



AGENDA

July 10, 2023

**Meetings of Standing Committees
Council Conference Room
6:45PM**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM**

**WebEx Telephone Number:1-408-418-9388
Meeting Number (access code): 2339 772 1998
Meeting password:8vvV3cBGDw7**

**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: 23397721998@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of June 19, 2023

5. Petitions, Communications, Remonstrance and Memorial

A letter from the Board of Zoning Appeals regarding their recommendation regarding property E. and adjacent to 2014 E. McKinley.

Petition No. 2023-15	Right-of-way vacation for first East/West Alley N. of E. Marion St., starting at Christyann St. Then to the west 110' for the first North/south alley
Petition No. 2023-16	Right-of-way vacation for part of Front St. (Not improved) between the East Side of Church/Main St. connector and the St. Joseph River Raceway
Petition No. 2023-17	Rezone from C-1 General Commercial to C-6 Linear Office Commercial to permit a Residential Unit - 1644 Lincolnway East

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

R2023-15	Use Variance to allow automobile repair in I-1 Light Industrial District - property E. of and adjacent to 2014 E. McKinley
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9. Ordinances on Second Reading

P.O. No. 2023-24	Rezone from R-1 Single Family Residential to R-2 Two Family Residential to match existing use as a duplex - 712 Division St. (Assigned to Land Use Planning Committee)
P.O. No. 2023-25	Rezone from S-1 Extensive Open Space to C-3 City Center Commercial - Northeast corner of Cedar & E. Third St. (Petitioner requesting postponement)
P.O. No. 2023-26	Annex and Zone to I-1 Light Industrial District for proposed Self Storage - Vacant land south of 1505 S. Byrkit - Public Hearing - No Vote
P.O. No. 2023-27	Annex and Rezone to C-4 Automobile Oriented Commercial - 100' North of the Northeast corner of E. McKinley & Maplehurst - Public Hearing -No Vote

P.O. No. 2023-29 Rezone from C-1 to R-3 Multi-Family
Residential - 2406 Schumacher Dr. & adjacent
property
(Petitioner requesting postponement)

P.O. No. 2023-30 Establishing 124 S. Race St. a Historic
Landmark
(Assigned to Land Use Planning 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.

Download Council Packet Link:

At this time, I know of no other business to come before the
Council.

Deborah S. Block, IAMC, CMO, 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

June 19, 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, June 19, 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, followed by a moment of silence in recognition of former Redevelopment Commission Member, Dr. Gilbert Eberhart, who served many years in that capacity and longtime Mishawaka Police Officer, Mike Robinson. Mr. Hixenbaugh offered the Council's condolences to both of their respective families.

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 (P), 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, Mike Trippel, Council Attorney.

Minutes for the Regular Meeting on June 5, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following letters from the City Plan Commission regarding their recommendations from their June 13, 2023 meeting and the Historic Preservation Commission regarding their recommendations from their June 6, 2023 meeting.

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| Resolution 2023-01 | A resolution approving amendment to the declaratory resolution and the economic development plan for consolidated area improvement project |
| Petition No. 2023-06 | A petition by Creed Capital LLC requesting to rezone property at 2406 Schumacher and adjacent vacant property from C-1 General Commercial to R-3 Multi-Family Residential District. |
| Petition No. 2023-11 | A petition of RWP Investments LLC requesting to rezone property at 712 Division Street from R-1 Single Family Residential to R-2 Two Family Residential District |

- Petition No. 2023-12** A petition by City of Mishawaka requesting rezone from property west of and adjacent to 600 E 3rd from S-1 Extensive Open Space District to C-3 City Center Commercial District
- Petition No. 2023-13** A request submitted by Storage of America seeking to enact an established zoning as I-1 Light Industrial District for approximately 19.38 acres of vacant land south of 1505 South Byrkit Avenue
- Petition No. 2023-14** A request submitted by 1500 McKinley LLC requesting to enact and establish zoning a C-4 Automobile Oriented Commercial for property located 100 feet north of the northeast corner of East McKinley and Maplehurst in Mishawaka, Indiana
- HPC No. 2023-1** A proposed ordinance submitted by Robert Sullivan to establish 124 South Race Street, Mishawaka, Indiana, as a local historic landmark

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

PROPOSED ORDINANCE NO. 2023-24

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

Rezone from R-1 Single Family Residential to R-2 Two Family Residential to match existing use as a duplex – 712 Division St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2023-25

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

Rezone from S-1 Extensive Open Space to C-3 City Center Commercial – Northeast corner of Cedar & E. Third St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2023-26

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annex and Zone to I-1 Light Industrial District for proposed Self Storage – Vacant land
south of 1505 S. Byrkit
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-27

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annex and Rezone to C-4 Automobile Oriented Commercial – 100’ north of the Northeast
corner of E. McKinley & Maplehurst
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-28

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, AUTHORIZING THE CITY TO ISSUE ONE OR MORE SERIES OF ITS
TAXABLE ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE BONDS AND
APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN
CONNECTION WITH THE IRONWORKS PHASE 2 PROJECT**

**Approving and Authorizing Economic Revenue Bonds – Ironworks Phase II
(Assigned to Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2023-29

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

**Rezone from C-1 to R-3 Multi-Family Residential – 2406 Schumacher Dr. and adjacent
property
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-30

**AN ORDINANCE TO ESTABLISH 124 SOUTH RACE STREET AS A LOCAL
HISTORIC LANDMARK WITHIN THE CITY OF MISHAWAKA, INDIANA**

(Assigned to Land Use Planning Committee)

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

RESOLUTION R2023-14

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF HR MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: NORTHEAST CORNER OF E
MCKINLEY AND MAPLEHURST, MISHAWAKA, INDIANA
Fiscal Plan for Annexation of 15793 E. University Dr.**

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-14**. Mr. Prince stated the fiscal plan for their consideration that evening was for a 5.04 acre parcel on the north side of University Drive. Mr. Prince stated this was immediately to the west of Granger Community Church across from a jersey shop that used to be Pier 1 imports, which was the property that was directly across the street. Mr. Prince stated to the west of that was the veterinary clinic and to the west of that was where Drive 'N Shine was proposing the car wash and the greater PUD beyond that. Mr. Prince stated the property was 66% contiguous to the city while exceeding the 12.5% required by state law for annexation. Mr. Prince stated as was customary, they distributed this to all of the various departments to identify if the property could be served by their existing budget and if any capital improvements would be required. Mr. Prince stated the utilities were all in University Drive and under the current jurisdiction of the city, so no additional capital expenses would be borne by the city as part of the development and they would be borne strictly by the developer and they identified that the property could be served by their existing budgets and he was happy to answer any questions they had.

Dave Holzem, Nifong Realty and Development out of Green Bay, spoke in favor remotely of **RESOLUTION R2023-14**. Mr. Holzem stated they were the developer of the proposed project and wanted to show that he was present and available to answer any questions.

Mr. Compton asked when he developed in other communities, what his practice was for hiring contractors and people to work on the project who are from that specific community. Mr. Holzem stated they had developed properties in Indiana and actually, Larry Nifong was a native of Mishawaka, Indiana. Mr. Holzem stated they just finished a PetSmart in Valparaiso, Indiana and that was a project that was general contracted by Larson Danielson, a local contractor. Mr. Holzem stated their engineers were locals, so they supported and encouraged local contractors and it was easier for them when people had familiarity and there was not a lot of travel time, logistically, etc. Mr. Holzem stated the majority of this project would be done with local contractors. Mr. Holzem stated they would run into a tenant requiring certain national vendors they used, but they could not control that since that was part of their process, but anything they could control would be done by local contractors. Mr. Compton appreciated that and understood there were certain agreements that they might have. Mr. Compton also appreciated him reaching out and working with local contractors. Mr. Holzem thanked them for their consideration.

Question was called for at 7:14PM for **RESOLUTION R2023-14. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

The chair entertained a motion to postpone the public hearing on **PROPOSED RESOLUTION R2023-15** due to a clerical error, which Mr. Prince would speak about, and to delete **PROPOSED RESOLUTION R2023-15** from that evening's agenda. The motion was made and seconded and Mr. Prince spoke about the error.

Ken Prince, Director of Planning and Community Development, spoke to the council. Mr. Prince apologized as there was a 21-step process regarding the potential bond issuance and the change of the TIF District and that was required and identified by Randy Rampola and what they did was they forwarded the Planning Commission resolution when they should have obviously should have forwarded the Council resolution, which actually would not occur until the July 17th regularly scheduled meeting. Mr. Prince stated they would be seeing a separate resolution under a different number coming at a later point in time but he just wanted to apologize for that snafu in the process. Mr. Prince stated this was the third time in 10 years that they had amended the TIF District, so they did not do it very often and he apologized once again. Mr. Hixenbaugh thanked Mr. Prince for saying that and stated there was no harm done.

A voice vote was held on the motion to remove **PROPOSED RESOLUTION 2023-15** from that evening's agenda. The motion passed unanimously and the item was removed.

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

PROPOSED ORDINANCE NO. 2023-17

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annex & Establish Zoning as C-1 General Commercial District – 15793 E. University Dr.
VOTE ONLY**

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Mr. Hixenbaugh stated since they had held the public hearing on this matter, pursuant to state law, he opened the floor for any questions or comments from the council on this proposed ordinance. Hearing none, he called for the question.

Question was called for at 7:18PM for **PROPOSED ORDINANCE NO. 2023-17. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5843.**

PROPOSED ORDINANCE NO. 2023-20

**AN ORDINANCE AMENDING CHAPTER 5811 FIXING THE SALARIES OF ALL
EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT SWORN PUBLIC SAFETY,
MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE
MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE
YEAR BEGINNING JANUARY 1, 2023
Amending Ordinance 5811 Civil City Salary Ordinance**

Mr. Banicki reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Mammolenti, the motion carried.

Ken Witkowski, Chief of the Mishawaka Police Department, spoke in favor of **PROPOSED ORDINANCE NO. 2023-20**. Chief Witkowski stated this ordinance regarded Kelly Gorney, their Major Crimes Technician. Chief Witkowski stated it was a fairly new position for them so it was kind of a work in progress as they moved forward and kept finding different arenas that benefited them with her expertise and qualifications. Chief Witkowski stated she had a Forensic Science degree as well as a Criminal Justice degree and was a Forensic Analyst. Chief Witkowski stated actually the position evolved from the expiration of the homicide unit and they needed expertise in this field. Chief Witkowski stated they had hired some laterals recently and were exciting about moving forward. Chief Witkowski stated in a homicide investigation or really any major crime, you got one opportunity to get it right and once you left that scene you could not go back and put the toothpaste back into the tube so for perk purposes they needed experts at those positions. Chief Witkowski stated he was contacted by one of the lead sworn officers to ask that they moved forward and try to give her the same stipend as the sworn officers, because she was on call, she came in all the time and they thought it was beneficial to have her there. Chief Witkowski stated it was crucial for the integrity of evidence collection and currently, she was their sole investigator at autopsies when she went so it was very beneficial to have her at the scene. Chief Witkowski stated when she went to the autopsy with the questions that are asked when doctors ask certain things, she could testify to the fact that this was what was found and how she believed it happened and make sense of it all to piece it together. Chief Witkowski stated her presence also helped preserve chain of evidence and she would take full responsibility of packaging evidence that needed to be presented to the State lab or wherever else it may go. Chief Witkowski mentioned it also saved overtime from officers, because she was able to collect the evidence and take it and put it in the vault so they did not have to spend man hours. Chief Witkowski stated she was on call so they would like to see a stipend for her although it was different from sworn as she was a civilian and they realized that, but they could not replace her and she did such a good job. Chief Witkowski believed overall, they had one of the most experienced teams in the county with the people they got and with her coming on board. Chief Witkowski stated they felt it was crucial and beneficial to the department.

Mr. Mammolenti stated it sounded like she was an outstanding choice for the department and filled a great role that was well needed and would be utilized extremely well. Mr. Mammolenti asked if she would also be doing a lot of court time. Chief Witkowski stated that was right and she could be an expert witness in court. Mr. Mammolenti then asked if she would be paid the

same wage when she was doing court time. Chief Witkowski stated she would because that was just a normal working day.

Mrs. Voelker asked if she was a salaried employee. Chief Witkowski stated she was. Mrs. Voelker asked if this was a certification on top of her current salary. Chief Witkowski stated that was correct. Mrs. Voelker asked if she was called out in the middle of the night, if it would not cost the city any more for her to go out, because that was an expectation of her job. Chief Witkowski stated she would get time owed and she had been out to 9 or 10 already this year of different shootings and different sorts, so she was currently getting time owed and time and a half but she only got time owed and could not get paid because she was a civilian.

Mrs. DeMaegd congratulated not only the police department but the whole city for being able to have Ms. Gorney there to do this work and she could understand it was very tedious and time consuming and it took a lot of patience and they were so lucky to have her. Chief Witkowski stated they were very fortunate to have that caliber of a person with them.

Mr. Hixenbaugh stated he supported this and they were lucky to have her, as she provided a valuable addition to their resources. Mr. Hixenbaugh stated what he understood him to say that evening as well as in an earlier conversation that the two of them had was that this was not a replacement for the sworn officers who received special pay as a Major Crimes Technician and she supplemented and took care of other responsibilities to help them to operate more efficiently and asked if that was correct. Chief Witkowski stated that was exactly correct. Mr. Hixenbaugh asked, to clarify, if she received overtime compensation not in terms of dollars and cents but the city taking advantage of the flexibility they had as a governmental employer compensating her with additional paid time off which she then scheduled through the Police Department in lieu of receiving time and a half and overtime compensation. Chief Witkowski stated yes. Mr. Hixenbaugh asked if the stipend amount she would be receiving as anticipated in this proposed ordinance was equivalent to the extra duty pay that sworn officers received. Chief Witkowski stated that was correct and it was exactly the same as sworn officers. Mr. Hixenbaugh stated it sounded like they were lucky to have her and they had discussed it before, but he wanted to reiterate the Council's thanks to him and his department for reacting very quickly to the change in how major crime investigation was handled in St. Joseph County. Mr. Hixenbaugh stated as far as he could tell, they had not missed a beat even though they had to hire some people and do some things that they had not had to do in house in some time. Mr. Hixenbaugh congratulated him and his officers and civilian employees for being able to pull this off very seamlessly. Chief Witkowski thanked him very much.

Question was called for at 7:28PM for **PROPOSED ORDINANCE NO. 2023-20. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5844.**

PROPOSED ORDINANCE NO. 2023-21

**AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA, AUTHORIZING AN
INVESTMENT POLICY**

Authorizing an Investment Policy

Mr. Emmons reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Kayla Yoder, Deputy Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2023-21**. Mrs. Yoder stated she was requesting approval for three investment ordinances required by state statute. Mrs. Yoder stated the first one was this proposed ordinance, which authorized an investment policy for the city. Mrs. Yoder stated the policy set forth investment objectives in parameters for the management of public funds to provide a competitive return. Mrs. Yoder stated she was happy to answer any questions.

Mr. Hixenbaugh thanked Mrs. Yoder for the work that she and others did on this and it was a very comprehensive ordinance and it set out their strategy which was to be fiscally responsible, to be prudent and not to take on unnecessary risk but to look to maximize the return on their funds in the best interest of the community. Mr. Hixenbaugh thanked everyone involved in drafting not only this ordinance, but the other two companion ordinances as well.

Question was called for at 7:31PM for **PROPOSED ORDINANCE NO. 2023-21. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5845**.

PROPOSED ORDINANCE NO. 2023-22

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS**

PURSUANT TO INDIANA CODE 5-13-9-5.7

Authorizing the Investment of Public Funds

Mr. Banicki reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. Upon a second by Mrs. Voelker, the motion carried.

Kayla Yoder, Deputy Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2023-22**. Mrs. Yoder stated this ordinance allowed the investment of public funds for more than two years but not more than five years, commonly known as the Maturity Ordinance. Mrs. Yoder stated they rarely went longer than two years.

Question was called for at 7:33PM for **PROPOSED ORDINANCE NO. 2023-22. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5846.**

PROPOSED ORDINANCE NO. 2023-23

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO INDIANA CODE 5-13-9-5 Authorizing the Investment of Public Funds outside City Limits

Mrs. Voelker reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Kayla Yoder, Deputy Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2023-23.** Mrs. Yoder stated this ordinance required annual approval and allowed the city to purchase CDs from banks outside of the city limits. Mrs. Yoder stated they contracted with the Bank Advisory Arm of Baker Tilly who managed to bid in paperwork.

