

AGENDA

September 19, 2022

Council & Clerk
Photographs
6:00PM

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): 2345 041 6254
Meeting Password: y9rGMD5kY6G

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: 23450416254@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of September 06, 2022
5. Petitions, Communications, Remonstrance and Memorial

A Letter from the City Plan Commission regarding their recommendations from their September 13, 2022 meeting.

Swearing-In of the Mayor's Youth Council

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2022-30	Rezone from C-2 Shopping Center to S-1 Extensive Open Space to remain a natural open space due to floodplain - V/L south of 4601 Grape Rd.
P.O. No.2022-31	Vacation of public right-of-way for 1 st alley between lots 44, 45, 46, and 47 - Battell's 2 nd Park Addition
P.O. No. 2022-32	Civil City Budget and Tax Levy for 2023
P.O. No. 2022-33	Approving Mishawaka Utilities offering Water Service Line Warranty Program

8. Resolutions

R2022-21	Confirming Resolution for a Tax Abatement for proposed Steelhead Apartments Multi-Family Residential Development -2754 Lincolnway East & Adjacent Parcels
R2022-22	Amending R2022-10 the American Rescue Plan

9. Ordinances on Second Reading

P.O. No. 2022-27	Amendment to Collective Bargaining Between the City and Local 364 Sewer Department- Expiring 12-31-2024 (Assigned to Personnel Committee)
P.O. No. 2022-28	Amendment to Collective Bargaining Between the city and Mishawaka Fraternal Order of Police Lodge 91- Expiring 12-31-2022 (Assigned to Personnel Committee)

ARP Coronavirus Local Fiscal Recovery Grant

180-50-439-05	Grants and Subsidies	
	Boys and Girls Club	\$750,000.00
	Youth Service Bureau	\$375,000.00
	Troop Town	\$325,000.00
	Mishawaka Building Trades	\$275,000.00
	M-P-H Public Library	\$50,000.00
	The Res	\$35,000.00
		<u>\$1,810,000.00</u>

(Assigned to Budget & Finance Committee)

10. Privilege of the Floor - Non-Agenda Items11. Unfinished Business

R2022-17	Use Variance to allow Food Truck in the parking lot of Pilo's Body Shop - 1017 Jefferson Blvd.
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12. New Business

R2022-23	Commemoration of the Final Council Meeting
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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

September 6, 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 Tuesday, September 6, 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 (A), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Minutes for the Regular Meeting of August 15, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

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|-----------------------------|---|
| Petition No. 2022-14 | Rezone from C-2 Shopping Center to S-1 Extensive Open Space to remain a natural open space due to floodplain – V/L south of 4601 Grape Rd. |
| Petition No. 2022-15 | Vacation of public right-of-way for 1 st alley between lots 44, 45, 46 and 47 – Battell's 2 nd Park Addition |
| Petition No. 2022-16 | PUD Amendment to allow second restaurant with drive-thru in proposed multi-tenant commercial building – south of 3615 Bremen Hwy. |
| Petition No. 2022-17 | Rezone from C-1 General Commercial to S-2 Planned Unit Development to allow Mixed-Use Commercial & Residential Development – NE. corner of N. Main St. & University Dr. |

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

PROPOSED ORDINANCE NO. 2022-27

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF
MISHAWAKA SEWER DEPARTMENT AND THE TEAMSTERS LOCAL UNION
NUMBER 364 AMENDING THE COLLECTIVE BARGAINING AGREEMENT
EXPIRING ON THE 31ST DAY OF DECEMBER 2024**

**Amendment to Collective Bargaining Between the City and Local 364 Sewer Department –
Expiring 12-31-2024
(Assigned to Personnel Committee)**

PROPOSED ORDINANCE NO. 2022-28

**AN ORDINANCE APPROVING AN AMENDMENT TO COLLECTIVE BARGAINING
AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA
FRATERNAL ORDER OF POLICE LODGE 91**

**Amendment to Collective Bargaining Between the city and Mishawaka Fraternal Order of
Police Lodge 91 – Expiring 12-31-2022
(Assigned to Personnel Committee)**

PROPOSED ORDINANCE NO. 2022-29

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

**Additional Funds – ARP Coronavirus Local Fiscal Recovery Grant – Boys and Girls Club
(\$750,000.00) – Youth Service Bureau (\$375,000.00) – Troop Town (\$325,000) – Mishawaka
Building Trades (\$275,000.00) – M-P-H Public Library (\$50,000.00) – The Res (\$35,000.00)
– Total (\$1,810,000.00)
(Assigned to Budget & Finance Committee)**

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

RESOLUTION R2022-20

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, DECLARING CERTAIN AREAS WITHIN THE CITY OF MISHAWAKA,
INDIANA, COMMONLY KNOWN AS 2754 LINCOLNWAY EAST AND ADJACENT
PARCELS TO BE AN ECONOMIC REVITALIZATION AREA AND ECONOMIC
DEVELOPMENT TARGET AREA FOR PURPOSES OF A REAL PROPERTY TAX
ABATEMENT FOR BARACK GROUP LLC AND OR ITS SIGNS**

**Declaratory Resolution for Tax Abatement for proposed Steelhead Apartments Multi-
Family Residential Development – 2754 Lincolnway East & Adjacent Parcels**

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2022-20**. Mr. Spier stated before the council was a declaratory resolution for a real property tax abatement and it was for the proposed redevelopment of the Mishawaka Inn into an apartment complex and also the construction of a second building to the north located to the northeast of the existing hotel building. Mr. Spier stated the proposed investment of \$1.5 to \$1.8 million was anticipated for the cost for the renovation of the existing building and an additional five to five and a half million dollars for the construction of the second building. Mr. Spier stated the first phase was anticipated for the first quarter of next year with the construction of the new building in the second quarter of 2024. Mr. Spier stated if the site was redeveloped as envisioned, the aged underutilized hotel that currently had a negative reputation would transform into a viable and highly visible apartment complex on Riverfront property. Mr. Spier stated due to the prior lack of investment in the property and underutilization of the existing hotel and the reduction of the property values that the site had experienced over the last five years, Planning staff recommended a real property abatement be submitted to assist in the redevelopment of the project. Mr. Spier stated the request was for 5 years. Mr. Spier stated normally when they did this, it usually started at 100% and then degraded at approximately 10 to 20% annually through the life of the abatement. Mr. Spier stated for this one, they were recommending a five-year abatement for 100% the first year, decreasing 5% annually for the life of the abatement and it was similar to what was approved for the River Rock Apartments on Mishawaka Avenue and then also for the Riverwalk Apartments that was planned but never started construction along Mishawaka Avenue to the east of Main Street. Mr. Spier stated this would be the first step if it were approved that evening and they would prepare a more detailed fiscal analysis to be considered with a confirmation resolution and the petitioner was also present that evening to speak more about the specifics on the projects if the council had any questions.

Mr. Hixenbaugh asked if he could touch on the project and how it aligned with previous projects and what certitude they had that they were going to know within a finite time period whether or not this was going to actually come to fruition. Mr. Spier stated for the last one they had conversed about was the Riverwalk project which never came to fruition and when they approved that, the council set it up for a five-year economic revitalization area, so that meant annually when they saw no movement on the project, they still had to come before the council to report that there was no movement on it. Mr. Spier stated for this one, they were only going to designate it as an economic revitalization area for a shorter period of three years so in the period, if they did not start construction on the first and second phase by the end of 2025, the actual designation for that area would expire. Mr. Spier stated it would be a tighter window to actually put some more fire under the developer to get them going in a shorter time frame. Mr. Hixenbaugh asked if he could talk a little bit about the way the process worked, in particular what the next stage of the process looked like if the council approved the resolution in front of them. Mr. Spier stated if approved that evening, they would prepare a more fiscal analysis showing what the abatement meant based on the proposed investment, so they would take a very high level look at what they thought the property values would increase to and then the additional property taxes that were abated over the five year window and also the property taxes that were actually generated by the additional investment. Mr. Spier stated that would be

included in the next phase and that would be provided for the confirmation resolution. Mr. Hixenbaugh asked for clarification if that evening was step one in the process but nothing was final and determined until the second vote and that stage in the process if they advanced to that. Mr. Spier stated that was correct.

Mr. Mammolenti asked Mr. Spier in terms of the tax percentages that he mentioned before the council, if that was on the suggestion of the developer or if it was something that they proposed. Mr. Spier stated that was something that the council had been favorable to in the past, so those were at the same level of incentive that was given to both the River Rock Apartments that had been developed and the other one that never came to fruition.

Mike Huber, Abonmarche Consultants, spoke in favor of **RESOLUTION R2022-20**. Mr. Huber stated he was there representing the Barak Group. Mr. Huber stated he thought Derek did a really nice job of summarizing the project and what they were trying to accomplish. Mr. Huber stated the property owner had closed on the property and he was investigating the costs, specifically costs in terms of structural analysis and what he could and could not do related to the mechanical equipment and all those kinds of things. Mr. Huber stated he had put in the investment and was ready to make the improvement to the building and he personally thought they were all excited about the possible change in the building there. Mr. Huber stated they laid out a fairly progressive timeline and he thought they had about 12 to 18 months to get the first building up, completed, open and operating before they turned around a couple months later and started in on the second building with a total of about 105 units. Mr. Huber stated he thought they were trying to find the right mix in the first set with somewhere between 48 and 60 units and what worked from a financial performance standpoint and allowed them to maximize the unit that they could get between the two buildings to get to that 100 and 110 unit level. Mr. Huber stated he was happy to answer any questions the council had.

Mr. Compton stated he knew they were only in the declaration stage but he could not help but look at the whole project and asked how many units he said it would be. Mr. Huber stated he thought there would be about 106 units and 206 units total for the project. Mr. Compton asked what the rents would be. Mr. Huber stated the rents would be market rate and it would depend on if the apartment was going to be a studio up to a one bedroom or two bedroom unit. Mr. Huber stated the second building would be almost exclusively all one and two bedrooms and they would not be putting studios there. Mr. Huber stated he anticipated rents were going to be in the \$900 to \$1200 range depending on what kind of unit it were to be, but they would be roughly around the rates currently in the market. Mr. Compton asked if these would be higher end units and asked for him to talk about the finished product. Mr. Huber stated it would middle tier to high middle upper and he knew they were calling it luxury. Mr. Huber stated it would definitely be an upgrade from what was there and it would be something that fit with the market at those rent rates. Mr. Compton asked if this project would be developed without a tax abatement. Mr. Huber stated he would defer to Mr. Davidson who was on the line to answer that or maybe John Piraccini, who was also present that evening. Mr. Compton rephrased the question and asked if they had to grant a tax abatement for an apartment project in Mishawka that provided no jobs

and added he understood they were cleaning up an old piece of the city they would like to see cleaned, but he asked to help himself, some of the other council members and others in the public understand why they should do that. Mr. Huber stated he thought he hit a nail on the head and if you looked at the level of work that had to be done in terms of renovating buildings, in particular this building, and then following that up with another \$4 million investment on the second building with the space they had there. Mr. Huber thought the abatement really helped them fill that gap to make the investment in that existing building worth it and the building had years and years of deferred maintenance and the work that was required to get the thing back up to standard that they would all be happy to have it operating at. Mr. Huber stated it was going to certainly help offset that.

Mr. Hixenbaugh referred to when Mr. Huber was discussing the analogy when talking about hotel rooms and asked if that was in fact just an analogy and if it would be a plan for this to be an apartment complex. Mr. Huber stated that was correct and they would all have kitchens and they were not going to be a hotel at that point. Mr. Hixenbaugh asked for the record if he could commit with the tight time frame Mr. Spier addressed earlier in the meeting and that it was doable and that it was what they potentially hoped was going to happen was this would come to pass during the three-year timeline. Mr. Huber stated he certainly thought it was doable and the heavy-duty investigation on what needed to be done and how that would get done by the contractor standpoint was currently taking place. Mr. Huber stated they based their timeline off of that and they closed the property.

John Piraccini, Caldwell Banker Commercial Office, spoke in favor of **RESOLUTION R2022-20**. Mr. Piraccini stated he had been the broker on both sides of the deal and probably helped Mr. Compton a little bit. Mr. Piraccini stated this had been on the market for 7 or 8 years and there just was not a lot of demand for it for the sites to tear down the building. Mr. Piraccini stated there were a lot of costs involved, it wasn't overly priced, and the landscaping accident among other issues had occurred over the years. Mr. Piraccini stated they were finally able to land Dunkin' Donuts who had actually turned it down before three times and Wendy's also turned it down, because they didn't want that side of the street but he thought it was a small blessing in the COVID era of drive-thrus starting to have their demand raised as a result and helping this property out. Mr. Piraccini stated Mr. Davidson had a lot of interest in it and had a lot of investment in the community and saw an opportunity to do something very nice along the river and help the area out. Mr. Piraccini stated it was kind of unique in the issues, the maintenance when you looked around Mishawaka where it sat and what they were trying to do over there on the east end. Mr. Piraccini stated they met the neighbors and had all kinds of meetings with Ken Prince and Derek as well since about March. Mr. Piraccini stated the developer wanted 100% for 10 years and that just was not in the cards and Derek let it be known that that couldn't happen. Mr. Piraccini stated he made it clear to Mr. Davidson that they have to stick to whatever the council said and he wanted that abatement, you had to stick to the plan and do something realistic. Mr. Piraccini stated he had a lot of money invested in it already as far as architects, engineering, etc. was concerned. Mr. Piraccini stated he had been through the whole thing and he just wanted to make it clear that it was a site that could use it and it was not a ton of money, but

it was enough to help. Mr. Piraccini stated the site as currently constructed had no landscaping, access had to be improved and there were things that needed to be fixed with the parking. Mr. Piraccini stated those were some of the issues outside of the building, among others. Mr. Piraccini stated it was going to be a nice project and that amount of money is not earth shattering but it would help and helped get the project going off the ground and make it work, because of the cost of construction.

Mr. Banicki asked if he could talk about who was going to come in and be the contractor and what kind of help they were going to get. Mr. Piraccini stated they had a general contractor and they had talked about the bidding process and making sure there was opportunities for local people to bid on it and he was not able to speak on the specifics at that time but they had discussed it.

Mr. Compton stated he voted In support of the tax abatement for The Mill project in Mishawaka but then corrected himself and stated it was actually the complex across the street on Mishawaka Avenue. Mr. Compton stated that was their first project downtown in the apartments and they wanted to make that successful and there was a little bit of an assistance in The Mill but it was not through a tax abatement. Mr. Compton stated at some point for him and one councilman was they have to stand on their own and should not be abated. Mr. Compton stated he did not think for him personally, a tax abatement should be for something that benefited the citizens and he saw some benefit there. Mr. Compton suspected this would pass that evening but he was not going to be able to support it. Mr. Compton stated he knew it was the first phase and that they would enter it if it passed and then they would enter into a much bigger discussion on what, how and when but he was not in support of it.

Mr. Hixenbaugh stated briefly that he appreciated the thoughtful comments as always from Mr. Compton and he certainly could understand where he came from. Mr. Hixenbaugh stated he was willing to cast a vote that night in order to allow the process to continue as he referenced and was also seldom inclined to vote in favor of those type of projects for tax abatement. Mr. Hixenbaugh stated with this area that had been so distressed for so long and with the development to be able to not just take care of that one property, but to have a positive impact in the surrounding properties again he was willing to cast a vote in favor that evening to have a chance to review the additional information and learn more about it. Mr. Hixenbaugh stated he would be voting in favor of it that evening.

Mr. Mammolenti also thanked Mr. Compton for his input and echoed some sentiments that Mr. Hixenbaugh mentioned and as they all had mentioned and heard that evening, this would be just the first process that allowed the city to move forward in the process. Mr. Mammolenti stated one thing he could ask some of the folks there was as the process played out, that they also be mindful that the market rate was set accordingly, as Mr. Huber mentioned and he was sure if the tax abatement did not go through, he was sure that the monthly rent may go up in order for him to get his return on investment. Mr. Mammolenti stated that was obviously not confirmed, but he

was just sharing his thoughts and with it being the first process and nothing set in stone, he would be voting in favor of it that evening.

Question was called at 7:26PM for **RESOLUTION R2022-20 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Hixenbaugh.

No: Mr. Compton. The resolution passed 7-1.

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

PROPOSED ORDINANCE NO. 2022-19

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 C-2 shopping center commercial to C-7 Auto Oriented Restaurant for speculative outlot – Lot 1 CAT Mishawaka, LLC. Minor Subdivision

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Mike Gilbert, representing the developer, spoke in favor of **PROPOSED ORDINANCE NO. 2022-19**. Mr. Gilbert stated their proposal was to create an acre outlot on surplus land that they had for a project that was currently under construction on a 3.38 acre site. Mr. Gilbert stated they were carving out one acre as an outlook and with an approval that evening, they would be ready to market the property to a next developer and they looked forward to bringing a new project to the city.

Question was called at 7:29PM for **PROPOSED ORDINANCE NO. 2022-19 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5796.**

PROPOSED ORDINANCE NO. 2022-20

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 C-1 (Existing Insurance Office) to R-1 Single Family Residential (Conversion back to house) – 2212 LWE

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Chris Skadinski, 59308 Downey Avenue, spoke in favor of **PROPOSED ORDINANCE NO. 2022-20**. Mr. Skadinski stated they had operated the property for 20 plus years as an insurance office and they had subsequently moved the office to a building by a home and they had put the property up for sale. Mr. Skadinski stated it sold on the condition that that listed it as residential which seemed to be the best use for it and that was what they applied for at that point.

Mr. Compton stated it was good to see Mr. Skadinski and wished him good luck in his venture.

Question was called at 7:33PM for **PROPOSED ORDINANCE NO. 2022-20 Motion carried by unanimous roll call vote (summary: Yes = 8)**.

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5797**.

PROPOSED ORDINANCE NO. 2022-21

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 for an existing house – 805 S. Logan St.

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Dawn Cripe, 11650 East 310 South LaGrange, Indiana, spoke in favor of **PROPOSED ORDINANCE NO. 2022-21**. Ms. Cripe stated they were asking for that home to be residential so her daughter could buy it.

Question was called at 7:36PM for **PROPOSED ORDINANCE NO. 2022-21 Motion carried by unanimous roll call vote (summary: Yes = 8)**.

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5798**.

PROPOSED ORDINANCE NO. 2022-22

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY IN THE CITY OF MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATION THEREFORE Annexation and Rezone to S-2 PUD for commercial use – 14325 Cleveland Rd.

PUBLIC HEARING – NO VOTE

Greg Sharon, Dan Turner Associates, spoke in favor of **PROPOSED ORDINANCE NO. 2022-22**. Mr. Sharon stated he was there tonight representing various property owners of approximately 51 acres of land on the southwest corner of I-8090 Toll Road and Capital Avenue to annex and rezone of the property for a mixed use development which would include allowed uses under C-1, C-2, C-4, C-9, C-9 and C-10 commercial classification. Mr. Sharon stated currently, the planned development was a car dealership campus and this was the first phase of the process to annex into the city. Mr. Sharon stated this phase would occur in several phases and it could be 10 plus years before the whole property was developed. Mr. Sharon stated once the first site plan came through, the city would look at traffic patterns in the area.

Mr. Hixenbaugh stated there was a mention in the staff report about the anticipated proposed use to the filling station use that was identified and asked if he could talk a little bit about that in his response to the concerns that were expressed by the Planning staff. Mr. Sharon stated he believed their concern was mostly the environmental concern and so as they said during the Plan Commission meeting, he believed the staff's concern was the specific location of the filling station and so they would work with the staff to put that, if it ever came to be, to where was acceptable to the staff to meet those requirements. Mr. Hixenbaugh stated they were talking about an area that was in fairly close proximity to the Juday Creek Wellfield and when he talked about an automobile campus, he envisioned some mechanical work taking place there with oil and other fluids potentially being an issue. Mr. Hixenbaugh stated he knew that there were some capture mechanisms that those type of facilities have to put in place but beyond a potential filling station, Mr. Hixenbaugh asked if he could touch on that type of use as well. Mr. Sharon stated there were laws specifically that they would have to keep oil separated so that did not go into the sanitary sewer system and also infiltrated the groundwater. Mr. Sharon stated when you were dealing with any sort of oil or mechanical car stuff, those restrictions were very precise of what you had to do to maintain the environmental integrity and they would definitely comply with those requirements. Mr. Hixenbaugh asked for clarification if those type of activities would presently be envisioned to take place on the site. Mr. Sharon stated as far as he knew, that was correct and it was a big development.

Mr. Compton thanked Mr. Sharon and stated this looked interesting with the location and what he thought about was charging stations and being right there on the toll road, this could be an ideal spot for people traveling down the toll road who needed an extra boost. Mr. Compton asked if that was being discussed and if it was, would he address things such as traffic that would come with that. Mr. Sharon stated this project would be a several year process and he thought if five years down the road the electric vehicle market grew, then there could be a potential of the dealership bringing in more electric vehicles and a charging station as part of that. Mr. Sharon stated he could not say that for sure, but you never knew what the market might be at the time when it came.

Mr. Mammolenti stated he knew he mentioned this would be a long, several year project and asked with the first project being the auto campus and asked if he could confirm that. Mr. Sharon stated yes and right then the plan was for the whole development to be an auto campus and it may turn out the market doesn't allow that and so something else may come in under the uses

that were approved for the annexation and zoning. Mr. Mammolenti asked for those who were present or listening online, when referring to an auto campus if he meant what may include several dealerships or something different than that. Mr. Sharon stated there could be, although it was not definite, a Toyota, Subaru, Chrysler all on one campus on one several acre parcel of land.

Mr. Banicki asked on that side of Cleveland Road, the north side, were there any houses on that side at that time. Mr. Sharon stated he believed there was a residential property to the west of what was being annexed. Mr. Banicki asked if they had any conversations with that neighbor to discuss some of the issues that were going on. Mr. Sharon stated he had not had those conversations with them at that point, but they were happy to. Mr. Banicki thought with something of this magnitude, that would be something that needed to be focused on and it would have a big impact on them. Mr. Banicki asked how close Juday Creek would be to this campus. Mr. Sharon stated he did not have that information at that time. Mr. Banicki asked about the neighbors in the neighborhood there as far as if they would be hooked to city utilities or if they were on the wells and septic. Mr. Sharon stated from his understanding, the residents out there now were hooked up to water and some of the residents were present that evening so they could confirm it but he also believed that they were on septic and if there were any problems with sanitary backup for those residents, this development would not add to that, because it would be on the municipal sanitary sewer. Mr. Banicki asked if his proposal was on water and sewer, but theirs was not going to necessarily be hooked up automatically to water and sewers and if that was correct. Mr. Sharon stated it was not and he believed once utilities went out there, depending on where it came from that they would have opportunity to hook up to that if they would want to. Mr. Banicki asked if he knew what direction then the utilities would come from, if it would be along Capital Avenue or coming along the toll road and going to come up through that neighborhood. Mr. Sharon stated at that point, that was part of the process but when that first plan came in, the city would look at where the utilities were coming from.

Mr. Hixenbaugh stated to be candid, he was disappointed with what he understood to be his answer with respect to any type of meeting with the neighbors and the public. Mr. Hixenbaugh stated he expected that he and his firm, being as experienced as they were would have already taken that affirmative step. Mr. Hixenbaugh stated he did not know how others felt, but he knew he had been in front of the council enough to know that it historically had been the preference of the council whenever a significant development like this occurred, for those type of meetings to take place. Mr. Hixenbaugh stated no matter the outcome, there was value in the process and allowing people to have a say in what was going on next to them. Mr. Hixenbaugh stated that would be a significant factor with to how he felt about this project moving forward and if in fact there was not that type of opportunity to meet with the neighbors which would be an important point he wanted clarification on between that evening and the next time they would be asked to vote on it. Mr. Sharon stated they always had that opportunity to meet with the neighbors and after speaking with Mr. Banicki about it, he knew it was a concern and they needed to speak to the neighbors so that they could table it too. Mr. Hixenbaugh stated he did feel strongly about this and if he required some additional time to get it scheduled and have it take place that would be his preference before he came and asked them to cast a vote.

Ken Prince, Director of Planning Community Development for the city, spoke in favor of **PROPOSED ORDINANCE NO. 2022-22** and the project as a whole. Mr. Prince stated he wanted to add some clarity regarding the sewer and water issue. Mr. Prince stated currently, the Juday Creek subdivision was on septic and well systems and there was no intent to provide public sewer or water to that subdivision at that point in time. Mr. Prince stated there was a contamination issue associated with the county highway garage and it was located north of Cleveland. Mr. Prince stated his understanding was it was an issue and if they recalled when they discussed the well field, they very specifically looked at the aquifers involved and that was a separate issue and his understanding was the county provided some filtration systems to the homeowners that were significantly impacted by that salt but that was a separate issue. Mr. Prince stated any development would go on sewer and water and in fact, when looking at the conditions, not only did they recommend in those conditions prohibiting any type of fuel facility, they did not want those underground tanks as part of that which was why the convenience store, the filling station, they identified as a prohibited use. Mr. Prince stated also that the extension of sewer and water was one required for the project, whatever developed there, and it would be the developer's responsibility to provide those as a part of that. Mr. Prince stated his understanding from an engineering standpoint was the most practical way to extend the sewer and water was to take from Veterans Parkway that was built from Douglas Road, going north to serve their well field facility and extend it from that location and bring it to the north to Cleveland Road. Mr. Prince stated the most logical connection point was from the south, from Veterans Parkway and it would be the developer's obligation if they could not negotiate the extension of it then the property would not be developed under its proposed annexation request. Mr. Prince stated he was happy to answer any questions.

Anne Siatczynski, 53398 County Murray Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Siatczynski stated they had problems with their wellfield for years because of that salt and they put in various things that were not supposed to be there that were still there. Mrs. Siatczynski stated the traffic was already bad because it was almost impossible to turn left out of the subdivision during certain hours of the day. Mrs. Siatczynski stated there were other places they could put this car dealership, like in the Movies 6 lot which had city water ready so if something did leak, it would not be ruining anybody's well and there was a huge parking lot there already. Mrs. Siatczynski stated there were a lot of local places like along Douglas or the Oral Charter Hospital site along with various other places on Douglas Road. Mrs. Siatczynski stated she moved to that area 32 years ago and part of the reason she moved there was the largely rural environment that would be wrecked if there was a car dealership there. Mrs. Siatczynski concluded stating she thought it would damage their property values.

