



AGENDA

January 09, 2023

**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): 2347 578 5294
Meeting password:NZp4MPkEm33**

**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: 23475785294@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call **ELECTION OF OFFICERS**

4. Approval of the Minutes of the Regular Meeting of December 19, 2022 & Special meeting minutes for December 27, 2022

5. Petitions, Communications, Remonstrance and Memorial

ARPA Awards Presentation

A letter from the City Plan Commission regarding their recommendations from their December 13th meeting.

Petition 2022-22 Rezone outlot from C-1 General Commercial to C-7 Automobile oriented restaurant commercial - NE corner of 12th St. & Merrifield

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2022-49 PUD Amendment to allow Second Restaurant with Drive-Thru, Automobile Use, and Reduced Parking - South of 3615 Bremen Highway
(Assigned to Land Use Planning Committee)

P.O. No. 2022-50 PUD Amendment to increase Building Height to 65' - NW corner of Cleveland Rd. (S.R. 23) & Gumwood Rd.
(Petitioners requesting postponement)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

- **Council Committees & Appointments**
- **Council Attorney**
- **Appointments to Various Boards and Commissions**
 - **MBA**
 - **Solid Waste**
 - **MACOG**
 - **Insurance Committee**
 - **Redevelopment Commission**
 - **Plan Commission**
 - **Historic Preservation Commission**

- Animal Control Board
- PSAP Executive Board
- School City of Mishawaka Liaison
- Acceptance of Conflict of Interest forms

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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

<https://civicclerk.blob.core.windows.net/stream/MISHAWAKAIN/2d03ed44-8030-499a-a47e-1b8b23af296b.pdf?sv=2015-12-11&sr=b&sig=YuAOzMqsmC0EFh180KJLgsQS28pZOaUYmsXpyqbCJpY%3D&st=2023-01-06T14%3A42%3A57Z&se=2024-01-06T14%3A47%3A57Z&sp=r&rsc=cache&rsct=application%2Fpdf>

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

December 19, 2022

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, December 19, 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. Hazen (P), Mr. Mammolenti (P), Mr. Banicki (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (P), Mrs. Voelker (P), Mr. Hixenbaugh (P)

P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block and Mike Trippel, Council Attorney.

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 December 5, 2022 were approved as received from the Clerk's Office.

ARPA Awards Presentation

Mr. Hixenbaugh stated that evening, they were pleased to acknowledge a series of community groups they had partnered with respect to their American Rescue Plan Act special committee and he asked the chair of the special committee, Matt Mammolenti, to go to the podium and they would welcome their recipients to the podium one at a time and invited them to make any comments they wished to make as they received their check and shake each councilmembers' hand at the conclusion of their comments. The presentation began with Troop Town.

Three representatives from Troop Town approached the podium and shared some of their comments. Since they last spoke, there had been so much progress lately that they wanted to share with them, specifically all of three of the structures between the VFW and Reggio's on Jefferson were down and they just had to clean up one of the basements and they now had two general contractors that were volunteering their services and were on track. They had so much progress, there were donations coming in left and right financially and for services as well. They were confident that in the spring, they would begin construction and they decided that they did not have the financial resources to build the entire five structure, meaning the four duplexes and the welcome center and they were going to build what finances allowed, meaning two duplexes

to house four guests and the welcome center. They gave a heartfelt thank you to the council and this would be leaps and bounds to jumpstart them and get them to where they needed to be.

Next on the list was Youth Service Bureau; Christian McGovern and Jennifer Pickering approached the podium on their behalf. Mrs. McGovern thanked the council for their support and they were tremendously excited about the possibilities of this project. Mrs. McGovern stated it would make a huge difference for young people in their community. Mrs. McGovern stated they were very much appreciative and they would keep them posted as they went along.

Next on the list was Mishawaka Building Trades; Ben Modlin spoke on their behalf. Mr. Modlin thanked the council the wonderful opportunity and stated work was well underway in teaching their students and investing in their community. Mr. Modlin stated with their help and their guidance as they went through this, they were very appreciative of the gift and contribution and investment in their community and their students as well. Mr. Modlin thanked the council once again.

Next on the list was the Mishawaka Penn-Harris Public Library; with two representatives speaking on their behalf. They wanted to say thank you on behalf of the Library Board of Trustees for this. They had not started anything yet so there had not been any progress to speak of, but they had reached out as well for some county ARPA dollars to go towards this but it took a village for these literary advantages for the elderly and underserved. They were going to do this and would be bringing them progress reports as this went on and they really appreciated this. It would put some nice motivation into the library team in things that they could do now and they were always planning something but this made it more of a possibility and they were truly appreciative of that.

The last group on the list was the Res; with two representatives speaking on its behalf. They thanked the council for their support and were really excited to get started on some of their projects that really needed to get done and were excited to partner with Mishawaka Building Trades and the Marine Corps Reserve and hopefully they would have a lot of these things in place within the next year or two. They thanked the council again for their support.

Mr. Compton thanked everyone for the work they were doing and he knew they were thanking the council, but they had the easy part with setting up some meetings and doing some interviews and to navigate how all of the responsibilities they had with this money would play out but that was the easy part and the hard part was what all of them would do with it. Mr. Compton stated he knew it had been a while and he would have liked to do it sooner but it did take a while to navigate this and with that said, he could not think of a better meeting, the meeting before Christmas specifically, to do this. Mr. Compton stated appropriately it worked out well and he had been doing this for coming up on his 17th year being on the City Council and they very rarely got these opportunities to do these kinds of things and he was very pleased and proud to be part of it. Mr. Compton stated when doing government work, you wanted to make a little bit of a difference and serve the community and what they would do with the money would make a

difference long into the future and that was a wonderful thing. Mr. Compton stated besides them and besides the council for doing what they did, this money came from the federal government so he wanted to thank their legislators who supported this and their president who passed this through and moving this American Recovery Plan Act forward or this would not have been possible. Mr. Compton thanked everyone along with his fellow councilmen who worked very hard on this and wished them good luck and they would be following up on the recipients' progress since it was part of their responsibility to make sure the money went where it needed to go.

Mr. Mammolenti thanked Mr. Compton for very well stating all that was involved and those recipients who did such amazing work. Mr. Mammolenti thanked Mayor Wood for bringing this to their attention and allowing them to get creative and give back to some organizations that made a strong impact within their community and particularly their youth. Mr. Mammolenti thanked the committee members, Kate Voelker, Mike Compton, President Hixenbaugh and the rest of the council as well. Mr. Mammolenti stated this was a long time coming with a lot of meetings, a lot of reviews of applications, hearing of presentations and he could assure them that the entire council and the committee took this very seriously and he thought they nailed it and he thought the recipients were going to make a huge impact immediately and for years to come. Mr. Mammolenti thanked all who were involved and he looked forward to seeing the progress and the effects within the community.

Mrs. Voelker stated she was very excited to see what all they were going to do and as Mr. Compton said, now the work would really begin, but that was the fun part for them and she looked forward to coming out to see what they all came up with and she loved the collaboration between the Res and the Mishawaka Building Trades. Mrs. Voelker wished everyone a Merry Christmas.

Mr. Hixenbaugh offered one more final thanks and another important player in this process and a source of good information for them throughout was their controller, Rebecca Maguire, who spent many hours on this on webinars with their financial consultants and putting together information for them and really digging into the intricacies of what was supposed to be a simple yet complicated manner and when the federal government sent money, there was always a level of complexity to it and Becky did a great job of being of assistance to them and he appreciated not only her spirit of collaboration, but Mayor Wood and the entire administration as well. Mr. Hixenbaugh stated this was an unusual, unprecedented venture for them but they were able to work through it with the guidance and the assistance of the administration and with the good work that was done by the other members of the special committee, Mr. Mammolenti, Mr. Compton, Mrs. Voelker and the entire council. Mr. Hixenbaugh stated they looked forward to hearing from the recipients about the progress as they moved forward and they were confident that what they did would have a positive impact on the community that would go beyond all of their times in office, maybe all of their times on the face of this Earth but they appreciated what they did and looked forward to the good work that they would continue to do in the community.

Mr. Hixenbaugh thanked them once again and dismissed the recipients if they wanted to leave the Council Chambers at that time.

Clerk Block read the following petitions by title.

Petition No. 2022-20 PUD Amendment to allow Second Restaurant with Drive-Thru, Automobile Use, and Reduced Parking – South of 3615 Bremen Highway

Petition No. 2022-21 PUD Amendment to increase Building Height to 65' – NW Corner of Cleveland Rd. (S.R. 23) & Gumwood Rd.

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

PROPOSED ORDINANCE NO. 2022-49

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.

**PUD Amendment to allow Second Restaurant with Drive-Thru, Automobile Use, and Reduced Parking – South of 3615 Bremen Highway
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2022-50

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.

**PUD Amendment to increase Building Height to 65' – NW corner of Cleveland Rd. (S.R. 23) & Gumwood Rd.
(Assigned to Land Use Planning Committee)**

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

PROPOSED ORDINANCE NO. 2022-42

AN ORDINANCE AMENDING ORDINANCE 5763AA FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2022

Amending Ordinance No. 5763AA Fixing Salaries Central Services Certification Pay

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-42**. Mrs. Maguire stated this was just an amendment to include their Central Services and Street Department certifications that were approved during negotiations for this year's salary ordinance. Mrs. Maguire stated this included tanker certification, CDL, A and B and CDL instructor stipend. Mrs. Maguire stated the CDL instructor stipend was important because federal regulations had changed with the requirements. Mrs. Maguire stated it was cheaper to train the trainer and have an instructor in-house because it costed anywhere between \$5,000 and \$7,500 to send an employee out for this training. Mrs. Maguire stated they had two instructors at that time that were doing the instructing so this was an incentive for them along with the other certifications.

Question was called for at 7:22PM for **PROPOSED ORDINANCE NO. 2022-42 Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5818**.

PROPOSED ORDINANCE NO. 2022-43

AN ORDINANCE AMENDING ORDINANCE 5811 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNIG JANUARY 1, 2023

Amending Ordinance No. 5811 Fixing Salaries for Senior Purchasing Agent & Central Services Certification Pay

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-43**. Mrs. Maguire stated this was for amending the 2023 Salary Ordinance and they were adding Central Services and MVH certification as she mentioned previously and correcting the Purchasing Manager's name. Mrs. Maguire stated they were having a title, instead of Purchasing Manager it would be Senior Purchasing Agent and the salary would not change.

Question was called for at 7:24PM for **PROPOSED ORDINANCE NO. 2022-43 Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5819**.

