



AGENDA

March 06, 2023

**Twin Branch Elementary Robotic Team
Presentation
Lobby
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): 2334 567 8513
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: 23345678513@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 20, 2023

5. Petitions, Communications, Remonstrance and Memorial

- Appeal No. 2023-04 Use Variance to allow Educational, Social & Faith Support Services in R-2 Residential Zone Property - 702 E. 12th Street.
- Appeal No. 2023-06 Use Variance to allow Microblading inside existing salon - 3607 Grape Road
- Petition No. 2023-04 PUD Amendment to allow Drive-Thru Restaurant (Scooter's Coffee) - NW corner of 12th Street/Harrison Road & Capital Avenue

6. Report of Special Committee

7. Ordinances on First Reading

- P.O. No. 2023-10 Amending the Municipal Code Personnel Policies - Call to Active Military Duty

8. Resolutions

9. Ordinances on Second 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.
(Assigned to Land Use Planning Committee)
- 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.
(Assigned to Land Use Planning Committee)
- 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
(Assigned to Land Use Planning Committee)
- P.O. NO. 2023-09 Amending Fire Prevention & Protection Ordinance
(Assigned to Public Health & Safety Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

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 20, 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 20, 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 (P), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (A), Mr. Emmons (P), Mrs. DeMaegd (P), Mr. Compton (P), Mrs. Voelker (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block

Minutes for the Regular Meetings of February 6, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

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.
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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.
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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

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

PROPOSED ORDINANCE NO. 2023-06

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.

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.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2023-07

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.

Right-of-Way Vacation for unimproved Taylor St. at NW corner of Arthur & Grape Rd. – E. of 410 Arthur St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2023-08

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 expand area of previously approved permitted use for a Regional Recreational Facility – Part of Lots 2 & 4 of Juday Creek Business Park Sub
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-09

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.

**Amending Fire Prevention & Protection Ordinance
(Assigned to Public Health & Safety Committee)**

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

RESOLUTION R2023-02

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)

Authorizing State Board of Accounts to Examine Financial Statements Prepared in accordance with GAAP

Rebecca Maguire, City Controller, spoke in favor of **RESOLUTION R2023-02**. Mrs. Maguire stated this was her annual resolution request that was required by the State Board of Accounts to approve that they would have their financial statements audited in GAAP procedures.

Question was called for at 7:07PM for **RESOLUTION R2023-02 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 8-0.

RESOLUTION 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 Amending the City of Mishawaka's Grant from the American Rescue Plan Act of 2021

Mayor Wood spoke in favor of **RESOLUTION R2023-03**. Mayor Wood stated this was an amendment to the previous resolutions to include three new items funded by ARPA proceeds. Mayor Wood stated they were asking to fund 6 new firefighters and 6 new police officers with an estimated expense of \$800,000 and it was actually approved for the 2023 budget. Mayor Wood stated these new firefighters and police officers, especially on the police side, this would take them to 114 if they ever could hire that many. Mayor Wood stated as they knew, ARPA had a time constraint attached to it so what they would be doing was they would be funding officers that year, but the budgeted number would still remain 114. Mayor Wood stated on the fire side, the 6 additional would allow them to employ a full-time ambulance service. Mayor Wood stated they were also asking for funding for a large water sewer project and this went right to the heart of what ARPA was to be used for. Mayor Wood stated the amount of funding would be in the amount of \$5.5 million. Mayor Wood stated these funds would allow them to make major renovations to some storm sewer and ultimately, neighborhood improvements that were very much needed. Mayor Wood stated this year, they would be working in the West 7th Street area with a little bit of Spring Street work and some Wells Street work. Mayor Wood stated it was an area where they had already started with phased work going essentially to S West Street and were now to the point where 7th Street would be the next rung in that ladder and they would be doing the 8th Street – West Street intersection that year as well as Spring Street between 7th and 6th and then 7th Street east and west of West and Wells Street also. Mayor Wood stated the nice thing about using these funds for that was these projects would be ordinarily paid for by TIF or by bond or by ratepayers so these funds would accomplish the work without them having to increase rates. Mayor Wood stated the final request was a \$1,000 premium pay stipend for eligible full-time city employees, which would be for every full-time city employee on the civil city side and the employee side with the only groups excluded being elected officials and the Fire Department with the reason being because of the deal that was struck for the economic opener for the past year. Mayor Wood stated while they would not be doing the stipend for the Fire Department, it would make the equivalent amount for each firefighter that they would pay to some type of an improvement in the Fire Department. Mayor Wood asked for their favorable recommendation.

Mr. Emmons asked the Mayor when talking about the West End projects, if that was being proposed for the spring. Mayor Wood stated they had already flagged the utilities so the preliminary work had already begun, but it would pretty much be for the whole construction season starting in the spring. Mr. Emmons asked if it were a one-year project. Mayor Wood stated he did believe it would be a one-year project, weather permitting and supplies permitting.

Mrs. Voelker asked about the ARPA funds and if this exhausted the remainder of the ARPA funds the city of Mishawaka had received. Mayor Wood stated they should have about close to \$1.5 million in the reserve remaining.

Mr. Hazen asked if this sewer project would get them closer to satisfying the IDEM and EPA. Mayor Wood stated this was not a part of their long term control plan, but it would ultimately get them closer to 0 overflows in the end. Mayor Wood stated they were separating and making sure the capacity was good and this should eliminate some high ground water and eliminate some infiltration in the system, which got them to their ultimate goal which was no discharge in the river. Mr. Hazen asked if he felt they would do this project no matter what even if they released them from what they believed it was their duty to do. Mayor Wood stated this was what they believed was the right thing to do, because it was replacing older infrastructure and not only would they be doing the underground work, which was the most expensive by far, they were going to be redoing the roads on top; the gutters, the curbs, the sidewalks, new street lighting and they would also be replacing lead water main service. Mayor Wood stated they looked at this as a redevelopment project and not just a sewer project.

Mr. Bellovich asked how close they were to reaching the 0 overflow number. Mayor Wood stated it depended on what metric he wanted to look at, but they were at 99.54% by volume elimination of all combined sewer overflow in the city of Mishawaka. Mayor Wood stated they were still in negotiations and Matt Lentsch had been down state working to get a bill passed and they actually got it passed unanimously through a senate committee which changed some of the metrics and gave some certainty to when that could be captured out of the river for recreational water quality standards, which would help them and they were very optimistic to get some legislation passed to get them more of that certainty and they were still making progress on the renegotiation side with the USEPA and the United States Department of Justice.

Mr. Hixenbaugh thanked him as well as the other members of the administration, including the Controller, for their continued and ongoing collaboration with regard to how they were spending the ARPA money they had received as a community. Mr. Hixenbaugh stated it had been a very inclusive and interactive process and they all appreciated that, up to and including the three items he highlighted that evening. Mr. Hixenbaugh stated they were all important to them, but in particular, he suspected he would agree with him that it was a long shared goal between the administration and the council to expand upon their public safety staffing and this money would most definitely be put to good use along those lines. Mr. Hixenbaugh stated he also knew that he and his administration joined the council in appreciating the work that all of their employees did on a daily basis and they really had wonderful people working across the board in all of the departments and anything they could do to recognize that and to appreciate them not just with words but with dollars was important and it benefited the community, because it then funneled that money back into their stores, restaurants and all of those things. Mr. Hixenbaugh thanked Mayor Wood and Mrs. Maguire for the way the process had played out and undoubtedly would continue to play out to spend that final \$1.5 million. Mayor Wood thanked the council and they had a very cooperative effort all along with shared priorities and goals and they reflected Mishawaka's priorities and goals. Mayor Wood stated public safety and public infrastructure had a correlation of benefit to all of their ratepayers that helped keep rates down while they were doing these massive projects and also to help some of their community organizations that

provided outstanding service to their citizens and last, but certainly not least, to recognize all of their staff for the outstanding work they did especially during times of crisis and emergency like a pandemic. Mayor Wood thanked them all once again.

Question was called for at 7:19PM for **RESOLUTION R2023-03 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 8-0.

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

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

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

Mayor Wood urged the council's support on **PROPOSED ORDINANCE NO. 2023-03**. Mayor Wood stated this one related a little bit to the resolution that was just passed and Alex Arndt, Assistant Chief of the Service Division in the Mishawaka Police Department, was there to offer support as well if needed as well as Becky Maguire, Controller. Mayor Wood stated this would potentially change their salary ordinance on their police department side by changing a job title from Crime Analyst to Digital Media/Statistical Analyst. Mayor Wood stated this was a position they already hired and it was the very first of its kind in the Mishawaka Police Department. Mayor Wood stated then also on the Civil City Salary Ordinance, they were requesting some new civilian positions in the police department, specifically a trainer and a recruiter. Mayor Wood stated they had a retirement and an officer who had left for a private industry. Mayor Wood stated they felt it was best to civilianize those the two positions and fill those positions on the police department with sworn officers on the police department and civilianize the roles within the police department and then also the \$1,000 stipend for all would be on the Civil City Salary Ordinance side as well, only excluding elected officials. Mayor Wood stated on the Police Salary Ordinance, they were looking to add some bonuses so they could attract new officers. Mayor Wood stated they had, pending the council's approval with the passing of the budget, 114 sworn positions. Mayor Wood stated last April, they were at full staff with 108 and now they were down to 96 and that was after he swore in a new officer the next day and almost all of those were retirements. Mayor Wood stated what they were proposing was to do a bonus for attracting lateral officers into Mishawaka and attract recruits to come to Mishawaka and surrounding

communities were doing this as well. Mayor Wood stated what they were proposing was a \$10,000 lateral transfer bonus and that would be paid out over the course of two years, with \$7,000 when they were first hired essentially and another \$3,000 after two years. Mayor Wood stated there would be \$5,000 for newly sworn recruits with \$3,000 bonuses once they were sworn in and hired and another \$2,000 after two years. Mayor Wood believed that would keep them competitive and made them a little bit more attractive as a department. Mayor Wood stated their ARPA Plan amendment was included in this as well.

Mr. Mammolenti thanked Mayor Wood for the presentation and asked what the typical cost was to train a brand new police officer. Chief Alex Arndt came to the podium and answered the question. Chief Arndt stated a newer recruit would have to go through the Indiana Law Enforcement Academy, which they would pay to send the recruit to and he believed that would be around \$1,500 plus travel expenses and so forth. Chief Arndt stated once they returned to the police department, they would then enter into a field officer training program where they would ride with an officer and go through different training modules. Chief Arndt stated there was the on-the-job expense of them, not counting against shift strength, for them to be on the road and go through the checks and balances to make sure they were up to the standards of the field training officer program. Mr. Mammolenti asked when they hired a brand new officer, how long would it be before he or she were road ready on his or her own ability. Chief Arndt stated with a lateral, they tended to get them on the road almost right away with an abbreviated field training just to give them the familiarity of their streets and Mishawaka in general. Chief Arndt stated when talking about new hires, they would go through a pre-basic program, which they had one officer going through currently, to go through the policies and they would be waiting for an opportunity to get into the law enforcement academy down in Plainfield and they were competing with multiple different departments throughout the state for a limited number of positions which were highly sought after. Chief Arndt stated this would put them several months behind and once they got them in the academy, they would be in the academy for 15 weeks and after that 15 weeks, they would come back to the police department where they would enter the field officer training program which would run for a couple of months and then upon successful completion of that, they would be able to go on the road. Chief Arndt stated you were talking about a significant number months for a new hire.

Mr. Hazen asked if the FOP was involved in this or if they approved it. Mayor Wood stated this was not required by contract so no approval was required and they were aware of it. Mayor Wood stated this one two where they intended to essentially toggle on and off as needed and they had the ability to use it or not use it as they saw fit. Mayor Wood stated also since they right now had a budgeted number of 114, they had some capacity within the budget that they could pay it out of so if they had to pay it out 5 or 6 times that year, they could utilize the capacity within the budget.

Mr. Hixenbaugh thanked Mayor Wood and applauded the initiative to civilianize certain positions within the police department. Mayor Wood thanked Chief Witkowski and the assistant chiefs as well for looking at this and he could not tell him how many conversations he and his

friend former Chief Hazen had along these lines and it was not that there wasn't value to having sworn officers fulfill these functions but in that arms race and competitive market they were in, the more bodies they could put on a street on a daily basis was not just good for citizens but it was an officer safety issue as well. Mr. Hixenbaugh stated he knew that the administration would agree with that, so hopefully they would be able to be open to identifying other opportunities along these lines but this was a really good first step and he appreciated him bringing it to the council. Mayor Wood thanked him and stated they were committed to civilianizing where they could and they took the liberty of posting the two positions and already they were getting outstanding response.

Mr. Hazen stated he appreciated this and he had talked to Mayor Wood about this for years. Mr. Hazen this not only put policemen on the road, but it saved them the pension cost and it was a less expensive avenue and it was the way to go in the future especially with what Mr. Hixenbaugh described as a competition out in the community.

Question was called for at 7:32PM for **PROPOSED ORDINANCE NO. 2023-03 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5828.**

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

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

Mayor Wood incorporated his prior comments by reference into the record with his last presentation.

Question was called for at 7:34PM for **PROPOSED ORDINANCE NO. 2023-04 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5829.**

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 - \$25,000.000) Capital Outlay (West Street Phase IIIB - \$5,500,000.00) Total -
\$5,935,000.**

The record reflected that Clerk Block had proof of publication.

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2023-05**. Mrs. Maguire stated the additional appropriation was to appropriate the funds for the stipends and for the West Street Phase IIIB project.

Mr. Hixenbaugh thanked Mrs. Maguire for the work she had done on this throughout the process including that evening. Mrs. Maguire thanked Mr. Hixenbaugh.