Question was called for at 7:35PM for **PROPOSED ORDINANCE NO. 2023-23. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5847.**

PRIVILEGE OF THE FLOOR

Larry Green and Kay Green, 1807 East Jefferson Boulevard, spoke under **PRIVILEGE OF THE FLOOR.** Mrs. Green stated she was born and raised in Mishawaka and she could not be more proud of the city and loved the city but she was raised in a time that your word was your bond and Jefferson was being widened they had meeting after meeting and finally decided what size they were going to make it and everything. Mrs. Green stated they were all promised it would stay a boulevard with no truck traffic and there were five signs on each of the road that said no trucks. Mrs. Green stated there used to be two signs on Capital that said you could not turn west on Jefferson, but when they were working on McKinley, they took those signs down temporarily which sent trucks down Jefferson and they were told as soon as it was fixed the signs would go back up but they never had gone back up and traffic got worse and worse. Mrs. Green stated the semis turned on Clover, which was a very small two-lane street and they had the choice when heading west to either go to the other lane to get on Clover or they would go up over the curb and the same way again when they were coming out. Mrs. Green stated they had five small children that lived across the street that were out and about all of the time up and down the sidewalk and this was an accident waiting to happen. Mrs. Green stated their mailbox had been taken down by the mirrors off the trucks when they turned the corner, they constantly had a hole out in front of their house when they turned and started to accelerate and what brought it all to a head was what happened three weeks ago when she was bringing the trash containers in, turned her back and got hit right in the middle of the back with concrete that was about as big as a baseball. Mrs. Green

stated they asked the police to come out and could not tell them how many times they asked them to look into patrolling their area. Mrs. Green stated as of now, they had patched the hole with black top but now there was a new hole with the concrete. Mrs. Green stated they had done petitions, talked to the Mayor and he asked them to get a list of all the trucks that were turning there as well as the names of the trucking companies and said they would send letters to the businesses on Clover Road, so they could tell their truck drivers not to go that way anymore but she did not know if that made any difference. Mrs. Green stated the only thing that was going to slow it down or stop it was the signs back on Capital Avenue that said you could not turn that way. Mrs. Green stated even if it was just for a week, if truckers started to get tickets on that stretch of road, they would immediately be telling other truckers to not go down Jefferson because they would receive that ticket and that was the only thing that would slow it down. Mrs. Green stated she did not want someone to get hurt and that was what would happen. Mrs. Green stated this was supposed to be a boulevard so she was asking the Council to do anything they could and they felt they had done everything they possibly could do to get it taken care of and they were not making any headway whatsoever. Mrs. Green thanked them very much. Mr. Green stated the easy solution to settle this was to get the signs back up on Capital turning east on Jefferson and they had no problems before. Mr. Green stated it seemed like when they took the sign down was when the troubles began. Mr. Green stated you were talking all hours of the night with trucks running right down in front of their home. Mr. Green complimented Tim Williams, who used to be on the Mishawaka Police Department. Mr. Green stated Lieutenant Williams would sit in his driveway and went out and gave tickets and also talked to a few of the truckers and they agreed to not come down Jefferson again. Mr. Green gave him all kinds of compliments for that because Mishawaka Police were there and they did act and they did help. Mr. Green thanked them for their time. Mr. Hixenbaugh stated they were all sorry to hear what they were dealing with and one immediate suggestion he made was once they concluded the meeting that evening, to talk to a couple of individuals who happened to be there that evening. Mr. Hixenbaugh stated Chief Witkowski could talk to them from a police standpoint, their Cooperation Counsel, Pat Hinkle, was also present and he was sure he'd be happy to speak with them about what he could add to the solution and then Ken Prince, who not only dealt with economic development but was the Deputy Mayor. Mr. Hixenbaugh stated none of those three gentlemen, as helpful as they could be, were the City Engineer but they all had a great body of knowledge and perhaps could help round out some semblance of a solution. Mr. Hixenbaugh stated hopefully some good could come of that conversation but they did appreciate the information they shared and opened up the floor for any questions or comments from the Council.

Mr. Mammolenti thanked them both for coming that evening and sharing their thoughts and asked how long the sign had been removed for. Mrs. Green stated the sign had probably been gone almost ten years. Mrs. Green stated she was talking to everyone trying to have it put back up but the state had to put it back up since it was on Capital and nobody could request it except the city and she did not know if it had been requested or not. Mrs. Green stated they asked about it many times and the trucker probably had turned and did not realize it until they turned but it was the same truckers over and over. Mrs. Green stated it was all of the time. Mr. Mammolenti asked how long they had resided at the property. Mrs. Green stated 21 years. Mr. Mammolenti asked if she recalled this ever being an issue prior to the sign being removed. Mrs. Green stated it had been somewhat of an issue ever since they widened the street, but it was reasonable and it was not like how it was now. Mrs. Green stated now it was just one after another. Mr. Mammolenti asked once they turned if there

were signs on the side of the road. Mrs. Green stated there were five signs on each side of the street stating no trucks.

Mr. Compton thanked Mrs. Green for calling him and speaking to him personally and it was nice to see her in person. Mr. Compton stated he sent an email to the Head of Engineering and she clarified that there were six signs and they were the maximum size they could be, but they were after the turn. Mr. Compton reiterated what their Council President said because as she stated, the state had to take care of the signs on Capital and Mishawaka was not responsible for putting them there nor could they. Mr. Compton stated Mr. Prince and Mr. Hinkle both had the Mayor's ear and both of them could assist in requesting from the state that this be better labeled and directed at that intersection. Mr. Compton stated other than that, human nature was what it was and he was not condoning what was happening but it was what it was and that was where Chief Witkowski could maybe help with that a little bit if once in a while, they could have someone watching for truck traffic in there. Mr. Compton stated if some of the key repeat offenders and their company gets word and maybe letters needed to be sent again, something a little stronger, to solve this. Mr. Compton stated he was making all of these suggestions to give the people they would talk to that evening an idea of what he was thinking about and some assistance that they could help them with. Mr. Compton stated he would appreciate that and appreciated both for being there that evening. Mrs. Green stated she worried mostly about the kids and they had a lot of kids in that neighborhood and it was a very dangerous situation coming on and off of that road. Mr. Compton stated they ran into this where they had residential and industrial neighborhoods bumping into each other, especially on a busy street like Jefferson. Mr. Compton stated they had it on Elder Road, Home Street, Currant Road, etc. where it was somewhat industrial and deliveries needed to be made. Mr. Compton stated it was just that they needed to follow the rules and have a safe route in and out for everyone. Mrs. Green stated they were all accessible off of McKinley and that was the assigned route. Mr. Compton stated he understood and thanked them again.

Mr. Green stated he was a longtime resident of Mishawaka, 80 years he had been there and 79 for his wife. Mr. Green stated he had one more request in which when you were turning going south on the bypass and you turned on Jefferson, they put up a sign that said Jefferson Street and still a Boulevard. Mr. Green thanked them. Mr. Hixenbaugh stated that was dually noted and thanked him.

Mr. Mammolenti made a comment for having worked with several truck drives in the past 10 to 15 years and stated he thought that a sign up there would deter it very, very much. Mr. Mammolenti stated he would like to see, as everyone else here would, something done as quickly as possible because those truck drivers were trained to look at signs before they turned and he would say 99% of them if they saw that sign, would not turn when they knew the truck route was on McKinley. Mr. Mammolenti stated anything that could be done as quickly as possible would be greatly appreciated.

Mr. Hixenbaugh stated his sense of it was that if they city were to engage in an effort to try to lobby the powers that be in the state, that the Council would be happy to assist and partner with the administration in that effort. Mr. Hixenbaugh stated clearly this was an issue that needed to be addressed, probably in other locations as well but if they could try to address this one and if they could let them know what it was they could do to help, they would be happy to be of assistance.

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2023-10

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA AMENDING
TITLE III, CHAPTER 34 OF THE
MISHAWAKA MUNICIPAL CODE
Amending the Municipal Code Personnel Policies – Call to Active Military Duty
AMENDMENT REQUESTED**

The chair entertained a motion to delete the proposed ordinance in its entirety and replace it with an amended ordinance that had been distributed to the Council from the Clerk's Office. The motion was made and seconded, thus a voice vote was held. The motion passed unanimously and the committee report was read.

Mr. Compton reported the Committee of Personnel recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Ken Witkowski, Chief of the Mishawaka Police Department, spoke in favor of **PROPOSED ORDINANCE NO. 2023-10AA**. Chief Witkowski stated Susan Kile did the research on this and the backlog and how they got to where they were that day and they found out that it started back in 1973 under Mayor Bob Beutter back then. Chief Witkowski stated it was updated in 1989 and in 2007 again with the first one in '89 talking about allowing up to 15 days annually and then the others were vaguer how he read them, but they mentioned 30 days of paid leave beyond deployment, so that was why he was in favor of the new one. Chief Witkowski stated it spelt it out to the T on how they should operate to do this military pay and actually it was exactly how they had been done it for quite a few years. Chief Witkowski stated he spoke to a retired officer earlier in the day who was hired in 1998 and he was a military guy and when he questioned him about how he was paid, there was no question about the long-term deployment with it being put in by federal law, he confirmed that the summer was two weekends and then the weekend once a month was when he was not being compensated extra, but was allowed to take that time to go on military leave. Chief Witkowski stated of course if it was his off day, he would not receive anything except the military pay but he was allowed by the city to leave work and attend the training. Chief Witkowski stated he liked it and of course the all knew the military and the veterans but you could not see much what they did and they protected this country and he would be the first to say that he could not commend them not only for the work they did for public safety but then they went and did this also. Chief Witkowski stated they had several ones in Mishawaka's Police Department who had been deployed to Iraq and a female officer who had been to Afghanistan he believed twice. Chief Witkowski stated in past practice, they had been doing this way but this was just a better way of describing it with the new ordinance and he liked how it would be moving forward so there would be no questions. Chief Witkowski stated they started a VCS software back in 2017, so even back then it was stated on there that there was a block where you checked for if it was a military day. Chief Witkowski stated other agencies in the area had done it and they stayed even with other agencies around the county and the state for recruiting purposes. Chief Witkowski thanked the Council.

Mr. Hazen wanted to be cleared and stated the old ordinance said that they would pay them the difference between the military pay and what they made as a police officer and an employee of the city and if that was correct. Chief Witkowski stated that was for the long term, yes and that had never changed. Chief Witkowski stated with the long term, you balanced between the military pay and the city pay and that person got the higher of the two or you figured out what they were owed or what they owed the city. Mr. Hazen asked if they got called in for active duty over the two week stay then that was when that kicked in. Chief Witkowski stated yes that was when that would kick in. Mr. Hazen stated he went back and looked for all of the ordinances and he could not find anything and asked in '73, '89 and in '07 if they were policies. Chief Witkowski stated it was **ORDINANCE NO. 3339 or PROPOSED ORDINANCE 89-107** was the first one they found. Mr. Hazen asked if they were deleting **ORDINANCE NO. 4631** or if they were deleting **ORDINANCE NO. 3339**. Mr. Hixenbaugh stated as a point of clarification, in section 1, this indicated that they were amending and deleting **ORDINANCE NO. 4631**. Mr. Hixenbaugh stated ordinance number aside, their current existing ordinance with regard to military leave pay was being amended. Mr. Hixenbaugh stated the action they were taking earlier was just to get to the heart of this amendment and if you looked at what was originally proposed by the Chief and Human Resources, it had some language that through the work of the Personnel Committee, Mr. Compton, Mr. Bellovich and himself, they came up with what they thought was a better set of phrases that governed what the terms were going to be of this short term military leave pay and it was, in essence, just one paragraph in the ordinance, section two sub paragraph four that had been changed to reflect that when those on reserve or guard status were called to their two week annual training requirement or their one weekend a month that if they were scheduled to work, they would not only receive civilian pay or what they would have received from the city but they also would receive the military pay unlike those long term deployments where there was that offset. Mr. Hixenbaugh stated it was not that case in the short term and this was very consistent, as they discussed as a group, with some case law that came out of the Seventh Circuit Court of Appeals that governed Indiana and themselves which obligated employers to look at the shorter term leaves as being equivalent to other banks of short term leave pay that was provided to employees, so the safest and most compliant thing for them to do as a community was to provide this type of pay. Mr. Hixenbaugh stated the existing language that was in that original ordinance was maintained and the only thing that his amendment would do was change that one single paragraph with regard to those short term leave periods and the pay that employees would receive if they had to miss work because they were on reserve or guard status. Mr. Hazen stated he definitely understood that and the problem he had with this was he never saw where it said they could pay this way back to whenever it was started so he did not know how they paid that. Mr. Hazen asked if this body did not pass some function or policy to pay that way, then how were they paying that way. Chief Witkowski stated originally in '89, it started with the body here and they had been doing it all along and he was not sure he had that answer but when he came on they were doing it that way and in '98 they were doing it. Chief Witkowski stated as far as he could follow it through, there was mention of 30 days of pay beyond the deployment and there was language in there way back before him and he just knew in the time he had been there, they were doing it. Mr. Hazen stated what he was trying to say was he was there before Chief Witkowski and he did not remember being paid this way and he could not find anywhere where it stated they were being paid this way in an ordinance or a policy. Mr. Hazen stated he wish he could have seen that before that evening and he was all for it as it was a great thing to do, but he just wanted to make sure that everybody knew that they could not just

switch it and that they could pay a certain way without going before the Council. Chief Witkowski stated he could totally understand that and that was not the case with him, because this was in the works before he took the Chief's position. Mr. Hazen thanked Chief Witkowski.

Mr. Compton stated in their discussion what he drew out of it was this was something they had been doing, right or wrong and he agreed with Mr. Hazen in that it was probably wrong to do so without the Council's approval, but this was what they had been doing, right, wrong or indifferent. Mr. Compton stated there was some question about that and that was what brought it to that point in which they did not really have it in writing like it should be, so they decided, as a committee, that it would be best to add a little language to cover this. Mr. Compton agreed with Mr. Hazen and it sounded like it was never really in writing and it should have been and approved before the Council, but now they were trying to fix it going forward and asked if that was what he was saying. Chief Witkowski stated he totally agreed and until that glitch or whatever they called it came up, they had been moving along doing this. Chief Witkowski stated there was language back in '89 mentioning 15 days of annual leave, so there was language there but it was not as descriptive as it should have been to how they dealt with it now. Mr. Compton thanked Chief Witkowski.

Mr. Hixenbaugh thanked Chief Witkowski for the work he had done on this and thanked Susan Kile, from Human Resources, Becky Maguire, the Controller, and Mr. Bellovich and Mr. Compton for their work on this as well. Mr. Hixenbaugh stated although he was there speaking for obvious reasons and maybe perhaps not so obvious, his recollection was that at present, they had six city employees who were subject to the reserve and guard status and five of them were police officers. Mr. Hixenbaugh asked if that were correct. Chief Witkowski stated yes and he had five. Mr. Hixenbaugh stated whatever the total number was, this ordinance governed all city employees and their compensation and it was not strictly a public safety ordinance per se and asked if he agreed with him on that. Chief Witkowski stated he did. Mr. Hixenbaugh echoed Mr. Compton and Mr. Hazen's comments in saying that he believed it was always appropriate for these type of compensatory items to either be memorialized in an ordinance or in a collective bargaining agreement and they had multiple units they bargained with, including his officers, that also would have been a fine place for the language to have been crystal clear and have been embedded so he was glad they were clarifying that now and he appreciated him pushing this issue forward so that they were making the clarification, but moving forward he thought they were all in agreement that it either needed to be clear cut in an ordinance or it needed to be clear cut in the collective bargaining agreement or both so they had good paper trail for them to refer to with regard to how they were compensating their employees. Chief Witkowski stated he could see that being added to the contract and he did not think there would be any issue. Mr. Hixenbaugh thanked him again for the information on the work he did on this.

Question was called for at 8:06PM for **PROPOSED ORDINANCE NO. 2023-10AA. Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5848.**

ADJOURNMENT 8:06PM

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

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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

April 12, 2023

Deborah S. Block, AMC, MMC

APR 19 2023

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
April 11, 2023, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above date at which time the following Use Variance was considered:

APPEAL #23-08 A request submitted by Nate Zolman/Zolman Tire requesting a Use Variance to allow automobile repair in the I-1 Light Industrial District **on property east of and adjacent to 2014 E McKinley Avenue.**

The Board, with a vote of 5-0, recommended approval.

Respectfully,

A handwritten signature in cursive script, appearing to read "Christa Hill".

Christa Hill, Senior Planner
Interim Secretary, Board of Zoning Appeals

Deborah S. Block, IAMC, MMC

JUN 27 2023

City Clerk
Mishawaka, IN

Pet 23-15

Received

JUN 16 2023

Planning and
Community Development

Date: 6/21/2023

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

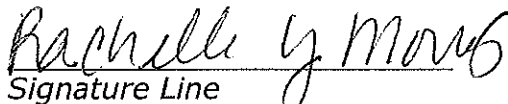
Re: Petition for Vacation of Public Right of Way

The undersigned RACHELLE Y MORRIS 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:

The first east/west alley north of East Marion Street, starting at Christyann Street, then west approximately 110' to the first north/south alley.