Tim Buczynski, 14700 County Murray Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Buczynski stated he was a member of the HOA board and their board president had a prior commitment that evening and could not attend. Mr. Buczynski stated on August 16th, there was a story run by WSBT about the project and when the story ran, the HOA board started talking and nobody knew about this at the time. Mr. Buczynski stated he contacted two people that were interviewed for the story and asked them for details about if they received notification of the meeting and found out that they were given notice. Mr. Buczynski stated there were 16 homeowners or property owners listed on the document with 10 of them

having the same names as the sellers of the property on the north side of the street. Mr. Buczynski stated then there was a church and really only one unaffiliated homeowner not part of the project. Mr. Buczynski stated the only other people on the list were four homeowners in their neighborhood that evidently did receive notification, however none of the homeowners contacted the board. Mr. Buczynski referred to item one on the proposed ordinance which was existing conditions and it mentioned the heavily traveled Cleveland Road Corridor and at was the main road between people who worked or lived in St. Joe County and Elkhart County and vice versa so it was very traveled and you could not underestimate the amount of traffic they had there. Mr. Buczynski stated it also mentioned the church in that section along with several single-family houses but had no mention of Juday Creek Estates. Mr. Buczynski stated basically the four homeowners were notified but their Homeowners Association was not notified. Mr. Buczynski stated he knew per statute that they had to have property within 300 feet, so technically they could qualify, however being so close, you would've thought they had some type of notification. Mr. Buczynski stated if you walked directly across Cleveland Road from the project starting at the southwestern tip and you took steps across the land one step to the west, you would be standing in the county easement of their HOA that they took care of then you took a few steps and you were in the backyards of the properties. Mr. Buczynski stated also if you went over another property to the west of the four properties, it was right on the boulevard that led to the only entrance to the neighborhood. Mr. Buczynski stated they had 138 homes in their neighborhood and he felt it was only appropriate that they should be included in the notice and in the existing conditions paragraph and in future discussions related to the project. Mr. Buczynski stated homeowners and the board had many issues regarding traffic, especially making the current problem of getting in and out of their neighborhood more difficult. Mr. Buczynski stated there were other issues, however they had not had time to really discuss all of the issues and decide how to proceed. Mr. Buczynski stated they had not had an HOA meeting since August 16th since they found out about it and their next scheduled meeting was September 18th. Mr. Buczynski respectfully requested that the public hearing be continued at a later date and the vote on the 19th be pushed back or some combination there to give the homeowners and the HOA board some more time to evaluate the situation and meet with personnel so that they could have some input on the project especially since they did not know about the project until after the favorable recommendation by the City Planner due to the facts as stated above.

Mr. Hixenbaugh wanted to ask some questions to clarify what his request was. Mr. Hixenbaugh stated he heard him say that his Homeowner's Association wasn't meeting until September 18th and he heard earlier that it was his preference that the developer engage in a public neighborhood meeting that he and his members would be invited to. Mr. Buczynski stated yes. Mr. Hixenbaugh asked if they were able to schedule that and get the notice and have it occur prior to September 19th if he would postpone it or would that alleviate the need to postpone. Mr. Buczynski stated he thought they still needed to recommend the postponement because the board did not have a meeting until the 19th and could not talk about it until then. Mr. Buczynski stated there would not be enough time to get in touch with enough homeowners and see where they stood on the issue. Mr. Hixenbaugh stated he agreed and the HOA meeting was important to him, but he thought the nuts and bolts details of being able to schedule a meeting with as many people involved would make it difficult to kind of jam it in a two week timeframe.

Jenny Martin, 53044 County Kerry Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Martin stated her property was the furthest east of the neighborhood, so it was the edge right off Cleveland and then the farm that bordered their backyard on the east side. Mrs. Martin stated they were directly across from the proposed land and they were against it. Mrs. Martin stated they moved out there 13 years ago from South Bend looking for a quiet place to raise their children and in the 13 years that they had been on the property, there had been two accidents through their yard and countless other rear endings that had not come through their property. Mrs. Martin stated the traffic was an issue and they were raising five children and being able to get out in a timely manner was crucial with the traffic having increased significantly. Mrs. Martin requested that it remain agricultural or residential.

Mr. Banicki asked when she purchased the property if Capital Avenue was already there. Mrs. Martin stated it was. Mr. Banicki stated when Capital Avenue was actually built, one of the biggest draws to it was all of the land along the sides of it and there were visions of big manufacturing there and all of these other things, but they really had not seen that come to fruition. Mr. Banicki stated at some point, this was somebody's property and of course they want to cash out for the best they could, that was the American dream. Mrs. Martin stated absolutely and the farmers were friends of theirs and they cared very much for them and their ability to sell their land and do what they needed to do with it, but she believed having it become a car lot would decrease property values. Mr. Banicki stated sometime car lots can be very nice when they were kept well and the curb appeal was good and it would be much better than some great big car factory, so there were pros and cons with it. Mr. Banicki stated they all wanted green space in their backyard and he used to live in the county and the city of Mishawaka also annexed his property years and years ago so he knew exactly what she was dealing with. Mr. Banicki stated as the city grew, it was going to keep sprawling out and at some point you could not stop progress. Mr. Banicki stated they try to be sympathetic and work with people to make it as easy as possible, but progress was progress. Mr. Banicki stated he appreciated her comments that evening.

Roger Lumm, 53028 St. Matthew Court, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Lumm stated he was opposed to this based on traffic and a number of other questions that were proposed to Ken Prince. Mr. Lumm stated the problem a lot of them had was that the Juday Creek Business Park was jammed down their throats and to their knowledge there had been no contract signed for any other development other than the sports facility in that acreage. Mr. Lumm asked why the car lot could not go there and stated it was just sitting there. Mr. Lumm stated he's already proposed his questions to Ken Prince and would go from there.

Tressa Decker, 53095 Juday Creek Boulevard, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Decker stated she was also on the Homeowners Association and the environmental integrity of the area was important as well as making sure that was kept at the forefront, but the environmental integrity was already compromised because of the water issue they had that came from the county building on Cleveland. Mrs. Decker wanted to make sure that adding another complex would not compound the issues they were already dealing with as far as water quality and that was a real concern of theirs. Mrs. Decker stated traffic was also an issue and echoed the big concerns with that. Mrs. Decker stated she was pleased that their questions would be heard, but she wanted to go on record saying they were in opposition of the

annexation and development. Mr. Compton asked if they were looking at the housing development there, would the Homeowners Association be in support of that. Mr. Compton stated it would be adding 50, 60, 70 homes. Mrs. Decker stated they would be more in favor for that than something commercial, but there would be concerns about more people drawing from the aquifer and the corridor was not industrial or commercial at all. Mr. Compton asked if the biggest concern was traffic. Mrs. Decker stated it was one of the biggest concerns. Mr. Compton stated if that was the case, he was not sure anything could be developed there that really would be acceptable. Mrs. Decker stated with Cleveland Road as it was, she did not know how you could add more to it.

Penelope Culbertson, 53106 Juday Creek, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Culbertson stated she echoed what her neighbors had to say but she wanted to also point out the light pollution that would come from the car dealership, especially for the people that lived around the outside. Mrs. Culbertson stated they already had the traffic and the noise that was coming from the freeway and Cleveland, but to have the added light would be a big deal. Mrs. Culbertson asked for to council to keep that into consideration.

Mr. Sharon stated based on what he heard from the neighbors, he had spoken to the petitioner and he agreed that they could table and meet at the next association meeting to address some of their concerns. Mr. Hixenbaugh stated his preference would be for them to postpone it until a date was certain and he suggested their first meeting in October and asked if he believed that would be sufficient time. Mr. Sharon stated he believed so. Mr. Hixenbaugh then entertained a motion to postpone any further public hearing and vote on **PROPOSED ORDINANCE NO. 2022-22** until their regular scheduled council meeting of October 3rd, 2022. The motion was made by Mr. Compton and seconded by Mr. Mammolenti to postpone any further public hearing and the vote on **PROPOSED ORDINANCE NO. 2022-22** until their regular scheduled next council meeting on October 3rd, 2022.

Mr. Mammolenti requested to the Homeowners Association that they notify nearby residents of any dates or public meetings they may hold and also let the Clerk or Council President know so he or she could the council know as well, because he was sure several of them would like to attend.

Ken Prince stated he did not know where they would be on October 3rd if it would be in the current building or the new building so they should confirm the location so everyone knew in the audience. Mr. Hixenbaugh stated for those who were unaware, they were in the process of moving to a new City Hall so there was a chance they may be in another location in downtown Mishawaka when they came back on October 3rd. Mr. Hixenbaugh stated his sense was there would be public events and they would make it publicly known beforehand, but they would ask their partners to get the word out where they would be meeting on Monday October 3rd.

Clerk Block stated they should go ahead and like the City of Mishawaka Facebook page and they would get updates there as well.

A voice vote was held for the prior motion and the motion passed.

PROPOSED ORDINANCE NO. 2022-23

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

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Pierre Smith, 310 South Kentucky St. South Bend, Indiana, spoke in favor of **PROPOSED ORDINANCE NO. 2022-23**. Mr. Smith stated the property was actually his property and it was zoned commercial so they could not build a residential home. Mr. Smith stated they wanted to tear it down and rebuild a house.

Mr. Hixenbaugh stated he was pleased to make his acquaintance and for no other reason than that was the house his grandmother owned and he grew up there. Mr. Hixenbaugh appreciated what he was doing with the property and thanked him for making the investment and rebuilding. Mr. Hixenbaugh wished him well.

Question was called at 8:19PM for **PROPOSED ORDINANCE NO. 2022-23 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5799.**

PROPOSED ORDINANCE NO. 2022-24

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 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

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

John Piraccini, 633 Windy Cove Court, spoke in favor of **PROPOSED ORDINANCE NO. 2022-23**. Mr. Piraccini stated this was a property that he owned with Dick LaFree and he had passed away recently, so it was in his estate. Mr. Piraccini stated they bought in back in 2006 and he wanted to give the council a little history. Mr. Piraccini stated this area had been a long, slow

development and back in the day, a developer bought a bunch of the land and made an agreement with the city to bring the water and sewer there because they could not get into the Meijer sewer line, since it was a private line. Mr. Piraccini stated the developer did not succeed so all of his investments became troubled where they had to assess each lot and at the time, their assessment was roughly \$65,000 to get sewer hooked up. Mr. Piraccini stated the city had made the commitment to Mayor Wood at the time to the south side being the entrance of the city. Mr. Piraccini stated they had finally gotten the big commitment there and it was taking a little while to get this developed but as they had seen, they went through a long process with Ken and Mayor Wood and worked with the city to get the Meijer Drive extended. Mr. Piraccini stated as they saw that evening on first reading, the next parcel was coming up and he did not have anything specific, but there may be a restaurant or two there. Mr. Piraccini stated they had this parcel on the market for a little bit and purchaser could not make it that evening, but they ultimately looked at their options and decided to build a car wash there. Mr. Piraccini stated he had a lot of investment in the city, paid his people well and believed it would be a great addition. Mr. Piraccini stated the property was rezoned commercial at that point and they were just trying to zone it for the car wash. Mr. Piraccini stated they had gotten a concern about the ditch but it had been addressed for years and it could not get moved or buried. Mr. Piraccini stated they had the easement reduced but the line was going to get moved and they had been working with the county on it. Mr. Piraccini stated he would answer any questions.

Steve Ruby, Abonmarche Consulting, stated he was working with developer. Mr. Ruby stated they were helping develop the Drive N' Shine sight facility and it was very challenging with the drainage easements and different things of that nature. Mr. Ruby stated they were helping smooth that process out and making sure everything came into compliance with the City of Mishawaka standards and regulations and making sure the facility was top-notch as all of the others were currently. Mr. Ruby stated they wanted to develop this in the most economic and beneficial way possible.

Question was called at 8:26PM for **PROPOSED ORDINANCE NO. 2022-24 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5800.**

PROPOSED ORDINANCE NO. 2022-25

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

Establishing the Cedar Street multiple site a Historic District

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Christa Hill, Secretary for the Historic Preservation Commission and Associate Planner, spoke in favor of **PROPOSED ORDINANCE NO. 2022-25**. Mrs. Hill stated there were also multiple members of the Historic Preservation Commission present that evening and worked with each of the homeowners. Mrs. Hill stated the three houses within the district were 315 Cedar owned by Michael and Rosalie Portales and it was a contributing property, 321 Cedar owned by Sarah Joswick was an outstanding property and 403 Cedar owned by Susan Goodaire was recognized as notable in 1995 when the survey was done but was recently reviewed by the Indiana Landmark staff and was elevated to the status of outstanding. Mrs. Hill stated there were tiered guidelines with which the high the rating, the higher the standards and the two outstanding rated homes had more guidelines that restricted their changes. Mrs. Hill stated on October 2nd, 2022, the Historic Preservation Commission voted to recommend to approve Cedar Street as a multisite district. Mrs. Hill stated she would answer any questions.

Mr. Hixenbaugh thanked Mrs. Hill for the information and thanked her for in particular what she provided in terms of historical information as he found that as interesting as anything he had read in a while. Mrs. Hill stated they kind of paired up a commissioner with a homeowner so that they were able to get the necessary information from them. Mr. Hixenbaugh thanked her again.

Mike Portolese, 434 Calhoun, spoke in favor of **PROPOSED ORDINANCE NO. 2022-25**. Mr. Portolese stated he was very honored to have his childhood home considered for the historic district. Mr. Portolese stated his parents bought the house in 1964 and his mother still owned it and he was sure the former neighbors would be honored for this. Mr. Portolese wanted to thank them for their time and wanted to comment that they were very happy to be a part of the district.

Mary Watt, a member of the HPC committee, spoke in favor of **PROPOSED ORDINANCE NO. 2022-25**. Mrs. Watt stated she thought with the city's plans to improve the Cedar Street Bridge which was built in 1904 and helped to create this neighborhood and also the extension of the River walk, which was also in progress, would tie in so nicely with the other preservation efforts that were being taken place in the city. Mrs. Watt stated this would add a lot of ambiance to the neighborhood.

Lou Ann Welsh, member of the HPC committee, spoke in favor of **PROPOSED ORDINANCE NO. 2022-25**. Mrs. Welsh stated as these and other homes in Mishawaka near their century mark, it was very important to preserve the architecture and the outstanding craftsmanship of these older homes. Mrs. Welsh stated recognizing the homes as an historic district helped protect the integrity of their original features as well as encourage pride of the homeowners and encouraged them to take great pride and love their community even more.

Mr. Hixenbaugh added thanks to their colleague Kate Voelker, who was unable to be there that evening due to a scheduling conflict but Kate sat on the Historic Preservation Commission and was sure she played a vital role in this as well, so they appreciated her work along with all of the other members of the HPC in bringing it before the council.

Question was called at 8:33PM for **PROPOSED ORDINANCE NO. 2022-25 Motion carried by unanimous roll call vote (summary: Yes = 8)**.

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5801.**

PROPOSED ORDINANCE NO. 2022-26

**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.
Amusement and Entertainment Ordinance**

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

Chief Witkowski, Mishawaka Police Department, spoke in favor of **PROPOSED ORDINANCE NO. 2022-26.** Chief Witkowski stated this was something they started months ago and it pretty much stemmed from the Heavenly Goat incident up north a few years back. Chief Witkowski stated they as a police department thought they needed something to help them out in that area when parties were to pop up because they had nothing under books that would control it or address it, so that was their target to do. Chief Witkowski stated they did not create the wheel on this and the city attorney went to several different sites and investigated what other communities were doing to stop these type of incidents and come up with what they felt was a good solution. Chief Witkowski stated he had seen recent comments and push back on things that were listed in there and he wanted to stay up front and was more than willing to look at the concerns and work through those. Chief Witkowski sate he thought they had addressed most of them, but they may not have and there were things that were listed in there, one specifically he noticed when rereading it, was about going to your neighbors and trying to get permission before you had an event. Chief Witkowski stated that was meant to be for an outdoor event only and was not targeted for indoors. Chief Witkowski stated they currently did that for when people had block parties, they had them go to their neighbors and make sure it was okay and they were good with it as far as closing the street. Chief Witkowski stated there was no charge for the form and they would like to see it filled out but they could work with the clubs on especially annual events that they had for years and he would be more than glad to work with them on that. Chief Witkowski stated they were trying to be proactive not reactive to events such as Heavenly Goat, which ended up being a homicide and it was an awful situation with 70 to 80 shots fired and people with apartments across the street right there by Bar Louie were hit. Chief Witkowski stated they were lucky they did not have more damage than they did. Chief Witkowski stated he was there to work with anybody he could to make this work but they had to have something they could use to stop events such as these. Chief Witkowski stated just by smoking mirrors had been able to stop several events in the last couple years that came to their attention and there was one specific event he referred to that happened recently where people would rent venues out and not be honest about what they were planning to do there. Chief Witkowski stated they would then see it on Facebook and a lot of times they would be chasing the time clock and also one of their

clubs was proposed to be a birthday celebration but was advertised as something different and they were able to get it stopped. Chief Witkowski stated it was hard to find out two days before the event and trying to get it stopped, so they're supposed to have a permit in place and this would make it easier for himself and fire to just stop the events before they happened. Chief Witkowski believed they needed something through a city ordinance and things were happening all around the country and they would be foolish to think they would not happen in Mishawaka. Chief Witkowski stated they needed this to strengthen them so they could do a better job.

Mr. Hixenbaugh thanked Chief Witkowski for the work he and Pat Hinkle, the corporation counsel, had done to put this together and bring it to the council and also listening to some of the suggestions and the concerns the council had throughout this. Mr. Hixenbaugh stated it came through loud and clear that he believed this was something that would be a measure to enhance public safety in Mishawaka. Mr. Hixenbaugh stated as he referenced, the unfortunate tragic loss of life at Heavenly Goat, it was the inception for this version of the discussion. Mr. Hixenbaugh stated as they worked through the process, he started to think of this also in terms of events that don't result in that tragic outcome, but still pose a problem to public safety in Mishawaka, events where multiple squad cars had to be called off a beat where they were servicing other issues in the community and respond to a call. Mr. Hixenbaugh asked if he could touch on that and if he was wrong to think that the intent would also be to try to get those events that pose a risk short of resulting in a homicide. Chief Witkowski stated it was exactly that and that just totally took everyone they had working to go to such a magnitude event of that nature to police it, to call in overtime, that was tens of thousands of dollars. Chief Witkowski stated in the meantime, the city was stripped because they had so much going on in one particular area and they had to have something in place to address that proactively before it started, because once it went and if it went wrong they could not control it. Chief Witkowski stated he did not have the manpower to work it and it would be too late at that point after calling in overtime where it would be 30 to 40 minutes before someone could respond. Mr. Hixenbaugh stated his friend a colleague, Mr. Compton, had spoken in the last couple of days on several occasions about this and he made reference to tonight's proceeding being another step in the conversation and the process to try to arrive at an outcome that would address the concerns he expressed and balance the need of business owners and others. Mr. Hixenbaugh asked if he agreed with that and from his comments earlier, he took it as his willingness to listen to concerns that they received via email and other communications, but also it sounded like he was willing to work with them as well as the corporation counsel. Chief Witkowski stated they were not trying to take money out of anyone's pockets and they were not trying to rain on their parade and he knew of numerous events that had gone on for years without issues and they were not trying to stop any of that. Chief Witkowski stated it was the new things that they were looking at as they went through social media and saw questionable events. Mr. Hixenbaugh stated so he was not saying that it had to be exactly this ordinance as it was currently drafted, but he believed that they needed to do something in order to address the underlying concern. Chief Witkowski stated that was accurate and were willing to work with anyone. Chief Witkowski stated he understood there were smaller clubs that had been in business for years and they were just asking to fill out a form. Mr. Hixenbaugh appreciated his assistance that evening and again with the work he had done to get them to that point.

Janet Whitfield-Hyduck. 622 W 8th Street, spoke in favor of **PROPOSED ORDINANCE NO. 2022-06**. Mrs. Whitfield-Hyduck stated she was present that evening as a council member for the

DeAmicis Club and she stated to Chief Witkowski that they really valued their safety, public safety, being good neighbors in their community and overall, understanding the need for the ordinance. Mrs. Whitfield-Hyduck stated her and her colleagues would like to see was maybe meeting to discuss a few of the things they still had questions on regarding how it would affect the club. Mrs. Whitfield-Hyduck stated some of it may be semantics and easy things to fix but when looking at section 4c in the ordinance, they understood that funeral dinners, weddings and wedding receptions would be exempt from the 30 day notice. Mrs. Whitfield-Hyduck stated when looking at this she did not know if it was a comprehensive list or if there would be the ability to broaden it in scope. Mrs. Whitfield-Hyduck stated another question they thought of was throughout the year they had a small business in Michiana and hey hosted something in the upstairs hall, a vendors market so on any given day they may have 15 vendors and they may get 20 people there that Sunday or maybe they would get 60 and it was kind of hard to know. Mrs. Whitfield-Hyduck stated they wanted to know how it would impact those type of hall rentals when it was not the club sponsoring it and an outside vendor coming in, who were very wonderful to work with. Mrs. Whitfield-Hyduck stated those were some of the small things that they wanted to work through and maybe there could be opportunities to meet with the clubs together and have the opportunity to ease their concerns on how it impacted the club. Mrs. Whitfield-Hyduck stated they wanted public safety and wanted their patrons to be safe at the club and not have issues at their club either, even for rental, so she just wanted to share that so a conversation could take place.

Mayor Wood spoke in support of **PROPOSED ORDINANCE NO. 2022-26**. Mayor Wood stated this effort originated, as the Chief said, out of the Heavenly Goat situation that happened as well as some others that they had learned about over time, but by the good work of the Mishawaka Police Department working with some outside agencies the incidents were recognized and may have been lucky a couple of times and they may not be lucky all of the time. Mayor Wood stated they lived in a different world and they see deception out there when it came to renting out some of the places and they were looking to protect business owners and protect service clubs of which he was a member and a good customer of most of them in Mishawaka. Mayor Wood stated when Heavenly Goat happened and a couple of other issues happened, they decided to take a comprehensive look all around at what they could do differently, how they could respond better and one of the things that they promised was not only to look at operations within the police department but also at their ordinance structure. Mayor Wood stated they saw a glaring hole in their ordinance structure for something that gave them a tool that when it came to some of the big events that they may not know about, they would receive a notice so that they could be on alert for it. Mayor Wood stated they had also made changes at the police department and they now had a rapid response unit that they were training up and getting prepared with new equipment to respond. Mayor Wood stated they were always looking to be proactive and this was an effort to be proactive at the Mishawaka Police Department and their number one job was public safety and this was needed. Mayor Wood stated this was always meant to be a conversation starter and they were not there to dictate and they were not interested in this being bad for business but they had to know about some of these things and help and protect to the extent that they could. Mayor Wood stated they were not trying to police every single funeral dinner at the BK, for example, but they wanted to work with the BK and come up with something that protected them and also allowed them to provide public safety to the best extent they could. Mayor Wood stated they would love to have the conversation and make some tweaks

just to get this as right as they possibly could. Mayor Wood stated they thought there was a need for a tool of this nature and for the city of Mishawaka.

Pat Perri, representing the Diloreto Club at 914 Division Street, spoke in favor of **PROPOSED ORDINANCE NO. 2022-26**. Mr. Perri stated he understood why they had to do this and why this was being looked at and like Chief Witkowski said, it was a different era, but he had some bullet points he wanted to cover. Mr. Perri stated he did not understand the clarification for nonprofits and some of it needed to get cleaned up because it was not quite clear in the ordinance. Mr. Perri asked hypothetically how they could enforce an ordinance if the consequence for it was only if something bad happened at a party and if you had a permit, guns go off, people get killed and the police get called, the only consequence would be him getting fined a certain amount of money. Mr. Perri asked if it was really the intent to protect their businesses or to protect the image of the city. Mr. Perri stated Chief Witkowski presented an example that happened at his club and he believed the South Bend Police Department was alerted about a questionable event and he got word of it and shut it down. Mr. Perri stated they had an off duty Mishawaka police officer scheduled to secure the event and they had to provide security for an event that was planned and when the police department found the Facebook page, they thought it was a questionable organization or people and they would not allow that officer to secure the event, so he shut it down. Mr. Perri stated if the city did not want to enforce what they were trying to enforce and he had to go to Uncle Frank's security department, he did not see that the city was really concerned with his business. Mr. Perri stated those were some of the things that still needed to be talked about because he did not get the whole intent of the proposal and he did not know if they had the answers for those things yet, but he was happy to answer questions. Mr. Perri stated he did think it was a good thing, but he also thought it needed to be worked out where it was more proactive than reactive.

Mr. Hixenbaugh stated if he were to have his comments reduced to a list in a format where they could read them, he could leave them with Clerk Block and that would be something that could be shared with all of them and they could integrate it into the process. Mr. Hixenbaugh stated his questions were logical so he did not want to indicate otherwise, but he thought the process would be more beneficial for all of them and rather than trying to answer the concerns on the fly, what was suggested earlier in coming up with a different format where they could work through it in more of a measured fashion, they would be doing themselves a collective disservice if they tried to write it in real time that evening on the floor of the chambers. Mr. Hixenbaugh stated his personal opinion was that they would be better off trying to look at another process for him, the clubs, the for profit, the corporate citizens and give everyone the opportunity to be part of the process as long as everybody went into it with the anticipation that no one would get everything that they wanted, because when you brought so many people together and they try to come up with a piece of legislation by committee there would have to be compromises struck, not that they were struggling to find the perfect balance they were at. Mr. Hixenbaugh appreciated his concerns but that was his preference on how they moved forward. Mr. Perri stated there were a lot of businesses that should be represented that were not present. Mr. Hixenbaugh stated his friend and colleague, Mr. Compton went above and beyond what was expected by making phone calls out to the community and the problem whenever you tried to do that was there was not any readymade list of folks who would potentially be impacted by this that they could reach out to or get in touch with and have them be there. Mr. Hixenbaugh stated he would like to have as many

voices involved in this as possible and he appreciated Mike Compton's efforts in doing that, but they would have to rely on people like Mr. Perri and others to get in contact with those people and invite them to be part of the process. Mr. Perri reiterated that he was not against the process and he just did not fully understand the intent. Mr. Hixenbaugh stated he thought the intent was to enhance public safety and strike the balance between promoting public safety and this serving as an additional impediment to nonprofit or for profit good corporate citizens who were trying to do the things they wanted to do. Mr. Hixenbaugh stated if they were not there yet, they needed to work to get there and Mr. Hixenbaugh stated he always appreciated seeing Mr. Perri and thanked him for his opinions.

Kevin Warren, Attorney at Law with Sopko, Nussbaum, Inabnit and Kaczmarek, spoke before the council. Mr. Warren stated he was representing the Chicory Event Center and stated they recently had the opportunity to look at the ordinance and identified some concerns, but also stated he was glad that there would be collaboration throughout the process and recognized the concerns from both sides. Mr. Warren stated there was some obvious common ground that could be found in terms of putting an ordinance together that helped reflect safety concerns, but also not impacting the businesses too strongly. Mr. Warren stated there stated they were more than willing to do what was necessary to participate in the discussion and believed they could offer some valuable input.

