



AGENDA

February 20, 2023

**Referendum Presentation
School City of Mishawaka
Dr. Theodore Stevens
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): 2342 654 5006
Meeting password:7j8hXqBrcS7**

**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: 23426545006@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of February 06, 2023

5. Petitions, Communications, Remonstrance and Memorial

A letter from the City Plan Commission regarding their recommendations from their February 14, 2023 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

- P.O. No. 2023-06 Rezoning from I-2 Heavy Industrial & R-1 Single Family Residential to C-4 Automobile Oriented Commercial for Auto Sale & Associated Vehicle Prep - Vacant Land SE corner of N. Merrifield Ave. & Jefferson Blvd.
- P.O. No. 2023-07 Right-of-Way Vacation for unimproved Taylor St. at NW corner of Arthur & Grape Rd. - E. Of 410 Arthur St.
- P.O. No. 2023-08 PUD Amendment to expand area of previously approved permitted use for a Regional Recreational Facility - Part of Lots 2 & 4 of Juday Creek Business Park Sub
- P.O. NO. 2023-09 Amending Fire Prevention & Protection Ordinance

8. Resolutions

- R2023-02 Authorizing State Board of Accounts to Examine Financial Statements Prepared in accordance with GAAP
- R2023-03 Amending the City of Mishawaka's Grant from the American Rescue Plan Act of 2021

9. Ordinances on Second Reading

- P.O No. 2023-03 Amending Ord. No. 5811 Civil City Salary Ordinance
(Assigned to Budget & Finance Committee)
- P.O. No. 2023-04 Amending Ord. No. 5820 Fixing Salaries of All Sworn Public Safety
(Assigned to Budget & Finance Committee)

ARP Coronavirus Local Fiscal Recovery Grant

Personal Services

2403-50-411-69	Premium Pay	\$380,000.00
2403-50-413-01	Social Security	\$25,000.00
2403-50-413-02	Medicare	\$5,000.00
2403-50-413-03	INPRS	\$25,000.00

Capital Outlay

2403-50-490-14	West Street Phase IIIB	<u>\$5,500,000.00</u>
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Total \$5,935,000.00

(Assigned to Budget & Finance Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

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 withdrawal)

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

If technology is needed to present, please advise the Clerk's Office by 4:00pm the Friday before the meeting by emailing: dblock@mishawaka.in.gov or calling 574-258-1616.

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

February 6, 2023

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, February 6, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

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.

Clerk Block called the roll.

Roll Call.

Present: Mr. Hazen (A), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (E), Mr. Emmons (P), Mrs. DeMaegd (A), Mr. Compton (P), Mrs. Voelker (A), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel Council Attorney.

Minutes for the Regular Meetings of January 23, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

- | | |
|-----------------------------|---|
| Petition No. 2023-01 | Rezoning from I-2 Heavy Industrial & R-1 Single Family Residential to C-4 Automobile Oriented Commercial for Auto Sale & Associated Vehicle Prep – Vacant Land SE of N. Merrifield Ave. & Jefferson Blvd. |
| Petition No. 2023-02 | Right-of-Way Vacation for unimproved Taylor St. at NW corner of Arthur & Grape Rd. – E. of 410 Arthur St. |
| Petition No. 2023-03 | PUD Amendment to expand area of previously approved permitted use for a Regional Recreational Facility – Part of Lots 2 & 4 of Juday Creek Business Park Sub |

Presentation of voided two-year-old checks

Mr. Hixenbaugh stated for the benefit of the council, the backup information was provided to them as part of the publicly accessible council packet. The record reflected that the voided checks had been presented in compliance with Indiana law.

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

PROPOSED ORDINANCE NO. 2023-03

AN ORDINANCE AMENDING ORDINANCE 5811 THE FIXING OF THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT SWORN PUBLIC SAFETY, MISHAWAKA PARKS DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2023

**Amending Ord. No. 5811 Civil City Salary Ordinance
(Assigned to Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2023-04

AN ORDINANCE AMENDING ORDINANCE 5820 THE FIXING OF SALARIES OF ALL SWORN PUBLIC SAFETY FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2023 AND CONTINUING FOR 2 YEARS

**Amending Ord. No. 5820 Fixing Salaries of All Sworn Public Safety
(Assigned to Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2023-05

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR BEGINNING DECEMBER 31, 2023 IN THE TOTAL AMOUNT OF \$5,935,000

Additional Appropriation – ARP Coronavirus Local Fiscal Recovery Grant – Personal Services (Premium Pay - \$380,000.00, Social Security - \$25,000.00, Medicare - \$5,000.00, INPRS - \$25,000.00) Capital Outlay (West Street Phase IIB - \$5,500,000.00) Total - \$5,935,000.

(Assigned to Budget and Finance Committee)

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

RESOLUTION R2023-01

A RESOLUTION OF THE COMMON COUNCIL, CITY CLERK, AND MAYOR OF THE CITY OF MISHAWAKA HONORING THE 2022-2023 MISHAWAKA HIGH SCHOOL STATE CHAMPIONSHIP WRESTLING TEAM

Honoring 2022-2023 Mishawaka High School State Champion Wrestling Team

Clerk Block read the resolution.

A Resolution of the Common Council, City Clerk, and Mayor of the City of Mishawaka Honoring the 2022-2023 Mishawaka High School State Championship Wrestling Team

WHEREAS, the Mishawaka High School Wrestling Team has long enjoyed athletic success, winning multiple Indiana team state championships, as well as numerous individual championships; and

WHEREAS, on January 7, 2023, the Mishawaka High School Wrestling Team has added to wrestling program's legacy by winning the 2023 Indiana High School Wrestling Coaches Association (IHSWCA) 3A Team State Championship in Franklin, Indiana, defeating East Central (66-12) in the first round, Greenfield Central (40-28) in the semi-finals round, and Columbus East (43-31) in the championship round: and

WHEREAS, such laudable team accomplishments are only possible as the result of hard work, sacrifice, and determination on the part of the individual wrestlers (and their families) who are part of the team: *Dustin Abraham, Brody Blevins, Jack Bonk, Corbin Boucher, Beau Brabender, Aiden Brock, Jason Bupp, Anderson Cannon, Christian Chavez, Xavier Chavez, Dominic Decloedt, Trey Dunning, Gunnar Eby, Corey Gardner, Drew Ginter, Aiden Hernandez, Jackson Hershey, Anthony Hunsberger, Micah Jelinski, Will Kennedy, Josh Kite, Will Mason, Breyana Moreno, Kayden Oltman, Zander Paden, Chris Peacock, Conner Powell, Courtney Rider, Mikey Robles, Gunnar Sandefur, Colby Smith, Kaylee Smith, Daniel Thompson, Isaac Valdez, Zar Walker, and Caiden Williams*; and

WHEREAS, team excellence is also dependent on the leadership and guidance provided by the coaching staff: *Head Coach Steven Sandefer and Assistant Coaches Josh Olsen, Fabian Chavez, Brandon Dillenbeck, Yancy Gradeless, Adam Sandefur, and Collin Meggison*; and

WHEREAS, team success is also enhanced by the diligent work of the managers who support them during practices as well as matches; *Mia Mason, Rayleigh Dodd, Abbi Holloway, and Liliahna Meyers*; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council, the City Clerk, and the Mayor of the City of Mishawaka that such efforts are deserving of recognition and commendation, and as such we declare February 6, 2023, to be

MISHAWAKA HIGH SCHOOL WRESTLING DAY

in the City of Mishawaka, and we call upon all citizens to join us in congratulating and saluting this talented and truly remarkable group of students and adults and thank them for their efforts on behalf of their school, the community and the City of Mishawaka.

Mr. Mammolenti opened the public hearing by sharing some words on this resolution. Mr. Mammolenti stated he wanted to start off by thanking Council President Hixenbaugh and Clerk Block for all their work and efforts in composing this wonderful resolution. Mr. Mammolenti stated it was not easy and thanked them for that. Mr. Mammolenti stated just as a former Mishawaka grad and a former wrestler for the program, how proud he was of the team. Mr. Mammolenti stated he knew for those folks who had never wrestled, it was hard to understand the sport, the grind and the family atmosphere and what it took from day in and day out as far as special diets, special sleep, special studies and traveling all over the state of Indiana for tournaments. Mr. Mammolenti stated it was definitely a family sport and he thought that they had something special and would have a brother and sisterhood for the rest of their lives and they would always come back together and say they were part of that state championship. Mr. Mammolenti stated he was a part of a state championship team as well when he was in high school and there were some memories from that time that he would never forget. Mr. Mammolenti thanked them

for bringing the championship back to Mishawaka and for making a former Mishawaka Caveman proud and to keep up the hard work. Mr. Mammolenti stated they had some unfinished business to do, so take care of that and stay well.

Mayor Dave Wood spoke in favor of **RESOLUTION R2023-01**. Mayor Wood wanted to express on behalf of the citizens of Mishawaka, how proud they were of the great kids. Mayor Wood stated they had seen time and time again Mishawaka students come together and do some pretty incredible things and this was certainly an example of that. Mayor Wood stated they represented their city so well with their hard work ethic, their tenacity, their can-do spirit, their dedication and commitment to what they chose to do which was very difficult to do. Mayor Wood stated this was the first state finals since the 2010 team that his nephew was on and this was a great tradition that not only was developed here but recognized all over the state of Indiana and when he traveled around the state, it was often that he heard people will come to him and say that they were a wrestling mecca in the state of Indiana and it was great to see the program return to that and state championships were the expectation. Mayor Wood stated as they had done in the past with state championship teams, they had the Street Department sign crew already working on the entry signs for the city of Mishawaka and planned to advertise that and be very proud to put up some signs recognizing their great youth and the Mishawaka High School Wrestling Team. Mayor Wood thanked the team again on behalf of the citizens of Mishawaka.

Coach Fabian Chavez, 58695 Ireland Trail, spoke in favor of **RESOLUTION R2023-01**. Coach Chavez stated what a great city Mishawaka was to be part of through work and coaching and told them a little history too. Coach Chavez stated he graduated from Penn High School in 1992, along with Mayor Wood but he had been coaching at Mishawaka since 2001 with Lance Beehler, Darrick Snyder, Charlie Cornett, and now Steven Sandefer and it was just a great school to be part of. Coach Chavez stated this team was very special and this would be his last year coaching as a paid coach and would be trying to get someone younger in there to help Steven out. Coach Chavez stated on this team, there was not one kid in that wrestling room that had not busted their butt every day and as a coach, that was the most gratifying thing that he had all year. Coach Chavez stated he felt that the biggest part that he was so thankful for was that he did get to come and become part of Mishawaka High School and he was very fortunate to come on board and he actually used to wrestle against Mr. Mammolenti in high school and could not stand his team at the time but now he was finally part of the Mishawaka tradition and felt like he was more of a Mishawaka alumni than he had ever been part of Penn. Coach Chavez stated it was a great rivalry and it was still going and anyone that went to the meet this year knew it was a great part of the sport and he was just glad to be part of the Mishawaka Caveman Wrestling Program. Coach Chavez stated it had been a great year and like Mr. Mammolenti said, they still had a job to do and they hoped to get a bunch of guys down to state and make some noise and personally, his kids were part of the program as well and he was excited and was a very proud dad and a very proud coach of all the kids. Coach Chavez thanked the council for having them that evening and expressed his love for the team.

Head Coach Steve Sandefer, Mishawaka High School Wrestling Head Coach, spoke in favor of **RESOLUTION R2023-01**. Coach Sandefer took a moment to thank all of them for making that day possible. Coach Sandefer stated these were the guys that were putting in all the work week in and week out. Coach Sandefer stated they only had two weeks in their season left and they were down to 10 wrestlers for Semi-State that weekend, with the State Finals the following week. Coach Sandefer stated each year he thought that they did a great job as coaches and parents getting these guys peaked at the right time. Coach Sandefer stated it was their last year with this staff as Coach Fabian would be moving

on and they got to win a team state title with a great group of seniors and none of that would have been possible without the coaches and the leaders that they had. Coach Sandefer stated they talked about what great leaders the team had and they had been great mentors to the middle school kids and would attend middle school matches and they wanted to be seen and wanted to support them. Coach Sandefer stated they had been instrumental in getting a lot of the freshmen acclimated in the offseason and really making them feel part of the team and everyone had been included in this group of wrestlers. Coach Sandefer stated that had been really special and at the beginning of the year and for the last 4 years, they always wanted to win a team state title and wanted to bring that magic back to Mishawaka Wrestling and the city of Mishawaka but with this group, they kept saying a special group, he was very proud of them but they were not finished yet. Coach Sandefer stated they still had some titles that they wanted to try and get but he thanked the council all again, along with the coaching staff and family members supporting them that evening.

Corbin Booher, 57500 Oakside Avenue and Mishawaka wrestler, spoke in favor of **RESOLUTION R2023-01**. Mr. Booher stated he was not really supposed to come to Mishawaka, but he did and he was quite happy he did because he would have never met the great people he shared wrestling his first year with. Mr. Booher stated he had never done this sport or any sport and he was happy he was able to do it with these people because they built him up bigger than they could ever imagine and he was really proud of himself and where he had come.

Isaac Valdez, 1005 Woodhouse Drive and Mishawaka wrestler, spoke in favor of **RESOLUTION R2023-01**. Mr. Valdez stated he loved this city and this city had built him into the man he was today and all of the people in it like the coaches and his friends. Mr. Valdez stated it was the greatest thing to be able to bring a state championship back to Mishawaka.

Mr. Compton thanked the coaches and Coach Sandefer. Mr. Compton congratulated them on their accomplishment and stated that it was quite the accomplishment. Mr. Compton thanked Coach Chavez for being at Mishawaka and he did not realize his story and he was glad to have him in Mishawaka. Mr. Compton thanked and congratulated all of the parents, because it was a tremendous amount of work that went into this and it was not just from the student athletes. Mr. Compton stated if the parents were not dedicated, the student athletes would not get to where they had gotten to. Mr. Compton stated he was not a wrestler, but he played football so he knew a lot about the wrestler lifestyle and he knew a lot of wrestlers and he thought that might be a reason he did not wrestle because he knew what went into it. Mr. Compton stated for all of the wrestlers, as Mr. Mammolenti said, they would remember this for the rest of their lives and would talk about this when they got to be older, the stories would be a lot bigger and a lot longer and would keep getting bigger and bigger every year. Mr. Compton stated it would be fun for them to get together later in life and talk about this, but really all of the work and challenges and all of their efforts were going to play into everything they would do in life. Mr. Compton stated remember how hard it was, the dedication it took and apply that to their rest of their lives and the world would be at their doorstep. Mr. Compton stated it was all about hard work, effort, dedication, teamwork and friendships. Mr. Compton congratulated them once more.