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.



Signature Line
RACHELLE Y MORRIS
1113 Christyann

CONTACT PERSON: Nathan Sherman
NAME
ADDRESS - 234 E Marion St
PHONE NUMBER - 574-3607105
EMAIL - Nathan.Sherman89@gmail.com

Pet 23-15

Received

JUN 16 2023

Planning and
Community Development

Date: 6/21/2023

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

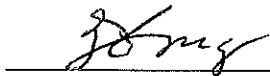
Re: Petition for Vacation of Public Right of Way

The undersigned GARY AND LINDA KING 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:

The first east/west alley north of East Marion Street, starting at Christyann Street, then west approximately 110' to the first north/south alley.

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.



Signature Line
GARY KING
230 E Marion



Signature Line
LINDA KING
230 E Marion

CONTACT PERSON:

NAME - Nathan Sherman
ADDRESS - 234 E Marion St
PHONE NUMBER - 574-360-7105
EMAIL - Nathan.sherman89@gmail.com

Pet 23-15

Received

JUN 16 2023

Planning and
Community Development

Date: 6/21/2023

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

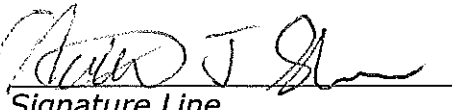
Re: Petition for Vacation of Public Right of Way

The undersigned NATHAN J SHERMAN AND TODD LANGE 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:

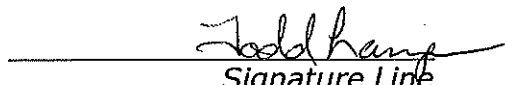
The first east/west alley north of East Marion Street, starting at Christyann Street, then west approximately 110' to the first north/south alley.

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.

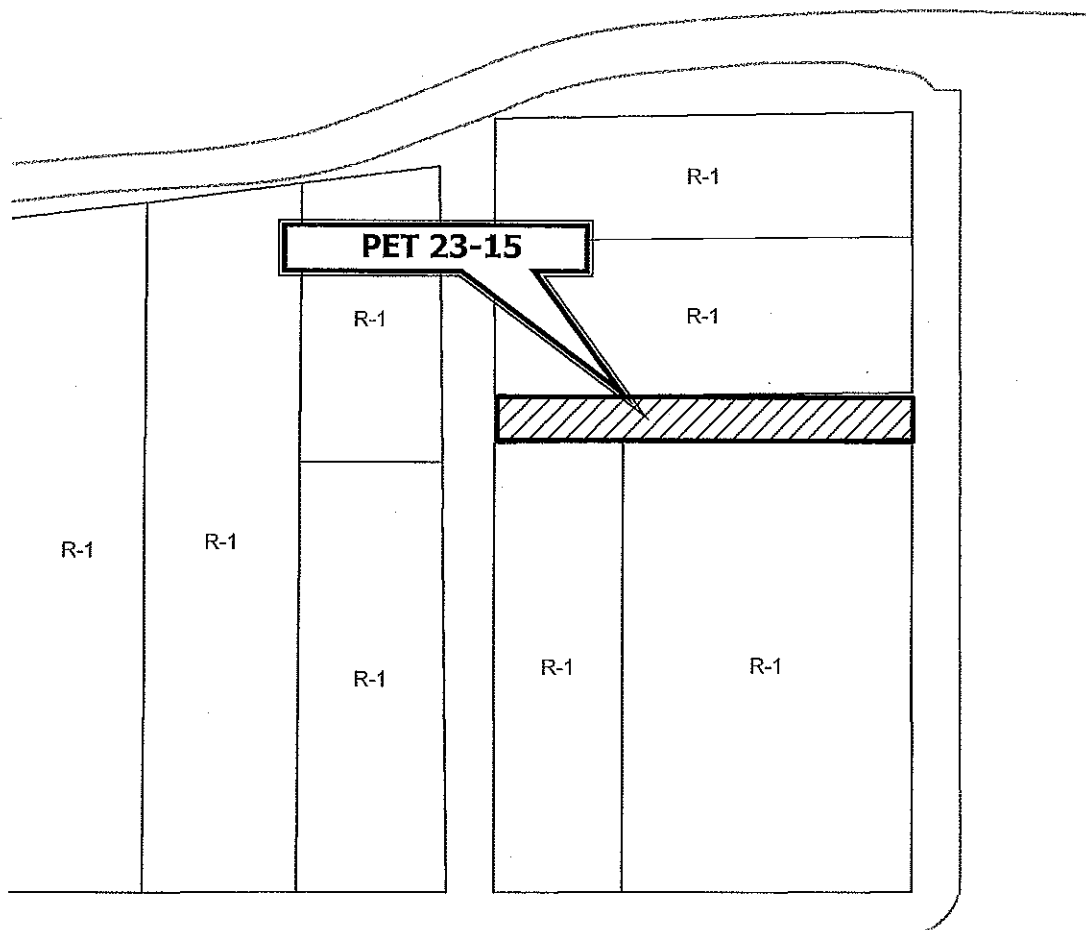


Signature Line
NATHAN J SHERMAN
234 E Marion

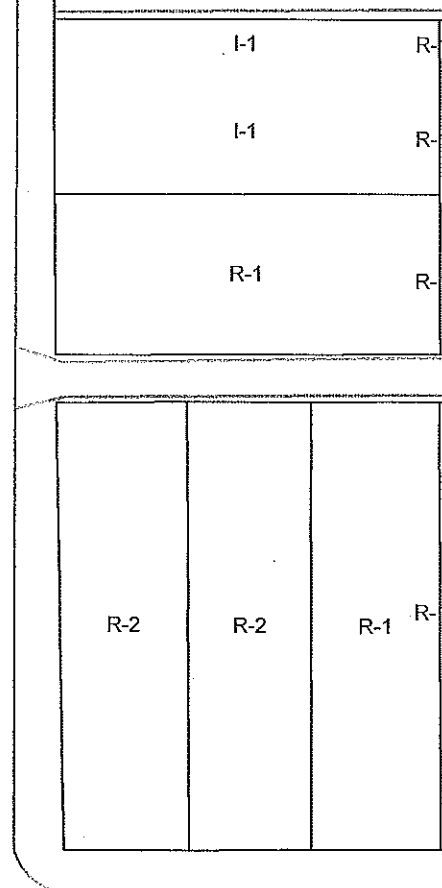


Signature Line
TODD LANGE
234 E Marion

CONTACT PERSON: - Nathan Sherman
NAME
ADDRESS - 234 E Marion St
PHONE NUMBER - 574 8-360-7105
EMAIL - Nathan.Sherman89@gmail.com



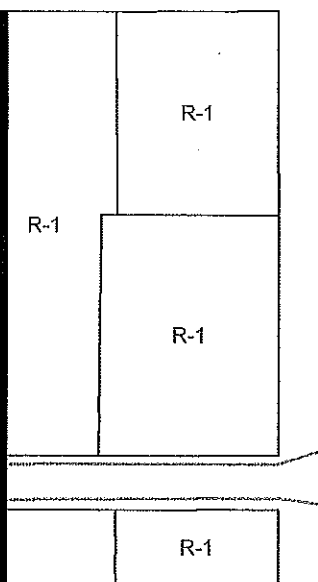
E MARION ST



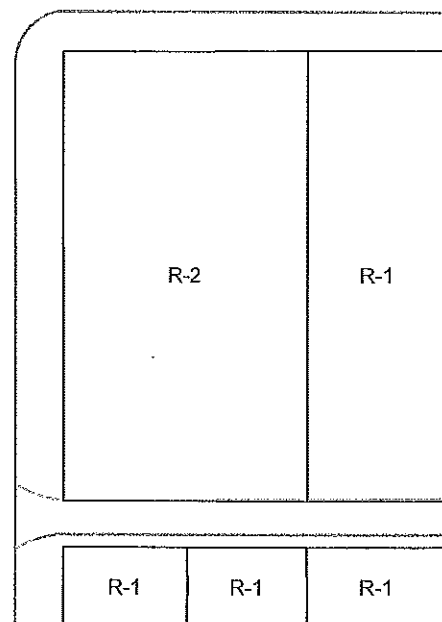
PET 23-15

NATHON J SHERMAN & TODD LANGE
(OWNERS OF 234 E MARION)
RACHELLE Y MORRIS
(OWNER OF 1113 CHRISTYANN)
GARY & LINDA KING
(OWNERS OF 230 E MARION)

RIGHT-OF-WAY VACATION FOR
THE FIRST EAST/WEST ALLEY
NORTH OF EAST MARION STREET,
STARTING AT CHRISTYANN STREET,
THEN WEST APPROXIMATELY 110'
TO THE FIRST NORTH/SOUTH ALLEY



CHRISTYANN ST



202309.03

June 15, 2023

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

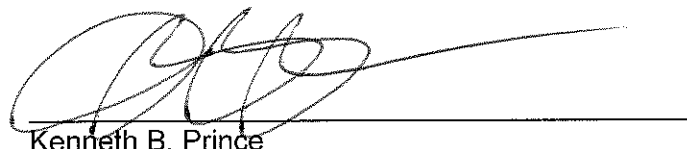
CHRISTOPHER J. JETER, PE
DAN G. DELGADO, PE
JARED M. HUSS, PE
AARON W. BLANK, PS, PE
KEVIN J. SIEDLECKI, PE
CHRISTOPHER M. VANHULLE, PE
MICHELLE M.G. SLACK, PS
DMITRI G. ADAMS, PE
AMANDA R. BUDREAU, PE
JOSEPH D. DUNBAR, PE
PAULIN HAKIZIMANA, PE, PTOE
MARK H. FOSTER, PE
EASA KHAN, PhD, PE, PMP, PTOE
BLAKE R. WARNER, PE
REBECCA L. DUNBAR, PS, EI
DAVID J. TEGGELAAR, PE

Re: Petition for Vacation of Public Right of Way

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

That part of Front Street (not improved as a street) between the east side of Church Street / Main Street Connector and the St. Joseph River Raceway, more particularly described as adjoining the south side of Lots 1 through 7 of M.W. Stokes Survey of Mishawaka and adjoining the north side of Lot 1 in Village of St. Joseph Iron Works. All adjoining property is owned by the City of Mishawaka or Church 200, LLC and shown on the attached exhibit.

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 vacating the above described right of way located in the City of Mishawaka.



Kenneth B. Prince
City of Mishawaka
Executive Director of Planning and Community Development

PET 23-16
Received

JUN 21 2023

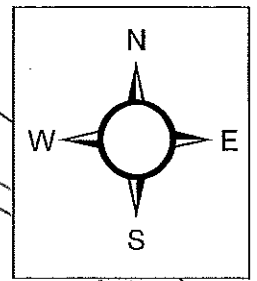
Planning and
Community Development

Deborah S. Block, AMC, MMC

JUN 27 2023

City Clerk
Mishawaka, IN

Contact Person:
Aaron W. Blank, PS, PE
Lawson-Fisher Associates P.C.
ablank@lawson-fisher.com



W FRONT ST

PET 23-16

N CHURCH ST

N MAIN ST

E FIRST ST

Location Map

PET 23-16

CITY OF MISHAWAKA
(PETITIONER)

RIGHT-OF-WAY VACATION FOR
THAT PART OF FRONT STREET (NOT IMPROVED)
BETWEEN THE EAST SIDE OF CHURCH STREET/
MAIN STREET CONNECTOR AND
THE ST. JOSEPH RIVER RACEWAY

6/20/2023

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

PET 23-17
Received
JUN 21 2023
Planning and
Community Development

RE: PETITION TO REZONE

The undersigned Jilann S. Shultz respectfully shows she is the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Lots 4 & 5 of Beiger Farm 1st Addition
1644 Lincolnway East, Mishawaka, IN 46544

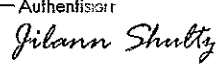
Petitioner(s) own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of C1 District. Said property was previously used as commercial office space.

Petitioner(s) desire said real estate to be rezoned to C6 District. Petitioner(s) further state that said property is intended to be utilized by contingent buyer Cecelia Brown as a medical spa as well as a residential unit.

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.

Signature(s) of Property Owner(s)
Jilann S. Shultz

Signature(s) of Property Owner(s)

Authentisign

06/20/2023
6/20/2023 4:11:15 PM CDT

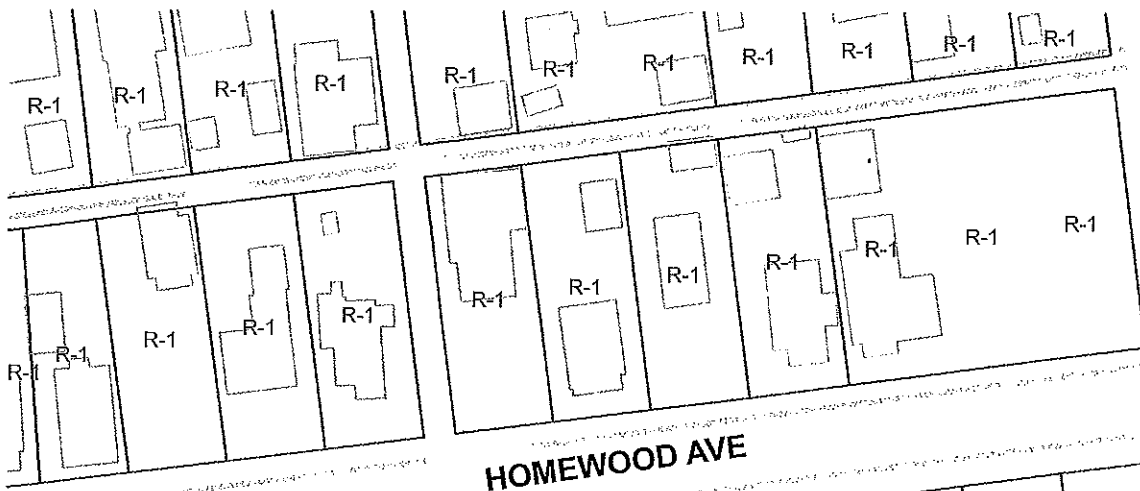
CONTACT PERSON:

NAME Cecelia Brown
ADDRESS 56827 Sundown Rd. South Bend, IN 46619
PHONE NUMBER 727-543-0260
FAX
EMAIL monatmyday@yahoo.com

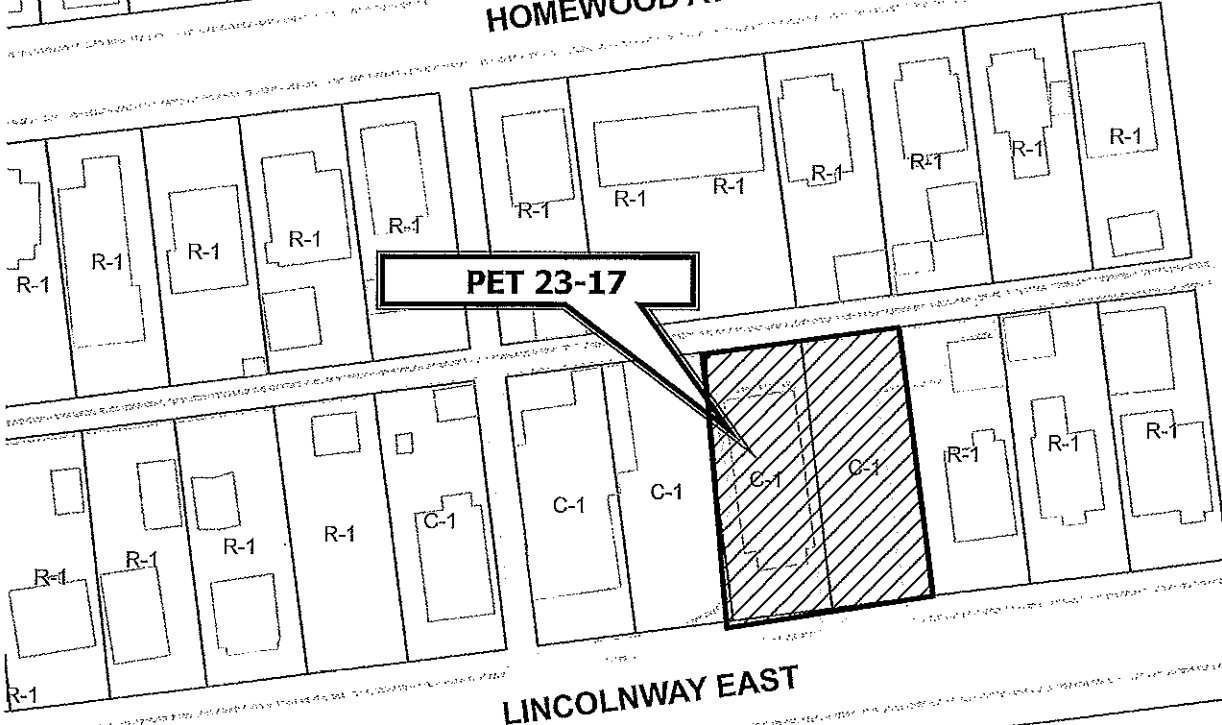
Deborah S. Block, MMC, MMC

JUN 27 2023

City Clerk
Mishawaka, IN

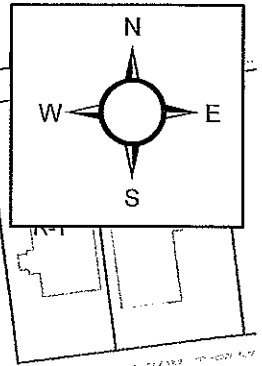


HOMEWOOD AVE

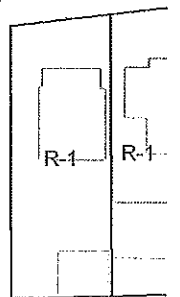
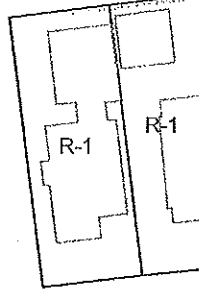
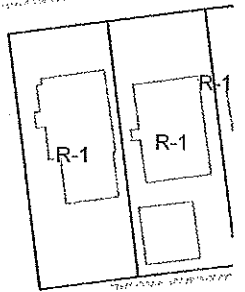


