Commission meeting(s) at which our Annexation and Rezoning Petition request will be heard.

If you have any questions concerning this matter, please feel to contact me/us.

Sincerely,



Robert Wright

14492 Cleveland Road

Granger, Indiana 46530

Ph. No. 574 245 0051

Gary Wright

19499 Darden Road

South Bend, Indiana 46637

Ph. No. _____

For: Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

Ph. No. _____

For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.

Ph. No. _____

For: Rosalie McCay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

Ph. No. 574-298-9690 Rosalie McCay X
574-248-7972 Virginia DeFreeuw X

Darlene S. Walker ph. 574-520-9505 X

For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.
Ph. No. _____

Rosalie McCay
Virginia DeFreeuw
Darlene S. Walker

Sandra Walker. 574-876-1350

X Sandra Walker

Mishawaka Common Council
Mishawaka Plan Commission
600 East Third Street
Mishawaka, Indiana 46544

June 25, 2022

Re: Petition for Annexation & Rezoning for:

Robert Wright
14492 Cleveland Road
Granger, Indiana 46530

Gary Wright
19499 Darden Road
South Bend, Indiana 46637

Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.

Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.

Dear Common Council and 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 Common Council and Plan Commission meeting(s) at which our Annexation and Rezoning Petition request will be heard.

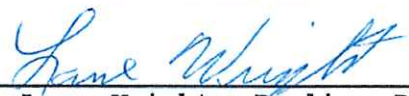
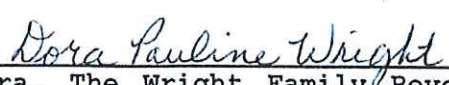
If you have any questions concerning this matter, please feel to contact me/us.

Sincerely,

Robert Wright
 14492 Cleveland Road
 Granger, Indiana 46530
 Ph. No. _____


 Gary Wright
 19499 Darden Road
 South Bend, Indiana 46637
 Ph. No. 574-318-6447

For: Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker and Virginia & Terry De Freeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest.
 Ph. No. _____

 
 For: Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life.
 Ph. No. 574-272-2081

PART OF THE SOUTHEAST QUARTER OF SECTION 23 AND THE NORTHEAST QUARTER OF SECTION 26,
ALL IN TOWNSHIP 38 NORTH RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

[illegible]

1). INCREASE OF TABULATED DATA AREA,50.15± AG.

TOTAL SPACES REQUIRED =	1,370± SPACES
TOTAL SPACES PROVIDED =	1,652± SPACES

	SQUARE FOOTAGE	% OF SITE
BUILDINGS	240,000±	10.99
ASPHALT PAVEMENT	1,470,500±	67.32
OPEN SPACE	473,963±	21.69
TOTAL	2,184,463±	100.00

6) FORMALLY APPROVE: THE SIGNED AND DATED INSTRUMENTS ARE

b). LANDSCAPING TO COMPLY WITH CITY OF MISHAWAKA LANDSCAPE ORDINANCE

TO ANNEX AND REZONE THE REAL ESTATE DESCRIBED ABOVE TO THE "S-2" PLANNED UNIT DEVELOPMENT DISTRICT CLASSIFICATION. THE PURPOSE FOR THE ANNEXATION AND REZONING IS TO ALLOW FOR A MIXED LAND USE DEVELOPMENT ALLOWING USES PERMITTED IN THE FOLLOWING DISTRICTS: "C-1," COMMERCIAL; "C-2," COMMERCIAL; "C-3," COMMERCIAL; "C-4," COMMERCIAL; "C-5," COMMERCIAL; "C-6," COMMERCIAL; "C-7," COMMERCIAL; "C-8," COMMERCIAL; "C-9," COMMERCIAL; "C-10," COMMERCIAL; "C-11," COMMERCIAL; "C-12," COMMERCIAL; "C-13," COMMERCIAL; "C-14," COMMERCIAL; "C-15," COMMERCIAL; "C-16," COMMERCIAL; "C-17," COMMERCIAL; "C-18," COMMERCIAL; "C-19," COMMERCIAL; "C-20," COMMERCIAL; "C-21," COMMERCIAL; "C-22," COMMERCIAL; "C-23," COMMERCIAL; "C-24," COMMERCIAL; "C-25," COMMERCIAL; "C-26," COMMERCIAL; "C-27," COMMERCIAL; "C-28," COMMERCIAL; "C-29," COMMERCIAL; "C-30," COMMERCIAL; "C-31," COMMERCIAL; "C-32," COMMERCIAL; "C-33," COMMERCIAL; "C-34," COMMERCIAL; "C-35," COMMERCIAL; "C-36," COMMERCIAL; "C-37," COMMERCIAL; "C-38," COMMERCIAL; "C-39," COMMERCIAL; "C-40," COMMERCIAL; "C-41," COMMERCIAL; "C-42," COMMERCIAL; "C-43," COMMERCIAL; "C-44," COMMERCIAL; "C-45," COMMERCIAL; "C-46," COMMERCIAL; "C-47," COMMERCIAL; "C-48," COMMERCIAL; "C-49," COMMERCIAL; "C-50," COMMERCIAL; "C-51," COMMERCIAL; "C-52," COMMERCIAL; "C-53," COMMERCIAL; "C-54," COMMERCIAL; "C-55," COMMERCIAL; "C-56," COMMERCIAL; "C-57," COMMERCIAL; "C-58," COMMERCIAL; "C-59," COMMERCIAL; "C-60," COMMERCIAL; "C-61," COMMERCIAL; "C-62," COMMERCIAL; "C-63," COMMERCIAL; "C-64," COMMERCIAL; "C-65," COMMERCIAL; "C-66," COMMERCIAL; "C-67," COMMERCIAL; "C-68," COMMERCIAL; "C-69," COMMERCIAL; "C-70," COMMERCIAL; "C-71," COMMERCIAL; "C-72," COMMERCIAL; "C-73," COMMERCIAL; "C-74," COMMERCIAL; "C-75," COMMERCIAL; "C-76," COMMERCIAL; "C-77," COMMERCIAL; "C-78," COMMERCIAL; "C-79," COMMERCIAL; "C-80," COMMERCIAL; "C-81," COMMERCIAL; "C-82," COMMERCIAL; "C-83," COMMERCIAL; "C-84," COMMERCIAL; "C-85," COMMERCIAL; "C-86," COMMERCIAL; "C-87," COMMERCIAL; "C-88," COMMERCIAL; "C-89," COMMERCIAL; "C-90," COMMERCIAL; "C-91," COMMERCIAL; "C-92," COMMERCIAL; "C-93," COMMERCIAL; "C-94," COMMERCIAL; "C-95," COMMERCIAL; "C-96," COMMERCIAL; "C-97," COMMERCIAL; "C-98," COMMERCIAL; "C-99," COMMERCIAL; "C-100," COMMERCIAL.

④ 25-FT FRONT SETBACK



67th Annual Meeting of the American Society of Human Genetics



REVIEWS

DATE	7/12/22	DRAWN BY	JSC
SCALE	1" = 150'	CHECKED BY	MJD
FILE #		PROJECT NAME	

[Signature]
R.L. HARNER #910G32

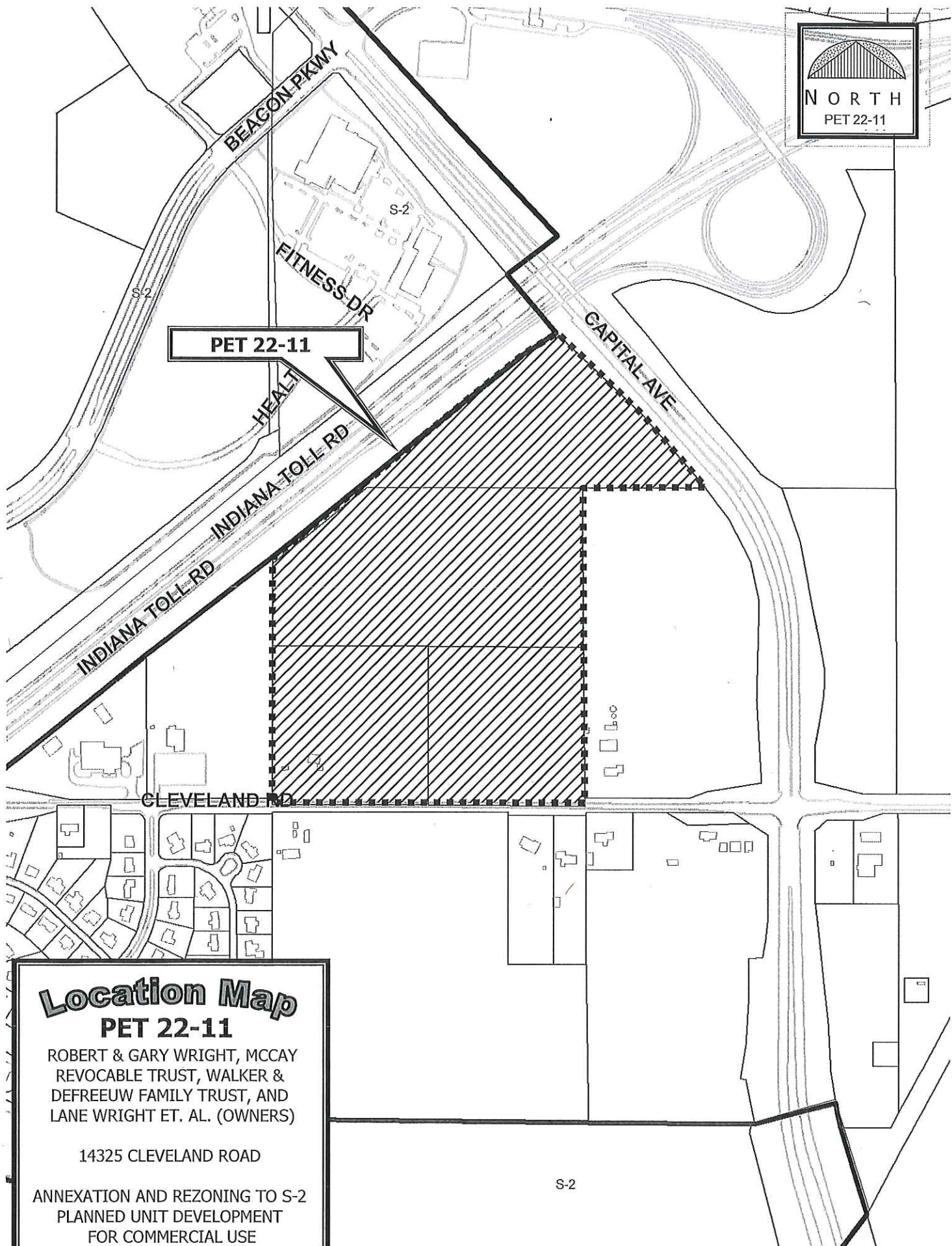
CLINTONS & DANIELS
JAMES HANCOCK & ASSOCIATES, INC.
1843 COMMENCE DRIVE
SOUTH BEND, IN 46628
(219) 234-4603

100

THE SOUTHEAST QUARTER OF SECTION 23 AND THE NORTHEAST QUARTER OF SECTION 26,
IN TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



R. L. HARNER
REGISTERED
No.
910032



1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. F... AMC, MMC

AUG 11 2022

City Clerk
Mishawaka, IN

PETITION 22-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-23

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:

Lot 13 Ex 12 Ft W Side for Alley, Lawrence & Battells Block 63

COMMON ADDRESS: 911 North Main Street

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-1 Single 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. There are a few commercial uses south of the property, but the neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2022-23

Ordinance No: _____

4. As opposed to the range of limited commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for General Commercial but its use as residential would be compatible and consistent with the historic residential uses in the area.

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

STAFF REPORT

Location: 911 N. Main Street

Date: Aug. 9, 2022

Petition: 22 12

Prepared By: KM

GENERAL INFORMATION

Applicant: Pierre Smith and Germaine Smith

Status: Property Owners

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 33' X 121'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial District (residential use)
South: C-1 General Commercial District (residential use)
East: C-5 Neighborhood Commercial District (Battell Center)
West: R-1 Single Family Residential District

Thoroughfare: Main Street between Broadway and Battell

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners are requesting to rezone 911 North Main Street from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on Main Street between Broadway and Battell Streets and the neighborhood is mainly residential in nature.

The home, built in 1905, was damaged by fire and the Petitioners plan to demolish the existing structure and build a new house on the property. The property needs to be rezoned to R-1 to allow a new home to be built.

Prior to the 1980's residential uses were permitted in commercial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #22-12 to rezone 911 N. Main Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are a few commercial uses south of the property, but the neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of limited commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for General Commercial but its use as residential would be compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, PLOT PLAN, AERIAL, LOCATION MAP



911 N. Main Street



View of home to the south

JUL 27 2022

City Clerk
Mishawaka, IN

Date: 7/20/2022

Honorable Members of the Common Council
City of Mishawaka, Indiana

Mishawaka City Plan Commission
City of Mishawaka, Indiana



RE: PETITION TO REZONE

The undersigned Pierre Smith & Germaine Smith respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

911 N. Main Street; Mishawaka, IN 46544

Parcel ID: 016-2011-0336

Legal description: Lot 13 Ex 12 Ft W Side for Alley Lawrence & Battells Blk 63

Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C1 (commercial) District. Said property is a Single Family Residential Home.

Petitioners desire said real estate to be rezoned to R1 (residential) District. Petitioners further state that they intend to utilize said land for rebuilding single family residential home.

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 the hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

Sign: Pierre Smith

Print: PIERRE SMITH

Sign: Germaine Smith

Print: Germaine Smith

Contact person:

Pierre Smith

310 S. Kentucky St.

South Bend, IN 46619

TEL: 574 532 0502

EMAIL: SMITH_PIERRE@yahoo.com

Alley

Alley

33.2'

Existing Garage

6'-2 3/8"

5'-2 3/8"

6'

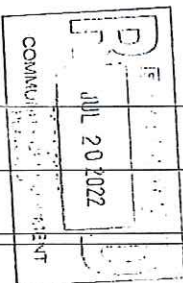
5'

121'

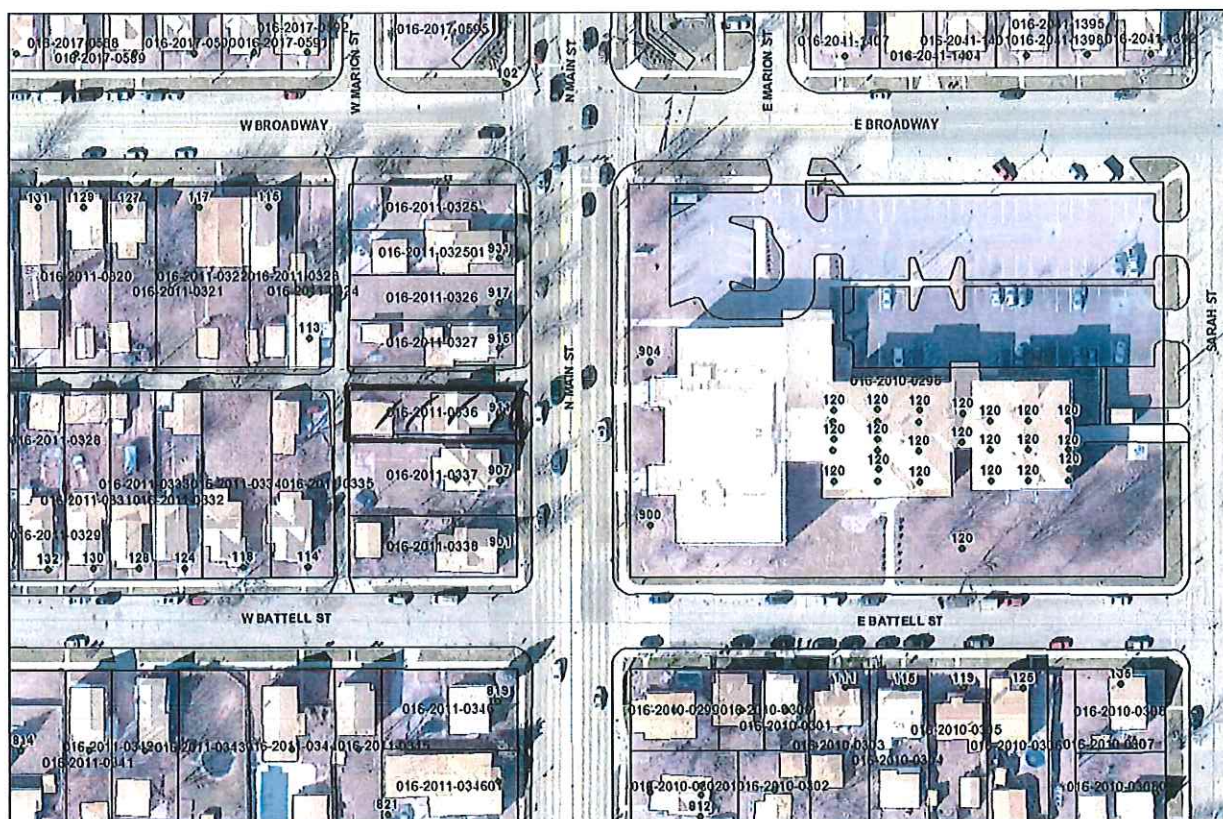
25'

Main St.