Mr. Emmons congratulated them as state champions and stated it was great to see the accolades come back to Mishawaka and the wrestling program specifically and the way they excelled that year. Mr. Emmons stated he was on the first wrestling team at Mishawaka High School back in 1959, although they did not quite have level of success that they had. Mr. Emmons stated he was a 95 pound wrestler

and although his team had their fair share of losses starting out, it was great to see the wrestling program excel throughout the years and it was great to see that the Mishawaka program was in good hands. Mr. Emmons thanked the coaches as well as the parents and thanked the wrestlers for their hard work that they put into it because he was wrestling in their shoes at one time and knew what it entailed. Mr. Emmons stated it was not a team sport, it was an individual sport and when you were out on that mat, it was only you and nobody else and you were the one who had to perform and the one who had to put the energy in to come out a winner. Mr. Emmons thanked each and every one of them for their effort not only for themselves but also for Mishawaka High School and the community.

Mr. Hixenbaugh echoed the comments of his colleagues and thanked the wrestlers and the student managers and trainers for the work they did on a daily basis. Mr. Hixenbaugh thanked Coach Sandefer and his staff for the hard work that had gone into returning this program to the place of prominence that it should enjoy. Mr. Hixenbaugh thanked the administration from the superintendent on down to the building principal, the athletic directors and all of the folks in the school corporation, including the custodians who cleaned up the mats and took care of the locker rooms as well as everyone who went into making a program like this successful. Mr. Hixenbaugh really wanted to underscore their appreciation for the parents. Mr. Hixenbaugh stated as a father of two former caveman wrestlers, he remembered those days when you got up early in the morning and went to a freshman meet or a JV meet or even a varsity meet and you were packing lunches and you were doing things that were necessary in order to support not only your son or daughter, but all of the wrestlers on the team. Mr. Hixenbaugh stated he went back long enough to when he remembered the Sandefer's being on the sideline watching their son Steve wrestle a long time ago and it was important that they supported their kids in everything that they were involved in, but the dedication of parents, he would suggest was unmatched in terms of what people put into the best interest of their children. Mr. Hixenbaugh thanked them for the work they did and gave continued best wishes for the coming weeks. Mr. Hixenbaugh told them to continue to do the right things that had gotten them to that point as a team, as a coaching staff and as a wrestling community and he had no doubt that they would all continue to be successful for the remainder of the season. Mr. Hixenbaugh thanked them very much for everything they did.

Question was called for at 7:24PM for **RESOLUTION R2023-01 Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The resolution passed 6-0.

RESOLUTION R2023-02

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
APPROVING THE REQUEST FOR THE INDIANA STATE BOARD OF ACCOUNTS TO
EXAMINE THE FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GAAP
Amending Agreement between the City of Mishawaka & Fraternal Order of Police Lodge 91
(Controller requesting postponement until next council meeting on February 20th)**

Mr. Hixenbaugh stated upon the Controller's request, the chair entertained a motion to postpone the public hearing on **RESOLUTION R2023-02** until their next regularly scheduled council meeting on February 20, 2023. The motion was moved by Mr. Mammolenti and seconded by Mr. Emmons, thus Clerk Block polled the council on the motion.

The vote took place at 7:30PM. **Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The motion passed 6-0 and the resolution was postponed.

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

PROPOSED ORDINANCE NO. 2023-01

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

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. Mammolenti, the motion carried. Clerk Block polled the council on the committee report.

The vote took place at 7:31PM. **Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The committee report passed 6-0.

Austin Blomeke PLA, Jones Petrie Rafinski 325 S Lafayette Blvd. South Bend, IN, spoke in favor of **PROPOSED ORDINANCE NO. 2023-01**. Mr. Blomeke stated he was there on behalf of MCC Self Storage representing them. Mr. Blomeke stated last spring, they sought a use variance to allow sub storage on that property and as part of the conditions, it was requested that they seek a rezone of this out lot so they had gone from a C-1 to a proposed C-7 auto oriented commercial development. Mr. Blomeke stated there were no development plans right then and nothing lined up but anything in the future would certainly meet all the regulations set forth by the C-7 zoning ordinance and there would be no additional curb cuts. Mr. Blomeke stated he would answer any further questions.

Mr. Compton asked him about the security and if this was going to be code access. Mr. Compton stated he had seen facilities that ranged from wide open and going up to unlock your unit to something that had a lot more security to it. Mr. Compton was wondering what this was going to be like with it being close to a neighborhood. Mr. Blomeke stated the existing former bingo hall was where the proposed self-storage units were going in and with that facility, you would need a key pad to get in there and there was going to be security and it would not open to the public. Mr. Blomeke stated the outlot that was going to be rezoned was just going to be a commercial

fast food restaurant in the future. Mr. Compton asked if all the storage would be inside the old bingo hall. Mr. Blomeke stated that was correct.

Question was called for at 7:35PM for **PROPOSED ORDINANCE NO. 2023-01 Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 6-0, thus it became **ORDINANCE NO. 5826.**

PROPOSED ORDINANCE NO. 2023-02

AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FRATERNAL ORDER OF POLICE LODGE 91

Mr. Compton reported the Committee of Public Health & Safety recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Mammolenti, the motion carried. Clerk Block polled the council on the committee report.

The vote took place at 7:37PM. **Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The committee report passed 6-0.

Ken Witkowski, Chief of Police; Mishawaka Police Department, spoke in favor of **PROPOSED ORDINANCE NO. 2023-02.** Chief Witkowski started off by thanking the members of the council that worked tirelessly to make things meet so they could come to an agreement. Chief Witkowski named President Hixenbaugh, Matt Mammolenti, Mike Compton and Tony Hazen specifically. Chief Witkowski stated he thought both sides worked long and hard through several meetings and it expanded to a couple of months to come to the agreed upon terms but he thought both sides walked away happy with what they ended up with. Chief Witkowski highlighted some of the items that were discussed in these meetings with one of them being the pay increase, which was the highest since he had been there. Chief Witkowski stated it would be 7% in 2023 and 5% in 2024. Chief Witkowski stated they had a residency stipend which they never had before and he thought that was a great idea to keep the officers in their city. Chief Witkowski stated there was no increase in health increase, which was big for FOP 91. Chief Witkowski also wanted to thank FOP 91 for their great efforts and their hard work to making both ends meet. Chief Witkowski stated they were also looking at an alternative staffing model which would be looking at 12-hour shifts to help with current manpower shortages and to make it better for the city and for the working group of FOP 91 to move forward. Chief Witkowski stated they had started that already and had a group incentive to look at that. Chief Witkowski stated extra duty pay was another item discussed and they had an annual stipend for individual specialties which they never had before, meaning they would recognize the hard work of those that went beyond just working a beat and were in specialty units so they would be compensated for that. Chief Witkowski stated all emergency overtime would be paid at a two times rate and that was new for

them and it also followed along with what other cities were doing locally in the area and they were in a very competitive market now for manpower so they had to meet some of that criteria. Chief Witkowski stated they also had wrote in in that when a shift started they did not have a supervisor, meaning sergeants or above, and they had an option to attempt to get a supervisor to come in an overtime position and otherwise, it fell back on the next in line or most senior officer and they would be compensated. Chief Witkowski stated that would not affect shift strength and that would just be an extra person, which would be helpful. Chief Witkowski stated something that was new as well was that all new hires, starting in January of that year, would not earn random days and rather they would call them personal days and that would not allow officers to take the shift strength below the minimum staffing and that was pretty big. Chief Witkowski stated minimum shift strength would be raised starting in 2024 to 11 from 10 that they had installed currently as long as the uniform patrol was at 70 officers. Chief Witkowski stated this was a brief overlook but a lot of hard work went into this and he wanted to thank everyone that was involved. Chief Witkowski felt that both sides came out of it believing it was a win-win situation and they made good out of it.

Mayor Wood spoke in favor of **PROPOSED ORDINANCE NO. 2023-02**. Mayor Wood stated he was there mainly to thank everyone involved in this. Mayor Wood stated this was a really new process for them and as they knew, state law said that councils were responsible for police and fire wages and administration was responsible for police and fire contract negotiations. Mayor Wood stated those had been separate in the past and this was the first time they brought all three groups together, that being the council, administration and the FOP and he thought the process worked great. Mayor Wood knew it took a long time and a lot of dedication and he was sure there was frustration along the way as all good negotiations brought that out but in the end, he thought what happened was a great thing for the city of Mishawaka, for the citizens of Mishawaka, for their police officers and for the city by and large. Mayor Wood stated they were in kind of an arms race for police officers at that current stage and it was a career that quite frankly many people were not choosing to go into and it was impacting their ranks. Mayor Wood stated last year, they were at full staff at one point in a year plus one and now they were well under staffed and there was competition between communities to draw police officers because what they were experiencing, every community around them was also experiencing. Mayor Wood stated they thought this contract and the terms within it that the Chief was talking about put them in a very favorable position to attract officers to Mishawaka and not just any officers, but the best officers. Mayor Wood stated in fact, they just interviewed one and hired one that day. Mayor Wood stated they also had laterals they had conditionally hired within the last week, so they thought that this package kept them equal to surrounding communities or roughly close. Mayor Wood stated his goal always for negotiations first of all was job security for their officers and a secure job for them as long as they wanted to have one and so this put them in a position where they got good pay, good benefits, good equipment, good leadership, good training, a great location and a great city. Mayor Wood stated they thought this put them in a favorable spot compared to others and thanked the council for their part in it. Mayor Wood also thanked the FOP for adopting and ratifying this and also thanked Chief Witkowski and his group for their

patience, persistence and for ultimately doing what was right for their family. Mayor Wood thanked everyone again.

Mr. Compton echoed what Chief Witkowski and Mayor Wood said and wanted to thank the FOP. Mr. Compton stated he knew this was an adjustment for them as much as it was an adjustment for the council and maybe even a bigger adjustment for the administration specifically and they anticipated that to a degree. Mr. Compton stated they were talking about the collaboration of the three groups for a while and this year made the most sense to start to do it that way. Mr. Compton thought it worked out well and made the most sense to do it that way moving forward and in the end, he thought the police officers would appreciate it being done in this fashion. Mr. Compton stated they went into this with a couple of goals in mind, one was more policemen on the street and also attracting new officers, which meant they needed to pay them and provide benefits that attracted them and kept the people they had. Mr. Compton stated at the same time, they did some things and set some groundwork that they hoped was going to result in more policemen on the street, which was a big goal of theirs. Mr. Compton stated they heard that from their citizens and they had continued to hear it. Mr. Compton thanked everyone involved that was from the council and from the Mayor's staff and also thanked Mayor Wood for agreeing to do this and he believed it worked well and would continue into the future.

Mr. Mammolenti echoed everyone else's comments as well and first and foremost, thanked President Hixenbaugh, Mr. Compton and Mr. Hazen for their long work and efforts in this. Mr. Mammolenti stated as the Chief said, this took several meetings to get this finished up and he always said this was probably one of the toughest things about this job, but they did it because they loved their city and wanted the best for their city. Mr. Mammolenti also thanked the FOP and the administration, Mayor Wood and Chief Witkowski. Mr. Mammolenti wanted to state publicly that he was really proud of the fact that all three parties got together and everybody acted respectfully and respected the other groups. Mr. Mammolenti stated everything was conducted very professionally on all three sides and he commended all three groups on that. Mr. Mammolenti thanked everyone for their efforts.

Mr. Hixenbaugh offered his thanks to all involved from the FOP to the administration and also named Pat Hinkle, the corporation counsel, who was part of their team as well and did a great job in drafting the language to button this up and then the Controller, Becky Maguire, was an integral part of what they did as well. Mr. Hixenbaugh stated this was unprecedented in terms of the compensation that would be put into place for their police officers which was a shared goal of everybody at the table going into this. Mr. Hixenbaugh stated the contractual language in related terms also had that positive impact that Mr. Compton highlighted not only setting the stage for some immediate increase in manpower on a daily basis in the city of Mishawaka, but also some longer term opportunities for them to even further enhance the number of officers who were on the street on a daily basis. Mr. Hixenbaugh stated in his opinion, the Mayor was spot on in saying they were in a competitive market, that arms race that he referred to, so as proud as he was of the collaborative process that they had and the work product that all of them should be proud of that they were able to put in place as a result of the negotiation session, he did not think

that anybody believed that this had addressed all of the challenges they were facing as a community with regard to public safety in general and the Police Department in particular. Mr. Hixenbaugh stated this was not just a small baby step though and this was a significant step to address those challenges and to position them to be able to move on to even bigger and better things in the future. Mr. Hixenbaugh stated they needed to continue to work together along with the FOP to try to address these issues in the spirit in which they were addressed during this session. Mr. Hixenbaugh thanked everyone involved and hoped for the best as the contract and compensation was implemented and then be able to see it pay the dividends that they all suspected it would.

Question was called for at 7:52PM for **PROPOSED ORDINANCE NO. 2023-01 Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 6-0, thus it became **ORDINANCE NO. 5827.**

UNFINISHED BUSINESS

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.

(Petitioner requesting postponement to March 6th meeting)

The chair entertained a motion to grant the petitioner’s request to postpone the second reading and public hearing on **PROPOSED ORDINANCE NO. 2022-50** until their regularly scheduled council meeting on March 6, 2023. The motion was made by Mr. Compton and seconded by Mr. Mammolenti. Mr. Hixenbaugh added that now that they had postponed this matter a couple times and in compliance with state law, absent of holding a special meeting, this would be the last time this could be ripe for postponement. Mr. Hixenbaugh stated hopefully, any steps that needed to be taken in order for this to be presented to them and action to be taken on March 6th would take place so they could move forward with it. Clerk Block polled the council on the motion.