PET 23-17

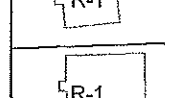
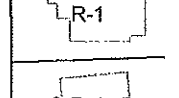
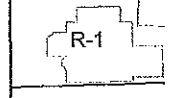
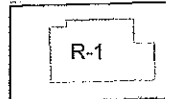
LINCOLNWAY EAST



N BEIGER ST



S BEIGER ST



Location Map

PET 23-17

OWNER: JILANN SHULTZ
CONTINGENT PURCHASER:
CECILA BROWN

LOCATION: 1644 LINCOLNWAY EAST

REZONE FROM
C-1 GENERAL COMMERCIAL TO
C-6 LINERA OFFICE COMMERCIAL
TO PERMIT A RESIDENTIAL UNIT

APPEAL #23-08

RESOLUTION NO. 2023-15

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

East of and adjacent to 2014 E McKinley Ave, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located **east of and adjacent to 2014 E McKinley Ave, d, Mishawaka, Indiana**, more particularly known and described as follows:

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING ALL THAT TRACT OF LAND CONVEYED TO ZOLMAN TIRE, INC. AS DESCRIBED IN INSTRUMENT NUMBER 1432198, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS IN THIS DESCRIPTION ARE BASED ON INDIANA STATE PLANE COORDINATES-EAST ZONE, GPS DERIVED)

COMMENCING AT A 1" STEEL BAR IN CONCRETE MARKING THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 59' 57" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 1,993.97 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO STATE OF INDIANA AS DESCRIBED IN INSTRUMENT NUMBER 0527134, ST. JOSEPH COUNTY RECORDER; THENCE CONTINUING NORTH 89° 59' 57" WEST, ALONG SAID SOUTH LINE, 285.94 FEET TO THE SOUTHWEST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 00° 14' 51" WEST, ALONG THE WEST LINE OF SAID STATE OF INDIANA LAND, 49.21 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE SOUTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND AND BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00° 14' 51" WEST, ALONG THE EAST LINE OF A TRACT OF LAND CONVEYED TO BEPA, LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1808927, ST. JOSEPH COUNTY RECORDER, AND SAID LINE EXTENDED, 378.09 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE

NORTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND; THENCE SOUTH 89° 59' 57" EAST, ALONG THE NORTH LINE OF SAID ZOLMAN TIRE, INC. LAND, 285.94 FEET TO A 3/4 INCH IRON PIPE MARKING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO MICHIANA MANAGEMENT LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1800769, PARCEL III, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE WEST LINE OF SAID MICHIANA MANAGEMENT LLC LAND, 371.53 FEET TO A CAPPED IRON ("LANG FEENEY AND ASSOCIATES") MARKING THE NORTHEAST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 21.54 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE NORTHERLY LINE OF SAID STATE OF INDIANA LAND, 6.56 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 264.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.48 ACRES, MORE OR LESS, AND SUBJECT TO ALL COVENANTS, RIGHTS OF WAY, AND EASEMENTS OF RECORD. (DESCRIPTION PREPARED BY HANS P. MUSSER, INDIANA PROFESSIONAL SURVEYOR NO. LS29700002 FOR AN ALTA SURVEY CERTIFIED MARCH 15, 2023; ABONMARCHE PROJECT NUMBER 23-0101).

The Use Variance will to allow the expansion of an adjacent automobile service and repair business, and commercial vehicle/semi-truck service facility in the I-1 Light Industrial District.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

1. The use of the temporary asphalt and gravel parking areas for semi-trucks and trailers shall be limited to not more than 5 years.
2. Other than parking of semi-trucks and trailers, no other outside storage, including but not limited to automobile parts or vehicles in various states of disrepair, or storage containers, shall be permitted on the property.
3. If a building is not constructed within a 5 year period, the gravel parking areas shall be reverted back to green space.
4. An Administrative Site Plan shall be submitted for review and approval consistent with the preliminary site plan.

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed use of the property is similar in context to several businesses in the area and will permit the planned phased expansion of the adjacent uses operating for over 10-15 years. Improvements to the site, as conceptually shown on the preliminary site plan, will include permanent hard surfaced access drives and parking areas, stormwater drainage improvements and retention basins, temporary asphalt and gravel parking areas, and landscaping and fencing. The

proposed investment in the property is significant and will likely have a positive impact on surrounding properties.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Similar uses are currently adjacent to and in close proximity to the site. The unpaved parking areas will be limited in use to not more than a 5 year period. The proposed 6' high screening fence and landscaping should adequately screen the adjacent residential properties.
3. The need for the use variance arises from some condition peculiar to the property in that the proposed I-1 Light Industrial zoning does not allow for the expansion of the adjacent uses. Use variances were previously approved for the adjacent industrial zoned properties to the west. These properties are currently occupied by the appellant's automobile service and repair business, and commercial vehicle/semi-truck service facility.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought and result in practical difficulties in the use of the property. The use variance will permit the expansion of the adjacent appellant-owned business operations. Requiring permanent hard surfaced parking areas within the northern part of the property is not desired or necessary at this time based on future developmental plans. An additional building is planned for construction within part of the temporary unpaved parking area. Requiring a 7' high screening fence would cause an undue financial burden as it would be a custom fence.
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The plan, created in 1990, guided commercial and industrial development along E. McKinley Avenue between Elder Road and Fir Road/N. Byrkit Avenue.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

RESOLUTION #2023-07

4325 Grape Road

Page 4 of 4

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

April 12, 2023

Deborah S. Block, MMC, MMC

APR 19 2023

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
April 11, 2023, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above date at which time the following Use Variance was considered:

APPEAL #23-08 A request submitted by Nate Zolman/Zolman Tire requesting a Use Variance to allow automobile repair in the I-1 Light Industrial District **on property east of and adjacent to 2014 E McKinley Avenue.**

The Board, with a vote of 5-0, recommended approval.

Respectfully,

A handwritten signature in blue ink that reads "Christa Hill".

Christa Hill, Senior Planner
Interim Secretary, Board of Zoning Appeals

STAFF REPORT

Location: North of E. McKinley Avenue & East of N. Home Street

Date: April 11, 2023

Appeal: 23 -08

Prepared By: DJS

GENERAL INFORMATION

Applicant: Zolman Tire Inc. / Abonmarche Consultants, Inc.

Status: Property Owner / Surveyor, Engineer & Site Design Consultant

Request: Use variance to allow for the expansion of an adjacent automobile service and repair business, and commercial vehicle/semi-truck service facility; and developmental variances to allow temporary parking on an unpaved gravel surface and a 6' high screening fence instead of the required 7' high fence

Zoning Classification: I-1 Light Industrial (Pending Petition 23-07)

Lot Size: 2.47 acres

Applicable Regulations: Section 137-42 / (4) Board of Zoning Appeals – Use Variance; Section 137-42 / (5) Board of Zoning Appeals – Developmental Variance; Section 137-585 to 137-587 / I-1 Light Industrial District

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County – R Single Family District (Residential)
South: R-1 Single-Family Residential (Residential)
East: Unincorporated St. Joseph County – R Single Family District (Residential) & R-1 Single-Family Residential (Residential)
West: I-1 Light Industrial (Auto Service & Repair / Zolman Tire & Auto Care, and Commercial Vehicle & Semi-Truck Repair / Best One Fleet Services owned and operated by Zolman's)

Thoroughfare: E. McKinley Avenue & N. Home Street

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the owner's expense

Comprehensive Plan: Industrial

ANALYSIS

The appellant, Zolman Tire Inc., is requesting a use variance to allow for the expansion of an adjacent automobile service and repair business, and commercial vehicle/semi-truck service facility; and

developmental variances to allow temporary parking on an unpaved gravel surface and a 6' high screening fence instead of the required 7' high fence.

The 2.47 acre site, which includes two separate parcels (Tax Parcels 014-1018-0219.01 and 027-1001-0536), is located on the north side of E. McKinley Avenue approximately 300' east of N. Home Street. The adjacent properties to the west are also owned by the appellant and occupied by Zolman Tire & Auto Care (2014 E. McKinley Avenue), and Best One Fleet Services (2356 N. Home Street).

Late last year, a majority of the property was cleared of vegetation and backfilled. The northern 1.82 acre parcel is located in unincorporated St. Joseph County. The southern 0.65 acre parcel fronting E. McKinley Avenue is within the city limits and zoned R-1 Single-Family Residential. Both parcels are currently being used as a large unpaved parking area for semi-trucks and trailers. The zoning ordinance does not allow commercial vehicle parking on any unpaved or gravel surfaces or within the R-1 District. Once Planning Staff became aware of the non-conforming use of the property and that the northern parcel was still in unincorporated St. Joseph County, a letter was sent to the owner requesting that an annexation and zoning/rezoning petition be filed to bring the northern parcel into the city, and use variance appeal be filed to allow the expansion of the uses from the adjacent properties.

An annexation and zoning/rezoning petition (PET 23-07) was filed concurrent with the variance appeal and will zone both parcels to the I-1 Light Industrial District. Automobile service and repair, which is a C-4 Automobile Oriented Commercial use, and heavy commercial vehicle/semi-truck service, which is an I-2 Heavy Industrial use, are not permitted uses in the I-1 District. Rezoning to either of these zoning classifications is not desired as it would allow for several permitted uses that would not be appropriate for the property. Planning Staff instructed that the I-1 Light Industrial zoning and use variance be requested to mirror the existing zoning and previous approved use variances for the two adjacent appellant-owned properties. Use variances for the Zolman Tire & Auto Care, and Best One Fleet Services facilities were approved in 2007 (AP 07-11) and 2012 (AP 12-14), respectively.

The Developmental Variances are to allow for temporary parking on an unpaved gravel surface on the northern part of the site and a 6' high opaque fence instead of the 7' height requirement along the north and east property lines adjacent to residentially zoned properties. Planning Staff is recommending that the use of the temporary asphalt and gravel parking areas for semi-trucks and trailers be limited to not more than 5 years. Other than parking of semi-trucks and trailers, no other outside storage, including but not limited to automobile parts or vehicles in various states of disrepair, or storage containers, shall be permitted on the property. The height reduction for the required screening fence to 6' is being requested as a 7' high opaque fence would be a custom ordered fence. A 6' high fence together with the required solid row of 7' high shrubs or trees should provide adequate screening for the adjacent residential properties.

A preliminary site plan showing all proposed improvements is attached. The first phase of the development will include permanent hard surfaced access drives and parking areas, stormwater drainage improvements and retention basins, temporary asphalt and gravel parking areas, and landscaping and fencing. The appellant anticipates that a second phase will include the construction of a new building shown as the hatched area on the preliminary site plan. Planning Staff supports the use of the temporary asphalt and gravel parking areas with the understanding that the building will be constructed within a 5 year period. If the building is not constructed within this period, the temporary parking areas must be reverted back to green space. Once the building is constructed, no parking on unpaved surfaces shall be permitted within the northern part of the property. If parking is desired in this area, it must be on a paved concrete or asphalt surface.

If approved, a detailed final site plan for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/ screening, grading, erosion control, and any other required improvements.

The Engineering Department commented that the temporary gravel area shall be stabilized, and temporarily used with the understanding that the area will be developed within 5 years or reverted back to green space.

All other pertinent City departments have reviewed and approved the use and developmental variance requests.

RECOMMENDATION

The Planning Staff recommends approval of Appeal 23-08 for a Use Variance to allow for the expansion of an adjacent automobile service and repair business, and commercial vehicle/semi-truck service facility subject to the following conditions:

1. The use of the temporary asphalt and gravel parking areas for semi-trucks and trailers shall be limited to not more than 5 years.
2. Other than parking of semi-trucks and trailers, no other outside storage, including but not limited to automobile parts or vehicles in various states of disrepair, or storage containers, shall be permitted on the property.
3. If a building is not constructed within a 5 year period, the gravel parking areas shall be reverted back to green space.
4. An Administrative Site Plan shall be submitted for review and approval consistent with the preliminary site plan.

The Planning Staff recommends approval of Appeal 23-08 for Developmental Variances to allow temporary parking on an unpaved gravel surface and a 6' high screening fence instead of the required 7' high fence along the north and east property lines.

These recommendations are based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community. The proposed use of the property is similar in context to several businesses in the area and will permit the planned phased expansion of the adjacent uses operating for over 10-15 years. Improvements to the site, as conceptually shown on the preliminary site plan, will include permanent hard surfaced access drives and parking areas, stormwater drainage improvements and retention basins, temporary asphalt and gravel parking areas, and landscaping and fencing. The proposed investment in the property is significant and will likely have a positive impact on surrounding properties.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Similar uses are currently adjacent to and in close proximity to the site. The unpaved parking areas will be limited in use to not more than a 5 year period. The proposed 6' high screening fence and landscaping should adequately screen the adjacent residential properties.
3. The need for the use variance arises from some condition peculiar to the property in that the proposed I-1 Light Industrial zoning does not allow for the expansion of the adjacent uses. Use variances were previously approved for the adjacent industrial zoned properties to the west. These properties are currently occupied by the appellant's automobile service and repair business, and commercial vehicle/semi-truck service facility.
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought and result in practical difficulties in the use of the property. The use variance will permit the expansion of the adjacent appellant-owned business operations. Requiring permanent hard surfaced parking areas within the northern part of the property is not desired or necessary at this time based on future developmental plans. An additional building is planned for construction within part of the temporary unpaved parking area. Requiring a 7' high screening fence would cause an undue financial burden as it would be a custom fence.
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The plan, created in 1990, guided commercial and industrial development along E. McKinley Avenue between Elder Road and Fir Road/N. Byrkit Avenue.

ATTACHMENTS

Aerial Map, Photographs, Appeal, Preliminary Site Plan, and Location Map





P1. Looking northeasterly from the E. McKinley Ave. & N. Home Street intersection toward Zolman Tire and Auto Care west of annexation/rezoning area.



P2. Looking northerly from E. McKinley Avenue toward the adjacent Zolman property and expanded parking area. Trailers can be seen on the cleared/unpaved annexation area.



P3. Looking northerly from E. McKinley Avenue toward the expanded unpaved parking area.



P4. Looking northerly from E. McKinley Avenue toward the eastern part of the expanded unpaved parking area.



P5. Looking easterly from N. Home Street toward Zolman Tire & Auto Care to the south and Best Fleet One Services to the north.

DATE: March 22, 2023

TO: Honorable Members of the Board of Zoning Appeals
City of Mishawaka, Indiana

FROM: Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 360-9804
sruby@abonmarhce.com

AP 23-08
Received
MAR 22 2023
Planning and
Community Development

RE: Petition for Use / Development Variance – 2014 E. McKinley Ave. Mishawaka, IN

The undersigned **Nate Zolman, Zolman Tire, Inc.** respectfully show they are 100% the owners of the following described real estate located in Penn Township, County of St. Joseph, State of Indiana, to-wit:

PROVIDED LEGAL DESCRIPTION: (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

(See Attached Legal)

The current property residing in St. Joseph County is currently zoned as R single Family and is planned to be rezoned to I-1 Light Industrial once annexed into the City of Mishawaka. There is a second parcel that is zone R-1 in the City of Mishawaka and will be rezoned as a part of the annexation and Rezoning process. This parcel too will be rezoned to I-1 Light Industrial under the Zoning Ordinance of The City of Mishawaka.