Question was called for at 7:37PM for **PROPOSED ORDINANCE NO. 2023-05 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5830.**

PRIVILEGE OF THE FLOOR

Matthew Lentsch, Executive Director of Development and Governmental Affairs, spoke under the **PRIVILEGE OF THE FLOOR**. Mr. Lentsch stated he presented the council a summary of Senate Bill 449 as well as the major points they made at the Indiana senate last Monday. Mr. Lentsch stated a team of them went down and made the case with Senator Rogers help in front of the Environmental Affairs Committee and it passed unanimously. Mr. Lentsch stated he wanted to make them aware of not just the bill, but what it would potentially do and he really thought they had an opportunity to pass the senate potentially and move on to the house. Mr. Lentsch stated he talked to Senator Rogers multiple times throughout the past couple weeks and she was pushing hard for it. Mr. Lentsch stated some things that were notable, they had not just Senator Rogers as a sponsor but Senator Rick Niemeyer, Chair of the Environmental Affairs Committee and Senator David Niezgodski as well as Senator Mike Gaskill and Senator Ryan Mishler as co-sponsors. Mr. Lentsch referred to the document and stated on the second page under point number 8, “SB449 would not allow single additional gallon of CSO to be discharged. CSO communities must still be in compliance with their IDEM-approved long term control plans and

Indiana's water quality standards remain the same. SB449 merely changes how Indiana determines whether CSO communities are in compliance with existing water quality standards." Mr. Lentsch referred to point number 9, which stated "This legislation offers a safe harbor to the 109 CSO communities that have made historic investments in CSO treatment (likely \$4 billion across the State). It achieves the same end rest of a UAA while eliminating an unnecessary tax – an unfunded mandate – to develop the costly analysis that EPA cannot be trusted to approve." Mr. Lentsch stated there had only been one done in UAA in the state of Indiana and that was done by Indianapolis. Mr. Lentsch stated this would eliminate the need to do that and it would not help them get through the long term control plan but it provided an end game, provided regulatory certainty and potentially would save them millions of dollars. Mr. Lentsch referred to point 10, "This legislation needed to (a) prevent unnecessary enforcement actions for infrequent CSOs that occur beyond the control of a community due to excessive precipitation events or that otherwise occur as contemplated by an IDEM-approved long term control plan; and (b) avoid never-ending rate increases that would be required by additional CSO controls that have little to no environmental benefit." Mr. Lentsch stated they were currently, as Mayor Wood stated, at 99.54% capture at 4 CSOs and if they were forced to 0, you would be paying millions of dollars per 0.1% at low value. Mr. Lentsch stated they had to stand up for themselves and that was what they were doing.

Mr. Hazen stated so if they got this passed it would help their problem with IDEM but asked if this would help with the EPA. Mr. Lentsch stated yes and no, so they would have to keep negotiations going with IDEM, EPA and DOJ. Mr. Lentsch stated he did think that this gave them some leverage points to move the negotiations forward and he communicated last week that they would not be dropping this. Mr. Lentsch stated it did not officially helped them with the EPA specifically, but it helped them get to the regulatory certainty they were searching for.

Mr. Hixenbaugh thanked Mr. Lentsch for the update and his worked on this and asked him to keep them apprised as the legislation continued to move forward. Mr. Lentsch stated they would appreciate the council advocating on their behalf if they had the opportunities to talk to senators or get to the house.

Josh Reed, 1801 Panama Street, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Reed stated he was there to protect and save Southwest Little League. Mr. Reed stated the park wasn't in use for a couple of years until East End came out and did a lot of work on the park like painting all of the buildings, putting in new dugouts, fixing the fields and it had been in use for the last two years. Mr. Reed stated it came to his attention and his neighbors' attention that the city wanted to give the property to Habitat for Humanity and let them build 80 homes. Mr. Reed stated he had been to all of the Habitat meetings with his neighbors and they all had voiced their concerns, but it had fallen on deaf ears and they did not really want to listen to them. Mr. Reed stated the general consensus was nobody wanted 80 homes in the ballpark and they all wanted to save the ballpark. Mr. Reed stated out of the 200 people he talked to, one person said they did not know if they were for or against it. Mr. Reed stated he knocked on all of the doors from Reddick to Mary Gibbard to Milburn and that was the only person that were not sure how they felt. Mr. Reed stated Dominic Zultanski was the President of East End as well as in charge of all of the great changes at Southwest and he expected that 500 families would be affected by this. Mr. Reed stated he had not gone all the way down to Logan and felt he would find the same opinions knocking on those doors. Mr. Reed stated he knew the city had received a lot of complaints about this and the most concerning thing if this were to happen would be the very high water table in the area and he did not think it would be safe to build 80 homes on a high water table. Mr. Reed stated they talked

to the superintendent of all of the schools and he said it would put a strain and all of the close elementary schools if the homes were to be built there. Mr. Reed stated Habitat always made clear that they wanted green space and there was no way there would be green space and no room for it. Mr. Reed stated 500 families would lose the park, 200 people would be upset and there was also talk about property taxes going up if the homes were built and a lot of people said they could barely afford their property taxes as they were and were worried about what happens if this process came to fruition. Mr. Reed stated he would answer any questions.

Mr. Hixenbaugh appreciated the information and for the record, particularly those participating remotely or out in the audience, there was not a formal request that was pending before the council with regard to any redevelopment of that site, no rezoning petition, no resolution, or anything like that that had been brought formally to them. Mr. Hixenbaugh stated the most formal presentation they had seen was more informal at Mr. Emmons' neighborhood meeting so just so they were on the same page, there was no impending action the council had been asked to take with regard to this. Mr. Hixenbaugh stated nevertheless, they appreciated the information and Mr. Reed's continued advocacy on behalf of his neighborhood. Mr. Reed stated he wanted to initiate the action and they kept seeing things and believed they would eventually present it to the council, so he wanted to beat them to the punch. Mr. Hixenbaugh appreciated that but he just wanted to let everyone know that there wasn't a formal request for the council to take action on any element of current use of Southwest Little League.

Mr. Mammolenti thanked Mr. Reed for coming that evening and to all of the other meetings and applauded him for his tenacity and hard work and he was sure his neighbors appreciated his diligence. Mr. Mammolenti stated he attended one meeting and there appeared to be some dialogue between himself and Habitat members and asked if the communication had continued. Mr. Reed stated no not at all and he actually was out with the digging team the other day with 4 gentlemen with hard hats and another worker present and he asked if they were with Habitat and it turned out the one worker was with Habitat and did not mention that. Mr. Reed stated the President and CEO came out to talk to all of the neighbors and heard all of their concerns but that was the last time there was communication.

Mrs. DeMaegd stated she was with Josh went they went house to house to receive signatures and she stated the neighbors were very upset about the prospect of all of that traffic coming into and out of those streets so it was a concern. Mrs. DeMaegd stated she hoped when it came to the council, and she had no doubt that it would at some point, that they took it very seriously because the neighbors they had in that area who lived there for generations had some say in what went on in their neighborhood. Mrs. DeMaegd applauded Mr. Reed and the rest of the neighbors for doing that and she would be out there with them come springtime.

Mr. Hixenbaugh thanked him again and with regard to his petition, it may be helpful if they could have a copy made of that for the council. Mr. Hixenbaugh asked him to continue to stay in touch with them and let them know what was going on from his perspective. Mr. Hixenbaugh stated he had never known the council not to take seriously these kind of issues and he was confident that would be the case if it ever came before them. Mr. Hixenbaugh stated it had been talked about for quite some time now and they had not seen one filing but who knows what could happen in the future. Mr. Hixenbaugh promised him that they would, as they always had done, take these matters very seriously and listen to him and other neighbors as they moved forward, but there was nothing to move forward with at that time.

Connie Johnson, 1719 Panama Street, spoke under **PRIVILEGE OF THE FLOOR**. Mrs. Johnson stated she had talked to Jim from Habitat who never got back to her, a woman from Notre Dame was supposed to email her and she never did and there was another gentleman who did not reach back out to her either. Mrs. Johnson stated if Habitat for Humanity was really serious about this, they were not telling them anything and not willing to tell them even the information they had asked for. Mrs. Johnson stated she was still totally against it and the water levels scared her. Mrs. Johnson stated she wanted to talk to a builder but she had not done that yet and there were many kids in Mishawaka that used that little league to play ball and if the council and Mayor were serious about kids playing in Mishawaka, this was the perfect opportunity to take action and keep it in Mishawaka.

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.

(Petitioners requesting withdrawal)

Clerk Block gave a synopsis of the letter from the petitioner asking for the proposed ordinance to be postponed and pulled from the agenda.

Based upon the request of the petitioner, the chair entertained a motion to approve the withdrawal of **PROPOSED ORDINANCE NO. 2022-50**. Mr. Compton made the motion to honor the petitioner’s request and Mrs. Voelker seconded the motion. The motion passed unanimously and the matter was withdrawn.

NEW BUSINESS

Mr. Hixenbaugh announced the West End Neighborhood Watch would next be meeting on Wednesday March 1st at 7PM in the New City Hall and their guest speakers would be Fire Chief Woodward and Fire Marshal Dempler and they invited all members of the public to attend.

ADJOURNMENT 7:58PM

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

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

DATE: 2/21/2023

Deborah S. Block, IAMC, MMC

Ap 23-04

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

FEB 23 2023

City Clerk
Mishawaka, IN

The undersigned appellant respectfully shows the Board:

1. Vineyard Church Inc. (16219 Jackson Rd. Mishawaka, IN) the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to- wit:

- Lots 8 & 9 of Towles 1st Addition Block 6A - 702 East 12th Street, Mishawaka, IN 46544

2. The above-described real estate presently has a zoning classification of R2 Residential District under the Zoning Ordinance of the City of Mishawaka.

3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner:

Current property use is a rental home owned by the Vineyard Church

4. Appellant desires to (*Explain what is proposed that violates the Ordinance.*)

The Vineyard church will host small group meetings as part of a regular religious daily activity for the residents of the existing neighborhood. This is in conjunction with our current community center activities tied to the Vineyard Church within the Barbee Creek community. Our desire is to host small group and more collaborative activities for the current residents (walking distance) of the Barbee Creek neighborhood. This would continue our mission of assisting the Barbee Creek residents in educational, social and faith needs.

5. The Zoning Ordinance of the City of Mishawaka requires (*Explain ordinance requirements and note Section Number of the Ordinance.*)

Section 137-87 does not allow for the specific proposed use of the property since it is not owned/directly operated by Mishawaka Housing Authority (Barbee Creek), the owner of the adjacent Barbee Creek Village for which the services will be provided..

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.

Strict adherence to the ordinance will not allow for use of the property as intended and described above.

7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

This use will not be injurious to the public health, safety, morals or general welfare of the community and our intention is to continue to improve it through our efforts within the community.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *YES OR NO and explain your reason why.*

The use and value of the adjustment properties will not be affected adversely as the intent would be to increase the general welfare of the community.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

The use variance is needed as the R-2 zoning does not currently permit the proposed use.

- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

If the variance is not granted, the additional use of the property for small group gathering cannot occur. This would mean that the increased presence of community benefit the Vineyard Church is providing the Barbee Creek community would be limited.

- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No – this approval would not interfere substantially with the Mishawaka 2000 comprehensive plan.

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



Signature of Property Owner/Title Holder

Print Name Here

Steve Huffman



Second Property Owner/Title Holder

Print Name Here

MARK POPE

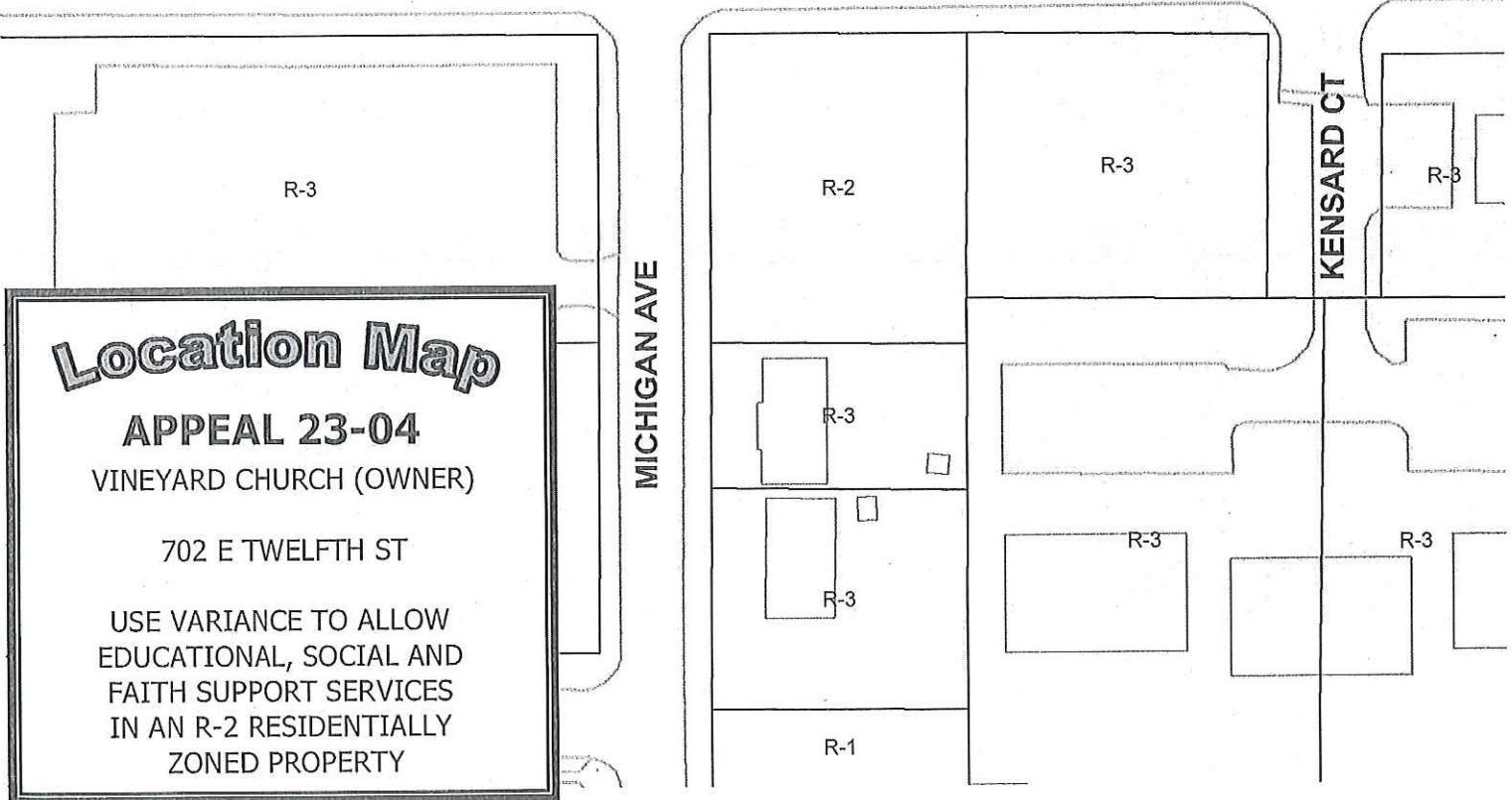
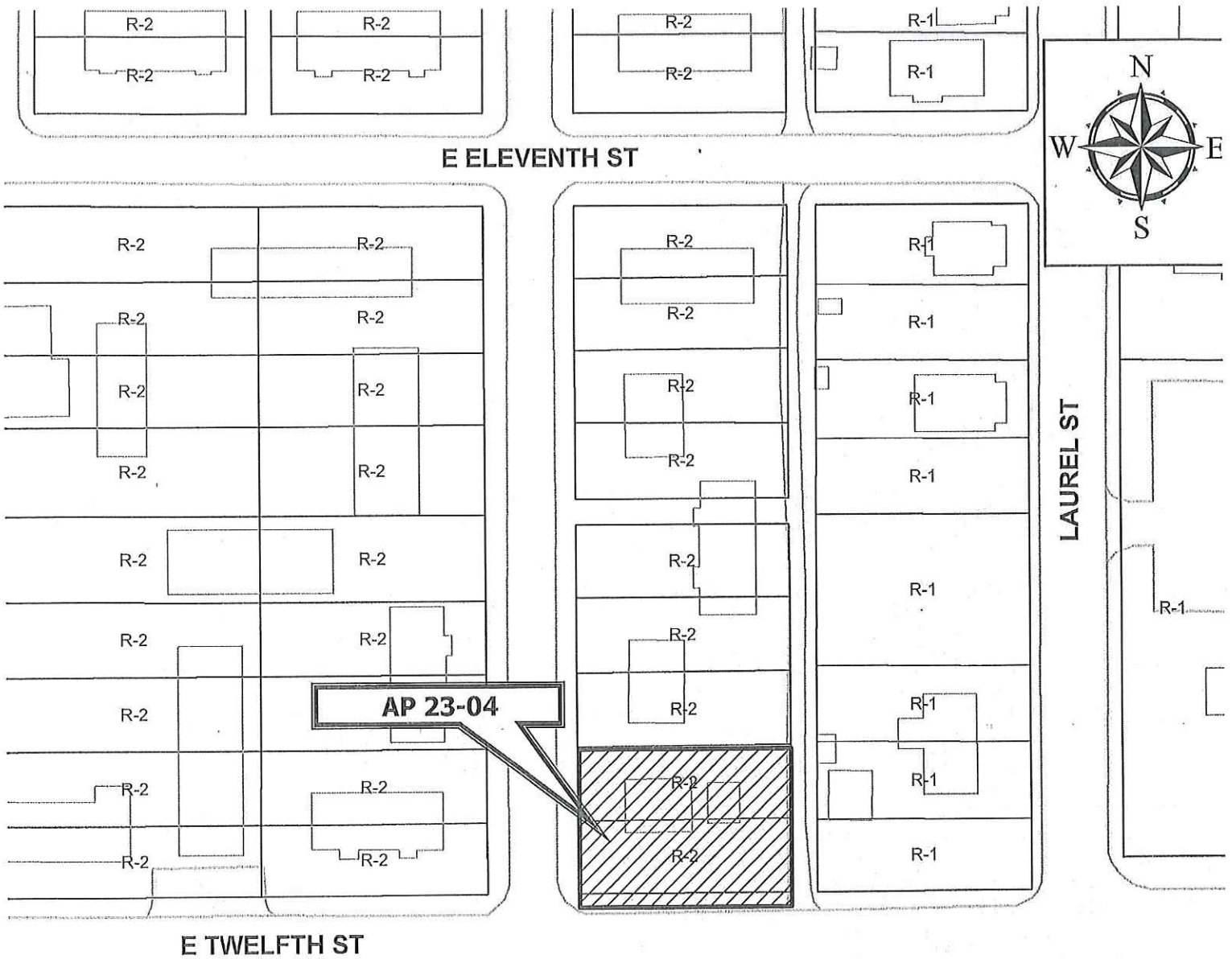
CONTACT PERSON:

Name: Steve Huffman

Address: 16219 Jackson Rd. Mishawaka, IN 46544

Day Phone Number: 574-257-1924

Email: steve@thevineyard.org



Location Map

APPEAL 23-04

VINEYARD CHURCH (OWNER)

702 E TWELFTH ST

USE VARIANCE TO ALLOW
EDUCATIONAL, SOCIAL AND
FAITH SUPPORT SERVICES
IN AN R-2 RESIDENTIALLY
ZONED PROPERTY

Deborah S. Block, IAMC, MMC

DATE: December 8, 2022
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

FEB 23 2023
City Clerk
Mishawaka, IN

AP 23-06
Received
FEB 22 2023

The undersigned appellant respectfully shows the Board:

1. I, **ALC Holdings**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

The parcel is legally described as: Lot 46 Degrootes Sub
Commonly known as 3607 Grape Rd.

2. The above-described real estate presently has a zoning classification of C-1 General Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Describe salon services that will be provided. -Permanent Makeup/Cosmetic Tattooing category. I use specially formulated pigments, not tattoo inks, to implant color into the skin with needles.
4. Appellant desires to add microblading service to already existing hair salon that resides in the complex. Describe microblading.
-The pigments are designed to slowly fade over time so that they remain natural looking instead of bold like a traditional tattoo. All Permanent Makeup services are a two step process. You have one session done and then a perfecting session in 6-8 weeks after that.
5. The Zoning Ordinance of the City of Mishawaka equates microblading to tattooing, which is not a permitted use by right in any district.
6. The strict adherence to the ordinance requirements creates an unusual hardship because it doesn't list microblading as a use in any zoning area.
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?
No it will not be injurious to the public health, safety, morals or general welfare of the community. training and licenses.

-I was certified in microblading by Michiana Microblading in 2020. In 2021 I was certified in pixel eyeliner by Brow Tricks. In 2022 I was certified by Brow Kingdom in LiFt Saline Tattoo Removal and Fine Line Studio for Tiny Tattoos. I was certified in 2023 by Brow Tricks for Lip Blush.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the business will be located in a building that is surrounded by various commercial uses.
- (3) Does the need for the variance arise from some condition peculiar to the property involved?
Yes, the need for the variance arises from some condition peculiar to the property involved. The current zoning does not permit microblading, but does allow the salon where the process is taking place, thus requiring the use variance for the proposed use.
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?
Yes, this constitutes as an unnecessary hardship because the current zoning does not permit microblading, but does allow the salon where the process is taking place.
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?
No this approval will not interfere substantially with the Mishawaka 2000 Comprehensive plan. This is a personal/cosmetic service similar to the hair/beauty salon that currently resides in the complex.

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

Suellen Reese

Print Name Here -

Print Name Here

CONTACT PERSON:

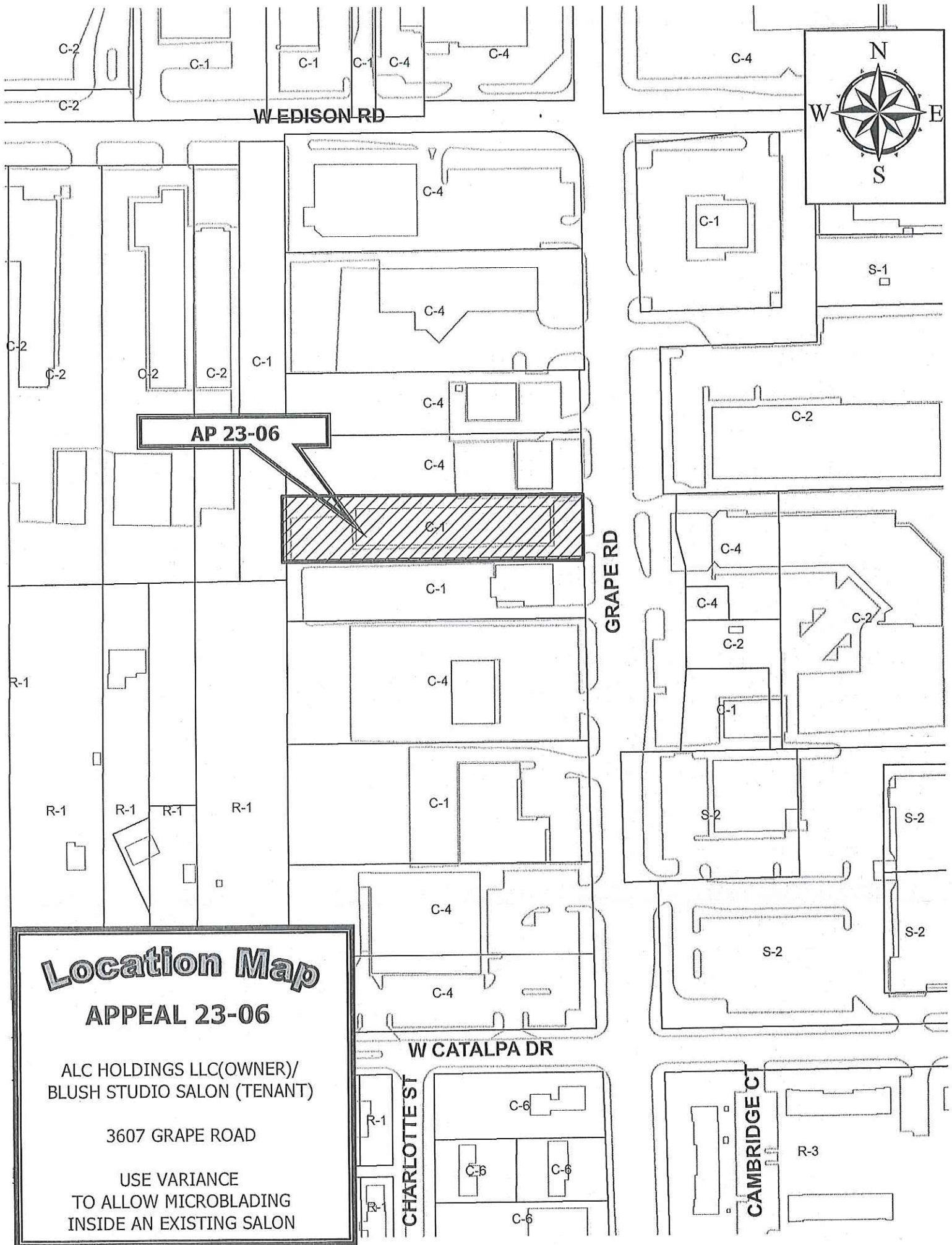
Name: Suellen Reese

Address: 3607 Grape rd Mishawaka , in 46545

Day Phone Number: 574-607-5060

Fax Number:

Email: Blushstudiosalonllc@gmail.com



Location Map

APPEAL 23-06

ALC HOLDINGS LLC(OWNER)/
BLUSH STUDIO SALON (TENANT)

3607 GRAPE ROAD

USE VARIANCE
TO ALLOW MICROBLADING
INSIDE AN EXISTING SALON

Date: 02/22/23
Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

PET 23-04
Received
FEB 22 2023

RE: Grandview Phase III PUD Amendment

Planning and
Community Development

The undersigned, Owner, of 1635 IRONWOOD 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 the Southeast Quarter (¼) of the Southeast Quarter (¼) of Section 14, Township 37 North, Range 3 East, in the City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Beginning at a point on the South line of Section 14, 261.50 feet on an assumed bearing of South 89° 48' 39" West of the Southeast corner of said Section 14; thence continuing South 89° 48' 39" West along said South line of Section 14, 624.50 feet; thence North 0° 00' 00" West a distance of 411.72 feet; thence North 89° 48' 09" East, a distance of 624.50 feet; thence South 0° 00' 00" West, a distance of 412.60 feet to the place of beginning.

COMMON ADDRESS: Northwest Corner of Capital Avenue and 12th Street, Mishawaka

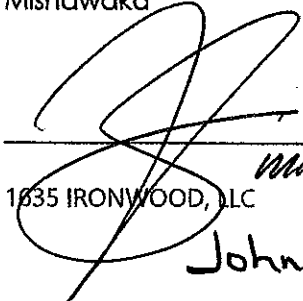
Petitioner owns one hundred percent (100%) of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for office and retail development containing a financial institution uses.

Petitioner desires said real estate to be amended as follows:

1. Additional Use:

1. To allow for the 1 Restaurant drive through Facility.
2. Allow for the proposed building materials presented by Scooters Coffee (See Attached Elevations)
 - Hardie Board Siding / and Hardie Reveal Panel materials.
 - Glazing as presented
 - No brick or stone Façade treatment.
3. Landscaping to follow the C-1 Commercial Zoning requirements.
4. Screening fence to be 6' in height.
5. Signage as presented in the building package will be acceptable with appropriate height and size requirements per C1-General Commercial Standards.
6. See Conditions of approval for remaining conformance regulations.

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


1635 IRONWOOD, LLC
John Freidline

CONTACT PERSON

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



Conditions of Approval

Northwest E. 12th Street & Capital Avenue PUD Amendment

Uses:

1. Permitted uses shall be limited to uses identified in the C-1 General Commercial District including one (1) restaurant with drive through facilities only.
2. Off-premise signs/billboards shall be prohibited.

Utilities:

1. The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout the site shall be applicant/developer's cost and expense.

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. An opaque six-foot high fence shall be provided along the entire northern property line. The fence shall be installed with the development of each individual lot. The fence is not required where adjacent to an existing pond.
2. A 15' wide landscape buffer shall be provided between the property and the adjacent residentially zoned property to the north. The landscape buffer shall be planted with a continuous evergreen screen combined with required plantings as identified in minimum landscaping and screening regulations (Section 137-815). Minimum size of the evergreen plantings at the time of planting shall be 6 foot in height. The buffer shall be provided with the development of each individual lot.
3. All other landscaping shall comply with the minimum landscaping and screening regulations for commercial property (Section 137-815).

Signage:

1. All signage shall comply with the height and display area requirements for the C-1 General Commercial District, including but not limited to, all freestanding and directional signs.