The vote took place at 7:54PM. **Motion carried by unanimous roll call vote (summary: Yes = 6).**

Yes: Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mr. Hixenbaugh. The motion passed 6-0 and the matter was postponed.

NEW BUSINESS

Mr. Mammolenti made a brief reminder that on February 15th at 7PM, they would be having their monthly neighborhood watch meeting and it would take place at Fire Station #4. Mr. Mammolenti stated their guest speaker would be the Director of Code Enforcement Joe Van Nevel and he would also be there to answer any questions from any citizens, whether they lived in the 3rd District or not and they were always welcome to attend.

Mr. Emmons made a reminder that the 1st District would be holding their monthly meeting at St. Bavo's at 7PM on February 16th. Mr. Emmons stated their guest speaker would be Councilwoman Kate Voelker and she would be talking about the renewal of the 2016 referendum at School City which was recommended to be renewed in the election in May. Mr. Emmons stated she was going to be talking about what it was going to support and why they were asking for it. Mr. Emmons stated everyone was invited to be there and as a reminder, it was a renewal and not a new referendum and it was for operational, not capital projects. Mr. Emmons looked forward to having everyone there and as usual, there would be refreshments from West End Bakery offered.

Mr. Hixenbaugh announced on behalf of the West End Neighborhood Watch that they were having a special meeting on Tuesday February 14th at 7PM at St. Bavo's and they were inviting members of the public to come learn about the future of the neighborhood watch meetings in that area of the city. Mr. Hixenbaugh stated all residents of Mishawaka were welcome to attend.

ADJOURNMENT 7:57PM

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

February 15, 2023

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
February 14, 2023, Public Hearing
Certification of Proposed Ordinances

Deborah S. Block, MMC, MMC

FEB 14 2023

City Clerk
Mishawaka, IN

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 #23-01 A petition submitted by Petkov & Sons, LLC, requesting to rezone vacant land at the southeast corner of East Jefferson Boulevard and North Merrifield Avenue from I-2 Heavy Industrial District and R-1 Single Family Residential District to C-4 Automobile Oriented Commercial District for auto sales and associated vehicle prep.

The Commission, with a vote of 8-0, recommended approval.

PETITION #23-02 A petition submitted by Donald L. Shaum, Jr. and Jennifer I. Shaum requesting right-of-way vacation for unimproved Taylor Street at the northwest corner of Arthur Street and Grape Road, Granger.

The Commission, with a vote of 8-0, recommended approval.

PETITION #23-03 A petition submitted by the City of Mishawaka requesting to amend the Penn Planned Unit Development to expand the area of a previously approved permitted use for a Regional Recreational Facility.

The Commission, with a vote of 8-0, recommended approval subject to the attached conditions.

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

PETITION #23-03
Penn Planned Unit Development Amendment
Conditions of Approval

This recommendation includes the following amended conditions, *with changes from the previously approved conditions per Ordinance 5613 (Petition 18-07) in italics.*

Uses:

1. *Permitted uses shall be limited to a regional recreational facility including, but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events.*
2. Outside sale display for loose items shall be prohibited.
3. Off-premise signs/billboards shall be prohibited.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties where deemed appropriate. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between properties. The exact location of these connection points shall be subject to review and approval by the City.
2. At a minimum, internal sidewalks shall be provided within the property connecting to the adjacent roadways. This walk shall connect to any sidewalk that may be provided along Veteran's Parkway or any other future adjacent public right-of-way. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
3. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

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

4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

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

Signage:

1. Each outlot/development parcel may be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. *Temporary banners, flush mounted to a building shall be limited to three per building/use, and shall not exceed 300 square feet for each individual banner. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.*

Building Limitations/Architecture:

1. *The building façades visible from the public right-of-way, for at least 75% of the façade, shall be constructed with one or more of the following: insulated metal panels, brick or manufactured stone, glass, or any approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended.*
2. For all parcels, there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any buildings within the development shall be 60'.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area

shall be provided from internal non-public access drives and proposed parking/building areas.

3. *A 20' wide "no mow" natural planting area shall be maintained along the north and west property lines where adjacent to the golf course. A portion of this planting area shall be located along the top of bank of the Lateral #1 Coquillard Ditch and within the existing 75' wide county regulated drain easement.* A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual development parcel shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within the required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

STAFF REPORT

Location: SE corner of N. Merrifield Ave & E. Jefferson Blvd

Date: February 14, 2023

Petition: 23 01

Prepared By: CH

GENERAL INFORMATION

Applicant: Petkov & Sons LLC/Wightman (Terry Lang)

Status: Property Owners/Surveyor & Site Designer

Request: Rezone from I-2 Heavy Industrial and R-1 Single Family Residential to C-4 Automobile Oriented Commercial District

Zoning Classification: I-2 Heavy Industrial (Lots 1-6) and R-1 Single Family Residential (Lot 7)

Lot Size: 1.03 acres

Applicable Regulations: Sec. 137-40 Plan Commission;
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map;
Sec. 137-379 thru 137-380 C-4 Automobile Oriented Commercial District

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial (Greg's Autos, Four Seasons Heating and Cooling, J&K HVAC)
South: I-2 Heavy Industrial (industrial building & vacant property)
East: I-2 Heavy Industrial (former Reggio's restaurant)
West: I-1 Light Industrial (automobile uses)

Thoroughfare: East Jefferson Boulevard and North Merrifield Avenue

School District: School City of Mishawaka

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

Comprehensive Plan: Industrial

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from I-2 Heavy Industrial (Lots 1-6) and R-1 Single Family Residential (Lot 7) to C-4 Automobile Oriented Commercial District. The property is located at the southeast corner of East Jefferson Boulevard and North Merrifield Avenue.

The last aerial photograph that shows any building is from 2006. There were two (2) Quonset huts and three (3) single family homes. Since the 2009 aerials, the property has been vacant.

The reason for the change to C-4 Automobile Oriented Commercial District is to allow the expansion of Greg's Autos to the north. With this petition the property owner is only seeking to establish the property zoning for the proposed automobile use. If approved, a subdivision to combine all the lots and dedicate additional right of way and easements as required, and a site plan laying out phases of development will be required prior to the beginning of any construction or issuance of any permits. A detailed final site plan will address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

The Engineering Department had no concerns with the change in zoning, however, did have comments that will need to be addressed on the subdivision and site plan. 1. Sidewalk shall be added to Jefferson Blvd along entire frontage.

Additional right-of-way or easements may be required. 2. With intended use, an oil water separator shall be installed in the sanitary sewer lateral.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #23-01 to rezone the property at the southeast corner of East Jefferson Boulevard and North Merrifield Avenue to C-4 Automobile Oriented Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions - This section of East Jefferson Boulevard, is predominately automobile oriented uses, starting with Jordan at Cedar Road and including Victory Auto, Michiana Auto Glass, Top Gear Auto Sales, Fred's Body Shop, and Pilo's Body Shop.
2. Character of Buildings - The character of the buildings along East Jefferson Boulevard are predominantly automobile oriented or contractor's offices;
3. The most desirable/highest and best use - Because the parcel is located near automobile oriented uses, downzoning to the C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as the majority of the property is currently zoned I-2 Heavy Industrial which could allow outside storage; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as Industrial, however, it has developed as commercial uses, which were identified on the north side of Jefferson.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





P1. Looking east from Merrifield



P2. View from Jefferson

STAFF REPORT

Location: NW corner of Arthur Street and Grape Road (410 Arthur St.)

Date: February 14, 2023

Petition: 23-02

Prepared By: SA

GENERAL INFORMATION

Applicant: Wightman/Donald L. Shaum, Jr. & Jennifer I. Shaum

Status: Surveyor/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: Unincorporated Saint Joseph County (Single Family Residential)
South: R-1 Single Family Residential/R-3 Multi-Family Residential
East: Unincorporated Saint Joseph County (Single Family Residential)
West: R-1 Single Family Residential

Thoroughfare: Grape Road

School District: South Bend Community

Public Utilities: Public Right-of-Way

Comprehensive Plan: Annexed After Formation of Comprehensive Plan

ANALYSIS

The petitioners Donald L. Shaum and Jennifer I. Shaum are requesting the City to vacate the north-west corner of Arthur Street and Grape Road. The vacated public right-of-way which is approximately 3,266 square feet would become part of the adjacent property currently known as Lot 4 – Clayton Acres with the address of 410 Arthur Street (Parcel ID 029-2030-0886) for future residential development.

In 2019, the Petitioners received approval for annexation and zoning from Saint Joseph County to the City of Mishawaka. 410 Arthur Street was zoned R-1 for future subdivision with (3) single family residential lots. All lots shall comply with the required height, area, and development regulations for the R-1 District. The vacant land across Arthur Street to the south (Parcel ID 029-2017-0366) was also annexed and zoned R-1 & R-3 for future subdivision with (3) single family residential lots and (7) townhomes by the same Petitioners.

According to the tax parcel maps, the southeast corner of proposed Lot 3 is encumbered by an existing unimproved public right-of-way. This right-of-way, which is labelled as Taylor Boulevard on the tax maps, must be vacated for the property to be developed as proposed. This corner is the remaining remnant of the rest of Taylor Blvd which was previously vacated. If any utilities are located within the vacated area, they must be relocated or easements will be required.

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

Staff recommends in favor of Petition 23-02 to vacate the public right-of-way located at the north-west corner of Arthur Street and Grape Road.

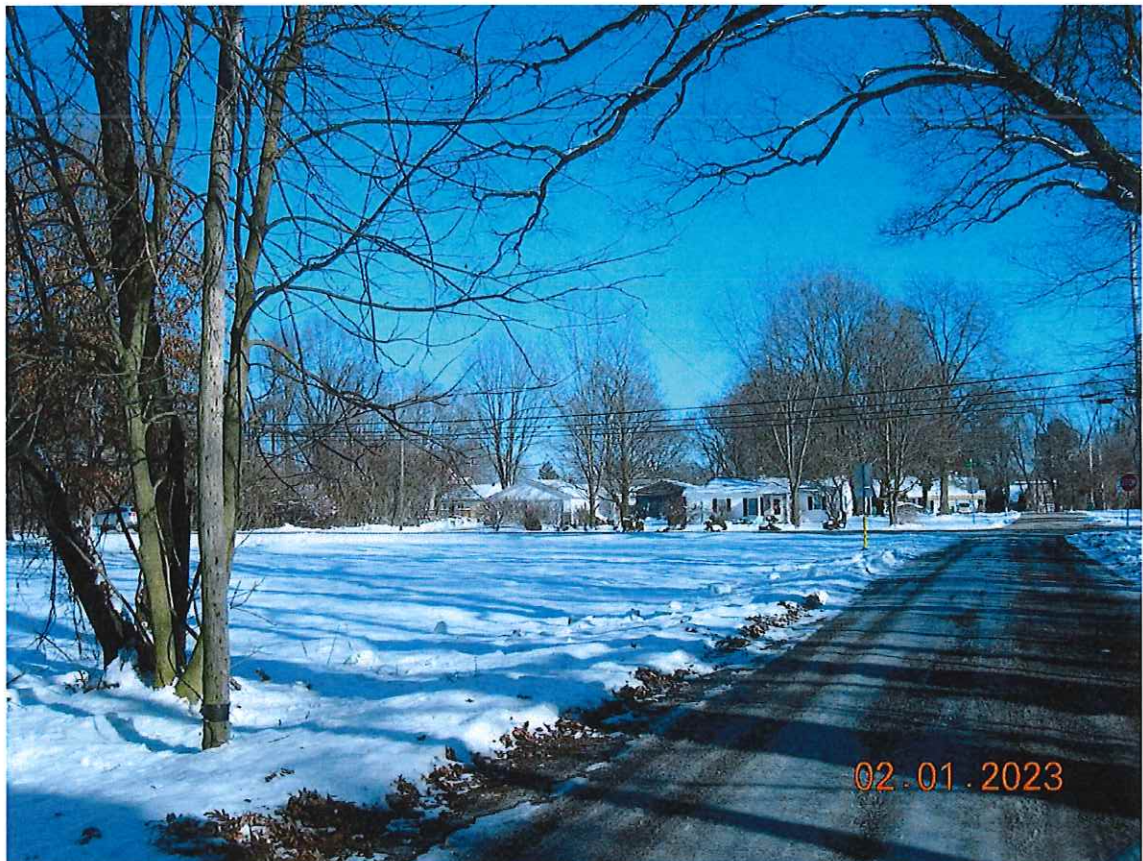
- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with three new evenly split lots.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The area to be vacated is currently vacant land.
- 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 or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

Aerial, Photos, Petition, Location Map





Looking north from Arthur Street



Looking east from Arthur Street



Looking north from Arthur Street

STAFF REPORT

Location: Vacant Property to the North of the Veterans Pkwy. terminus
Also being North of Douglas Road & West of Capital Avenue

Date: February 14, 2023

Petition: 23- 03

Prepared By: DJS

GENERAL INFORMATION

Applicant: City of Mishawaka, Department of Redevelopment on behalf of CA
Mishawaka Fieldhouse, LLC

Status: Current Property Owner / Contingent Purchaser

Request: Amend part of a Planned Unit Development, known as the Penn PUD, to
expand the previously approved boundary for a regional recreational facility

Zoning Classification: S-2 Planned Unit Development

Lot Size: 49.07 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Recreation and Utility / Juday
Creek Golf Course & Municipal Wellfield, and Agricultural Land
permitted for mixed use commercial and residential
development)

South: S-2 Planned Unit Development (Municipal Utility / City Water
Production and Treatment Facility under construction)

East: S-2 Planned Unit Development (Agricultural Land permitted for
mixed use commercial and residential development)

West: S-2 Planned Unit Development (Recreation and Utility / Juday
Creek Golf Course & Municipal Wellfield)

Thoroughfare: Veterans Parkway to be extended

School District: Penn-Harris-Madison School Corporation

Township: Harris

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

Comprehensive Plan: Property is not located within the boundaries of the Mishawaka 2000
Comprehensive Plan

ANALYSIS

The petitioner, the City of Mishawaka, Department of Redevelopment, on behalf of CA Mishawaka Fieldhouse, LLC (contingent owner), is requesting to amend a part of a Planned Unit Development, known

as the Penn PUD, to expand the area of a previously approved permitted use and further limit permitted uses on proposed Lot B of the Juday Creek Business Park, First Replat (Replat 23-02), to a regional recreational facility. A replat to further subdivide Lot 2 and 4 of the original plat into four (4) lots was submitted concurrent with the amendment petition. This amendment only affects a proposed internal lot within the PUD located to the northeast of Fir Road and Douglas Road. Currently, the lot is agricultural land.