The Appellant occupies and the above-described property and utilizes it as overflow Semi Truck parking and semi-trailer storage when trucks are being services by the repair shop.

Use Variance

The petitioner is requesting a use variance for the newly annexed parcel and the existing Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022 to allow the expansion of the adjacent automotive repair and service facility and allow for semi-truck/trailer parking on the gravel and hard surfaces being proposed.

The petitioner is also seeking a developmental variance to allow for parking on the gravel on the northern portion of the site where it is anticipated to have a new structure built in the next 5 years for the future expansion of the Zolman Tire, Inc. operation. The petitioner is willing to pave the southern parking areas at this time but feels that having to pave the entire lot at this time would create an undue hardship related to cost when in the future this gravel area will

be developed with the future building and operational expansion. Several other businesses in the area use gravel on their Light Industrial zoning designations. The petitioner feels that this is an acceptable and reasonable request and would request a variance to allow for parking on this gravel area.

1. *Will the approval be injurious to the public health, safety, morals or general welfare of the community? Explain your reason why.*

The petitioner does not feel that this will be injurious to the public health, safety, morals, or general welfare of the community, because this proposed use is similar to the context of several business within the areas and are adjacent to the site. Both context and precedence has been established locally and the parking of these vehicles will not cause harm or change from what currently exists in 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? Explain your reason why.*

houses
The use and value of the area adjacent to the property and in the variance will not be affected in a substantially or adversely manner, because similar uses are currently adjacent or are in proximity to the site. The property has also been cleaned up from a previous blighted house and the property cleared of overgrown vegetation. Further code compliance will also introduce landscape and proper screening / fencing to the surrounding residential uses.

3. *Does the need for the variance arise from some condition peculiar to the property involved? Explain your reason why.*

The need for the use variance arises from the adjacent Zolman Tire facility and its current use variance. It is anticipated that similar uses will be utilized on the site because it is owned and operated by the same owner.

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? Explain your reason why.*

The strict application of the terms will create an unnecessary hardship because the property will not be allowed to support the adjacent business operations for the Zolman Tire facility.

5. *Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? Explain your reason why.*

The Approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan, because the proposed used is similar to adjacent uses within the immediate proximity of the site as well as it fits the general context of the Industrial businesses along McKinley Avenue.



Development Variance

An additional variance request would be to allow for a 6' high opaque fence instead of the 7' height requirement between residential and industrial zoning designations. A 7' High fence as required by the ordinance would be a custom ordered fence and will require a large amount of additional expense to purchase.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing an approximate size of the future building and the location of the proposed parking and drainage for the site.

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why*

The 6' High fence would not be injurious to the public health, safety, moral or general welfare because it is only a reduction height of a requirement that otherwise being met.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Explain your reason why*

The use and the value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manor, because the addition of the fence will only provide an improved aesthetic for the site adjacent to the property. The reduction of the height is minimal in nature and will still achieve the intended affect for screening.

3. *Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? Explain your reason why*

The petitioner fees that strict adherence to the terms of the chapter will constitute a hardship related to the cost for the fence due to the 7' high fence being a custom ordered height and the industry norm is a 6' high fence. .



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

Nate Zolman

Nate Zolman

Zolman Tire, Inc. (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

Nate Zolman 3-16-2023

Printed

Date:



EXHIBIT A

UPDATED DESCRIPTION

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING ALL THAT TRACT OF LAND CONVEYED TO ZOLMAN TIRE, INC. AS DESCRIBED IN INSTRUMENT NUMBER 1432198, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS IN THIS DESCRIPTION ARE BASED ON INDIANA STATE PLANE COORDINATES-EAST ZONE, GPS DERIVED)

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CONTAINING 2.48 ACRES, MORE OR LESS, AND SUBJECT TO ALL COVENANTS, RIGHTS OF WAY, AND EASEMENTS OF RECORD. (DESCRIPTION PREPARED BY HANS P. MUSSER, INDIANA PROFESSIONAL

SURVEYOR NO. LS29700002 FOR AN ALTA SURVEY CERTIFIED MARCH 15, 2023; ABONMARCHE PROJECT NUMBER 23-0101).

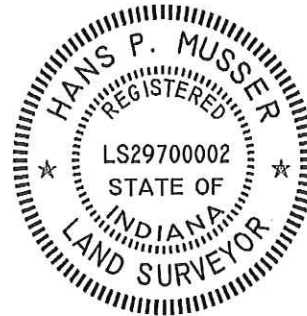


HANS P. MUSSER, PS

03/15/2023

DATE

JOB NO.: 23-0101



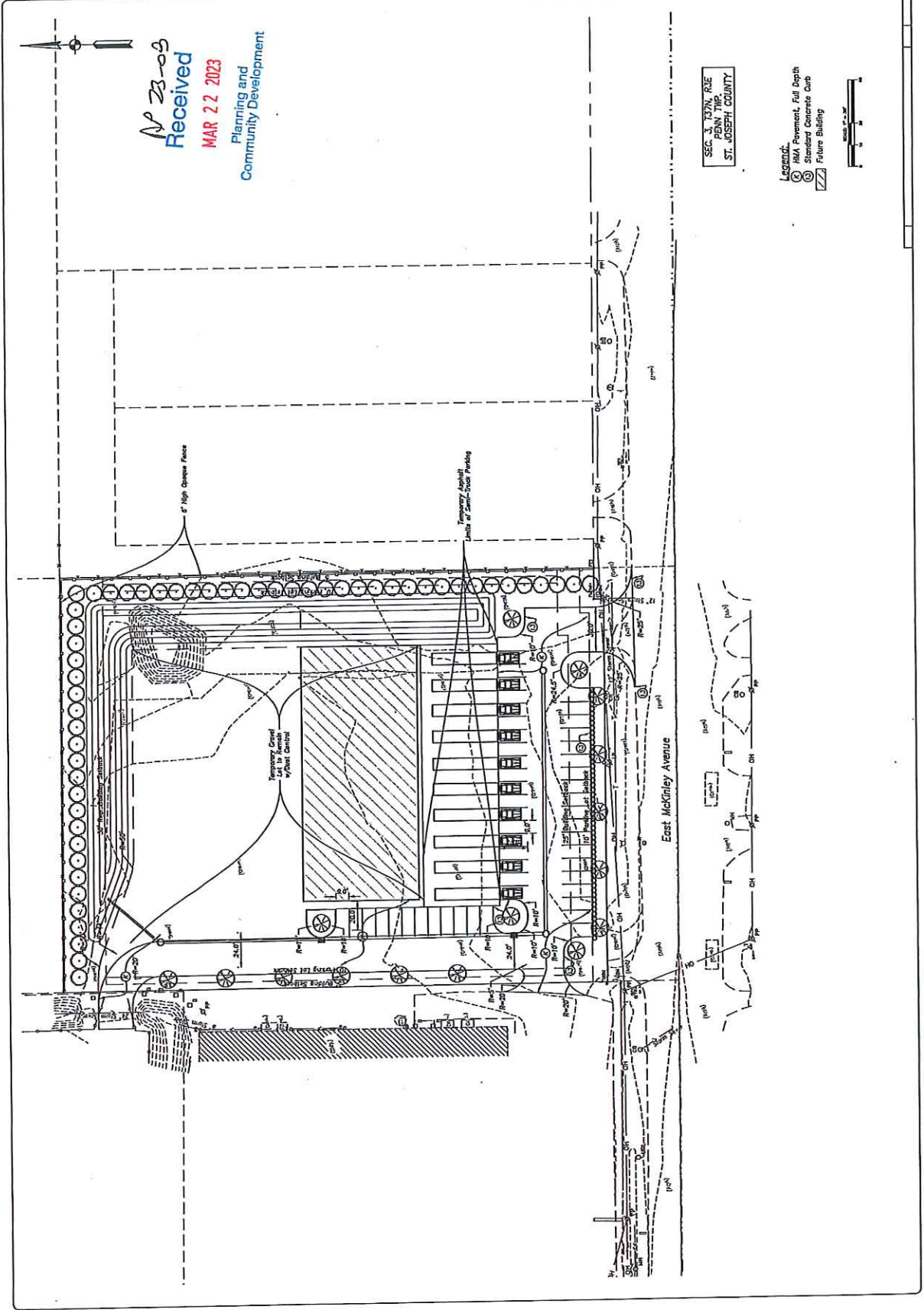
ABONMARCHÉ
 1110 W. Jackson Blvd.
 Suite 1000
 Chicago, IL 60604
 Tel: 312.467.1000
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 Website: www.abonmarche.com

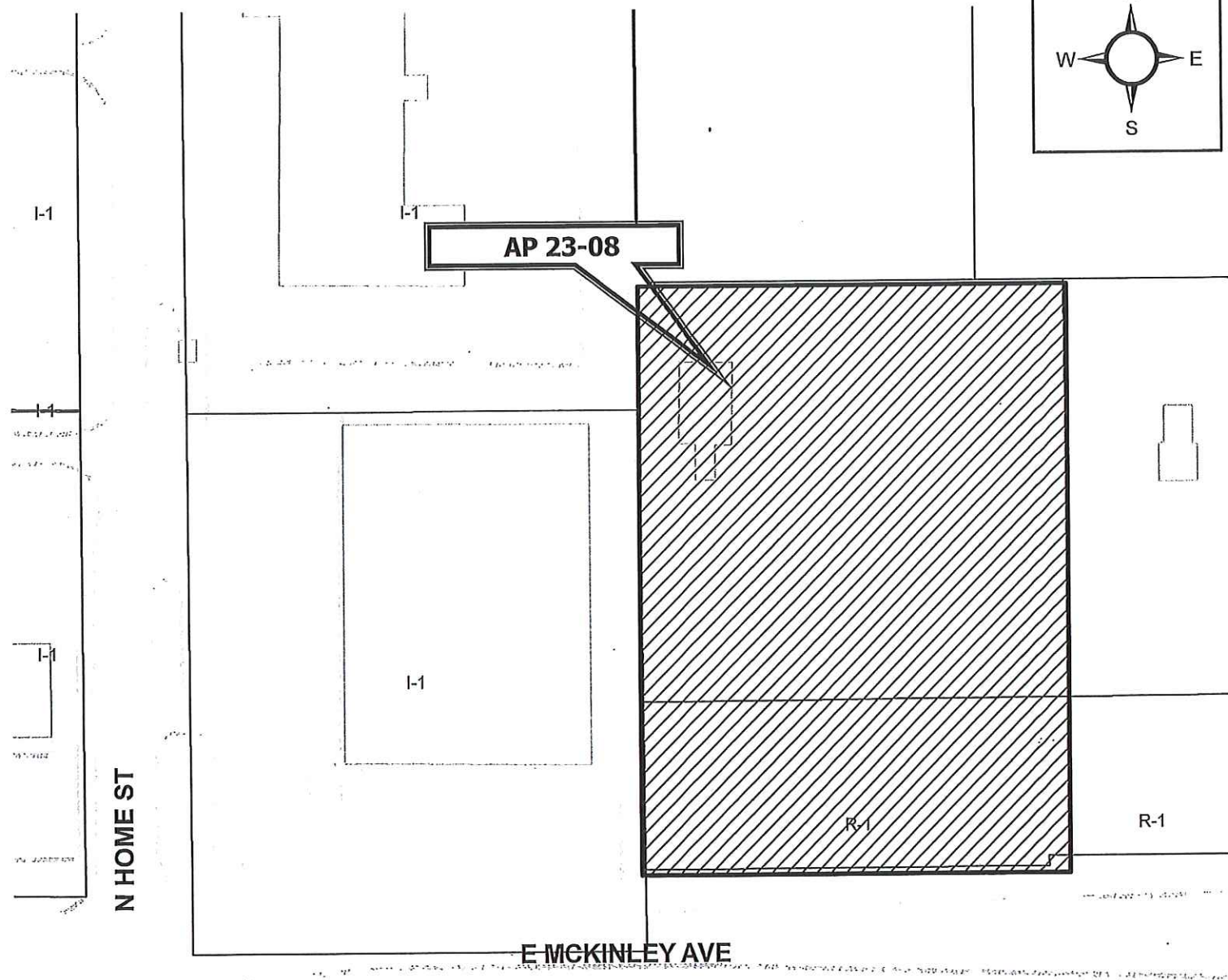
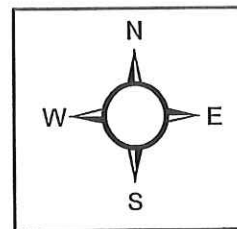
ZOLMAN TIRE PARKING
 2028 E. MCKINLEY AVENUE
 MISHAWAKA, IN 46545

SITE PLAN

DATE: 03/17/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: [Number]
 SHEET NO: [Number]

SCALE: 1" = 20'
 NORTH: [Arrow]
 PROJECT: 23-0101
 SHEET: 1 of 1





Location Map

AP 23-08

OWNER:
NATE ZOLMAN/ZOLMAN TIRE, INC

LOCATION:
PROPERTY EAST OF 2014 E MCKINLEY
USE VARIANCE
AUTOMOBILE REPAIR IN THE I-1 DISTRICT

DEVELOPMENTAL VARIANCE
GRAVEL PARKING AND FENCE HEIGHT

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC

JUN 14 2023

City Clerk
Mishawaka, IN

PETITION 23-11

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-24

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:

40 feet on the North End of Lot 57 in GWR Fowlers 1st Addition

COMMON ADDRESS: 712 Division Street

which real estate is now classified as R-1 Single Family Residential shall hereafter be within and a part of that District known as R-2 Two Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions - There are Two Family residences in the vicinity, West of 712 Division along East Grove street;
2. Character of Buildings - Use and value of the area of this property has been residential and this particular property has been a duplex since 1949;
3. The most desirable/highest and best use - The best and most desirable use of this property is continuing its use as a 2-unit residence. It has been used as a 2-unit residence since 1949.
4. Conservation of property values - The rezoning of this property should not be injurious to property values in the area since it has been a 2-family residence since 1949 without any incident.

Proposed Ordinance No: _____

Ordinance No: _____

5. Comprehensive Plan – The proposal to rezone to R-2 is consistent with 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: 712 Division Street

Date: June 13, 2023

Petition: 23 11

Prepared By: DMB

GENERAL INFORMATION

Applicant: RWP Investments, LLC/Lee Clark, Empire Management

Status: Property Owner/Authorized Rep

Request: Rezone from R-1 Single Family Residential to R-2 Two Family Residential

Zoning Classification: R-1 Single Family Residential

Lot Size: 40' x 66'

Applicable Regulations: Sec. 137-186 Residential R-2 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

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

Thoroughfare: Division Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioner, RWP Investment LLC, is requesting to rezone 712 Division Street from R-1 Single Family Residential to R-2 Two-Family Residential. The property is located on Division Street south of East Lawrence Street and North of East Grove Street.