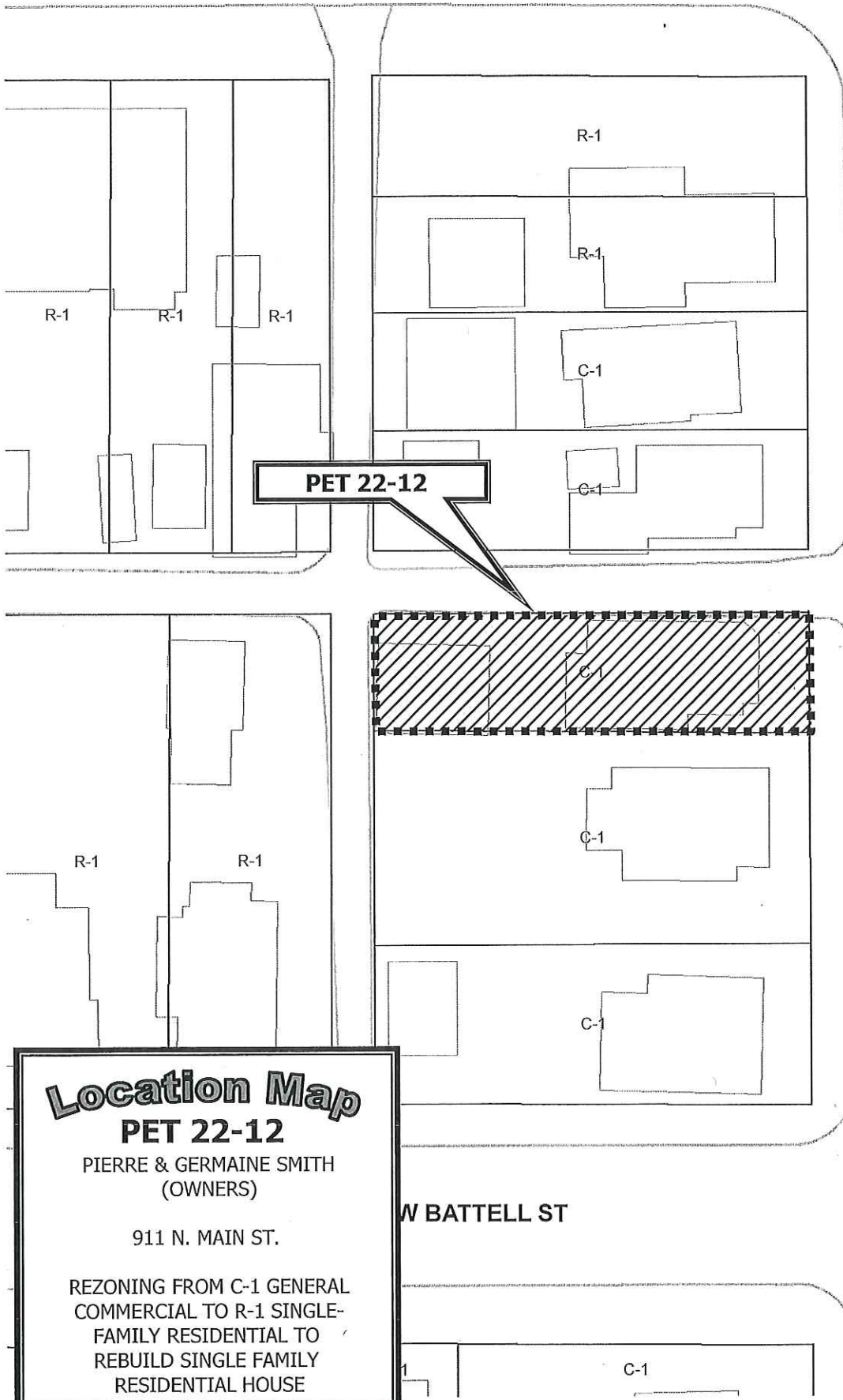
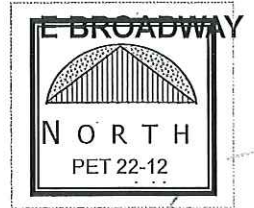
911 N. Main St
Site Plan



PETITION #22-12
911 N. Main Street



W BROADWAY



PET 22-12

N MAIN ST

C-5

Location Map

PET 22-12

PIERRE & GERMAINE SMITH
(OWNERS)

911 N. MAIN ST.

REZONING FROM C-1 GENERAL
COMMERCIAL TO R-1 SINGLE-
FAMILY RESIDENTIAL TO
REBUILD SINGLE FAMILY
RESIDENTIAL HOUSE

W BATTELL ST

E BATTELL ST

C-1

C-5

AUG 11 2022

City Clerk
Mishawaka, IN

1st Reading

2nd Reading

Passed

Failed

Continued To

PETITION 22-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-24

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:

LOT NUMBER 2 OF BREMEN HIGHWAY REPLAT, A REPLAT OF LOTS A AND B OF THE L.T.A. REPLAT, RECORDED APRIL 5, 2011, AS THE INSTRUMENT NUMBER 1109271 IN THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2 OF BREMEN HIGHWAY REPLAT AS RECORDED AS INSTRUMENT NUMBER 1109271 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 89 DEGREES 49 MINUTES 23 SECONDS WEST ALONG THE NORTH RIGHT OF WAY LINE OF ELMWOOD AVENUE, 16.70 FEET; THENCE NORTH 15 DEGREES 13 MINUTES 16 SECONDS EAST, 64.35 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BREMEN HIGHWAY; THENCE SOUTH 00 DEGREES 10 MINUTES 41 SECONDS WEST ALONG SAID WEST RIGHT OF WAY LINE, 62.14 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 519 SQUARE FEET, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

ALSO, THE NORTH HALF OF VACATED ELMWOOD AVENUE LYING SOUTH AND ADJACENT TO LOT 2 AS SET OUT IN ORDINANCE NO. 5681 RECORDED JANUARY 28, 2020 AS INSTRUMENT NUMBER 2020-02593 OF THE ST. JOSEPH COUNTY RECORDS.

COMMON ADDRESS: 3605 Bremen Highway

Proposed Ordinance No: 2022-24

Ordinance No: _____

which real estate is now classified as C-2 Shopping Center Commercial District and C-7 Automobile Oriented Restaurant Commercial 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.

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

1. Existing Conditions. The southern shopping district along Bremen Highway is a busy commercial corridor, and the majority of the properties along Bremen Highway are commercial in use and would be compatible to the area, most recently the addition of Taco Bell immediately to the south and All Secure Storage along the bypass ramp.
2. Character of Buildings - The character of the buildings along Bremen Highway from Ireland to the St. Joseph Valley Parkway are predominantly commercial;
3. The most desirable/highest and best use - Because the parcel is located near retail, gas stations, and drive thru restaurants, the rezoning to C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as Bremen Highway is the southern commercial corridor which permits multiples commercial uses; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location on Bremen Highway, the proposed commercial use is consistent with the 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

Proposed Ordinance No: _____

Ordinance No: _____

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

David A. Wood, Mayor

STAFF REPORT

Location: 3605 Bremen Highway

Date: August 9, 2022

Petition: 22 13

Prepared By: CH

GENERAL INFORMATION

Applicant: LaFree Properties LLC & John A & Jayne L Piraccini/Abonmarche Consultants/Drive & Shine

Status: Property Owners/Representative/Contingent Purchaser and Business

Request: Rezone from C-2 Shopping Center Commercial and C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District

Zoning Classification: C-2 Shopping Center Commercial & C-7 Automobile Oriented Restaurant Commercial District

Lot Size: 4.33 acres

Applicable Regulations: Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-7 Automobile Oriented Restaurant Commercial (hair salon) and unincorporated St. Joseph County R Residential (single family homes)
South: S-2 Planned Unit Development (Taco Bell & single family home)
East: C-1 General Commercial (Meijer) and C-7 Automobile Oriented Restaurant Commercial (McDonalds)
West: Unincorporated St. Joseph County R Residential (single family homes)

Thoroughfare: Bremen Highway

School District: Penn-Harris-Madison

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's expense

Comprehensive Plan: General Commercial (Downtown, Retail Sales, and Shopping Centers)

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-2 Shopping Center Commercial & C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District. The property is located on the west side of Bremen Highway between Ireland Road and Meijer Drive.

The eastern 300' of the property was annexed in 1995 and rezoned C-7 for a drive thru restaurant. The remainder was annexed in 1998 and rezoned C-2 Shopping Center Commercial. The hair salon and outbuilding were split off in 2011, leaving 4.33 acre Lot 2 vacant for development. In 2020, Elmwood Avenue (to the south) was vacated and demolished as a part of the realignment which included the extension of Meijer Drive to the south and construction of Veldman Drive to the west.

The reason for the change to C-4 Automobile Oriented Commercial District is to allow a Drive & Shine car wash. The Drive & Shine on Main & Douglas has been in operation for over 25 years. A Drive & Shine car wash is currently under construction at the northwest corner of Lincolnway East and Bittersweet.

The Engineering Department had no concerns with the change in zoning, however, did have comments about the location of the drive approach, additional right of way to be dedicated, and coordinate with the St. Joseph County Drainage Board regarding Laing Ditch legal drain. Those comments were shared with Abonmarche to aid in developing the site plan.

The Planning Department shares Engineering's concerns about the access point and the drainage board. Laing Ditch is located within the property along the west property line. Planning Staff believes that the ditch is a county regulated drain subject to all rules and regulations of the St. Joseph County Surveyor and Drainage Board.

The Electric Department noted that Mishawaka Utilities shares territory with AEP. Again, these comments do not apply to the rezoning, but may be needed in developing the site.

Other pertinent City Departments reviewed and approved the request.

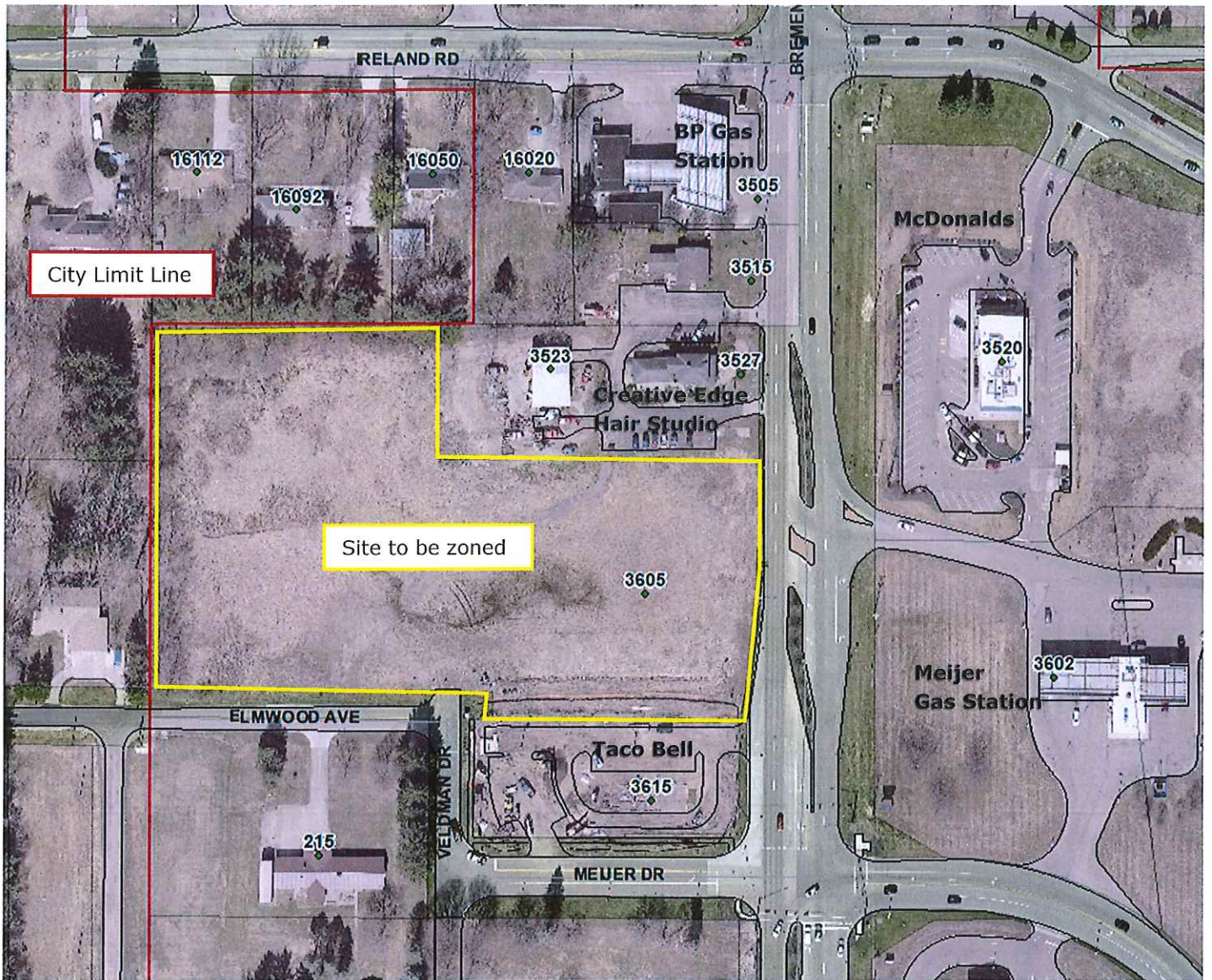
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #22-13 to rezone the property at 3605 Bremen Highway to C-4 Automobile Oriented Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions. The southern shopping district along Bremen Highway is a busy commercial corridor, and the majority of the properties along Bremen Highway are commercial in use and would be compatible to the area, most recently the addition of Taco Bell immediately to the south and All Secure Storage along the bypass ramp.
2. Character of Buildings - The character of the buildings along Bremen Highway from Ireland to the St. Joseph Valley Parkway are predominantly commercial;
3. The most desirable/highest and best use - Because the parcel is located near retail, gas stations, and drive thru restaurants, the rezoning to C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as Bremen Highway is the southern commercial corridor which permits multiples commercial uses; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, and given its location on Bremen Highway, the proposed commercial use is consistent with the Plan.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





Looking south from hair salon



Looking north from Taco Bell



Deborah S. Block, MMC, MMC Engineering • Architecture • Land Surveying

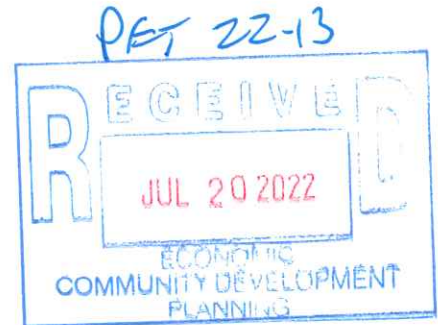
JUL 27 2022

**City Clerk
Mishawaka, IN**

DATE: July 20, 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



RE: Petition for Re-Zoning Classification – 3605 Bremen Hwy, Mishawaka, IN 46506

The undersigned Lafree Properties, LLC 1/2 INT & Piraccini John A. and Jayne L. 1/2 INT 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:

LOT NUMBER 2 OF BREMEN HIGHWAY REPLAT, A REPLAT OF LOTS A AND B OF THE L.T.A. REPLAT, RECORDED APRIL 5, 2011, AS THE INSTRUMENT NUMBER 1109271 IN THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 2 OF BREMEN HIGHWAY REPLAT AS RECORDED AS INSTRUMENT NUMBER 1109271 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 89 DEGREES 49 MINUTES 23 SECONDS WEST ALONG THE NORTH RIGHT OF WAY LINE OF ELMWOOD AVENUE, 16.70 FEET; THENCE NORTH 15 DEGREES 13 MINUTES 16 SECONDS EAST, 64.35 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF BREMEN HIGHWAY; THENCE SOUTH 00 DEGREES 10 MINUTES 41 SECONDS WEST ALONG SAID WEST RIGHT OF WAY LINE, 62.14 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 519 SQUARE FEET, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

ALSO, THE NORTH HALF OF VACATED ELMWOOD AVENUE LYING SOUTH AND ADJACENT TO LOT 2 AS SET OUT IN ORDINANCE NO. 5681 RECORDED JANUARY 28, 2020 AS INSTRUMENT NUMBER 2020-02593 OF THE ST. JOSEPH COUNTY RECORDS.

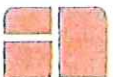
Wherefore, Petitioners respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above-described parcel of real estate to the City of Mishawaka with a C4-Commercial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

Bonnie LaFree Sutter
LaFree Properties, LLC Trustee & POA

Bonnie LaFree Sutter
Printed

Jayne L. Piraccini
John A. & Jayne L. Piraccini

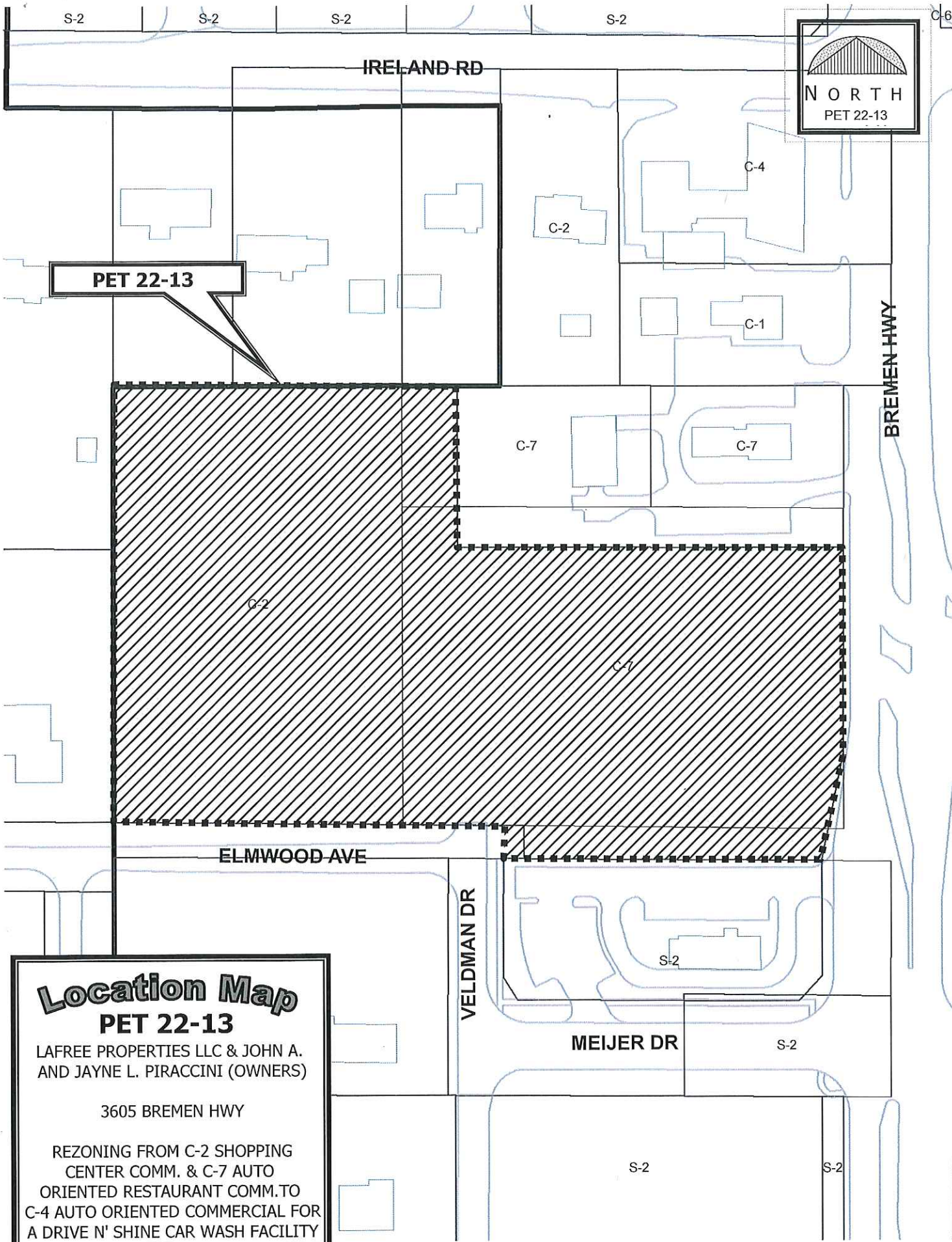
Jayne L. Piraccini
Printed
John A. Piraccini





BY	DA
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ABONMARCHE
 315 W. Jefferson Blvd.
 South Bend, IN 46601
 1.574.232.8700
 1.574.231.4440
abonmarche.com



Location Map PET 22-13

LAFREE PROPERTIES LLC & JOHN A.
AND JAYNE L. PIRACCINI (OWNERS)

3605 BREMEN HWY

REZONING FROM C-2 SHOPPING
CENTER COMM. & C-7 AUTO
ORIENTED RESTAURANT COMM. TO
C-4 AUTO ORIENTED COMMERCIAL FOR
A DRIVE N' SHINE CAR WASH FACILITY

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO.