Lighting:

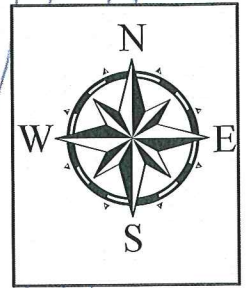
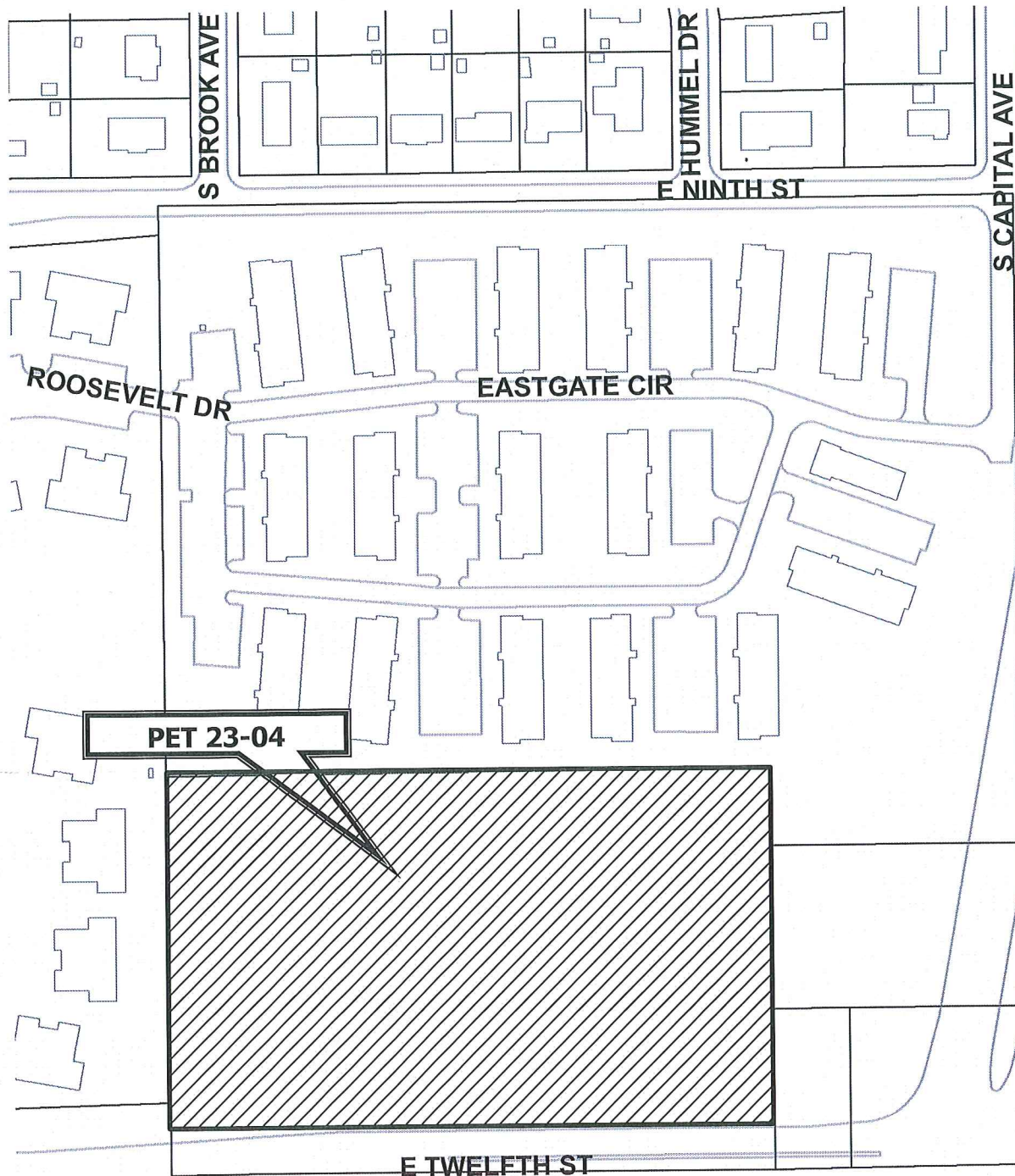
1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed one-half footcandles as measured along property lines abutting residentially zoned property.

Architectural Requirements:

1. Building materials for the proposed restaurant with drive through facilities shall be permitted to utilize fiber cement board, including HardiePlank CedarMill Lap Siding and a Hardie Reveal Panel System, as an appropriate exterior building material. Building colors shall comply with the C-1 General Commercial District.

Other:

1. All other developmental standards not identified shall comply with the height, area, and development regulations of the C-1 General Commercial District.



Location Map

PETITION 23-04

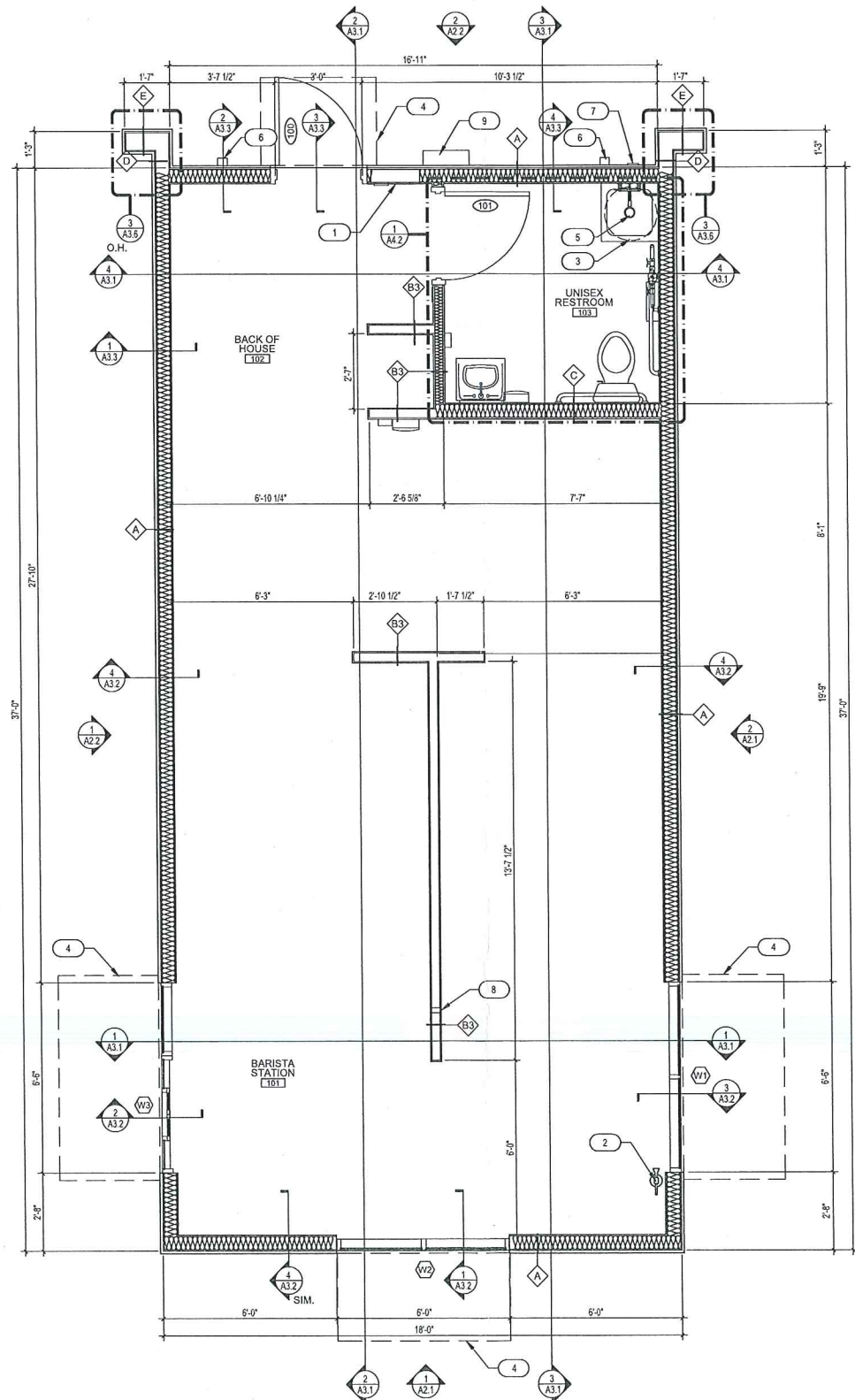
1635 IRONWOOD LLC (OWNER)

NORTHWEST CORNER OF
12TH ST/HARRISON RD &
CAPTIAL AVENUE

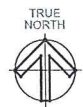
PUD AMENDMENT TO ALLOW
DRIVE THRU RESTAURANT
(SCOOTER'S COFFEE)

THIS DRAWING AND ITS CONTENTS ARE THE COPYRIGHTED PROPERTY OF GHA ARCHITECTS USE THEREOF IS LIMITED TO THE SPECIFIC PROJECT AND SITE SET FORTH ABOVE, AND MAY NOT BE OTHERWISE USED OR REPRODUCED, IN WHOLE OR IN PART, WITHOUT THE WRITTEN PERMISSION OF GHA ARCHITECTS. THE ARCHITECT, THIS DRAWING IS TO BE RETURNED UPON REQUEST.

PET 23-04
Received
FEB 22 2023
Planning and
Community Development



1 DIMENSION FLOOR PLAN
SCALE: 3/8" = 1'-0"



GENERAL NOTES

- PROVIDE PAINTED METAL ACCESS PANELS IN WALLS AND CEILINGS AT CONCEALED ITEMS SUCH AS VALVES, SHOCK ABSORBERS, CONTROLS, SWITCHES, ETC. AND ANY ITEMS WHICH MAY REQUIRE ACCESS NOT OTHERWISE PROVIDED.
- GENERAL CONTRACTOR WILL FURNISH AND INSTALL 5LB MULTIPURPOSE DRY CHEMICAL (2A/10BC) RATED FIRE EXTINGUISHERS WITH MOUNTING BRACKETS AND ACCESSORIES AT 4'-0" A.F.F. AS REQUIRED BY GOVERNMENTAL AUTHORITIES. MAXIMUM TRAVEL DISTANCE OF 75'-0" FOR PLACEMENT.
- IT IS THE GENERAL CONTRACTOR'S RESPONSIBILITY TO COORDINATE, LOCATE, AND CONFIRM ALL FLOOR SINK, UNDERGROUND / OVERHEAD PLUMBING AND ELECTRICAL STUB-UPS.
- SEE ROOM FINISH SCHEDULE FOR ALL ROOM FINISHES, SHEET A1.1.
- SEE KITCHEN DRAWINGS FOR EQUIPMENT INFORMATION, SHEET K1.0.
- GENERAL CONTRACTOR TO CAULK AND SEAL ALL EXPANSION AND SAW CUT JOINTS AT ALL EXTERIOR/INTERIOR CONCRETE - SEE JOINT SEALERS SPECIFICATIONS.
- ALL ITEMS SUCH AS LIGHT SWITCHES, FIRE EXTINGUISHERS, FIRE ALARM PULLS AND OTHER ITEMS TO BE LOCATED AS CLOSE AS POSSIBLE TO THE ADJACENT DOOR FRAME.
- AT MOP SINK AND SINKS, PROVIDE 120 CLEANING SOLUTION DISPENSER ON HOSE BIBB SIDE. THERE SHALL BE A MAXIMUM 1/2" OFFSET AT ALL THRESHOLDS AND AT ANY CHANGE OF FLOORING MATERIALS. OFFSETS GREATER THAN 1/4" REQUIRE A MAXIMUM BEVELED SLOPE OF 1 UNIT VERTICAL TO 2 UNITS HORIZONTAL.
- ALL DOORS ARE 4" OFF ADJACENT WALLS UNO.
- ALL EXTERIOR DOOR LANDING GRADES SHALL HAVE A SMOOTH TRANSITION TO THE ADJACENT PAVED SURFACE, AND THE MAX. RUNNING AND CROSS SLOPE OF ALL LANDINGS WILL BE 2%.
- PROVIDE THERMOMETER ACCURATE TO 2 DEGREES FAHRENHEIT IN REFRIGERATORS IF ONE IS NOT INCLUDED WITH FIXTURE.
- ALL HAND SINKS MUST BE PROVIDED WITH A HAND WASHING SIGN, PAPER TOWEL DISPENSER AND HAND SOAP DISPENSER.
- DOOR TAGS. REFER TO SCHEDULE ON SHEET A6.1.
- WINDOW TAG. REFER TO DETAILS ON SHEET A6.1.

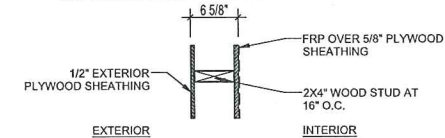
KEYNOTES - FLOOR PLAN

- NEW ELECTRICAL PANEL, SEE ELECTRICAL DRAWINGS
- 2A-10BC MINIMUM RATED FIRE EXTINGUISHER, COORDINATE FINAL LOCATION WITH FIRE MARSHAL
- WATER HEATER ABOVE, SEE PLUMBING DRAWINGS
- LINE OF CANOPY ABOVE BY OTHERS
- MOP SINK, SEE PLUMBING DRAWINGS
- NEW 3"x4" MIN. DOWNSPOUT
- HOSE BIBB, SEE PLUMBING DRAWINGS
- CONDUIT CHASE IN WALL FOR NITRO, REF. 8/A5.2
- MDP, REF. ELEC. - COORDINATE FINAL LOCATION TO ENSURE LOCATION DOES NOT INTERFERE WITH ROOF ACCESS BY LADDER

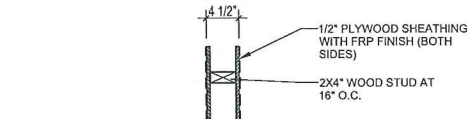
WALL LEGEND

FRAMING / DIMENSIONING NOTE:
ALL DIMENSIONS ARE TO FACE OF STUD, TYP.

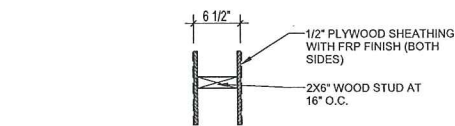
- EXTERIOR WALL:**
HARDIE BOARD OVER WEATHER RESISTANT BARRIER (WRB) OVER EXTERIOR PLYWOOD SHEATHING OVER 2x6" WOOD STUDS @ 16" O.C.
INTERIOR FACE: 5/8" PLYWOOD AND FRP PANEL TO 10'-6" A.F.F., PROVIDE BATT INSULATION PER COMCHECK IN ALL EXTERIOR WALLS.



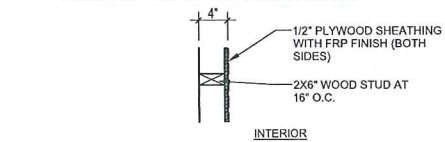
- INTERIOR PARTITION WALL:**
2x4" WOOD STUDS @ 16" O.C., 1/2" PLYWOOD WITH FRP PANEL FINISH TO 10'-6" A.F.F. (BOTH SIDES).
PROVIDE R-13 ACOUSTICAL BATT INSULATION AT RESTROOM.