PROPOSED ORDINANCE NO. 2022-44

AN ORDINANCE AMENDING ORDINANCE 5812 FIXING ALL THE SALARIES OF ALL SWORN FIREFIGHTERS FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2023 AND CONTINUING FOR TWO YEARS.

Amending Ordinance No. 5812 Fixing Salaries of All Sworn in Firefighters

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

Mr. Hixenbaugh stated in light of the fact this evening, late in the day, the Mishawaka FOP also approved an agreement with the City of Mishawaka that had financial terms that would be appropriate for incorporation with this proposed ordinance. Mr. Hixenbaugh stated at that point in time, the chair would entertain a motion to delete the proposed ordinance in its entirety and substitute in an amended ordinance that was prepared by the Controller and provided to them by the Clerk's Office. The motion was moved and seconded and the motion itself was held to a voice vote. The motion passed, thus it moved to a second hearing.

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-44AA**. Mrs. Maguire appreciated their willingness to amend and stated it made it much easier on payroll. Mrs. Maguire stated this year, they had a collaboration between the Union, the City Administration and the Council Negotiation Committee and speaking for the Mayor, he wanted to relay his message that he appreciated all of the work everyone had done in the time that was spent and he felt that it was very successful. Mrs. Maguire stated to highlight the 2023-2024 Salary Ordinance for Fire, there was not contract negotiations and it was just a wage opener. Mrs. Maguire stated there were small adjustments made to the ranks and 5% was added for 2023 and then 2024. Mrs. Maguire stated for Police, this did include a contract negotiation that would be brought before the council at a later time before the Wage Ordinance. Mrs. Maguire stated there was a 7% increase for 2023 and 5% for 2024 and it also included a \$2500 annual stipend for residency and extra duty stipends also had been added.

Mr. Hixenbaugh thanked Mrs. Maguire for her work on both of these negotiated items.

Craig Nowacki, Assistant Chief of the Mishawaka Police Department, spoke on behalf of the Police Department and the FOP 91 and stated they accepted the wage and contract proposals for the agreement. Chief Nowacki stated hopefully it could bring in some more officers and make them attractive. Chief Nowacki thanked those who were involved in the process on the council, especially Mr. Hazen, Mr. Mammolenti, Mr. Hixenbaugh Mr. Compton as well as Pat Hinkle

and Becky Maguire for all of their help. Chief Nowacki stated it was a learning experience for himself being that it was his first.

Mr. Hixenbaugh thanked Chief Nowacki for his work on this as well as Chief Witkowski and Chief Arendt as well.

Mr. Compton echoed Chief Nowacki's comments and started out by thanking Mayor Wood for pursuing the suggestion they had been talking about for a couple of years to combine their negotiation teams with the council and the Mayor's staff and it just made sense and there was a little bit of a change but he thought it went very well. Mr. Compton stated he thought they were able to give the police a raise, bigger than maybe they had anticipated or maybe not as much as they wanted but at the same time they were able to get some language changes that they hoped would add the ability to put more people on the street and that was one of their big goals. Mr. Compton wanted to thank all of the players involved, the Mayor's staff, the FOP and the Council group that was present. Mr. Compton stated it was a little tensious at times but that was contract negotiations and that was the way they were. Mr. Compton thanked everyone very much.

Mr. Mammolenti wanted to go on record and thank Mayor Wood, Becky Maguire, all of the Assistant Chiefs, Pat Hinkle for attending what seemed to be a record amount of meetings that they held and gave a special thanks to President Hixenbaugh, Chairman Compton and Member Hazen for all of their countless time and effort in attending all of the meetings. Mr. Mammolenti stated he thought overall that they were able to make both sides happy and he thought that the city won overall. Mr. Mammolenti stated hopefully they could get more manpower on the streets with this package and he was looking forward to going through the next couple of years. Mr. Mammolenti thanked everyone involved once again.

Mr. Hazen offered his thanks and appreciation for everyone involved who did their best job they could do for the policemen, the citizens of Mishawaka and the city and it worked out very well. Mr. Hazen stated he hoped it could continue like this and in the past it had not been done this way due to State Statute said they took care of the finances and the administration took care of the working conditions but combining together worked out very well as a whole and hoped that could continue into the future.

Mrs. Voelker thanked the negotiating committee and she attended one meeting and knew it was a lot of effort on everybody's part in many meetings. Mrs. Voelker stated as a fellow councilmember, she wanted to thank those who took the lead on it along with Mrs. Maguire, Pat Hinkle and everyone else involved.

Mr. Hixenbaugh echoed the expressions of appreciation articulated by his colleagues and appreciated the work all of them did throughout this process, along with the collaboration and camaraderie between the Council and the Administration. Mr. Hixenbaugh stated he thought this had established a template for a working relationship between themselves moving forward that was in the best interest of the community and hoped that it continued. Mr. Hixenbaugh

appreciated the work that was done on behalf of both unions and the leadership of both departments, they had not mentioned Chief Woodward but he was instrumental in the negotiations with the Fire department so he wanted to thank him as well. Mr. Hixenbaugh stated with regard to the Police component on this ordinance as well, he thought it was important to state for the record that this was a historic raise for police officers in Mishawaka and for those who had been involved in this process for a long time, this was the largest raise that anyone was aware of for any employee group within the city, let alone for their police officers. Mr. Hixenbaugh stated many people knew that they lived in a different competitive environment with regard to their police officers and other employee groups at this point in time and he thought they as a council had heard consistently from the community that here was a desire to make sure they had the best equipped, best trained and best qualified officers working in the city of Mishawaka and that they had the maximum number of officers that they needed on the street in order to be able to provide public safety throughout the community. Mr. Hixenbaugh stated he thought it was safe to say that they believed that this was a step in the right direction in terms of being able to accomplish those goals and as they moved into the second step of the process, which would be approval of collective bargaining language that was a companion piece to this, they had set the stage to what they agreed to not only to pass a historic economic proposal, but to put in place what they hoped would be a pathway to more officers on the street on a daily basis to take care of those issues that all of them who resided in the community wanted to have addressed. Mr. Hixenbaugh thanked all who were involved for the work they did on this.

Question was called for at 7:39PM for **PROPOSED ORDINANCE NO. 2022-44AA Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5820.**

PROPOSED ORDINANCE NO. 2022-45

AN ORDINANCE TRANSFERRING FUNDS FROM THE LOCAL ROAD & BRIDGE MATCHING GRANT FUND TO THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2022 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2022

Transfer from the Local Road & Bridge Matching Grant Fund to MVHR Fund - \$14,233.54 and Additional Appropriation MVHR Fund - \$14,233.54

Due to a publication error, the chair entertained a motion to postpone the second reading and public hearing on not only **PROPOSED ORDINANCE NO. 2022-45**, but on two additional ordinances that reflected a request for additional appropriations, those two ordinances being **PROPOSED ORDINANCE NO. 2022-46** and **PROPOSED ORDINANCE NO. 2022-48**, more specifically the chair entertained a motion to postpone second reading and public hearing on those three ordinances until a special meeting that had been called for in conjunction with

state law and their council rules for December 27th, 2022 at 5PM. The motion was made and seconded and a voice vote was held. The motion passed and all three ordinances would be postponed until the special meeting on December 27th, 2022 at 5PM.

PROPOSED ORDINANCE NO. 2022-47

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2022 Transferring and Reappropriating Funds – Human Resources - \$17,885.00

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2022-47**. Mrs. Maguire stated they had a need to transfer funds at the end of the year in their Human Resources department. Mrs. Maguire stated they hired outside temporary help to assist the Code Department at the beginning of the year when they had some reorganization and then their broker Gibson, after many years of keeping their fees flat, raised their fees and their contract started mid-year which was \$1,000 a year they increased it. Mrs. Maguire stated because of this, they had a need to transfer money from other services and charges using temporary funds in their personal services line.

Question was called for at 7:44PM for **PROPOSED ORDINANCE NO. 2022-47 Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5821**.

PRIVILEGE OF THE FLOOR

James Wruck, 16297 Parkwood Court Granger, spoke under Privilege of the Floor. Mr. Wruck stated he and Mike were both there with the same question; what happened. Mr. Wruck stated they were told when they went to a Plan Commission meeting with regard to Petition 22-21 and were told that the matter would be taken on by the council and they could speak that evening and just wanted to know what that was not happening. Mr. Hixenbaugh stated although they did not engage in this type of dialogue, he would address that question. Mr. Hixenbaugh stated this was their normal process and he felt bad if he was given wrong information about how that evening's proceedings would entail. Mr. Hixenbaugh stated he did not know who gave him that advice, but he was confident it was not on purpose and the normal process was where there was an initial reading by the Clerk to reflect the fact that they had received the petition and then it was referred out and went through two readings in conjunction with state law and their councils rules and then it would be acted upon. Mr. Hixenbaugh stated it would actually be heard in the first meeting in January and apologized for the inconvenience for both of the gentlemen, but nothing happened

that was out of the ordinary in terms of their normal process and this was their regular order of business. Mr. Hixenbaugh asked Clerk Block about the specific date of their first meeting in January for clarification. Clerk Block stated that meeting would be on January 9th at 7PM in the Council Chambers.

Mr. Emmons stated at the Plan Commission meeting, he listened to their concerns and addressed to them that it would not be taken up until the date of the next council meeting on that matter and he did not know what date it was and asked them to check with Clerk Block to find out the date it would be handled. Mr. Emmons apologized for the confusion.

NEW BUSINESS

Mr. Hixenbaugh stated as was referenced earlier, they invited members of the public to participate in the special council meeting that had been called to deal with the three appropriations related ordinances on December 27th, 2022 at 5PM in the Council Chambers.

ADJOURNMENT 7:49PM

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 PLANNING AND COMMUNITY DEVELOPMENT
Kenneth B. Prince, ASLA, AICP, Executive Director

December 14, 2022

Deborah S. Block, AMC, MMC

DEC 15 2022

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
December 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 #22-20 A request submitted by Ann Witkowski and Mark Kosanovich, as Tenants in Common, requesting to amend the Gateway Plaza – Bremen Highway PUD to allow a second restaurant with drive-thru restaurant, an automobile use, and reduced parking.

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

PETITION #22-21 A request submitted by Gumwood Acquisitions, LLC, requesting to amend the Grandview Planned Unit Development to increase the building height to 65'.

The Commission, with a vote of 4-3, forwarded no recommendation.

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: Steve Ruby

STAFF REPORT

Location: Vacant Land at the Southwest Corner of Bremen Hwy. & Meijer Dr.
Part of the Gateway Plaza – Bremen Highway PUD

DEC 13, 2022

Petition: 22- 20

Prepared By: DJS/CH

GENERAL INFORMATION

Applicant: Ann Witkowski & Mark Kosanovich as TIC / Vequity Construction / Abonmarche Consultants, Inc.