The PUD, approved in March 2012 (Petitions 11-29 and 11-30), limited permitted uses within the proposed lot to those listed in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office Commercial, C-7 Restaurant Oriented Commercial, C-8 High Density Suburban Commercial, and the R-1 Single Family Residential districts. An amendment (Petition 18-07) was submitted in 2018 to further restrict permitted uses on proposed Lot A and part of Lot B, currently Lot 2, to a golf course, golf maintenance, municipal wellfield and water production facility, and a regional recreational facility. This amendment will further limit permitted uses within proposed Lot B of the replat to only those identified in this request.

In June 2017, the City purchased Lot 2 of the Juday Creek Business Park from the Penn family. Original plans were to use the south portion of the lot, shown as Lot A on the proposed replat, for a new municipal wellfield and water production facility and the north portion of the lot for relocating three holes of the adjacent Juday Creek Golf Course. The plans for relocating a part of the golf course never materialized. The municipal water production and treatment facility is currently under construction on Lot A. Lot B, as shown on the replat, will become the location of a new regional recreational facility, including but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events. A conceptual site plan for Lot B is attached.

The Juday Creek Business Park, First Replat, as previously mentioned, will further subdivide two (2) existing lots into four (4) lots to accommodate future development. Outside of the development currently underway or planned for Lots A and B, there are no future development plans for proposed Lots C and D. The replat will dedicate additional right-of-way for the future extension of the Veterans Parkway so access can be provided to these lots.

Several conditions were approved as a part of the original Planned Unit Development and as amended per the prior PUD amendment (Petition 18-07 / Ord. 5613). Based upon the limited uses identified within this amendment request, these conditions are proposed to be further amended as listed following Staff's recommendation below.

RECOMMENDATION

Staff recommends in favor of amending a part of a Planned Unit Development, known as the Penn PUD, to expand the area of a previously approved permitted use and further limit permitted uses on proposed Lot B of the Juday Creek Business Park, First Replat (Replat 23-02), to a regional recreational facility.

This recommendation includes the following amended conditions, *with changes from the previously approved conditions per Ordinance 5613 (Petition 18-07) in italics.*

Uses:

1. *Permitted uses shall be limited to a regional recreational facility including, but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events.*
2. Outside sale display for loose items shall be prohibited.
3. Off-premise signs/billboards shall be prohibited.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties where deemed appropriate. Applicable private road connections shall be dedicated

within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between properties. The exact location of these connection points shall be subject to review and approval by the City.

2. At a minimum, internal sidewalks shall be provided within the property connecting to the adjacent roadways. This walk shall connect to any sidewalk that may be provided along Veteran's Parkway or any other future adjacent public right-of-way. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
3. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer of the each final planned unit development site plan. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

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

Signage:

1. Each outlot/development parcel may be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. *Temporary banners, flush mounted to a building shall be limited to three per building/use, and shall not exceed 300 square feet for each individual banner.* These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

Building Limitations/Architecture:

1. *The building façades visible from the public right-of-way, for at least 75% of the façade, shall be constructed with one or more of the following: insulated metal panels, brick or manufactured stone, glass, or any approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended.*
2. For all parcels, there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any buildings within the development shall be 60'.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. *A 20' wide "no mow" natural planting area shall be maintained along the north and west property lines where adjacent to the golf course. A portion of this planting area shall be located along the top of bank of the Lateral #1 Coquillard Ditch and within the existing 75' wide county regulated drain easement.* A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual development parcel shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within the required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject parcel consists of undeveloped agricultural property located north of Juday Creek and adjacent to a new municipal water production and treatment facility currently under construction. Public water and sewer will be extended northerly with the extension of Veteran's Parkway providing services to the parcel.
2. Character of Buildings in Area – The character of buildings along the Fir Road and Douglas Road corridors and Veterans Parkway vary greatly and include, but are not limited to, agricultural land, low-density single family residential homes, a convenience store/gas station, a golf course, skilled nursing/long-term care facilities, an assisted living facility, hotels, a hospital/medical offices, a television/radio broadcast station, and a municipal water production and treatment facility.
3. The most desirable/highest and best use – The proposed amendment for a regional recreational facility within the PUD is not inconsistent with surrounding existing or permitted land uses.
4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding area because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development will actually add value to adjacent properties.

5. Comprehensive Plan – The parcel is not located within the boundaries of the City of Mishawaka Comprehensive Plan. However, the proposed land uses are reasonably consistent with the goals, objectives and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Map, Photographs, Petition, Proposed Juday Creek Business Park, First Replat (Replat 23-02) indicating the area to be Amended, Previously Approved and Recorded Plat (Plat 18-08 / Instr. #1811362), Conceptual Site Plan for Proposed Lot B, Location Map



Aerial Photograph – Proposed Lot B of the Juday Creek Business Park, First Replat North & East of the Veterans Parkway terminus all being North of Douglas Road and West of Capital Avenue (S.R. 331)



P1. Looking westerly from the current Veterans Parkway terminus / cul-de-sac toward Lot A and the city water production and treatment facility currently under construction.



P2. Looking northwesterly from the current Veterans Parkway terminus toward Lot B, being the location of the future regional recreational facility.

FEB 14 2023

City Clerk
Mishawaka, IN

PETITION 23-01

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-06

ORDINANCE NO. _____

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

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

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

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

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

A parcel of land being a part of the Southeast 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: Commencing at the northwest corner of said Southeast Quarter of Section 10; thence East on the north line of said Quarter, a distance of 20 feet; thence South, a distance of 25 feet to the south right of way line of Jefferson Boulevard; thence East on said south right of way line, a distance of 392.5 feet to the northeast corner of Lot 7 as shown on the unrecorded plat of Milliken's Addition to the City of Mishawaka; thence South on the east line of said Lot 7, a distance of 115 feet to the southeast corner of said Lot 7; thence West on the south line of said Lot 7 and its west projection, a distance of 392.5 feet to the east right of way line of Merrifield Avenue; thence North on said east right of way line, a distance of 115 feet to the point of beginning.

COMMON ADDRESS: Southeast Corner of East Jefferson Boulevard and North Merrifield Avenue

which real estate is now classified as I-2 Heavy Industrial District and R-1 Single Family Residential District shall hereafter be within and a part of that District known as C-4 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

Proposed Ordinance No: 2023-06

Ordinance No: _____

1. Existing Conditions - This section of East Jefferson Boulevard, is predominately automobile oriented uses, starting with Jordan at Cedar Street and including Victory Auto, Michiana Auto Glass, Top Gear Auto Sales, Fred's Body Shop, and Pilo's Body Shop;
2. Character of Buildings - The character of the buildings along East Jefferson Boulevard are predominantly automobile oriented or contractor's offices;
3. The Most Desirable/Highest and Best Use - Because the parcel is located near automobile-oriented uses, downzoning to the C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of Property Values - The proposed rezoning should not be injurious to property values in the surrounding area as the majority of the property is currently zoned I-2 Heavy Industrial which could allow outside storage; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as Industrial, however, it has developed as commercial uses, which were identified on the north side of Jefferson.

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 _____, 2023, at _____ o'clock ____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2023, at _____ o'clock ____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2023, at _____ o'clock ____ M.

David A. Wood, Mayor

STAFF REPORT

Location: SE corner of N. Merrifield Ave & E. Jefferson Blvd

Date: February 14, 2023

Petition: 23 01

Prepared By: CH

GENERAL INFORMATION

Applicant: Petkov & Sons LLC/Wightman (Terry Lang)

Status: Property Owners/Surveyor & Site Designer

Request: Rezone from I-2 Heavy Industrial and R-1 Single Family Residential to C-4 Automobile Oriented Commercial District

Zoning Classification: I-2 Heavy Industrial (Lots 1-6) and R-1 Single Family Residential (Lot 7)

Lot Size: 1.03 acres

Applicable Regulations: Sec. 137-40 Plan Commission;
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map;
Sec. 137-379 thru 137-380 C-4 Automobile Oriented Commercial District

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial (Greg's Autos, Four Seasons Heating and Cooling, J&K HVAC)
South: I-2 Heavy Industrial (industrial building & vacant property)
East: I-2 Heavy Industrial (former Reggio's restaurant)
West: I-1 Light Industrial (automobile uses)

Thoroughfare: East Jefferson Boulevard and North Merrifield Avenue

School District: School City of Mishawaka

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

Comprehensive Plan: Industrial

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from I-2 Heavy Industrial (Lots 1-6) and R-1 Single Family Residential (Lot 7) to C-4 Automobile Oriented Commercial District. The property is located at the southeast corner of East Jefferson Boulevard and North Merrifield Avenue.

The last aerial photograph that shows any building is from 2006. There were two (2) Quonset huts and three (3) single family homes. Since the 2009 aerials, the property has been vacant.

The reason for the change to C-4 Automobile Oriented Commercial District is to allow the expansion of Greg's Autos to the north. With this petition the property owner is only seeking to establish the property zoning for the proposed automobile use. If approved, a subdivision to combine all the lots and dedicate additional right of way and easements as required, and a site plan laying out phases of development will be required prior to the beginning of any construction or issuance of any permits. A detailed final site plan will address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

The Engineering Department had no concerns with the change in zoning, however, did have comments that will need to be addressed on the subdivision and site plan. 1. Sidewalk shall be added to Jefferson Blvd along entire frontage.

Additional right-of-way or easements may be required. 2. With intended use, an oil water separator shall be installed in the sanitary sewer lateral.

Other pertinent City Departments reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **in favor** of Petition #23-01 to rezone the property at the southeast corner of East Jefferson Boulevard and North Merrifield Avenue to C-4 Automobile Oriented Commercial District. This recommendation is based upon the following findings of fact:

1. Existing Conditions - This section of East Jefferson Boulevard, is predominately automobile oriented uses, starting with Jordan at Cedar Road and including Victory Auto, Michiana Auto Glass, Top Gear Auto Sales, Fred's Body Shop, and Pilo's Body Shop.
2. Character of Buildings - The character of the buildings along East Jefferson Boulevard are predominantly automobile oriented or contractor's offices;
3. The most desirable/highest and best use - Because the parcel is located near automobile oriented uses, downzoning to the C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as the majority of the property is currently zoned I-2 Heavy Industrial which could allow outside storage; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as Industrial, however, it has developed as commercial uses, which were identified on the north side of Jefferson.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





P1. Looking east from Merrifield



P2. View from Jefferson

FEB 01 2023

City Clerk
Mishawaka, IN

January 25, 2023

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

PET 23-01
Received

JAN 25 2023

Planning and
Community Development

RE: PETITION TO REZONE

The undersigned Petkov & Sons, LLC of the titleholders of record 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:

A parcel of land being a part of the Southeast 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: Commencing at the northwest corner of said Southeast Quarter of Section 10; thence East on the north line of said Quarter, a distance of 20 feet; thence South, a distance of 25 feet to the south right of way line of Jefferson Boulevard; thence East on said south right of way line, a distance of 392.5 feet to the northeast corner of Lot 7 as shown on the unrecorded plat of Milliken's Addition to the City of Mishawaka; thence South on the east line of said Lot 7, a distance of 115 feet to the southeast corner of said Lot 7; thence West on the south line of said Lot 7 and it's west projection, a distance of 392.5 feet to the east right of way line of Merrifield Avenue; thence North on said east right of way line, a distance of 115 feet to the point of beginning.

Common address: v/l southeast corner of Jefferson Boulevard and Merrifield Avenue

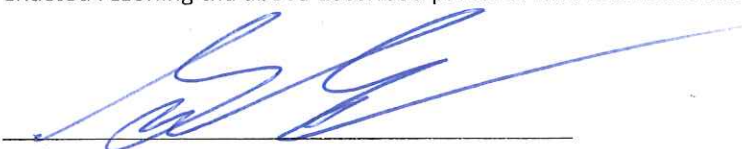
Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of I-2 Heavy Industrial District and R-1 Residential District.

Said property is currently vacant land.

Petitioner desire said real estate to be rezoned to C-4 Commercial District.

Petitioner further state that they intend to utilize said land for automotive sales and associated activities for vehicle prep.