The Petitioner, Danial Williams with RWP Investments, LLC has continuously owned this property since 2020. The property has had 2 units since 1949. A fire occurred in which made the Petitioner to lose legal non-conforming status therefore needing rezoning.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

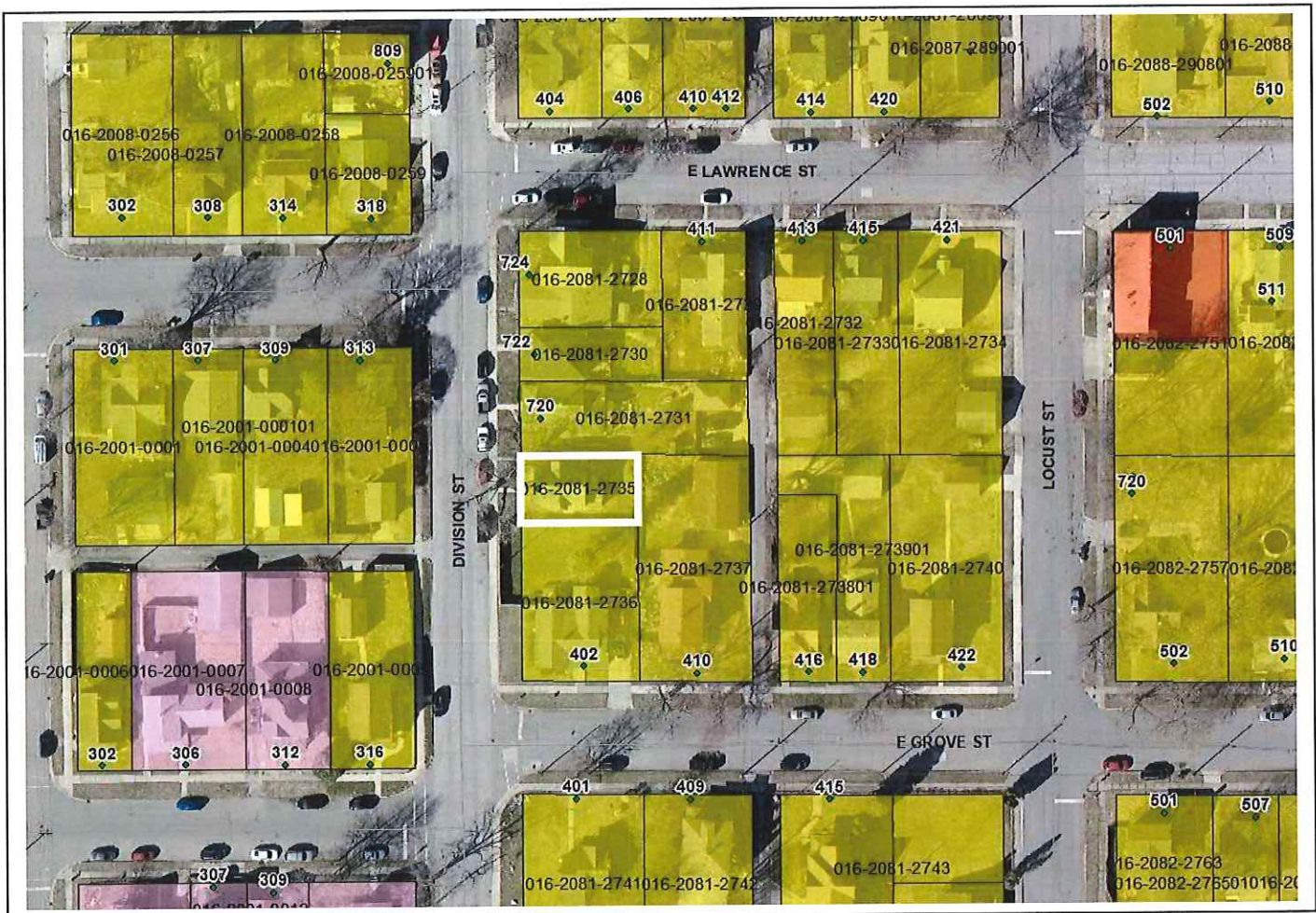
The Planning Department recommends **approval** of Petition 23-11 to rezone 712 Division Street from R-1 Single Family Residential District to R-2 Two Family Residential. This recommendation is based upon the following findings of fact:

1. Existing Conditions - There are Two Family residences in the vicinity, West of 712 Division along East Grove street;

2. Character of Buildings - Use and value of the area of this property has been residential and this particular property has been a duplex since 1949;
3. The most desirable/highest and best use – The best and most desirable use of this property is continuing its use as a 2-unit residence. It has been used as a 2-unit residence since 1949.
4. Conservation of property values – The rezoning of this property should not be injurious to property values in the area since it has been a 2-family residence since 1949 without any incident.
5. Comprehensive Plan – The proposal to rezone to R-2 is consistent with the Comprehensive Plan.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP



Aerial with zoning



Front view of 712 Division Street



Rear view of 712 Division Street (white house in background)

DATE: 4/19/23

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

P45 23-11
Received
MAY 11 2023
Planning and
Community Development

RE: PETITION TO REZONE

The undersigned RWP Investment 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:

40 ft North end Lot 57 GWR Fowlers 1st
Commonly known as 712 Division

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-1 Single Family District. Said property has had two units since 1949.

Petitioner(s) desire said real estate to be rezoned to R-2 Two-Family District. Petitioner(s) further state that they intend to utilize said land for continued 2 units after a fire.

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.



Typewritten name also: Danial Williams, Manager RWP Investments, LLC

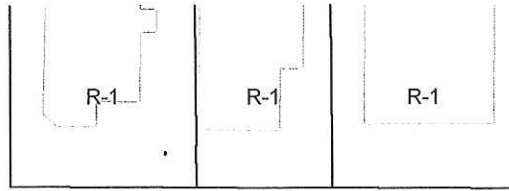
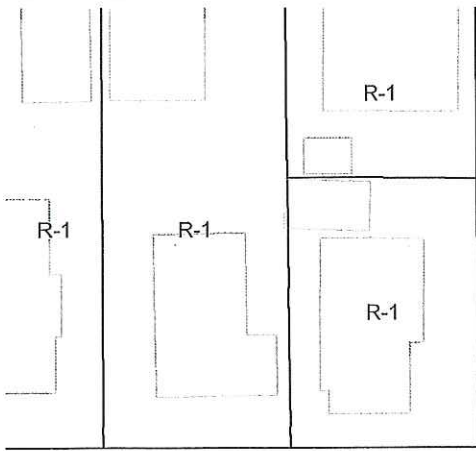
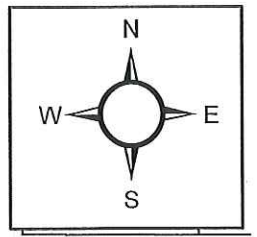
Deborah S. Block, IAMC, MMC

CONTACT PERSON:

Lee A. Clark
Email: lee@empiremichiana.com
Office: 574.217.8468
Cell: 574.707.5052
Mailing: P.O. Box 8318
South Bend, IN 46660
Office: 2537 Grape Rd.
Mishawaka, IN 46545

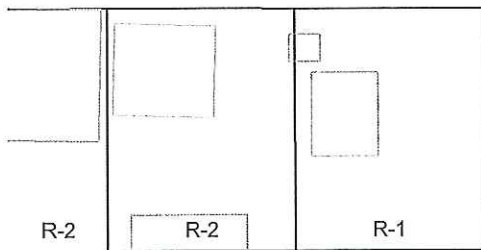
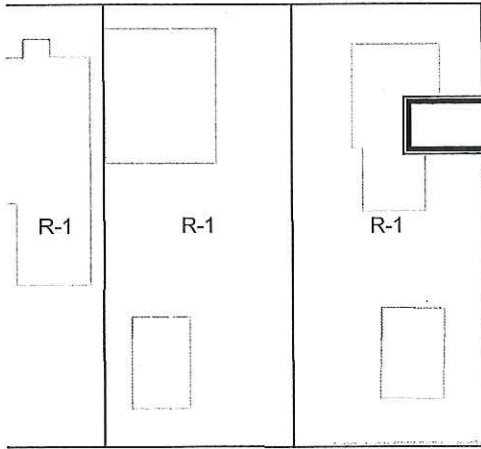
JUN 01 2023

City Clerk
Mishawaka, IN



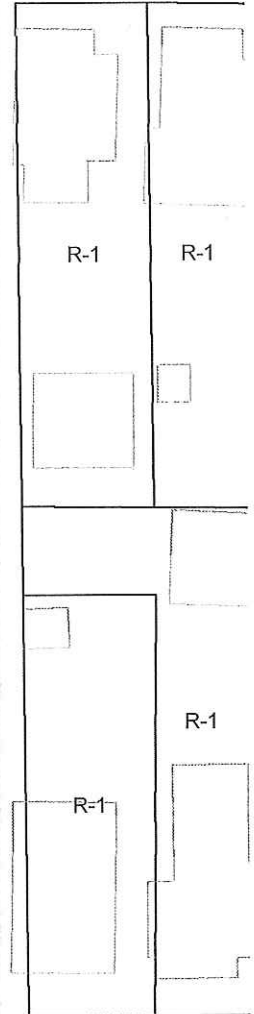
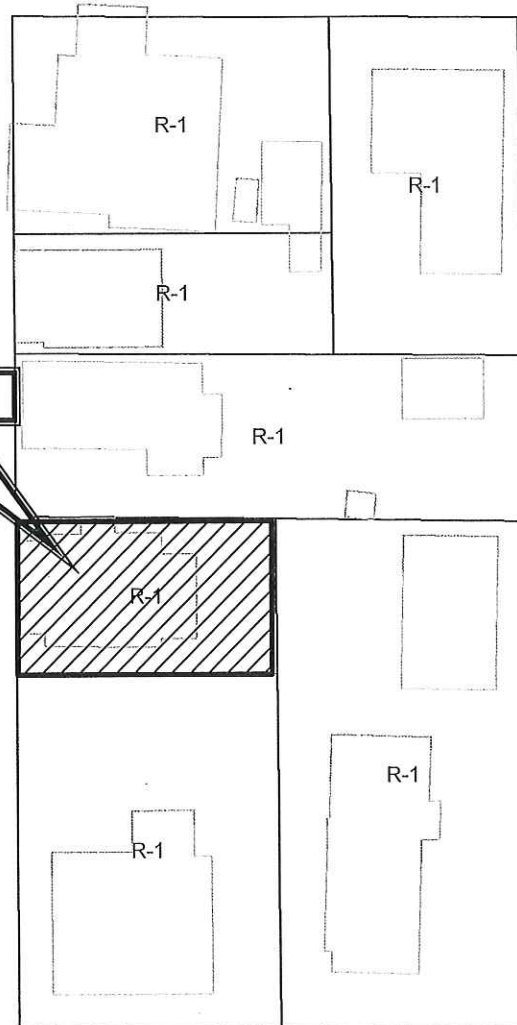
E LAWRENCE ST

E LAWRENCE ST

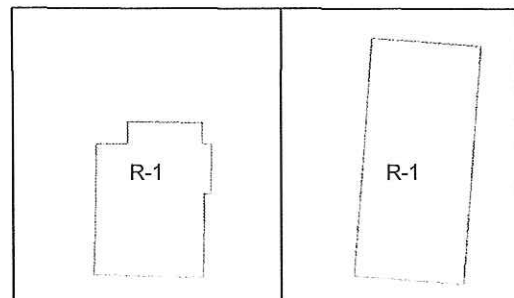


PET 23-11

DIVISION ST



E GROVE ST



Location Map

PET 23-11

OWNER: RWP INVESTMENT LLC
LOCATION: 712 DIVISION

REZONING FROM
R-1 SINGLE FAMILY RESIDENTIAL
TO R-2 TWO FAMILY RESIDENTIAL
TO MATCH EXISTING USE
AS A DUPLEX

1st Reading 6/19/23

2nd Reading

Passed

Failed

Continued To

Deborah S. Block, IAC, MMC

JUN 14 2023

City Clerk
Mishawaka, IN

PETITION 23-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-25

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:

Lots 28-30 Barbee's Sub

COMMON ADDRESS: property west of and adjacent to 600 E Third

which real estate is now classified as S-1 Extensive Open Space District shall hereafter be within and a part of that District known as C-3 City Center 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:

1. Existing Conditions – This corner is neighboring by single and multi-family residential units, and would allow the redevelopment of the former school turned municipal property;
2. Character of Buildings – The character of the buildings are predominantly residential, except for the former school turned municipal building directly adjacent;
3. Highest and Best Use - Because the parcel will be developed in conjunction with the adjacent property, matching the C-3 City Center Commercial zoning is a desirable use for this property;
4. Conservation of Property Values - As opposed to the limited uses that could occur with its current zoning, rezoning this property to the C-3 City Center Commercial will

Proposed Ordinance No: _____

Ordinance No: _____

have a favorable and stabilizing impact on the neighborhood by providing additional services; and,

5. The City's Comprehensive Plan calls for Open Space, which matches its history as a school and municipal building. The C-3 City Center Commercial District allows a range of uses that would be compatible and support existing uses in the area.

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

Request for postponement

Ken Prince <kprince@mishawaka.in.gov>

Fri 6/30/2023 3:24 PM

To: Deb Block <dblock@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>; Michael Hixenbaugh <mhixenbaugh@mishawaka.in.gov>; DL-Council <DL-Council@mishawaka.in.gov>

Cc: David A. Wood <dwood@mishawaka.in.gov>; Mark Herriman <mherriman@uwsjc.org>

Good afternoon,

I am writing to request a postponement of the second reading of Ordinance 2023-25, the former sculpture area of the former Mishawaka City Hall site, from the July 10th meeting to the August 7th Council meeting.

We have a number of items the Council will be considering in July and believe that it is prudent to move this item to the first meeting in August.

As an update, I have communicated with Mark Herriman from United Way. United Way continues to spend a significant amount of money on the planning and design of the project. Although the movement to the August does not delay the project, they are anxious to close given the hundreds of thousands of dollars that have already been spent on consulting firms.

Mark is planning to attend the August 7th meeting and will provide a brief update on where they are at in the process and provide an update on the status of the not-for-profit entities they continue to work with that have interest in being housed at the former City Hall location as part of the 1Roof project.

If you have any questions for the Administration or United Way, please let us know.

Ken

Kenneth B. Prince
Executive Director

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

100 Lincolnway West

Mishawaka, IN 46544

Phone- (574) 258-1625

Email- kprince@mishawaka.in.gov

Website- www.mishawaka.in.gov

STAFF REPORT

Location: Northeast corner of East Third Street and South Cedar Street

Date: June 13, 2023

Petition: 23 12

Prepared By: CH

GENERAL INFORMATION

Applicant: City of Mishawaka

Status: Property Owner

Request: Rezone from S-1 Extensive Open Space to C-3 City Center Commercial

Zoning Classification: S-1 Extensive Open Space

Lot Size: 0.54 acres

Applicable Regulations: Sec. 137-358 C-3 City Center Commercial District;
Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map**SPECIAL INFORMATION**

Area Development Pattern: North: C-3 City Center Commercial
South: R-1 Single Family Residential and R-2 Two Family Residential
East: C-3 City Center Commercial
West: R-2 Two Family Residential

Thoroughfare: East Third Street and South Cedar Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Open Space (public parks and nature preserves, golf courses, cemeteries, and schools)

ANALYSIS

The Petitioner is requesting to rezone the property directly west of the former City Hall from S-1 Extensive Open Space to C-3 City Center Commercial. The S-1 District has a limited list of uses, including cemeteries, country clubs or golf courses, public parks and playgrounds, and water pumping plants. The property is located at the northeast corner of Cedar Street and East Third Street, and is the former Bingham Park, the original site of Bingham School.

The City is preparing to sell the property to the United Way/Boys and Girls Club for their 1Roof program. The 1Roof program has plans to build a gymnasium addition on the former park, prompting rezoning prior to the property transfer.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition 23-12 to rezone the park area west of the former City Hall building (600 E. Third St.) from S-1 Extensive Open Space to C-3 City Center Commercial. This recommendation is based upon the following findings of fact:

1. Existing Conditions – This corner is neighboring by single and multi-family residential units, and would allow the redevelopment of the former school turned municipal property;
2. Character of Buildings – The character of the buildings are predominantly residential, except for the former school turned municipal building directly adjacent;
3. Highest and Best Use - Because the parcel will be developed in conjunction with the adjacent property, matching the C-3 City Center Commercial zoning is a desirable use for this property;
4. Conservation of Property Values - As opposed to the limited uses that could occur with its current zoning, rezoning this property to the C-3 City Center Commercial will have a favorable and stabilizing impact on the neighborhood by providing additional services; and,
5. The City's Comprehensive Plan calls for Open Space, which matches its history as a school and municipal building. The C-3 City Center Commercial District allows a range of uses that would be compatible and support existing uses in the area.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP

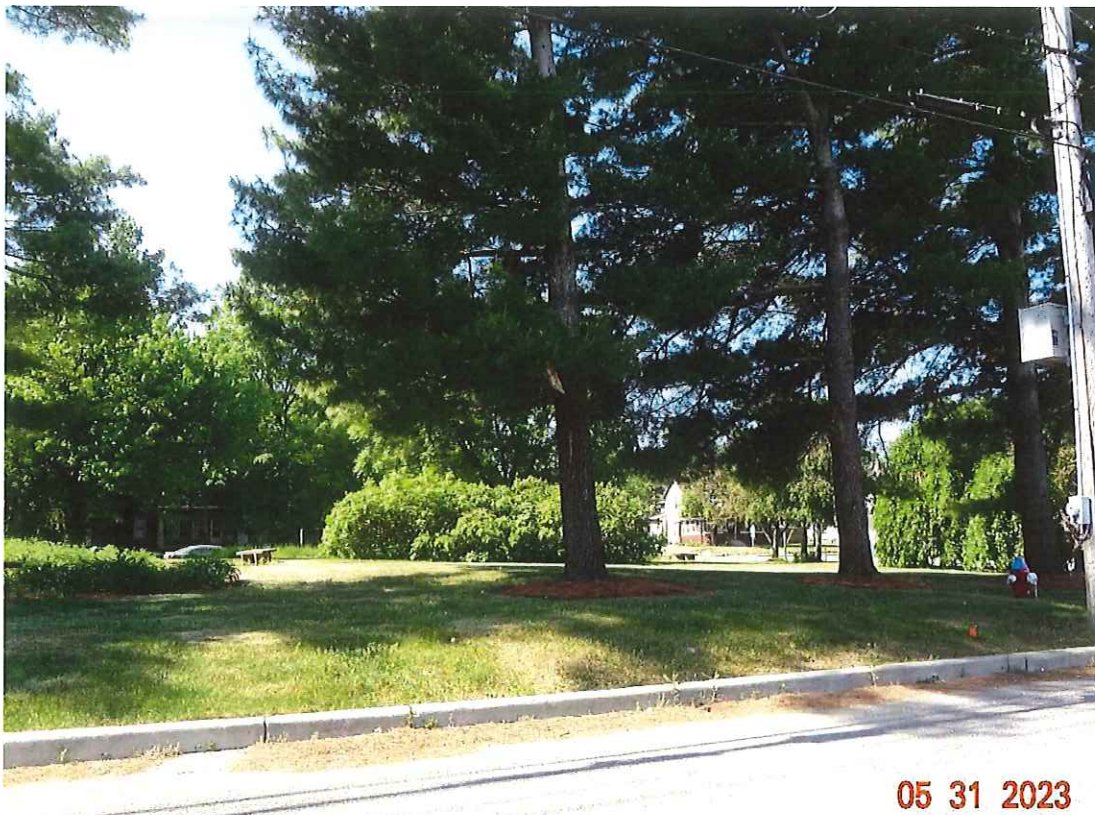




P1. A view of the park from Cedar Street



P2. A view of the park from Third Street



P3. A view of the park from the alley to the north



Snapshot, taken between 1967 and 1984, showing the two Bingham Schools side by side.