Status: Property Owner / Contingent Developer / Site Design Consultant

Request: Amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development to allow

- a second restaurant with drive-thru facilities;
- add automobile service shop (C-4 use);
- waive the requirement of written approval of all property owners within the PUD;
- reduction of parking spaces;
- provide utilities and vehicle connections to the south; and
- building elevations follow the C-1 standard and allow fiber cement as an approved material.

Zoning Classification: S-2 Planned Unit Development District / Permitted C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities, and one restaurant with drive-thru facilities

Lot Size: 2.3 acres

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 5057) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern:

North:	S-2 Planned Unit Development District (Restaurant with Drive-Thru / Taco Bell & Single-Family Residential)
South:	S-2 Planned Unit Development (Residential / Permitted for C-1 General Commercial Use & Multi-Tenant Commercial)
East:	C-1 General Commercial (Credit Union / United Federal Credit Union) & C-4 Auto-Oriented Commercial (Convenience Store with Gas Pumps / Meijer)
West:	Unincorporated St. Joseph County (INDOT & All Access Storage Access Road, and Single-Family Residential)

Thoroughfare: Bremen Highway, Meijer Drive & Veldman Drive

School District: Penn-Harris-Madison School Corporation

Township: Penn

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

Comprehensive Plan: General Commercial

ANALYSIS

The applicant and contingent developer, Vequity Construction, are requesting to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a second restaurant with drive-thru facilities and add automobile service shop as a use, reduction in parking spaces, provide utilities and vehicle connections to the south, allow certain building materials, and waive the required written approval by all property owners within the PUD limits if the overall development is phased.

Per the applicable PUD regulations (Ordinance 5057), permitted uses within the overall 16.8 acre PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities with no outside storage restricted to an 8.3 acre area south of high tension power lines adjacent to the U.S. 20 bypass, and one restaurant with drive-thru facilities.

Taco Bell, located within the PUD limits to the north, was developed under the original PUD which only allowed one restaurant with drive-thru. If approved, the amendment would permit a second restaurant with drive-thru. A preliminary site plan submitted as an exhibit with the PUD amendment shows a two-tenant building with a restaurant with drive-thru facilities on the southern half.

Also shown on the preliminary site plan is a proposed auto use. The PUD amendment is seeking to add automobile service shop, a C-4 use, to the list of approved uses.

The PUD amendment is also requesting that the development of the property be permitted without the approval and written consent of all property owners within the PUD. The PUD conditions state, "As proposed, all properties would be acquired cleared and developed at one time. If the proposed development is to be phased, a phasing plan must be submitted that includes the signatures/written approval of all property owners within the 16.8 acre site. The intent is to allow property owners a chance to review interim screening buffering and noise issues where single family residences may be remaining on a temporary basis."

With the introduction of varied uses, a simplified and overall reduced number of required parking spaces is proposed. Based on the current PUD regulations (Ordinance 5057) the parking calculation for a sit down restaurant is 10 parking spaces, but a drive thru restaurant requires 15 parking spaces per 1,000 square feet of gross floor area. A retail use only requires 5 parking spaces per 1,000 square feet of gross floor area. The PUD amendment proposes to establish the parking calculation at 7 spaces per 1,000 square feet of gross floor area for the entire development. Based on this number, a total of 42 parking spaces are required, and 47 are shown on the preliminary site plan.

There are two undeveloped lots to the south, part of the original PUD and the storage units farthest south against the St. Joseph Valley Parkway (bypass). In order for future development, utilities and vehicle connections will be provided to the south, through the extension of Veldman Drive.

Finally, to follow the C-1 General Commercial District standards for architectural materials (Section 137-302(14)a). Furthermore, allow fiber cement board as an allowed building material. Currently the PUD requires 100% architecturally appropriate materials for all facades visible from the public right-of-way, of which fiber cement board is not included. Although a high quality material for which design waivers have been granted for use in other commercial and multi-family residential developments, such material is not expressly identified as an appropriate architectural material per the city's design review guidelines. Excluding this material, a minimum of two-thirds of each individual building façade facing the public right-of-way or private internal collector (access) roads within the development shall utilize appropriate architectural materials as defined per the C-1 General Commercial District.

Due to the recession in the late 2000s and difficulty in assembling the individual properties, the 16.8 acre property has not been able to be developed as a cohesive development as originally envisioned. Only three single-family homes remain within the PUD boundaries with one house being owned by KLT Properties the developer of the All Secure Storage facility to the south. When approved, there were six homes within the PUD. Since all of the properties were not cleared or developed as a cohesive project, the site is subject to the required 6' high fence and landscape screening between the commercial site and the

remaining adjacent residential uses. It should also be noted that a prior PUD amendment allowed the construction of the storage unit facility to the south without the consent of all property owners.

All other previously approved development standards and conditions of approval per Ordinance 5057 shall remain applicable.

The Engineering Department approved the amendment request providing comments to be address on the Final Site Plan, for example, no direct access from Bremen Highway and sidewalks shall be extended along Veldman Drive and Meijer Drive frontage.

All other pertinent City Departments have reviewed and approved the request providing no comments.

RECOMMENDATION

Staff recommends **approval** to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow

- a second restaurant with drive-thru facilities;
- add automobile service shop (C-4 use);
- waive the requirement of written approval of all property owners within the PUD;
- reduction of parking spaces;
- provide utilities and vehicle connections to the south; and
- building elevations follow the C-1 standard and allow fiber cement as an approved material.

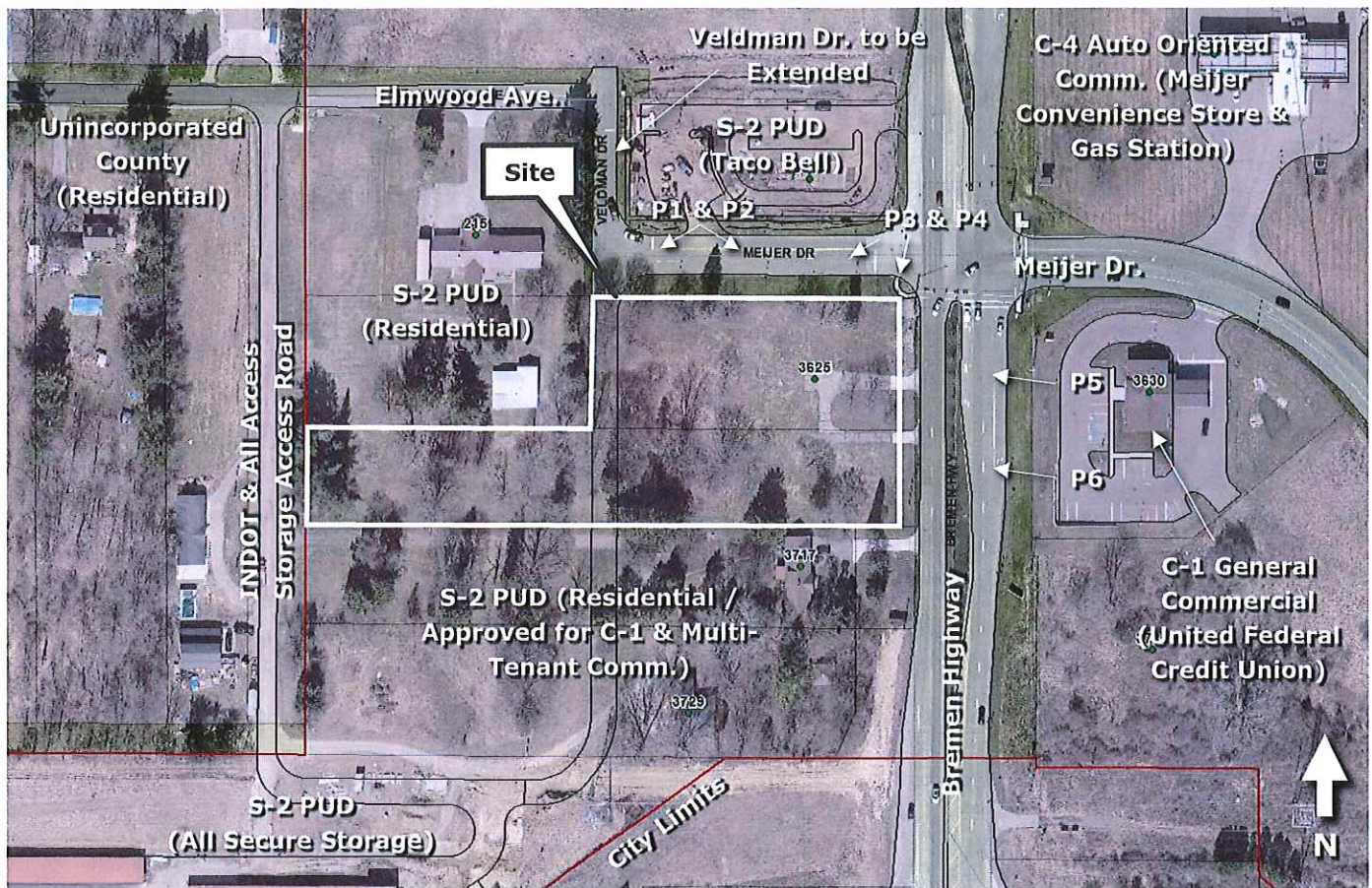
All other previously approved development standards and conditions of approval per Ordinance 5057 shall remain applicable to the property.

This recommendation is based upon the following findings of fact:

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include a restaurant with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including a restaurant with drive-thru, convenience store with gas station, and credit union, are located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west. The Taco Bell to the north received a Design Review waiver for architectural materials and a reduction in number of parking spaces.
3. The most desirable/highest and best use – The requested PUD amendment will allow the site to be developed with different uses than originally envisioned over 15 years ago. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, and one restaurant with drive-thru facilities.
4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6' high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses. The use of fiber cement board is becoming more common and is routinely given design review waivers. Parking will be distributed among the entire site for the three businesses.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. The multi-tenant commercial use, including a restaurant with drive-thru facilities and auto service center, are reasonably consistent with that guided use.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Location Map



Aerial Photograph
 Vacant Property
 Southwest Corner of Bremen Highway & Meijer Drive



P1. Looking southeasterly toward the site from the Taco Bell entrance on Meijer Drive.



P2. Looking southwesterly toward the site from the Taco Bell entrance on Meijer Drive.



P3. Looking southwesterly toward the property from the northwest corner of Meijer Dr. & Bremen Hwy.