ORDINANCE NO. 2022-25

HPC # 22-01

Deborah S. Block, MMC, MMC

AUG 08 2022

City Clerk
Mishawaka, IN

AN ORDINANCE TO ESTABLISH THE CEDAR STREET MULTIPLE SITE DISTRICT WITHIN THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, Chapter 125 of the Municipal Code provides for the establishment of Historic Districts within the City of Mishawaka, and

WHEREAS, three property owners on Cedar Street wish to protect the fabric of their houses by establishing a small multiple site Historic District, and

WHEREAS, two of the homes (321 & 403 N Cedar), are listed as Outstanding in the updated 1995 Survey, indicating the importance of the history to be preserved and protected, and

WHEREAS, the Historic Preservation Commission held a public hearing on August 2, 2022 for the purpose of allowing discussion and public comment on the proposed designation of the Cedar Street Multiple Site District, and

WHEREAS, the Cedar Street Multiple Site District Guidelines are attached as Exhibit A, including a boundary map, and

WHEREAS, the Commission voted to send the Guidelines and map to the Common Council with a favorable recommendation for the creation of Cedar Street Multiple Site District.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA, THAT:

SECTION 1: The map setting forth the proposed conservation district for the site is hereby approved by the Common Council and the Cedar Street Multiple Site District is hereby designated.

The Cedar Street Multiple Site District shall consist of the following addresses:

315 N Cedar Street
321 N Cedar Street
403 N Cedar Street

The individual properties making up the District are legally described as follows:

Lots 14 -16 Riverside Addition.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA, THAT the above reference property be designated as Cedar Street Multiple Site District.

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 p.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



MISHAWAKA
HISTORIC
PRESERVATION
COMMISSION

Deborah S. Block, AMC, MMC

AUG 08 2022

City Clerk
Mishawaka, IN

August 3, 2022

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Historic Preservation Commission Recommendation
August 2, 2022 Public Hearing
Certification of Proposed Ordinance

Honorable Members:

A regular meeting of the Historic Preservation Commission was held on the above referenced date at which time the following Ordinance was considered:

HPC # 22-01

A proposed ordinance to establish 315 N Cedar Street, 321 N Cedar Street and 403 N Cedar Street, Mishawaka Indiana, as the Cedar Street Multiple Property Historic District. The property is legally described as: Lots 14, 15, & 16 Riverside Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

The Commission recommended approval.

Pursuant to I.C. 36-7-11 the Historic Preservation Commission hereby certifies to the Mishawaka Common Council the attached proposed Ordinance regarding the above matter.

Sincerely,

Christa Hill

Christa Hill
Secretary, Historic Preservation Commission

enc

TOMORROW LIVES IN THE LIGHT OF OUR PAST

Cedar Street Historic District Guidelines



MISHAWAKA
HISTORIC
PRESERVATION
COMMISSION

600 East Third Street
Room 201
Mishawaka, IN 46544
Phone: (574) 258-1625

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INTRODUCTION

The goal of the Cedar Street Historic District (CSHD) is to preserve the historic fabric of the block in a way that harmonizes proposed modifications within a tiered system. The guidelines are not meant to restrict creativity, but to set up a framework within which sympathetic design will occur. Within such a framework, there can be many different design solutions which may be appropriate. The intent of these design guidelines is to maintain the integrity of our street, as originally constructed; to protect property values for homeowners; to keep single family homes where they have been built traditionally; to regulate the building of new homes; and to assist with the renovation and moving of existing homes. The following guidelines also regulate new construction, should such a circumstance arise.

The houses contained within the CSHD are zoned R-1 Single Family Residential which permits only single-family style homes.

The objective of the Mishawaka Historic Preservation Commission (MHPC) is the preservation and conservation of the unique character of many of the city's residential and commercial areas recognizes that the preservation and protection of the elements that make these areas attractive is consistent with the goal of residential and business district vitality. The historic district objective is to protect a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. The conservation district objective is to retain the overall physical dimension of areas through appropriately scaled and sited new construction as well as sensitive rehabilitation of those structures which continue to retain functional usefulness.

LEGAL DESCRIPTION

Lots 14-16 Riverside Addition

ADDRESSES BY CATEGORY

Contributing
315 Cedar

Outstanding
321 Cedar
403 Cedar

HISTORY OF CEDAR STREET

In 1900 what is now known as North Cedar Street was called Maple Street. It was part of a vacant 30 acre tract bordered by the St. Joseph River to the south and the Elkhart and Western railroad tracks to the west. A primitive bridge at Main Street was the only route across the river at the time.

Due to rapid population and industrial growth along both sides of the river, the City Council recognized the need for more bridges. In 1902 a "Bridge Committee" was formed. Approval was granted to construct 2 new bridges at Cedar and Logan streets and to replace the trestle bridge on Main Street. The Cedar Street bridge was the first to be completed in August of 1904 at a cost of \$51,000. The vacant 30 acres northeast of Main Street and on the west side of the new Cedar Street became very desirable and fulfilled the demand for new housing.

Realizing the economic potential of the area, James A. Roper, Vice President of First National Bank and a member of the "Bridge Committee", David Shaw, Mishawaka Postmaster, and Archibald G. Graham, City Attorney, incorporated the St. Joseph Valley Land and Improvement Company. These 3 individuals are credited with founding what became known as the plat of the Riverside Addition to the City of Mishawaka. The plat was approved by the Common Council on May 6, 1904.

The Cedar Street bridge "transformed the vacant land into prime real estate." The South Bend Tribune published the following notice in June, 1904:

"The new Riverside Addition at the north end of the new Cedar Street bridge is sure to be the most beautiful residence location in Mishawaka. It being free from the smoke and odors of the factories, where the land is high and dry...This addition is only a few minutes walk from the street car line and within four blocks from the center of the city." (a)

Seven lots facing the newly named Cedar Street were created measuring 45'w x 119'd. Single family homes were built here between 1915 and 1930 in the style of Bungalow and American Foursquare. These properties have historical significance because they are examples of early 20th century homes for middle class residents. Homes at 321 North Cedar (built 1915) and 403 North Cedar (built 1926) have been given Outstanding ratings per the Historic Sites and Structures Inventory. The current owners have received the Historic Preservation Commission's Heritage Home Awards.

(a) The South Bend Tribune, p. 7, June 10, 1904

Historical information about the Riverside Addition was provided by Michael Esposito

RIVERSIDE ADDITION HISTORY

(extracted from Mike's contribution to the previous draft):

Riverside was founded by three well-known leaders in St. Joseph County: James A. Roper, David A. Shaw and Archibald G. Graham.¹

James Roper was a Civil War veteran who, at age 16, served with Company F of the 48th Indiana Volunteer Infantry. After the war, he became involved with furniture manufacturing and in 1888, established the Roper Furniture Company.² He and H.G. Niles helped the Dodge brothers found Mishawaka's utility companies.³ Roper was the vice-president of the First National Bank in Mishawaka, and eventually became its president.⁴ He was appointed as a city commissioner in 1901⁵ and served on the Mishawaka "bridge committee."⁶

David Shaw was the Mishawaka postmaster from 1903⁷ to 1909.⁸ He was the only founder to live in neighborhood—his home was 337 Edgewater Dr.⁹ Shaw served on the board of the Mishawaka Trust and Savings Bank¹⁰ and eventually became involved with automobile Manufacturing.^{11 12}

Archibald G. Graham was a well-known lawyer who helped organize Mishawaka into a city. In 1899, he was elected as city attorney, where he served until 1908.¹³ He moved to South Bend and co-founded the law firm of Brick, Gates & Graham.¹⁴

In 1900, only one bridge—what is now called the Main Street Bridge—connected the north and south areas of town. With an ever growing population, the city of Mishawaka needed more routes over the river. In 1902, Mishawaka formed a "bridge committee," which approached the county commissioners about building a new bridge.¹⁵ Seeing the need, commissioners approved the project. Cedar Street was chosen as the site¹⁶ and in August 1904 the new bridge was in place.¹⁷ A street was built between the bridge and Maple Street, where it meets what is now Mishawaka Avenue. In 1905, all of Maple was renamed North Cedar Street.¹⁸

Manufacturing growth kept the housing market booming well into the 1900s. An article published in The South Bend Tribune in 1903 reviewed the Mishawaka real estate market in detail. "Never before in the history of Mishawaka...has the real estate market been so active." The article added, "Many who purchased lots two years ago have realized from 33 to 50 percent [sic] on the investment." At least 300 more new homes were needed in 1903 and, "[B]y this time next year 500 will not satisfy the demand."¹⁹

The opportunities in real estate propelled Roper, Shaw and Graham into action. Two months after the bridge committee recommended the Cedar Street site, the men incorporated the "St. Joseph Valley Land and Improvement Company."²⁰ On that same day, they bought the former Kremer property (5.5 acres) from E&W for \$1.00.²¹ They still needed the old Bower property (2.75 acres) to have enough land to build Riverside. Shaw acquired it in October 1903 for \$1,500.²²

As the company organized, the city laid out the road connecting the bridge to Maple Street. The designated route cut across the Riverside property, separating a narrow tract from the main section. Rather than having Riverside straddle the street, the land to the east was incorporated into Edgewater Place.²³

Mishawaka Common Council approved the plat of Riverside on May 6, 1904²⁴ and the following month, a notice appeared in The South Bend Tribune:

The Ideal Place to Live

*The new Riverside addition at the north end of the New [sic] Cedar street [sic] bridge is sure to be the most beautiful residence location in Mishawaka. It being free from the smoke and odors of the factories, where the land is high and dry...This addition is only a minute's walk from [the] street car line and within four blocks from center of the city.*²⁵

The plat filed with the Common Council divided Riverside into 28 lots, nine of which abutted the river.²⁶ A sampling of title transfer notices in the Tribune showed lots ranged in price from \$400 to \$575 in 1905-06 and would rise to \$600 to \$900 by 1910-11.

In 1914, James Roper was sued by an ad agency in Chicago for \$30,000.²⁷ In 1915, he, and four others were sued by five different banks for claims totaling \$35,000.²⁸ In 1916, the Drovers' National bank of Chicago sued Roper and others in circuit court for \$22,240. The next year, Drovers went back to court alleging Roper transferred assets to his wife and other people to avoid paying the judgement.²⁹ As this was happening, Roper's furniture business, which had moved to Dixon Illinois in 1910,³⁰ went bankrupt³¹ and the factory building was acquired by Mishawaka Rubber & Woolen Manufacturing. The Mishawaka Woolen Company gradually absorbed all the industrial properties along the river. Roper and his wife left town, moving to Long Beach, California in 1916.³² In 1939, at age 93, Roper died. He was the longest lived and last to die of the founders.³³

David Shaw left town in 1913,³⁴ but not for financial reasons. Shaw went to work for the Grant Motor Company. The manufacturing plant opened in Cleveland, Ohio and while there Shaw became the company president.³⁵ He died in the early 1930s.³⁶

Archibald Graham stayed in the area and continued a prosperous law practice in South Bend. In 1926, he ran in the Republican primary for the U.S. Senate, but was not nominated. He died in 1935 at age 62.³⁷

End Notes:

¹ The Abstract and Title Corporation of South Bend. (1942, March 27). Abstract of Title to Real Estate in St. Joseph County, State of Indiana, South Bend, Indiana: Author, item 47.

² James A. Roper dies at age 93. (1939, Sept. 1). The South Bend Tribune, p. 23.

³ Development of water works is interesting. (1922, March 9). The South Bend Tribune, p. 1.

⁴ Former manufacturer now in California. (1922, March 9). The South Bend Tribune, p. 91.

⁵ City commissioners organize. (1901, July 22). The South Bend Tribune, p. 5.

⁶ Bridge committee to meet. (1902, Jan. 27). The South Bend Tribune, p. 5.

⁷ Social, personal and general news. (1903, Feb. 9). The South Bend Tribune, p. 7.

⁸ Postoffice work is now finished. (1910, Feb. 23). The South Bend Tribune, p. 16.

⁹ The Hibbert Directory Company (1911). Hibbert's 1908 - 1910 City Directory of South Bend and Mishawaka Indiana, Vol. 30. South Bend: The Hibbert Directory Company, p. 17.

¹⁰ Facts about the Mishawaka trust. (1914, June 8). The South Bend Tribune, p. 11.

¹¹ Simplex touring care turns turtle. (1910, July 7). The South Bend Tribune, p. 10.

¹² Moving plant to Cleveland. (1916, May 11). The South Bend Tribune, p. 17.

- ¹³ Indiana politician dies. (1935, Mar. 18). The Star Press, p. 1.
- ¹⁴ Fassett, C.N. (1918, April 06). South Bend men who have made their mark. The South Bend Tribune, pp. 9. 64 The Grant statue. (1885, Aug. 1). The Chicago Tribune, p. 8.
- ¹⁵ Bridge committee to meet. (1902, Jan. 27). The South Bend Tribune, p. 5.
- ¹⁶ Location of the new bridge (1902, March 22). The South Bend Tribune, p. 7.
- ¹⁷ Local statistics. (1904, Aug. 31). The South Bend Tribune, p. 7.
- ¹⁸ News of Mishawaka. (1905, Jan. 17). The South Bend Tribune, p. 7.
- ¹⁹ Good place to buy. (1903, July 11). The South Bend Tribune, p. 15.
- ²⁰ The Abstract and Title Corporation of South Bend. (1942, March 27). Abstract of Title to Real Estate in St. Joseph County, State of Indiana, South Bend, Indiana: Author, item 47.
- ²¹ The Abstract and Title Corporation of South Bend. (1942, March 27). Abstract of Title to Real Estate in St. Joseph County, State of Indiana, South Bend, Indiana: Author, item 47.
- ²² Real estate transfers. (1903, Oct. 22). The South Bend Tribune, p. 10.
- ²³ Real estate transfers. (1904, July 2). The South Bend Tribune, p. 7.
- ²⁴ Common Council of the City of Mishawaka. (1904, June 16). Plat of the Riverside Addition to the City of Mishawaka. Mishawaka, IN: St. Joseph County.
- ²⁵ The ideal place to live. (1904, June 10). The South Bend Tribune, p. 7.
- ²⁶ Common Council of the City of Mishawaka. (1904, June 16). Plat of the Riverside Addition to the City of Mishawaka. Mishawaka, IN: St. Joseph County.
- ²⁷ Sues for \$30,000 on guarantee contract. (1914, June 10). South Bend News-Times, p. 1.
- ²⁸ Sue on notes for recovery of \$35,000. (1915, Sept. 17). The South Bend Tribune, p. 5.
- ²⁹ Bulky transcript is cause of discussion in J.A. Roper suit. (1917, Nov. 13). South Bend News-Times, p. 4.
- ³⁰ Ropers have sold factory buildings. (1910, July 2). The South Bend Tribune, p. 18.
- ³¹ Roper Furniture Co. at Dixon fails. (1916, Nov. 28). The South Bend Tribune, p. 11.
- ³² Roper-Falk nuptials. (1916, Nov. 28). The South Bend Tribune, p. 14.
- ³³ James A. Roper dies at age 93. (1939, Sept. 1). The South Bend Tribune, p. 23.
- ³⁴ To reside in Detroit. (1913, July 12). The South Bend Tribune, p. 10.
- ³⁵ Moving plant to Cleveland. (1916, May 11). The South Bend Tribune, p. 14.
- ³⁶ Two to retire in post office. (1933, Sept. 19). The South Bend Tribune, p. 17.
- ³⁷ Indiana politician dies. (1935, Mar. 18). The Star Press, p. 1.

HOUSE HISTORY - 315 Cedar

This contributing house was built in 1921 and was owned by Earl Robinson until 1941. The 1942 Polk Directory lists the house as vacant, then Clyde Johnson in 1943 & 1944, and Mrs. Dold McClelland in 1945. Russell Ross then owned the home from 1946 until it was sold to the Portolese family in the summer of 1963.

"Portolese Family Home" by Mike Portolese

This home at 315 N Cedar St., a traditional American Four-Square, has been the Portolese family home since the summer of 1963. Michael & Rosalie Portolese married in September of 1960 and had their first child, Michael Jr. in July of 1961 and their second child, Timothy, in April of 1963. Having two children in their small apartment on Grove St. was tight quarters and the search for a home of their own began. The Ross family was selling their Cedar St. home and Mike & Rosalie fell in love with it, purchased it, and moved in the summer of 1963. Shortly thereafter, Mike and Rosalie found that they were expecting their third child.

Angela was born in May of 1964 and the three-bedroom home served the family very well. It's close proximity to Bingham School, Central Park, and Merrifield Park was an ideal location to raise a family. Mike was a Mishawaka Firefighter stationed at the old Central Fire Station and could easily walk to work and Rosalie was a crossing guard for Bingham School.

Living next door at 321 N Cedar was Margaret Schenck. She had moved into her home only three months prior to the Portolese's and quickly became an adopted member of the family. As a teacher at North Side School, Miss Schenck did not marry and lived in her home alone. She often said that the Portolese children were as much family to her as anyone. Miss Schenck taught the Portolese children about nature, farming, and was also a caregiver to the children when Mike & Rosalie needed.

The garage at 321 Cedar burned in the summer of 1967 taking with it many of the Schenck family heirlooms. Mike Portolese worked to salvage what he could and tore the shell of the garage down for her. Her new garage was built in 1968 by Merle Campbell, a friend of Margaret's and life returned to normal.

As a member of Queen of Peace Church, Mike Jr. and Lisa met Terry and Jayne Ross and became good friends. Mike had remembered that the family home was purchased from a Ross family and asked Terry if someone in his family had owned the home. Both were surprised to find that 315 N Cedar was Terry's childhood home. They often laughed about having grown up in the same house and had the same bedroom! During one of the Ross family reunions, they returned to tour the home and shared stories of cherished Ross family events that were held in the home.