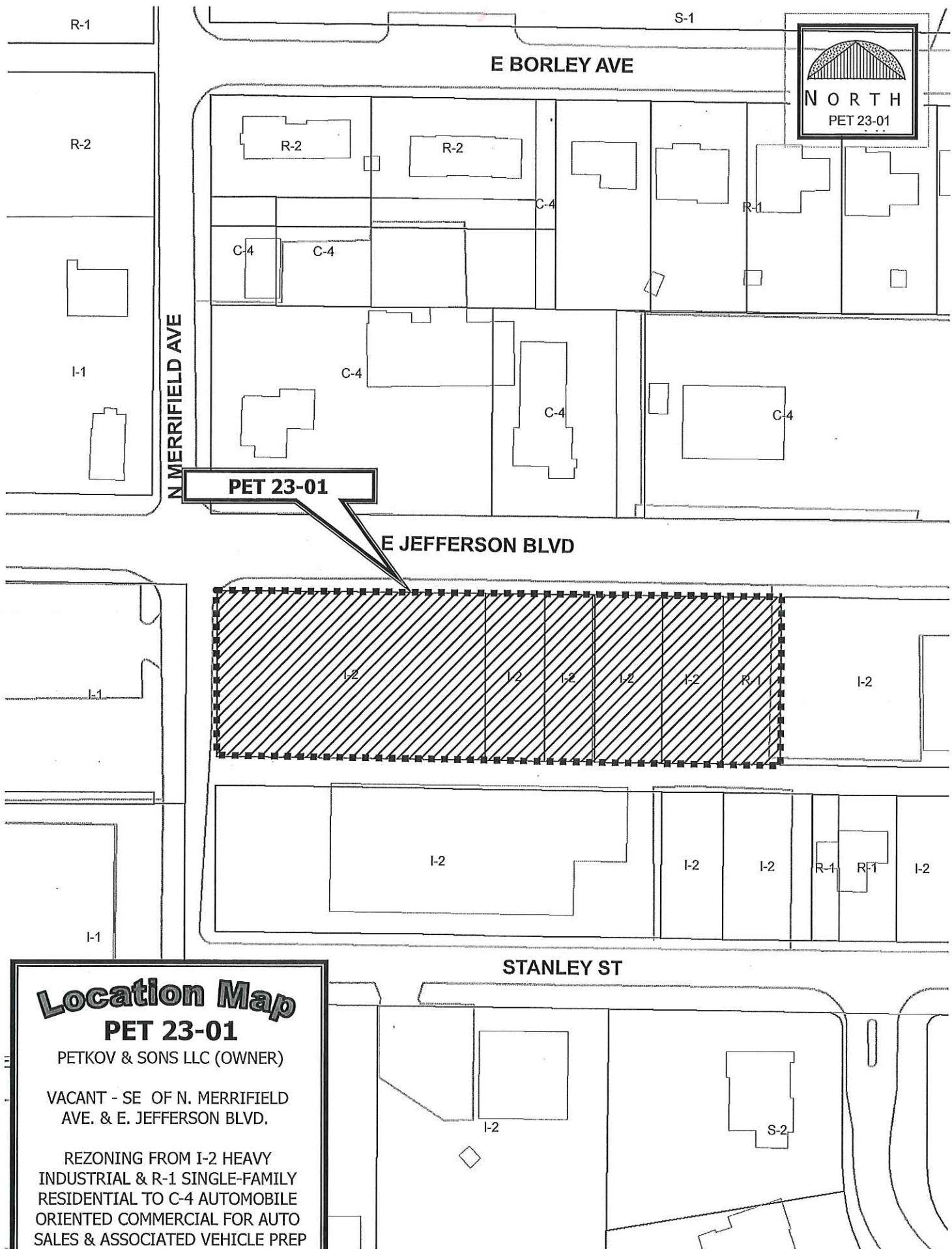
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.


Petkov & Sons, LLC

print name: Grigor Petkov
1102 E. Jefferson Boulevard
Mishawaka, Indiana 46545

CONTACT PERSON:

Wightman
Terance D. Lang, PS
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
TLang@gowightman.com



FEB 4 2023

City Clerk
Mishawaka, IN

PETITION #23-02

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-07

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, Donald L. Shaum, Jr. and Jennifer I. Shaum 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:

A parcel of land in the Southwest Quarter of Section 21, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as follows:

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

Commencing at the northeast corner of Lot 4 as shown on the recorded plat of Clayton Acres in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 13, Pages 64 and 65; thence south on the east line of said Lot 4, a distance of 18.7 feet to the point of beginning; thence continuing south on said east line of Lot 4, projected south, to its intersection with said Lot 4's south line, projected easterly; thence westerly on said line to the southeast corner of said Lot 4, said point also being on the north Right of Way line of Arthur Street; thence Northeasterly on the southeast line of said Lot 4, a distance of 130.83 feet to the point of beginning.

COMMONLY KNOWN AS: Northwest Corner of Arthur Street and Grape Road

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. The vacation will allow for the adjacent property to be redeveloped with three new evenly split lots.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The area to be vacated is currently vacant land.
- 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 or be relocated via a subdivision plat.
- 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 _____, 2023.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

PRESENTED by me to the Mayor this _____ day of _____, 2023, at _____
o'clock _____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2023, at _____ o'clock
_____.M.

David A. Wood, Mayor

STAFF REPORT

Location: NW corner of Arthur Street and Grape Road (410 Arthur St.) Date: February 14, 2023
Petition: 23-02 Prepared By: SA

GENERAL INFORMATION

Applicant: Wightman/Donald L. Shaum, Jr. & Jennifer I. Shaum
Status: Surveyor/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: Unincorporated Saint Joseph County (Single Family Residential)
South: R-1 Single Family Residential/R-3 Multi-Family Residential
East: Unincorporated Saint Joseph County (Single Family Residential)
West: R-1 Single Family Residential

Thoroughfare: Grape Road

School District: South Bend Community

Public Utilities: Public Right-of-Way

Comprehensive Plan: Annexed After Formation of Comprehensive Plan

ANALYSIS

The petitioners Donald L. Shaum and Jennifer I. Shaum are requesting the City to vacate the north-west corner of Arthur Street and Grape Road. The vacated public right-of-way which is approximately 3,266 square feet would become part of the adjacent property currently known as Lot 4 – Clayton Acres with the address of 410 Arthur Street (Parcel ID 029-2030-0886) for future residential development.

In 2019, the Petitioners received approval for annexation and zoning from Saint Joseph County to the City of Mishawaka. 410 Arthur Street was zoned R-1 for future subdivision with (3) single family residential lots. All lots shall comply with the required height, area, and development regulations for the R-1 District. The vacant land across Arthur Street to the south (Parcel ID 029-2017-0366) was also annexed and zoned R-1 & R-3 for future subdivision with (3) single family residential lots and (7) townhomes by the same Petitioners.

According to the tax parcel maps, the southeast corner of proposed Lot 3 is encumbered by an existing unimproved public right-of-way. This right-of-way, which is labelled as Taylor Boulevard on the tax maps, must be vacated for the property to be developed as proposed. This corner is the remaining remnant of the rest of Taylor Blvd which was previously vacated. If any utilities are located within the vacated area, they must be relocated or easements will be required.

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

This recommendation is based on the following findings of fact:

- ## ATTACHMENTS

Aerial



Looking north from Arthur Street



Looking east from Arthur Street



Looking north from Arthur Street



Deborah S. Block, AMC, MMC

FEB 01 2023

City Clerk
Mishawaka, IN

PKS 23-02
Received

JAN 25 2023

Planning and
Community Development

January 18, 2023

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

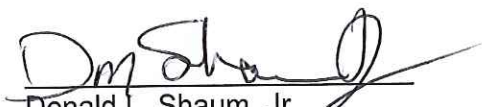
RE: PETITION OF VACATION OF PUBLIC RIGHT OF WAY

The undersigned, Donald L. Shaum, Jr. and Jennifer I. Shaum respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

A parcel of land in the Southwest Quarter of Section 21, Township 38 North, Range 3 East, Clay Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as follows:
Commencing at the northeast corner of Lot 4 as shown on the recorded plat of Clayton Acres in the Office of the Recorder of St. Joseph County, Indian in Plat Book 13, Pages 64 and 65; thence south on the east line of said Lot 4, a distance of 18.7 feet to the point of beginning; thence continuing south on said east line of Lot 4, projected south, to its intersection with said Lot 4's south line, projected easterly; thence westerly on said line to the southeast corner of said Lot 4, said point also being on the north Right of Way line of Arthur Street; thence Northeasterly on the southeast line of said Lot 4, a distance of 130.83 feet to the point of beginning.

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

Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacated the above described right of way located in the City of Mishawaka.


Donald L. Shaum, Jr.
22040 County Road 20
Goshen, IN 46528
Lot 4 – Clayton Acres
410 Arthur Street


Jennifer I. Shaum
22040 County Road 20
Goshen, IN 46528
Lot 4 – Clayton Acres
410 Arthur Street

Contact Person:
Wightman
Terance D. Lang, PS
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841
TLang@gowightman.com

Serving the Great Lakes Region with offices in Michigan and Indiana

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PET 23-02

ARTHUR ST

GRAPE RD

R-1

R-3

S-2

THRUSH ST

RUTH ST

Location Map

PET 23-02

DONALD L. JR. & JENNIFER I.
SHAUM (OWNERS)

E. OF 410 ARTHUR STREET

RIGHT-OF-WAY VACATION FOR
UNIMPROVED TAYLOR ST. AT
NW CORNER OF ARTHUR ST.
AND GRAPE RD.

Deborah S. Block, IAC, MMC

FEB 14 2023

City Clerk
Mishawaka, IN

PETITION 23-03

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-08

ORDINANCE NO. _____

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

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

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

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

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

A part of Lot 2 and Lot 4 of Juday Creek Business Park Subdivision in the City of Mishawaka, Harris Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #1811362 in the Office of the Recorder of St. Joseph County, Indiana with the part of said Lot 4 being uniquely established as Parcel 4A as described, depicted, and recorded in Instrument #2021-45807 in the Office of Recorder of St. Joseph County, Indiana, described as follows:

COMMENCING at the southwest corner of said Lot 2; thence North 00 degrees 16 minutes 03 seconds West (bearing for this and all subsequent bearings is based on the bearing system of the plat for Juday Creek Business Park) 614.59 feet along the west line of said Lot 2 to the **POINT OF BEGINNING** of this description; thence along the westerly and northerly lines of said Lot 2 for the following four (4) calls:

- 1) thence continuing North 00 degrees 16 minutes 03 seconds West 713.00 feet;
- 2) thence North 00 degrees 20 minutes 06 seconds West 317.63 feet;
- 3) thence North 29 degrees 21 minutes 33 seconds East 403.32 feet;
- 4) thence North 89 degrees 33 minutes 41 seconds East 1,123.32 feet to an east corner of said Lot 2, also being a westerly corner of said Lot 4;

thence North 89 degrees 12 minutes 56 seconds East 655.68 feet to the proposed westerly right-of-way line of Veterans Parkway and easterly boundary of said Parcel 4A; thence along the proposed westerly and northwesterly right-of-way lines of said Veterans Parkway and easterly boundary of said Parcel 4A for the following fifteen (15) calls:

- 1) thence South 01 degree 21 minutes 00 seconds West 55.43 feet;
- 2) thence South 30 degrees 40 minutes 18 seconds East 22.77 feet;
- 3) thence South 04 degrees 07 minutes 16 seconds West 94.88 feet;

Ordinance No: _____

- 4) thence Southwesterly 449.45 feet along an arc to the right having a radius of 778.50 feet and subtended by a long chord having a bearing of South 28 degrees 23 minutes 00 seconds West 443.23 feet;
- 5) thence South 44 degrees 55 minutes 21 seconds West 622.47 feet;
- 6) thence South 34 degrees 37 minutes 04 seconds West 55.90 feet;
- 7) thence South 61 degrees 37 minutes 19 seconds West 62.64 feet;
- 8) thence North 77 degrees 48 minutes 45 seconds West 49.93 feet;
- 9) thence North 49 degrees 06 minutes 54 seconds West 85.21 feet;
- 10) thence South 44 degrees 55 minutes 21 seconds West 100.00 feet;
- 11) thence South 35 degrees 04 minutes 10 seconds East 86.31 feet;
- 12) thence South 05 degrees 58 minutes 00 seconds West 60.44 feet;
- 13) thence South 38 degrees 03 minutes 14 seconds West 58.53 feet;
- 14) thence South 38 degrees 08 minutes 51 seconds West 143.91 feet;
- 15) thence South 34 degrees 55 minutes 14 seconds West 149.11 feet to an east corner of Lot 2 of said Juday Creek Business Park Subdivision;

thence North 43 degrees 19 minutes 01 second West 145.79 feet along a southwestern line of said Lot 4 and said Parcel 4A; thence South 89 degrees 03 minutes 38 seconds West 787.07 feet to the **POINT OF BEGINNING** and containing 49.07 acres, more or less.

COMMON ADDRESS: Vacant Property to the North of the Veteran's Parkway Terminus, also being North of Douglas Road and West of Capital Avenue

which real estate is now classified as S-2 Planned Unit Development shall hereafter be amended to expand the area of a previously approved permitted use and further limit permitted uses on proposed Lot B of the Juday Creek Business Park to a regional recreational facility, subject to the attached conditions of approval.

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

1. Existing Conditions – The subject parcel consists of undeveloped agricultural property located north of Juday Creek and adjacent to a new municipal water production and treatment facility currently under construction. Public water and sewer will be extended northerly with the extension of Veteran's Parkway providing services to the parcel.
2. Character of Buildings in Area – The character of buildings along the Fir Road and Douglas Road corridors and Veterans Parkway vary greatly and include, but are not limited to, agricultural land, low-density single family residential homes, a convenience store/gas station, a golf course, skilled nursing/long-term care facilities, an assisted living facility, hotels, a hospital/medical offices, a television/radio broadcast station, and a municipal water production and treatment facility.
3. The most desirable/highest and best use – The proposed amendment for a regional recreational facility within the PUD is not inconsistent with surrounding existing or permitted land uses.
4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding area because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development will actually add value to adjacent properties.

Proposed Ordinance No: 2023-08

Ordinance No: _____

5. Comprehensive Plan – The parcel is not located within the boundaries of the City of Mishawaka Comprehensive Plan. However, the proposed land uses are reasonably consistent 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 _____, 2023, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2023, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2023, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: Vacant Property to the North of the Veterans Pkwy. terminus
Also being North of Douglas Road & West of Capital Avenue

Date: February 14, 2023

Petition: 23- 03

Prepared By: DJS

GENERAL INFORMATION

Applicant: City of Mishawaka, Department of Redevelopment on behalf of CA
Mishawaka Fieldhouse, LLC

Status: Current Property Owner / Contingent Purchaser

Request: Amend part of a Planned Unit Development, known as the Penn PUD, to
expand the previously approved boundary for a regional recreational facility

Zoning Classification: S-2 Planned Unit Development

Lot Size: 49.07 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Recreation and Utility / Juday
Creek Golf Course & Municipal Wellfield, and Agricultural Land
permitted for mixed use commercial and residential
development)

South: S-2 Planned Unit Development (Municipal Utility / City Water
Production and Treatment Facility under construction)

East: S-2 Planned Unit Development (Agricultural Land permitted for
mixed use commercial and residential development)

West: S-2 Planned Unit Development (Recreation and Utility / Juday
Creek Golf Course & Municipal Wellfield)

Thoroughfare: Veterans Parkway to be extended

School District: Penn-Harris-Madison School Corporation

Township: Harris

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

Comprehensive Plan: Property is not located within the boundaries of the Mishawaka 2000
Comprehensive Plan

ANALYSIS

The petitioner, the City of Mishawaka, Department of Redevelopment, on behalf of CA Mishawaka Fieldhouse, LLC (contingent owner), is requesting to amend a part of a Planned Unit Development, known

as the Penn PUD, to expand the area of a previously approved permitted use and further limit permitted uses on proposed Lot B of the Juday Creek Business Park, First Replat (Replat 23-02), to a regional recreational facility. A replat to further subdivide Lot 2 and 4 of the original plat into four (4) lots was submitted concurrent with the amendment petition. This amendment only affects a proposed internal lot within the PUD located to the northeast of Fir Road and Douglas Road. Currently, the lot is agricultural land.