P4. Looking southerly toward the property from the northwest corner of Meijer Dr. & Bremen Hwy.



P5. Looking westerly toward the north parcel from the United Federal Credit Union parking lot across Bremen Hwy.



P6. Looking westerly toward the south parcel from the United Federal Credit Union parking lot across Bremen Hwy.

STAFF REPORT

Location: Northwest corner of Gumwood Road &
W. Cleveland Road (S.R. 23)

Date: December 13,
2022

Petition: 22-21

Prepared By: SA

GENERAL INFORMATION

Applicants: Gumwood Acquisitions, LLC/Abonmarche Consultants

Status: Property Owner/Applicant

Request: Amend Planned Unit Development to allow a maximum building height of 65'.

Zoning Classification: S-2 Planning Unit Development

Lot Size: 33.8 Acres

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District;
Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Grandview Mixed-Use Development including commercial and multi-family residential uses & City of Mishawaka/Municipal Wellfield)

South: S-1 Extensive Open Space/Public (Cemetery/St. Joseph Valley Memorial Park)

East: S-2 Planned Unit Development (Heritage Square and Toscana Park Mixed-Use developments including commercial and residential uses)

West: C-2 Shopping Center Commercial (Multi-Tenant Commercial/Centennial Place) & Unincorporated St. Joseph County (Single-Family Residential)

Thoroughfare: Gumwood Road & W. Cleveland Road (S.R. 23)

School District: South Bend Community School Corporation

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

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan. However, the amended PUD and proposed uses are generally consistent with the established policy and trend of encouraging retail and multiple family uses within the area.

ANALYSIS

The petitioner Gumwood Acquisitions, LLC, is requesting to amend the Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) by increasing a maximum four (4) story or forty-eight (48) foot building height to sixty-five (65) feet. The Grandview PUD was originally established in 2014.

The Planned Unit Development is located at the northwest corner of Gumwood Road and W. Cleveland Road (S.R. 23). As part of Grandview PUD, Lot 2 Phase III, the developer is planning future mixed use for residential, hospitality, and commercial with a building height not to exceed 65' as indicated on the master plan exhibit. Exclusion from the height amendment request will be future townhomes at the northwest portion of the lot residing approximately 426 feet east of the west property line and approximately 710.5 feet south of the north property line also shown on the exhibit.

The proposed 65' height for mixed use residential and hospitality uses the staff believes is appropriate given the location of the request and the past approvals that have been granted for similar uses. Hotels typically require the additional height. Previous PUD amendments have been granted nearby at Heritage Square for the Hampton Inn and Toscana Park for the Holiday Inn Express for increased building height of 59'.

Fire Department has commented this will possibly change sprinkler requirements and aerial fire apparatus access requirements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

RECOMMENDATION

Staff recommends in favor of amending the Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) as follows:

1. Building height not to exceed 65'

This recommendation is based on the following findings of fact:

1. Existing Conditions - The subject parcels are located on Gumwood Road and S.R. 23, both heavily traveled corridors. Existing similar multi-residential and commercial developments are located to the north and across Gumwood Road to the east.
2. Character of Buildings in Area - The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. There are two hotels east of Gumwood Road that are 59' in height.
3. The most desirable/highest and best use – Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, additional height would allow flexibility to the type of use that it could be for. There is also a current trend to build higher density housing to meet growing demands and escalating costs based on demands. We believe the additional height could help to realize additional opportunities and benefits by allowing the property to be marketed with an approved 65' building height.
4. Conservation of property values- The proposed change will not be injurious to property values in the surrounding area due to the similar adjacent commercial and mixed-use retail and multi-family residential uses. There are other tall buildings in the area including a water tower.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in

the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

ATTACHMENTS

Aerial, Photographs, Exhibit, Request, and Location Map





Looking west from Gumwood Road



Looking north from Cleveland Road



Looking south from Grandview Drive

Pet 22-22

Date: December 1, 2022

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

Deborah S. Block, MMC, MMC

DEC 29 2022

City Clerk
Mishawaka, IN

RE: PETITION TO REZONE

The undersigned, MCC Self Storage LLC and Morris Sales, Inc., are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to wit:

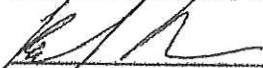
Please refer to Exhibit A which includes the Parcel ID number, property address, property owner, and legal description of the area Petitioners seek to rezone. Exhibit B depicts the area Petitioners seek to rezone with hatching.

Petitioners own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of Commercial C-1 District. Said properties consists of an existing parking lot for an indoor self-storage facility and existing fireworks store.

Petitioners desire said real estate to be rezoned to Commercial C-7 District. Petitioners further state that they intend to utilize said land for the development of a drive-thru restaurant, to be decided at a future time. All existing curb cuts and existing commercial developments will remain, and no new curb cuts are proposed along 12th Street or South Merrifield Avenue. Furthermore, the proposed future development will meet the parking and building setbacks based on the Capital Improvement project for 12th Street.

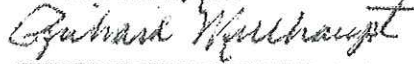
Wherefore, the petitioner respectfully requests that the Common Council of the City Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above-described parcel of land located in the City of Mishawaka.

MCC SELF STORAGE, LLC.



Brad Beer, Member

MORRIS SALES, INC.



Richard Mulhaupt, President

Contact Person:

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

EXHIBIT "A"

Sheet 1 of 1

Project: MCC Self Storage Rezone
Key No: Part of 71-09-15-451-008.000-023
Owners: 79% MCC Self Storage, LLC and 21% Morris Sales, Inc.
Address: 940 East 12th Street, Mishawaka, IN 46544

A parcel of land located in the Southeast Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows: Beginning at the South Quarter corner of said Section; thence North 0 degrees 01 minute 12 seconds West, said bearing being the basis of bearing of the description with all other bearings herein relative thereto, 404.13 feet along the north-south centerline of said Section; thence South 89 degrees 55 minutes 53 seconds East 232.95 feet; thence South 0 degrees 01 minute 12 seconds East 404.13 feet to the south line of said Section; thence North 89 degrees 55 minutes 53 seconds West 232.95 feet to the point of beginning and containing 2.16 acres, more or less.

This description was written from the information obtained from the recorder's office and other sources that were not necessarily checked by a field survey.

Reference document: #2022-07873

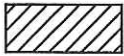
Prepared for: City of Mishawaka
By: Jeffrey S. Barnes, PS
Firm: Jones Petrie Rafinski
Date: December 1, 2022
Job Number: 2022-0058

C:\Users\chill2\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\LMQ6T7SJ\2022-12-01
REVISED Rezone Exhibit A.doc

Parcel No: na
Road: 12th Street
Sec: 15 Town: T37N Range: R3E

Rezone Sketch Exhibit "B"

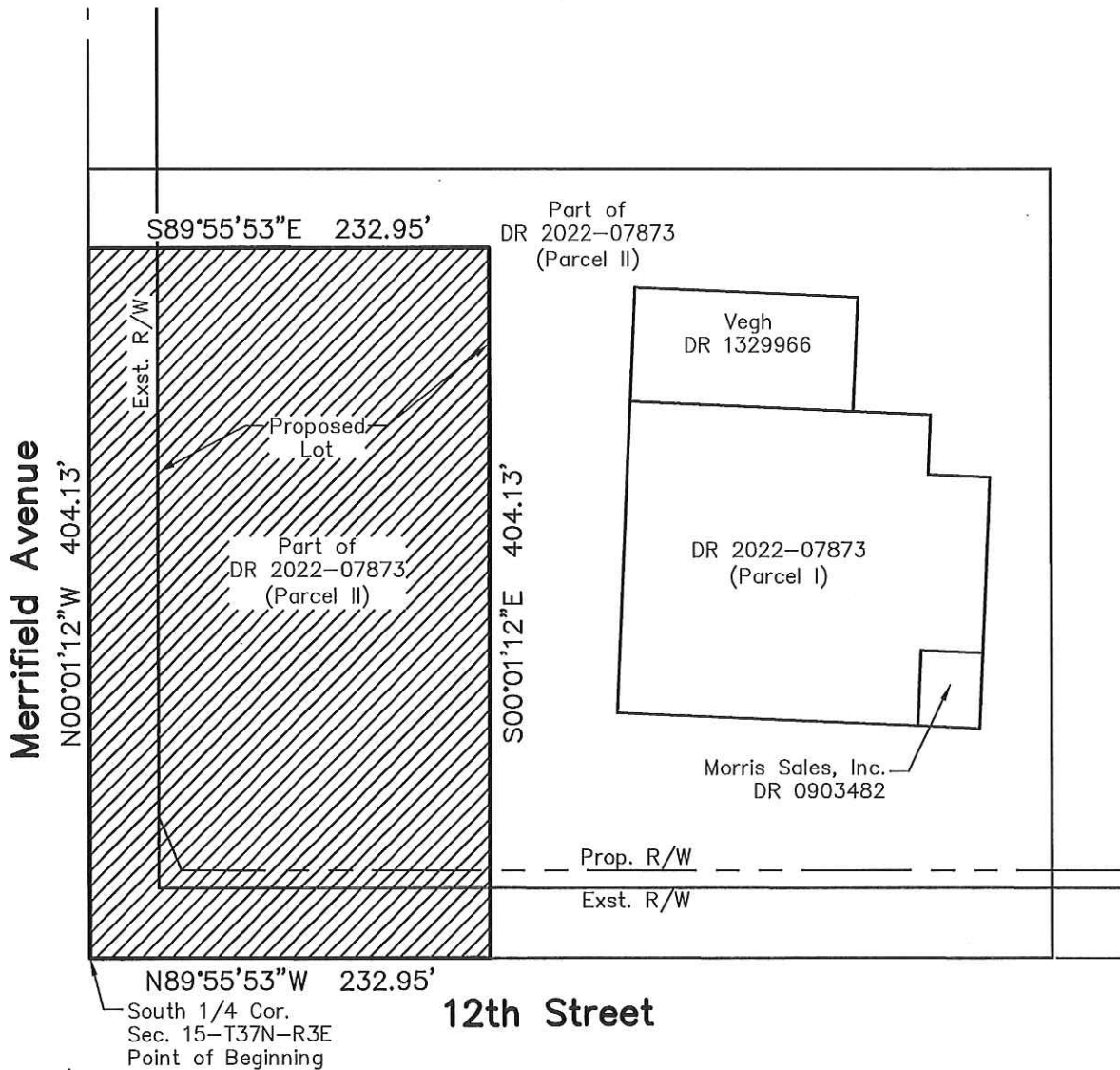
Job No: 2022-0058
Drawn: jsb
Checked: mdc
County: St. Joseph



Hatched area is
approximate rezone

Prepared for: City of Miskawaka
Owner: 79% MCC Self Storage, LLC and
21% Morris Sales, Inc.
Deed Rec.: 2022-07873
Key Number: part of 71-09-15-451-008.000-023

This plat was prepared from information obtained from the recorder's office and other sources which were not necessarily checked by a field survey. Dimensions shown are from listed record documents.