As a home built in the early part of the 20th century, some modern conveniences were lacking. In the basement was an old coal fired furnace that had been converted to natural gas that looked like an octopus and no air conditioning. There is one full bath upstairs and a relatively small kitchen. A new furnace was installed in the early 1970's along with central air conditioning which made the home very popular on hot summer days with the neighbors. The bathroom was remodeled with new tile and fixtures in the mid-1970's and the kitchen was updated in the late 1990's.

Mike and Rosalie took great pride in their home with their gardens and manicured lawn. Today, the home sits vacant after Mike passed away in 2013 and with Rosalie now living in assisted living. The three Portolese siblings plan on selling the home in the fall of 2022 or spring of 2023 and hope that the home can again bring joy, shelter, and love to another family.

HOUSE HISTORY - 321 Cedar

In 1904, James Roper, one of the developers of Riverside, and his wife, Ella purchased Riverside Lot 15. The Ropers sold this lot to Harry* and Dulcie Ellsasser in 1910 for \$900. The Ellsassers built the home, a two-story craftsman-style bungalow, in 1915. The house has hardwood floors and crown molding throughout. Other notable features of the home are a picture-ledge in the dining room, built-in bookshelves in the study, and a "jack-and-jill" closet in one of the two bedrooms on the second floor. In 1925, the Ellsassers added the detached garage.

Harry and Dulcie lived in the home for 34 years, selling it in 1944 to Edmund and Evelyn Fiekers. The house changed ownership one more time until it was purchased by Margaret Schenck in 1962. Margaret lived there for 32 years, selling the house in 1994.

Between 1994 and 2004, the house had four different owners.

"The Joswick Family Home" by Sarah Joswick

In 2004, I relocated from Madison, Wisconsin to Mishawaka to work as a Records Manager at Bayer Healthcare. I had just graduated with a Master's in Library Science so this was my first "professional" job.

When I lived in Madison, I would often drive through the "craftsman" districts, admiring the style and architecture of the bungalows and dream of one day owning a similar piece of history. However, given the high price of real estate in Madison, I felt that dream was not likely to become a reality.

Nevertheless, my new job provided me the opportunity to purchase my first home. Working with a realtor, I toured houses in the area. When asked what type of home I was looking for, I told the realtor that "I would know it when I saw it." I never thought to mention a craftsman style bungalow, having long since put that dream out of my mind. The fourth house I visited was 321 Cedar Street. At first glance, I fell in love. After walking through the house and seeing the various built-ins customary of this style of home, I knew this was the house for me. However, it turned out that another buyer had already put an offer on the home. I was so worried about my "dream home" slipping away that I counter-offered more than the asking price (a move discouraged by my realtor). Fortunately, that decision paid off and in October 2004, I became the next owner of this historic home.

Over the past eighteen years, I have taken great pride in this home and worked to maintain its original style and character. For instance, in 2009, after quite a bit of research, I had the house repainted in the traditional tri-color scheme of craftsman-style houses. In August 2010, as a result of this "diligent care of a vintage home," my home received a Heritage Home Award from the City of Mishawaka Historic Preservation Commission.

My son, Eli was born in 2008 and has spent his entire life in this house. Now, as a teenager, when he returns home after spending time at the much newer houses of his friends, he often comments on how special and unique our house is in comparison. I am proud to have raised a son who appreciates the beauty and characteristics of this historic home and who recognizes the importance of preservation.

My original life-plan when I moved to 321 Cedar Street was to stay in this house and area for only three to five years before moving back to Madison. Eighteen years later, I am still here and have no plans to

move. In fact, my new plan is to stay at least seventeen more years so that I can become the homeowner who has spent the most years in the home.

*In 1919, Harry Ellsasser became the contact person for those wishing to purchase lots on Park Avenue. In 1942, Harry Ellsasser and six others successfully petitioned the city planning commission to rezone this lot and four others in the Riverside addition, along with multiple lots in the Edgewater addition, from commercial to a class A residential zone.

HOUSE HISTORY - 403 Cedar

The home, built in 1926, has only had three owners. School teacher George Fee bought the house from the original owner in the 1940's. Current owner Susan Godair, has owned the house since 1996. Ms. Godair grew up in the area; her family owned a florist shop at the corner of Cedar and Madison. Originally classified as Notable in the 1995 Survey, recent reviews by Indiana Landmarks staff elevated the status to Outstanding.

"The Fee House" by Susan Godair

Visually picture in your mind the beginning scene from the classic movie, A Christmas Story. I did so enjoy the movie as it reminded me of my home growing up. You see I was raised and grew up at the edge of the bridge in my grandmother's house along side the Edgewater Floral Shop, my parent's flower business. Oh all the stories I could share with you from my childhood memories. At the corner of Madison and Cedar streets began the first of five houses looking north on Cedar: The Owens, The Brady's, McNamara's, Portolese's, Miss Schenek and George Fee's lovely 4 Square American house. Right next door was Rosenstine's rubber company, and the a railroad track on the north side running back and forth, east and west, to and from the UniRoyal plant, Ball Band, Woolen's . There's plenty of history in this town. Note, my older brother, David, looked so much like Ralphie at 8 yrs old and also wanted a red rider beebee gun.

According to the abstract of title to this property, it was purchased in 1943 by George Fee.

Back to George Fee. A very pleasant man, pleasant and funny humor, engaging, and a very successful car sales man at Gates Chevrolet, a family business. And, he was a wood worker with some time working as a shop teacher. George resembled a different George, a famous tv/actor/comedian - George Goble. A delightful entertainer with a distinctive hair cut and style, a butch or flat top style. Only people over 50 would know him from his movies and guest spots on the Ed Sullivan show. Everybody was fond of the Fee family. The Fee house was a "must not miss" stop on Halloween night, always a homemade treat - carmel popcorn balls or taffy apples.

George Fee died, in his home on Cedar St, in the winter of 1994. A transfer with my employer from IL to Elkhart was approved due to my many visits with my aging parents. The Fee house was 5 houses north of my parents house and would be so convenient for caring on them. There was one other interested party so they, the family, decided to take a blind bid from each and lucky me I had the highest bid and the Fee house became home. I decided to trust George's reputation, honesty and good character and bought the house sight unseen. Answered prayer, I knew this was the perfect house for me.

Zoom to January 1995 I moved into my new home. The house is so lovely, well cared for hardwood floors, walnut baseboards and gorgeous crown moldings throughout the main floor. A charming stairway to the upstairs to three bedrooms. My favorite room is the sunroom, with 8 windows for the sun to burst through. There's a total of 31 original windows in the house.

August, 2010, I was given an award from the City of Mishawaka, Historic Preservation Commission, Heritage Home Award for "diligent care of a vintage home". Each May I look forward to and shiver with delight for the sign the city posts in my front yard recognizing the historical worthiness of the history.

TERMINOLOGY AND DEFINITIONS

Historic District: A full Historic District regulates all exterior changes to a property, site or setting.

CSHD: Cedar Street Historic District

MHPC: Mishawaka Historic Preservation Commission

ARCHITECTURAL INTENT

PRIMARY BUILDINGS: The single family dwelling occupying a single lot.

ACCESSORY STRUCTURES: Any structure secondary to the principal building on the lot.

MASS: The three dimensional outline of a building.
Consider the mass of all building parts (i.e., house, garage, integrated porch, and breezeway).

FOUNDATION/ FIRST FLOOR ELEVATION: The supporting base upon which a building sits and the finished elevation of the first floor living space.

BUILDING MATERIALS: The visual, structural, and performance characteristics of the materials visible on a building exterior.

OPENINGS/FENESTRATION: The design, arrangement, and proportioning of windows, doors, and openings.

OTHER ARCHITECTURAL DETAILS: These items extend the mid-century house mass into the landscape.

PATIOS AND PORCHES: Flat constructed areas, adjacent to the house, which extend the living space into the exterior environment.

PARKING & STORAGE ACCESS: Locations of driveways and access to storage of all vehicles, including but not limited to cars, RVs, boats, ATVs, etc.

SETBACK: The distance a building is set back from a property line.

ORIENTATION: The direction a building faces.

BUILDING ENTRY: The actual and visually perceived approach and entrance to a building.

SPACING: The distance between contiguous buildings along a block face.

BUILDING HEIGHT: The vertical distance measured from the established grade opposite the middle of the front wall of the building to the highest point of the roof. Whenever a building is located upon a terrace or slope, height may be measured from the average grade level of the building wall.

BUILDING OUTLINE: The silhouette of a building as seen from the street.

GUIDELINES FOR EXISTING STRUCTURES

District Wide

The overall approach of the guidelines is to ensure that any future changes don't detract from the overall appearance of the street or adjacent properties.

Properties will be grandfathered as of the date of council approval. Any changes or modifications after this period will need to follow the established guidelines.

Review is required for Non-Contributing buildings. The Mishawaka Historic Preservation Commission considers proposed work to ensure that the changes are compatible with the existing street. Window and door size and placement as well as building materials should maintain the look for vintage materials on homes of the period.

Front yard fences and decking are generally discouraged, as this street does not contain such historically.

Mature trees should not be removed except in instances of disease, to allow for an addition, and/or if causing damage to the sidewalk and or damaging structures.

In-kind repair will not require a COA (aluminum gutter with aluminum gutter, asphalt roof with asphalt roof in same or complimentary color).

Building color is not restricted by these guidelines.

Non-Contributing

The overall approach is to ensure that any future changes don't detract from the overall appearance of the street or adjacent properties.

Contributing

Porches- Homes with existing closed porches will be encouraged to return to an open porch to match adjacent properties. Existing open porches should remain open and not be enclosed.

Siding- Homes with aluminum, asphalt or vinyl siding may maintain existing. Homeowners will be encouraged to replace siding with material consistent with that used at the time of initial construction.

Windows- Windows will be encouraged to be of the same size and opening style as original. Glass divisions should match, but true dividers are not required.

Notable

Homes should retain original elements if possible. If replacement is proposed, materials should be consistent with that used at the time of initial construction. Removal of non-sensitive changes is encouraged.

Windows- Repair of original windows is encouraged.

Siding- Repair of original siding is encouraged, rather than covering with new materials.

Outstanding

Retention of original elements is of paramount importance. Repair original material rather than replacements. If replacement is warranted, material should be of the highest quality and reproduction in design.

Windows- Repair of original windows is encouraged. If new windows must be installed, they should be visually indistinguishable from the original.

District Wide

Type of Work	No Approval Required	Certificate of Appropriateness Required
Decks	• Decks not seen from the road. • Repair of existing decks.	Decks on the front of structures.
Demolition	Accessory buildings (detached garages, sheds, pools, etc.)	Any primary structure, or portion of any primary structure.
Fences	Fences that do not project past the established front setback.	Front yard fences.
Gutters	In-kind repair (same material and same or complimentary color)	
Landscaping	Removal of trees in the side or rear yard.	Removal of mature trees in the front yard (between the sidewalk and the house).
New Constructions	Accessory buildings (detached garages, sheds, pools, etc.)	All new primary structures and any addition visible from the street.
Roof	In-kind repair (same material and same or complimentary color)	Replacement of slate and tile when repair is infeasible.

Contributing

Type of Work	No Approval Required	Certificate of Appropriateness Required
Porches	Opening of existing closed porch.	Enclosing of existing open porch. New front porch.
Siding	Maintenance of existing aluminum, asphalt, or vinyl siding.	
Windows/Doors	Same size and opening type as original.	Changes to size or opening type.

Notable

Type of Work	No Approval Required	Certificate of Appropriateness Required
Porches	Opening of existing closed porch.	Enclosing of existing open porch. New front porch.
Siding	Maintenance/repair of existing aluminum, asphalt, or vinyl siding.	Covering original siding.
Windows/Doors	Repair of original windows.	Changes to size or opening type New windows of same size.

Outstanding

Type of Work	No Approval Required	Certificate of Appropriateness Required
Porches	Opening of existing closed porch.	Enclosing of existing open porch. New front porch.
Siding	Maintenance/repair of existing aluminum, asphalt, or vinyl siding.	Covering original siding.
Windows/Doors	Repair of original windows.	Changes to size or opening type. New windows of the same size.

ENFORCEMENT PROCEDURES

Enforcement of the preservation guidelines for an historic district are made possible in the Historic Preservation Ordinance of Mishawaka, Ordinance No. 3444, Chapter 125 of Mishawaka's Code of Ordinances. The HPC shall issue a Certificate of Appropriateness before any construction, reconstruction, alteration, demolition, or moving of any house or structure within the historic district is commenced. This Ordinance does not, however, prevent the ordinary maintenance and repair of any building or structure which does not involve a change in any exterior feature, nor does it prevent the reconstruction, alteration, demolition or moving of any building or structure which the Building Commissioner or other official has determined to be a hazard to public safety.

A Certificate of Appropriateness shall be required for any work which alters any portion of a structure that is visible from the street. Changes or alterations to a side or rear wall do not require a Certificate of Appropriateness, provided that these walls are not visible from the street. The Department of City Planning and its staff will be responsible for determining what is and what is not visible from the street. This decision will be made on an individual basis taking into account multiple views and angles which can be viewed from the street.

PROCESS FOR CONSTRUCTION APPROVAL

The final decision is made at a public hearing before the Mishawaka Historic Preservation Commission.

CERTIFICATE OF APPROPRIATENESS FILING REQUIREMENTS AND APPLICATION

I. The following documentation is required:

A. NEW CONSTRUCTION

1. Site plan indicating existing structure, driveways, major landscaping, and location of proposed new buildings, driveways and landscaping.
2. Photographs showing a view from the street with the building site and adjacent properties.
3. Façade rendering.
4. Description or sample of materials to be used.
5. An additional supporting materials necessary for the Preservation Commission to make a decision.

B. REHABILITATION OF AN EXISTING STRUCTURE AND MAJOR LANDSCAPING:

1. Photographs indicating existing condition.
2. Description of proposed rehabilitation activity.
3. Description or samples of materials used.
4. For substantial rehabilitation, applicant(s) must also supply site plans, elevations, floor plans, and additional supporting materials necessary for the Preservation Commission to make a decision.

II. A Ten Dollar (\$10) fee shall be charged to cover the cost of processing the application.

III. Applications are to be filed at least two (2) weeks prior to the regularly scheduled Commission meeting.

MISHAWAKA LAND DEVELOPMENT CODE

https://www.municode.com/library/in/mishawaka/codes/code_of_ordinances?nodeId=PTIILADECO

MISHAWAKA – HISTORIC PRESERVATION COMMISSION

Created in 1990, the Mishawaka Historic Preservation Commission is a group of citizens appointed by the mayor with the goal of educating city residents about the methods and merits of preservation, and safeguards the City's historic and cultural heritage by working to preserve sites of significance.

The main goals of the Mishawaka Historic Preservation Commission are to:

1. Work with Neighborhoods to create Historic Districts and Preservation Guidelines.
2. Help homeowners protect and preserve their properties.
3. Provide FREE professional advice to city residents.
4. Create public enthusiasm for the protection of the unique character of the community's past, present and for the future.

PROCEDURE FOR THE REVISION OF THE CSHD DESIGN GUIDELINES

Guidelines will be reviewed every 5 years. In this event:

1. Changes to the guidelines, if desired, may be initiated only by majority of the homeowners within the Cedar Street Historic District.
2. The homeowners inform the MHPC of the proposed changes to the guidelines.
3. Actual revisions to the guidelines are finalized by the Mishawaka Historic Preservation Commission (MHPC).
4. All property owners in the Cedar Street Historic District are notified of the proposed changes in the guidelines. They are given copies of the proposed changes and notice of the time and place of the public hearing on the proposals.
5. The MHPC provides a system whereby all property owners have the opportunity to cast a vote on the proposals. Each lot will get one vote.
6. If a majority of the property owners who cast a vote to approve the changes, the new guidelines are sent to the MHPC for ratification.

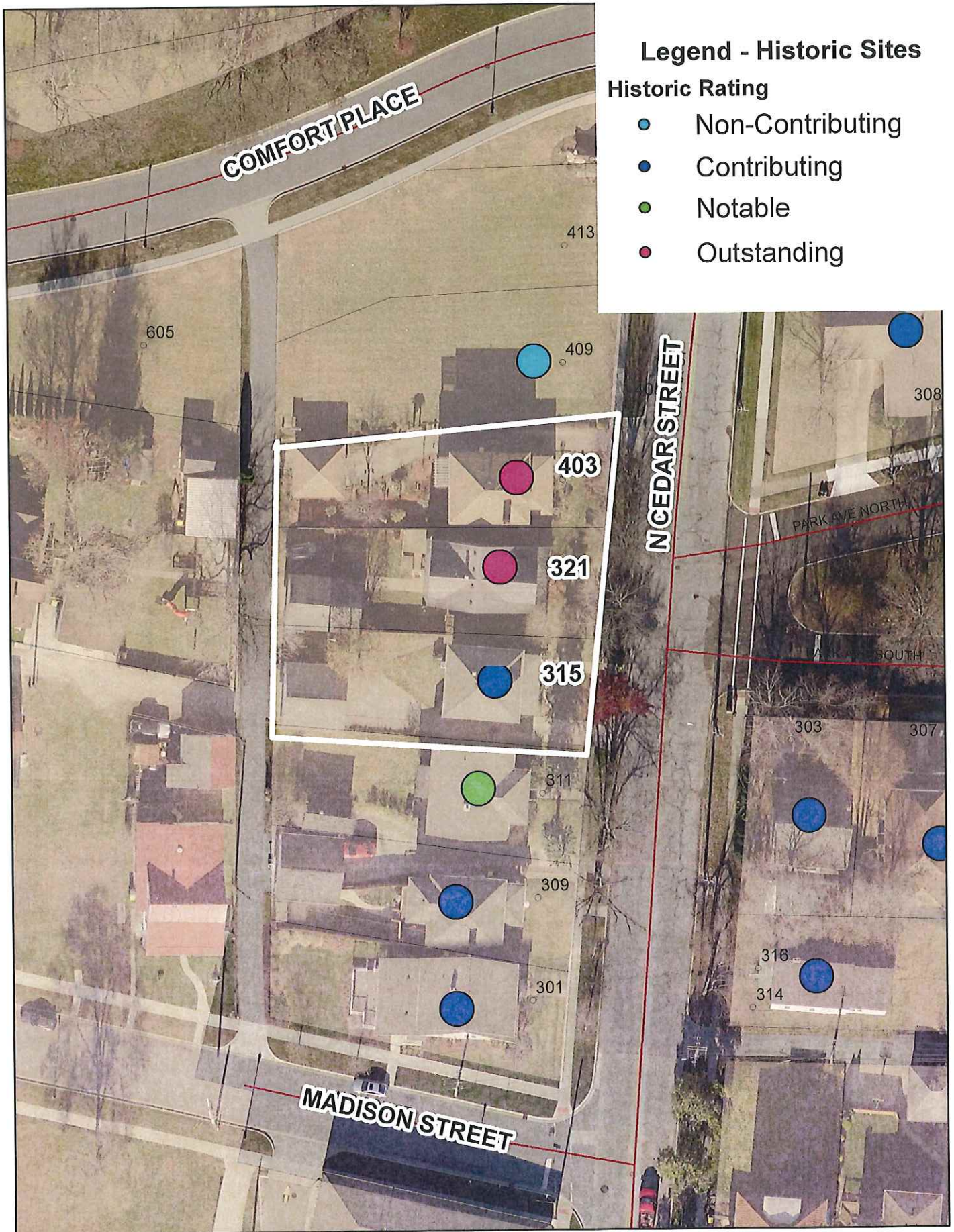
It may become necessary to revise sections of the guidelines because of state enabling legislation. In this event:

1. The MHPC will draft the appropriate change.
2. The homeowners within the Cedar Street Historic District will be notified of changes via regular mail.
3. After advertisement, the change will go to the MHPC meeting for a public hearing and approval.