The PUD, approved in March 2012 (Petitions 11-29 and 11-30), limited permitted uses within the proposed lot to those listed in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office Commercial, C-7 Restaurant Oriented Commercial, C-8 High Density Suburban Commercial, and the R-1 Single Family Residential districts. An amendment (Petition 18-07) was submitted in 2018 to further restrict permitted uses on proposed Lot A and part of Lot B, currently Lot 2, to a golf course, golf maintenance, municipal wellfield and water production facility, and a regional recreational facility. This amendment will further limit permitted uses within proposed Lot B of the replat to only those identified in this request.

In June 2017, the City purchased Lot 2 of the Juday Creek Business Park from the Penn family. Original plans were to use the south portion of the lot, shown as Lot A on the proposed replat, for a new municipal wellfield and water production facility and the north portion of the lot for relocating three holes of the adjacent Juday Creek Golf Course. The plans for relocating a part of the golf course never materialized. The municipal water production and treatment facility is currently under construction on Lot A. Lot B, as shown on the replat, will become the location of a new regional recreational facility, including but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events. A conceptual site plan for Lot B is attached.

The Juday Creek Business Park, First Replat, as previously mentioned, will further subdivide two (2) existing lots into four (4) lots to accommodate future development. Outside of the development currently underway or planned for Lots A and B, there are no future development plans for proposed Lots C and D. The replat will dedicate additional right-of-way for the future extension of the Veterans Parkway so access can be provided to these lots.

Several conditions were approved as a part of the original Planned Unit Development and as amended per the prior PUD amendment (Petition 18-07 / Ord. 5613). Based upon the limited uses identified within this amendment request, these conditions are proposed to be further amended as listed following Staff's recommendation below.

RECOMMENDATION

Staff recommends in favor of amending a part of a Planned Unit Development, known as the Penn PUD, to expand the area of a previously approved permitted use and further limit permitted uses on proposed Lot B of the Juday Creek Business Park, First Replat (Replat 23-02), to a regional recreational facility.

This recommendation includes the following amended conditions, *with changes from the previously approved conditions per Ordinance 5613 (Petition 18-07) in italics.*

Uses:

1. *Permitted uses shall be limited to a regional recreational facility including, but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events.*
2. Outside sale display for loose items shall be prohibited.
3. Off-premise signs/billboards shall be prohibited.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties where deemed appropriate. Applicable private road connections shall be dedicated

within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between properties. The exact location of these connection points shall be subject to review and approval by the City.

2. At a minimum, internal sidewalks shall be provided within the property connecting to the adjacent roadways. This walk shall connect to any sidewalk that may be provided along Veteran's Parkway or any other future adjacent public right-of-way. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
3. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer of the each final planned unit development site plan. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

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

Signage:

1. Each outlot/development parcel may be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. *Temporary banners, flush mounted to a building shall be limited to three per building/use, and shall not exceed 300 square feet for each individual banner.* These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

Building Limitations/Architecture:

1. *The building façades visible from the public right-of-way, for at least 75% of the façade, shall be constructed with one or more of the following: insulated metal panels, brick or manufactured stone, glass, or any approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended.*
2. For all parcels, there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any buildings within the development shall be 60'.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. *A 20' wide "no mow" natural planting area shall be maintained along the north and west property lines where adjacent to the golf course. A portion of this planting area shall be located along the top of bank of the Lateral #1 Coquillard Ditch and within the existing 75' wide county regulated drain easement.* A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual development parcel shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within the required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject parcel consists of undeveloped agricultural property located north of Juday Creek and adjacent to a new municipal water production and treatment facility currently under construction. Public water and sewer will be extended northerly with the extension of Veteran's Parkway providing services to the parcel.
2. Character of Buildings in Area – The character of buildings along the Fir Road and Douglas Road corridors and Veterans Parkway vary greatly and include, but are not limited to, agricultural land, low-density single family residential homes, a convenience store/gas station, a golf course, skilled nursing/long-term care facilities, an assisted living facility, hotels, a hospital/medical offices, a television/radio broadcast station, and a municipal water production and treatment facility.
3. The most desirable/highest and best use – The proposed amendment for a regional recreational facility within the PUD is not inconsistent with surrounding existing or permitted land uses.
4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding area because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development will actually add value to adjacent properties.

5. Comprehensive Plan – The parcel is not located within the boundaries of the City of Mishawaka Comprehensive Plan. However, the proposed land uses are reasonably consistent with the goals, objectives and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Map, Photographs, Petition, Proposed Juday Creek Business Park, First Replat (Replat 23-02) indicating the area to be Amended, Previously Approved and Recorded Plat (Plat 18-08 / Instr. #1811362), Conceptual Site Plan for Proposed Lot B, Location Map



Aerial Photograph – Proposed Lot B of the Juday Creek Business Park, First Replat North & East of the Veterans Parkway terminus all being North of Douglas Road and West of Capital Avenue (S.R. 331)



P1. Looking westerly from the current Veterans Parkway terminus / cul-de-sac toward Lot A and the city water production and treatment facility currently under construction.



P2. Looking northwesterly from the current Veterans Parkway terminus toward Lot B, being the location of the future regional recreational facility.

PETITION #23-03
Penn Planned Unit Development Amendment
Conditions of Approval

This recommendation includes the following amended conditions, *with changes from the previously approved conditions per Ordinance 5613 (Petition 18-07) in italics.*

Uses:

1. *Permitted uses shall be limited to a regional recreational facility including, but not limited to, outdoor and indoor athletic fields and related accessory uses and other regional tourism events.*
2. Outside sale display for loose items shall be prohibited.
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Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties where deemed appropriate. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between properties. The exact location of these connection points shall be subject to review and approval by the City.
2. At a minimum, internal sidewalks shall be provided within the property connecting to the adjacent roadways. This walk shall connect to any sidewalk that may be provided along Veteran's Parkway or any other future adjacent public right-of-way. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
3. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
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4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
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2. *Temporary banners, flush mounted to a building shall be limited to three per building/use, and shall not exceed 300 square feet for each individual banner. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.*

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1. *The building façades visible from the public right-of-way, for at least 75% of the façade, shall be constructed with one or more of the following: insulated metal panels, brick or manufactured stone, glass, or any approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended.*
2. For all parcels, there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any buildings within the development shall be 60'.

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shall be provided from internal non-public access drives and proposed parking/building areas.

3. *A 20' wide "no mow" natural planting area shall be maintained along the north and west property lines where adjacent to the golf course. A portion of this planting area shall be located along the top of bank of the Lateral #1 Coquillard Ditch and within the existing 75' wide county regulated drain easement. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual development parcel shall comply with the landscape requirements of the C-1 General Commercial zoning district.*
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CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

January 25, 2023

Deborah S. Block, IAC, MMC

JAN 30 2023

City Clerk
Mishawaka, IN

PK 23-03
Received

JAN 25 2023

Planning and
Community Development

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

RE: Petition for PUD Amendment

The undersigned, City of Mishawaka, 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:

See attached Exhibit "A".

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts; and a golf course, golf maintenance, municipal wellfield and water production facilities, and a regional recreational facility. The property is currently vacant agricultural land.

Petitioner(s) desire said real estate to be amended to allow for a regional recreational facility.

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


Kenneth B. Prince, ASLA, AICP
Executive Director, Planning & Community Development

Contact Person:

Derek J. Spier, AICP
City Planner
City of Mishawaka
100 Lincolnway West
Mishawaka, IN 46544
dspier@mishawaka.in.gov

EXHIBIT A

LEGAL DESCRIPTION

A part of Lot 2 and Lot 4 of Juday Creek Business Park Subdivision in the City of Mishawaka, Harris Township, St. Joseph County, Indiana, the plat of which is recorded in Instrument #1811362 in the Office of the Recorder of St. Joseph County, Indiana with the part of said Lot 4 being uniquely established as Parcel 4A as described, depicted, and recorded in Instrument #2021-45807 in the Office of Recorder of St. Joseph County, Indiana, described as follows:

COMMENCING at the southwest corner of said Lot 2; thence North 00 degrees 16 minutes 03 seconds West (bearing for this and all subsequent bearings is based on the bearing system of the plat for Juday Creek Business Park) 614.59 feet along the west line of said Lot 2 to the **POINT OF BEGINNING** of this description; thence along the westerly and northerly lines of said Lot 2 for the following four (4) calls:

- 1) thence continuing North 00 degrees 16 minutes 03 seconds West 713.00 feet;
- 2) thence North 00 degrees 20 minutes 06 seconds West 317.63 feet;
- 3) thence North 29 degrees 21 minutes 33 seconds East 403.32 feet;
- 4) thence North 89 degrees 33 minutes 41 seconds East 1,123.32 feet to an east corner of said Lot 2, also being a westerly corner of said Lot 4;

thence North 89 degrees 12 minutes 56 seconds East 655.68 feet to the proposed westerly right-of-way line of Veterans Parkway and easterly boundary of said Parcel 4A; thence along the proposed westerly and northwesterly right-of-way lines of said Veterans Parkway and easterly boundary of said Parcel 4A for the following fifteen (15) calls:

- 1) thence South 01 degree 21 minutes 00 seconds West 55.43 feet;
- 2) thence South 30 degrees 40 minutes 18 seconds East 22.77 feet;
- 3) thence South 04 degrees 07 minutes 16 seconds West 94.88 feet;
- 4) thence Southwesterly 449.45 feet along an arc to the right having a radius of 778.50 feet and subtended by a long chord having a bearing of South 28 degrees 23 minutes 00 seconds West 443.23 feet;
- 5) thence South 44 degrees 55 minutes 21 seconds West 622.47 feet;
- 6) thence South 34 degrees 37 minutes 04 seconds West 55.90 feet;

- 7) thence South 61 degrees 37 minutes 19 seconds West 62.64 feet;
- 8) thence North 77 degrees 48 minutes 45 seconds West 49.93 feet;
- 9) thence North 49 degrees 06 minutes 54 seconds West 85.21 feet;
- 10) thence South 44 degrees 55 minutes 21 seconds West 100.00 feet;
- 11) thence South 35 degrees 04 minutes 10 seconds East 86.31 feet;
- 12) thence South 05 degrees 58 minutes 00 seconds West 60.44 feet;
- 13) thence South 38 degrees 03 minutes 14 seconds West 58.53 feet;
- 14) thence South 38 degrees 08 minutes 51 seconds West 143.91 feet;
- 15) thence South 34 degrees 55 minutes 14 seconds West 149.11 feet to an east corner of Lot 2 of said Juday Creek Business Park Subdivision;

thence North 43 degrees 19 minutes 01 second West 145.79 feet along a southwestern line of said Lot 4 and said Parcel 4A; thence South 89 degrees 03 minutes 38 seconds West 787.07 feet to the **POINT OF BEGINNING** and containing 49.07 acres, more or less.



Sent Via Email

January 25th, 2023

City of Mishawaka
Attn: Ken Prince
100 Lincolnway W
Mishawaka, IN 46544

Re: City's Representation of CA Mishawaka Fieldhouse, LLC

Ken –

Please let this letter serve as CA Mishawaka Fieldhouse, LLC's authorization for any team member of the City of Mishawaka to represent the above entity as the soon to be owner in any zoning, rezoning, or other planning measures that are necessary in the conveyance and eventual development of the Project property.

Thank you.

Best,

Billy Bunkowfst
Authorized Signatory

[illegible]

See Sheet 2 for Veterans
Parway Details.

SITE LOCATION MAP
Not to Scale

CURVE TABLE				
Curve #	Length	Radius	Chord Bearing	Chord Distance
C5	172.92'	857.93'	N07°52.32'E	172.62'
C6	40.00'	893.48'	N00°52.19'E	40.00'

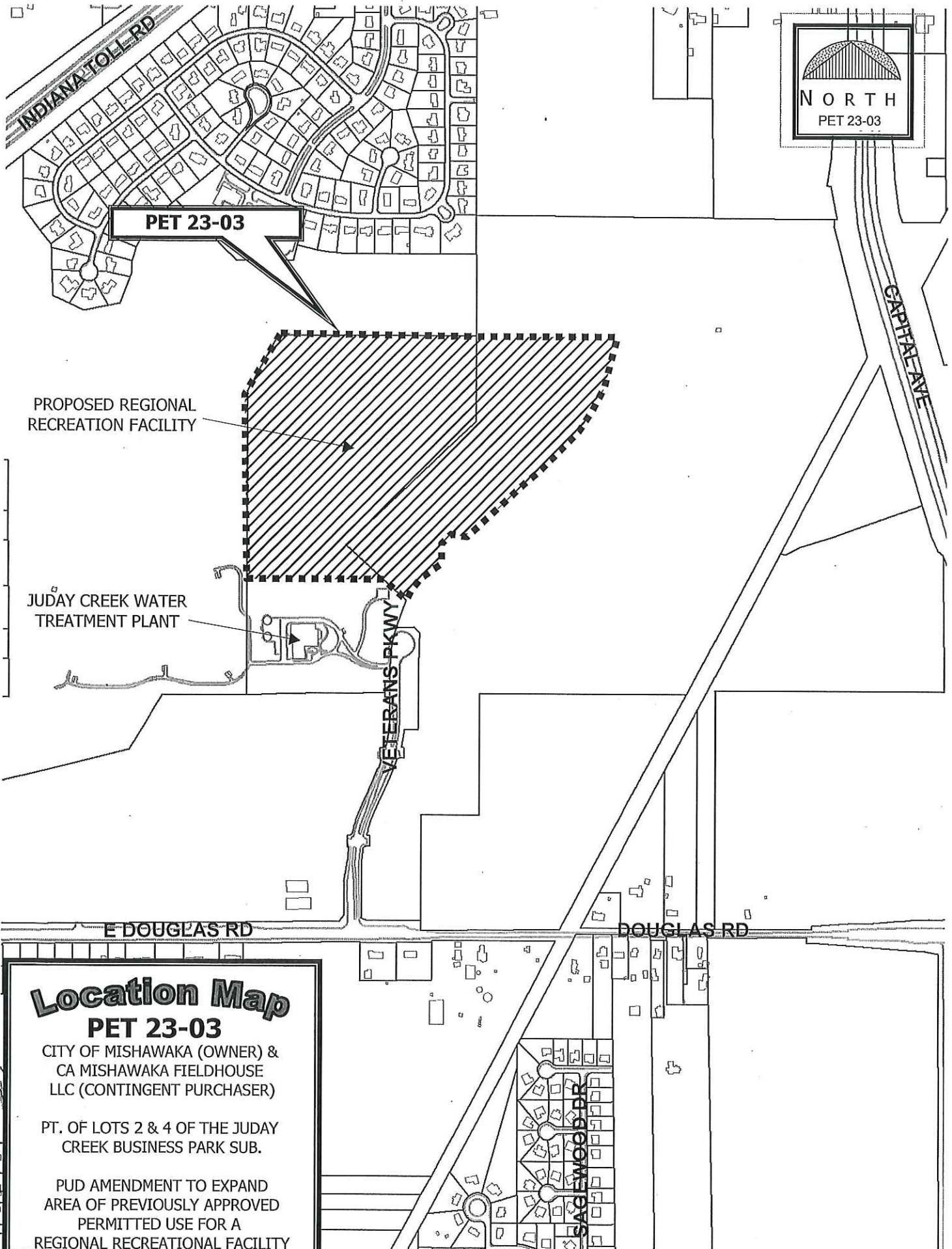
AREAS TABLE	
Location	Areas
LOT A	11.58 ac
LOT B	49.07 ac
LOT C	10.03 ac
LOT D	102.59 ac
Veluvas Parkway R/W	6.14 ac
TOTAL	179.66 acres