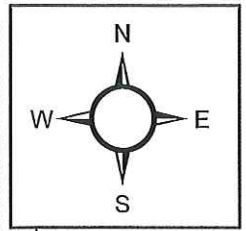


JONES
PETRIE
RAFINSKI

Elkhart, IN
p: 574.293.7762
South Bend, IN
p: 574.232.4388
Fort Wayne, IN
p: 260.422.2522



1" = 100'



PET 22-22

E TWELFTH ST

Location Map

PET 22-22

**MCC SELF STORAGE &
MORRIS SALES, INC.**

NE CORNER OF 12TH & MERRIFIELD

**REZONE OUTLOT FROM
C-1 GENERAL COMMERCIAL TO
C-7 AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL**

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-20
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2022-49
ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

DEC 15 2022

City Clerk
Mishawaka, IN

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

PARCEL 1:

A TRACT OF LAND CONSISTING OF APPROXIMATELY ONE (1) ACRE IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, BOUNDED BY A LINE RUNNING AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION, TWENTY (20) RODS NORTH OF THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER THEREOF; RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID SECTION, EIGHT (8) RODS; THENCE RUNNING WEST 370 FEET; THENCE SOUTH EIGHT (8) RODS; THENCE EAST 370 FEET TO THE PLACE OF BEGINNING, EXCEPT THAT PORTION OF THE LAND CONVEYED TO THE STATE OF INDIANA IN WARRANTY DEED RECORDED JUNE 3, 1974 IN DEED RECORD 786, PAGE 494.

PARCEL 2:

A TRACT OF LAND CONTAINING 1 1/2 ACRES, IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION NUMBERED 28, TOWNSHIP NUMBER 37 NORTH, RANGE NUMBER 3 EAST, WHICH TRACT IS BOUNDED BY A LINE RUNNING AS FOLLOWS, VIZ: BEGINNING ON THE EAST LINE OF SAID SECTION NUMBER 28 AT A POINT 14 RODS NORTH OF THE SOUTHEAST QUARTER THEREOF, THENCE RUNNING NORTH ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE EAST 40 RODS TOT HE PLACE OF BEGINNING, EXCEPT THAT PORTION OF THE LAND CONVEYED TO THE STATE OF INDIANA IN WARRANTY DEED RECORDED APRIL 19, 1974 IN DEED RECORD 784, PAGE 467.

Proposed Ordinance No: _____

Ordinance No: _____

COMMON ADDRESS: Vacant Land at Southwest Corner of Bremen Highway and Meijer Drive

which real estate is now classified as S-2 Planned Unit Development shall hereafter be amended to allow for a second restaurant with drive-thru facilities, automobile service shop, waive requirement of written approval of all property owners within the PUD, reduction in parking spaces, and the use of fiber cement board as an approved material.

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

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include a restaurant with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including a restaurant with drive-thru, convenience store with gas station, and credit union, are located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west. The Taco Bell to the north received a Design Review waiver for architectural materials and a reduction in number of parking spaces.
3. The Most Desirable/Highest and Best Use – The requested PUD amendment will allow the site to be developed with different uses than originally envisioned over 15 years ago. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, and one restaurant with drive-thru facilities.
4. Conservation of Property Values – The proposed amendment should not be injurious to property values in the surrounding area. A 6' high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses. The use of fiber cement board is becoming more common and is routinely given design review waivers. Parking will be distributed among the entire site for the three businesses.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. The multi-tenant commercial use, including a restaurant with drive-thru facilities and auto service center, are reasonably consistent with that guided use.

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.

Proposed Ordinance No: _____

Ordinance No: _____

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: Vacant Land at the Southwest Corner of Bremen Hwy. & Meijer Dr.
Part of the Gateway Plaza – Bremen Highway PUD

DEC 13, 2022

Petition: 22- 20

Prepared By: DJS/CH

GENERAL INFORMATION

Applicant: Ann Witkowski & Mark Kosanovich as TIC / Vequity Construction / Abonmarche Consultants, Inc.

Status: Property Owner / Contingent Developer / Site Design Consultant

Request: Amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development to allow

- a second restaurant with drive-thru facilities;
- add automobile service shop (C-4 use);
- waive the requirement of written approval of all property owners within the PUD;
- reduction of parking spaces;
- provide utilities and vehicle connections to the south; and
- building elevations follow the C-1 standard and allow fiber cement as an approved material.

Zoning Classification: S-2 Planned Unit Development District / Permitted C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities, and one restaurant with drive-thru facilities

Lot Size: 2.3 acres

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 5057) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern:

North:	S-2 Planned Unit Development District (Restaurant with Drive-Thru / Taco Bell & Single-Family Residential)
South:	S-2 Planned Unit Development (Residential / Permitted for C-1 General Commercial Use & Multi-Tenant Commercial)
East:	C-1 General Commercial (Credit Union / United Federal Credit Union) & C-4 Auto-Oriented Commercial (Convenience Store with Gas Pumps / Meijer)
West:	Unincorporated St. Joseph County (INDOT & All Access Storage Access Road, and Single-Family Residential)

Thoroughfare: Bremen Highway, Meijer Drive & Veldman Drive

School District: Penn-Harris-Madison School Corporation

Township: Penn

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

Comprehensive Plan: General Commercial

ANALYSIS

The applicant and contingent developer, Vequity Construction, are requesting to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a second restaurant with drive-thru facilities and add automobile service shop as a use, reduction in parking spaces, provide utilities and vehicle connections to the south, allow certain building materials, and waive the required written approval by all property owners within the PUD limits if the overall development is phased.

Per the applicable PUD regulations (Ordinance 5057), permitted uses within the overall 16.8 acre PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities with no outside storage restricted to an 8.3 acre area south of high tension power lines adjacent to the U.S. 20 bypass, and one restaurant with drive-thru facilities.

Taco Bell, located within the PUD limits to the north, was developed under the original PUD which only allowed one restaurant with drive-thru. If approved, the amendment would permit a second restaurant with drive-thru. A preliminary site plan submitted as an exhibit with the PUD amendment shows a two-tenant building with a restaurant with drive-thru facilities on the southern half.

Also shown on the preliminary site plan is a proposed auto use. The PUD amendment is seeking to add automobile service shop, a C-4 use, to the list of approved uses.

The PUD amendment is also requesting that the development of the property be permitted without the approval and written consent of all property owners within the PUD. The PUD conditions state, "As proposed, all properties would be acquired cleared and developed at one time. If the proposed development is to be phased, a phasing plan must be submitted that includes the signatures/written approval of all property owners within the 16.8 acre site. The intent is to allow property owners a chance to review interim screening buffering and noise issues where single family residences may be remaining on a temporary basis."

With the introduction of varied uses, a simplified and overall reduced number of required parking spaces is proposed. Based on the current PUD regulations (Ordinance 5057) the parking calculation for a sit down restaurant is 10 parking spaces, but a drive thru restaurant requires 15 parking spaces per 1,000 square feet of gross floor area. A retail use only requires 5 parking spaces per 1,000 square feet of gross floor area. The PUD amendment proposes to establish the parking calculation at 7 spaces per 1,000 square feet of gross floor area for the entire development. Based on this number, a total of 42 parking spaces are required, and 47 are shown on the preliminary site plan.

There are two undeveloped lots to the south, part of the original PUD and the storage units farthest south against the St. Joseph Valley Parkway (bypass). In order for future development, utilities and vehicle connections will be provided to the south, through the extension of Veldman Drive.

Finally, to follow the C-1 General Commercial District standards for architectural materials (Section 137-302(14)a). Furthermore, allow fiber cement board as an allowed building material. Currently the PUD requires 100% architecturally appropriate materials for all facades visible from the public right-of-way, of which fiber cement board is not included. Although a high quality material for which design waivers have been granted for use in other commercial and multi-family residential developments, such material is not expressly identified as an appropriate architectural material per the city's design review guidelines. Excluding this material, a minimum of two-thirds of each individual building façade facing the public right-of-way or private internal collector (access) roads within the development shall utilize appropriate architectural materials as defined per the C-1 General Commercial District.

Due to the recession in the late 2000s and difficulty in assembling the individual properties, the 16.8 acre property has not been able to be developed as a cohesive development as originally envisioned. Only three single-family homes remain within the PUD boundaries with one house being owned by KLT Properties the developer of the All Secure Storage facility to the south. When approved, there were six homes within the PUD. Since all of the properties were not cleared or developed as a cohesive project, the site is subject to the required 6' high fence and landscape screening between the commercial site and the

remaining adjacent residential uses. It should also be noted that a prior PUD amendment allowed the construction of the storage unit facility to the south without the consent of all property owners.

All other previously approved development standards and conditions of approval per Ordinance 5057 shall remain applicable.

The Engineering Department approved the amendment request providing comments to be address on the Final Site Plan, for example, no direct access from Bremen Highway and sidewalks shall be extended along Veldman Drive and Meijer Drive frontage.

All other pertinent City Departments have reviewed and approved the request providing no comments.

RECOMMENDATION

Staff recommends **approval** to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow

- a second restaurant with drive-thru facilities;
- add automobile service shop (C-4 use);
- waive the requirement of written approval of all property owners within the PUD;
- reduction of parking spaces;
- provide utilities and vehicle connections to the south; and
- building elevations follow the C-1 standard and allow fiber cement as an approved material.

All other previously approved development standards and conditions of approval per Ordinance 5057 shall remain applicable to the property.

This recommendation is based upon the following findings of fact:

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include a restaurant with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including a restaurant with drive-thru, convenience store with gas station, and credit union, are located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west. The Taco Bell to the north received a Design Review waiver for architectural materials and a reduction in number of parking spaces.
3. The most desirable/highest and best use – The requested PUD amendment will allow the site to be developed with different uses than originally envisioned over 15 years ago. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, and one restaurant with drive-thru facilities.
4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6' high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses. The use of fiber cement board is becoming more common and is routinely given design review waivers. Parking will be distributed among the entire site for the three businesses.
5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. The multi-tenant commercial use, including a restaurant with drive-thru facilities and auto service center, are reasonably consistent with that guided use.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Location Map



Aerial Photograph
Vacant Property
Southwest Corner of Bremen Highway & Meijer Drive



P1. Looking southeasterly toward the site from the Taco Bell entrance on Meijer Drive.