Appendix A:

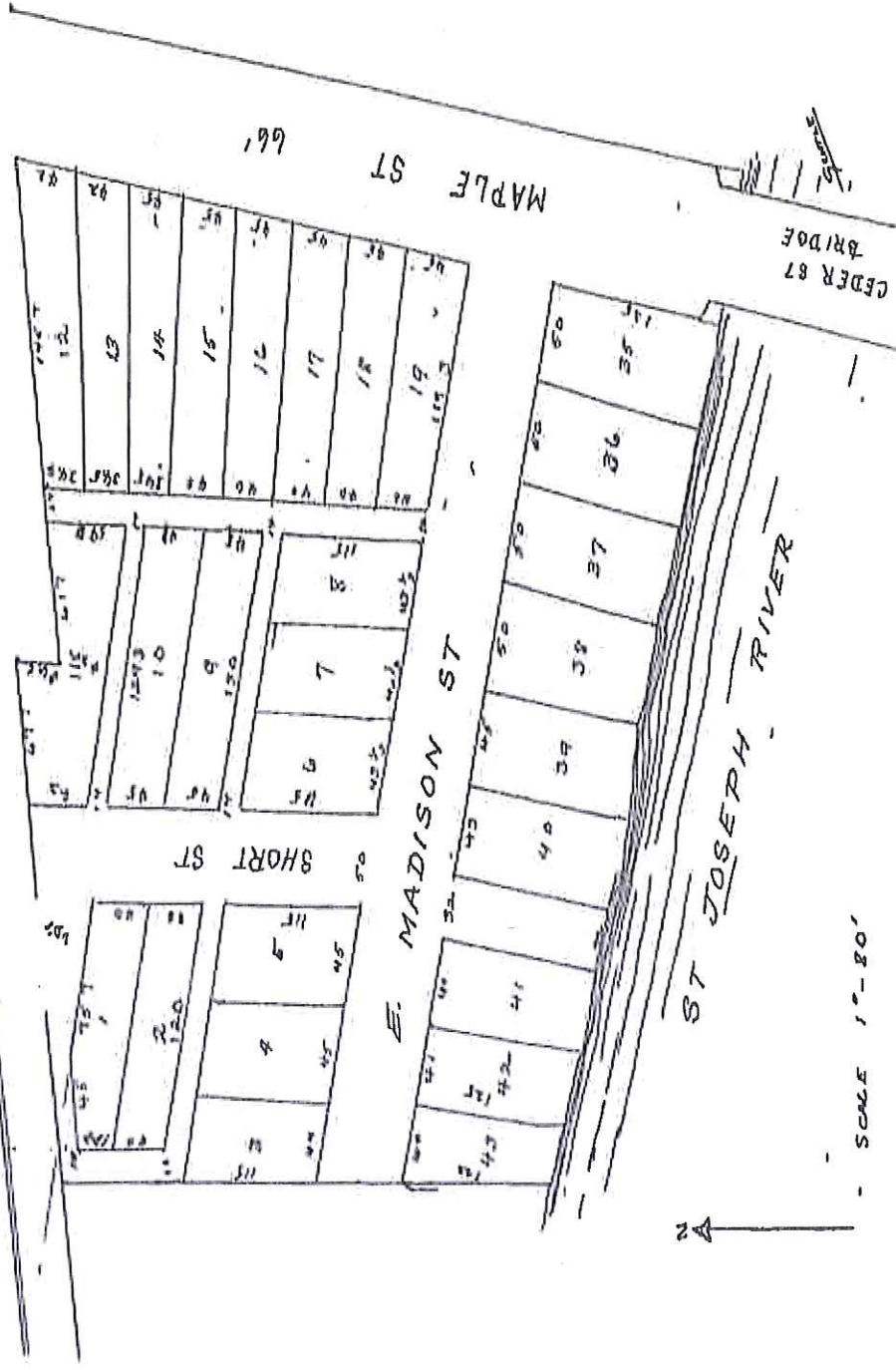
Maps

Cedar Street Historic District



PROPERTY OF ST. JOSEPH COUNTY.

PLAT
OF
RIVERSIDE ADD
TO
CITY OF MISHAWAKA



Appendix B:
Historic Sites and
Structures Survey

EDGEWATER DRIVE HISTORIC DISTRICT (39001-39084)

The Edgewater Drive Historic District includes a stately collection of early 20th century mansions. The most impressive group is located along the river, on Edgewater. More modest, but still substantial residences can be found along north and south Park Drive and the subsidiary streets of Cedar and John. Park Drive is itself significant, as it represents an example of suburban boulevard planning, typical of early "city beautiful" landscape development. It was laid out before 1913.

The district gains significance from its architectural resources, and as an example of wealthy suburban planning in Mishawaka. The homes along the river are some of the finest built after 1900 in the community and, as such, demonstrate the growth and development of leadership in commerce and industry during that era.

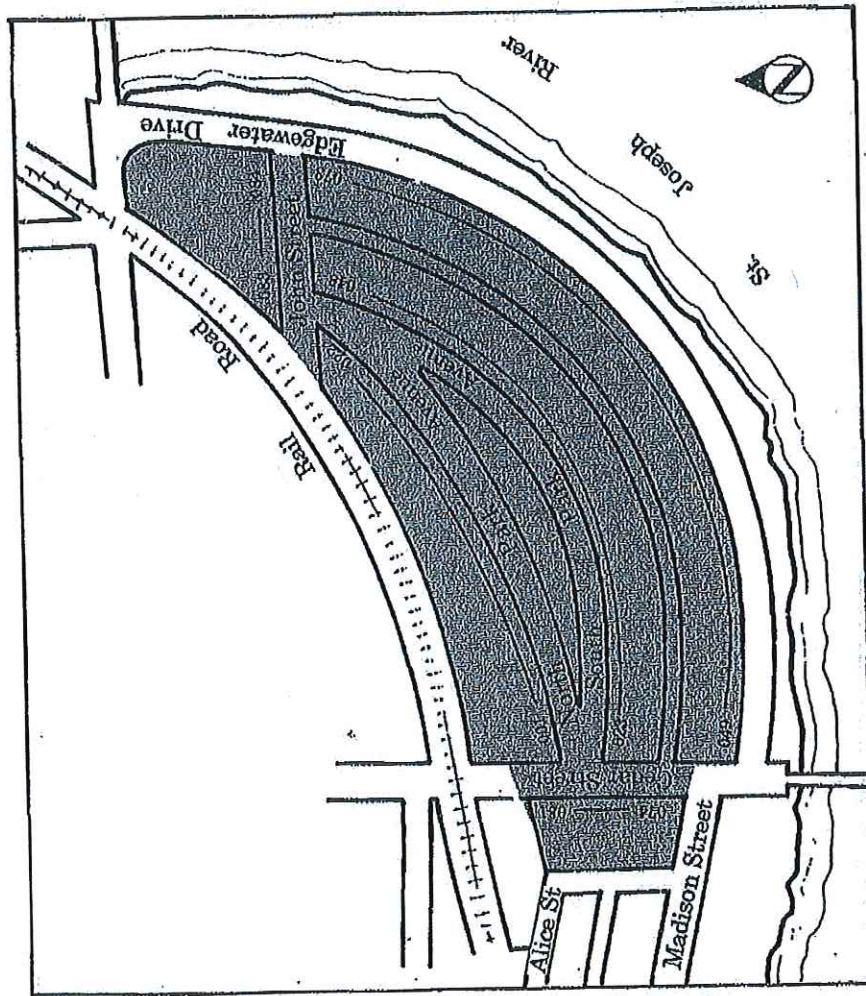
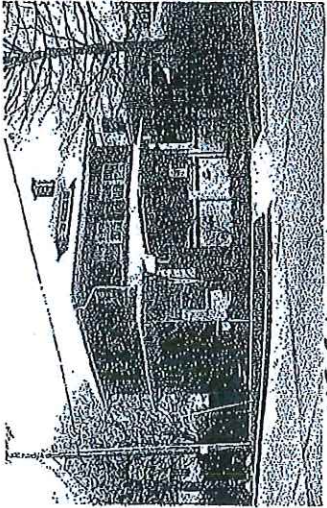
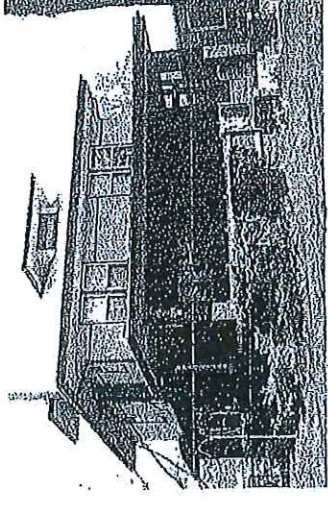


Photo Opposite: View of Edgewater Drive, c. 1910.
From a postcard in the collection of the Mishawaka-Penn Public Library.

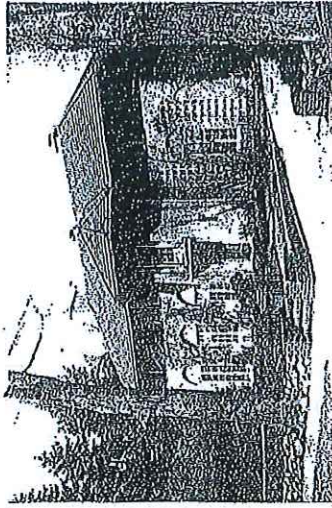
No. Add. Description

NORTH PARK AVENUE, (North Side)

- 001 308 House, Cottage, c.1920, (C). **1922**
- 002 310 House, Cottage, c.1920, (C). **1923**
- 003 314 House, Cottage, c.1920, (C). **1922**
- 004 318 House, Cottage, c.1920, (C). **1925**
- 005 322 House, Colonial Revival, c.1916, (N/C). **1939**
- 006 326 House, American Four-Square/Prairie, c.1920, (C). **1923**
- 007 330 House, Cottage, c.1920, (C). **1923**
- 008 334 House, American Four-Square, c.1920, (C). **1925**

009	340	House, Gable-front, c.1906 1906	028	321	House, Gabled-ell, c.1920, (N/C). 1922	048	449	House, American Four-Square, c.1925, (N). 1907
010	344	House, Cottage, c.1920, (N/C). 1928	029	325	House, Craftsman Cottage, c.1920, (C). 1926	 NE Cedar + Edgewater 049		
011	346	House, Cottage, c.1920, (N/C). N/C	030	329	House, Colonial Revival, c.1920, (C). 1939			
012	350	House, American Four-Square, c.1920, (C). 1925	031	335	House, Craftsman Cottage, c.1925, (C). 1923			
013	402	House, Greek Revival, c.1920, (C). 1927	032	339	House, Craftsman Cottage, c.1925, (N/C). 1914			
014	406	House, American Four-Square, c.1920, (C). 1923	033	343	House, Craftsman Cottage, c.1925, (C). 1916			
015	410	House, American Four-Square, c.1920, (C). 1922	034	345	House, Craftsman, c.1925, (N). 1916	 EDGEWATER DRIVE (North Side) 049		
016	416	House, Craftsman Cottage, c.1920, (C). 1923	035	349	House, American Four-Square, c.1925, (C). 1915			
017	418	House, Greek Cottage Revival, c.1920, (C). 1916	036	355	House, Colonial Revival, c.1925, (C). 1916			
018	424	House, Bungalow, c.1925, (C). 1923	037	357	House, American Four-Square, c.1925, (N). 1917			
019	426	House, Cottage, c.1925, (C). 1927	038	361	House, Craftsman Cottage, c.1925, (C). Cottage 1918			
020	432	House, American Four-Square, c.1925, (C). 1923	039	401	House, Greek Revival, c.1925, (C). 1922	050	307	House, American Four-Square, c.1920, (N). 1916
021	438	House, Craftsman Cottage, c.1920, (C). 1905	040	407	House, Craftsman Cottage, c.1925, (C). 1922	051	311	House, Prairie, c.1920, (O). 1909
022	N/A	SITE, City Beautiful, c.1918, (N). 1902	041	409	House, American Four-Square, c.1925, (C). 1916	052	315	House, Cottage, c.1946, (N/C). 1950
SOUTH PARK AVENUE (South Side)			042	415	House, Stick-Style, 1915, (C). 1914	053	319	House, English Revival, c.1928, (N). 1940
			043	421	House, New Construction, 1928, (N/C). 1905	054	321	House, Colonial Revival, c.1925, (N). 1910
			043	425	House, Craftsman Cottage, c.1925, (C). 1922	055	325	House, Craftsman Cottage, c.1925, (N). 1924
			044	429	House, Pyramid Cottage, c.1925, (N/C). 1914			
			045	433	House, Gabled-ell, c.1918, (C). 1925			
023	303	House, Bungalow, c.1920, (N/C). 1905	046	437	House, American Four-Square, c.1920, (C). 1921			
024	307	House, Craftsman Cottage, c.1925, (C). 1922	047	445	House, Mediterranean Revival, c.1925, (C). 1921			
025	311	House, American Four-Square, c.1925, (C). 1922						
026	315	House, American Four-Square, c.1925, (C). 1922						
027	319- 317	House, Craftsman Cottage, c.1925, (C). 1921						

- 056 329 House, American Four-Square, c.1925, (N). **1909**
- 057 333 House, Gabled-ell, c.1920, (N). **1914**
- 058 337 House, American Four-Square, c.1925, (N). **1905**
- 059 345 House, Mission, 1912, (O).



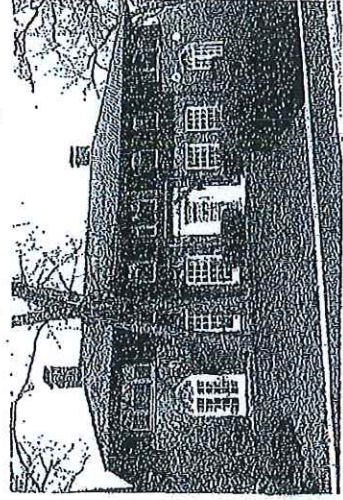
086 351 **House, New Construction, 2015** (N/C)

- 060 361 House, American Four-Square, c.1925, (C). **1905**
- 061 365 House, American Four-Square, c.1925, (N). **1905**
- 062 400 House, Arts & Crafts, c.1925, (O). **1912**

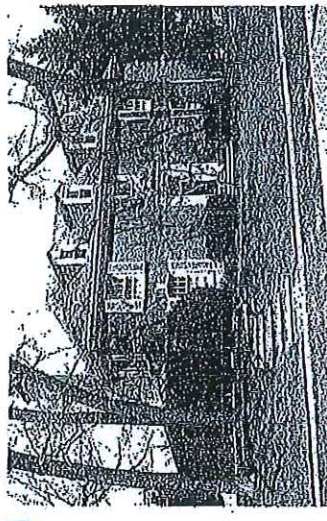


- 063 409 House, English Revival, c.1936, (C). **1922**

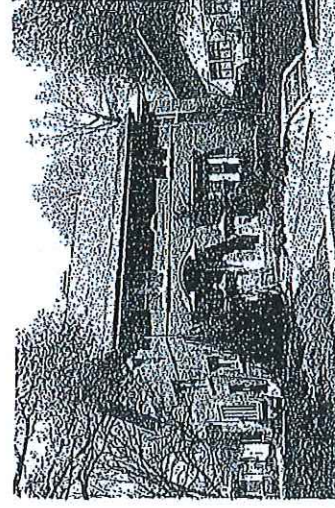
- 064 417 House, Mission/Colonial Revival, 1924, (O).



- 065 427 House, Colonial Revival, 1924, (O). **1941**
- 066 435 House, Colonial Revival, c.1928, (N). **1924**
- ✓ 067 441 **House, Colonial Revival, c.1928, (O).** **1914**
N.S.#



- 068 447 House, Bungalow, c.1920, (O). **1917**
- 069 449 House, American Four-Square, c.1925, (N/C). **1928**
- 070 451 House, Colonial Revival, c.1928, (C). **1922**
- 071 453 House, Colonial Revival, c.1917, (O). **1936**
- 072 501 House, Colonial Revival/Bungalow, c.1920, (O). **1922**



067

- 073 507 House, Colonial Revival, c.1920, (O). **1924**

NORTH CEDAR STREET (West Side)

074 209 **House, Colonial Revival, c.1925, (O).** **Demo**

- 075 N/A Commercial, Commercial Style, c.1980, (N/C).

- 076 301 House, Bungalow, c.1925, (C). **1922**

- 077 309 House, American Four-Square, c.1925, (C). **1920**

- 078 311 House, Bungalow, c.1925, (O). **1926**

- 079 315 House, American Four-Square, c.1925, (C). **1921**

- 080 321 House, Bungalow, c.1925, (O). **1915**

- 081 403 House, American Four-Square, c.1925, (O). **1920**

087 409 1920 House, New Construction 2018 (N/C)

NORTH CEDAR STREET (East Side)

- 082 314 House, Colonial Revival, c.1920, (O). **1962**

JOHN STREET (East Side)

- 083 1006 House, English Revival, c.1928, (N). **1907**

- 084 1002 House, American Four-Square, c.1925, (C). **1909**

Appendix C: **Advertisements**

Visit Edgewater Today

If you want a home in Mishawaka's best and most central residence section, lose no time.

Investigate today for there are only a few of these choice lots left. Every one on North or South Park Avenue—and facing the park that extends the full length of the addition.

Our representative, Mr. Harry Ellsasser, will be on the ground all day, ready to answer any questions.

Call evenings at 321 Cedar Street.

1919.03.30 321 Cedar Street

Clipped By:



mike_Esposito
Thu, Aug 22, 2019

Christmas Flowers

*Roses
Carnations
Cyclamen
Poinsettia
Primroses
Cherry
Wreaths*



FLOWERS ALWAYS PLEASE!

We are prepared to meet your Xmas needs in choicest of flowers
and plants.