Mr. Compton apologized publicly to the clubs that weren't included in the discussion. Mr. Compton stated he made a list in his head and did not think about it, so he wanted to address that. Mr. Compton stated they caught more this time and made some calls and they were represented at the meeting. Mr. Compton stated they as a council listened to Chief Witkowski, Mayor Wood and the legal staff and this was what they came up with and what he suggested going forward that they delay this that evening and continue the discussion. Mr. Compton stated but he thought that he would like to see Chief Witkowski and their city attorney hold a public meeting where they sat down, because they were the ones who crafted the ordinance for them and propose some ideas. Mr. Compton stated in this instance, the council were the middle people and he preferred to take himself out of the middle but be supportive of what was happening. Mr. Compton stated with that, maybe then they could draft something and he did have a concern when talking about what really started this whole thing off and asked himself if this was in place when it happened, would it be stopped and he did not know. Mr. Compton stated he did not know because that was a private business and they would not even know about the ordinance. Mr. Compton stated he was not sure if it would be completely resolved, so he thought those were questions that others may have had. Mr. Compton stated they certainly made the clubs in their community aware of a situation and he was going to guess if he were in the operation of the clubs and if there were issues, he would be a little more selective on who would rent from him, ask a few more questions and be more adamant about what was going on. Mr. Compton then made a motion to delay this at that point.

The motion was made and seconded to postpone the further public hearing and vote on **PROPOSED ORDINANCE NO. 2022-26** indefinitely. A voice vote was held and the motion passed to postpone it indefinitely, with the anticipation that the administration would work with the council to come up with a process to integrate the comments and concerns that were

previously made into the final product. Mr. Hixenbaugh thanked everyone that evening for their thoughts and comments and communicated with the council.

PRIVILEGE OF THE FLOOR

Bryan Tanner, 525 Calhoun Street, spoke on behalf of a new 501c3 nonprofit Inspire Mishawaka. Mr. Tanner stated it was an organization grown out of an initiative within the Mishawaka Business Association and something that had been in the works for years but really gained traction that past spring. Mr. Tanner stated he wanted to notify everyone of a public town hall style of session that would happen at the Mishawaka Penn-Harris library downtown branch on Thursday September 22nd from 5:30PM-7:30PM. Mr. Tanner stated they also produced a business inventory of what they considered their downtown district as it related to their Main Street's application with Indiana Office Community of Rural Affairs, roughly 135 businesses were invited and it was also open to the public. Mr. Tanner stated he wanted to make everyone aware of it at a public meeting such as the one being held that evening and appreciated the time to speak on behalf of the event. Mr. Tanner stated hopefully they were well attended, because they were looking to the feedback from the community and it gave them the access to funding and grants and resources they otherwise had not been qualified for in the city of Mishawaka.

UNFINISHED BUSINESS

RESOLUTION R2022-17

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.

**Use Variance to allow Food Truck in the parking lot of Pilo's Body Shop – 1017 E.
Jefferson Blvd.**

Mr. Hixenbaugh stated the record would reflect that the petitioner requested postponement that evening. Mr. Compton stated he would honor Mr. Pilo's made a motion they postpone it to the next council meeting. Mr. Banicki seconded the motion and a voice vote held. The motion passed and **RESOLUTION R2022-17** was postponed to September 19th.

NEW BUSINESS

Mrs. DeMaegd announced the West End Neighborhood Watch Group would meet Tuesday September 13th at St. Bavos School at 7PM and the group would be hosting Mayor Dave Wood, Police Chief Ken Witkowski and Director of Code Enforcement Joe Van Nevel for an open question and answer forum with issues dealing primarily with the West End. Mrs. DeMaegd stated all were welcome.

Mr. Mammolenti referred to a recent post by the Mishawaka FOP Lodge several hours ago and the post hit him with the post saying 15 officers that year alone left the department and they would all be missed greatly and he wanted to thank them all for tremendous service. Mr.

Mammolenti stated he wanted to give a shout out to one officer in particular that he had the opportunity and privilege to work with over the last 10 years pretty closely with his involvement in the Twin Branch Neighborhood Watch, Lieutenant Reppert had been a staple for that watch group along with Mr. and Mrs. Mullins. Mr. Mammolenti stated without those three, they would not be able to sustain the watch group, being one of the largest and strongest in the city. Mr. Mammolenti once again thanked all of the officers who had left them that year but in particular Lieutenant Reppert for all of his years of great help.

ADJOURNMENT 9:10PM

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

Deborah S. Block, IAMC, MMC

September 14, 2022

SEP 14 2022

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
September 13, 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 #22-14 A petition submitted by Anthony Rucano requesting to rezone vacant land south of **4601 Grape Road** from C-2 Shopping Center Commercial District to S-1 Extensive Open Space and Public Use District due to being located within the floodplain.

The Commission, with a vote of 6-0, recommended approval.

PETITION #22-15 A petition submitted by Thomas McLaughlin, Cory Smith, and Erin Corcoran requesting to vacate the east/west alley between **515 Clay Street and 804 Wilson Boulevard**.

The Commission, with a vote of 6-0, 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: Tony Rucano
Brian McLaughlin

STAFF REPORT

Location: vacant property south of 4601 Grape Road

Date: Sept. 13, 2022

Petition: 22 14

Prepared By: CH

GENERAL INFORMATION

Applicant: Anthony Rucano

Status: Property Owner

Request: Rezone from C-2 Shopping Center Commercial to S-1 Extensive Open Space

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: 2.35 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-2 Shopping Center Commercial (Charter Fitness and JMS Plaza)
South: C-1 General Commercial (vacant/retention pond)
East: C-1 General Commercial (Lowe's)
West: R-3 Multi-Family Commercial (Tanglewood)

Thoroughfare: Grape Road

School District: South Bend Community

Public Utilities: No utilities are required.

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 to S-1 Extensive Open Space. Permitted uses in the S-1 District are cemeteries, country clubs or golf courses, public parks and playgrounds, and water pumping plants. The property is located on the west side of Grape Road, south of the Charter Fitness building at 4601 Grape Road.

The owner is requesting the property be rezoned to S-1 Extensive Open Space as a way to reduce his taxes. Juday Creek runs through the site. On either side of the creek is a 75' legal ditch easement. A majority of the lot is covered by the Floodway or Special Flood Hazard Area AE, Base Flood Elevations determined according to FEMA Panel 0204D dated January 6, 2011.

The floodplain restrictions limit how the site can be developed. Any building would need to be 2' above the 100 year flood elevation at a minimum. Other limitations include excavation and stormwater retention.

Over 20 years ago, attempts to develop never came to fruition. In addition to the small area of developable land, the City preferred access through the property to the north and not via an additional curb cut on Grape Road, which could not be agreed upon by the property owners. However, both parcels are currently owned by the same person.

All pertinent City Departments reviewed and approved the request.

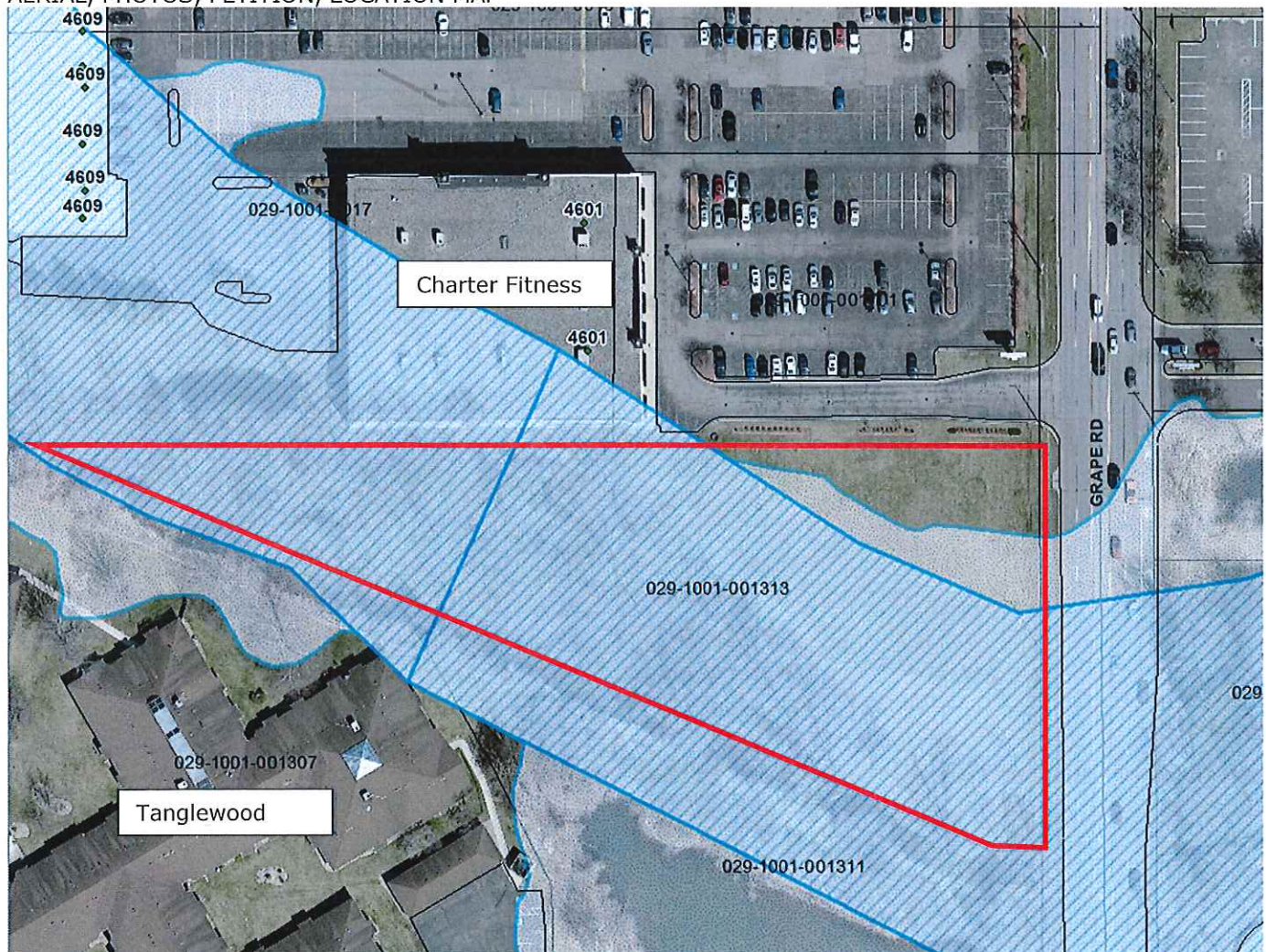
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #22-14 to rezone the property south of 4601 Grape Road to S-1 Extensive Open Space. This recommendation is based upon the following findings of fact:

1. Existing Conditions. Although the property is on Grape Road, a major commercial thoroughfare, the physical conditions of the site, Juday Creek and the Floodway/Flood Zone AE, make the site difficult to develop.
2. Character of Buildings - The character of the buildings along Grape Road are predominantly commercial, but additional green/open space would not deter from those uses;
3. The most desirable/highest and best use - Since the site is difficult to develop, downzoning the site to a non-commercial zone is the highest and best use. Across Grape Road, the area of Floodway/Flood Zone AE were utilized for Lowe's retention basin;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as Grape Road is a major commercial corridor; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, however, given the restrictions on the lot due to Juday Creek and the Floodway/Flood Zone AE, downzoning to Extensive Open Space is compatible with physical conditions.

ATTACHMENTS

AERIAL, PHOTOS, PETITION, LOCATION MAP



Red Outline - Area to be rezoned
Blue Hatched - Floodway
Blue Dotted - Flood Zone AE



A view south from the Charter Fitness parking lot



A view south from the Charter fitness driveway entrance



A view West across Grape Road from the Lowe's parking lot

STAFF REPORT

Location: 14' wide Alley north of Wilson Blvd and west of Clay Street
Between 515 Clay St. & 804 Wilson Blvd.

Date: Sept. 13, 2022

Petition: 22-15

Prepared By: CH

GENERAL INFORMATION

Applicant: Thomas McLaughlin and Cory Smith & Erin Corcoran

Status: Adjacent Property Owners

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

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

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential (Residential)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential (Residential)
West: R-1 Single Family Residential (Residential)

Thoroughfare: Clay Street and Wilson Blvd.

School District: Penn-Harris-Madison

Public Utilities: Public Right-of-Way

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioners are requesting to vacate a 14' wide east-west alley lying north of Wilson Blvd and west of Clay Street. The alley is adjacent to 515 Clay St. & 804 Wilson Blvd. It was originally platted between Lots 44 & 45 in Battell's Second Park Addition.

The owners of both 515 Clay and 804 Wilson signed the petition. The alley provides access from Clay Street to a north-south alley between Clay Street and Webster Street. It is offset with the east-west alley providing access between Webster Street and the north-south alley.

The parcel to the north (Tax ID 016-2019-0651/515 Clay), which includes Lots 43 & 44 Battell's Second Park Addition is owned by Thomas and Patricia (deceased) McLaughlin. The parcel to the south (Tax ID 016-2019-0658/804 Wilson Blvd), which includes Lots 45, 46, & 47 Battell's Second Park Addition is owned by Erin B Corcoran and Cory W Smith.

The alley is not paved, but does provide access the Petitioner's garage at 515 Clay. City Utilities have identified water, sanitary and electric within the limits of the alley. Engineering's recommendation is the right-of-way be converted to a utility easement. No buildings or other permanent structures shall be built

within the easement and access to the utilities shall be maintained. Since the petition does not request the release of any utility easement rights, an easement will remain within the vacated area.

The petitioners provided four reasons for the vacation;

- 1) Security. Items were stolen from the Petitioner's garage.
- 2) Damage to property. A fence and boulder, used to mark the property line, have been hit numerous times.
- 3) Safety. A low hanging electric wire could be compromised by larger vehicles (i.e. delivery trucks), and
- 4) Maintenance. Since the alley is unpaved, the City had resurfaced it with crushed concrete. When that deteriorated, Engineering offered to paved the alley. If vacated, the homeowners would be responsible for maintenance.

Additional Planning comments include the City is not responsible for removing the approach. It will be the responsibility of the Petitioner to install a sign, fence, etc. to indicate the alley is now private property.

Both Planning and Engineering would have reservations if any homeowners using the north-south alley would be negatively affected.

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

RECOMMENDATION

Staff recommends in favor of Petition 22-15 to vacate the first east-west alley north of Wilson Blvd and west of Clay Street, between 515 Clay St. & 804 Wilson Blvd. The alley is adjacent to Lots 44 & 45 in Battell's Second Park Addition. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. Vacating the alley would help provide safety and security to an established neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley is unpaved and only provides direct access to one garage, owned by the Petitioner.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial, Photos, Petition, Location Map





A view west from Clay Street



A view west of the alley from between the houses.



A view west of the alley looking at the north-south alley



A view north of the intersection with the north-south alley.



A view east from the alley towards Clay Street

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-14
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-30
ORDINANCE NO. _____

Deborah S. Block, IAC, MMC

SEP 14 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:

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: LOT #2 OF THE PLAT OF "HEALTHQUEST-GRAPE ROAD MINOR SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 0342657 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 2.52 ACRES MORE OR LESS. SUBJEC TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant land south of 4601 Grape Road

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 S-1 Extensive Open Space and Public Use 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 - Although the property is on Grape Road, a major commercial thoroughfare, the physical conditions of the site, Juday Creek and the Floodway/Flood Zone AE, make the site difficult to develop;
2. Character of Buildings - The character of the buildings along Grape Road are predominantly commercial, but additional green/open space would not deter from those uses;
3. The Most Desirable/highest and Best Use - Since the site is difficult to develop, downzoning the site to a non-commercial zone is the highest and best use.

Proposed Ordinance No: _____

Ordinance No: _____

Across Grape Road, the area of Floodway/Flood Zone AE were utilized for Lowe's retention basin;

4. Conservation of Property Values - The proposed rezoning should not be injurious to property values in the surrounding area as Grape Road is a major commercial corridor; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, however, given the restrictions on the lot due to Juday Creek and the Floodway/Flood Zone AE, downzoning to Extensive Open Space is compatible with physical conditions.

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

SEP 01 2022

City Clerk
Mishawaka, IN

Date: August 17, 2022

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



RE: Anthony Rucano Petition for Rezoning:

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

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: LOT # 2 OF THE PLAT OF "HEALTHQUEST-GRAPE ROAD MINOR SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 0342657 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE CONTAINING 2.52 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

Also, commonly known as the vacant land South of and adjacent to 4601 Grape Road, Mishawaka, Indiana 46545.

The above-described parcel of land is presently zoned "C-2" Commercial District.

The Petitioners desire said real estate, to be rezoned to the "S-1" Special District classification. The purpose for the rezoning is to allow for the real estate to be downzoned and remain as natural open space without the Commercial District classification. Presently the entire property falls within the 100-year flood plain and lies adjacent to Juday Creek.

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

Name: Anthony Rucano

Contact person:
Anthony Rucano
14675 Wheaton Drive
Granger, Indiana 46530
(574) 296-1366

INDIANA HOMESTORY@SBCGLOBAL
NET



EDISON

JMS PLAZA

LOWE'S

KOHL'S

TANGLEWOOD LN

GRAPE RD

PET 22-14

Location Map

PET 22-14

ANTHONY RUCANO (OWNER)

V/L SOUTH OF 4601 GRAPE RD.

REZONING FROM C-2 SHOPPING CENTER
COMMERCIAL TO S-1 EXTENSIVE OPEN
SPACE TO REMAIN AS NATURAL OPEN
SPACE DUE TO LAND BEING
WITHIN THE FLOODPLAIN

STAFF REPORT

Location: vacant property south of 4601 Grape Road

Date: Sept. 13, 2022

Petition: 22 14

Prepared By: CH

GENERAL INFORMATION

Applicant: Anthony Rucano
Status: Property Owner
Request: Rezone from C-2 Shopping Center Commercial to S-1 Extensive Open Space
Zoning Classification: C-2 Shopping Center Commercial
Lot Size: 2.35 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-2 Shopping Center Commercial (Charter Fitness and JMS Plaza)
South: C-1 General Commercial (vacant/retention pond)
East: C-1 General Commercial (Lowe's)
West: R-3 Multi-Family Commercial (Tanglewood)

Thoroughfare: Grape Road

School District: South Bend Community

Public Utilities: No utilities are required.

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 to S-1 Extensive Open Space. Permitted uses in the S-1 District are cemeteries, country clubs or golf courses, public parks and playgrounds, and water pumping plants. The property is located on the west side of Grape Road, south of the Charter Fitness building at 4601 Grape Road.

The owner is requesting the property be rezoned to S-1 Extensive Open Space as a way to reduce his taxes. Juday Creek runs through the site. On either side of the creek is a 75' legal ditch easement. A majority of the lot is covered by the Floodway or Special Flood Hazard Area AE, Base Flood Elevations determined according to FEMA Panel 0204D dated January 6, 2011.

The floodplain restrictions limit how the site can be developed. Any building would need to be 2' above the 100 year flood elevation at a minimum. Other limitations include excavation and stormwater retention.

Over 20 years ago, attempts to develop never came to fruition. In addition to the small area of developable land, the City preferred access through the property to the north and not via an additional curb cut on Grape Road, which could not be agreed upon by the property owners. However, both parcels are currently owned by the same person.

All pertinent City Departments reviewed and approved the request.

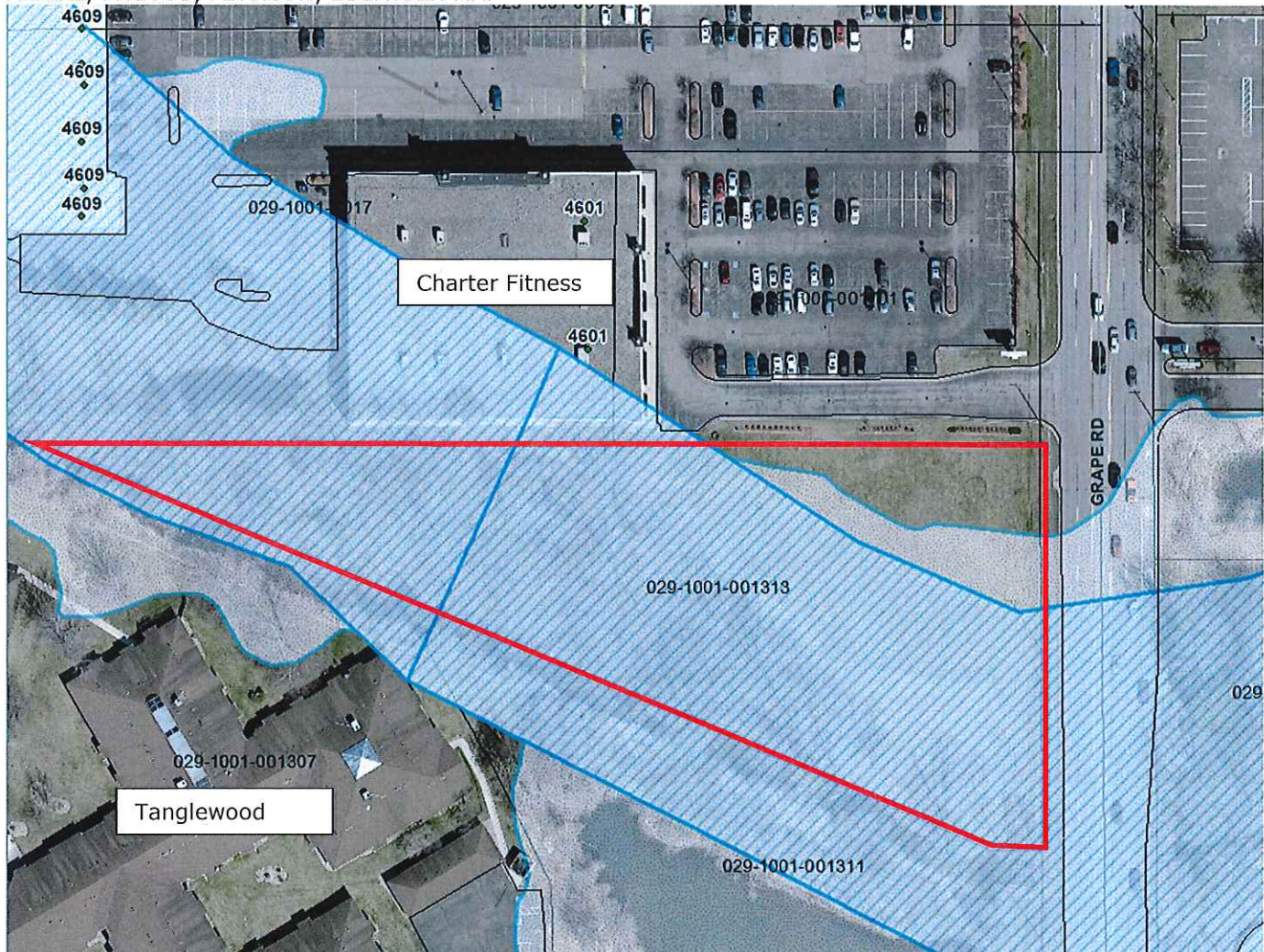
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #22-14 to rezone the property south of 4601 Grape Road to S-1 Extensive Open Space. This recommendation is based upon the following findings of fact:

1. Existing Conditions. Although the property is on Grape Road, a major commercial thoroughfare, the physical conditions of the site, Juday Creek and the Floodway/Flood Zone AE, make the site difficult to develop.
2. Character of Buildings - The character of the buildings along Grape Road are predominantly commercial, but additional green/open space would not deter from those uses;
3. The most desirable/highest and best use – Since the site is difficult to develop, downzoning the site to a non-commercial zone is the highest and best use. Across Grape Road, the area of Floodway/Flood Zone AE were utilized for Lowe's retention basin;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as Grape Road is a major commercial corridor; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as General Commercial, however, given the restrictions on the lot due to Juday Creek and the Floodway/Flood Zone AE, downzoning to Extensive Open Space is compatible with physical conditions.

ATTACHMENTS

AERIAL, PHOTOS, PETITION, LOCATION MAP



Red Outline – Area to be rezoned
Blue Hatched – Floodway
Blue Dotted – Flood Zone AE



A view south from the Charter Fitness parking lot



A view south from the Charter fitness driveway entrance



A view West across Grape Road from the Lowe's parking lot

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #22-15
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-31
ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

SEP 14 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, Thomas McLaughlin, Cory Smith, and Erin Corcoran LLC, have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioner owns part of land that abuts the public right-of-way sought to be vacated;

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

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

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

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

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

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

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

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 first east/west alley, north of Wilson Boulevard, between Lot 44 and (combined) Lots 45, 46, and 47 in Battell's 2nd Park Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

COMMONLY KNOWN AS: 14' Wide East/West Alley North of Wilson Boulevard and West of Clay Street

PROPOSED ORDINANCE NO. 2022-31

ORDINANCE NO. __

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. Vacating the alley would help provide safety and security to an established neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley is unpaved and only provides direct access to one garage, owned by the Petitioner.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

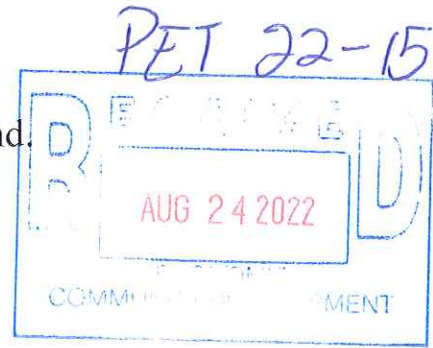
David A. Wood, Mayor

July 20, 2022

SEP 01 2022

City Clerk
Mishawaka, IN

To the Honorable members of the Common Council, and,
Mishawaka City Plan Commission, both of Mishawaka, Ind.



RE: Petition for Vacation of Public Right of Way

The undersigned, Thomas McLaughlin, Cory Smith and Erin Corcoran, respectfully request of the Mishawaka Common Council and the Mishawaka City Plan Commission to vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

The 1st E/W alley, N of Wilson Blvd., between lot 44 and (combined) lots 45, 46 and 47 in Battell's 2nd Park Addition (commonly known as between 515 Clay St and 804 Wilson Blvd.).

The purpose for this request is fourfold. Firstly, a theft has recently occurred from a (and the only) garage that is on the alley at the Clay St. address. Unimpeded access to this non-thoroughfare, non-logical-shortcut-to-anywhere alley, now that the 'sanctity' of it has been breached by parties unknown and will only open up further potential violations of the Clay St. property. For the last couple of years, an unusual vehicle* has also been parked regularly in the driveway of the Clay St. address that has the potential to attract vandalism from persons having unimpeded alley traverse. (*for educational, informational and advertising purposes)

Secondly, the backyard fence on this alley, where it intersects the N/S alley, had been hit numerous times over the years from persons unneedingly driving west in the alley then turning north. A boulder (duly marked) had been strategically placed to protect the fence some years back but it too has continued to be hit also... giving further evidence to the hazards that a normal property-marking fence in such a location is subject to. (That fence is presently freshly-removed... in the process of being replaced entirely with a new one. Damage to such new one is of course even more unwanted. Alley closure would allow the new fence to remain intact.)

Thirdly, an electric wire strung from a pole in the N/S alley to go along the west half of the E/W alley, to service the Wilson address house, hangs so low as to not give clearance to any possible trucks that would use the E/W alley without hitting it, except for the temporary measures privately undertaken to attempt to keep such wire out of harm's way.