DATE: 5/18/23

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

RE: PETITION TO REZONE

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:

Lots 28-30 Barbee's Sub
Located west of and adjacent to 600 E Third

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-1 Extensive Open Space District. Said property is excess *landscaping next to former City Hall building.*

Petitioner(s) desire said real estate to be rezoned to C-3 City Center Commercial District. Petitioner(s) further state that they intend to utilize said land for sale to the United Way to provide services to the community.

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.

Signature(s) of Property Owner(s)



Typewritten name also

CONTACT PERSON:

NAME: KEN PRINCE
ADDRESS: 100 LWW
PHONE NUMBER: 574-258-1625
FAX: 574-968-6999
EMAIL: KPRINCE@MISHAWAKA.IN.GOV

PM 23-12
Received
MAY 24 2023
Planning and
Community Development

Deborah S. Block, AMC, MMC
JUN 01 2023
City Clerk
Mishawaka, IN

PETITION #23-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-26

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

OUTLOT "A" AS SHOWN ON THE RECORD PLAT OF BRYKIT STREET MINOR SUBDIVISION, RECORDED AUGUST 16, 1985 AS INSTRUMENT NUMBER 8517188 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA.

INCLUDING THE ADJACENT BYRKIT AVENUE (FIR ROAD) PUBLIC RIGHT-OF-WAY.

COMMON ADDRESS: vacant land south of 1505 S Byrkit Avenue, Mishawaka, IN 46544

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of I-1 Light Industrial District.

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

1. Existing Conditions – The subject property is located along a low travelled section of Fir Road (S. Byrkit Avenue) primarily utilized by the single-family residential areas to the south. Traffic volumes in the immediate vicinity are expected to remain consistent. The property, which currently is vacant agricultural land, is adjacent to industrial zoned or occupied property and agricultural land to the north; vacant and wooded industrial zoned property to the west; a single-family residential house zoned for industrial use to the south; and a mobile home park to the east.
2. Character of Buildings in the Area – The character of buildings and land uses located along Fir Road (S. Byrkit Avenue) corridor between E. 12th Street and Dagoon Trail vary and include commercial, office, industrial, and residential land uses.

Proposed Ordinance No. _____

Ordinance No. _____

3. The most desirable/highest and best use – Because of the property's location adjacent to industrial zoned or occupied areas, the most desirable use for the property is industrial.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use for the subject property and adjacent areas as industrial.

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 Land South of 1505 S. Byrkit Avenue

Date: June 13, 2023

Petition: 23- 13

Prepared By: DJS

GENERAL INFORMATION

Applicant: Storage of America LLC / Landmark Engineering Group

Status: Property Owner & Developer / Surveyor, Engineer & Site Design Consultant

Request: To annex, establish zoning, and approve a preliminary site plan for a self-storage facility development

Existing Zoning: Unincorporated St. Joseph County (I Industrial District)

Proposed Zoning: I-1 Light Industrial District

Lot Size: Approximately 19.63 acres excluding the adjacent public right-of-way

Applicable Regulations: Section 137-585 to 137-587 / I-1 Industrial District & Section 137-41 / Amendments to Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial (Vacant / Agricultural Land & Two-Tenant Building / Pemberton Davis (Electrical Contractor) & B&B Molders (Plastics Manufacturer)) & Unincorporated St. Joseph County – I Industrial (Vacant / Agricultural Land)

South: Unincorporated St. Joseph County – I Industrial (Residential & Public Utility / NIPSCO)

East: R-4 Manufactured Home Residential (Mobile Home Park / Village Green)

West: I-1 Light Industrial (Vacant & Storm Water Retention Basin / Merrifield Avenue Industrial Park)

Thoroughfare: Fir Road / S. Byrkit Avenue

School District: Penn-Harris-Madison

Township: Penn

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

Comprehensive Plan: Industrial

ANALYSIS**Proposal:**

The applicant is proposing to annex, establish zoning, and approve a preliminary site plan to allow for the construction of a mini-self storage facility.

The 19.38 acre site, which includes one parcel (tax parcel #014-1027-0456), is located on the west side of Fir Road (S. Byrkit Avenue) approximately 1,300 feet south of E. 12th Street. The parcel has approximately 589' of frontage on Fir Road and is currently vacant agricultural land. The adjacent property to the west was annexed in the City of the Mishawaka in 1997 with an I-1 Light Industrial zoning classification and subsequently subdivided for the purposes of industrial development. The parcels immediately adjacent to the west remain undeveloped and are mostly wooded with a large storm water retention basin serving the industrial subdivision. Three of the adjacent properties to the north were annexed in 1982, 1997, and 2021, and zoned I-1 Light Industrial. The property fronting S. Byrkit Avenue (1505 S. Byrkit Avenue) includes a two-tenant building currently occupied by Pemberton Davis Electric and B&B Molders. The property to the northwest includes several connected industrial buildings occupied by the Jamil Packaging Corporation. The vacant agricultural land to the north, which was annexed just two years ago, was purchased by the Jamil Packaging Corporation for a potential future expansion. The property to the east across Fir Road was annexed in 1970 with an R-4 Manufactured Home Residential zoning classification and developed as the Village Green mobile home park.

As indicated on the preliminary site plan, the development will include 34 storage unit buildings, an 875 sf office building and adjacent parking area near the entrance, access drives, and a large storm water retention basin. The property is to be developed in two phases. The first phase will consist of 13 storage unit buildings and the office within the northeast part of the site, the entrance and access drives, storm water retention basin, and other required infrastructure. The second phase will consist of the remaining 21 storage unit buildings, including 6 buildings with larger contractor storage units. Data provided on the plan indicates that the first phase will include 108,160 sf of storage space, while the second phase will include 129,310 sf of regular storage space and 64,800 sf of contractor storage space. Parking spaces for the office are required based on the maximum number of employees per shift. A total of nine (9) parking spaces are conceptually shown on the plan.

The applicant is requesting a zoning classification of I-1 Light Industrial District to permit the proposed mini-self storage facility. The preliminary site plan shows that the required height, area, and development regulations for the I-1 District (building and parking setbacks, off-street parking requirements, etc.) should be met. The front and side yard building setbacks shown on the plan exceed the I-1 District requirements.

A developmental variance will be required for the minimum 250' separation from any residential zoned property. Property to the east across Fir Road is zoned R-4 Manufactured Home Residential and occupied by the Village Green mobile home park. The developmental variance for the separation requirement shall be filed in conjunction with the final site plan. The need for any additional variances will be reviewed prior to the final site plan submittal to ensure that additional variances are not required.

One access off of Fir Road is proposed to serve the development. The Engineering Department commented that alternate means of ingress/egress, and the extension of the St. Jerome Street right-of-way through the property from the west should be considered. If St. Jerome Street is extended through the site, the road would have to be built to city standards, but the city would maintain it in perpetuity. A utility easement will be required for a future sanitary sewer extension from Fir Road (Byrkit) west to the St. Jerome right-of-way should right-of-way not be dedicated through the property. All other drives and parking lots interior to the site will be privately owned and maintained.

Landscaping shall be required within the front building setback along the entire Fir Road (Byrkit) frontage to include one (1) deciduous shade (overstory) tree planted 40' on-center or one (1) deciduous ornamental (understory tree) planted 25' on-center.

If the proposed rezoning and annexation request is approved, a detailed final site plan for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), grading, erosion control, and any other required improvements.

Annexation:

Adjacent properties to the west, north, and east were annexed into the city between 1982 and 2021 and zoned for industrial and mobile home park use. A majority of the land to the north and west remains as undeveloped agricultural land or natural wooded areas.

Per the State of Indiana’s annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexations as outlined above, approximately 2,380 feet, or 59.6%, of the total 3,991 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located to the west of Fir Road (S. Byrkit Avenue) approximately 1,300’ south of E. 12th Street, and is bordered to the north by industrial properties and vacant agricultural land; to the west by vacant industrial properties; to the south by a single-family residential house zoned industrial within unincorporated St. Joseph County and a gas utility substation; and to the east by a mobile home park. The Fir Road (S. Byrkit Avenue) corridor between E. 12th Street and Dragoon Trail includes a variety of commercial, office, industrial, and residential uses.

Zoning Change:

Staff believes that the proposed zoning of this property to the I-1 Light Industrial District is appropriate given the adjacent industrial zoned or occupied properties to the west, north, and south. The entire pocket of adjacent unincorporated property is zoned for industrial uses. The Mishawaka 2000 Comprehensive Plan identified a planned or preferred use of the subject property and area bordered by Merrifield Avenue to the west, E. 12th Street to the north, Fir Road (S.Byrkit Avenue) to the east, and single-family residential areas to the south (Blair Hills and Rosewood) as industrial (manufacturing, warehousing, and distribution). The proposed mini-storage facility is a less intensive use than many uses permitted in the I-1 Light Industrial District.

Transportation/Roads:

According to the latest available traffic counts, there were 4,222 annual average daily trips (AADT) (September 2022) along S. Byrkit Road south of E. 12th Street. The only other historical count at this location was 3,541 AADT (August 2020). There were 2,684 AADT along Fir Road north of Dragoon Trail. Traffic counts at this location have been relatively consistent over the last 35 years from a high of 5,732 AADT (July 2011) to a low of 1,973 AADT (January 2001). The average count at this location, after subtracting the high and low count, was just under 3,300 AADT. It is anticipated that traffic volumes will remain relatively consistent in future years.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff, the County Engineering Department, and INDOT, does not show any planned added travel lanes along Fir Road (S. Byrkit Avenue) corridor. The road currently provides two-lanes of travel.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

The Engineering Department comments, as outlined above, shall be considered with the final site plan development. No comments were related specifically with the proposed annexation and zoning of the property.

The Fire Department commented that the applicant will need to meet with the Fire and Water Department prior to development.

The Electric Department questioned where the electrical service point will be provided for the project.

The Building and Water Departments had no comments related to the annexation and zoning.

RECOMMENDATION

Staff recommends in **favor** of Petition 23-13 to annex, establish zoning, and approved a preliminary site plan for property located on the west side of Fir Road (S. Byrkit Avenue) south of 1505 S. Byrkit Avenue. The property is proposed to be zoned I-1 Light Industrial District for a self-storage facility.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along a low travelled section of Fir Road (S. Byrkit Avenue) primarily utilized by the single-family residential areas to the south. Traffic volumes in the immediate vicinity are expected to remain consistent. The property, which currently is vacant agricultural land, is adjacent to industrial zoned or occupied property and agricultural land to the north; vacant and wooded industrial zoned property to the west; a single-family residential house zoned for industrial use to the south; and a mobile home park to the east.
2. Character of Buildings in the Area – The character of buildings and land uses located along Fir Road (S. Byrkit Avenue) corridor between E. 12th Street and Dragoon Trail vary and include commercial, office, industrial, and residential land uses.
3. The most desirable/highest and best use – Because of the property's location adjacent to industrial zoned or occupied areas, the most desirable use for the property is industrial.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use for the subject property and adjacent areas as industrial.

ATTACHMENTS

Aerial Map, Photographs, Rezoning & Annexation Petition, Preliminary Site Plan, and Location Map



Aerial Photograph
Vacant Land S. of 1505 S. Byrkit Avenue Proposed Self-Storage Facility



P1. Looking northwesterly toward the property from the southwest corner and Fir Road.



P2. Looking westerly toward the property from Fir Road.

May 15th 2023

Honorable Members of the Common Council
City of Mishawaka, Indiana

Mishawaka City Plan Commission
City of Mishawaka, Indiana

P65 23-13

Received

MAY 25 2023

Planning and
Community Development

RE: Storage of America Petition for Annexation and Zoning Classification I-1 Light Industrial District
19.38 Acres Part of the NE ¼ of Section 22, Township 37 N & Range 3 East,
Penn Township, St. Joseph County, Indiana

The undersigned (Storage of America, LLC & Byrkit Property Group, LLC) respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

19.38 Acres Part of the NE ¼ of Section 22, Township 37 N & Range 3 East, Penn Township, St. Joseph County, Indiana and more commonly described as ¼-mile south of the intersection of S. Byrkit Avenue (Fir Road) and E. 12th Avenue in Mishawaka, Indiana . (SEE ATTACHED)

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located in Penn township, St. Joseph County, Indiana and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a **I-1 Light Industrial District**. Petitioners further state they intend to utilize said land for (state intended use). *SELF STORAGE*

Accompanying this petition is an ALTA Survey and Proposed Site Plan depicting the above-described parcel of real estate and the proposed buildings, layout of buildings and related site improvements associated with the Storage Facility.

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above-described parcel of real estate to the City of Mishawaka with a **I-1 Light Industrial District**.

 *Thomas M. Fitzpatrick, V.P. Development Storage of America*
Property Owner Signature

THOMAS M. FITZPATRICK, V.P. Development Storage of America
Print Property Owner Name

Contact Person: **Mr. Tom Fitzpatrick, PE**

Company **Storage of America**
Address 1201 E. 5th Street, Anderson, IN 46012
Phone (616) 209.2162
Email tfitzpatrick@storageofamerica.com

Deborah S. Block, MMC, MMC

JUN 01 2023

City Clerk
Mishawaka, IN

LEGAL DESCRIPTION:

OUTLOT "A" AS SHOWN ON THE RECORD PLAT OF BRYKIT STREET MINOR SUBDMSION, RECORDED AUGUST 16, 1985 AS INSTRUMENT NUMBER 8517188 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA.

INCLUDING THE ADJACENT BYRKIT AVENUE (FIR ROAD) PUBLIC RIGHT-OF-WAY.