We telegraph flowers anywhere as we are members of the Florist
Telegraph Delivery Association.

Edgewater Floral Place

209 North Cedar Street

Phone 5-0313

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, MMC, MMC

AUG 11 2022

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-26

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE AMUSEMENTS AND ENTERTAINMENTS ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Mishawaka Amusements and Entertainments Ordinance does not presently have any provision governing the issuance of a temporary event permit; and

WHEREAS, the following regulations will govern temporary event permits in the City of Mishawaka and are designed to prevent nuisances and prevent conditions that are unsafe.

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

Chapter 10 of the Mishawaka Municipal Code regarding Amusements and Entertainments is hereby amended to add the following Article VIII and sub-sections regarding Temporary Event Permits:

Article VIII. - TEMPORARY EVENT PERMITS

Sec. 10-143 - Intent.

A temporary event permit system is hereby established, to be administered by the Board of Public Works and Safety, in order to provide special examination and review of temporary events by the appropriate departments of the city or related agencies.

Sec. 10-144 Temporary events in general.

- (a) Temporary events are those events of limited duration, open to groups consisting of fifty (50) or more people that occur indoors or outdoors.
 - (1) A temporary event can occur on private property, public property, or in a combination of public and private properties that would require special review by the city.
 - (2) Temporary event permits will delineate all other temporary uses included for the event, i.e., tents, temporary structures, barricades, fencing, and the like, necessary for the event.

- (3) A temporary event permit would not be required for an event hosted by the city or another governmental entity on its property, even if the event includes the participation of a third-party individual or entity.
- (4) The definition of a temporary event for purposes of this ordinance specifically excludes the following events:
 - a) Events held at a private residence;
 - b) Events held at a facility owned and operated by a bona fide not for profit or charitable organization, including civic, fraternal and veterans' organizations, unless the event includes the rental of the facility by a third-party individual or entity; and
 - c) All funeral dinners, weddings, wedding receptions, and high school class reunions, wherever said events are conducted.

Sec.10-145 - Permit application process, possible determinations and referrals.

(a) Property owners and promoter/vendors are all required to obtain temporary event permits for each event, from the Board of Public Works and Safety. Decisions of the Board of Public Works and Safety regarding temporary event permits shall be contingent on approval of the referrals as provided below. Approvals of temporary event permits for temporary events by the Board of Public Works and Safety shall be based on the criteria utilized by the different departments or other governmental agencies upon which referrals were made. Such criteria shall be as determined by each of the city departments or agencies and as regulated by other applicable laws. The Board of Public Works and Safety shall review comments as provided by each city department or agency to determine whether the proposed event complies with all of the individual criteria. In addition, the Board of Public Works and Safety can deny the Application or revoke an existing permit if the applicant made false representations on the application, or the event presents an unreasonable danger to the health or safety of the public at large.

The duration of each temporary event shall be clearly stated within the approved permit.

- (1) Applications for temporary event permits shall be submitted on application forms as provided by the city and shall be accompanied by such plans, reports, photos, or other information, exhibits, or documents as may be reasonably required to make the necessary determination in each case.
- (2) Applications for temporary event permits shall be submitted at least thirty (30) days in advance of the temporary event unless otherwise approved by the Board of Public Works and Safety.
- (3) Approvals of applications shall be issued when such application is complete and complies with all applicable criteria and requests.
- (4) Denials of applications shall be issued if after conditions and safeguards have been considered, and the application still fails to comply with all applicable criteria; any provision of this Code will be violated by the temporary event; or for any other cause determined at the discretion of the Board of Public Works and Safety.
- (5) Denial or revocation of applications will occur if after the final onsite inspection, the Fire Marshals determine that the venue does not meet all the codes and standards or does not match the application submitted.
- (6) All questions by applicants regarding this application and approval process shall be directed to the Chief of Police.

(b) Temporary event referrals. The Board of Public Works and Safety shall make referrals as specified herein based on the nature of the application.

- (1) *Fire*. Referral to the fire department for review of fire and life safety codes or controls as determined by the department.
- (2) *Police*. Referral to the police department for review of traffic safety, including provisions of traffic monitors, crowd control measures, and any other life/safety issues as determined by the department.
- (3) *Engineering*. Referral to the engineering department for review of traffic safety, including provisions of traffic monitors, crowd control measures, and any other life/safety issues as determined by the department.
- (4) *Other*. Referral to other city agencies or governmental agencies with the necessary expertise based on the nature of the application, in order to make an informed decision.

Sec. 10-146 - Formal notice and hearing.

Formal public notice and hearing is required in connection with temporary event permits. The following is required:

- (1) Notice required by applicants to adjacent property owners. At the time of initial application, the applicants shall notify all abutting property owners, including those properties within 300 feet in any direction from the property in question and properties across the street or alley, in an approved city form.

In the case of adjacent condominiums, town homes and apartments, only one notice to the condominium, town home, or apartment association will be sent.

Sec. 10-147 - Withdrawal of application; effect of withdrawal.

An application for a temporary event permit may be withdrawn by the applicant at any time prior to a decision without restrictions as to a resubmittal. However, If the application is denied, substantially the same application shall not be considered within 12 months of the date of denial.

Sec. 10-148 - Requirement and penalties for failure to comply.

It shall be unlawful for a temporary event to be held if the promoter/vendor and the property owner fail to obtain a temporary event permit pursuant to this section of the Code. Enforcement of this Code shall be by Chapter 1, Section 1-7 of the Code, which includes a fine of up to \$2,500.00 for a first offense and up to \$7,500.00 for a second or subsequent offense each day the violation continues; or any other remedies as provided by law. Furthermore, if it is determined following the occurrence of the event that the applicant made material and false representations on the application, the promoter/vendor and property owner shall also be subject to enforcement proceedings and fines under Chapter 1, Section 1-7 of the Code.

With or without a temporary event permit, events that result in unlawful behavior shall be prosecuted by the City of Mishawaka to the fullest extent afforded by law. This may include but shall not be limited to the City pursuing the revocation of licenses to serve alcohol through the State of Indiana, the billing of public costs incurred including but not limited to public safety departments to both the property owner and promoter/event host, the withholding of future permits, and the revocation of licenses and land use/zoning permits as may be applicable.

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

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

AUG 11 2022

City Clerk
Mishawaka, IN

APPEAL #22-27

RESOLUTION NO. 2022- 17

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:

1017 East Jefferson Boulevard, 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 **1017 East Jefferson Boulevard, Mishawaka, Indiana**, more particularly known and described as follows:

Lot Numbered Six (6) and the East 56 1/2 feet of Lot Numbered Five (5), all as shown on the recorded Plat of Bryan's Addition to the City of Mishawaka, located in the Northeast Quarter of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, recorded in the Office of the Recorder of St. Joseph County, Indiana, together with the West Half of the vacated alley lying East and adjacent.

EXCEPTING THEREFROM THE FOLLOWING:

A parcel of land being a part of the Northeast Quarter of the East Half of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the Southeast corner of Lot 6 in Bryan's Addition to the City of Mishawaka as shown on the recorded Plat in the Office of the Recorder of St. Joseph County, Indiana; thence North 0°51'01" West along the East line of said Lot 6, a distance of 4.49 feet; thence North 89°52'27" East, a distance of 257.79 feet to the West right of way line of Merrifield Avenue; thence South 0°55'03" East along said Merrifield Avenue, a distance of 8.00 feet; thence South 89°52'27" West, a distance of 217.84 feet; thence North 0°50'04" West, a distance of 3.42 feet; thence North 89°59'13" West, a distance of 40.00 feet to the place of beginning.

The Use Variance will allow a food truck in the C-1 General Commercial District subject to the following conditions:

1. The truck shall be located a minimum of 10' from the north property line.
2. Hours of operation shall be no more than six hours per day, three days per week.
3. Use Variance shall expire one year from the date of Common Council approval.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The secondary use of the property by adding a food truck is not anticipated to be injurious to the public health and safety due to its limited patronage. The operation of the truck will also be subject to the applicable inspections and permitting by the County Health Department and City Fire Department.
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. Adjacent properties are currently zoned and occupied with various automotive related and industrial uses. Adding a food truck as a secondary use should not negatively impact the adjacent property uses or values.
3. The need for the variance arises from some condition peculiar to the property as the C-1 General Commercial Zoning District does not permit a food truck.
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 Appellant would not be able to add a food truck with limited hours of operation as a secondary use of the property.
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided industrial development within this property and commercial use along the E. Jefferson Boulevard corridor.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 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: 1017 E. Jefferson Blvd.

Date: August 9, 2022

Appeal: 22 - 27

Prepared By: DJS

GENERAL INFORMATION

Applicant: Sharon A. Helman / Pilo Bueno d/b/a Pilo's Body Shop & Auto Sales

Status: Property Owner / Tenant & Land Contract Purchaser

Request: Use Variance to allow a food truck in C-1 General Commercial District

Zoning Classification: C-1 General Commercial District

Lot Size: Approximate 140'x155' (0.5 acres)

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-4 Automobile Oriented Commercial District (Automobile Repair & Service / Quality Automotive)
South: I-1 Light Industrial District (Industrial Electronics Repair & Machine Automation / TRS – Technical Repair Solutions & Vacant)
East: I-1 Light Industrial District (Automobile Sales)
West: C-4 Automobile Oriented Commercial District (Automobile Body Shop / Fred's Body Shop)

Thoroughfare: E. Jefferson Boulevard

School District: School City of Mishawka

Township: Penn

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

Comprehensive Plan: Industrial

ANALYSIS

The Appellants, Sharon A. Helman and Pilo's Body Shop & Auto Sales (tenant), are requesting a Use Variance to allow a food truck to be located in the parking lot of an existing automotive repair and sales business. The property is bordered by automotive-related commercial and industrial uses.

In 2009, the current owner received a Use Variance (Appeal 09-28/Resolution 2009-20) to allow auto repair and sales within the approximate 3,500 sq. ft. building. The property had previously been occupied by several businesses including a retail bakery, truck storage and distribution facility, newspaper distribution center, and a children's fitness center. However, the building had been vacant for several months prior to the appeal being filed. The owner had not able to find a tenant for the property which was

zoned I-1 Light Industrial at that time. Following approval of the Use Variance, it appears that an auto repair and sales business did not immediately occupy the building or was only in business for a very short period.

In 2010, the property was then rezoned from the I-1 Light Industrial District to the C-1 General Commercial District (Petition 10-12/Ord. 5266) to allow for a take-out barbeque restaurant. No record of such a business operating from this property was found.

In 2011, a Use Variance (Appeal 11-14/Resolution 2011-04) was approved to again allow automobile repair and sales in the recently rezoned C-1 General Commercial property. Automotive repair and sales were no longer permitted due the property being rezoned the prior year. Following approval of the variance, the property appears to have been occupied by Fred's Body Shop until Pilo's Body Shop & Auto Sales occupying the property in early 2014.

The Appellant is proposing to operate a vending food truck from the premises within the far northeast corner of the property. Four designated parking spaces will be located in the west part of the parking lot, where highlighted on the site plan, for food orders only. Customers will walk up to the truck to order and will be given a pager to inform them when the food is ready for pick up. The proposed hours of operations are Thursday through Saturday from 10:00 am to 8:00 pm with potentially limited hours on Sunday.

The Appellant states that the goal of adding the food truck is to attract more business for the auto repair shop as well as create a secondary source of income. The truck will be owned and operated by Jose and Ernesto Bueno, who are the primary tenant's sons.

The zoning ordinance does not permit food trucks by right in any specific district including the C-1 General Commercial District. Planning Staff has had numerous discussions with the tenant beginning in July 2018 regarding the proposed food truck. Staff indicated that a use variance would likely be supported depending on where the truck would be placed, how parking would be addressed for the additional use, and the proposed hours of operation. The Engineering Department recommended that the truck be parked back away from the street approach/sidewalk to ensure proper sight distance for vehicles and pedestrians. The proposed parking spaces appear to be sufficient for the anticipated limited use of the food truck. The appellant previously indicated that the hours of operation would be very limited to include Thursday and Friday from 3:00 pm to 8:00 pm with limited hours on Saturday. Staff is recommending a condition be place on the Use Variance, if approved, to include these limited hours. The longer hours of operation, as requested in the appeal, are more appropriate for a permanent restaurant in another brick-and-mortar location and not as proposed as a secondary use on an existing commercial property.

The Fire Department commented that the food truck will be subject to inspections as an A-2 Use and Occupancy classification.

All other pertinent City Departments have reviewed and approved the Use Variance request without comments.

RECOMMENDATION

The Planning Staff recommends **approval** of Appeal #22-27 to allow a Use Variance for a food truck in the C-1 General Commercial District subject to the following Conditions:

1. The truck shall be located a minimum of 10' from the north property line.
2. The hours of operations shall be limited to Thursday and Friday from 3:00 pm to 8:00 pm with limited hours (less than 4 hours) on Saturday.

This recommendation is based on the following findings of fact:

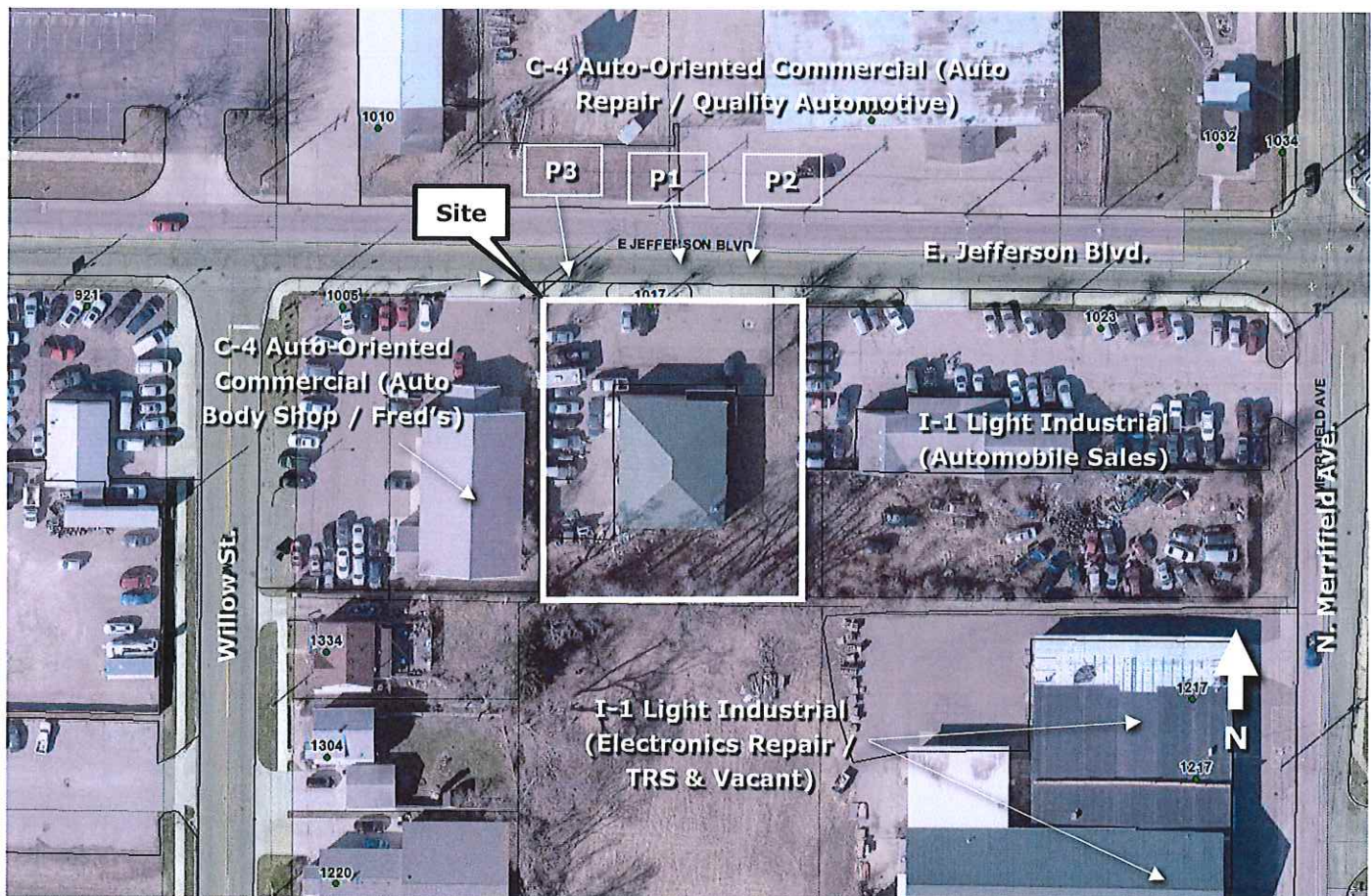
1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The secondary use of the property by adding a food truck is not anticipated to be injurious to the public health and safety due to its limited patronage. The operation of the truck

will also be subject to the applicable inspections and permitting by the County Health Department and City Fire Department.

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. Adjacent properties are currently zoned and occupied with various automotive related and industrial uses. Adding a food truck as a secondary use should not negatively impact the adjacent property uses or values.
3. The need for the variance arises from some condition peculiar to the property as the C-1 General Commercial Zoning District does not permit a food truck.
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 Appellant would not be able to add a food truck with limited hours of operation as a secondary use of the property.
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided industrial development within this property and commercial use along the E. Jefferson Boulevard corridor.

ATTACHMENTS

Aerial Photograph, Site Photographs, Appeal, Site Plan with Proposed Food Truck Location and Parking Spaces, Location Map



Aerial Photograph
1017 E. Jefferson Boulevard
Pilo's Body Shop & Auto Sales



P1. Looking southerly toward the property from E. Jefferson Blvd.



P2. Looking southerly toward the property and proposed food truck location.

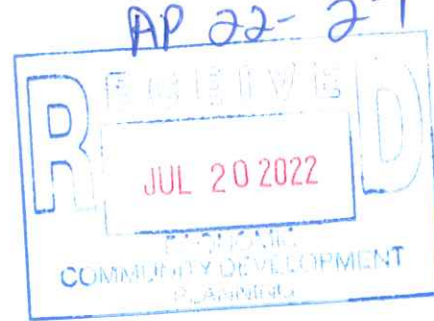


P3. Looking southerly toward the property and the proposed location of the four parking spaces.

Deborah S. Block, IAMC, MMC

JUL 27 2022

City Clerk
Mishawaka, IN



DATE: 7/20/2022

TO: Board of Zoning Appeals City of Mishawaka, Indiana

1. I, Sharon A Hellman, am the owner of the real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit:

Lot Numbered Six (6) and the East 56 1/2 feet of Lot Numbered Five (5), all as shown on the recorded Plat of Bryan's Addition to the City of Mishawaka, located in the Northeast Quarter of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, recorded in the Office of the Recorder of St. Joseph County, Indiana, together with the West Half of the vacated alley lying East and adjacent.