Fourthly, the Mishawaka Engineering Department informed us last year that this alley, presently dirt/gravel, was on a list to be paved along with the intersecting N/S alley (repaving). I had discussed with Deborah Wheeler how this alley had indeed been resurfaced with crushed concrete some years ago, leaving it in excellent condition. However, subsequent to that, the alley was used as a shortcut thoroughfare for trucks and construction equipment for the sewer separation project on either Clay St. or Wilson Blvd., leaving the good surface now chewed up and back to where it was beforehand. Despite this, I politely declined Deborah's offer redo the alley yet again in an even more expensive way. Vacating the alley will keep yet more upkeep expense to the city from occurring.

Petitioners further state that they are the owners of the properties immediately adjacent to the above-described right-of-way.

Wherefore, the Petitioners pray and respectfully request that the Common Council for the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after the hearing, an appropriate ordinance be enacted, vacating the above-described right-of-way located in the City of Mishawaka.

Thomas M. McLaughlin

Thomas McLaughlin, Adj. Owner,
Lots 43+44, Battell's 2nd Park Addition
515 CLAY ST.

Cory W. Smith

Cory Smith/Erin Corcoran, Adj. Owners,
Lots 45+46+47, Battell's 2nd Park Addition
804 WILSON BLVD.

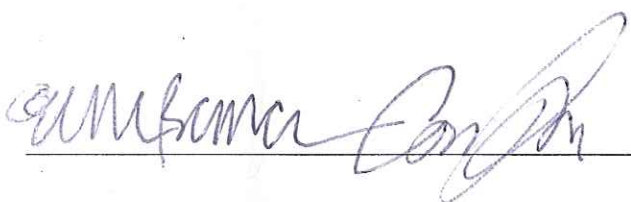
Contact Person:
Brian McLaughlin
515 Clay St.
Mishawaka, Ind.
574 339-6778

Fourthly, the Mishawaka Engineering Department informed us last year that this alley, presently dirt/gravel, was on a list to be paved along with the intersecting N/S alley (repaving). I had discussed with Deborah Wheeler how this alley had indeed been resurfaced with crushed concrete some years ago, leaving it in excellent condition. However, subsequent to that, the alley was used as a shortcut thoroughfare for trucks and construction equipment for the sewer separation project on either Clay St. or Wilson Blvd., leaving the good surface now chewed up and back to where it was beforehand. Despite this, I politely declined Deborah's offer redo the alley yet again in an even more expensive way. Vacating the alley will keep yet more upkeep expense to the city from occurring.

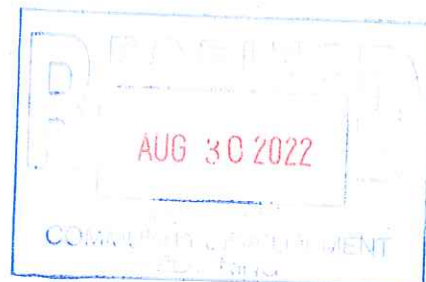
Petitioners further state that they are the owners of the properties immediately adjacent to the above-described right-of-way.

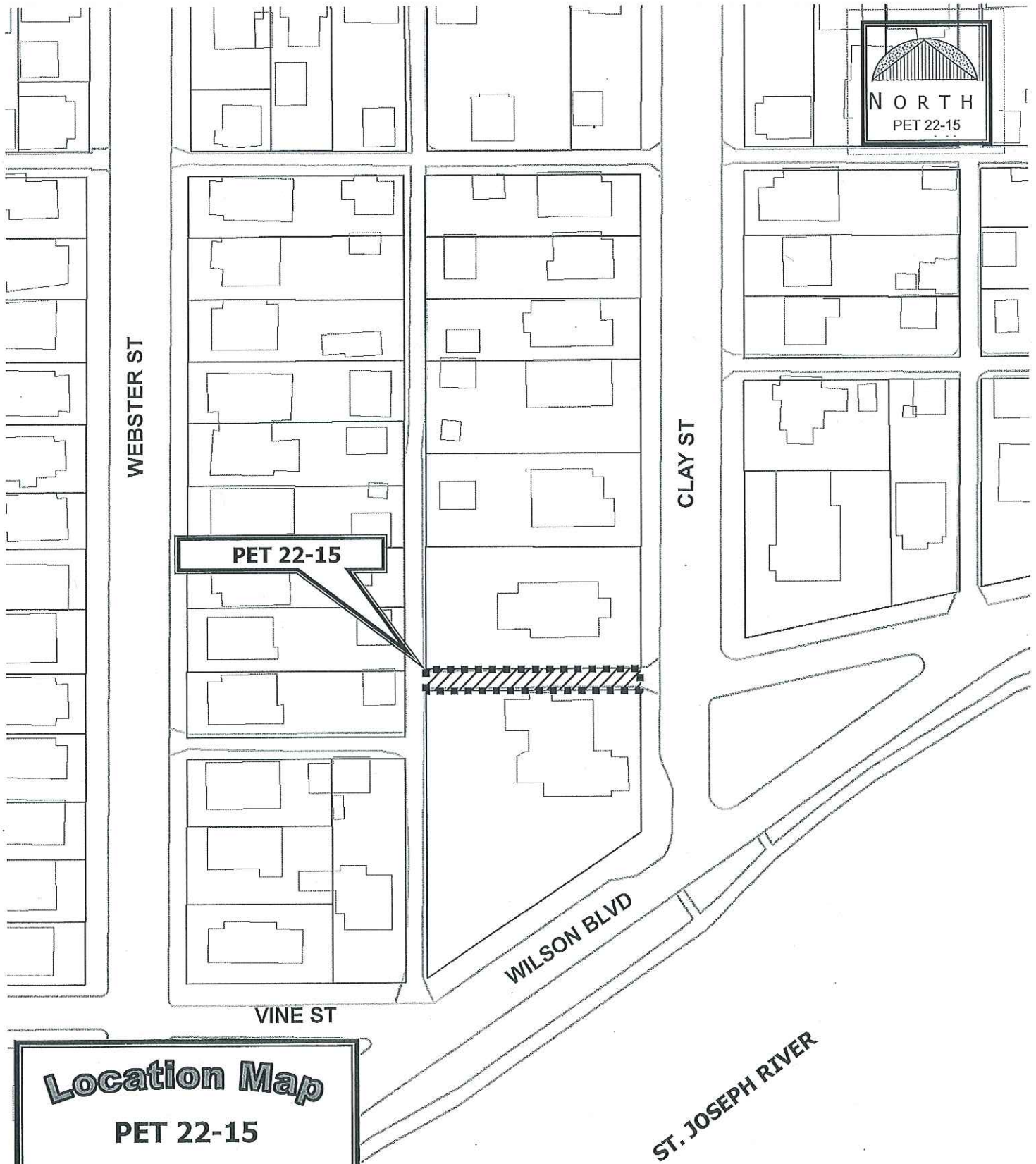
Wherefore, the Petitioners pray and respectfully request that the Common Council for the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after the hearing, an appropriate ordinance be enacted, vacating the above-described right-of-way located in the City of Mishawaka.

Thomas McLaughlin, Adj. Owner,
Lots 43+44, Battell's 2nd Park Addition


Cory Smith/Erin Corcoran, Adj. Owners,
Lots 45+46+47, Battell's 2nd Park Addition

Contact Person:
Brian McLaughlin
515 Clay St.
Mishawaka, Ind.
574 339-6778





PET 22-15

Location Map

PET 22-15

THOMAS & PATRICIA A. MCLAUGHLIN AND
CORY SMITH & ERIN CORCORAN (OWNERS)

515 CLAY ST. & 804 WILSON BLVD.

PUBLIC RIGHT-OF-WAY VACATION FOR
THE 1ST E/W ALLEY LYING BETWEEN LOT
44 AND LOTS 45, 46, AND 47 IN BATTELL'S
2ND PARK ADDITION

Location Map

PET 22-15

THOMAS & PATRICIA A. MC LAUGHLIN AND
CORY SMITH & ERIN CORCORAN (OWNERS)

515 CLAY ST. & 804 WILSON BLVD.

PUBLIC RIGHT-OF-WAY VACATION FOR
THE 1ST E/W ALLEY LYING BETWEEN LOT
44 AND LOTS 45, 46, AND 47 IN BATTELL'S
2ND PARK ADDITION

ST. JOSEPH RIVER

WILSON BLVD

VINE ST

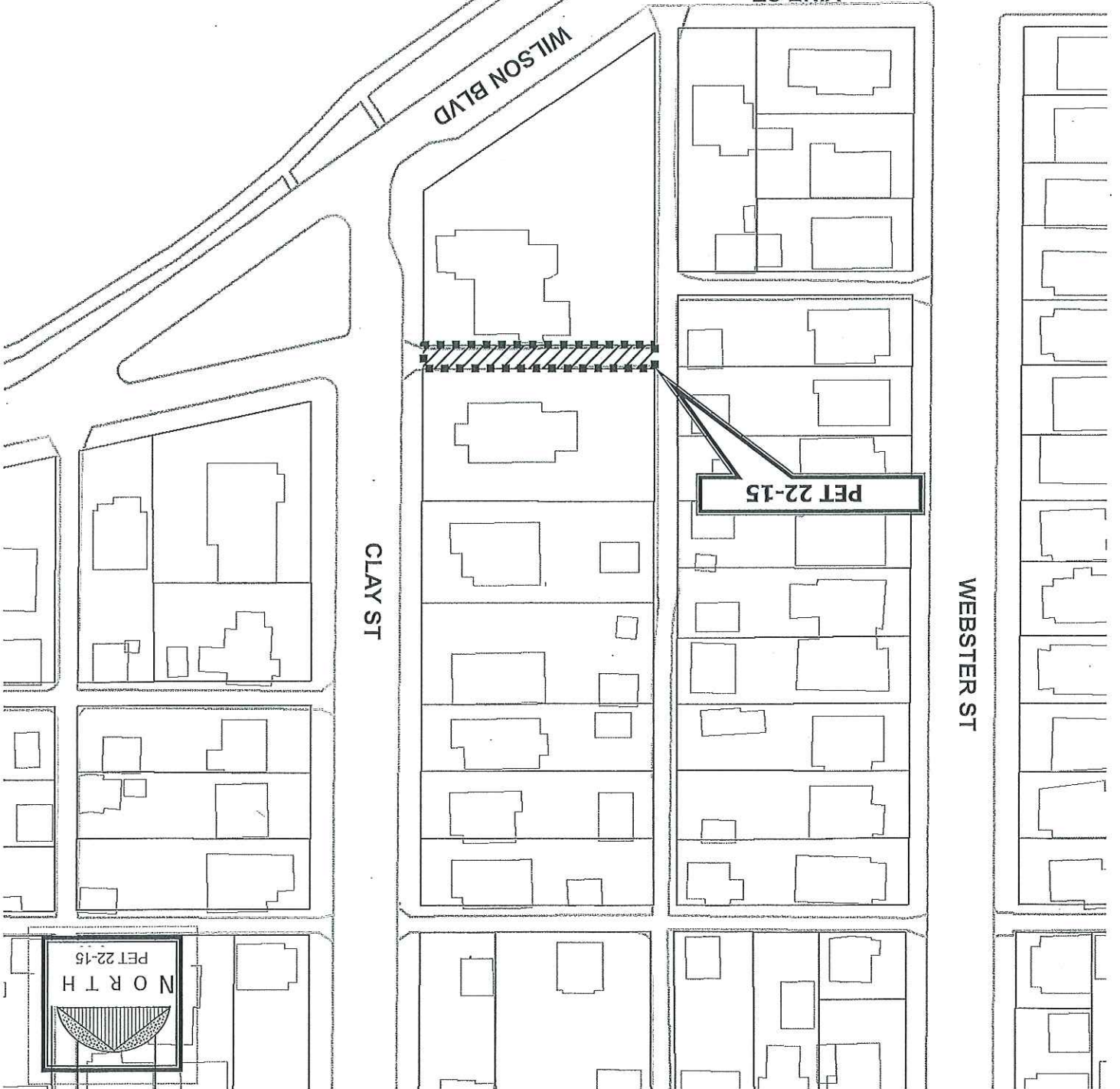
CLAY ST

WEBSTER ST

PET 22-15

NORTH

PET 22-15



STAFF REPORT

Location: 14' wide Alley north of Wilson Blvd and west of Clay Street
Between 515 Clay St. & 804 Wilson Blvd.

Date: Sept. 13, 2022

Petition: 22-15

Prepared By: CH

GENERAL INFORMATION

Applicant: Thomas McLaughlin and Cory Smith & Erin Corcoran
Status: Adjacent Property Owners
Request: Vacate Public Right-of-Way
Zoning Classification: Right-of-Way
Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential (Residential)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential (Residential)
West: R-1 Single Family Residential (Residential)
Thoroughfare: Clay Street and Wilson Blvd.
School District: Penn-Harris-Madison
Public Utilities: Public Right-of-Way
Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioners are requesting to vacate a 14' wide east-west alley lying north of Wilson Blvd and west of Clay Street. The alley is adjacent to 515 Clay St. & 804 Wilson Blvd. It was originally platted between Lots 44 & 45 in Battell's Second Park Addition.

The owners of both 515 Clay and 804 Wilson signed the petition. The alley provides access from Clay Street to a north-south alley between Clay Street and Webster Street. It is offset with the east-west alley providing access between Webster Street and the north-south alley.

The parcel to the north (Tax ID 016-2019-0651/515 Clay), which includes Lots 43 & 44 Battell's Second Park Addition is owned by Thomas and Patricia (deceased) McLaughlin. The parcel to the south (Tax ID 016-2019-0658/804 Wilson Blvd), which includes Lots 45, 46, & 47 Battell's Second Park Addition is owned by Erin B Corcoran and Cory W Smith.

The alley is not paved, but does provide access the Petitioner's garage at 515 Clay. City Utilities have identified water, sanitary and electric within the limits of the alley. Engineering's recommendation is the right-of-way be converted to a utility easement. No buildings or other permanent structures shall be built

within the easement and access to the utilities shall be maintained. Since the petition does not request the release of any utility easement rights, an easement will remain within the vacated area.

The petitioners provided four reasons for the vacation;

- 1) Security. Items were stolen from the Petitioner's garage.
- 2) Damage to property. A fence and boulder, used to mark the property line, have been hit numerous times.
- 3) Safety. A low hanging electric wire could be compromised by larger vehicles (i.e. delivery trucks), and
- 4) Maintenance. Since the alley is unpaved, the City had resurfaced it with crushed concrete. When that deteriorated, Engineering offered to paved the alley. If vacated, the homeowners would be responsible for maintenance.

Additional Planning comments include the City is not responsible for removing the approach. It will be the responsibility of the Petitioner to install a sign, fence, etc. to indicate the alley is now private property.

Both Planning and Engineering would have reservations if any homeowners using the north-south alley would be negatively affected.

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

RECOMMENDATION

Staff recommends in favor of Petition 22-15 to vacate the first east-west alley north of Wilson Blvd and west of Clay Street, between 515 Clay St. & 804 Wilson Blvd. The alley is adjacent to Lots 44 & 45 in Battell's Second Park Addition. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. Vacating the alley would help provide safety and security to an established neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley is unpaved and only provides direct access to one garage, owned by the Petitioner.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial, Photos, Petition, Location Map





A view west from Clay Street



A view west of the alley from between the houses.



A view west of the alley looking at the north-south alley



A view north of the intersection with the north-south alley.



A view east from the alley towards Clay Street

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

State Form 55865 (7-15)
Approved by the State Board of Accounts, 2015
Prescribed by the Department of Local Government Finance

Budget Form No. 4
Generated 9/16/2022 12:00:04 PM

Proposed Ordinance No.2022-32

Ordinance / Resolution Number:

Be it ordained/resolved by the **Mishawaka Common Council** that for the expenses of **MISHAWAKA CIVIL CITY** for the year ending December 31, **2023** the sums herein specified are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same. Such sums herein appropriated shall be held to include all expenditures authorized to be made during the year, unless otherwise expressly stipulated and provided for by law. In addition, for the purposes of raising revenue to meet the necessary expenses of **MISHAWAKA CIVIL CITY**, the property tax levies and property tax rates as herein specified are included herein. Budget Form 4-B for all funds must be completed and submitted in the manner prescribed by the Department of Local Government Finance.

This ordinance/resolution shall be in full force and effect from and after its passage and approval by the **Mishawaka Common Council**.

Name of Adopting Entity / Fiscal Body	Type of Adopting Entity / Fiscal Body	Date of Adoption
Mishawaka Common Council	Common Council and Mayor	10/17/2022

Funds				
Fund Code	Fund Name	Adopted Budget	Adopted Tax Levy	Adopted Tax Rate
0101	GENERAL	\$40,674,726	\$39,402,054	3.0309
0254	LOCAL INCOME TAX	\$0	\$0	0.0000
0341	FIRE PENSION	\$0	\$0	0.0000
0342	POLICE PENSION	\$0	\$0	0.0000
0706	LOCAL ROAD & STREET	\$0	\$0	0.0000
0708	MOTOR VEHICLE HIGHWAY	\$4,516,664	\$2,115,716	0.1627
1151	CONTINUING EDUCATION	\$0	\$0	0.0000
1301	PARK & RECREATION	\$4,549,352	\$3,310,959	0.2547
1310	PARK NONREVERTING - CAPITAL	\$0	\$0	0.0000
2379	CUMULATIVE CAPITAL IMP (CIG TAX)	\$0	\$0	0.0000
2391	CUMULATIVE CAPITAL DEVELOPMENT	\$700,000	\$2,874,180	0.2211
2411	ECONOMIC DEV INCOME TAX CEDIT	\$5,921,600	\$0	0.0000
6290	CUMULATIVE SEWER	\$0	\$0	0.0000
		\$56,362,342	\$47,702,909	3.6694

ORDINANCE OR RESOLUTION FOR APPROPRIATIONS AND TAX RATES

State Form 55865 (7-15)
 Approved by the State Board of Accounts, 2015
 Prescribed by the Department of Local Government Finance

Budget Form No. 4
 Generated 9/16/2022 12:00:04 PM

Name		Signature
Gregg Hixenbaugh	Aye ☐ Nay ☐ Abstain ☐	
Matt Mammolenti	Aye ☐ Nay ☐ Abstain ☐	
Dale "Woody" Emmons	Aye ☐ Nay ☐ Abstain ☐	
Ron Banicki	Aye ☐ Nay ☐ Abstain ☐	
Kate Voelker	Aye ☐ Nay ☐ Abstain ☐	
Mike Compton	Aye ☐ Nay ☐ Abstain ☐	
Anthony "Tony" Hazen	Aye ☐ Nay ☐ Abstain ☐	
Mike Bellovich	Aye ☐ Nay ☐ Abstain ☐	
Maggie DeMaegd	Aye ☐ Nay ☐ Abstain ☐	

ATTEST		
Name	Title	Signature
Deborah Ladyga-Block	City Clerk	

MAYOR ACTION (For City use only)			
Name		Signature	Date
David A. Wood	Approve ☐ Veto ☐		

In accordance with IC 6-1.1-17-16(k), we state our intent to issue debt after December 1 and before January 1 Yes ☐ No ☒

In accordance with IC 6-1.1-17-16(k), we state our intent to file a shortfall appeal after December 1 and before December 31 Yes ☐ No ☒

SEP 15 2022

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-33

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF
MISHAWAKA CHAPTER 62, ARTICLE III, WATER SERVICE AND APPROVING
THE OFFERING OF A WATER SERVICE LINE WARRANTY PROGRAM TO
CUSTOMERS OF THE MISHAWAKA MUNICIPAL UTILITIES**

Section 1. The Common Council for the City of Mishawaka approves the provision by Mishawaka Municipal Utilities to its customers of a water service line warranty program, as reflected in a resolution passed by the Mishawaka Board of Public Works and Safety/Utility Board on or about August 30, 2022.

Section 2. The water service line warranty program shall be offered at no cost to the City, but rather shall be paid by customers who voluntarily decide to participate in the program by purchasing coverage, which they may drop at any time.

Section 3. The City shall make the water service line warranty program available by entering into a contractual arrangement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America, which is the administrator of the National League of Cities Service Line Warranty Program. However, the City may make changes in the specific provider for the water service line warranty program without further action by the Common Council.

Section 4. The water service warranty program shall cover: (a) property owner responsibility from the meter and/or curb box to the external wall of the home; (b) thawing of frozen external water lines; and (c) well service lines, if applicable.

Section 5. The initial cost for the water service warranty program shall be Five and 75/100 Dollars (\$5.75) per month, not inclusive of taxes. The provider of the water service line warranty program may adjust this fee in the future, provided that any such monthly fee adjustment shall not exceed Fifty Cents (\$0.50) in any twelve (12) month period. Any adjustment in the monthly fee in excess of Fifty Cents (\$0.50) must be agreed to by the City in writing, subject to approval by the Common Council.

Section 6. 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 ____ date of _____, 2022, at _____ o'clock, P.M.

Gregg A. Hixenbaugh
Presiding Officer

Attest:

Deborah S. Block, IAMC, MMC
City Clerk

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

Deborah S. Block, IAMC, MMC
City Clerk

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

David A. Wood
Mayor

SEP 13 2022

City Clerk
Mishawaka, IN

RESOLUTION NO. 2022-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND
CONFIRMING THE DESIGNATION OF AREAS WITHIN
THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS

2754 LINCOLNWAY EAST & ADJACENT PARCELS

AS AN ECONOMIC REVITALIZATION AREA AND
ECONOMIC DEVELOPMENT TARGET AREA FOR
PURPOSES OF REAL PROPERTY TAX ABATEMENT FOR

BARAK GROUP, L.L.C., and/or ITS ASSIGNS

WHEREAS, the Common Council of the City of Mishawaka, Indiana, adopted a Declaratory Resolution which designated 2754 Lincolnway East and the adjacent parcels, being more specifically Parcel Numbers 016-1082-3252.02, 016-1082-3252.04, and 016-1082-3253, as shown on the attached Exhibit A and described below, as an Economic Revitalization Area and an Economic Development Target Area.

A PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING A PORTION OF LAND CONVEYED TO SMITA V. PATEL, AS DESCRIBED IN INSTRUMENT NUMBER 1533882, ST. JOSEPH COUNTY RECORDER, AND ALL OF LAND CONVEYED TO BALAJI HOSPITALITY GROUP, LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1013215, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE CENTER LINE OF LINCOLN HIGHWAY EAST IN THE CITY OF MISHAWAKA AS FORMERLY LOCATED, PRIOR TO THE WIDENING OF SAID HIGHWAY BY RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF MISHAWAKA, PASSED APRIL 1, 1935, WHICH IS RECORDED IN MISCELLANEOUS RECORD 55 AT PAGE 327 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, WHICH POINT IS 412.5 FEET EASTERLY FROM THE INTERSECTION OF SAID CENTER LINE OF LINCOLN HIGHWAY WITH THE WEST LINE OF SAID SECTION 13, AND IS THE SOUTHWEST CORNER OF SAID PATEL LAND; THENCE EASTERLY, FOLLOWING SAID CENTERLINE OF LINCOLN HIGHWAY, AS FORMERLY LOCATED, A DISTANCE OF 313.2 FEET TO A POINT 725.7 FEET EASTERLY FROM THE INTERSECTION OF SAID CENTER LINE OF LINCOLN HIGHWAY

WITH THE WEST LINE OF SAID SECTION 13, AND BEING THE SOUTHEAST CORNER OF A PARCEL OF LAND WHICH WAS CONVEYED BY GEORGE F. LAING TO HARRY A. SIPLE AND OLLO D. SIPLE, HUSBAND AND WIFE, BY A WARRANTY DEED DATED FEBRUARY 20, 1937, WHICH IS RECORDED IN DEED RECORD 290 AT PAGES 446-447 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY; THENCE CONTINUING EASTERLY, FOLLOWING SAID CENTER LINE OF LINCOLN HIGHWAY, AS FORMERLY LOCATED, A DISTANCE OF 111.18 FEET; THENCE NORTH 12° 51' 58" EAST A DISTANCE OF 193.83 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE SOUTHWEST CORNER OF LINCOLNWAY CAPITAL CORNER MINOR SUBDIVISION, RECORDED AS INSTRUMENT NUMBER 2022-01612, ST. JOSEPH COUNTY RECORDER; THENCE CONTINUING NORTH 12° 51' 58" EAST, ALONG THE WESTERLY LINE OF SAID SUBDIVISION, A DISTANCE OF 271.49 FEET TO A MAG NAIL MARKING THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE NORTH 89° 44' 21" EAST, ALONG THE NORTH LINE OF SAID SUBDIVISION, A DISTANCE OF 127.85 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE NORTHEAST CORNER OF SAID SUBDIVISION; THENCE NORTH 00° 15' 39" WEST, ALONG THE EAST LINE OF SAID PATEL LAND, 189.6 FEET, MORE OR LESS, TO THE SOUTHERLY EDGE OF WATER OF THE ST. JOSEPH RIVER; THENCE WESTERLY AND SOUTHWESTERLY, FOLLOWING THE MEANDERING OF SAID EDGE OF WATER, TO THE NORTHWESTERLY CORNER OF SAID PATEL LAND, SAID CORNER BEING NORTH 16° 4' EAST (DEED BEARING PER PATEL LAND) OF THE POINT OF BEGINNING; THENCE SOUTH 16° 4' WEST, ALONG THE WEST LINE OF SAID PATEL LAND, A DISTANCE OF 517 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SUBJECT TO ALL RIGHTS OF WAY AND EASEMENTS OF RECORD. SUBJECT TO ADDITIONAL RIGHT OF WAY FOR LINCOLN HIGHWAY (LINCOLNWAY / STATE ROUTE 933) AS SHOWN ON INDOT PLANS PROJECT NO. STP -517110151, CONTRACT "IR 31091", DATED NOVEMBER 24, 2009. PARCEL SUBJECT TO SURVEY.

All the above described property being located within the municipal corporation of the City of Mishawaka, Indiana, and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrances and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area and economic development target area have been met.

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

1. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area and Economic Development Target Area for the purposes of tax abatement. Such designations are for real property tax abatement only and expires on December 31, 2024.
2. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction; provided the same shall be limited to a period of five (5) years for real property only in the following applicable deduction percentages:

Year 1:	100%
Year 2	95%
Year 3	90%
Year 4	85%
Year 5	80%
3. That the petition for tax abatement, and the Statement of Benefits submitted by the Barak Group, L.L.C., for it and its successors and assigns, comply with Indiana Code 6-1.1-12.1-1 et seq. and are hereby approved.
4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code 6-1.1-12.1-2-5 and subsections (d) and (e) of the Act.

The Common Council of the City of Mishawaka, Indiana hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area and Economic Development Target Area for the purposes of tax abatement.

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this ____ day of September, 2022.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk



PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this ____ day of _____, 2022.