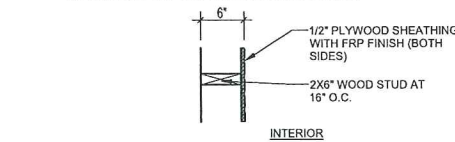
- INTERIOR PARTITION WALL:**
2x6" WOOD STUDS @ 16" O.C., 1/2" PLYWOOD WITH FRP PANEL FINISH TO 10'-6" A.F.F. (BOTH SIDES).
PROVIDE R-13 ACOUSTICAL BATT INSULATION AT RESTROOM.



- PLUMBING PARTITION:**
2x4" WOOD STUDS @ 16" O.C., 5/8" PLYWOOD AND FRP PANEL TO 10'-6" A.F.F.
PROVIDE BATT INSULATION AT SPANDREL GLAZING.



- PLUMBING PARTITION:**
2x6" WOOD STUDS @ 16" O.C., 5/8" PLYWOOD AND FRP PANEL TO 10'-6" A.F.F.
PROVIDE BATT INSULATION AT SPANDREL GLAZING.



- EXTERIOR WING WALL:**
HARDIE BOARD OVER WEATHER RESISTANT BARRIER (WRB) OVER SHEATHING OVER 2x6" WOOD STUDS @ 16" O.C.

- EXTERIOR WING WALL:**
HARDIE BOARD OVER WEATHER RESISTANT BARRIER (WRB) OVER SHEATHING OVER 2x8" WOOD STUDS @ 16" O.C.



Architecture / Development
14901 Quorum Drive
Suite 300
Dallas Texas 75254
Ph: (972) 239-8884
Fax: (972) 239-5054



PROJECT ADDRESS:
STREET
CITY, STATE, ZIP

REVISIONS:

TITLE:
DIMENSION
FLOOR PLAN

KIOSK PROTOTYPE:
4.1 PROTOTYPE
MAY 2022

DATE:
XX/XX/2022
PROJECT NO.
22XXXX

☒ PERMIT/BID SUBMITTAL
☐ CONSTRUCTION ISSUE

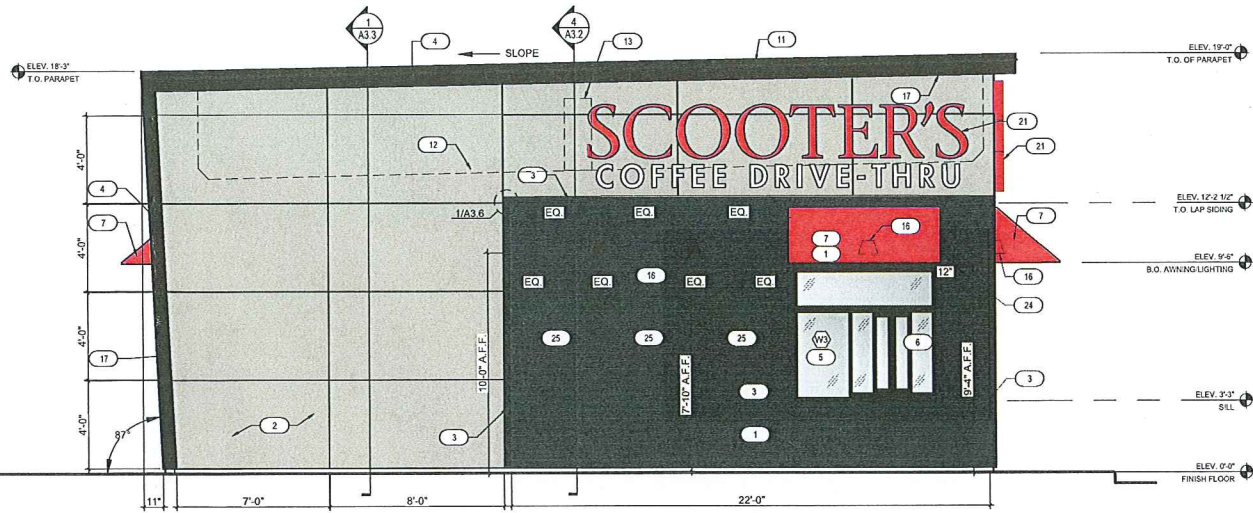
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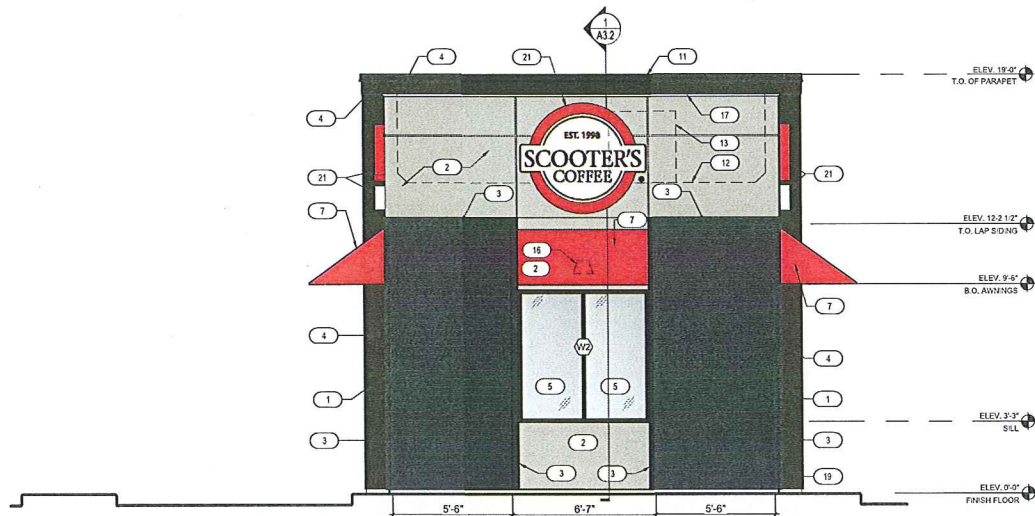
KEYNOTES

1. HARDIE PLANK HZ10 LAP SIDING CEDARMILL 6-1/4", SEE HARDIE DETAIL SHEET A3.6 - COLOR: SHERWIN WILLIAMS SW6992 INKWELL EGG SHELL FINISH
2. HARDIE REVEAL PANEL SYSTEM HZ10 - SMOOTH FINISH, SEE HARDIE DETAIL SHEET A3.6 - COLOR: SW 1015 SKYLINE STEEL
3. 3 1/2" HARDIE TRIM, SEE HARDIE DETAIL SHEET A3.6 - COLOR: SHERWIN WILLIAMS SW6992 INKWELL EGG SHELL FINISH
4. HARDIE BOARD TRIM ACCENTS AND SOFFITS - COLOR: BLACK
5. INSULATED DARK BRONZE ALUMINUM WINDOWS WITH DUAL PANE TEMPERED GLASS
6. QUICKSERVE 48X48 WINDOW - COLOR: DARK BRONZE
7. AWNING BY OTHERS - COLOR: RED
8. INSULATED HOLLOW METAL DOOR AND FRAME - COLOR: SHERWIN WILLIAMS SW6992 INKWELL EGG SHELL FINISH
9. WIDE ANGLE PEEP HOLE, BY DOOR MANUFACTURER
10. NOT USED
11. 22 GAUGE METAL PARAPET CAP
12. LINE OF ROOF BEYOND
13. AIR CONDENSER, SEE MECHANICAL DRAWINGS
14. ROOF SCUPPER AND DOWNSPOUT, SEE DETAIL 8/A3.4
15. MAILBOX BY GC BLACK
16. WALL MOUNTED LIGHT FIXTURE, SEE ELECTRICAL DRAWINGS
17. LED LIGHT BAND, SEE ELECTRICAL DRAWINGS
18. SES PANEL, SEE ELECTRICAL DRAWINGS
19. ELECTRICAL OUTLETS, SEE ELECTRICAL DRAWINGS
20. HOSE BIBB, SEE PLUMBING DRAWINGS
21. PROPOSED SIGNAGE BY OTHERS, UNDER SEPARATE PERMIT
22. CONNECT DOWNSPOUTS TO UNDERGROUND PIPING, REF. CIVIL.
23. SPANDREL GLASS
24. NEW SECURITY CAMERA
25. CUSTOMER PROVIDED SIGN PANELS. PANELS TO BE MOUNTED TO FASCIA BY GC (WHEN PROVIDED) IN CUSTOMER SPECIFIED LOCATION USING PROPER HARDWARE AND FASTENERS (NON-CORROSIVE)

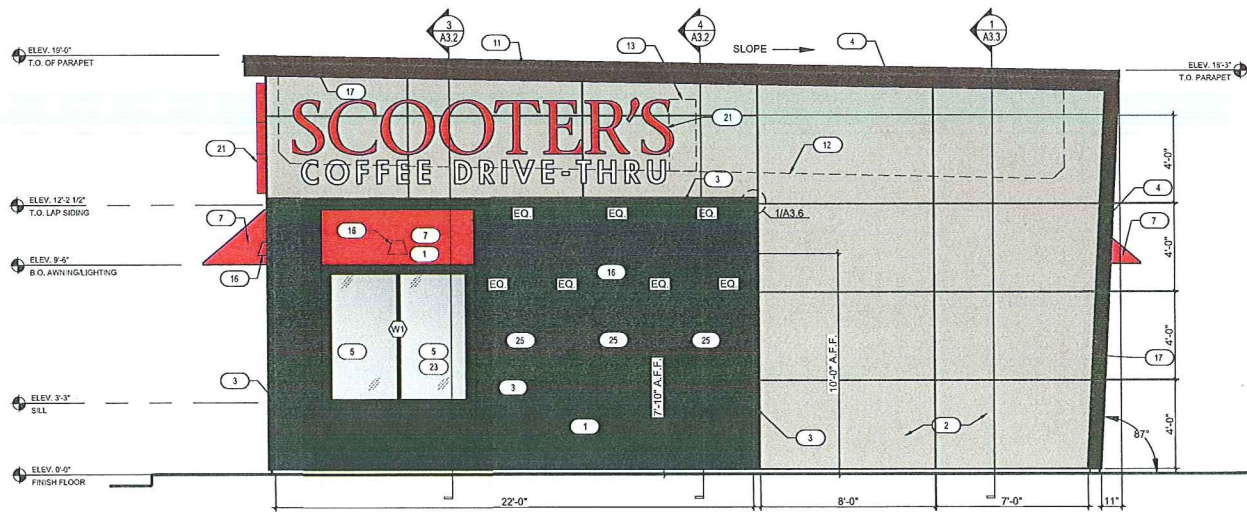
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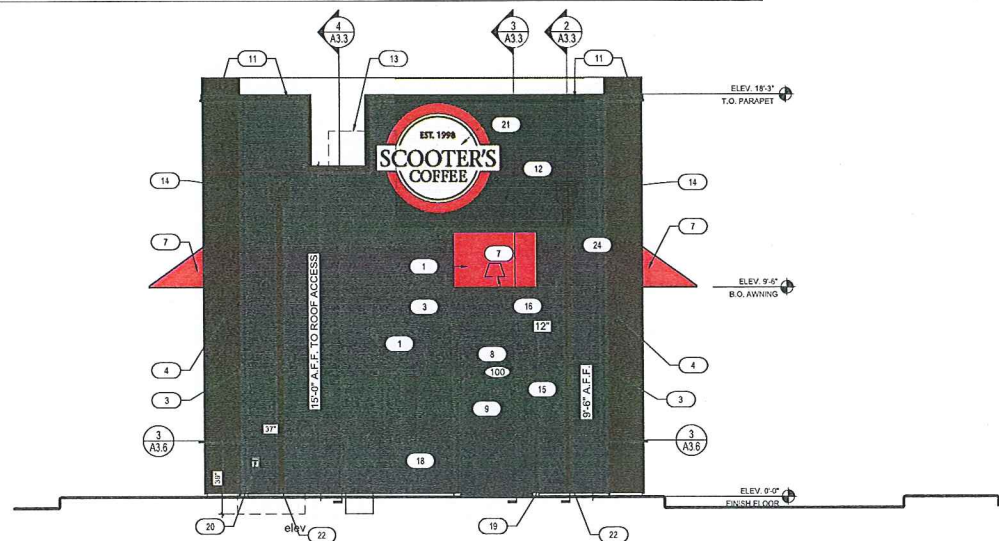
4 EXTERIOR ELEVATIONS
SCALE: 1/4" = 1'-0"



3 EXTERIOR ELEVATIONS
SCALE: 1/4" = 1'-0"



1 EXTERIOR ELEVATIONS
SCALE: 1/4" = 1'-0"



2 EXTERIOR ELEVATIONS
SCALE: 1/4" = 1'-0"



PROJECT ADDRESS:
STREET
CITY, STATE, ZIP

REVISIONS:

TITLE:
EXTERIOR
COLOR
ELEVATIONS

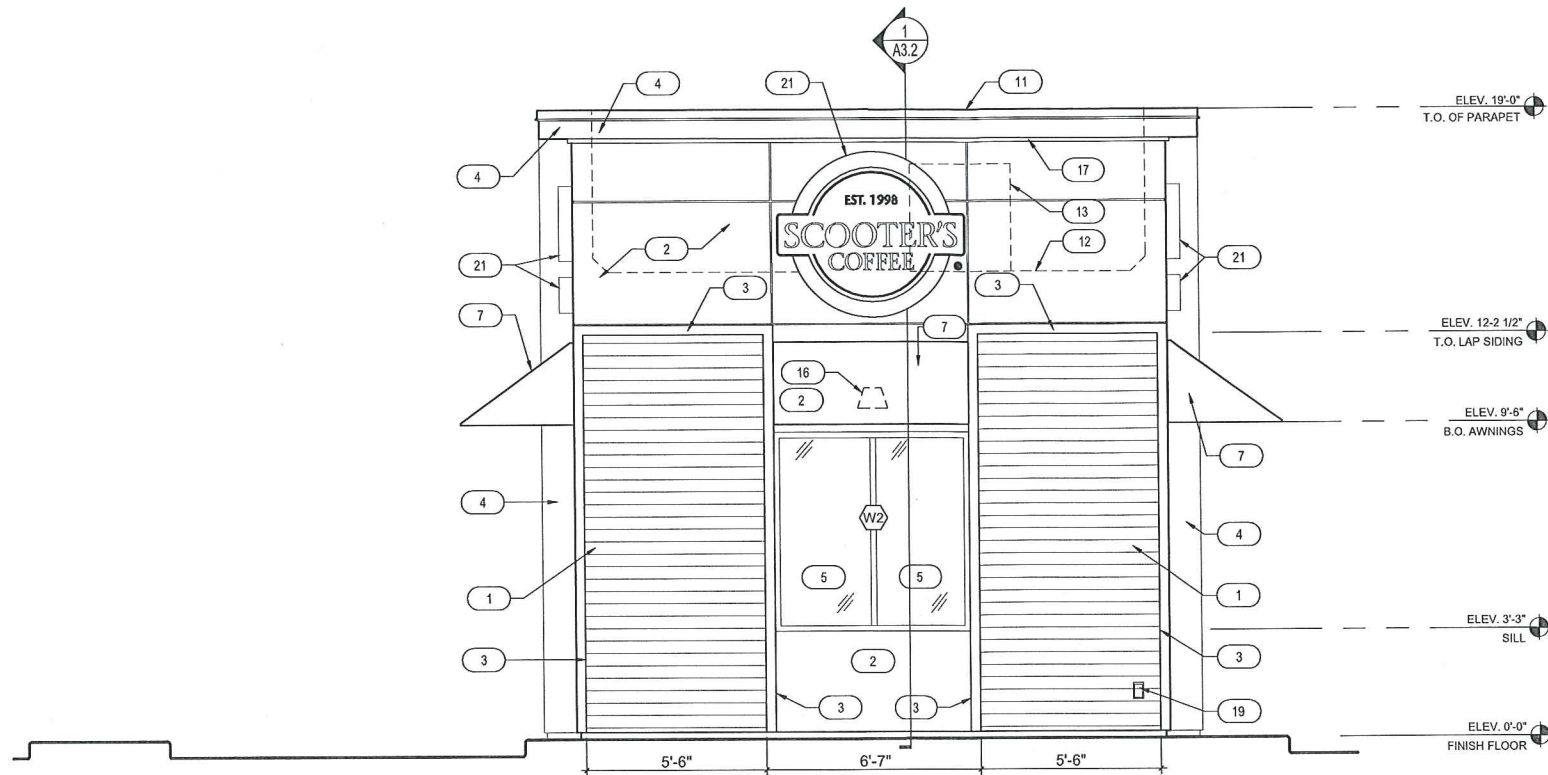
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4.1 PROTOTYPE
MAY 2022
DATE:
XX/XX/2022
PROJECT NO.
22XXXX

☒ PERMIT/BID SUBMITTAL
☐ CONSTRUCTION ISSUE

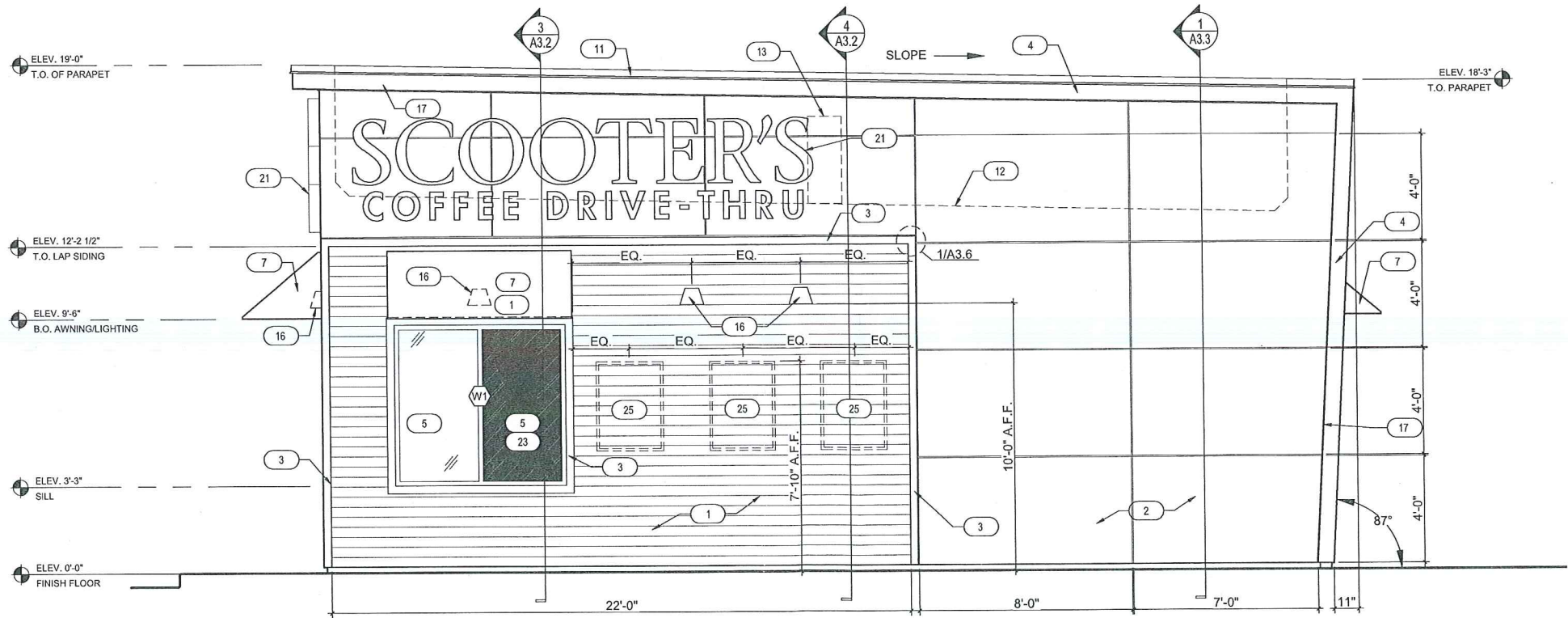
SHEET NO.

A2.0

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1 FRONT EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"



2 SIDE EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"

KEYNOTES

1. HARDIE PLANK HZ10 LAP SIDING CEDARMILL 6-1/4", SEE HARDIE DETAIL SHEET A3.6 - COLOR: SHERWIN WILLIAMS SW6992 INKWELL EGGSHELL FINISH
2. HARDIE REVEAL PANEL SYSTEM HZ10 - SMOOTH FINISH, SEE HARDIE DETAIL SHEET A3.6 - COLOR: SW 1015 SKYLINE STEEL
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15. MAILBOX BY GC BLACK
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PROJECT ADDRESS:
STREET
CITY, STATE, ZIP

REVISIONS:

TITLE:
EXTERIOR
ELEVATIONS

KIOSK PROTOTYPE:
4.1 PROTOTYPE
MAY 2022
DATE:
XX/XX/2022
PROJECT NO.
22XXXX

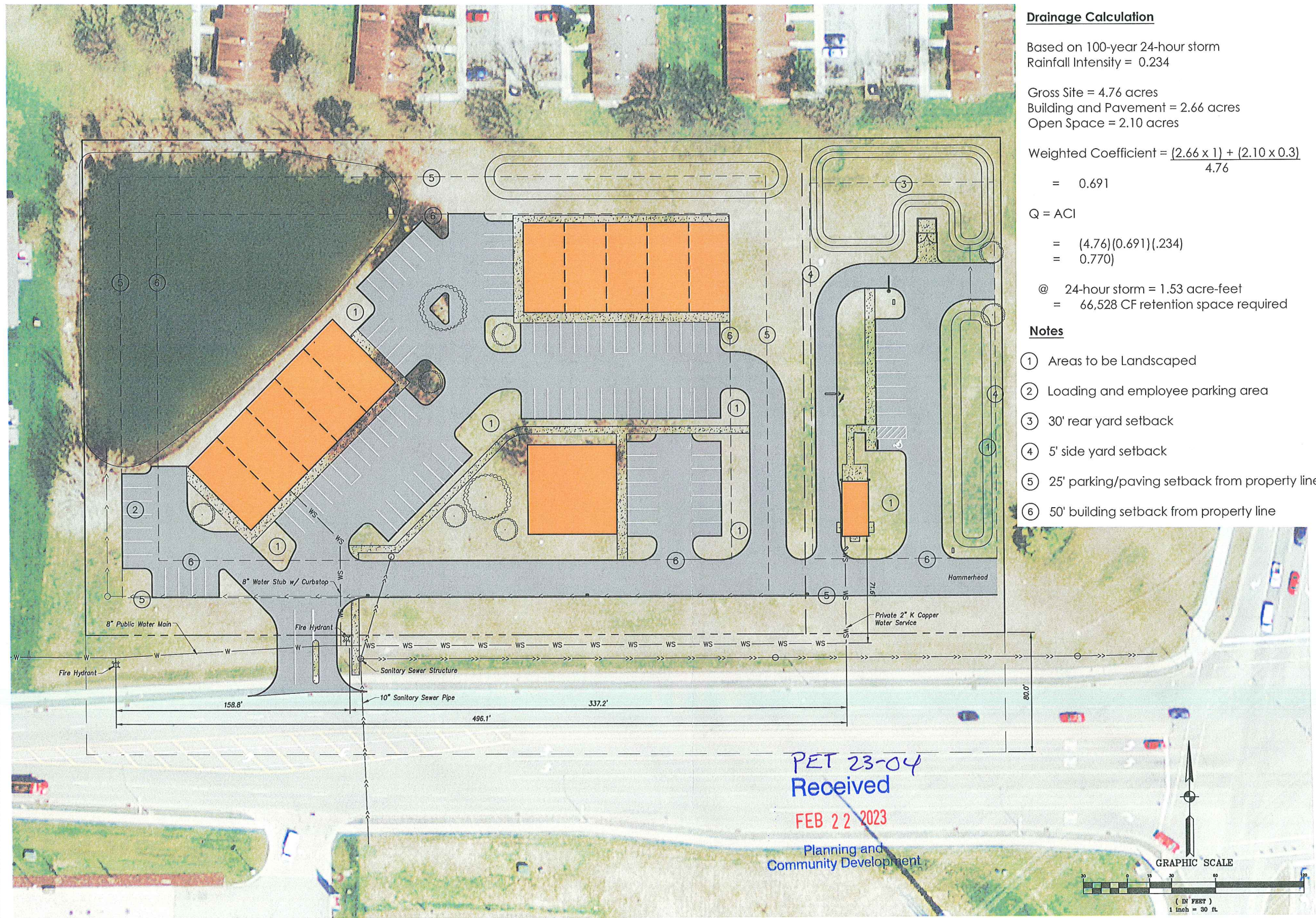
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☐ CONSTRUCTION ISSUE

SHEET NO.

A2.1

[illegible]

A2.2



Drainage Calculation

Based on 100-year 24-hour storm
Rainfall Intensity = 0.234

Gross Site = 4.76 acres
Building and Pavement = 2.66 acres
Open Space = 2.10 acres

Weighted Coefficient = $\frac{(2.66 \times 1) + (2.10 \times 0.3)}{4.76}$

= 0.691

Q = ACI

= (4.76)(0.691)(.234)
= 0.770

@ 24-hour storm = 1.53 acre-feet
= 66,528 CF retention space required

Notes

- ① Areas to be Landscaped
- ② Loading and employee parking area
- ③ 30' rear yard setback
- ④ 5' side yard setback
- ⑤ 25' parking/paving setback from property line
- ⑥ 50' building setback from property line

ABONMACHE
315 W. Jefferson Blvd.
South Bend, IN 46601
Tel: 574.232.8700
Fax: 574.232.8701
abonmache.com

Benton Harbor
Elkhart
Hobart
Lafayette
Valparaiso

Engineering - Architecture - Land Surveying

**SCOOTERS COFFEE
12TH STREET & CAPITAL
MISHAWAKA, INDIANA**

CONCEPTUAL SITE PLAN

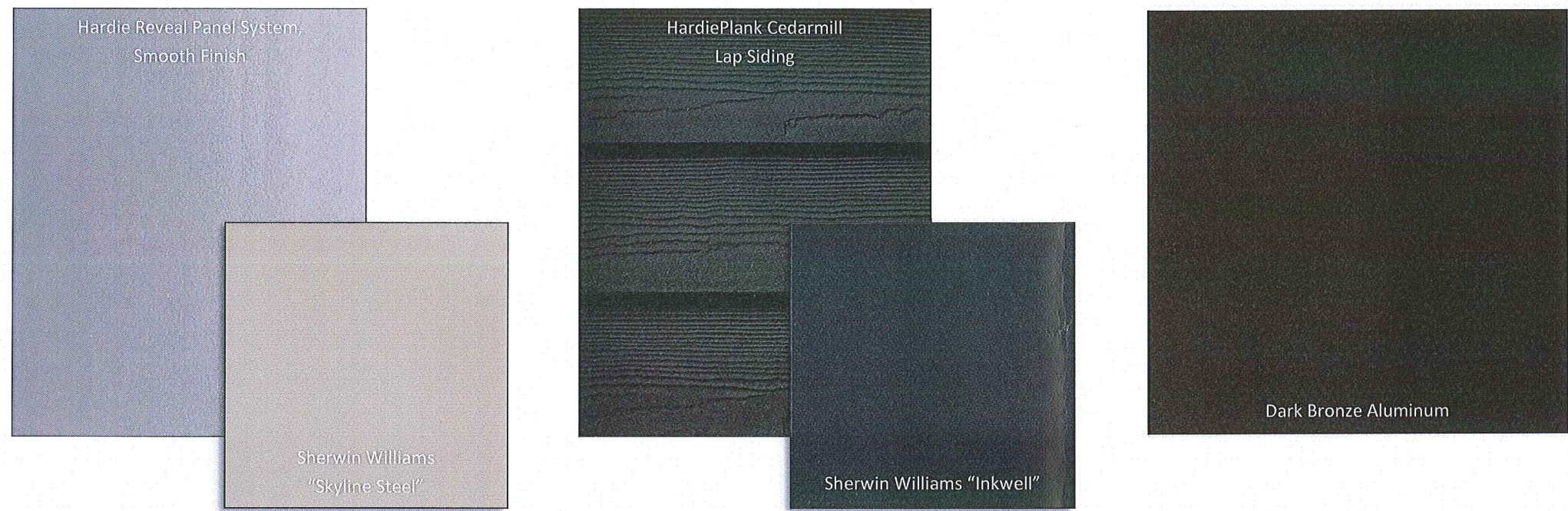
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DRAWN BY: DEF
DESIGNED BY: SDR
PM REVIEW: SDR
QA/QC REVIEW: SDR
DATE: 2/15/2023
SEAL:

**Preliminary
Not for
Construction**

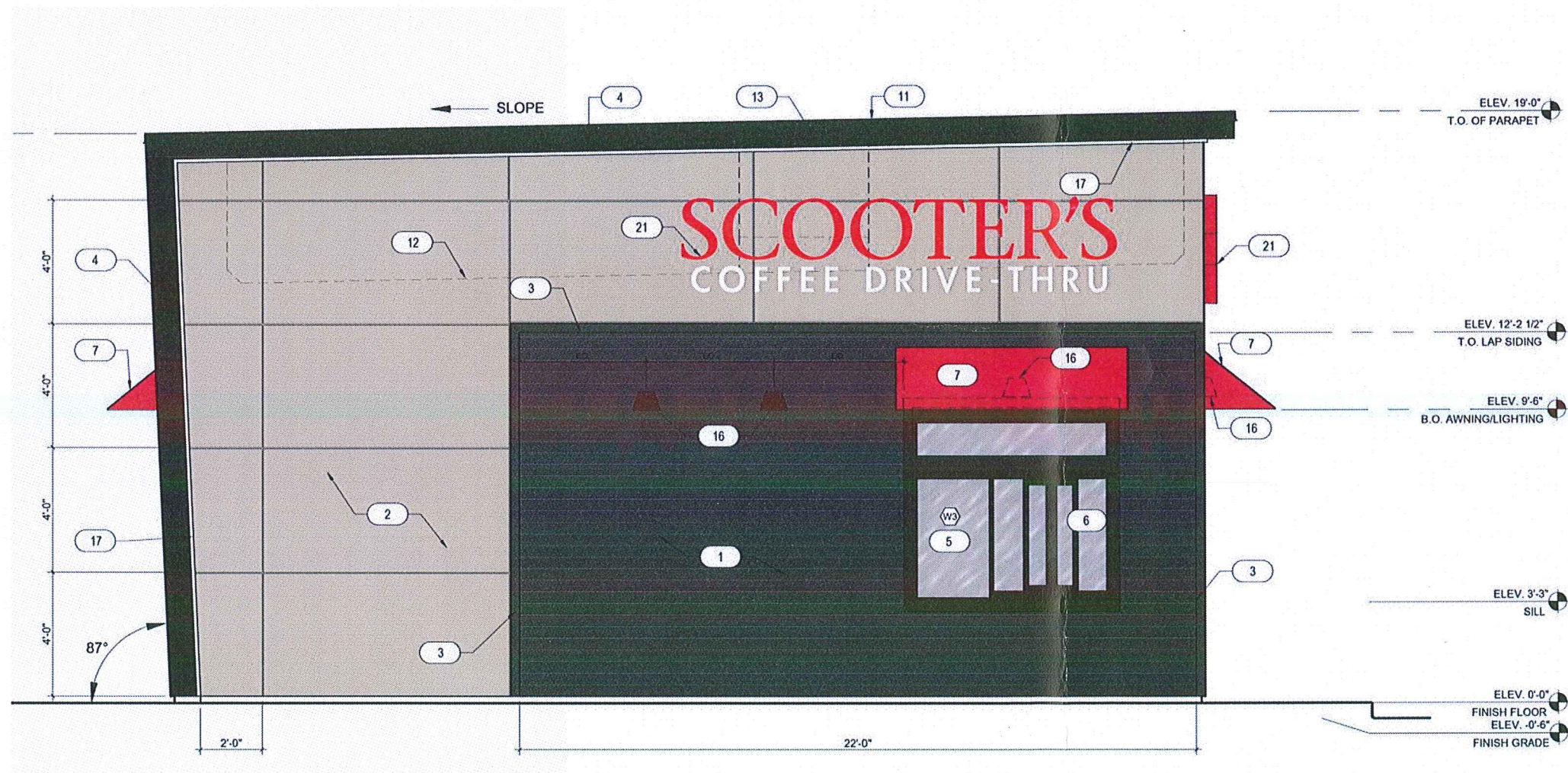
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ACI JOB #
22-1930

SHEET NO.
1 of 1

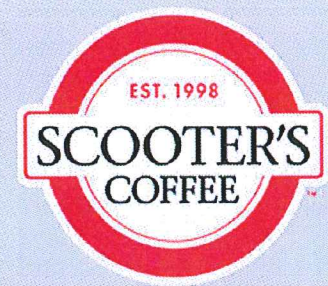
NO.	REVISION DESCRIPTION	BY	DATE
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FINISH LEGEND		
Exterior Finish	HardiePlank HZ10 Cedarmill Lap Siding (6.25" Width)	Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Exterior Finish	Hardie Reveal Panel System WZ10, Smooth Finish	Painted to match Sherwin Williams "Skyline Steel" SW 1015
Exterior Finish	3.5" HardieTrim	Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Window Frames	Dark Bronze Aluminum	
Door Frames	Insulated Hollow Metal Door and Frame	Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Exterior Accents	Black 20 Gauge Metal	



Scooter's Coffee





MAR 02 2023

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2023-10

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA AMENDING
TITLE III, CHAPTER 34 OF THE
MISHAWAKA MUNICIPAL CODE**

WHEREAS, from time to time it may be necessary for active duty and reserve members of the various branches of the Armed Forces of the United States and National Guard, including the Indiana National Guard, to ready themselves for service in military actions, or to provide assistance to, or to assume responsibilities in the military upon Orders of the Governor of the State of Indiana or the President of the United States; and

WHEREAS, among those called to service or potentially called to such service are employees of the City of Mishawaka, Indiana and employees of Mishawaka Utilities, hereinafter referred to as "City;" and

WHEREAS, various State and Federal laws provide minimum benefits to be accorded such employees by the City during their terms of active duty; and

WHEREAS, the Common Council, in conjunction with the City administration, stands behind and supports, proudly, any and all City employees called to such service, and desires to establish terms and conditions of the employment of those City employees while on active duty related to Orders of the Governor or President, which ratify and go beyond the minimum requirements of the law so as to provide for those employees and their families and dependents.

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

Section 1. TITLE III, Chapter 34: Personnel Policies: of the Municipal Code of the City of Mishawaka, Indiana, is hereby amended by deleting Ordinance #4631 in its entirety and replacing it with the following:

SECTION I – COVERED EMPLOYEES

1. The terms of employment policies embodied within this Ordinance apply to all regular full-time city employees and sworn officers called to active duty in the Armed Forces of the United States or Indiana National Guard for service related to the deployment of troops upon Order of the Governor or President.
2. Each covered employee shall be considered as remaining in the employ of the City of Mishawaka or Mishawaka Utilities in an inactive status while on active duty related to an ordered deployment of troops. Each covered employee shall continue in such inactive status until he or she returns to active employment with the City.

3. Each covered employee assigned to active military duty shall be responsible to notify the City, in writing, of each change in military status (including, but not limited to, wage changes, promotions, or active-duty status changes), within forty-eight (48) hours of the change, or as soon as reasonably possible under the circumstances.
4. Each covered employee must notify the City's Human Resources Department of his or her intention regarding return to active employment with the City on the required forms available from Human Resources. Such reapplication must occur within ninety (90) days after such time as he or she is released from active duty assignment, honorably discharged from such service or released from hospitalization continuing after discharge. The employee shall file his or her final active military pay stub and the final military pay grid with his or her form for reapplication.
5. Following reapplication, each covered employee, if still qualified to perform the duties of the position he or she held immediately prior to being called to military duty, shall be restored to such position or to a position of the like seniority, status, and pay. If any covered employee is not qualified to perform the duties of the position he or she held immediately prior to being called to military duty, by reason of disability sustained during such service, but is qualified to perform the duties of any other position in the employ of the City, he or she shall be offered employment and, if such covered employee so requests, shall be employed in such other position the duties of which the covered employee is qualified to perform as will provide him or her like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances in his or her case.

SECTION II – WAGES AND BENEFITS

1. Each covered employee shall receive paid leave for the number of working days between the last day of active employment with the City and the first day of military duty not to exceed thirty (30) calendar days. This paid leave will be paid in regularly-scheduled, bi-weekly paychecks unless other arrangements are made with the Board of Public Works and Safety.
2. Each covered employee shall be allowed to elect, in writing, to receive compensation at his or her current rate of pay for all unused leave days available on his or her last day of active employment with the City before reporting to active military duty.
3. Beginning with the first day of active military pay and ending with the final day of active military pay, each covered employee shall receive a regular bi-weekly paycheck from the City in an amount equal to the difference between his or her current gross City wage and his or her gross military wage. For purposes of this ordinance, gross wages is defined as total compensation subject to FICA withholding. It is the employee's responsibility to inform the City Controller's Office if the gross military wage is less than the employee's gross City wage. In no event shall the total of gross military and gross City wages (including any amount paid under Section II (1) above) paid during the active military period exceed the total gross wages that would have been earned during the same time period by the covered employee in his or her City position had he or she not been

- called to active duty. Reconciliation of the amounts owed to or by the City shall occur as needed, following the employee's return to active City employment.
4. **Employees with appropriate military orders will be granted paid leave for annual training for the Reserve or National Guard for a period of up to two (2) weeks per year; and are entitled to civilian and military pay up to one (1)) weekend per month. Long-term deployment pay will follow USERRA. Specialty training required for promotions will require the employee to use his/her own banked time.**
 5. For purposes of computing the covered employee's gross City wages, each covered employee shall receive that annual increase he or she would have received had he or she not been called to active military duty.
 6. Leave days, such as but not limited to, Vacation, Sick, FTO and Bonus will not accrue during such time the covered employee is on active military duty.
 7. Time on the job and seniority will accrue during such time the covered employee is on active military duty.
 8. Upon the employee's return to active status with the City, he or she is eligible for any leave time, including vacation, that is available to all active City employees. Human Resources can counsel the returning employee on his or her options, should leave be necessary.
 9. Regular deductions from City paychecks will be honored only in the event the employee expresses his or her desire, in writing, to continue the deduction AND that there are sufficient funds due to the employee. The funds due to the employee include the differential paid according to Section II(3) above and any funds deposited by the employee to the City for the purpose of paying the deduction. Such deposits must occur prior to the scheduled deduction (or pay period). The employee is solely responsible for maintaining his or her qualification for each policy or program. In the event insufficient funds are present for all requested deductions and no further direction has been received from the employee, the City shall appropriate the funds in the following order (as appropriate):
 - a. Court-Ordered Deductions/Garnishments
 - b. Health Insurance premium for dependents
 - c. Union Dues
 - d. Deferred Compensation
 - e. Supplemental Insurance or other voluntary deductions

SECTION III – HEALTH INSURANCE

1. Pursuant to the terms of the Group Contract providing Health Care Benefits ("the Contract") governing the terms and conditions of employee health care coverage provided by the City, health care benefits for each covered employee shall terminate as of the date he or she is activated to military duty, as medical coverage is provided to the covered employee by the United States Government.
2. Dependents of covered employees with City-provided dependent health care coverage at the time the covered employee reports to active duty, shall remain covered under the Contract pursuant to Contract administration policies while the covered employee is activated to military duty.

3. Pursuant to exclusions listed in life insurance contracts, any life insurance provided to the covered employee by the City will cease while the employee is on active military duty.

SECTION IV – PERF

To the extent allowed by law, the City shall, during each covered employee's term of active military duty, continue to pay the pension contributions normally paid by the employer on behalf of the employee by virtue of his or her employment.

Section 2. This Ordinance shall be in full force and effect from and after its passage by the Common Council, signature of the Mayor, attestation by the City Clerk and publication as required by law.

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 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..

Dave A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF HR

Deborah S. Block, IAMC, MMC

March 3, 2023

MAR 02 2023

Mishawaka Common Council
100 Lincolnway West
Mishawaka, Indiana 46544

City Clerk
Mishawaka, IN

Mr. President and Honorable Members of the Council:

I respectfully request your approval of the attached proposed ordinance, approving amending Title III, Chapter 34 of the Mishawaka Municipal Code.

I plan to attend the meeting to speak in favor of approval and to be available to answer questions at the pre-Council meeting that evening. Feel free to contact me prior to the meeting at 574-258-1615 or at skile@mishawaka.in.gov.

Thank you in advance for your consideration.

Sincerely,

Susan W. Kile, PHR
Human Resources Director

RESOLUTION NO. 2023-02

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

**A RESOLUTION APPROVING AMENDING MILITARY ORDINANCE 4750
TITLE III, CHAPTER 34 OF THE MISHAWAKA MUNICIPAL CODE**

WHEREAS, the City of Mishawaka adopted Ordinance 4750, an Ordinance amending the Title III, Chapter 34 of the Mishawaka Municipal Code on March 18th, 2003;

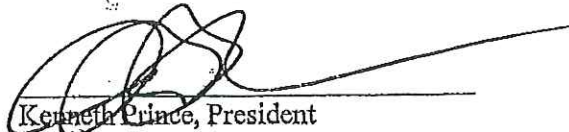
WHEREAS, such Ordinance requires the approval of the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka the following Amendment to Ordinance 4750;

Section 1. Section II-Wages and Benefits : 4. Employees with appropriate military orders will be granted paid leave for annual training for the Reserve or National Guard for a period of up to two (2) weeks per year; and are entitled to civilian and military pay up to one (1) weekend per month. Long-term deployment pay will follow USERRA. Specialty training required for promotions will require the employee to use his/her own banked time.

Section 2. This Resolution shall be forwarded to the Mishawaka Common Council for its review and final action.

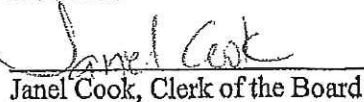
ADOPTED by the Board of Public Works of the City of Mishawaka, on this 28th day of February 2023.


Kenneth Prince, President


Rebecca Maguire, Vice President


Ronald E. Watson, Member

ATTEST:


Janel Cook, Clerk of the Board

FEB 4 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

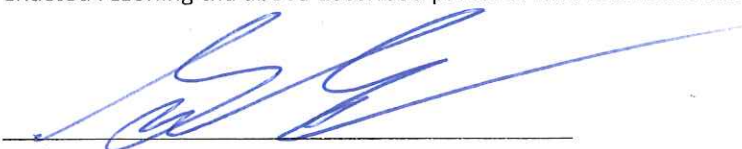
Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of I-2 Heavy Industrial District and R-1 Residential District.

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.