EXCEPTING THEREFROM THE FOLLOWING:

A parcel of land being a part of the Northeast Quarter of the East Half of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the Southeast corner of Lot 6 in Bryan's Addition to the City of Mishawaka as shown on the recorded Plat in the Office of the Recorder of St. Joseph County, Indiana; thence North 0°51'01» West along the East line of said Lot 6, a distance of 4.49 feet; thence North 89°52'27» East, a distance of 257.79 feet to the West right of way line of Merrifield Avenue; thence South 0°55'03" East along said Merrifield Avenue, a distance of 8.00 feet; thence South 89°52'27» West, a distance of 217.84 feet; thence North 0°50'04" West, a distance of 3.42 feet; thence North 89°59'13" West, a distance of 40.00 feet to the place of beginning.

(more commonly known as 1017 East Jefferson Boulevard, Mishawaka, Indiana 46545)

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. I Pablo Bueno Jr, presently occupy Pilo's Body Shop & Auto Sales LLC in the following manner: Body Shop & Auto Sales
4. Staff would like to support a vending food truck use located northeast of the property within the premises of "Pilo's Body Shop & Auto Sales LLC." Parking will be addressed through designated parking areas located in the far west area of the property for taco truck orders use only. With the use of restaurant pagers customers will walk up to order food and be given a pager to return to the taco truck when food is ready to be received. The use of pagers minimizes traffic when placing orders and prevents confusion. The proposed hours of operation would be from Thursday through Saturday 10 AM - 8 PM and potentially limited hours on Sunday. If zoning allows operation we would like to add limited hours on Sunday as we see fit. The goal is to attract more business for the auto repair shop as well as create a secondary source of

income to help reciprocate the cash flow and stimulate the local economy. The food truck will also enable me to provide financial security for my sons to help put one of them through college and help the other, who is a single father, provide for his son. The truck will be family owned and operated by Jose Bueno and Ernesto Bueno ; my sons. The taco truck will benefit local economic growth and bring new customers and bring advertisement's for "Pilo's Body Shop" through word of mouth.

5. The Zoning Ordinance is zoned C-1 and does not allow a food TRUCK USES 137-301.

6. Strict adherence to the Ordinance requirements would create an unusual hardship. Hardship is food truck not allowed. We would like to request an allowance to park a food truck.

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, approval of a use variance will not be injurious to the public health, safety, morals or general welfare of the community. Abiding by and compliantly adhering to the local guidelines and regulations regarding food operation and food safety to the public, will prevent any chance of a negative impact on the welfare of the community. By structuring a system based on city ordinance and regulations it will yield a safe outcome for the public.

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, the use and value of the area adjacent to the property included in the variance will not be affected in an adverse manner due the area having designated parking space and "To Go" style system that prevents any interference with the adjacent area described.

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 need for the variance arises from a peculiar condition of the property involved as food trucks are not currently permitted in the C-1 zoned property. If the same applies the variance arose from intent to build and restructure. Set a foundation for secondary source of economic growth and stimulation.

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, food trucks are not permitted in the C-1 district or any commercial district in the city. The hardship can be minimized through parking on private property instead of city property.

5. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?
YES OR NO and explain your reason why.

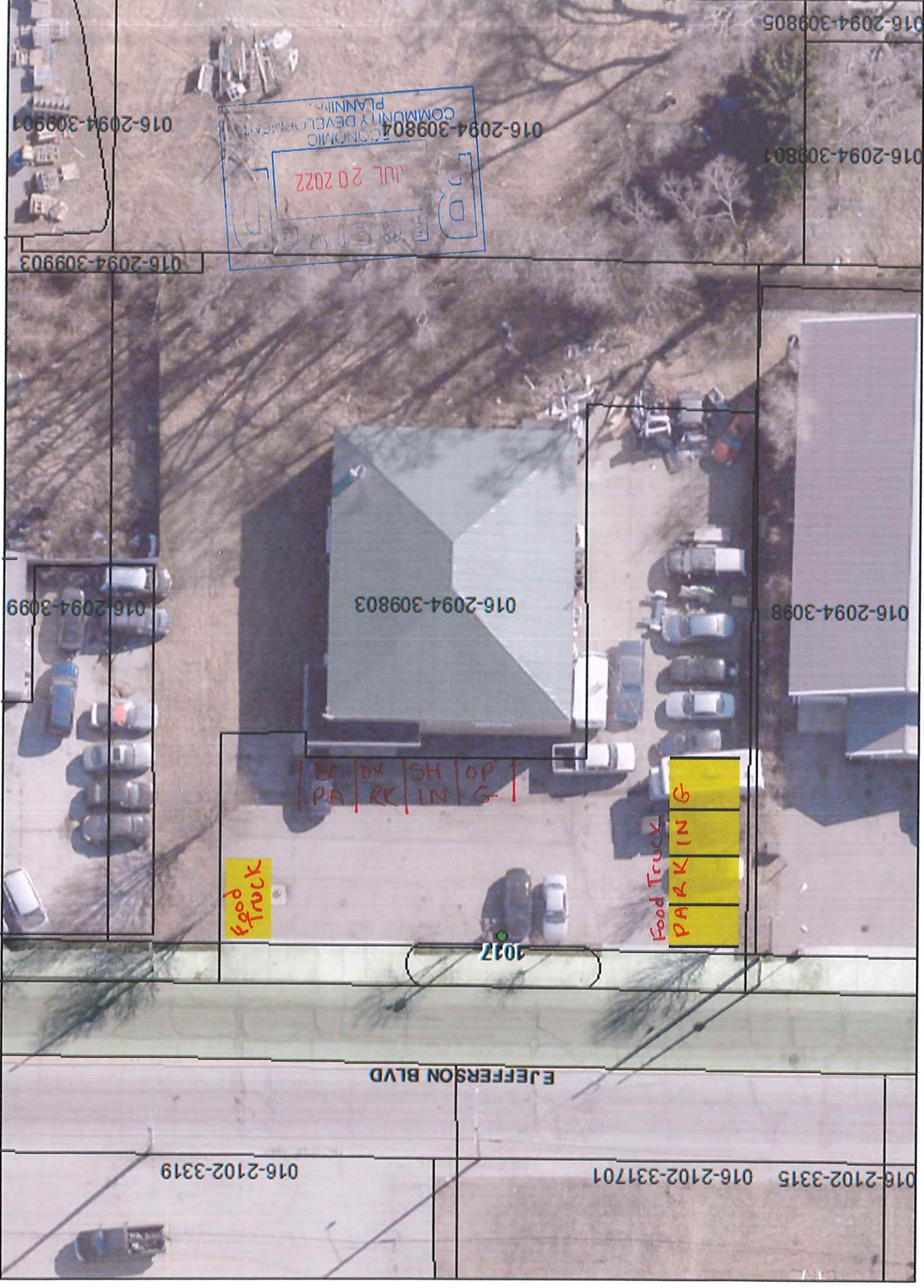
No, approval will not interfere with the Mishawaka 2000 Comprehensive Plan. Food truck will operate on private property. Food truck does not present a hazard or interference as size of interference is minimal if not active at all.

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


Sharon A. Helman

CONTACT PERSON: Sharon A. Helman
Name: Sharon A. Helman
Address: 16127 Cobblestone Square Dr
Day Phone Number: 574-286-9888

CONTACT PERSON #2 : Pilo Bueno
Name: Pablo Bueno Jr
Address: 1017 E Jefferson Blvd, Mishawaka, IN 46545
Day Phone Number: (574)-514-1749



016-2094-309805

016-2094-309801

016-2094-309901

016-2094-309804
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING
JUL 20 2022

016-2094-309903

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016-2094-3099

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Food Truck
PARKING

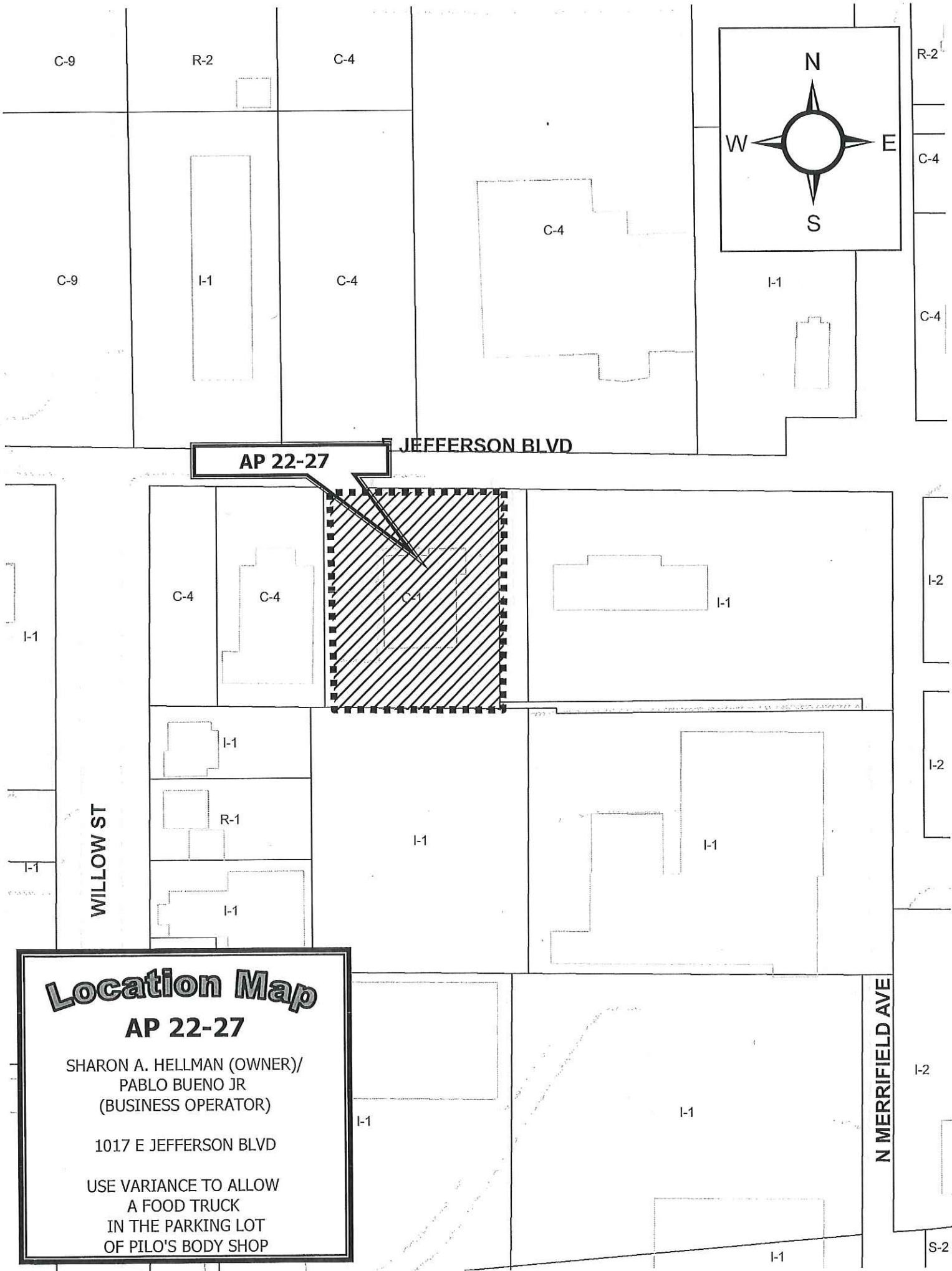
Food Truck

1017

EJEFFERSON BLVD

016-2102-3315 016-2102-331701

016-2102-3319



Location Map

AP 22-27

SHARON A. HELLMAN (OWNER)/
PABLO BUENO JR
(BUSINESS OPERATOR)

1017 E JEFFERSON BLVD

USE VARIANCE TO ALLOW
A FOOD TRUCK
IN THE PARKING LOT
OF PILO'S BODY SHOP

APPEAL #22-29

AUG 11 2022

RESOLUTION NO. 2022-18

City Clerk
Mishawaka, IN

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

702 South Logan Street, 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 **702 South Logan Street, Mishawaka, Indiana**, more particularly known and described as follows:

A tract of land in the Southwest Quarter (1/4) of Section 16, Township 37 North, Range 3 East, lying within the City of Mishawaka, St. Joseph County, State of Indiana, described as follows, viz: Beginning at the intersection of the South line of Eighth Street with the East line of Logan Street; thence South along said East line of Logan Street 100.40 feet to the North line of a tract of land conveyed to Precision Piece Parts, Inc., by Warranty deed in March of 1948, thence East along said North line of Precision Piece Parts, Inc., 239.15 feet to the Easterly line of an existing cement block wall extended South; thence North along the Easterly line of existing cement block wall, 100.40 feet to the South line of said Eighth Street; thence West along said South line of Eighth Street, 239.24 feet to the place of beginning.

The Use Variance will allow for retail sales of home commodities in the western 3,300 sqft of the building.

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

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

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community. The intersection of Logan and Milburn/Eighth has a commercial use on the other three corners;
2. The use and value of the area will not be affected in a substantially adverse manner because the expanding retail sales 365 days a year in a building had has some history or retail sales and provides adequate parking for the proposed use;
3. The need for the variance arises from some condition peculiar to the property as the I-2 Heavy Industrial District zoning district does not permit retail uses and the former use variance restricted the retail sales to certain times of the year;
4. The strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought as the Appellant is limited to have retail sales on specific dates, leaving vacant space the rest of the year; and
5. The approval does interfere substantially with the Comprehensive Plan. The subject property and the surrounding properties are designated for industrial use in the comprehensive plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 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: 702 South Logan Street

Date: August 9, 2022

Appeal: 22-29

Prepared By: CH

GENERAL INFORMATION

Applicant: Princess City Properties LLC

Status: Property Owner

Request: Use Variance

Zoning Classification: 1-2 Heavy Industrial

Lot Size: 100' x 283' (0.63 acres)

Applicable Regulations: Section 137-609 Permitted Uses in I-2 Heavy Industrial District
Section 137-42 / (4) Board of Zoning Appeals – Use Variance**SPECIAL INFORMATION**

Area Development Pattern: North: C-4 Automobile Oriented Commercial and I-1 Light Industrial
South: I-2 Heavy Industrial
East: C-1 General Commercial
West: C-1 General Commercial

Thoroughfares: Eighth Street and Logan Street

School District: Penn-Harris-Madison School Corporation

Public Utilities: Yes, all Utilities are available to the site.

Comprehensive Plan: Industrial – Manufacturing, Warehousing, Distribution

ANALYSIS

The Appellant, Princess City Properties LLC, is requesting a Use Variance to allow retail sales of home commodities for 12 months out of the year. A previous Use Variance in 2003 approved the sales of Fireworks from May 15 through July 15 of each year, and sales of Christmas items from December 1st to January 5th of the next year.

The property is zoned I-2 Industrial. Records in the Planning Department indicate that the subject property has been zoned for industrial uses since at least 1931. The current owner acquired the property in 2019.

The Use Variance will only apply to the west half of the building, more specifically, the areas identified as 1500 sf retail area and 1800 sf additional storage area on the attached site plan. The remaining 6045 sf will remain as storage with no intention to expand the retail use. Any new use, or change to this retail use, will need to go through the Use Variance procedure again.

The parking requirement for 3,300 sf of retail space would require 14 parking spaces. There are 25 spaces existing.

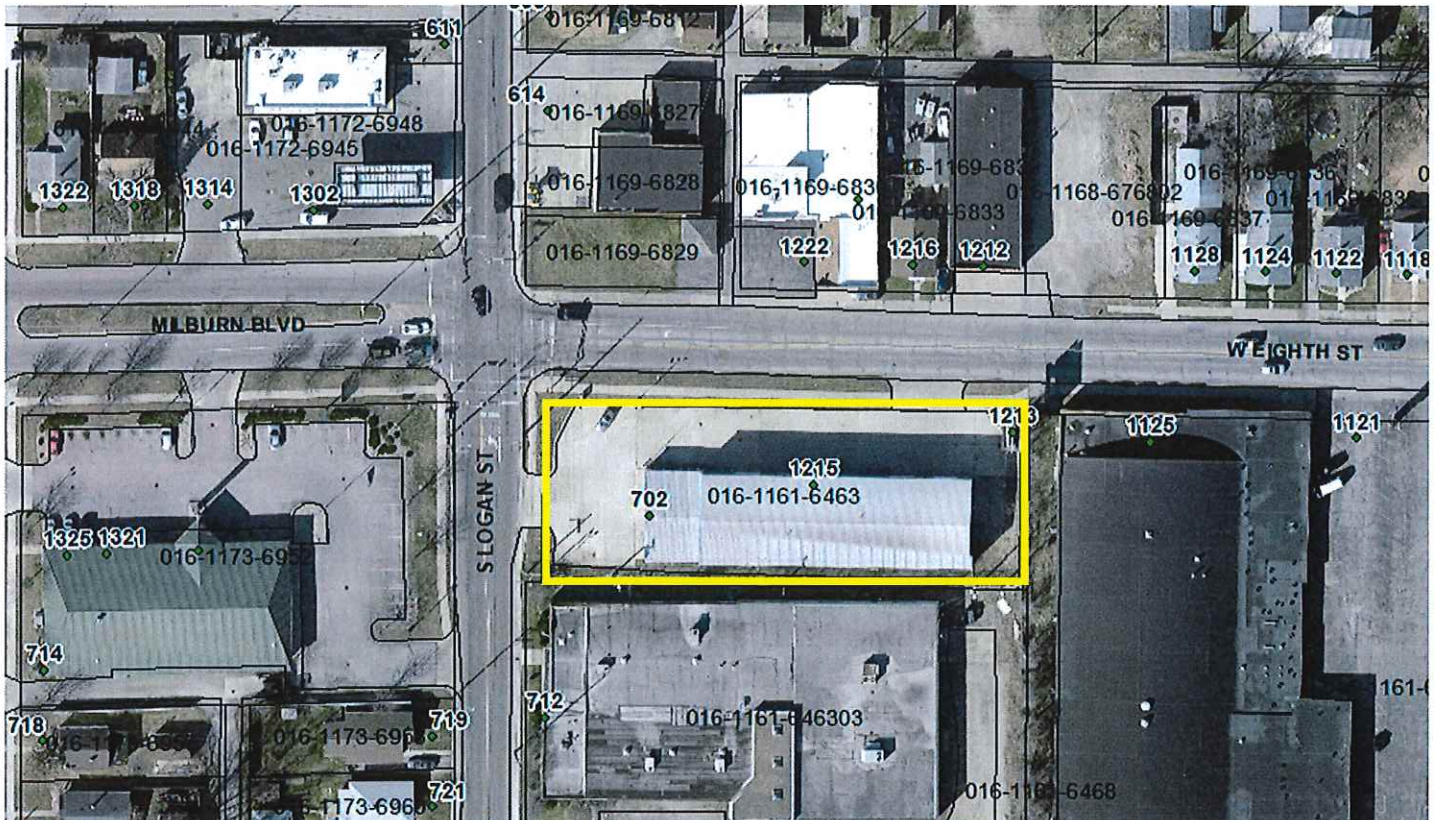
RECOMMENDATION

The Planning Department recommends approval of Appeal 22-29 to allow a Use Variance for retail sales of home commodities in the western 3,300 sf of the building at 702 S Logan. This recommendation is based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community. The intersection of Logan and Milburn/Eighth has a commercial use on the other three corners;
2. The use and value of the area will not be affected in a substantially adverse manner because the expanding retail sales 365 days a year in a building had has some history or retail sales and provides adequate parking for the proposed use;
3. The need for the variance arises from some condition peculiar to the property as the I-2 zoning district does not permit retail uses and the former use variance restricted the retail sales to certain times of the year;
4. The strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought as the Appellant is limited to have retail sales on specific dates, leaving vacant space the rest of the year; and
5. The approval does interfere substantially with the Comprehensive Plan. The subject property and the surrounding properties are designated for industrial use in the comprehensive plan.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, APPEAL, LOCATION MAP





The existing retail area facing Logan Street



The existing storage facing Eighth Street



Looking directly east across Logan Street



Looking directly south across Eighth Street

JUL 27 2022

City Clerk
Mishawaka, IN

DATE: July 20, 2022

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

RE: Use Variance Request



The undersigned appellant respectfully shows the Board:

1. Princess City Properties LLC is the owner of the following described real estate located within the City of Mishawaka, Penn_Township, St. Joseph County, State of Indiana, to-wit:

A tract of land in the Southwest Quarter (1/4) of Section 16, Township 37 North, Range 3 East, lying within the City of Mishawaka, St. Joseph County, State of Indiana, described as follows, viz: Beginning at the intersection of the South line of Eighth Street with the East line of Logan Street; thence South along said East line of Logan Street 100.40 feet to the North line of a tract of land conveyed to Precision Piece Parts, Inc., by Warranty deed in March of 1948, thence East along said North line of Precision Piece Parts, Inc., 239.15 feet to the Easterly line of an existing cement block wall extended South; thence North along the Easterly line of existing cement block wall, 100.40 feet to the South line of said Eighth Street; thence West along said South line of Eighth Street, 239.24 feet to the place of beginning.