Deborah S. Block, IAMC.MMC, City Clerk

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

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

BUILDING - COMMUNITY DEVELOPMENT - PLANNING

September 13, 2022

Deborah S. Block, IAC, MMC

SEP 13 2022

City Clerk
Mishawaka, IN

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Tony Hazen, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Mike Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Greg Hixenbaugh, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Maggie DeMaegd, At-Large City Council
Mrs. Deborah Block, City Clerk

**Re: Confirming Resolutions 2022-21
Tax Abatement- Barak Group
Proposed Steelhead Apartments Multi-Family Residential Development**

Dear Council Members and Clerk:

Please find attached the Confirming Resolution 2022-21 for a tax abatement request that has been filed for consideration at your Monday, September 19th meeting. As was previously referenced when the Council considered and approved the declaratory resolution, the developer is proposing to renovate and convert the existing Mishawaka Inn at 2754 Lincoln Way East into a 47-60 unit multi-family residential apartment building. A second phase is anticipated to include a new building that would include an additional 46-50 units resulting in a total of 93-110 new residential housing units on the 4 acre site. Additional site improvements will include walking trails along the river, landscaped outside seating and gathering areas, a resident barbeque area, and expanded parking areas to the north and west of the existing hotel. The total investment, including the property acquisition, is anticipated to be \$6.85 to \$8.1 million with the construction of the first phase beginning in the first quarter of 2023 and the second phase beginning in the second quarter of 2024.

Nir Davidson, one of the development partners of the completed River Rock apartments on Mishawaka Avenue, currently serves as the President of the Barak Group. Identical to the River Rock apartments and the planned River Walk apartments north of the river and west of Central Park, the request is for a five (5) year abatement on the proposed apartment buildings. A copy of the submitted application and relevant materials is once again attached for your review and information with the Staff prepared resolution. This is the same information previously distributed with the Declaratory Resolution.

The Declaratory Resolution was approved at the Council's September 6th meeting which allowed the Clerk's office to proceed with the special advertising requirements, including notification to other taxing units that would potentially be impacted by abatement. The advertising has occurred and staff is not aware of any remonstrance or comments that have been received regarding the proposed abatement. Please note that in the last 18 years, the City has not received any remonstrance from other taxing units on any proposed abatement. We believe the lack of remonstrance is in part due to the fact that abatements

are always considered concurrent with new growth and development, and that the proposals always represent added value, with or without a tax phase-in. Another factor to consider is that the immediate future financial impact to other taxing units will be minimal with or without an abatement due to the property tax cap and a 25% decrease in the assessed valuation of the building falling from \$633,600 in 2017 to \$470,300 in 2022.

If the site is redeveloped as envisioned, an aged underutilized hotel that currently has negative reputation will be transformed into a viable and highly visible apartment complex on riverfront property. Due to the prior lack of investment in the property, underutilization of the existing hotel, and reduction in property values over the last 5 years, Planning Staff recommended that a real property tax abatement be submitted to assist in redevelopment.

The proposed request is for a five-year abatement on the improvements with a higher than normal annual percent abatement schedule starting at 100% the first year and decreasing 5% annually (95%, 90%, 85%, and 80%) over the 5 year life of the abatement. This abatement schedule is identical to the tax abatements that were submitted for both the completed River Rock apartments on Mishawaka Avenue and approved for the planned River Walk apartments north of the river and west of Central Park. The percentages that were ultimately approved for River Rock were amended on the floor by the Council to 100%, 90%, 85%, 75%, 70% for years one through five respectively.

Accurately predicting values and tax impacts for any abatement request is always a challenge given the numerous variables and estimates involved. As in other recent abatement analyses', we used the following DLGF website to project tax revenue:

<https://gateway.ifionline.org/CalculatorsDLGF/TaxCalculator.aspx>.

This website includes a calculator where you input the location, assessed valuation, and class of property and it outputs the maximum tax for the property. This calculator was used for the below tax projections. The current 2021 tax rate was used, and future years did not estimate any increase or decrease over the abatement period. Although we know the tax rate will increase, we felt that omitting estimates for these changes still provided a reasonable value estimate without being more complicated.

Using the calculator, based on the 2021 tax rate and a \$1,320,000 assessed valuation for Phase I and a \$4,100,000 assessed valuation for Phase 2, the project will have an estimated annual tax bill of \$31,124 for Phase 1 and \$96,674 for Phase 2. Like other recent tax abatement analysis, the assessed valuation for multiple-family residential project is projected at 80% of the construction cost, which in this case is \$1,650,000 and \$5,125,000.

The below tables show the anticipated annual and total amount of tax revenue abated and paid after the completion of Phase I of the project expected to by 2024 and Phase 2 expected by 2025 :

Proposed 5 Year Abatement – With Entire Project consisting of Rental Apartment Units – Phase 1

<i>Tax Year</i>	<i>Percentage</i>	<i>Total Tax</i>	<i>Taxes Paid</i>	<i>Taxes Abated</i>
2024 Pay 2025	100%	\$31,124	\$0	\$31,124
2025 Pay 2026	95%	\$31,124	\$1,556	\$29,568
2026 Pay 2027	90%	\$31,124	\$3,112	\$28,012
2027 Pay 2028	85%	\$31,124	\$4,669	\$26,455
2028 Pay 2029	80%	\$31,124	\$6,225	\$24,899
Total		\$155,620	\$15,562	\$140,058

Proposed 5 Year Abatement – With Entire Project consisting of Rental Apartment Units – Phase 2

<i>Tax Year</i>	<i>Percentage</i>	<i>Total Tax</i>	<i>Taxes Paid</i>	<i>Taxes Abated</i>
2025 Pay 2026	100%	\$96,674	\$0	\$96,674
2026 Pay 2027	95%	\$96,674	\$4,834	\$91,840
2027 Pay 2028	90%	\$96,674	\$9,667	\$87,007
2028 Pay 2029	85%	\$96,674	\$14,501	\$82,173
2029 Pay 2030	80%	\$96,674	\$19,335	\$77,339
Total		\$483,370	\$48,337	\$435,033

Proposed 5 Year Abatement – With Entire Project consisting of Rental Apartment Units – Total Project

<i>Tax Year</i>	<i>Total Tax</i>	<i>Taxes Paid</i>	<i>Taxes Abated</i>
2024 Pay 2025	\$31,124	\$0	\$31,124
2025 Pay 2026	\$127,798	\$1,556	\$126,242
2026 Pay 2027	\$127,798	\$7,946	\$119,852
2027 Pay 2028	\$127,798	\$14,336	\$113,462
2028 Pay 2029	\$127,798	\$20,726	\$107,072
2029 Pay 2030	\$96,674	\$19,335	\$77,339
Total	\$638,990	\$63,899	\$575,091

Tax abatement analysis and discussions typically revolve around finances and often only consider the short-term fiscal impact. However, it is just as important to redevelop underperforming commercial structures to continue to pave the way for future investment.

As always, please do not hesitate to contact our department if you have any questions, or require any additional information. We thank you for your consideration.

Sincerely,



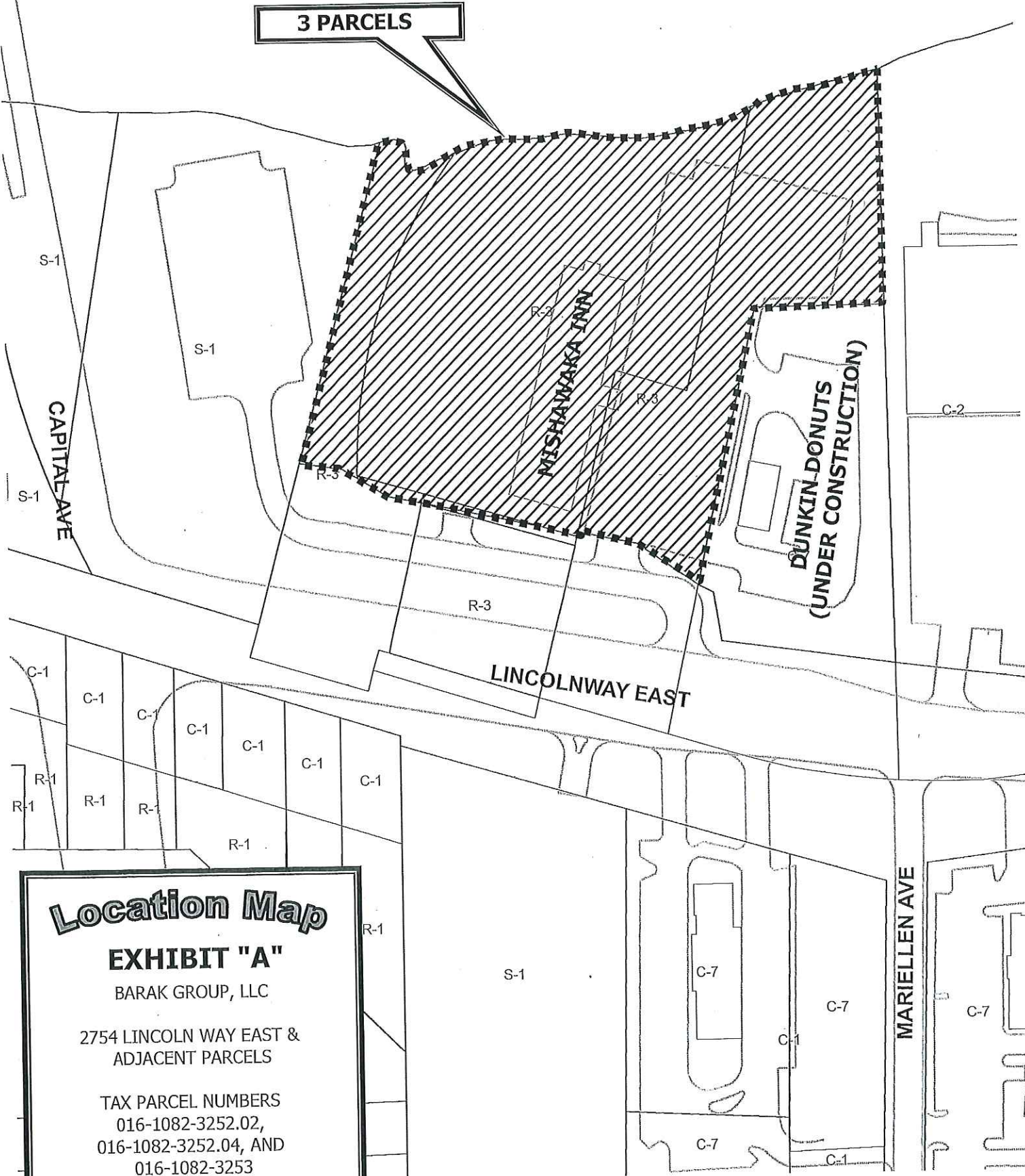
Derek J. Spier, AICP
City Planner

cc: David A. Wood, Mayor



ST. JOSEPH RIVER

3 PARCELS



Location Map

EXHIBIT "A"

BARAK GROUP, LLC

2754 LINCOLN WAY EAST &
ADJACENT PARCELS

TAX PARCEL NUMBERS
016-1082-3252.02,
016-1082-3252.04, AND
016-1082-3253



STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R7 / 1-21)

Prescribed by the Department of Local Government Finance

20__ PAY 20__

FORM SB-1 / Real Property

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- ☐ Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
☐ Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
3. To obtain a deduction, a Form 322/RE must be filed with the county auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between January 1 and May 10 of a subsequent year.
4. A property owner who files for the deduction must provide the county auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
5. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1		TAXPAYER INFORMATION			
Name of taxpayer Barak Group					
Address of taxpayer (number and street, city, state, and ZIP code) 12455 Adams Road, Suite C, Granger, IN 46530					
Name of contact person Nir Davison, President		Telephone number (574) 258-4155		E-mail address nirdavison@gmail.com	
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT			
Name of designating body Common Council of the City of Mishawaka		Resolution number			
Location of property 2754 Lincolnway Avenue East		County St. Joseph		DLGF taxing district number	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Investment of \$1.5-1.8 million in the renovation and conversion of the former Mishawaka Inn hotel into 60 market rate apartments, along with overall site improvements related to the development. This is Phase 1 of a project that is intended to include new construction of an additional 40+ units in a second building.		Estimated start date (month, day, year) March 2023 (Phase 1)/June 2024 (Phase 2)		Estimated completion date (month, day, year) May 2024 (Phase 1)/November 2025 (Phase 2)	
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT			
Current Number 0.00	Salaries \$0.00	Number Retained 0.00	Salaries \$0.00	Number Additional 2.00	Salaries \$90,000.00
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT			
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values		750,000.00		635,000.00	
Plus estimated values of proposed project		7,800,000.00		7,800,000.00	
Less values of any property being replaced		0.00		0.00	
Net estimated values upon completion of project		8,550,000.00		8,435,000.00	
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER			
Estimated solid waste converted (pounds) _____		Estimated hazardous waste converted (pounds) _____			
Other benefits					
SECTION 6		TAXPAYER CERTIFICATION			
I hereby certify that the representations in this statement are true.					
Signature of authorized representative 				Date signed (month, day, year) 08/23/22	
Printed name of authorized representative NIR DAVISON				Title Member	

FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed _____ calendar years* (see below). The date this designation expires is _____. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*
- B. The type of deduction that is allowed in the designated area is limited to:
1. Redevelopment or rehabilitation of real estate improvements ☐ Yes ☐ No
 2. Residentially distressed areas ☐ Yes ☐ No
- C. The amount of the deduction applicable is limited to \$ _____.
- D. Other limitations or conditions (specify) _____
- E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☐ Year 5 (* see below)
☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?
☐ Yes ☐ No
 If yes, attach a copy of the abatement schedule to this form.
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number ()	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by (signature and title of attester)	Printed name of attester	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. Except as provided in IC 6-1.1-12.1-18, the deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17.(a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. Except as provided in IC 6-1.1-12.1-18, an abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



City of Mishawaka Building – Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

REAL PROPERTY TAX ABATEMENT

Indiana State law requires that the designation application and statement of benefits form (SB-1/RE) be submitted prior to the initiation of the project. Additionally, final approval of the Economic Revitalization Area designation must be obtained before starting the installation of the new manufacturing equipment for which tax abatement is being requested.

Prior to submitting the attached application to the City's Department of Planning & Community Development, all questions must be answered as completely as possible and must be signed on the Statement of Benefits Form (SB-1/RE) and last page of the application. Incomplete or unsigned applications will not be accepted. A non-refundable application fee of \$300.00 is required when making an application for Economic Revitalization Area designation and is payable to the City of Mishawaka at the time of submission.

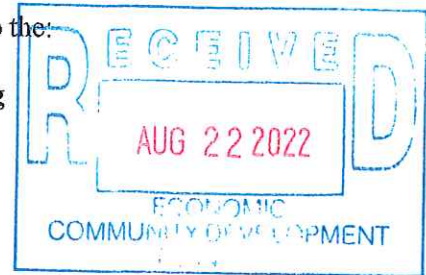
All firms requesting Economic Revitalization Area designation are required to conduct an initial site visit with city staff members prior to a public hearing on the tax abatement request. During that visit, the company shall reveal the capital investment levels, job creation and/or retention levels and hourly wage rates the applicant has committed to the City of Mishawaka in order to receive consideration for Economic Revitalization Area designation and tax abatement deduction.

Additionally, the City of Mishawaka, by and through the Common Council, reserves the right to rescind or "claw back" an Economic Revitalization Area designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, as well as the applicant's failure to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City rescinds the Economic Revitalization Area designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be determined at the time of the "claw back."

Questions, applications, and fees should be directed to the:

City of Mishawaka
Building - Community Development - Planning
600 East Third Street
Mishawaka, Indiana 46544
Attention: Kenneth B. Prince, City Planner
574-258-1625
kprince@mishawaka.in.gov



1. Name of the company for which Economic Revitalization Area (ERA) designation is being requested:

Barak Group

2. State the name, title, address and telephone number of a company representative who may be contacted concerning this application:

Name and Title: Nir Davison, President

Address: 12455 Adams Road, Suite C, Granger, IN 46330

Telephone: 574.258.4155

3. State the name, title, address and telephone number of a company representative who may be sent annual compliance surveys. Please note that the annual survey will determine if your company is compliant with the terms of the abatement agreement and whether the abatement will continue or be terminated, so the contact should be made aware of the survey's importance.

Name and Title: Steve Ruby, Landscape Architect - Abonmarche Consultants

Address: 315 West Jefferson Blvd., South Bend, IN 46601

Telephone: 574.538.2201

4. Location of property for which ERA designation (real property tax abatement) is being sought (this information is available through the Township Assessor's Office):

a) Street Address: 2754 Lincolnway East, Mishawaka, IN 46544

b) Township: Penn Township

c) Taxing District Number: 022

d) Council District Number: District 3

e) Tax Parcel Number(s): 016-1082-325202

f) Current Zoning of the Property: R 3 - Residential

g) Case/approval number of any variance, rezoning, or approval petition(s) which is/are required or have been obtained for this project: PET 22-07

5. What is the amount of the most recent assessment attributable to (this information is available from the most recent property tax form):
- Land: \$164,700
- Improvements: \$431,100
- Inventory: N/A
- Equipment: N/A
6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? xx Yes No
7. Does your company currently conduct manufacturing operations at this location? If so, how long has your company been at this location? No, the project is a residential project and will not involve manufacturing activities
- a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. N/A
- b) Please list any special certifications/designations.
N/A
8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.
Barak Group Headquarters in Granger, Indiana. Additional properties under development in Elkhart, Mishawaka and South Bend, along with other operations in Michigan and Florida.
9. What is the size of the real estate that will be developed? (in acres) 3.98 +/- acres
10. What is the estimated construction or rehabilitation cost? Phase 1 \$1.5-1.8m; Phase 2 \$4.75-5.5m
11. Have building permits been obtained? *(Please note that state statute requires petitioner to file abatement application **before** obtaining permits) Yes xx No
12. Does your company/business require contractors working on construction projects on your property to use the E-Verify system to verify the eligibility of their employees to work in the United States?
 Yes No
13. What is the anticipated date for construction to begin? Phase 1: 1st Quarter 2023
Phase 2: 2nd Quarter 2024
14. What is the anticipated date for project completion? Phase 1: 12-18 months after start of construction; Phase 2: End of 2025
15. Profile of Company that will occupy the property for which tax abatement is being requested:
- a) Are your employees represented by a union? If so, by whom? No
- b) Does your business/company verify the eligibility of your employees to work in the United States using the E-Verify system? Yes No

- c) Number of current full time permanent hourly employees by skill level (include average hourly wage rate **excluding benefits and overtime**) N/A
- d) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.) N/A
- e) Approximate value of benefits for existing and new employees on a per hour basis (e.g. benefits are valued at an additional \$3.00 per hour, etc.) N/A
- f) What is the total dollar amount spent on retained salaries? N/A
- g) Number of created full-time permanent hourly employees by skill level (include average hourly wage rate **excluding benefits and overtime**)

Skilled	<u> </u>	Average hourly wage rate for skilled positions	<u> </u>
Semi-skilled	<u> </u>	Average hourly wage rate for unskilled positions	<u> </u>
Clerical	<u> </u>	Average hourly wage rate for clerical positions	<u> </u>
Salaried	<u> 2 </u>	Average salary (per hour) for salaried positions	<u> \$21/hr </u>

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time)

- h) What is the total dollar amount to be spent on new salaries? \$90,000
- i) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for:
- | | |
|---------------------------|--------------------|
| Current hourly employees | <u> N/A </u> |
| Retained hourly employees | <u> N/A </u> |
| New hourly employees | <u> \$21/hr </u> |
- j) (if applicable)What is the usual market for goods or services produced by the company? List the percentage of the company's product or service that reaches:

Inside St. Joseph County:	<u> </u> %
Outside St. Joseph County, but inside Indiana:	<u> </u> %
Outside Indiana, but within 500 miles	<u> </u> %
Outside of 500 miles	<u> </u> %
Outside of the United States:	<u> </u> %

- k) (if applicable)List the name and location (City and State) of your five largest vendors or suppliers:
1. N/A

16. Describe the project for which tax abatement is being requested. Include the types of improvements that will be made, and indicate whether improvement is freestanding or an expansion to existing facility. In addition, indicate whether your company will utilize the entire project space or lease a portion of it to an outside company.

The proposed project involves the rezoning and conversion of the existing hotel building into a 47-60 unit multi-family apartment building. A future project phase will include the construction of a second apartment building to include an additional 46-50 units, providing for a total of 106-110 new residential housing units on the site. The developer is proposing an investment of \$1.5-1.8 million specifically for the costs associated with the renovation and conversion of the existing hotel building, with an additional investment of \$4.75-5.5 million related to the construction of the second building. Additional site improvements will include walking trails along the river, landscaped outside seating and gathering areas and a resident BBQ area. The total investments by the developer including property acquisition, renovation of the existing building and construction of the new building will represent approximately \$6.85-8.1 million dollars, transforming a building and site that has not seen significant investment in many years, and has established a negative reputation while occupying a highly visible riverfront location. The developer is anticipating utilizing the full 4 acres for the construction of the buildings, site improvements and parking.

The developer is seeking a 5 year abatement of taxes under the following schedule for each separate phase of the proposed development:

<u>Year 1</u>	<u>100% Deduction</u>
<u>Year 2</u>	<u>95% Deduction</u>
<u>Year 3</u>	<u>90% Deduction</u>
<u>Year 4</u>	<u>85% Deduction</u>
<u>Year 5</u>	<u>80% Deduction</u>

It is the understanding of the developer that the abatement period for each phase would not start until the appropriate building permits are issued to begin the construction activities related to the identified phase. As such, the Abatement period for Phase 2 would not begin until construction permits would be issued for the new building.

17. Briefly describe the product or service of the company/business which will occupy the property for which tax abatement is being requested.

The proposed future use of the property will be approximately 106-110 multi-family residential apartments. Converting the existing under-performing commercial hotel use to apartments will expand housing opportunities within the City of Mishawaka. A project site plan, individual unit layout and proposed building floor plan are included with this application.

18. What evidence can be provided to show the positive impact the abatement will have on the project property and surrounding area?

The existing hotel building has experienced a lack of investment, and currently operates with only 27% of the rooms in use. Property tax records indicate that while the value of the land has appreciated by 6%, the value of the building and improvements have actually decreased by 25% over the last 5 years, falling from \$788k to \$470k. The investment of the developer will help reverse this trend, resulting in increases in the valuation of the property and allowing the City to recover any abated taxes over the life of the property. Additionally, the project will result in the construction of approximately 106-110 multi-family residential apartments, expanding housing opportunities within the City of Mishawaka. The project will be a market rate rental project, with rents expected to range between \$800-1,100 per month based on apartment size and configuration. The abatement, in conjunction with cost savings associated with renovation of the existing structure, should allow for the developer to maintain rent costs that are attainable to a larger share of the local housing market demand. According to market research published by Cressy Commercial, the current multi-family absorption rates in the City of Mishawaka were over 150 units per year, while only 56 units were under construction. It is expected that the multi-family market demand will remain strong as interest rates increase, reducing the home purchase demands. This project should be well received within the local market.

19. Please give a detailed description of what the impact on your business will be if the proposed project is not undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

The developer is committed to closing on the acquisition of the property in mid-August, and moving ahead with the project. The value of the requested abatement represents additional

dollars that will be available for investment by the developer to increase the scope and level of investment into the construction of the project.

20. Will you require any additional assistance from the City of Mishawaka?

The developer has sought the support and assistance of the Mishawaka Plan Commission and Council to rezone the property to R3 to accommodate the proposed multi-family use of the project, as well as the Mishawaka BZA for a variance to allow for a reduction in the amount of required parking to support the residents of the project.

21. Have you applied for any assistance from the State of Indiana?

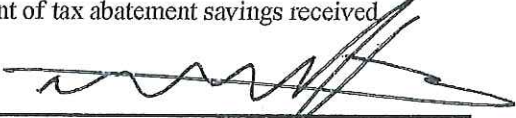
The developer has not applied for assistance from the State of Indiana regarding the proposed development project.

22. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.
- Attach a map and/or a plan of the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Real Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.