- ¹) The purpose of this subsection is to reconcile rule 2 and 4.
- ²) The Secretary of the subdivision plat was based on Instrument #0276527-1, recorded June 28, 2017.
- ³) Based upon the recording of the Judy Creek Business Park Subdivision Plat and the recording of this plat, a Easement Right-of-Way was created by the plat, as a part of LLC's easements acquired from the City of Portland dated December 12/21/2021.
- ⁴) The physical features and utility assessment shown on L&A 4 is for the use of the owners of the adjoining parcels.
- ⁵) According to the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Map (FIRM) #19043C0220D, Panel 205 of S09, Enclaves Date January 6, 2014, portions of the land within this subdivision flat with special flood hazard zone LA. This portion of zone LA has been designated as a "Special Flood Hazard Zone."
- ⁶) The Department of Veterans Parkway will be serviced by utilities that may be installed as a part of CIP project number ENT-24-213.
- ⁷) All lots within the subdivision have been zoned AS Planned Urban development.
- ⁸) Proposed Veterans Parkway right-of-way does include a nominal width.

202137.15	
SHEETS	
1	OF 3

JUDAY CREEK BUSINESS PARK
FIRST REPLAT
CITY OF MISHAWAKA, INDIANA

LFA
LAWSON-FISHER ASSOCIATES P.C.
525 W. WASHINGTON AVENUE
SOUTH BEND, INDIANA 46601
PH. (574) 234-3167



PET 23-03

PROPOSED REGIONAL
RECREATION FACILITY

JUDAY CREEK WATER
TREATMENT PLANT

VETERANS PKWY

E DOUGLAS RD

DOUGLAS RD

SAGEWOOD DR



Location Map PET 23-03

CITY OF MISHAWAKA (OWNER) &
CA MISHAWAKA FIELDHOUSE
LLC (CONTINGENT PURCHASER)

PT. OF LOTS 2 & 4 OF THE JUDAY
CREEK BUSINESS PARK SUB.

PUD AMENDMENT TO EXPAND
AREA OF PREVIOUSLY APPROVED
PERMITTED USE FOR A
REGIONAL RECREATIONAL FACILITY

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

JAN 26 2023

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-09

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 34, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE FIRE PREVENTION AND PROTECTION ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA.

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

Chapter 34 of the Mishawaka Municipal Code regarding Fire Prevention and Protection is hereby amended to add the following Section 34-68 regarding electronic filing of records of fire protection and life safety system reports:

Sec 34-68. – Fire Protection and Life Safety Systems, Inspections, Tests, and Electronic Filing of Reports

(a) The building owner is responsible for maintaining the fire and life safety systems in an operable condition at all times and shall have periodic tests and inspections of those systems performed by a contractor trained to conduct such tests and inspections who shall report to the fire chief.

(b) Records of all fire protection and life safety systems and equipment inspections, tests, and maintenance required by this Code, State law, and the standards referenced in the Indiana Fire Code, shall be maintained on the premises for a minimum of three (3) years. Initial installation records shall be maintained for the life of the installation. Records shall be made available for inspection by the fire chief and a copy of the records shall be provided to the fire chief on request.

(c) The fire chief is authorized to prescribe the form and format of such record keeping. The fire chief is authorized to require that certain required records be filed.

(d) A copy of a report upon completion of an inspection, maintenance, repair, or replacement performed in accordance with the applicable standards on any life safety or fire protection appliances and systems, including but not limited to fire sprinkler systems, standpipes systems, fire detection, and alarm systems, emergency alarm systems, smoke detection, monitoring systems, gas detection systems, fire extinguishing hood systems, mechanical smoke exhaust systems, private fire hydrants, private water main systems,

fire extinguishers, other extinguishing systems, fire hose, or any other system as deemed necessary by the fire chief, shall be forwarded by the entity, contractor, company or individual performing the service to a third-party inspection records management vendor designee set forth by the fire chief.

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 _____, 2023, at _____ o'clock, P.M.

Presiding Officer

Attest:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me to the Mayor this ____ day of _____, 2023,
at _____ o'clock ____ .M.

Deborah S. Block, IAMC, MMC,
City Clerk

Approved by me this _____ day of _____, 2023, at _____
o'clock ____ .M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

January 26, 2023

Mishawaka Common Council
100 Lincolnway West
Mishawaka, Indiana 46544

Re: Ordinance Amending Chapter 34 of the Fire Prevention and Protection Code of the City of Mishawaka

President and Honorable Council Members:

Enclosed is a proposed ordinance amending Chapter 34 of the Mishawaka Municipal Code regarding Fire Prevention and Protection by adding Section 34-68 regarding electronic filing of records of fire protection and life safety system reports.

The proposed ordinance covers the same subject matter as 2014 Indiana Fire Code Sec. 107.2.1 675 IAC 22-2.5 regarding test and inspection records. It requires that test and inspection records shall be available to the fire code official at all times. However, the proposed ordinance includes a more stringent or detailed requirement that does not conflict with the Commission's rules in that it requires test and inspection records to be electronically submitted to the fire code official by the entity, contractor, company or individual performing the service to a third-party inspection records management vendor designee set forth by the fire chief.

The proposed ordinance requires building owners to to the following:

- Maintain the fire and life safety systems in an operable condition at all times;
- Conduct periodic tests and inspections of those systems performed by a contractor trained to conduct such tests and inspections who shall report to the fire chief;
- Maintain all fire protection and life safety systems and equipment inspections, tests, and maintenance on the premises for a minimum of three (3) years;
- Maintain all initial installation records for the life of the installation; and
- Make all records available for inspection by the fire chief.

Patrick J. Hinkle
Corporation Counsel
100 Lincolnway West
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

John J. Roggeman
City Attorney
100 Lincolnway West
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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

The proposed ordinance also empowers the fire chief to do the following:

- Prescribe the form and format of such record keeping and filing; and
- Require that a copy of completed inspection, maintenance, repair, or replacement reports be forwarded by the entity, contractor, company or individual performing the service to a third-party inspection records management vendor designee set forth by the fire chief.

If this ordinance passes, then the MFD will receive reports in electronic format from the third-party inspection records management vendors. According to Fire Marshall William Dempler, this ordinance will maximize our resources and streamline communication on the life safety reports.

As required by law, this proposed ordinance was submitted to the Indiana Department of Homeland Security - Fire Prevention and Building Safety Commission for review and approval by the Commission staff. The Commission staff has approved the ordinance. Therefore, once it is passed by the Council and signed by the Mayor, the Commission will meet to review and approve the ordinance.

Sincerely,

Patrick J. Hinkle

Patrick J. Hinkle
Corporation Counsel
100 Lincolnway West
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

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, APPROVING THE REQUEST FOR THE INDIANA
STATE BOARD OF ACCOUNTS TO EXAMINE THE FINANCIAL
STATEMENTS PREPARED IN ACCORDANCE WITH GAAP (GENERALLY
ACCEPTED ACCOUNTING PRINCIPLES)**

WHEREAS, on January 20, 2021 the Indiana State Board of Accounts amended State Examiner Directive 2015-4;

WHEREAS, this directive applies to all audited entities subject to examination under IC 5-11-1, except the States, Universities, and any audited entity required to present GAAP statements under IC 5-1-11.5;

WHEREAS, IC 5-1-11.5-4 requires municipalities with populations of more than 75,000 to prepare financial statements using the modified accrual basis of account in accordance with GAAP prior to issuing any bonds;

WHEREAS, the City of Mishawaka is not required to present GAAP financials and must adopt a resolution by the legislative body approving to request the State Board of Accounts to examine the financial statements prepared in accordance with GAAP;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana, approves the request of the State Board of Accounts to examine the City of Mishawaka 2022 GAAP Financial Statements.

PASSED by the Common Council of the City of Mishawaka, Indiana, this

_____ day of _____ 2023, at ____ o'clock ____ m.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____ 2023,

at ____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2023, at

_____ o'clock ____. m.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Date: February 15, 2023
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: Resolution to request a GAAP audit

For Council's approval is a resolution requesting to have the State Board of Accounts audit our financial statements based on GAAP (Generally Accepted Accounting Principles).

Though we have always had a GAAP audit, State statute now requires a resolution as we are below the 75,000 population requirement.

This will be an annual resolution in preparation of our audit.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor

FEB 16 2023

City Clerk
Mishawaka, IN

RESOLUTION NO. R2023 – 03

A Resolution of the Common Council of the City of Mishawaka amending Resolutions R2022-10 and R2022-22, which Adopted 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 5744, 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.
- G. Additional premium pay will be awarded to eligible full-time employees employed on March 1, 2023 at the amount of \$1,000 each. The payment of this additional premium pay is subject to approval by the Common Council and Mayor of the corresponding salary amendment ordinance and appropriation ordinance (Proposed Ordinances No. 2023 – 03, 04, and 05)

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.”
- F. As part of the replacement of lost revenue referenced above, six firefighters and six police officers are approved for the 2023 fiscal year City budget from ARPA funds. This total budgeted amount is \$800,000.00.
- G. As part of the replacement of lost revenue referenced above, the following infrastructure project is approved, subject to the separate approval by the Common Council and Mayor of a corresponding appropriations ordinance (Proposed Ordinance No. 2023 – 05)
 - 1. West Street Phase IIIB - \$5.5 million – this project includes watermain upsizing throughout project limits, new trunk storm sewer, reconstructed sanitary and water laterals, new concrete curb, ADA sidewalk and crossings, street trees, and full depth asphalt pavement.

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 and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2023, at _____ o'clock _____. m.

Gregg A Hixenbaugh
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2023,
at _____ o'clock _____. m.

Deborah S. Block, IAMC, MMC,
City Clerk

APPROVED by me this _____ day of _____, 2023, at _____
o'clock _____. m.

David A. Wood
Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Deborah S. Block, AMC, MMC

FEB 16 2023

City Clerk
Mishawaka, IN

Date: February 16, 2023
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Resolution to amend the ARPA Plan for the distribution of the proceeds**

Three new items are requested to be funded by ARPA proceeds, therefore an amendment is necessary to the plan.

\$1,000 stipend for eligible full-time employees

Funding for six new firefighters and six new police officers estimated at \$800,000 – approved in the 2023 budget.

Funding for a large water and storm sewer project. \$5,500,000.

President Hixenbaugh assisted in the review of the revision.

Please contact me with any questions.

c: David A. Wood – Mayor

PROPOSED ORDINANCE NO. 2023 -03

ORDINANCE NO. _____

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

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

Section 1. Ordinance number 5811 passed by the Common Council of the City of Mishawaka, Indiana, on the 17th of October, 2022 is hereby amended as follows:

CIVILIAN POLICE

BIWEEKLY SALARY

CRIME ANALYST DIGITAL MEDIA/STATISTICAL
ANALYST
TRAINER
RECRUITER

\$1,672.65
\$2,057.69
\$1,971.19

ANNUAL/MISC

PREMIUM PAY

CIVIL CITY FULL TIME EMPLOYEES

\$1,000

Section 2. This ordinance shall be in full force and effect from and after its signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on

this _____ day of _____ 2023, at _____ o'clock, _____ m.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME, to the Mayor on this _____ day of _____ 2023, at _____ o'clock, _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2023, at _____ o'clock, _____ m.

David A. Wood, Mayor

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

FEB 03 2023

PROPOSED ORDINANCE NO. 2023 -04

ORDINANCE NO. _____

City Clerk
Mishawaka, IN

AN ORDINANCE AMENDING ORDINANCE 5820 THE FIXING THE SALARIES OF ALL SWORN PUBLIC SAFETY FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2023 AND CONTINUING FOR TWO YEARS.

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

Section 1. Ordinance number 5820 passed by the Common Council of the City of Mishawaka, Indiana, on the 19th of December, 2022 is hereby amended as follows:

POLICE DEPARTMENT

ANNUAL/MISC

PREMIUM PAY

PREMIUM PAY 2023 ONLY

\$1,000

SIGNING BONUS

LATERAL TRANSFER – 1ST INSTALLMENT
2ND INSTALLMENT

\$7,000
\$3,000

NEW HIRE OFFICER – 1ST INSTALLMENT
2ND INSTALLMENT

\$3,000
\$2,000

Section 2. This ordinance shall be in full force and effect from and after its signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on

this _____ day of _____ 2023, at _____ o'clock, _____ m.