P2. Looking southwesterly toward the site from the Taco Bell entrance on Meijer Drive.



P3. Looking southwesterly toward the property from the northwest corner of Meijer Dr. & Bremen Hwy.



P4. Looking southerly toward the property from the northwest corner of Meijer Dr. & Bremen Hwy.



P5. Looking westerly toward the north parcel from the United Federal Credit Union parking lot across Bremen Hwy.



P6. Looking westerly toward the south parcel from the United Federal Credit Union parking lot across Bremen Hwy.

November 15, 2022

PET
22-20

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

PETITION FOR PUD AMENDMENT

The undersigned, Ann Witkowski and Mark Kosanovich, as Tenants in Common, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, Indiana, to wit:

PARCEL 1:

A TRACT OF LAND CONSISTING OF APPROXIMATELY ONE (1) ACRE IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, BOUNDED BY A LINE RUNNING AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION, TWENTY (20) RODS NORTH OF THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER THEREOF; RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID SECTION, EIGHT (8) RODS; THENCE RUNNING WEST 370 FEET; THENCE SOUTH EIGHT (8) RODS; THENCE EAST 370 FEET TO THE PLACE OF BEGINNING, EXCEPT THAT PORTION OF THE LAND CONVEYED TO THE STATE OF INDIANA IN WARRANTY DEED RECORDED JUNE 3, 1974 IN DEED RECORD 786, PAGE 494.

PARCEL 2:

A TRACT OF LAND CONTAINING 1 1/2 ACRES, IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION NUMBERED 28, TOWNSHIP NUMBER 37 NORTH, RANGE NUMBER 3 EAST, WHICH TRACT IS BOUNDED BY A LINE RUNNING AS FOLLOWS, VIZ: BEGINNING ON THE EAST LINE OF SAID SECTION NUMBER 28 AT A POINT 14 RODS NORTH OF THE SOUTHEAST QUARTER THEREOF, THENCE RUNNING NORTH ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE EAST 40 RODS TO THE PLACE OF BEGINNING, EXCEPT THAT PORTION OF THE LAND CONVEYED TO THE STATE OF INDIANA IN WARRANTY DEED RECORDED APRIL 19, 1974 IN DEED RECORD 784, PAGE 467.

Petitioners own one hundred percent (100%) of the above-described parcel of land, which carries a zoning classification of S-2 Planned Unit Development (Ordinance 5057) specifically for a mix of uses on an overall 16.8-acre group of parcels (PUD Limits), with the uses limited as follows:

- C-1 General Commercial Uses
- Self-Lock Storage Facilities
- One restaurant with drive through facilities within PUD Limits
- Written approval of all property owners within PUD Limits

Received

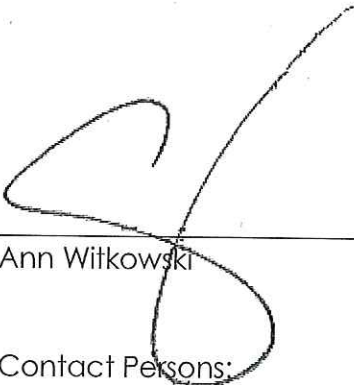
NOV 16 2022

Planning and
Community Development

Petitioners desire said real estate to be amended to allow for:

- Allow two restaurants with drive-through facilities (a C-7 use) within PUD Limits, with one restaurant with drive-through facilities on the above-referenced parcel of land.
- All one automobile service shop (a C-4 use) within the PUD Limits, with that use being on the above-referenced parcel of land.
- Waive written approval of all property owners within PUD Limits.
- For a single building with two restaurants (one with drive-through facilities), allow for the provision of 7 parking spaces per 1000 square feet, when 10 parking spaces per 1000 square feet is required.
- Allow for the required parking to be provided throughout the entirety of the above-referenced parcel.
- Require that the development of the above-referenced parcel provide for utilities and vehicle connections to the parcel to the south.
- Allow fiber cement in the façade on the west and south face of the restaurant with drive-through facilities.

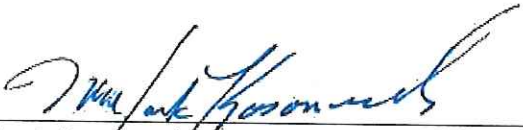
Wherefore, the petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka.



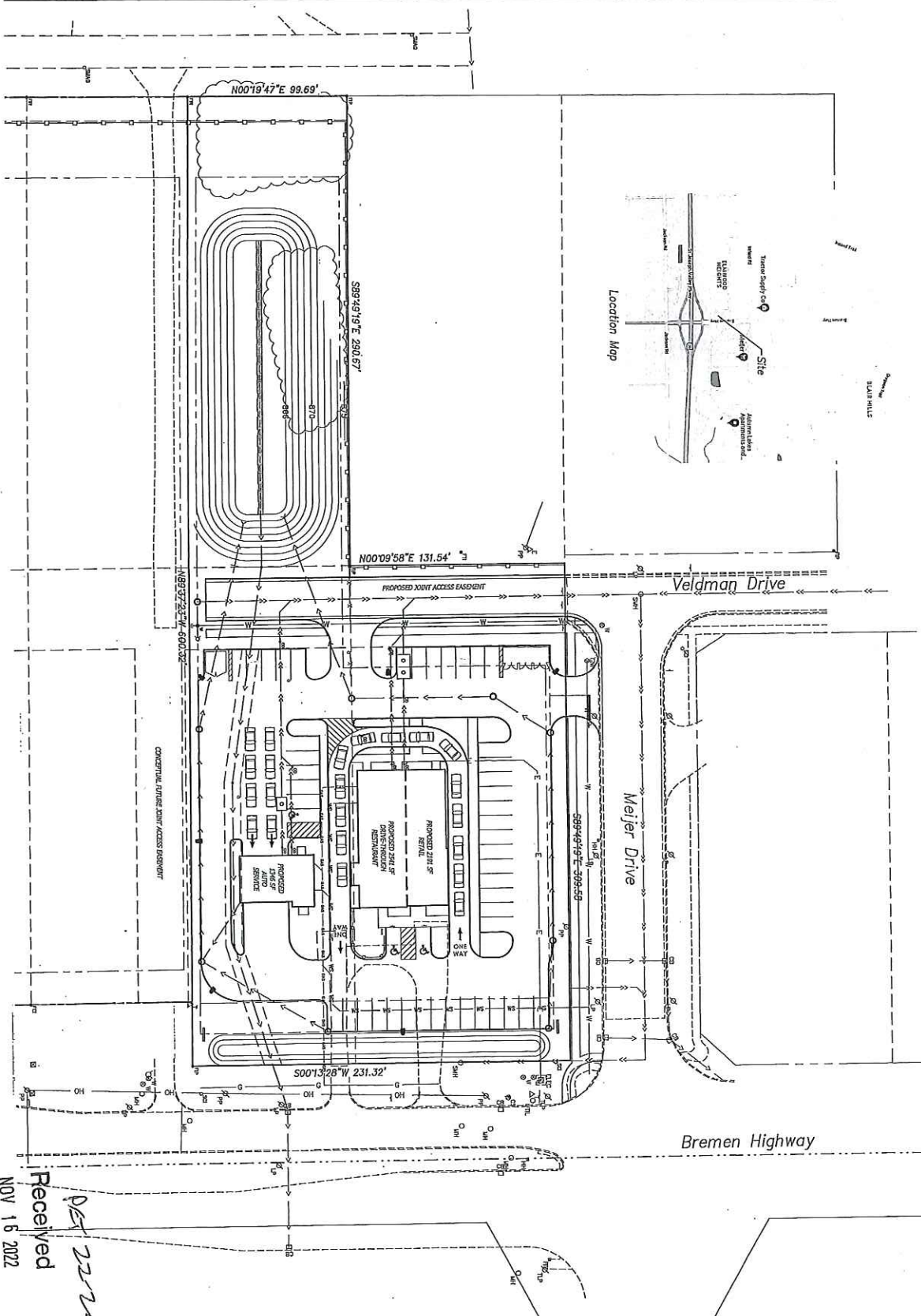
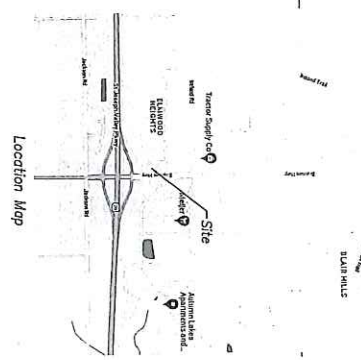
Ann Witkowski

Contact Persons:

Jason Gigot, Vequity
226 N. Morgan St., Ste. 400
Chicago, IL 60607
312-550-3408
j.gigot@vequity.com


Mark Kosanovich

Jeffrey Schaffer, Abonmarche
315 W. Jefferson Blvd.
South Bend, IN 46601
574-232-8700
jschaffer@abonmarche.com