Signature of Owner or Authorized Representative

Title

Date

owner

August 16th 22

1117 N. Ashland Blvd.
 Chicago, IL 60642
 Tel: (773) 328-1111
 Fax: (773) 328-1112
 Website: www.abonmarche.com
 ABONMARCHÉ

LINCOLNWAY HOTEL SITE,
 MISHAWAKA, IN

PROJECT:

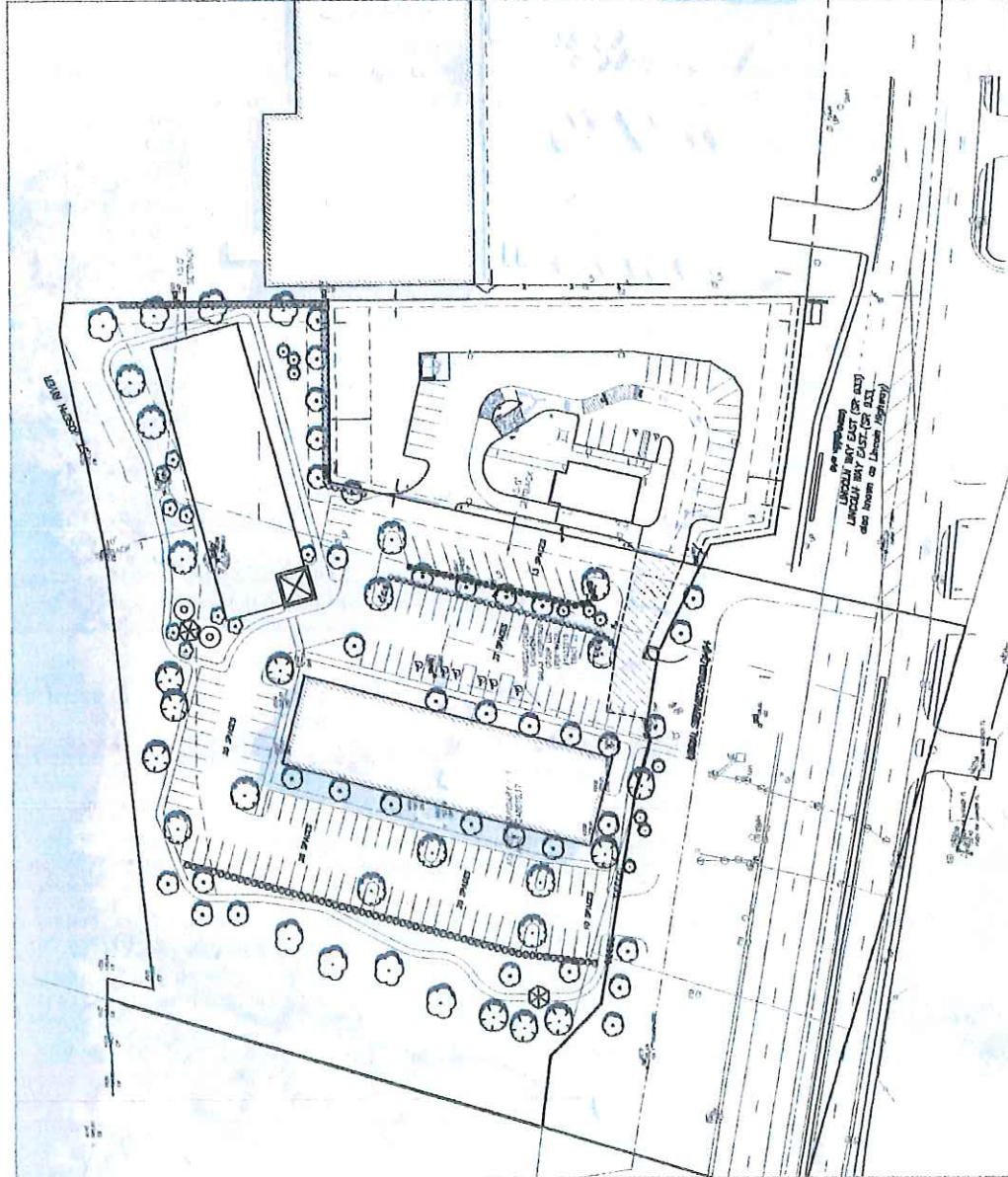
1117 N. Ashland Blvd.
 Chicago, IL 60642
 Tel: (773) 328-1111
 Fax: (773) 328-1112
 Website: www.abonmarche.com
 ABONMARCHÉ

Preliminary
 Not for
 Construction

DATE: 11/11/11
 SCALE: 1" = 40'
 SHEET: 22-0682
 PROJECT: 22-0682

Current Zoning: C-1 General Commercial
 Current Zoning: C-7 General Commercial
 Proposed R-3 Residential Zoning

Proposed Apartment UNITS: 100-106
 Parking Required: 159
 Parking Provided: 128



1117 N. Ashland Blvd.
 Chicago, IL 60642
 Tel: (773) 328-1111
 Fax: (773) 328-1112
 Website: www.abonmarche.com
 ABONMARCHÉ



ST JOSEPH RIVER

LINCOLN WAY EAST (SR 933)

CAPITAL AVE

IMAGES FOR ILLUSTRATION PURPOSES ONLY

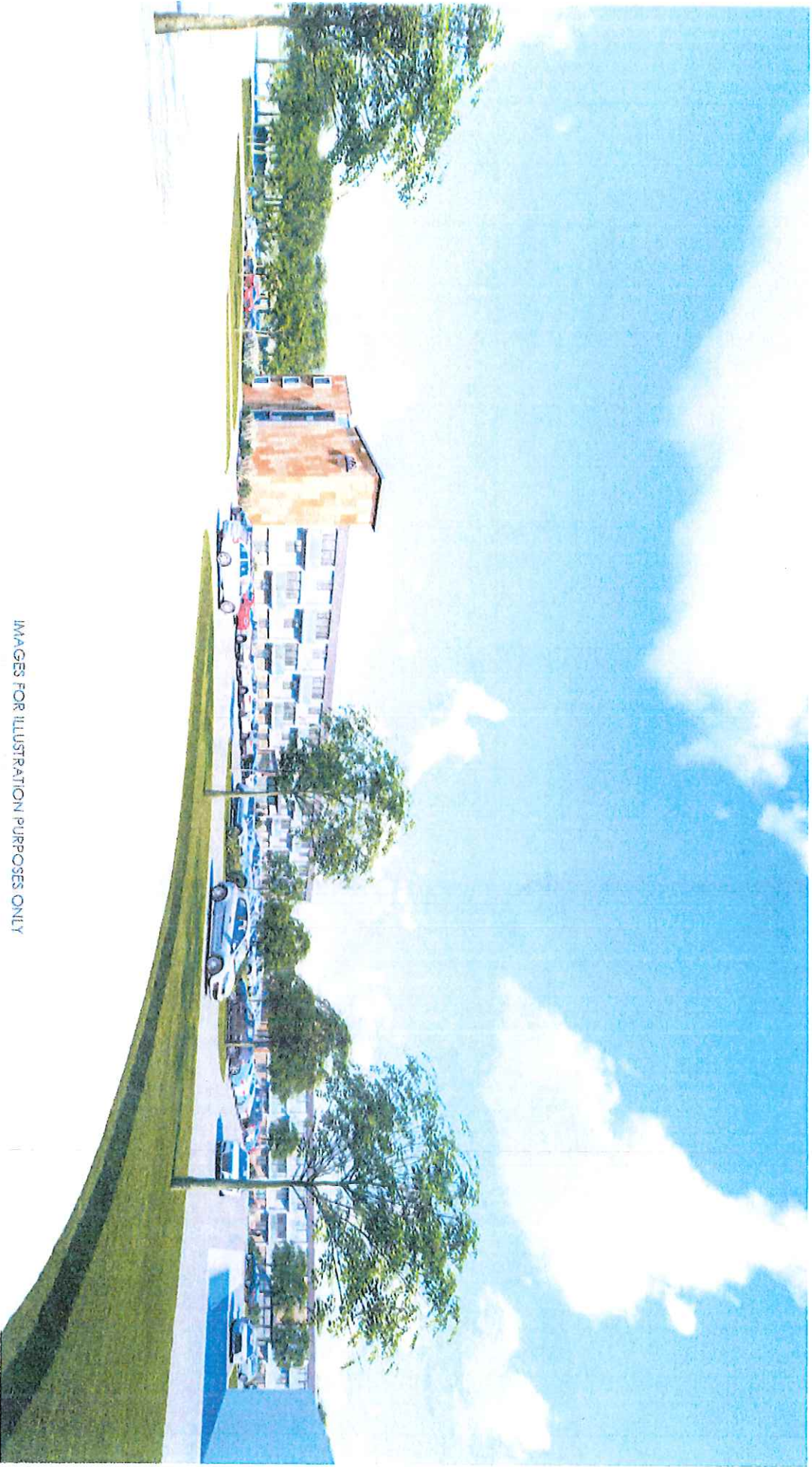


IMAGES FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS

 Barak Group LLC

 ABONMARCHE



IMAGES FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS


Baird Group LLC

 ABONMARCHE



ABONMARCHE

IMAGES FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS



IMAGES FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS


Barck Group LLC

 ABONMARCHE



IMAGES FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS

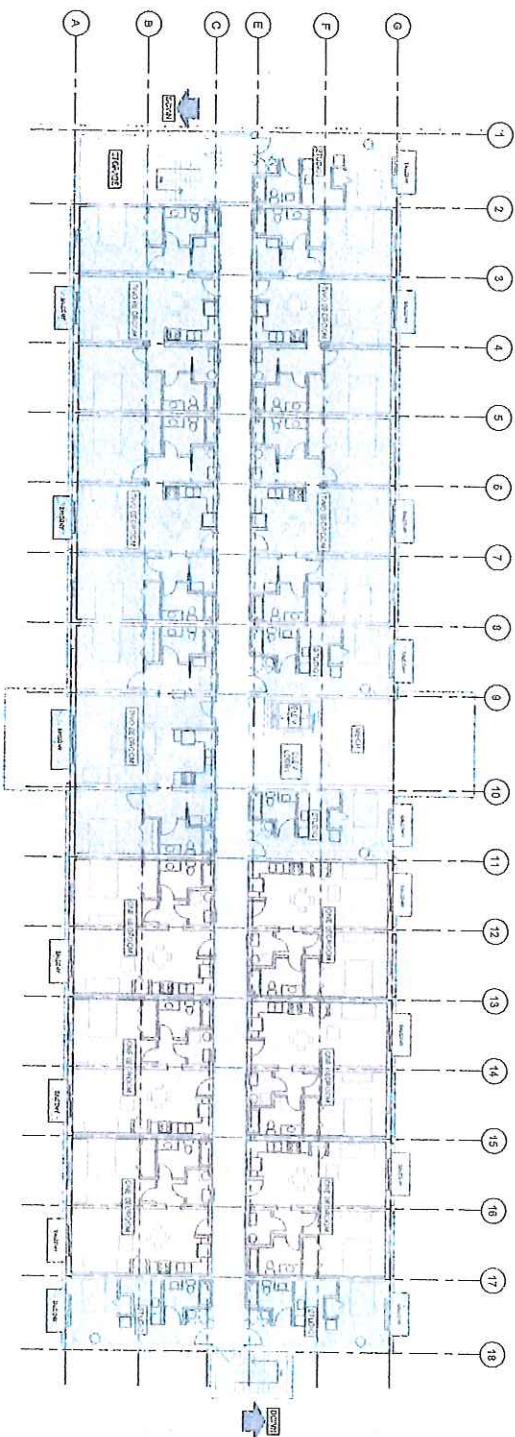


FOR ILLUSTRATION PURPOSES ONLY

STEELHEAD APARTMENTS

 Borak Group LLC

 ABONMARCHÉ



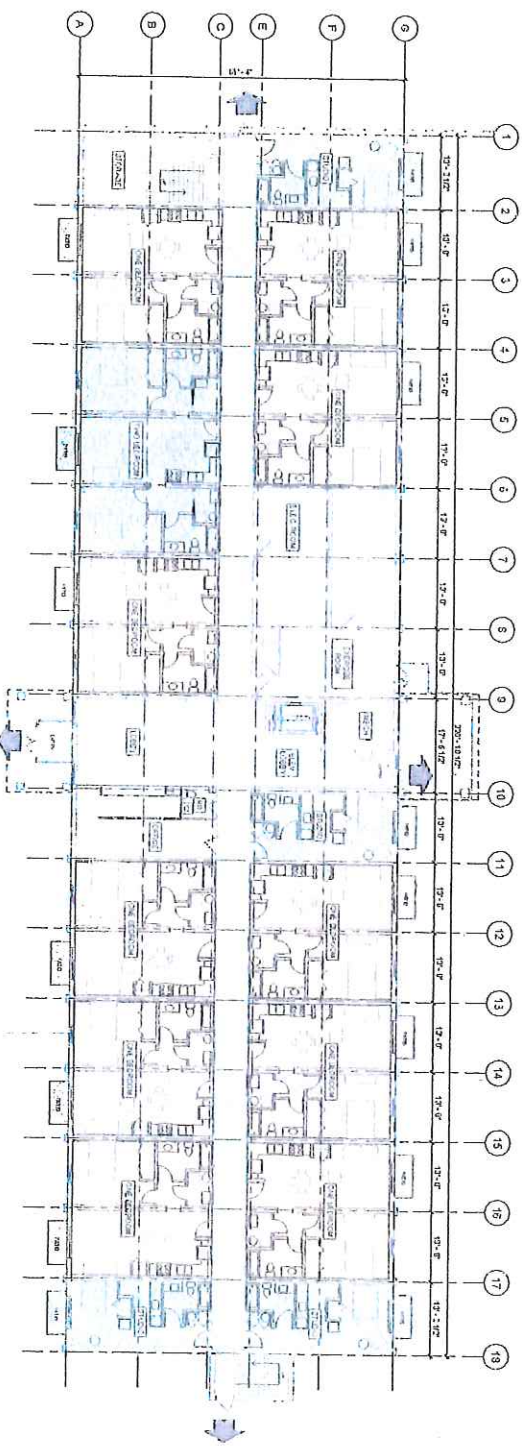
2 PROPOSED SECOND & THIRD FLOOR PLANS
2022 S.F.

14,050 S.F. / FLOOR



LEGEND

	ELEVATOR
	STAIRCASE
	CORRIDOR
	ROOM
	UTILITY ROOM



1 PROPOSED FIRST FLOOR PLAN
2022 S.F.

14,000 S.F.

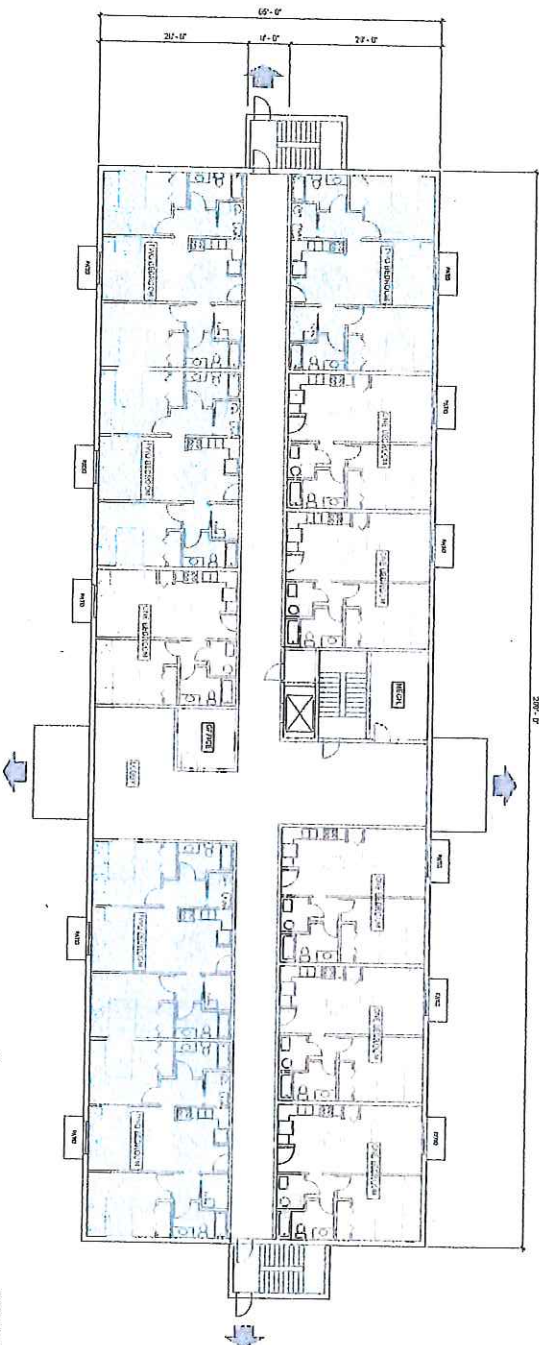
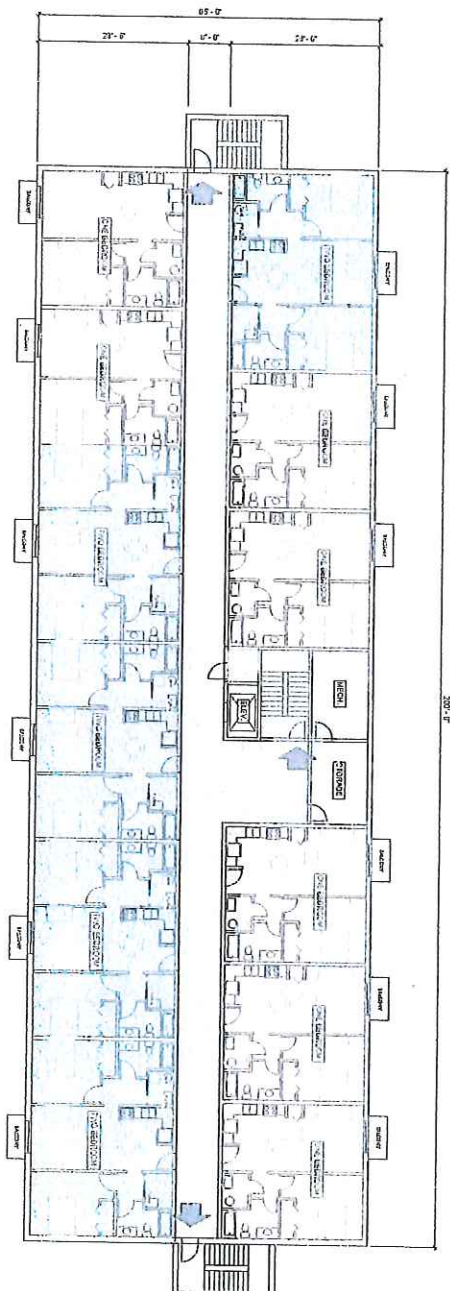


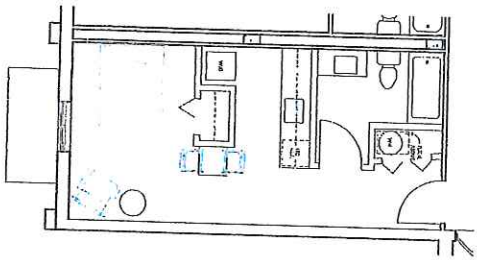
APARTMENT BREAKDOWN

APARTMENT TYPE	NUMBER OF UNITS	SQ. FT. PER UNIT	TOTAL SQ. FT.
STUDIO	10	450	4,500
1 BEDROOM	20	750	15,000
2 BEDROOM	10	1,100	11,000
TOTAL UNITS	40		30,500

STEELHEAD APARTMENTS
MISHAWAKA, INDIANA
08-01-2022

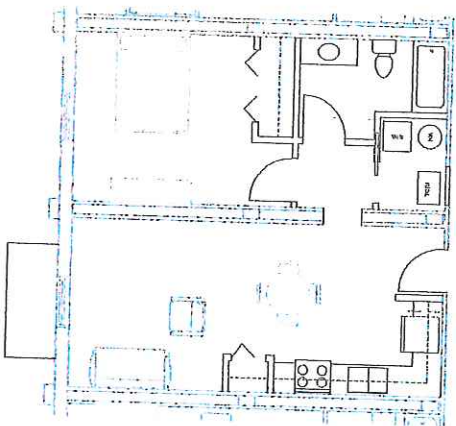






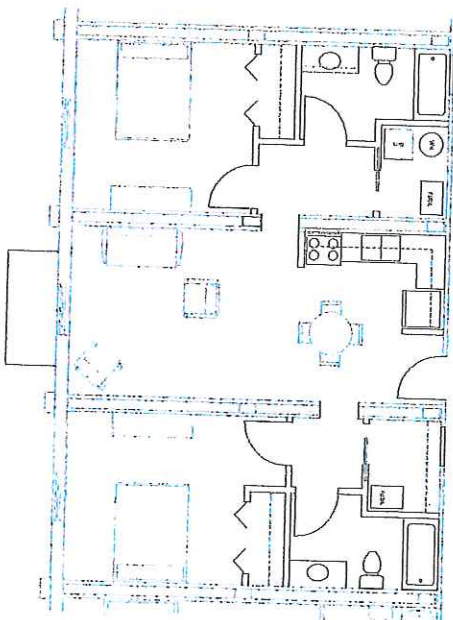
① STUDIO UNIT

328 SF



② ONE BEDROOM UNIT

688 SF



③ TWO BEDROOM UNIT

1003 SF

STEELHEAD APARTMENTS
MISHAWAKA, INDIANA
08-01-2022



Steelhead Apartments Construction Budget Estimates

These estimates should be considered preliminary stage estimates. An extensive evaluation of the existing structure, mechanical systems, floor plan layouts, and fire suppression system needs is currently in progress. Information gathered during the evaluation will impact the final renovation activities and costs.

I. Exterior

- A. Roof: \$200,000
- B. Siding improvements: \$225,000
- C. Landscape: \$115,000

II. Interior

- A. 47 Units: \$1,002,000
 - 14 studio units @ \$15k = \$210,000
 - 22 single bed units @ \$20k = \$440,000
 - 11 double bed units @ \$32k = \$352,000
 - B. Common Areas: \$200,000
 - C. Common - Mechanicals: \$100,000
 - D. Fire Suppression: \$250,000
 - E. Elevator: Unknown
 - F: Others
- Projected estimation at this stage \$1,800,000

SEP 15 2022

City Clerk
Mishawaka, IN

RESOLUTION NO. 2022-22

As Amended

**A Resolution of the Common Council of the City of Mishawaka Adopting a Plan for
Distribution of the Proceeds of the City of Mishawaka's Grant from the American Rescue Plan
Act of 2021**

WHEREAS, the federal government enacted the American Rescue Plan Act of 2021 (ARPA) on or about March 11, 2021; and

WHEREAS, on or about May 17, 2021, the Common Council of the City of Mishawaka adopted Ordinance 2021-16, thereby establishing the ARPA Coronavirus Local Fiscal Grant Fund #180 in order to hold and receive ARPA monies allocated to the City in 2021 and 2022; and

WHEREAS, the terms of Ordinance 2021-16 and the relevant requirements of the ARPA require the Common Council to adopt a plan that details the use of ARPA funds.

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

Section I – General Terms

- A. The City's distribution of the ARPA funds detailed in this Plan and any future amendments to this Plan shall be limited to the following uses of the funds authorized by the ARPA statute:
 - 1. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
 - 2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
 - 3. For the provision of government services to the extent of the reduction in revenue of the City due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the City prior to the emergency, that being 2019; or
 - 4. To make necessary investments in water, sewer, or broadband infrastructure.
- B. The Common Council may amend this Plan to comply with ARPA, any subsequent amendments to ARPA, and the rules adopted by the United States Treasury Department to implement ARPA, including the Interim Final Rule (31 CFR Part 35).

- C. Prior to the disbursement of any ARPA funds, the Common Council, as the fiscal body, must appropriate said funds for a use that is consistent with the statutory purposes set out above.
- D. The Plan's procedures and designated uses for distribution of ARPA funds are stated in the following sections below, as from time to time may be amended.

Section II – Premium Pay to Eligible Employees

- A. The Common Council finds that all employees of the City of Mishawaka, including employees of the Mishawaka Municipal Utilities, who worked for the City of Mishawaka from the start of the COVID-19 public health emergency through November 30, 2021, performed duties that were critical to protecting the health and wellbeing of the community. These City employees put their physical wellbeing at risk to meet the daily needs of the community and to provide care for others. To the extent necessary under the terms of Section 603(g)(2) of the ARPA, the Mayor of Mishawaka has also deemed each employee described above to have performed essential work critical to protect the health and well-being of residents. Therefore, all of the above-described employees who are employed by the City as of November 30, 2021, are hereby designated as "eligible employees" pursuant to Section 603(g)(2) of the ARPA and so shall be eligible to receive premium pay pursuant to the ARPA.
- B. The City will issue "premium pay" to all "eligible employees", including department heads, for all hours worked during the relevant time period that constituted "essential work", which is defined by the Interim Final Rule as "work involving regular in-person interactions or regular physical handling of items that were also handled by others." An employee will be deemed to not have engaged in essential work, and accordingly may not receive premium pay, for telework performed from a residence. The term "hours worked", as used in this subsection, does not include vacation time, sick time, COVID-19 time, holiday time, or any other non-worked time. The hours and time records of each "eligible employee" have been reviewed and determined to accurately demonstrate the number of "hours worked" at "essential work" performed by each "eligible employee". All such reviews and any "premium pay" payments to "eligible employees" will be subject to the Internal Controls policy previously adopted by the City of Mishawaka in Ordinance No. 5532, amended by Ordinance No. 5639.
- C. The Common Council finds that the "premium pay" that is established in this Plan responds to the "essential work" performed by "eligible employees" by addressing the heightened risk to essential workers who were required, and continue to be required, to be physically present at their assigned work location during the COVID-19 public health emergency.
- D. Eligible employees shall receive premium pay calculated at an hourly rate not to exceed Thirteen and 00/100 Dollars (\$13.00) per hour and further capped at the gross amounts set out below:

1. Lead Medic	\$3,000.00
2. Sworn Fire and Police	\$2,500.00
3. Non-Lead Medic and Advanced EMT	\$1,000.00
4. Teamsters and Certain IT Employees	\$2,000.00
5. Civil City Full Time Employees	\$1,570.00
(Includes Park, Redevelopment and Utility employees)	

- E. To the extent that the “premium pay” established by this Plan increases total compensation for certain employees during the relevant time period above One Hundred Fifty Percent (150%) of Indiana’s average annual wage for all occupations, as defined by the Bureau of Labor Statistic’s Occupational Employment and Wage Statistics, or the employee’s residing county’s average annual wage, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the Common Council finds that the employee’s receipt of “premium pay” is justified and responsive to the needs of employees performing essential work during the public health emergency as required by the Interim Final Rule. Specifically, the Common Council has determined that the “premium pay” calculation set forth above is appropriate given the known and potential risks that all eligible employees faced while performing essential work on behalf of the citizens of Mishawaka, given that City services have continued without interruption during the public health emergency. Furthermore, the Common Council has determined that the receipt of “premium pay” by all “eligible employees” serves the best interests of the community by promoting the retention of the highly qualified essential employees that Mishawaka is dependent upon to continue to provide essential services as the public health emergency remains ongoing. Finally, the Common Council finds the receipt of premium pay by all eligible workers serves the best interests of the community by facilitating the maintenance of employee morale and equity between various employee work groups. The Common Council also finds that the varying levels of maximum “premium pay” set forth in Section II.D. are justified and have been set in light of unique risks and duties the applicable employees faced and carried out during the public health emergency.
- F. The “premium pay” established by this Plan and received by “eligible employees” shall be reduced by appropriate deductions for any applicable federal, state, or local taxes. Furthermore, the City will use ARPA funds in order to satisfy related social security, Medicare, and mandatory retirement plan contributions that are attributable to “premium pay”, as required by Indiana law.

Section III – Reduction in Revenue Due to the COVID-19 Public Health Emergency

- A. On January 6, 2022, the U.S. Department of the Treasury adopted a Final Rule implementing the Coronavirus State and Local Fiscal Recovery Funds (SLFRF). By agreement with the Mayor and the Administration, the Common Council elects to use

the "Standard Allowance" as indicated in the Final Rule, up to the grant amount, but not to exceed the sum of Ten Million and 00/100 Dollars (\$10,000,000.00).

- B. Consistent with the terms of the Final Rule and any future guidance issued by the U.S. Department of the Treasury, all sums expended for the replacement of lost revenue via the Standard Allowance must be used to fund allowable "government services."
- C. The expenditure of these funds shall remain subject to further amendment of this Resolution and Plan, as well as the approval of an additional appropriation.
- D. As part of the replacement of lost revenue referenced above, the following grants and subsidies are approved, subject to the separate approval of a corresponding appropriations ordinance (Proposed Ordinance No. 2022-29):
 - 1. Boys and Girls Club \$750,000.00
 - 2. Youth Services Bureau \$375,000.00
 - 3. Troop Town \$325,000.00
 - 4. Mishawaka Building Trades \$275,000.00
 - 5. M-P-H Public Library \$50,000.00
 - 6. The Res \$35,000.00
- E. The receipt of the grants and subsidies set out above shall be subject to the individual recipient's execution of and compliance with the required Mishawaka Coronavirus Relief Grant Program Sub-Recipient Agreement, a true and accurate copy of which is attached hereto and incorporated by reference as is fully set out herein as Exhibit "A."

Section IV – Conclusion

- A. This Plan is subject to amendments as more permitted uses are determined by the ARPA, U.S. Treasury Department guidance, and as priorities for the City develop.
- B. This Resolution and the Plan contained shall be in full force and effect upon passage by the Common Council.

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

Gregg A. Hixenbaugh /s/
Gregg A Hixenbaugh
Presiding Officer

ATTEST:

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

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

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

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

David A. Wood /s/
David A. Wood
Mayor

EXHIBIT "A"

CITY OF MISHAWAKA, INDIANA

COMMUNITY ENHANCEMENT, RECOVERY, & SUPPORT INITIATIVE SUB- RECIPIENT AGREEMENT

AGREEMENT NUMBER

THIS AGREEMENT is entered into this XX day of XXX, 202X by and between the City of Mishawaka, State of Indiana (the "City") and the SUB-RECIPIENT (the "Sub-Recipient").