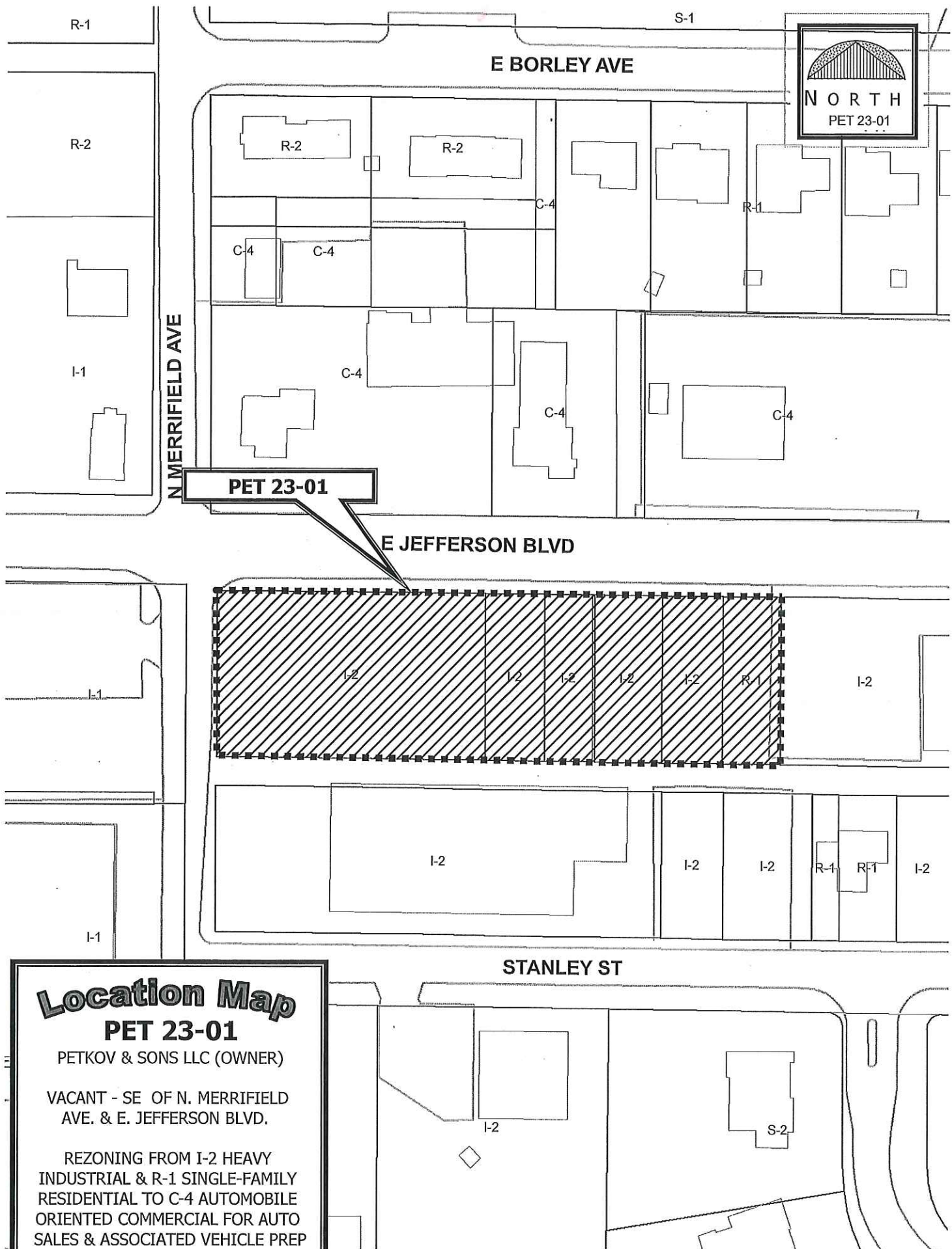
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.


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



Location Map

PET 23-01

PETKOV & SONS LLC (OWNER)

VACANT - SE OF N. MERRIFIELD
AVE. & E. JEFFERSON BLVD.

REZONING FROM I-2 HEAVY
INDUSTRIAL & R-1 SINGLE-FAMILY
RESIDENTIAL TO C-4 AUTOMOBILE
ORIENTED COMMERCIAL FOR AUTO
SALES & ASSOCIATED VEHICLE PREP

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.

The Engineering Department has the following comment- need a plat for R/W. Line up R/W with southern property.

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

RECOMMENDATION

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.

This recommendation is based on the following findings of fact:

- 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.

ATTACHMENTS

Aerial, Photos, Petition, Location Map



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

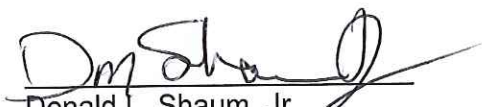
RE: PETITION OF VACATION OF PUBLIC RIGHT OF WAY

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

gowightman.com



PET 23-02

ARTHUR ST

GRAPE RD

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.

S-2

R-1

R-3

R-1

FEB 4 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.
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.
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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

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

Deborah S. Block, IAC, MMC

JAN 30 2023

City Clerk
Mishawaka, IN

PK 23-03
Received

JAN 25 2023

Planning and
Community Development

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

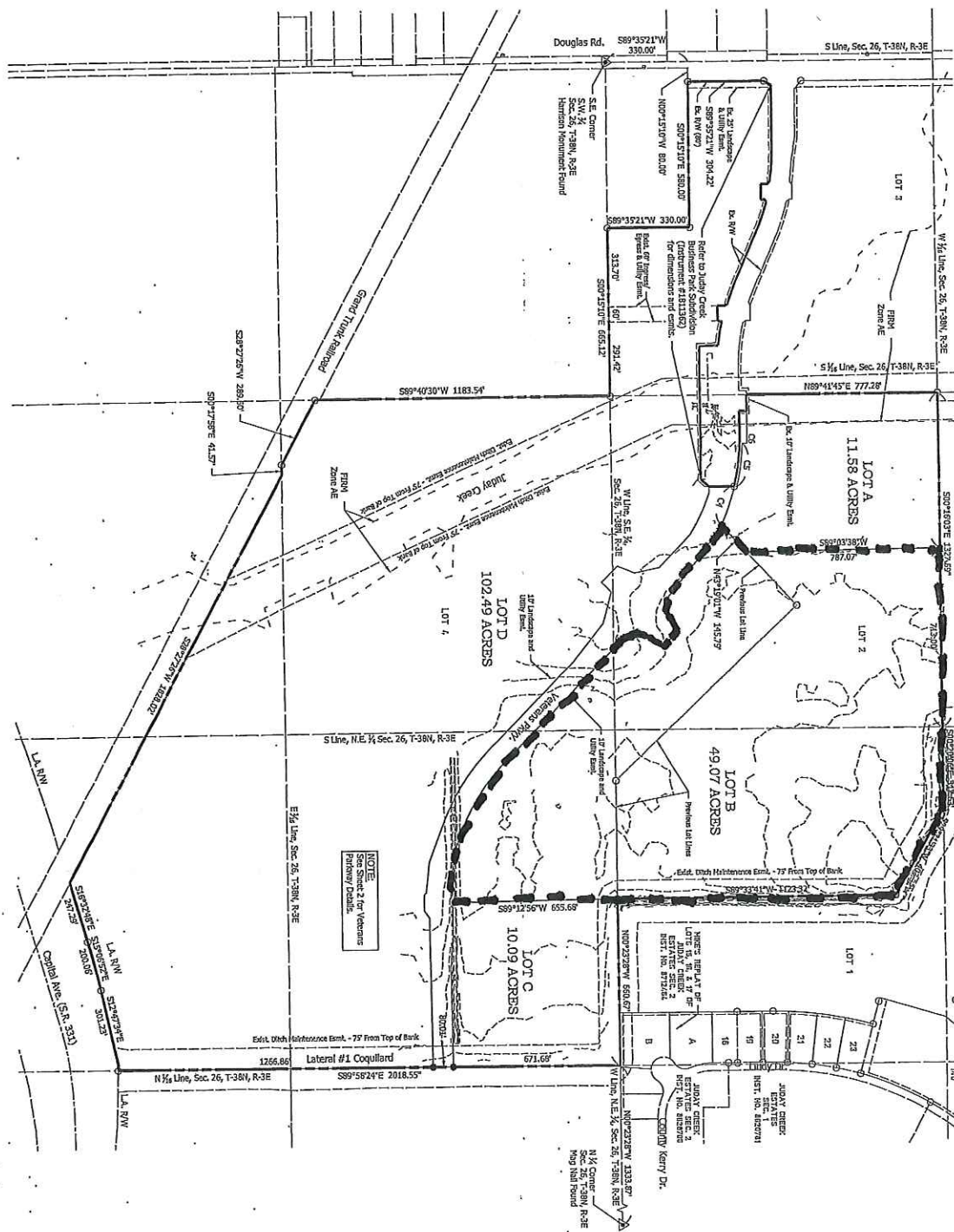
Ken –

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



JUDAY CREEK BUSINESS PARK FIRST REPLAT
(BEING A REPLAT OF LOTS 2 AND 4 OF JUDAY CREEK BUSINESS PARK)
PART OF SECTION 26, TOWNSHIP 36 NORTH, RANGE 3 EAST
CITY OF MISHAWAKA, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

NOTE:
This is a 2.5 ft. Veterans
Railway District.



NOTES:

- 1) The purpose of this replat is to reconfigure Lot 2 and 4.
- 2) The boundary of this subdivision plat was based on the survey of the Veterans-Sherry Plat recorded in Instrument #2175271, recorded June 26, 2017.
- 3) Between the recording of the JUDAY Creek Business Park Subdivision Plat and the recording of this replat, the City of Mishawaka acquired the property from the Veterans-Sherry LLC (the "Veterans-Sherry LLC") by deed dated 12/21/2021.
- 4) The boundaries and utility easement shown on Lot 4 is for the use of the owners of the adjoining parcel.
- 5) According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), Map # 1500002C01, dated 1990, the area within the subdivision plat within special flood hazard zone AE. The limits of this zone have been shown and labeled accordingly.
- 6) The extension of Veterans Parkway will be serviced by utilities that will be installed as a part of City Project Number 2175242.
- 7) All lots within the subdivision have been zoned S-2 Planned Urban Development.
- 8) Proposed Veterans Parkway right-of-way does not have a terminal width.

AREAS TABLE	
Location	Area
LOT A	11.58 ac
LOT B	49.07 ac
LOT C	10.09 ac
LOT D	102.49 ac
LOT E	10.09 ac
LOT F	10.09 ac
Veterans Parkway R/W	6.14 ac
TOTAL	179.66 acres

CURVE TABLE			
Curve #	Length	Radius	Chord Distance
C1	122.62'	857.65'	122.62'
C2	40.87'	893.40'	40.87'

**JUDAY CREEK BUSINESS PARK
FIRST REPLAT**

CITY OF MISHAWAKA, INDIANA

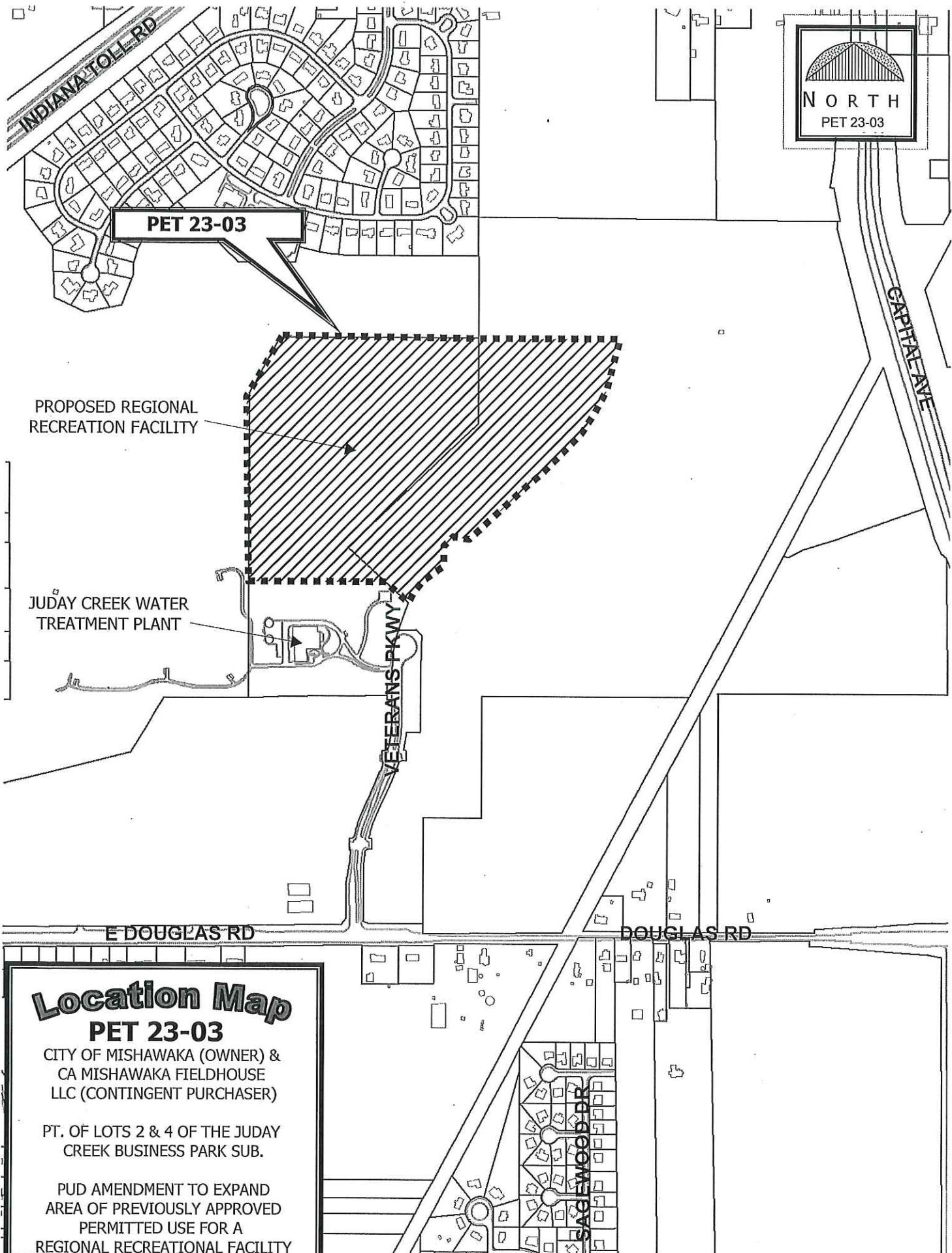
LFA

LAWSON-FISHER ASSOCIATES P.C.

525 W. WASHINGTON AVENUE
SOUTH BEND, INDIANA 46601
PH. (574) 234-3167

PROJECT NUMBER
202137.15

SHEET
1 of **3**



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
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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
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