702 S. LOGAN ST., MISHAWAKA, IN 46544

2. The above-described real estate presently has a zoning classification of I-2 ^{HEAVY} light industrial district under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: the property is utilized for warehouse and retail sale of home commodities under a three (3) month per year retail variance.
4. Appellant desires to utilize the property twelve (12) months per year for the retail sale of home commodities, in a manner that would be authorized if the property had a C-1 zoning classification. The current authorized variance allowing fireworks sales for up to two (2) months out of each year would be continued.
5. Section 137-585 Zoning Ordinance of the City of Mishawaka provides the Industrial I-2 District is designed to provide suitable locations for development of major industrial operations for heavy manufacturing, heavy assembling, processing, and outside storage. These facilities shall meet the provisions of chapter 30, article V, and if hazardous wastes are generated, that waste shall be disposed of in a manner prescribed by the state department of environmental management and/or the Environmental Protection Agency.

The industrial I-2 district is created in order to secure proper traffic safety through provision for proper traffic routing, truck loading and unloading, and automobile parking; control of traffic on public streets through provision for adequate off-street parking and off-street truck loading; protection of the surrounding neighborhood values; and the promotion of the general welfare of the residents of the city. All permitted and conditional uses.

6. Strict adherence to the Ordinance requirements would create an unusual hardship because the property is suitable for year round retail sales of home commodities but is currently only able to be used for that purpose three (3) months out of the year.
7. The following responses are provided for this USE VARIANCE request:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? NO. Use of the property for retail sales of home commodities for three (3) months out of each year has not led to public health, safety, morals or general welfare concerns, and year round use of the property for retail sales of home commodities would not do so either.
 - (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 properties across the street to the west, north and diagonally to the northwest are zoned for commercial uses and have historically been used for, respectively, a video store, automotive service sales and a convenience store. Use of the property for retail sales of home commodities is consistent with those uses.
 - (3) Does the need for the variance arise from some condition peculiar to the property involved? NO. The variance will simply allow for year round use in a manner that is consistent with current use three (3) months out of the year.
 - (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. The current hardship is unnecessary in the sense that there is no discernible reason that what is allowed use for three (3) months should not be allowed year round.
 - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? NO. The proposed use of the property for retail sales of home commodities is consistent with the Comprehensive Plan, especially in light of the Comprehensive Plan Map which identifies the properties across the street to the west, north and diagonally to the northwest as General Commercial properties.

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

Princess City Properties LLC

By: 

Name: Bryan P. Wynen

Title: President

Date: July 20, 2022

CONTACT PERSON:

Name: Bryan P. Wynen

Address: 1820 South Bend Ave, *SOUTH BEND, 46637*

Day Phone Number: (574) 532-8870

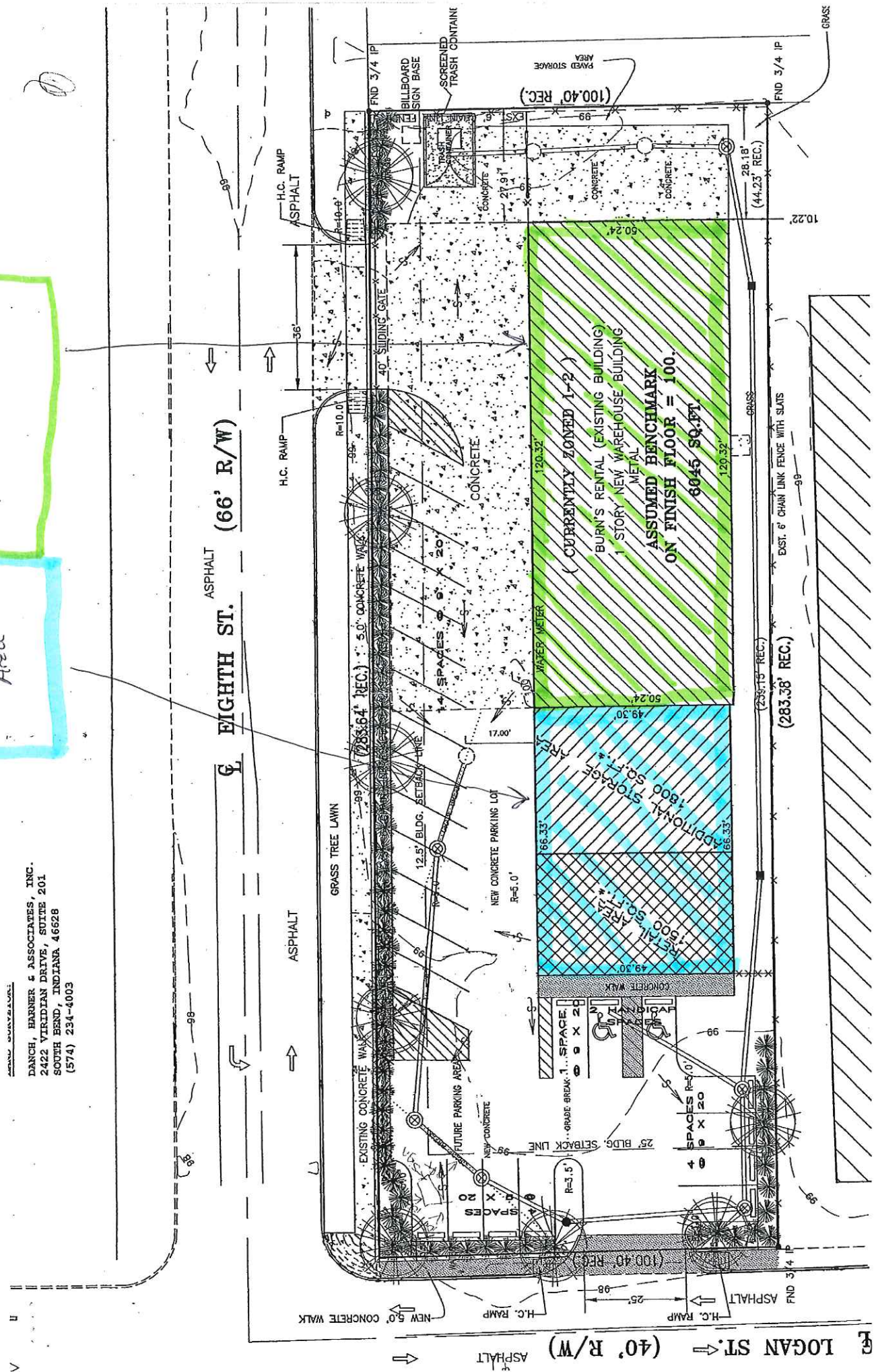
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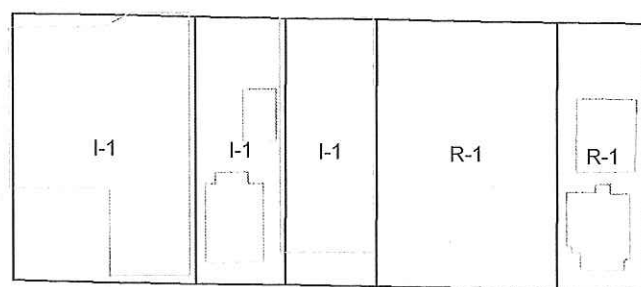
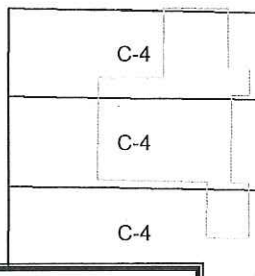
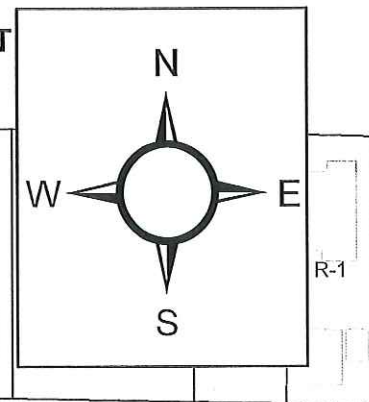
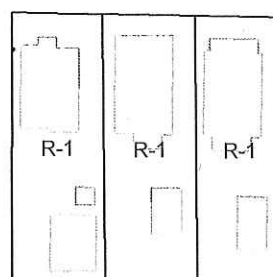
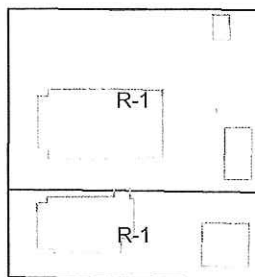
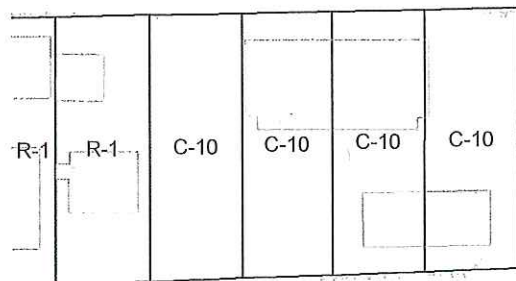
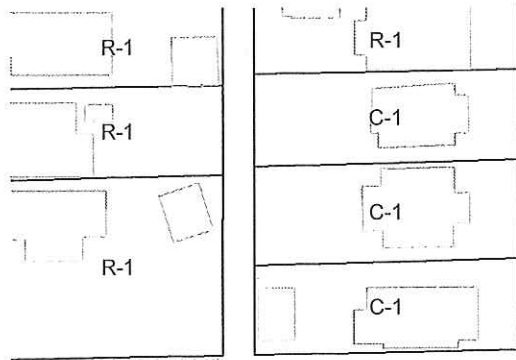
Email: Bryan@PrincessCityLLC.com

DANCH, HARNER & ASSOCIATES, INC.
2422 VIRIDIAN DRIVE, SUITE 201
SOUTH BEND, INDIANA 46628
(574) 234-4003

CT variance
Area

Remain I-2

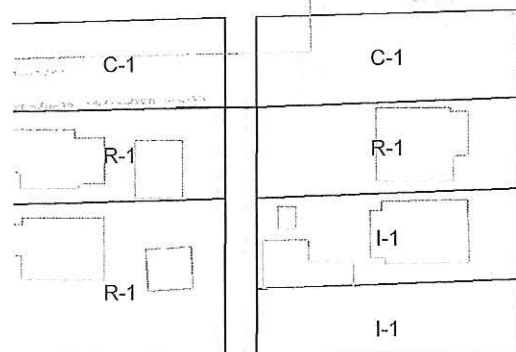
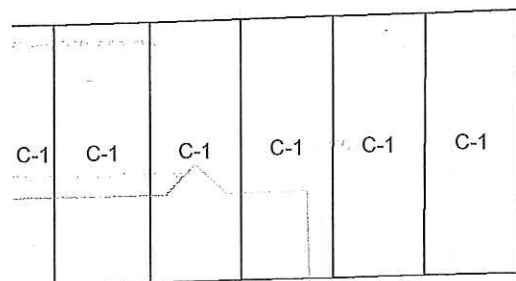




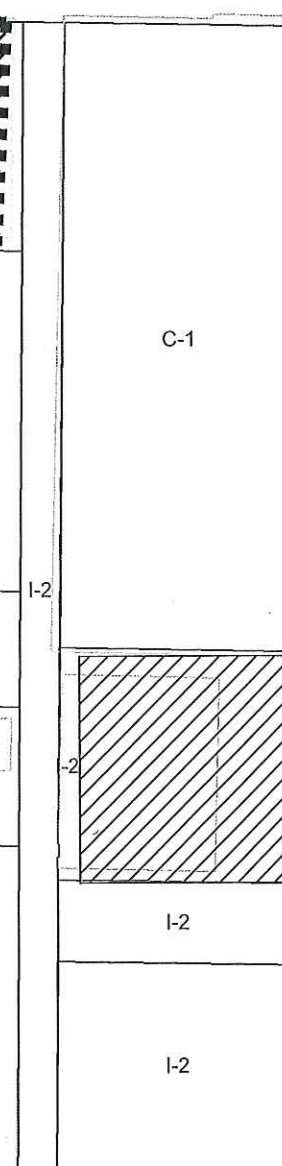
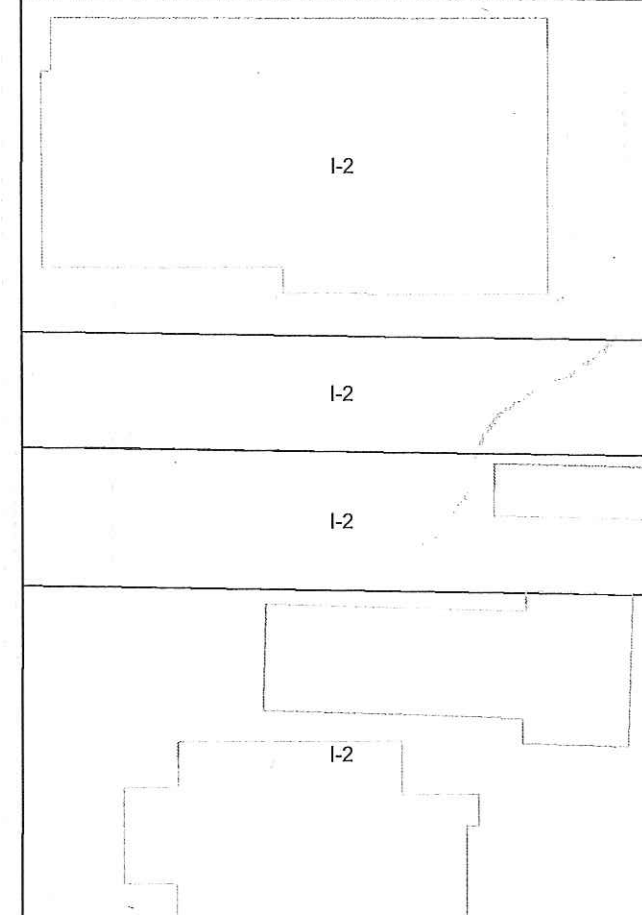
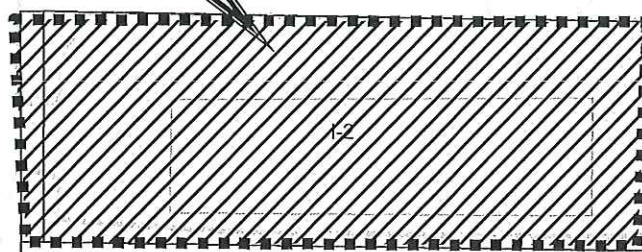
MILBURN BLVD

AP 22-29

W EIGHTH ST



S LOGAN ST



Location Map

AP 22-29

PRINCESS CITY PROPERTIES (OWNER)

702 S LOGAN

USE VARIANCE
TO ALLOW RETAIL SALES
IN I-2 HEAVY INDUSTRIAL DISTRICT

AUG 11 2022

City Clerk
Mishawaka, IN

RESOLUTION NO. 2022-19

RESOLUTION OF THE COMMON COUNCIL OF MISHAWAKA, INDIANA

CONSENTING TO AND ACKNOWLEDGING

HOUSE ENROLLED ACT 1002

WHEREAS, the Common Council of the City of Mishawaka has determined that it is in the best interest of the City of Mishawaka and its residents to consent and acknowledge House Enrolled Act 1002 which was signed into law on March 16, 2022, removing the Utility Receipts Tax from Mishawaka Utilities' bills for usage beginning July 1, 2022;

WHEREAS, The Utility Receipts Tax embedded in customer water and electric rates is approximately 1.4%. By removing the Utility Receipts Tax a typical residential customer will have approximately monthly savings of \$0.16 on the drinking water and \$1.35 on the electric portions of the utility bills.

NOW, THEREFORE, BE IT RESOLVED BY THE MISHAWAKA COMMON COUNCIL THAT:

Section 1. The Common Council of Mishawaka, Indiana hereby adopts and approves this Resolution.

Section 2. This Resolution shall be in full force and effect from the day of its passage.

PASSED AND ADOPTED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana on this ____ day of August, 2022.

Gregg Hixenbaugh, President

Matt Mammolenti, Vice President

Dale "Woody" Emmons, Member

Ron Banicki, Member

Kate Voelker, Member

Mike Bellovich, Member

Mike Compton, Member

Tony Hazen, Member

Maggie DeMaegd, Member