WHEREAS, pursuant to this grant the City is undertaking certain activities; and

WHEREAS, the City desires to engage the Sub-Recipient to give certain assistance in connection with such undertakings; and

WHEREAS, funds supporting projects requested under this Agreement will have funds provided through the "American Rescue Plan Act of 2021" ("ARPA"); and

WHEREAS, the City makes no representations or guarantees about funding beyond the Agreement period as this Agreement is being funded with one time dollars from the ARPA; and

WHEREAS, because this Agreement will be utilizing ARPA funds the City has designated as "Revenue Replacement" funds, the Sub-Recipient will not be responsible for compliance with federal regulations applicable to ARPA funds with respect to eligibility of Project categories;

NOW, THEREFORE, the City and the Grantee do mutually agree as follows:

1. **DEFINITIONS:** --As used in this Agreement:
 - a. "Sub-Recipient" means the entity, whether public or private, which has the responsibility for administering a project or activity.
 - b. "Project" means activities described in Appendix I to this agreement.
 - c. "Principal" means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.
 - d. "Common Council" means the Common Council of the City of Mishawaka.
2. **ATTACHMENTS:** The following appendices are attached and made part of this Agreement:
 - a. Appendix I – "Project Description"
 - b. Appendix II – "Entity Annual Report"
 - c. Appendix III – "Project Expenditure Report"
3. **AMENDMENTS:** Any revision to this Agreement, including Appendices, shall be made by written amendment to this Agreement.
4. **SUBCONTRACTING:** The performance covered by this Agreement shall not be subcontracted, assigned, or delegated without prior written consent of the City. The Sub-Recipient will provide copies of all contracts, agreements, and other documentation to the City in relation to a subcontract or subaward of this Agreement.

5. PURPOSE OF THIS GRANT AGREEMENT; GRANT FUNDS: The purpose of this Sub-Recipient Agreement ("the Agreement") is to enable the City to award a grant of \$XXX,XXX to the Sub-Recipient for eligible costs of the services or project (the "Project") described in Appendix I of this Agreement, which are incorporated fully by reference. The funds shall be used in accordance with the provisions contained in this Agreement. The funds received by the Sub-Recipient pursuant to this Agreement shall be used only to implement the Project or provide the services in conformance with this Sub-Recipient Agreement and for no other purpose.
6. REPRESENTATIONS AND WARRANTIES OF THE SUB-RECIPIENT:
- The Sub-Recipient expressly represents and warrants to the City that it is statutorily eligible to receive these ARPA funds and that the information provided to the City with respect to the Project is true, complete, and accurate. The Sub-Recipient expressly agrees to promptly repay all funds paid to it under this Sub-Recipient Agreement should it be determined either that it was ineligible to receive the funds, or it made any material misrepresentation in information provided to the City in relation to this Agreement or the Project, or that it utilized ARPA funds other than to implement the Project or provide the services in conformance with this Sub-Recipient Agreement.
 - The Sub-Recipient certifies by entering into this Sub-Recipient Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Sub-Recipient Agreement by any state department or agency.
 - The Sub-Recipient shall file the annual financial report required by IC §5-11-1-4 in accordance with the State Board of Accounts Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance From Governmental Sources. The Sub-Recipient should use the information in Appendix II as a guide to complete this annual financial report. Appendix II is attached hereto and is full incorporated herein. All grant documentation should be retained and made available to the State Board of Accounts if and when requested. The City agrees to complete the information in Appendix II.

This annual report is not to be confused with the periodic filing of the Indiana Secretary of State's Business Entity Report. Additional information concerning this annual financial report can be obtained using notforprofit@sboa.in.gov.

7. IMPLEMENTATION OF AND REPORTING ON THE PROJECT:
- The Sub-Recipient shall implement and complete the Project in accordance with Appendix I and with the plans and specifications it provided to the City. Modification of the Project shall require prior written approval of the City.
 - The Sub-Recipient shall submit to the City a monthly/quarterly/annual Project Expenditure Report until the completion of the Project. These reports will be in a form prescribed by the City in Appendix III and shall contain detail of expenditures for the Project as is requested by the City. This Project Expenditure Report must include, at a minimum, itemized Project expenses, labor performed, copies of Project-related contracts executed by the Sub-Recipient, photographs of the Project progress (if applicable), attestation under penalty of perjury by Project principal(s) of the progress of the Project, a comparison of the Project progress to any projected timeline in the Program description attached at Appendix I, and any other information or documentation that the Sub-Recipient believes shows Project progress.
 - Reports are due within XX days of the end of the reporting period established by this Agreement. The reporting periods shall be monthly/quarterly/annually beginning on the first day of the month following the commencement date of this Agreement. Any expenditures for the Project between the commencement date and the start of the reporting period shall be included in the first report.
 - Any report submitted by the Sub-Recipient to the City will be reviewed to ensure the ARPA funds are being spent in a manner compliant with this Agreement. Any report which the City determines in its sole discretion does not satisfactorily demonstrate such compliance will be rejected and sent back to the Sub-Recipient with a description of the deficiency. Sub-Recipient will be allowed to re-submit new or additional documentation

to demonstrate compliance. If the City rejects the report a second time, this Agreement will automatically terminate, and any ARPA funds spent by the Sub-Recipient which the City has determined from the report was not compliant with this Agreement, must be returned by the Sub-Recipient to the City within sixty (60) days.

- e. In the event that a disbursement of ARPA funds for the Sub-Recipient's Project, with Project Expenditure Reports approved by the City, is later determined unallowable by any relevant authority, Sub-Recipient shall return any monies disbursed to it for said unallowable use for return to the U.S. Treasury. In the event any penalties are assessed against the City relating to ARPA funds disbursements to the Sub-Recipient, the Sub-Recipient shall be responsible to the City for said penalties.

8. TERM:

- a. This Agreement commences on the date of the last City signature and shall remain in effect until the date the Project is completed, unless terminated earlier as provided herein, or by the City in its sole discretion. However, in no event will ARPA funds be disbursed to the Sub-Recipient after December 31, 2024, and any ARPA funds received by the Sub-Recipient must be expended by December 31, 2026.
- b. At the end of the term of this Agreement as defined in subsection (a) above, the Sub-Recipient must promptly return all unexpended ARPA funds, as described below in Section 24 Close Out, to the City.

9. GRANT FUNDING:

- a. The City shall fund this grant in the amount of \$XXX,XXX.XX. The City will provide no additional funds beyond the amount stated herein for the Project. Any obligations to expend funds for the Project beyond the stated amount will be the sole responsibility of the Sub-Recipient.
- b. Any interest generated by the funds distributed in excess of \$XXX are considered to be grant funds awarded and must be expended in accordance with this Agreement.
- c. The Sub-Recipient shall establish and maintain a separate fund for ARPA funds it receives for the Project, and any expenditures thereof.

10. PAYMENT:

- a. The City shall advance funds in the full amount provided for in Section 9 of this agreement to the Sub-Recipient upon execution of this Agreement, following all policies and procedures of the City and in accordance with applicable State and local laws for expending City funds.
- b. The disbursement of ARPA funds to the Sub-Recipient shall not be made until all documentary materials required by this Agreement have been received and approved by the City and this Agreement has been fully approved by the City.

11. PROJECT MONITORING BY THE CITY:

- a. The City may conduct on-site or off-site monitoring reviews or walkthroughs of the Project during the term of this Agreement and for up to ninety (90) days after it expires or is otherwise terminated. The Sub-Recipient shall extend its full cooperation and give full access to the Project site and to relevant documentation to the City or its authorized designees for the purpose of determining, among other things:
 - i. Whether Project activities are consistent with those set forth in Appendix I and the terms and conditions of the Agreement.
 - ii. The actual expenditure of City funds is in conformity with the amount as described in Section 9 of this agreement.
 - iii. That the Sub-Recipient is making timely progress with the Project, and that its project management, financial management and control systems, procurement systems and methods, and overall performance are in conformance with the requirements set forth in this Agreement and are fully and accurately reflected in Project Expenditure Reports submitted to the City.

- b. By the written notice of the Common Council of the City of Mishawaka (the "Council"), the Sub-Recipient and/or its principals shall make themselves available to appear before the Council at such date, time, and place specified in the notice. The Sub-Recipient and/or its principals shall:
 - i. Appear before the Common Council at the date, time and place specified in the notice; and
 - ii. Supply copies of any documentary materials related to this Agreement or the Project that the Council has requested in its written notice; and
 - iii. Provide the Council with an update describing the Sub-Recipient's performance on the Project.

All such written notice will be made with at least X days prior to the specified date and time of the appearance to the Sub-Recipient. The Sub-Recipient may make a request in writing for an alternative date. Such a request must be made at least X days prior to the original date and time of the appearance as specified in the notice. The Council, at its sole discretion, may alter the date and/or time of such appearance for any reason by providing notice to the Sub-Recipient. All notice and other communications described in this section must be provided as stated in Section 20 of this Agreement.

12. AUDITS AND MAINTENANCE OF RECORDS:

- a. The Grantee shall submit to an audit of funds paid through this Grant Agreement in accordance with IC §5-11-1-9, and shall make all books, accounting records, and other documents available at all reasonable times during the term of this Agreement and for a period of three (3) years after the end of the Term of this Agreement described in Section 8 or the effective date of termination of the award for inspection by the City or its authorized designee. Copies shall be furnished to the City at no costs. The Treasury Office of Inspector General and the Government Accountability Office, and the Indiana State Board of Accounts, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of the Sub-Recipient in order to conduct audits or other investigations. If there is an audit of the ARPA funds performed by any entity, a longer retention period may be required until the audit is resolved.
- b. The Sub-Recipient is a sub-recipient for any ARPA funds disbursed to it by the City pursuant to this Agreement. The ARPA funds are federal assistance and subject to the Single Audit Act, and such funds must be included in the Schedule of Expenditures of Federal Awards ("SEFA") for the Sub-Recipient. The proper name and assistance listing (formerly CFDA) number to use on the SEFA is the Coronavirus State and Local Fiscal Recovery Funds, No. 21.027. The Sub-Recipient will treat ARPA funds using internal control procedures appropriate to federal funds pursuant to 2 CFR 200.303. The Uniform Guidance found at 2 CFR Part 200 applies to the ARPA funds. The Sub-Recipient will provide the City with a copy of its internal control policy.

13. COMPLIANCE WITH LAWS:

- a. The Grantee shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the City and the Sub-Recipient to determine whether the provisions of this Agreement require formal modifications.
- b. Sub-Recipient shall comply with all guidance issued by any federal or state authority relating to the ARPA funds, and hereby consents to make any amendments to this Agreement and changes to its procedures relating to the ARPA funds as may be necessitated by such guidance.
- c. The Sub-Recipient certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory, or judicially required payments to the City or State. The Sub-Recipient agrees that any payments currently due to the City or State may be withheld from payments due to the Sub-Recipient. Additionally, payments may be withheld, delayed, or denied and/or

this Agreement suspended until the Sub-Recipient is current in its payments and has submitted proof of such payment to the City.

- d. The Sub-Recipient warrants that it has no current, pending, or outstanding criminal, civil, or enforcement actions initiated by the County, City, or State and agrees that it will immediately notify the City of any such actions. During the term of such actions, the Sub-Recipient agrees that the City may suspend or terminate funding for the Project.
- e. The Sub-Recipient warrants that the Sub-Recipient and any contractors performing work in connection with the Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the City. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of grant opportunities with the City.
- f. The Sub-Recipient affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- g. Sub-Recipient will utilize the ARPA funds and conduct the Project in a manner that does not discriminate on the basis of race, color, religion, national origin, sex, familial status, age, or disability. The Sub-Recipient will comply with the following:
 - i. Title VI of the Civil Rights Act;
 - ii. Fair Housing Act;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended;
 - iv. Age Discrimination Act of 1975, as amended; and
 - v. Americans with Disabilities Act of 1990, as amended.
- h. Sub-Recipient will comply with the requirements of the following in its utilization of the ARPA funds and conducting of the Project:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements as described in 2 CFR 200;
 - ii. Universal Identifier and System for Award Management Requirements as described in 2 CFR 25 and 2 CFR 170;
 - iii. 2 CFR Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement).

14. DRUG-FREE WORKPLACE CERTIFICATION: As required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, the Sub-Recipient hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Sub-Recipient will give written notice to the State within ten (10) days after receiving actual notice that the Sub-Recipient, or an employee of the Sub-Recipient in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension or repayment of grant payments, termination of this Agreement and/or debarment of grant opportunities with the City of Mishawaka for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in this Sub-Recipient Agreement is in excess of \$25,000.00, the Sub-Recipient certifies and agrees that it will provide a drug-free workplace by:

- a. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- b. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Sub-Recipient's policy of maintaining a drug-free workplace; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- c. Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will: (1) abide by the terms of the statement; and (2) notify the Sub-Recipient of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and

- d. Notifying in writing the City within ten (10) days after receiving notice from an employee under subdivision (c)(2) above, or otherwise receiving actual notice of such a conviction; and
- e. Within thirty (30) days after receiving notice under subdivision (c)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- f. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

15. PROHIBITION:

- a. Prohibition Against Payments of Bonus or Commission: The assistance provided under this Agreement shall not be used in payment of any bonus or commission to obtain City approval for such assistance or for additional assistance, or any other approval or concurrence required under this Agreement.
- b. Conflicts of Interest:
 - i. No member, officer, or employee of the City or its designers or agents, no member of the governing body of the City of Mishawaka or the Sub-Recipient (and no one with whom they have family or business ties) who exercise any functions or responsibilities with respect to the Program during his or her tenure or for one year thereafter, shall have any personal or financial benefit, direct or indirect in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the Program assisted under the Agreement.
 - ii. The Sub-Recipient agrees that it will incorporate into every written contract the following provision:
"INTEREST OF CONTRACTORS AND EMPLOYEES: The Contractor covenants that no person who presently exercise any functions or responsibilities in connection with the Community Development Program, and no one with whom they have family or business ties, has any personal financial benefit, direct or indirect in this Contract."
- c. Political Activity Prohibited: None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any candidate for public office or for political activities.
- d. Prohibition of Assistance for Religious Activities and/or Organizations: None of the funds, materials, property, or services provided under this Agreement may be used to promote or conduct inherently religious activities or to assist religious organizations in promoting secular activities unless specifically allowed by the City. Activities supported by this Agreement are prohibited from using religious affiliation as a condition of participation in such activities.
- e. Lobbying Prohibited: None of the funds provided under this Agreement shall be used for publicity or propaganda purposed designed to defeat or support legislation pending before Congress.
- f. Sale of Information: The Sub-Recipient prohibited from selling any information collected from individuals participating in the activities or services described in the Project or any other data related to the Project to any entity other than the City without express written consent from the City.

16. CERTIFICATION REGARDING LOBBYING: The undersigned representative of the Sub-Recipient certifies, to the best of their knowledge and belief that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into any cooperative agreement,

and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan or cooperative agreement, the undersigned representative of the Grantee shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned representative of the Sub-Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, agreements) and that all subrecipients shall certify and disclose accordingly.
- d. This certification is a material representation of the fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

17. FUNDING CANCELLATION: When the Controller of the City of Mishawaka makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement and the City Common Council approves the determination, it shall be canceled. A determination by the Controller of the City of Mishawaka that has been approved by the City Common Council that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

18. GOVERNING LAW: Insofar as any provisions of the Agreement are not governed by federal law and the regulations required thereby, or incorporated herein by reference, the provisions then shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. The parties hereto agree that the courts of the State of Indiana, located in St. Joseph County, Indiana, shall have the sole and exclusive jurisdiction over any litigation arising from this Agreement or related in any way to the transactions provided for herein. The parties consent to the sole and exclusive personal jurisdiction and venue of those courts. In any litigation relating to this Agreement and the transactions contemplated hereby, the prevailing party shall be entitled to recover its costs.

19. NOTICE TO PARTIES: Whenever any notice, statement or other communication is required under this Agreement, it shall be sent by first class mail, via an established courier/delivery service, or communicated by telephone, as appropriate, to the following addresses, unless otherwise specifically advised.

- a. Notices to the City shall be sent to:
NAME OF CITY OFFICIAL
ADDRESS LINE 1
ADDRESS LINE 2
Phone Number
- b. Notices to the Grantee shall be sent to:
NAME OF GRANTEE OFFICIAL
ADDRESS LINE 1
ADDRESS LINE 2
Phone number

20. TERMINATION FOR BREACH:

- a. Failure to complete the Project, expend City, local, and/or private funds in accordance with this Agreement, and/or comply with the terms of this Agreement may be considered a material breach, and may entitle the City to suspend grant payments, and suspend the

Sub-Recipient's participation in City grant programs until such time as all material breaches are cured to the City's satisfaction.

- b. The expenditure of awarded funds other than in conformance with the Project will be deemed a material breach.
 - c. The City shall provide written notice of a material breach to the Sub-Recipient. The Sub-Recipient shall have 30 days after such written notice is provided to cure such breach, or to provide a timeline to cure such breach to the satisfaction of the City. If such breach is not cured within the 30-day period or in accordance with the approved timeline, the City shall have the right to terminate this Agreement immediately in sole discretion. The Sub-Recipient explicitly covenants that it shall promptly repay to the City all funds awarded by this Agreement in the method described in Section 24 of this Agreement.
 - d. In the event of Termination as described in this section the City may, at its sole discretion, charge interest on the amount of grant funds awarded and/or outstanding at a rate of X% per year calculated on a daily basis for a term deemed appropriate by the City not to exceed the term that extends from the date of this signed Agreement to the date full repayment of award funds has been made by the Grantee.
21. TERMINATION FOR CONVENIENCE: Unless prohibited by a statute or regulation relating to the award of the grant, this Agreement may be terminated, in whole or in part, by the City whenever, for any reason, the City determines that such termination is in the best interest of the City. Termination shall be affected by delivery to the Grantee of a Termination Notice, specifying the extent to which such termination becomes effective. The Grantee shall be required to promptly return any unspent funds awarded in advance and provide any final reports as described in Section 24 of this Agreement. The City will not be liable for work on the Project performed after the effective date of termination.
22. TERMINATION BY MUTUAL AGREEMENT: This Contract may also be terminated by either the City or the Sub-Recipient in whole or in part, by mutual agreement setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City may terminate the award in its entirety. The Sub-Recipient shall be required to promptly return any unspent funds awarded in advance and provide any final reports as described in Section 24 of this Agreement.
23. PROJECT CLOSE-OUT: Within 30 days of the end of the Term of this Agreement, described in Section 8, or the effective date of termination of the Agreement:
- a. The Sub-Recipient shall return all unexpended Grant funds to the City of Mishawaka. Unexpended funds must be provided to the City by certified or cashier's check to the Controller of the City.
 - i. The City, at its sole discretion, may charge interest on any amount of unspent funds unpaid after the 30-day deadline at a per year rate of X% calculated and accrued on a daily basis until a full repayment has been collected by the City in the method described above. If such payment is sent by first class mail or via an established courier/delivery service, payment will be considered collected as of the day the first-class mail is post marked or the courier/delivery service takes possession of the check.
 - b. The Sub-Recipient shall provide a final Project Expenditure Report to the City in the form and delivery method prescribed by the City Controller as approved by the Common Council.
24. RECOVERY OF FUNDS: In the event that repayment of funds is required by the terms of this Agreement and the Sub-Recipient has not made such repayment in accordance with such terms, the City may institute all actions legally available to it to recover all or part of the project funds paid to the Grantee. All remedies conferred on the City by this agreement or any other instrument

or agreement are cumulative, not exclusive, and may be exercised concurrently or consecutively at the City's option.

25. NON-EXPENDABLE PROPERTY AND EQUIPMENT: Funds awarded by this Agreement may not be used to purchase non-expendable property or equipment unless specified in Appendix I, Project Description.
26. INDIRECT COSTS: Funds awarded by this Agreement may not be used to cover the indirect costs of completing the Project. Funds may only be used to cover direct costs for activities as described in Appendix I. Indirect costs are costs that are not directly accountable to the Project. No allocation of such costs may be expensed from funds awarded by this Agreement.
27. CLAIMS AGAINST THE CITY: (a) Sub-Recipient agrees to indemnify and hold harmless the City, and its agents, officers and employees from all claims, suits, or penalties, and from all judgments recovered therefrom, and from expenses in defending said claims, suits, or penalties, including court costs, attorney's fees and other expenses, caused by, arising out of, or relating to Sub-Recipient's receipt or use of the ARPA funds, or arising out of or relating to the Project. Sub-Recipient shall at its own expense, defend the City in all litigation, pay all attorneys' fees, damages of any type, and all costs and other expenses arising out of the litigation, claim, suit, or penalty incurred in connection therewith; and shall, at its own expense, satisfy and cause to be discharged such judgments or penalties as may be obtained against the City, or any of its officers, agents or employees.

(b) Sub-Recipient shall indemnify, keep and save harmless the City and its respective officers, agents, employees and attorneys against any fines, penalties, all findings for recovery ordered or issued by any state or federal entity, and damages of any type due to the failure of Sub-Recipient, or its employees, or agents to comply with any federal, state or local law, rule, regulations, and/or procedure in relation to the ARPA funds, the Project, and this Agreement. This indemnification obligation shall include obligations incurred that result from any consent decree or settlement agreement.
28. COOPERATION WITH OTHER MISHAWAKA-BASED ORGANIZATIONS: Wherever Possible, the Sub-Recipient agrees to cooperate and work in concert with other Mishawaka-based non-profit organizations and service providers with whom the Grantee shares targeted clientele.
29. IDENTIFY THEFT PROTECTION: The Sub-Recipient agrees to take all reasonable measures to protect the identities of the participants or beneficiaries of the activities or services provided through the Project described in Appendix I. The Sub-Recipient will take all reasonable measures to prevent the release of sensitive personal identifying information, including but not limited to, Social Security Numbers, Birthdates, and other sensitive identifying information to unauthorized entities or individuals. The City will not request sensitive personally identifying information of the Project participants be provided from the Sub-Recipient. The City is not responsible and is to be held harmless for the improper handling of personally identifying information by the Sub-Recipient.
30. VERIFICATION OF WORK ELIGIBILITY STATUS:
 - a. The Sub-Recipient shall enroll in and verify the work eligibility status of all their/its newly hired employees through E-Verify program as defined in IC §22-5-2.7-3. The Sub-Recipient is not required to participate should the E-Verify program cease to exist. Additionally, the Sub-Recipient is not required to participate in E-Verify if the Sub-Recipient is self-employed and does not employ any employees.
 - b. The Sub-Recipient shall now knowingly employ or contract with an unauthorized alien.
 - c. The Sub-Recipient shall not retain an employee or contract with a person that the Sub-Recipient subsequently learns is an unauthorized alien.
 - d. The Sub-Recipient shall require subcontractors, who perform work under this contract, to certify to the Sub-Recipient that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in

the E-Verify program, if required. The Sub-Recipient agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

31. REMEDY FOR NONCOMPLIANCE: The City may impose additional conditions if the Sub-Recipient fails to comply with the terms and conditions of this Agreement or is not otherwise responsible. These conditions may include items such as the following:

- a. Requiring additional or more frequent project status updates;
- b. Requiring additional, more detailed financial reports;
- c. Requiring additional project monitoring;
- d. Requiring the Sub-Recipient to obtain technical or management assistance; or
- e. Establishing additional prior approvals.

The City must notify the Sub-Recipient as to the nature of the additional requirements; the reason why the additional requirements are being imposed; the nature of the action needed to remove the additional requirements; the time allowed for completing the actions if applicable and the method for requesting reconsideration of the additional requirements imposed.

32. INCORPORATION: This Agreement and all attachments or exhibits attached and incorporated herein by reference, constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between the City and the Sub-Recipient. No statements, promises, or agreements whatsoever, in writing or verbal, in conflict with the terms of this Agreement, have been made by the City or Sub-Recipient which in any way modify, vary, alter, enlarge, or invalidate any of the provisions hereof and/or obligations herein stated. This Agreement may be amended and modified only as described in Section 3 and signed by both the City and Sub-Recipient.
33. SEVERABILITY: If any provision of this Agreement shall for any reason be determined to be invalid or unenforceable, the balance of such provision and the remaining provisions of this Agreement shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable provisions had not been a part hereof.
34. THIRD PARTY RIGHTS: Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than the parties hereto any rights or remedies under or by reason of this Agreement or the transactions contemplated hereby.
35. WAIVER: The failure of any party hereto at any time or from time to time to require performance of another party's obligation under this Agreement shall in no manner affect the right to enforce any provision of this Agreement at a subsequent time, and the waiver of any rights arising out of any breach shall not be construed as a waiver of any rights arising out of any subsequent breach.

IN WITNESS WHEREOF, the City and the SUB-RECIPIENT have executed this Agreement as of the date first above written.

NAME OF SUB-RECIPIENT:
XYZ AGENCY

CITY OF MISHAWAKA
COMMON COUNCIL:

BY: _____
NAME OF REPRESENTATIVE
TITLE OF OFFICIAL

BY: _____
NAME OF OFFICIAL
TITLE OF OFFICIAL

DATE: _____

DATE: _____

APPENDIX I – PROJECT DESCRIPTION

BACKGROUND:

DESCRIPTION: In accordance with its defined mission, SUB-RECIPIENT shall assist the City by:

a.

APPENDIX II – ENTITY ANNUAL REPORT

A. Guidelines for filing the annual financial report:

- a. Filing an annual financial report called an Entity Annual Report (E-1) is required by IC §5-11-1-4. This is done through Gateway which is an on-line electronic submission process.
 - i. There is no filing fee to do this.
 - ii. This is in addition to any similarly titled report required by the Indiana Secretary of State and to any reports required by the City documenting expenditures or performance of funds awarded by this Agreement.
 - iii. The State Board of Accounts may request documentation to support the information presented on the E-1.
 - iv. The Gateway User Guide is found at www.gateway.inonline.org/userguides/E1guide
 - v. Based on the level of government financial assistance received, an audit may be required by IC §5-11-1-9.
 - vi. Additional information can be obtained using the notforprofit@sboa.in.gov email address.

B. As provided by the City:

- a. Funding Source: ARPA funds designated by the city as "Revenue Replacement".