Received
NOV 16 2022
Planning and
Community Development

C0.0

PUD PLAN

PROJECT:
RETAIL BUILDINGS
SW COR. BREMEN HWY. & MEIJER DR.
MISHAWAKA, INDIANA

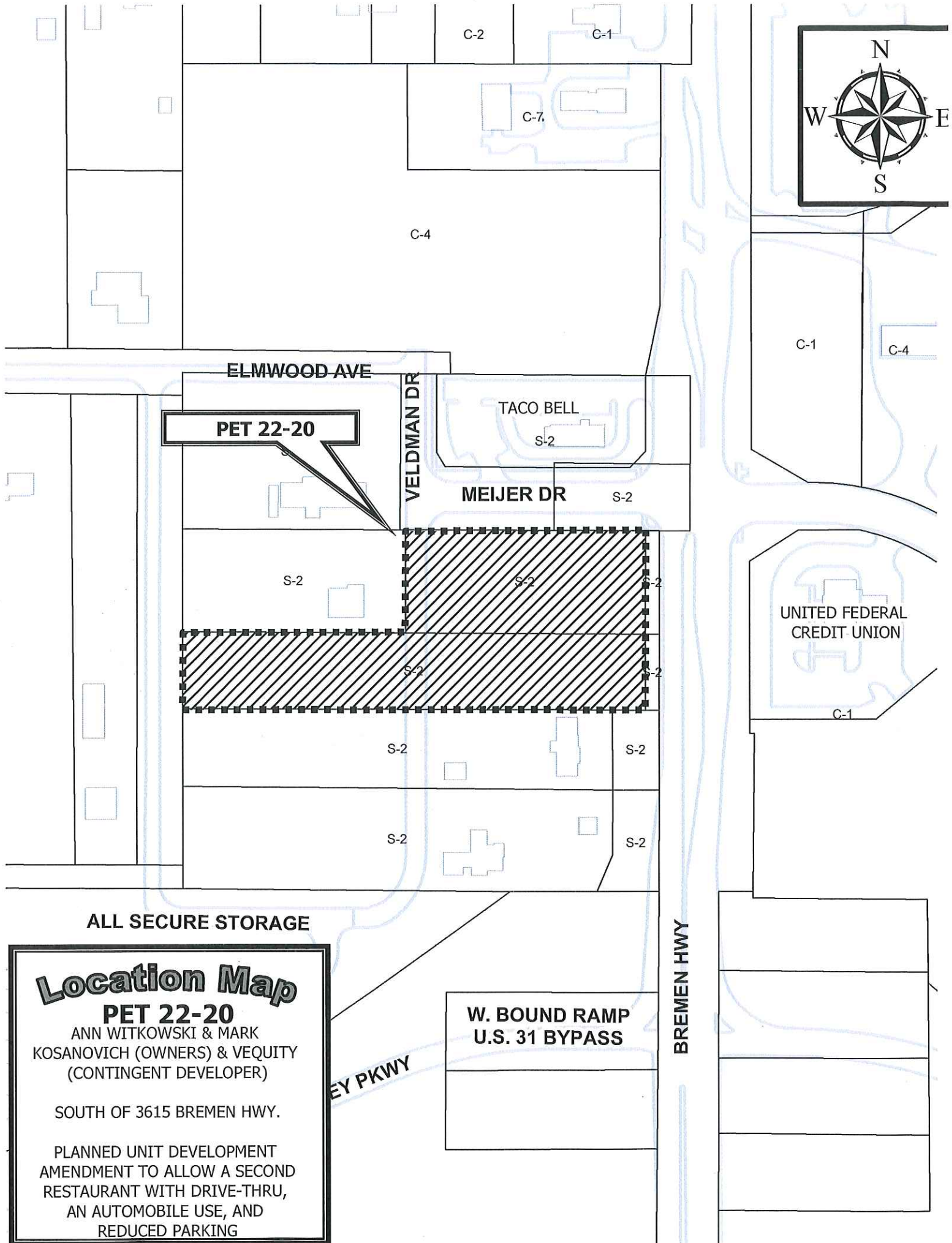
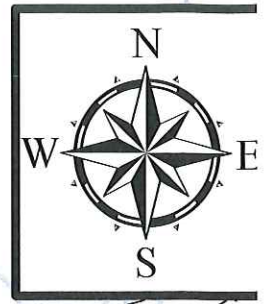
ABONMARCHÉ
33 W Main Street
Benton Harbor, MI 49222
1-268-822-2015
F 268-392-1017
www.abonmarche.com

Benton Harbor
Elmer Mills
Grand Haven
Holland

South Bend
Valparaiso

Architectural & Engineering

SHEET NO.	22-0876
DATE	11/15/2022
SCALE	1" = 40'
PROJECT	RETAIL BUILDINGS
DESIGNED BY	JES
DRAWN BY	JES
CHECKED BY	JES
DATE	11/15/2022



ALL SECURE STORAGE

Location Map

PET 22-20

ANN WITKOWSKI & MARK
KOSANOVICH (OWNERS) & VEQUITY
(CONTINGENT DEVELOPER)

SOUTH OF 3615 BREMEN HWY.

PLANNED UNIT DEVELOPMENT
AMENDMENT TO ALLOW A SECOND
RESTAURANT WITH DRIVE-THRU,
AN AUTOMOBILE USE, AND
REDUCED PARKING

W. BOUND RAMP
U.S. 31 BYPASS

W. BOUND RAMP
U.S. 31 BYPASS

Mishawaka, Common Council
First Floor, City Hall
100 Lincolnway West
Mishawaka, IN 46544

Deborah S. Block, AMC, MMC

DEC 21 2022

City Clerk
Mishawaka, IN

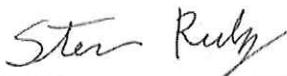
Re: Grandview Planned Unit Development

Dear Common Council,

On behalf of Gumwood Acquisitions, LLC, please accept this request to table the Grandview Planned Unit Development, petition #22-21, at the January 9th, 2023, meeting to the February 6th, 2023, meeting to allow time for the applicant to meet with some of the neighbors to share the vision and proposed plan.,

Please direct any questions that you may have to Steve Ruby – Project Manager Abonmarche Consultants at ruby@abonmarche.com or (574) 232-8700.

Sincerely,



Steve Ruby- Abonmarche Consultants / Client Representative for Gumwood Acquisitions, LLC

DEC 15 2022

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 22-21

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2022-50

ORDINANCE NO. _____

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made no recommendation regarding the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-wit:

A PART OF LOT 2 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION AS RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2 IN SAID DEVELOPMENT; THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET; THENCE SOUTH 00°28'12" EAST, 102.21 FEET; THENCE NORTH 89°28'27" EAST, 491.43 FEET TO THE EAST LINE OF SAID LOT 2 AND THE WESTERLY RIGHT-OF-WAY OF GUMWOOD ROAD; THENCE SOUTH 00°31'05" EAST ALONG SAID EAST LINE AND WESTERLY RIGHT-OF-WAY, 785.59 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2 AND THE NORTHERLY RIGHT-OF-WAY OF S.R. 23; THENCE SOUTH 44°28'18" WEST ALONG SAID SOUTHERLY AND NORTHERLY LINES, 35.36 FEET; THENCE SOUTH 89°27'41" WEST ALONG SAID SOUTHERLY AND NORTHERLY LINES, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 25.54 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF-WAY OF RECORD.

COMMON ADDRESS: Northwest Corner of Gumwood Road and West Cleveland Road

which real estate is now classified as S-2 Planned Unit Development shall hereafter be amended to allow for building height not to exceed 65', if approved.

Proposed Ordinance No: 2022-58

Ordinance No: _____

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

1. Existing Conditions - The subject parcels are located on Gumwood Road and S.R. 23, both heavily traveled corridors. Existing similar multi-residential and commercial developments are located to the north and across Gumwood Road to the east.
2. Character of Buildings in Area - The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. There are two hotels east of Gumwood Road that are 59' in height.
3. The Most Desirable/Highest and Best Use - Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, additional height would allow flexibility to the type of use that it could be for. There is also a current trend to build higher density housing to meet growing demands and escalating costs based on demands. We believe the additional height could help to realize additional opportunities and benefits by allowing the property to be marketed with an approved 65' building height.
4. Conservation of Property Values- The proposed change will not be injurious to property values in the surrounding area due to the similar adjacent commercial and mixed-use retail and multi-family residential uses. There are other tall buildings in the area including a water tower.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2022-50

Ordinance No: _____

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: Northwest corner of Gumwood Road &
W. Cleveland Road (S.R. 23)

Date: December 13,
2022

Petition: 22-21

Prepared By: SA

GENERAL INFORMATION

Applicants: Gumwood Acquisitions, LLC/Abonmarche Consultants

Status: Property Owner/Applicant

Request: Amend Planned Unit Development to allow a maximum building height of 65'.

Zoning Classification: S-2 Planning Unit Development

Lot Size: 33.8 Acres

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District;
Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern:

North:	S-2 Planned Unit Development (Grandview Mixed-Use Development including commercial and multi-family residential uses & City of Mishawaka/Municipal Wellfield)
South:	S-1 Extensive Open Space/Public (Cemetery/St. Joseph Valley Memorial Park)
East:	S-2 Planned Unit Development (Heritage Square and Toscana Park Mixed-Use developments including commercial and residential uses)
West:	C-2 Shopping Center Commercial (Multi-Tenant Commercial/Centennial Place) & Unincorporated St. Joseph County (Single-Family Residential)

Thoroughfare: Gumwood Road & W. Cleveland Road (S.R. 23)

School District: South Bend Community School Corporation

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

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan. However, the amended PUD and proposed uses are generally consistent with the established policy and trend of encouraging retail and multiple family uses within the area.

ANALYSIS

The petitioner Gumwood Acquisitions, LLC, is requesting to amend the Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) by increasing a maximum four (4) story or forty-eight (48) foot building height to sixty-five (65) feet. The Grandview PUD was originally established in 2014.

The Planned Unit Development is located at the northwest corner of Gumwood Road and W. Cleveland Road (S.R. 23). As part of Grandview PUD, Lot 2 Phase III, the developer is planning future mixed use for residential, hospitality, and commercial with a building height not to exceed 65' as indicated on the master plan exhibit. Exclusion from the height amendment request will be future townhomes at the northwest portion of the lot residing approximately 426 feet east of the west property line and approximately 710.5 feet south of the north property line also shown on the exhibit.

The proposed 65' height for mixed use residential and hospitality uses the staff believes is appropriate given the location of the request and the past approvals that have been granted for similar uses. Hotels typically require the additional height. Previous PUD amendments have been granted nearby at Heritage Square for the Hampton Inn and Toscana Park for the Holiday Inn Express for increased building height of 59'.

Fire Department has commented this will possibly change sprinkler requirements and aerial fire apparatus access requirements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

RECOMMENDATION

Staff recommends in favor of amending the Northwest Gumwood and Cleveland Road Planned Unit Development (commonly known as the Grandview PUD) as follows:

1. Building height not to exceed 65'

This recommendation is based on the following findings of fact:

1. Existing Conditions - The subject parcels are located on Gumwood Road and S.R. 23, both heavily traveled corridors. Existing similar multi-residential and commercial developments are located to the north and across Gumwood Road to the east.
2. Character of Buildings in Area - The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. There are two hotels east of Gumwood Road that are 59' in height.
3. The most desirable/highest and best use – Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, additional height would allow flexibility to the type of use that it could be for. There is also a current trend to build higher density housing to meet growing demands and escalating costs based on demands. We believe the additional height could help to realize additional opportunities and benefits by allowing the property to be marketed with an approved 65' building height.
4. Conservation of property values- The proposed change will not be injurious to property values in the surrounding area due to the similar adjacent commercial and mixed-use retail and multi-family residential uses. There are other tall buildings in the area including a water tower.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in

the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

ATTACHMENTS

Aerial, Photographs, Exhibit, Request, and Location Map





Looking west from Gumwood Road



Looking north from Cleveland Road



Looking south from Grandview Drive

Date: 11/16/22
Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

PE 22-21
Received
NOV 16 2022
Planning and
Community Development

RE: Grandview Phase III PUD Amendment

The undersigned, Ryan C. Rans, of Gumwood Acquisitions, LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

A PART OF LOT 2 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION AS RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2 IN SAID DEVELOPMENT; THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET; THENCE SOUTH 00°28'12" EAST, 102.21 FEET; THENCE NORTH 89°28'27" EAST, 491.43 FEET TO THE EAST LINE OF SAID LOT 2 AND THE WESTERLY RIGHT-OF-WAY OF GUMWOOD ROAD; THENCE SOUTH 00°31'05" EAST ALONG SAID EAST LINE AND WESTERLY RIGHT-OF-WAY, 785.59 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2 AND THE NORTHERLY RIGHT-OF-WAY OF S.R. 23; THENCE SOUTH 44°28'18" WEST ALONG SAID SOUTHERLY AND NORTHERLY LINES, 35.36 FEET; THENCE SOUTH 89°27'41" WEST ALONG SAID SOUTHERLY AND NORTHERLY LINES, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 25.54 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF-WAY OF RECORD.

