

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