APPENDIX III – PROJECT EXPENDITURE REPORT

PROGRAM EXPENDITURE REPORT	1. REPORT TYPE	☐ Annual ☐ Semi-Annual ☐ Quarterly	3. Accounting Basis	3. Date
4. PROJECT INFORMATION				
RECIPIENT INFORMATION			GRANTOR INFORMATION	
Name:			Name:	
Address:			Address:	
City/State/Zip:			City/State/Zip:	
Phone:			Phone:	
REPORTING PERIOD			PERIOD OF PERFORMANCE	
FROM:		TO:	FROM:	TO:
Instructions: Enter total amounts for the reporting period and the total cumulative amounts since the date of inception of the award in the respective columns. Obligations should be the total amounts of orders placed for property and services, contracts and subawards made, and similar transactions that require payment regardless of payment status. Amounts entered should tie to supporting records or worksheets. Accumulated interest should be included in Cash Receipts as required by the Agreement.				
5. TRANSACTIONS				
			Reporting Period	Award Total
AWARD CASH				
	a.	Cash Receipts	\$ -	\$ -
	b.	Cash Disbursements	-	-
(line a - line b)	c.	Cash on Hand	\$ -	\$ -
AWARD OBLIGATIONS/EXPENDITURES				
	d.	Award Amount Obligated	\$ -	\$ -
	e.	Award Amount Expended	-	-
(line d - line e)	f.	Unliquidated Obligations	\$ -	\$ -
	g.	Total Amount Awarded	\$ -	-
(line g - line h)	h.	Unobligated Balance	\$ -	-
6. DISBURSEMENTS BY CATEGORY				
PROGRAM FUNCTIONS/ACTIVITIES	Reporting Period	Award Total		
Salaries/Wages:	\$ -	\$ -		
Employee Benefits:	-	-		
Supplies:	-	-		
Equipment:	-	-		
Capital Expenses:	-	-		
Indirect Costs:	-	-		
Beneficiary Payments:	-	-		
Misc.:	-	-		
Total Amount	-	-		
Notes:				
CERTIFICATION				
By signing this report, I certify that it is true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil or administrative penalties.			Signature of Certifying Official	Date
			Printed Name	Initials (If amended)
CITY USE ONLY				
Report Review		Report Approval		
Reviewer Signature	Date	Approval Signature	Date	

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

AUG 15 2022

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022 - 27

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA SEWER DEPARTMENT AND THE TEAMSTERS
LOCAL UNION No. 364 AMENDING THE COLLECTIVE BARGAINING
AGREEMENT EXPIRING ON THE 31st DAY OF DECEMBER, 2024**

WHEREAS, the City of Mishawaka Sewer Department and the Teamsters Local Union No. 364, have mutually reached an agreement on an amendment to the Collective Bargaining Agreement expiring the 31st day of December 2024; and

WHEREAS, said agreement is memorialized in the attached Memorandum of Understanding executed on the 11th day of August, 2022 by the City of Mishawaka, Indiana, acting by and through its Board of Public Works and Safety and the Teamsters Local Union No. 364; and

WHEREAS, the attached Memorandum of Understanding was needed to clarify the time frame changes in the Department of Transportation (DOT) rules on how an individual has to obtain a Commercial Driver's License (CDL).

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

Section 1. The attached Memorandum of Understanding executed the 11th Day of August, 2022, is hereby approved.

Section 2. Article 11 Seniority, Section 1. Types of Seniority of the Collective Bargaining Agreement is amended to provide as follows: In the event an employee who has completed his/her 90 day probationary period but has not obtained his/her CDL, the employee will have no bidding rights until the employee has received his/her CDL. If the employee is unable to obtain his/her CDL within the twelve (12) month period from date of hire, the employee will have no seniority and will be terminated.

Section 3. 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



Deborah S. Block, MMC, MMC

AUG 15 2022

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

August 15, 2022

Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

Re: City of Mishawaka Sewer Department and Teamsters Local Union No. 364 agreement to change the Collective Bargaining Agreement ("CBA") to extend the time permitted to obtain a Commercial Drivers License ("CDL")

President and Honorable Council Members:

The City of Mishawaka Sewer Department and the Teamsters Local Union No. 364 entered a Memorandum of Understanding ("MOU") to amend the CBA to extend the time permitted to obtain a CDL. The amendment is necessitated by changes in the Department of Transportation rules on how an individual has to obtain a CDL.

Article 11, Seniority, Section 1. Types of Seniority is to be changed by deleting the following language:

In the event a probationary employee has been given a thirty (30) or sixty (60) day extension after their ninety (90)-day probationary period to obtain his CDL, the employee will have no bidding rights until the employee has received his CDL. If the employee is unable to obtain his CDL within the agreed extension period, the employee will have no seniority and will be terminated.

The following language is to be inserted:

In the event an employee who has completed his/her 90 day probationary period but has not obtained his/her CDL, the employee will have no bidding rights until the employee has received his/her CDL. If the employee is unable to obtain his/her CDL within the twelve (12) month period from date of hire, the employee will have no seniority and will be terminated.

Approval of the amendment to the CBA by the Mishawaka Common Council is required, so I've attached a proposed ordinance for your review and consideration.

Sincerely


Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

Deborah S. Block, IAMC, MMC

AUG 12 2022

City Clerk
Mishawaka, IN

MEMORANDUM OF UNDERSTANDING
CITY OF MISHAWAKA
SEWER DEPARTMENT

THIS MEMORANDUM OF UNDERSTANDING sets forth the agreement between the City of Mishawaka Sewer Department and Teamsters Local Union No. 364.

ARTICLE 11
SENIORITY

Section 1. Types of Seniority

It is agreed between the parties that due to changes in the Department of Transportation (DOT) rules on how an individual has to obtain a Commercial Driver's License (CDL), a change to this section is needed to clarify the time frame only to obtain a CDL.

In the event an employee who has completed his/her 90-day probationary period but has not obtained his/her CDL, the employee will have no bidding rights until the employee has received his/her CDL. If the employee is unable to obtain his/her CDL within the twelve (12) month period from date of hire, the employee will have no seniority and will be terminated.

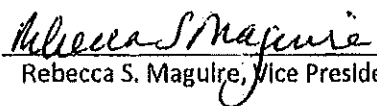
This Memorandum of Understanding shall be in full force and effect from July 1, 2022, to and including December 31, 2024.

CITY OF MISHAWAKA BOARD OF
PUBLIC WORKS AND SAFETY

By:


Kenneth B. Prince, President

By:


Rebecca S. Maguire, Vice President

By:

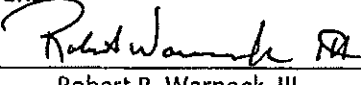
Ronald E. Watson, Member

ATTEST:


Kari Myers, Clerk, BPWS

LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By:


Robert R. Warnock, III

Title:

President

Date Signed: August 11, 2022

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, MMC, MMC

AUG 24 2022

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2022-28
ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE
BARGAINING AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE
MISHAWAKA FRATERNAL ORDER OF POLICE LODGE 91**

WHEREAS, the City of Mishawaka and the Mishawaka Fraternal Order of Police Lodge 91 entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020, which was extended to December 31, 2022; and

WHEREAS, on August 9, 2022, the attached Memorandum of Understanding between the City of Mishawaka and the Mishawaka Fraternal Order of Police, Lodge 91, amending the CBA was approved by the Board of Public Works and Safety, City of Mishawaka.

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

Section 1. The attached Memorandum of Understanding between the City of Mishawaka and the Mishawaka Fraternal Order of Police, Lodge 91, that was approved by the Board of Public Works and Safety, City of Mishawaka, on August 9, 2022, is hereby approved.

Section 2. The CBA is amended at page 13, paragraph E, line 3, after the word "squad" to delete the words "Tactical Emergency Response Team" and insert the words "Special Weapons and Tactics".

Section 3. The CBA is amended at page 13, paragraph E, line 7, after the word "instructors" to insert the words "Emergency Response Team (ERT)".

Section 4. The CBA is amended at page 36, paragraph E, line 6, after the word "rate" to insert the following words:

"In the event no one fills the request for additional officers, the OIC may contact the ERT "On Call." The ERT will then designate an officer (or officers) from the appropriate ERT platoon to be activated in uniform capacity. The ERT officers(s) will be considered shift strength, however, shall not be used for the purpose of motorized patrol or considered preceding shift as opposed to the above stated officers who accepted the request. ERT officers activated in this manner will be

compensated at a flat rate of 4 hours of twice their prevailing wage, and shall NOT count as hours worked against them as it pertains to future overtime assignments. In the event that the detail requires the officer to stay more than 4 hours, then the compensation should remain at twice the prevailing rate, hour for hour. Should the shift change during the 4 hours that the ERT officer is activated, then revert back to standard emergency extra duty procedures."

Section 5. 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.

Common Council
City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the ___ day of _____, 2022 at _____ o'clock __.m.

Deborah S. Block, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ___ day of _____, 2022.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

Deborah S. Block, JAMC, MMC

August 24, 2022

AUG 24 2022

Mishawaka Common Council
600 East Third Street
Mishawaka, IN 46544

City Clerk
Mishawaka, IN

Re: Police Department Collective Bargaining Agreement Amendment

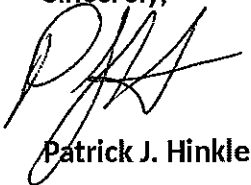
President and Honorable Members:

On August 9, 2022, the City of Mishawaka, acting by and through its Board of Public Works and Safety, approved a Memorandum of Understanding that amended the Collective Bargaining Agreement with the Mishawaka Fraternal Order of Police, Lodge 91.

The Collective Bargaining Agreement was amended to add language that allows the police department to contact members of the Emergency Response Team who are on call to be utilized to fill a request for additional uniformed officers.

Please see the attached proposed ordinance and Memorandum of Understanding.

Sincerely,



Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
600 E. Third Street
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
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David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

MEMORANDUM OF UNDERSTANDING REGARDING AMENDMENT TO THE CURRENT COLLECTIVE BARGAINING AGREEMENT

This Memorandum of Understanding ("MOU") is entered into between the City of Mishawaka ("City") and the MISHAWAKA FRATERNAL ORDER OF POLICE, LODGE 91 ("Union").

WHEREAS, the City and the Union entered into a Collective Bargaining Agreement ("CBA") effective from January 1, 2018 to December 31, 2020, which was extended to December 31, 2022; and

WHEREAS, it has become necessary to amend the CBA regarding Article VII; Extra Duty and Extra Duty pay; Section 2- Extra Duty Pay; (3) Emergency Extra Duty; Paragraph E (page 13); and

WHEREAS, it has become necessary to amend the CBA regarding Article XVII; Department Strength; Section 2 - Minimum Strength; Paragraph E (page 36).

NOW, THEREFORE, the parties hereby agree as follows:

1. The CBA is amended at page 13, paragraph E, line 3, after the word "squad" to delete the words "Tactical Emergency Response Team" and insert the words "Special Weapons and Tactics".
2. The CBA is amended at page 13, paragraph E, line 7, after the word "instructors" to insert the words "Emergency Response Team (ERT)".
3. The CBA is amended at page 36, paragraph E, line 6, after the word "rate" to insert the following words:

"In the event no one fills the request for additional officers, the OIC may contact the ERT "On Call." The ERT will then designate an officer (or officers) from the appropriate ERT platoon to be activated in uniform capacity. The ERT officers(s) will be considered shift strength, however, shall not be used for the purpose of motorized patrol or considered preceding shift as opposed to the above stated officers who accepted the request. ERT officers activated in this manner will be compensated at a flat rate of 4 hours of twice their prevailing wage, and shall NOT count as hours worked against them as it pertains to future overtime assignments. In the event that the detail requires the officer to stay more than 4 hours, then the compensation should remain at twice the prevailing rate, hour for hour. Should

the shift change during the 4 hours that the ERT officer is activated, then revert back to standard emergency extra duty procedures."

4. This MOU may be amended only by written agreement signed by each of the parties involved.

5. This MOU is effective August 2, 2022, to and including December 31, 2022.

6. All parties agree by signing this MOU that they have the necessary authority to enter into this MOU.

IN WITNESS WHEREOF, the parties through their duly authorized representatives enter into this MOU.

The Mishawaka Fraternal Order of
Police Lodge 91

08/8/22
Date

[Signature]
Richard Freeman, President of
Mishawaka Fraternal Order of Police,
Lodge 91

The City of Mishawaka Police
Department

08/08/22
Date

[Signature]
Kenneth Witkowski, Chief, Mishawaka
Police Department

Approved by the Board of Public Works and Safety, City of Mishawaka

8/9/2022
Date

[Signature]
Kenneth B. Prince, President

[Signature]

Rebecca S. Maguire, Vice President

[Signature]
Ronald E. Watson, Member

ATTEST:

[Signature]
Kari Mayers, Clerk of the Board

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

SEP 02 2022

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2022-29

ORDINANCE NO. _____

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

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2022 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the American Rescue Plan Coronavirus Local Fiscal Recovery Grant fund in the sum of \$ 1,810,000.00 for assignment as follows:

ARP Coronavirus Local Fiscal Recovery Grant

Other Services and Charges

180-50-439-05

Grants and Subsidies

Boys and Girls Club	\$750,000.00
Youth Service Bureau	\$375,000.00
Troop Town	\$325,000.00
Mishawaka Building Trades	\$275,000.00
M-P-H Public Library	\$50,000.00
The Res	<u>\$35,000.00</u>

\$1,810,000.00

Section 3. 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

on this _____ day of _____, 2022 at _____

o'clock, _____. M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on 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:

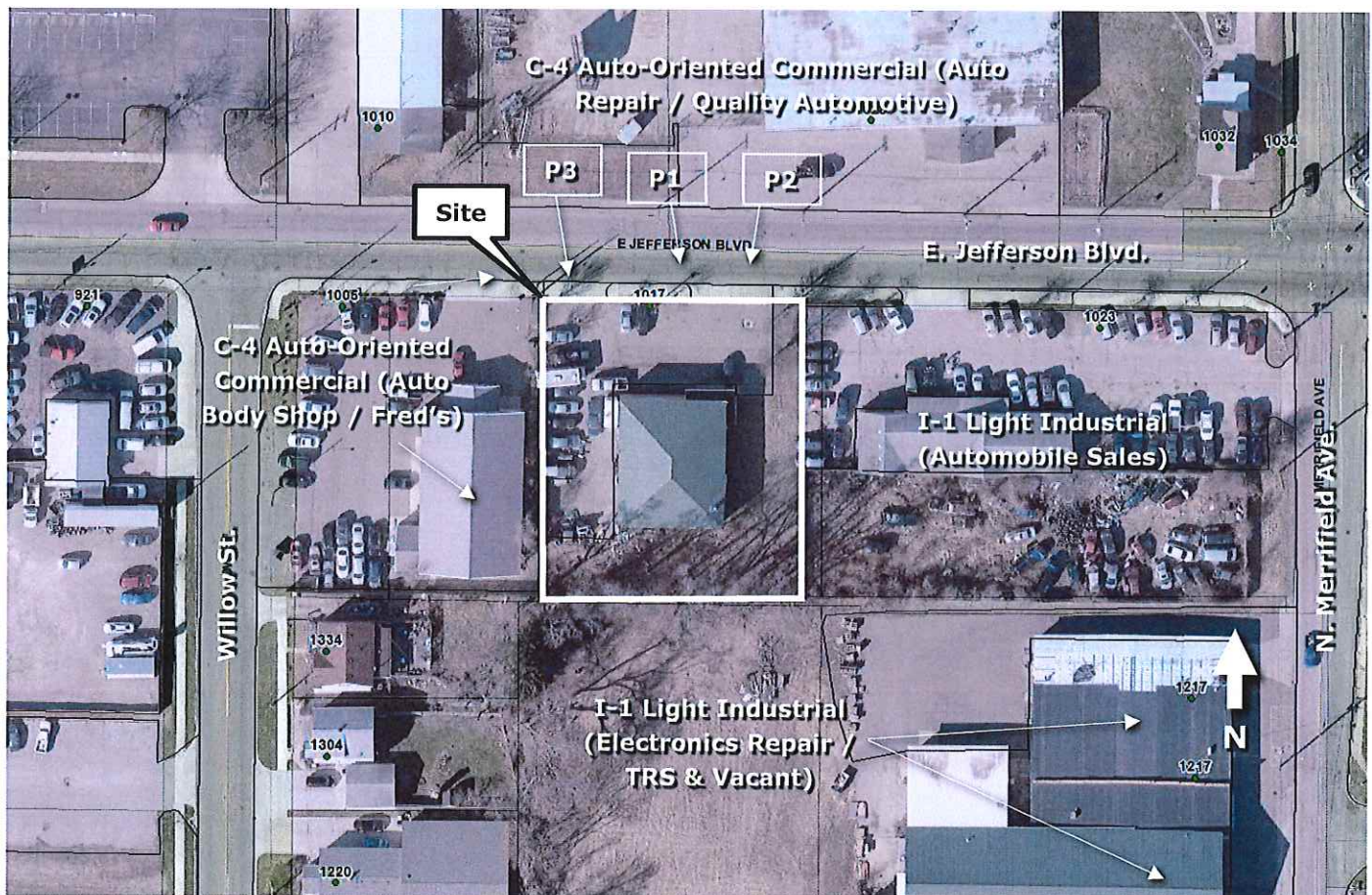
1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The secondary use of the property by adding a food truck is not anticipated to be injurious to the public health and safety due to its limited patronage. The operation of the truck

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.

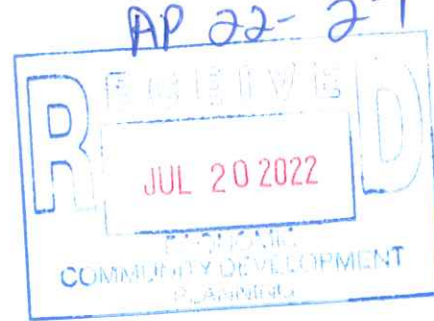


P3. Looking southerly toward the property and the proposed location of the four parking spaces.

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.

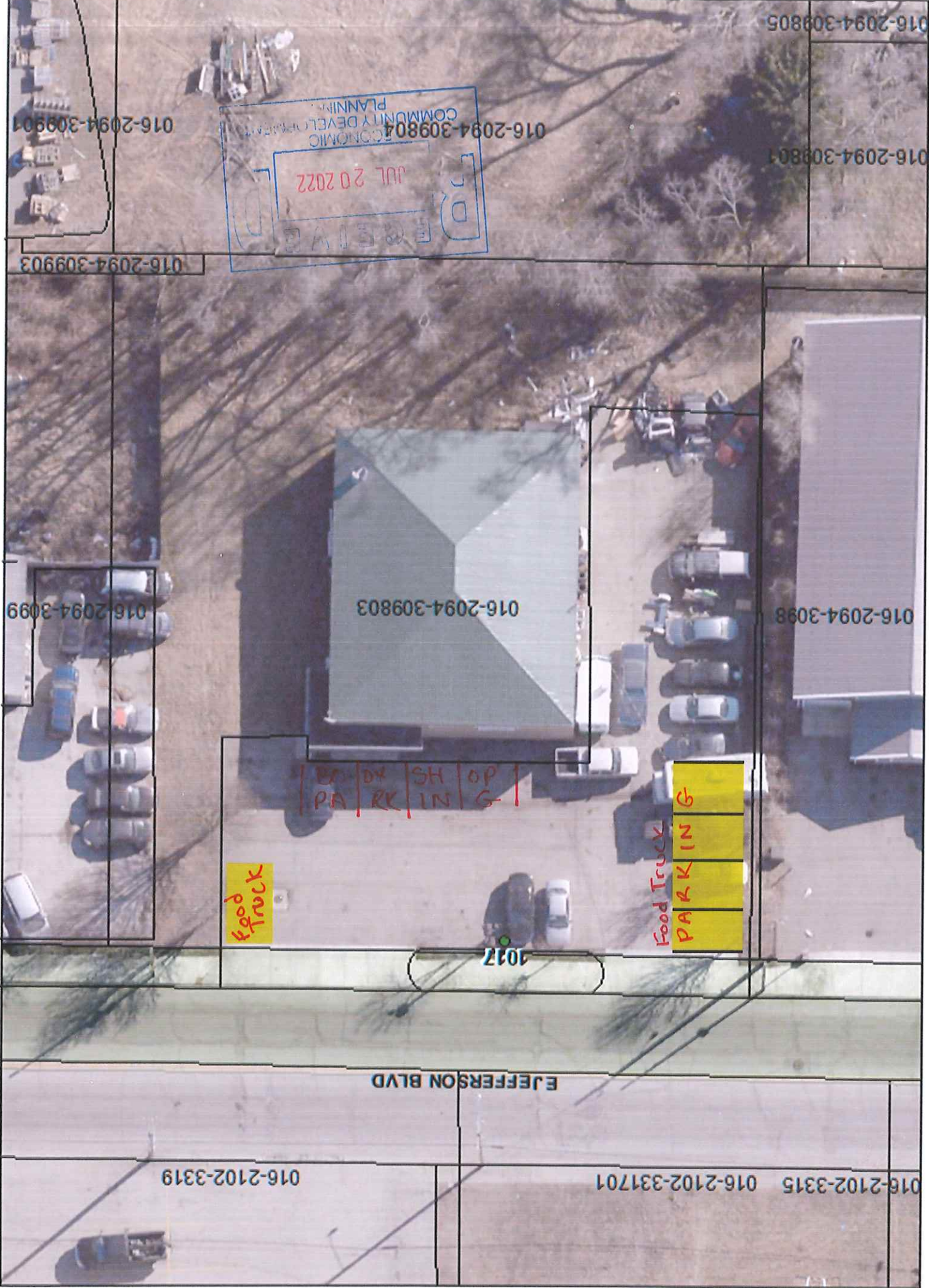
No, approval will not interfere with the Mishawaka 2000 Comprehensive Plan. Food truck will operate on private property. Food truck does not present a hazard or interference as size of interference is minimal if not active at all.

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

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Food Truck
PARKING

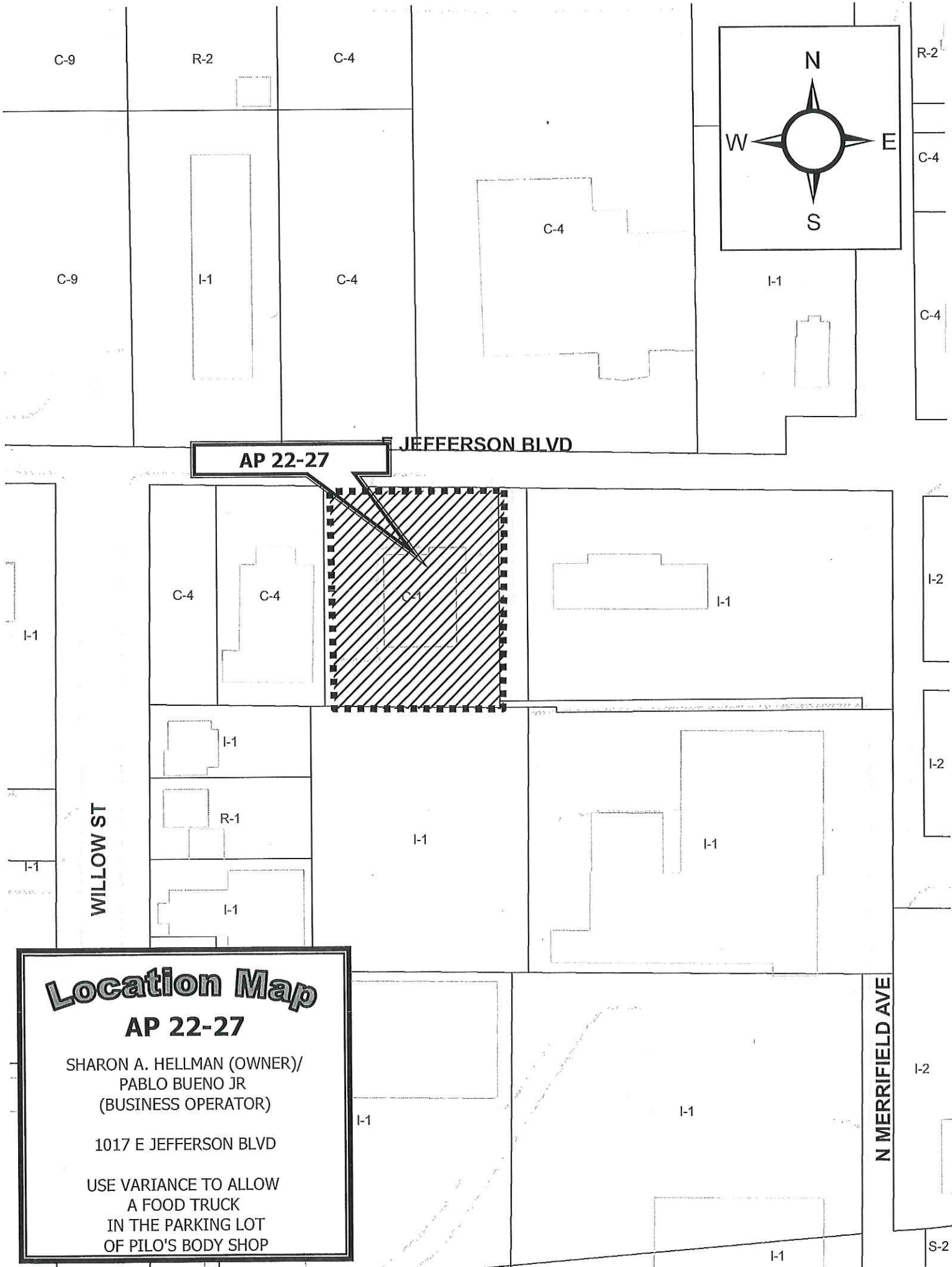
Food Truck

1017

EJEFFERSON BLVD

016-2102-3315 016-2102-331701

016-2102-3319



AP 22-27

JEFFERSON BLVD

WILLOW ST

N MERRIFIELD AVE

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

RESOLUTION NO. 2022 - 23

**A RESOLUTION OF THE COMMON COUNCIL AND CITY CLERK
OF THE CITY OF MISHAWAKA, INDIANA**

WHEREAS, the City of Mishawaka has conducted public business at the current City Hall, located at 600 East 3rd Street, Mishawaka, Indiana, since March of 1986; and

WHEREAS, the regular meeting on September 19, 2022, will represent the last time that the Common Council and City Clerk of the City of Mishawaka will conduct a Council meeting in the current City Hall before moving to the new City Hall located in downtown Mishawaka; and

WHEREAS, while the Common Council and City Clerk are excited by the prospect of better meeting the needs of the community following the move to the new City Hall, it is nevertheless appropriate to acknowledge the many contributions to the public good that have occurred in the current City Hall; and

WHEREAS, the Common Council and City Clerk appreciate the participation in Council meetings by the numerous members of the public who have appeared before the Council in the current City Hall over the course of time to exercise their rights as citizens; and

WHEREAS, the Common Council and City Clerk further wish to acknowledge the service to the citizens of Mishawaka that has been provided by the many City employees who have worked in the current City Hall over the course of time; and

WHEREAS, the Common Council and City Clerk further wish to honor the public service by every elected or appointed official who has worked diligently to promote the best interests of the community in the current City Hall over the course of time.

NOW THEREFORE, BE IT RESOLVED, by the Common Council and the City Clerk of the City of Mishawaka that heartfelt thanks are extended to all those individuals recognized above, who have played a vital role in making Mishawaka a better place to live, work, and play by virtue of their time spent in the current City Hall located at 600 East 3rd Street, Mishawaka, Indiana.

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.

Dale "Woody" Emmons,
1st District

Ron Banicki, 6th District
Vice President

Mike Bellovich, 2nd District

Gregg Hixenbaugh,
President, At Large

Anthony "Tony" Hazen,
3rd District

Matt Mammolenti,
At Large

Kate Voelker, 4th District

Maggie DeMaegd, At Large

S. Michael Compton,
5th District

Deborah S. Block, IAMC, MMC
City Clerk

David A. Wood, Mayor