COMMON ADDRESS: Northwest Corner of Gumwood Road and Cleveland Road

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for multifamily uses and commercial uses within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts.

Petitioner desires said real estate to be amended as follows:

1. Maximum Building Height:

1. A maximum building height of 65' shall be allowed.

Exclusion from the height amendment request will be the northwest portion of the lot residing approximately ~ 426 ft. east of the west property line and approximately ~710.5 South of the north property line. As indicated in the attached graphic.

Company
Subject
Date
Page 2 of 2

WHEREFORE, the petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, and appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka

DocuSigned by:

Ryan Rans

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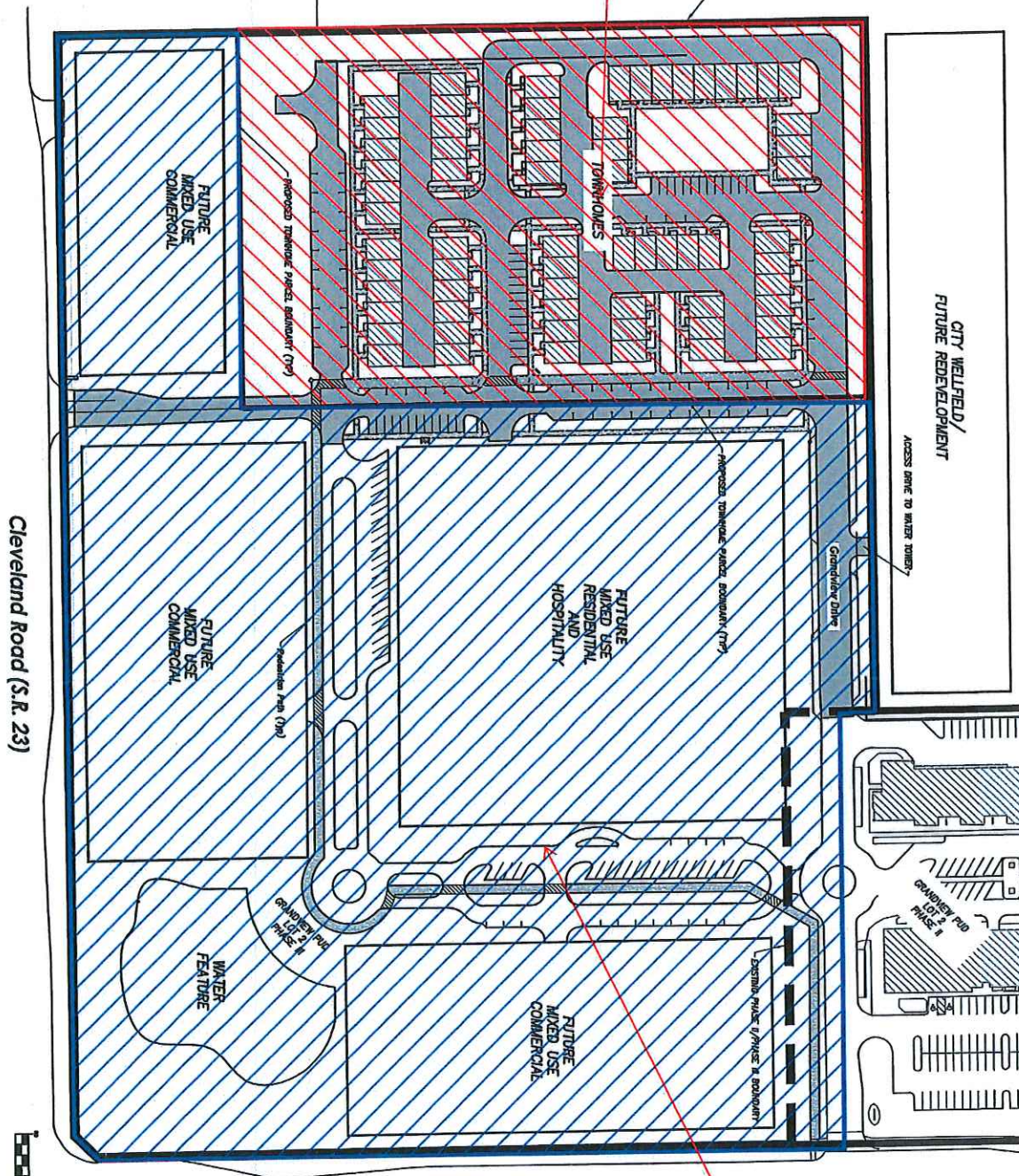
Ryan C. Rans

Great Lakes Capital Management, LLC
(a/k/a Gumwood Acquisitions, LLC)

CONTACT PERSON

Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 538-2201
sruby@abonmarche.com





Cleveland Road (S.R. 23)

Gumwood Road

Requested
Amendment
- 65' Height
limit

Pls 22-21
Received
NOV 16 2022
Planning and
Community



GRAPHIC SCALE

(11 feet)
1 inch = 0.08 ft

no.	revision description	87	daily
1	initial design		
2	revision 1		
3	revision 2		
4	revision 3		
5	revision 4		
6	revision 5		
7	revision 6		
8	revision 7		
9	revision 8		
10	revision 9		
11	revision 10		
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114	revision 113		
115	revision 114		
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1 of 1

**GRANDVIEW P.U.D.
LOT 2 PHASE III
MASTER PLAN EXHIBIT**

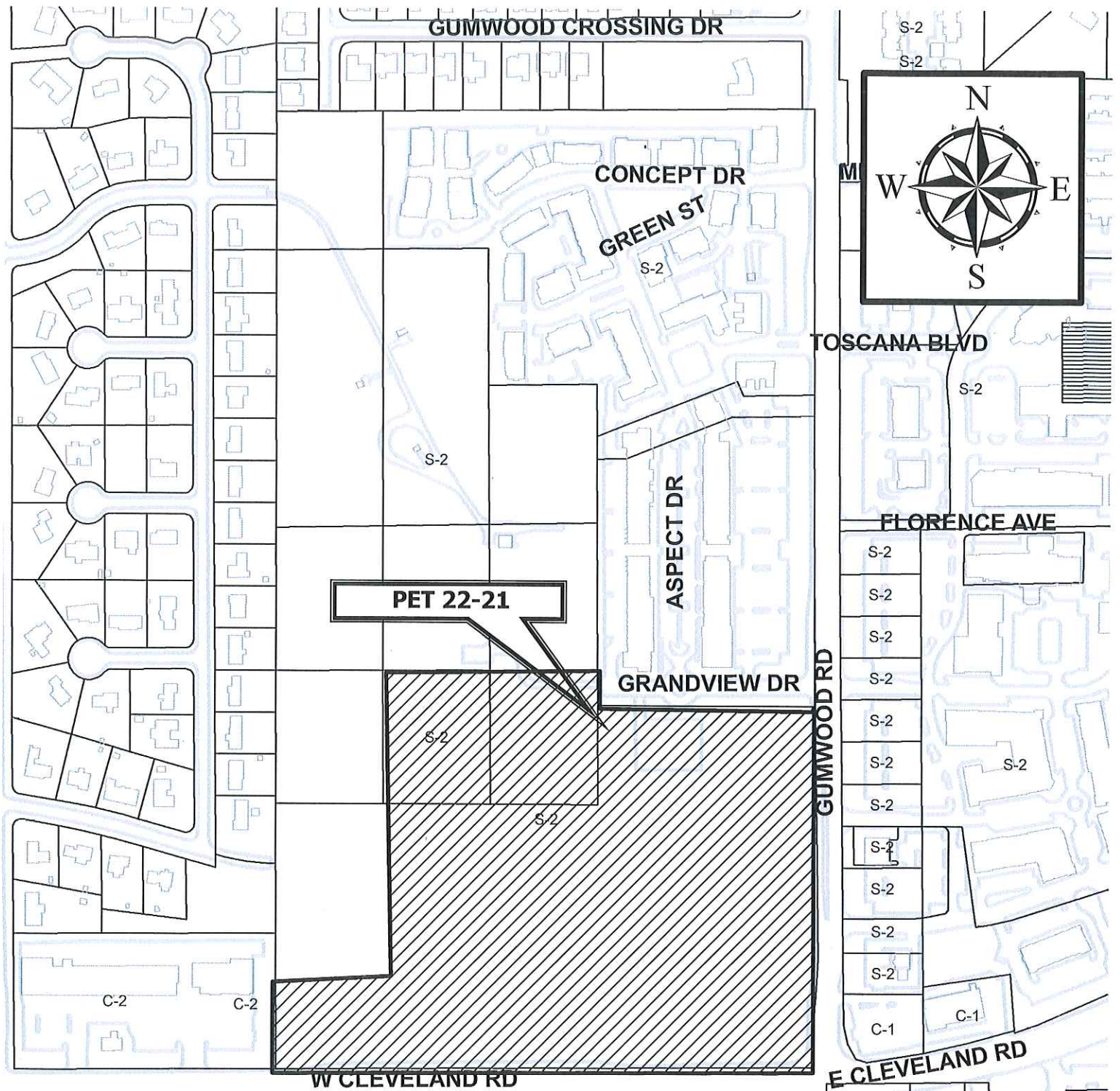
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FL Wayne
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Engineering • Architecture • Land Survey



Location Map

PET 22-21

GUMWOOD ACQUISITIONS LLC
(OWNER)

NW CORNER OF CLEVELAND RD.
(S.R. 23) & GUMWOOD ROAD.

PLANNED UNIT DEVELOPMENT
AMENDMENT TO INCREASE
BUILDING HEIGHT TO 65'