Gregg Hixenbaugh, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME, to the Mayor on this _____ day of _____ 2023, at _____
o'clock, _____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____ 2023, at _____ o'clock, _____ m.

David A. Wood, Mayor

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

FEB 03 2023

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2023-05

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2023

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, 2023 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 \$5,935,000.00 for assignment as follows:

ARP Coronavirus Local Fiscal Recovery Grant

Personal Services

2403-50-411-69	Premium Pay	\$380,000.00
2403-50-413-01	Social Security	\$25,000.00
2403-50-413-02	Medicare	\$5,000.00
2403-50-413-03	INPRS	\$25,000.00

Capital Outlay

2403-50-490-14	West Street Phase IIIB	<u>\$5,500,000.00</u>
----------------	------------------------	-----------------------

Total \$5,935,000.00

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 _____, 2023 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 _____, 2023 at _____
o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2023 at
_____ o'clock, _____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Deborah S. Block, IAMC, MMC

FEB 03 2023

City Clerk
Mishawaka, IN

Date: February 2, 2023
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Appropriation for the ARP Coronavirus Local Fiscal Recovery Grant Fund**

For first reading on February 6th is an additional appropriation for the salary ordinance amendments for the stipends. The funds must come out of ARPA fund #2403 as no transfers to other funds are allowed.

Also included in the appropriation are funds for additional sewer work on West Street. The detail of the work is as follows:

The project includes watermain upsizing throughout project limits, new trunk storm sewer, reconstructed sanitary laterals and water laterals, new concrete curb, ADA sidewalk and crossings, street trees, and full depth asphalt pavement.

The amendment to the APRA plan for these items will be submitted for the February 20th meeting as it is a resolution.

Please contact me with any questions.

c: David A. Wood – Mayor
Chris Jamrose – Director of Engineering/City Engineer

DEC 15 2022

1st Reading 12-19-22

PETITION 22-21

2nd Reading 1-09-23

Passed

CITY OF MISHAWAKA, INDIANA

Failed

PROPOSED ORDINANCE NO. 2022-50

Continued To

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

Deb Block

From: Steven Ruby <sruby@abonmarche.com>
Sent: Wednesday, February 8, 2023 2:54 PM
To: Deb Block
Cc: Derek Spier; Christa Hill
Subject: Grandview PUD Amendment - Withdrawal

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon, Deborah,

After review with the client, it has been requested that we withdraw our PUD amendment petition for the Height of structures.

We will be in touch with Planning for discussion at a later date.

Please send me confirmation of the request for withdrawal of the PUD Amendment Petition at your earliest convenience.

Regards,
Steve

Steve Ruby, PLA

Landscape Architect / Project Manager

D 574.538.2201

O 574.232.8700 ext. 207

C 574.360.9804

E sruby@abonmarche.com

abonmarche.com



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Grandview
Deb Block

Request to postpone until 3/6/2023

From: Christa Hill
Sent: Tuesday, January 31, 2023 3:00 PM
To: Deb Block; Raven S. Boston; Steven Ruby
Subject: FW: Grandveiw PUD Amendment

Steve,
Our new website did go live today. I'm forwarding your message to the Clerk's office so you'll have their emails.

Christa Hill
Senior Planner

City of Mishawaka
Planning and Community Development
PLEASE NOTE OUR NEW ADDRESS

100 Lincolnway West
Mishawaka, IN 46544
Phone- (574) 258-1625
Email- chill2@mishawaka.in.gov



From: Steven Ruby <sruby@abonmarche.com>
Sent: Tuesday, January 31, 2023 1:35 PM
To: Christa Hill <chill2@mishawaka.in.gov>
Subject: RE: Grandveiw PUD Amendment

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Christa,

We are going to table the Grandview PUD Amendment until the March Council Meeting. Please do me a favor and pass this along to the Clerk

From: Christa Hill
Sent: Friday, January 27, 2023 11:43 AM
To: Steven Ruby <sruby@abonmarche.com>
Subject: RE: Grandveiw PUD Amendment

Steve,
I don't know if the Council has a limit on the number of times something can be tabled, but State Law comments on the amount of time that has passed.
According to **I.C. 36-7-4-608(f) (5)** if the legislative body fails to act on the proposal within ninety (90) days after certification, the ordinance take effect as if it has been adopted (as certified) ninety (90) days after certification. The Council was notified of the Plan Commission's decision on December 14, 2022. That means the Council will have to hear it before March 14, 2023.
If it is denied, you have to wait 6 months before reapplying. That is from our Rules of Procedure.

Christa Hill
Senior Planner

City of Mishawaka
Planning and Community Development
PLEASE NOTE OUR NEW ADDRESS
100 Lincolnway West
Mishawaka, IN 46544
Phone- (574) 258-1625
Email- chill2@mishawaka.in.gov



From: Steven Ruby <sruby@abonmarche.com>
Sent: Friday, January 27, 2023 11:31 AM
To: Derek Spier <dspier@mishawaka.in.gov>
Cc: Christa Hill <chill2@mishawaka.in.gov>
Subject: Grandveiw PUD Amendment

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Derek & Christa,

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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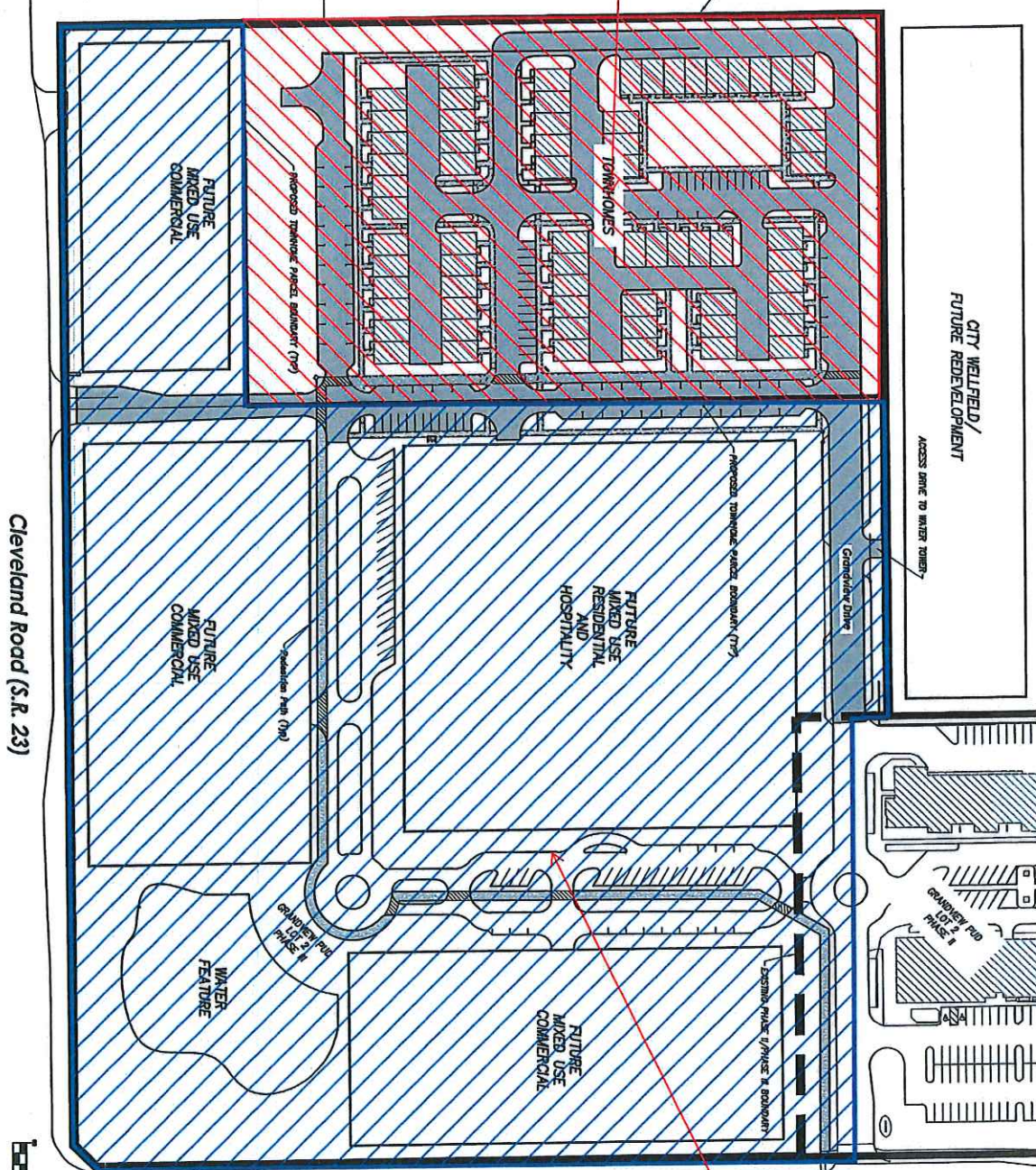
Ryan C. Rans

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)

GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft.

NO.	RANGE EDUCATION	ST.
-----	-----------------	-----



Gumwood Road

Requested
Amendment
- 65' Height
limit

PHS 22-21
Received
NOV 16 2022
Planning and
Community

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

ABONMARCHE
 315 W. Jefferson Blvd.
 South Bend, IN 46601
 T 574.323.8700
 F 574.321.4440
abonmarche.com

1 of 1

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.*

MOTION: Michael Portolese moved to forward Petition #22-20 to the Common Council with a favorable recommendation. Dale "Woody" Emmons seconded; motion carried with a vote of 7-0.

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'.

Steve Ruby, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of Gumwood Acquisitions. He said they are seeking to increase the building height up to 65' to a single use hospitality. He said the request is similar to the building height across Gumwood at Heritage Square to further design opportunities for the site.

Mr. Tordi asked if he had received the notes from the Fire Department. Mr. Ruby said yes.

Opposition

574 272-4814
James Wruck, 16297 Parkwood Court, Granger, said he has no idea what this will be and has never been informed. The notice shows them nothing. He asked how he could before or against something if you don't know what it is.

Mr. Wruck said he doesn't know what the code is, but apparently it's less than 65'. He said it must have had a reason and he said no one has expressed a reason why the code

Scott Dallam, CenterPoint Integrated Solutions, 1626 Cole Blvd., Lakewood, CO, appeared on behalf of the applicant, CarMax. He said during initial discussions with the City there was a future right-of-way planned and this will accommodate those.

Mr. Tordi closed the Public Hearing on Plat #22-11.

Staff Recommendation

*The Planning Department recommends **approval** of the Preliminary and Final Replat for the "CarMax Grape Road Subdivision" pending submittal of a revised and executed plat for recordation. This recommendation is based upon the fact that the plat meets all of the requirements of Section 133-73 / Preliminary Plat and Section 133-76 / Final Plat of the City of Mishawaka Subdivision Control Ordinance.*

MOTION: Michael Portolese moved to approve Plat #22-11. Nick Troiola seconded; motion carried with a vote of 7-0.

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.

Jeff Schafer, Abonmarche Consultants, 315 W. Jefferson Blvd., South Bend, appeared on behalf of the Petitioners. He said this petition is similar to that what was submitted previously and they have been working through some issues with various tenants. He said they withdrew that application and this is similar in nature.

Mr. Tordi closed the Public Hearing on Petition #22-20.

Mr. Emmons asked Mr. Schafer if he was at liberty to say who the tenants would be. Mr. Schafer said no.

Mr. Emmons asked if it was a chain. Mr. Schafer said yes.

Staff 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*

Mr. Tordi asked Mr. Ruby to explain about the boundary area. Mr. Ruby said the townhome development is excluded in the petition for the increase in height.

Mr. Emmons said it would have been a common courtesy to have contacted the neighbors when there's a change in the program. He said he knows it isn't required, but would have been a common courtesy.

Mr. Ruby said he would have to default to the developer as he can't speak to that at this time, but said he would speak to the developer.

Mr. Ruby said, as Mr. Prince stated, this increase may be to find out what that is.

Mr. Emmons said the developer should have contacted the people as to what is being proposed in their neighborhood.

Mr. Tordi closed the Public Hearing on Petition #22-21.

Mr. Winn pointed out that whether the Commission votes yes or no, it still goes to the Common Council for a final vote; it doesn't end here.

Mr. Tordi stated it isn't as if the developer was ignoring the code; that's why we have this process

Mr. Portolese said someone earlier stated the height was 59' and the townhomes are 48'. It is more of an increase than said earlier.

Mr. Tordi said 48' is on the residential side and 65' on the commercial side. There is a buffer between residential and this part of the development.

Staff 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.*

Mr. Dallam said they have been in contact with the Habitat Restore to make sure there are no surprises with their employees. They want a smooth transaction.

Mr. Dallam said the location on Grape Road is zoned C-4 with a full access drive to the southeast corner with shared access with the adjacent owner. The existing building will be demolished and the site prepared for a new building.

Mr. Dallam said they have been trying for six years to break into our market. They were very determined and would love to be part of this market. He said they investigated multiple sites and the communication with the City has been great in what they have been able to achieve.

Mr. Winn said there were several comments in staff's analysis and would CarMax be willing to meet the requirements of all departments. Mr. Dallas said yes, they fully intend to address the comments.

Mr. Emmons asked why they haven't addressed the comments. Mr. Dallam said they were working through the comments.

Mr. Spier said the staff report was written on Thursday and the site plan revisions were received Thursday evening.

Staff Recommendation

*Staff recommends that the request for final site plan for the CarMax Auto Superstore - a 7,732 sq. ft. automobile sales and service facility - be **approved**. A revised plan set addressing all departmental review comments shall be provided prior to recordation of the plans or issuance of any permits. This recommendation is based on the fact that the site plan meets all the requirements of Section 137-35 Final Site Plan approval.*

MOTION: Michael Portolese moved to approve Site Plan #22-14. Murray Winn seconded; motion carried with a vote of 7-0.

ADJOURNMENT: 7:46 p.m.

Derek Spier, City Planner

Kari Myers, Administrative Planner

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

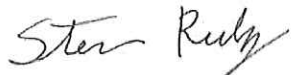
Re: Grandview Planned Unit Development

Dear Common Council,

One 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 sruby@abonmarche.com or (574) 232-8700.

Sincerely,



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