CALL JULIE BEFORE YOU DIG™
(800)892-0123 OR 811

NO.	DESCRIPTION	DATE

Landmark
ENGINEERING GROUP
3440 38TH AVENUE, SUITE 4
NORCROSS, GA 30071
(404) 753-6000
CIVIL ENGINEERING AND LAND SURVEYING

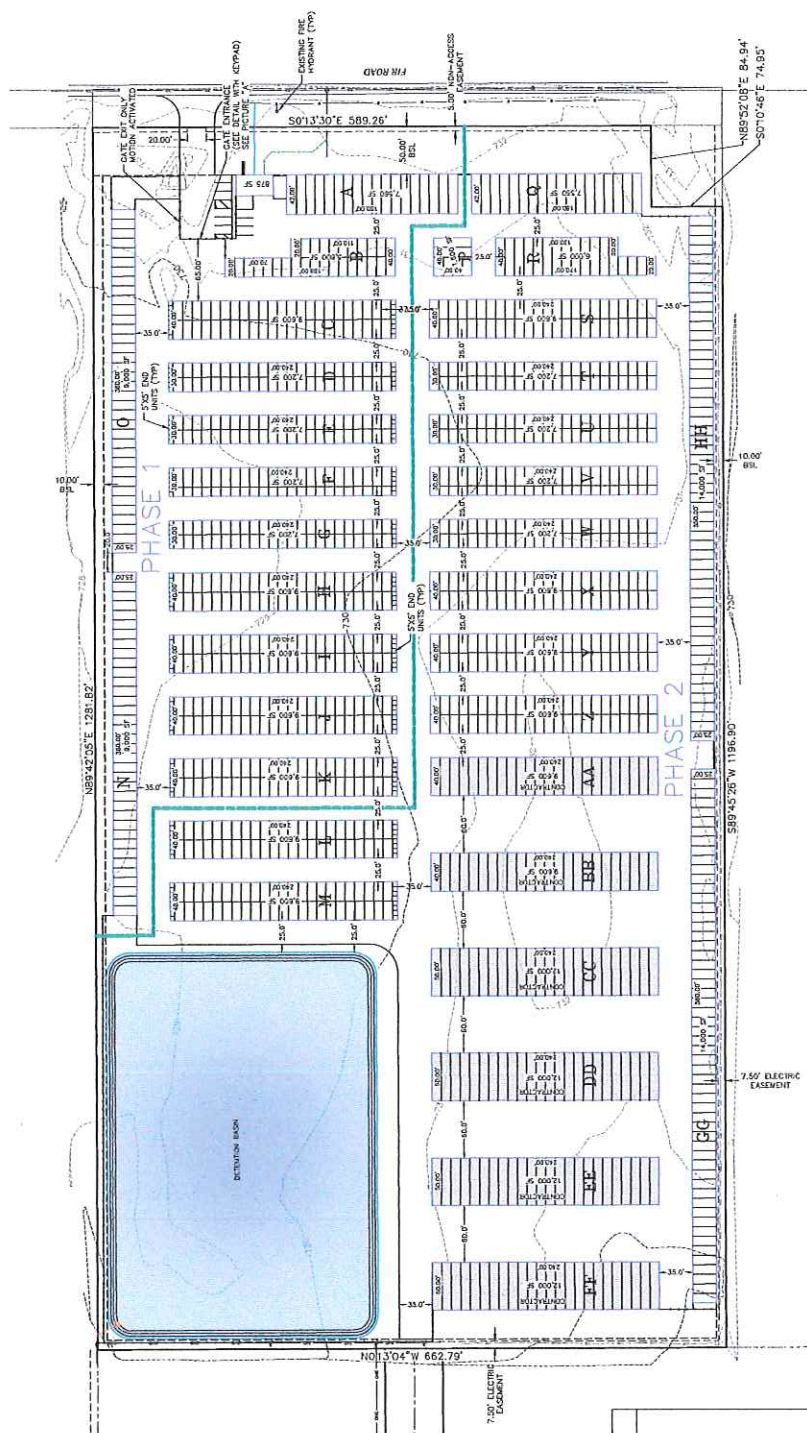


PROPOSED SITE PLAN

DATE: 4/3/2023
DRAWN BY: HLG
DESIGNED BY: MRS
CHECKED BY: MRS

C2

01-22-1704



NOTE:

1. NO OUTSIDE STORAGE OF RV'S OR BOATS
2. EXTERIOR LANDSCAPING PER CITY ZONE 2 ORDINANCE
3. WALL PACK LIGHTS ON ALL EXTERIOR WALLS
4. TOTAL LEASE AREA = 302,270 SF
5. TOTAL LEASE AREA OF PHASE 1 = 108,160 SF
6. TOTAL LEASE AREA OF PHASE 2 = 194,110 SF

PHASE 1

STORAGE SF = 108,160

PHASE 2

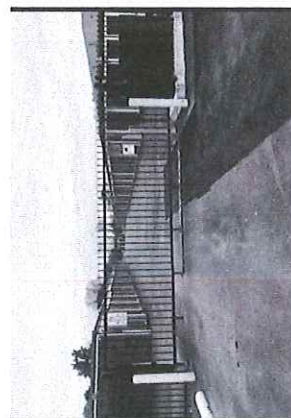
STORAGE RSF = 129,310

CONTRACTOR SF = 64,800

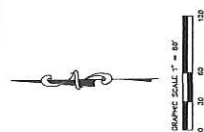
TOTAL = 302.270 SF

EXISTING AND PROPOSED CONTOURS HAVE
BEEN TURNED OFF FOR CLARITY - SEE
GRADING PLAN SHEET C3

PRELIMINARY – NOT
FOR CONSTRUCTION



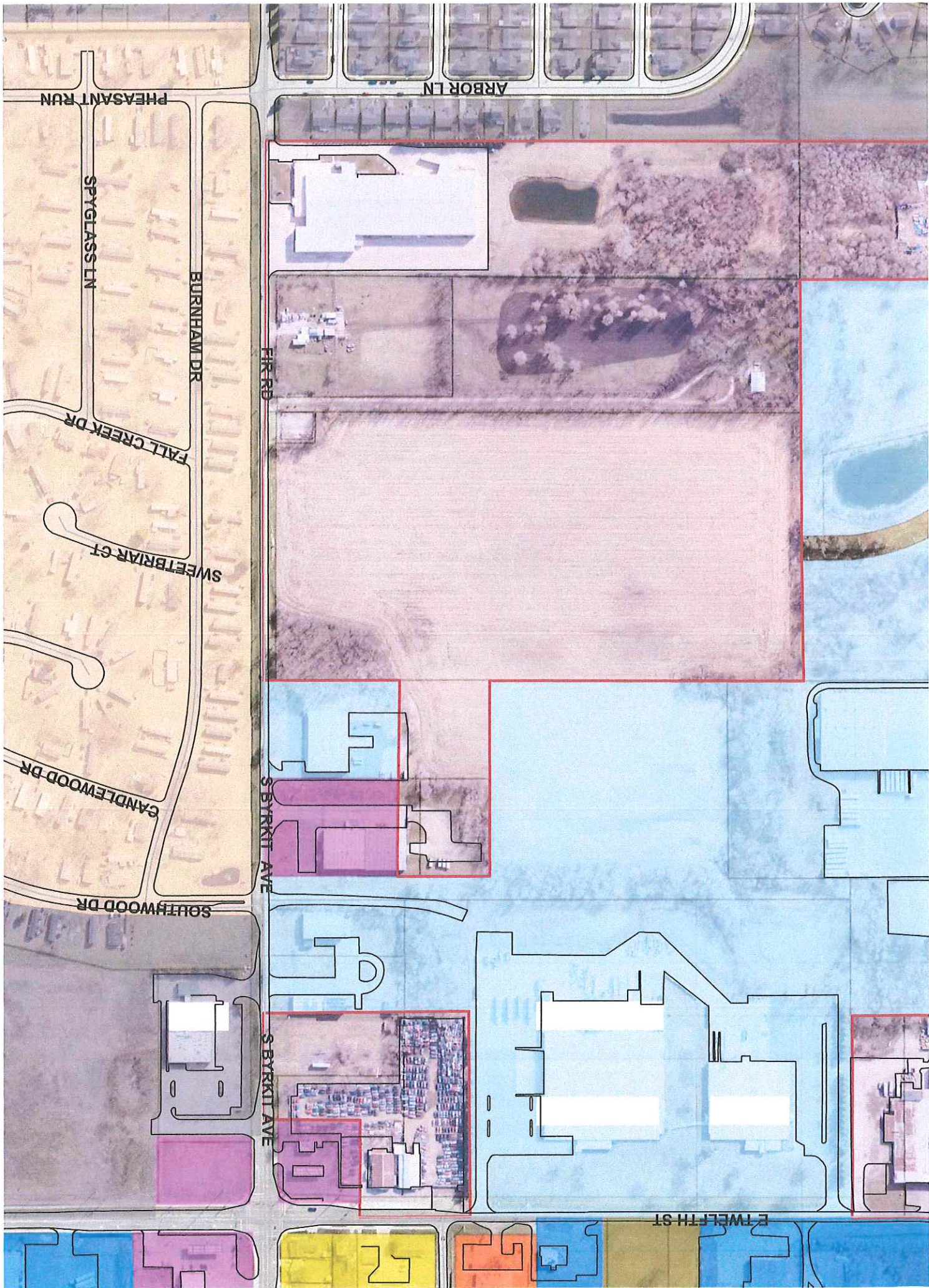
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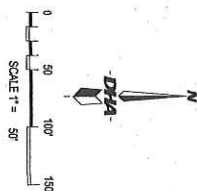


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 OR IN PART BY ANY MEANS WHATSOEVER IS STRICTLY
 PROHIBITED EXCEPT WITH WRITTEN CONSENT OF
 LANDMARK ENGINEERING GROUP, INC.

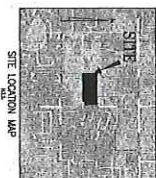
LEGEND

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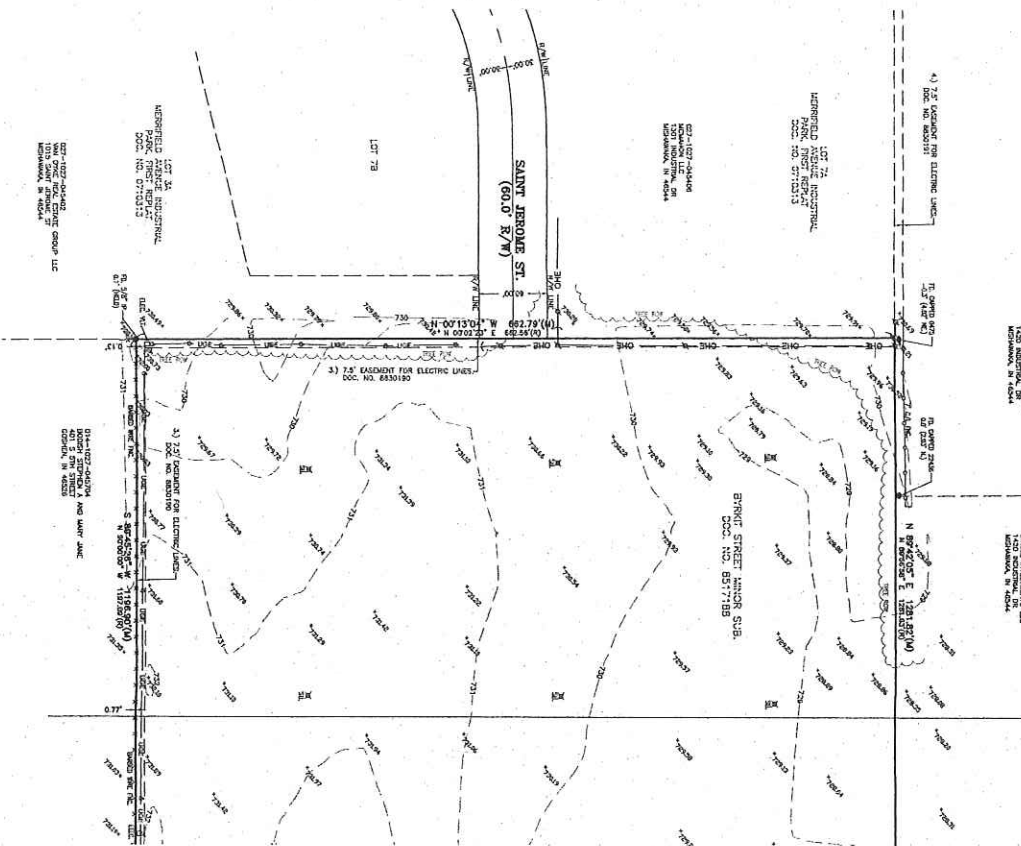


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 MH. ST. BUTTE
 MI. ST. SALT LAKE CITY
 MJ. ST. DENVER
 MK. ST. C



DATE 2/9/23	DRAWN BY: SMM	REVISIONS
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REVISIONS

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INTERESTS & RELATIONS:
DANIEL, HANSEN & ASSOCIATES, INC.
1643 COMMERCE DRIVE

2/9/23	SMM		
SCALE	CHECKED BY:	DATE	BY
	MJD		

2

REVIEWS

Danch, Harner & Associates, Inc.
Land Surveyors • Professional Engineers
Landscape Architects • Land Planners
Office (314) 294-4022 / (800) 244-4023 • Fax (314) 294-4119

FILE NUMBER: KLS 1310055 DATE: 2-9-2023

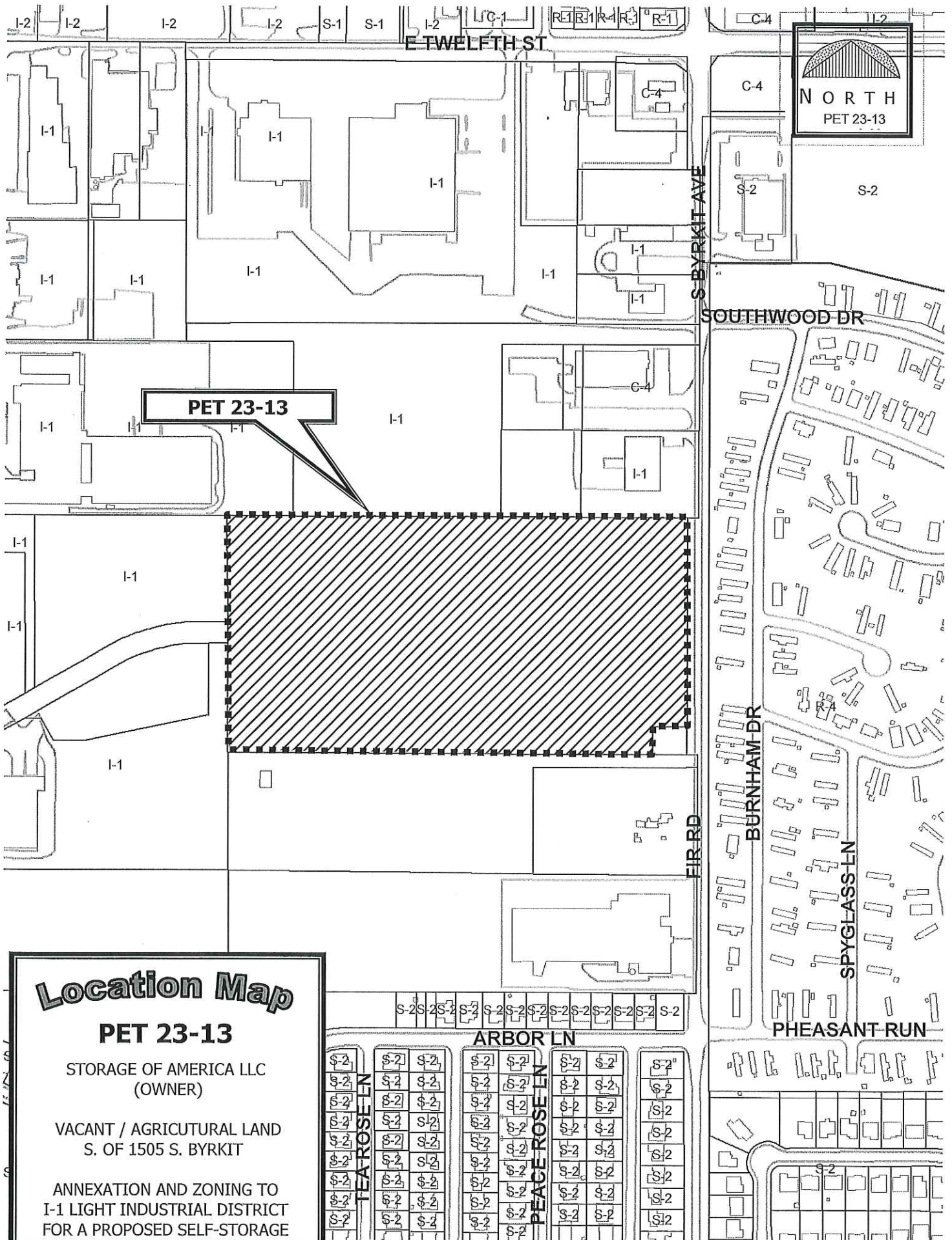
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ONE OF THE MOST IMPORTANT RESEARCHERS IN THE FIELD OF POLYMERIZATION OF VINYL MONOMERS, DR. J. H. KILPATRICK, JR., OF THE UNIVERSITY OF CALIFORNIA, SAN DIEGO, CALIF., HAS BEEN AWARDED THE 1964 ACADEMY OF ARTS AND LETTERS AWARD FOR HIS CONTRIBUTIONS TO THE FIELD OF POLYMERIZATION OF VINYL MONOMERS. DR. KILPATRICK HAS BEEN A MEMBER OF THE ACADEMY SINCE 1958.

[illegible]

SURETYPED REPORT
TITLE/OWNER/CLIENT NAME: STOWAGE OF AMERICA, LLC, DRINK PROPERTY GROUP, LLC, BY THE VIRTUE OF THE DEED RECORDED AS DOCUMENT 2022-00025, FIRST AMERICAN TITLE INSURANCE COMPANY

SITE LOCATION MAP



PETITION #23-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-27

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 37 NORTH, RANGE 3 EAST, IN ST JOSEPH COUNTY, INDIANA, DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 3, RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 3, 395.98 FEET; THENCE WEST 350.93 FEET TO A POINT WHICH IS 396 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 3 (SAID POINT ALSO BEING ON THE WEST LINE OF MAPLEHURST STREET); THENCE SOUTH ALONG THE EAST LINE OF SAID MAPLEHURST STREET 396 FEET TO THE SOUTH LINE; THENCE EAST ALONG THE SOUTH LINE OF SAID SECTION, 351.14 FEET TO THE PLACE OF BEGINNING, EXCEPTING THE SOUTH 110'.

COMMON ADDRESS: property located 100' North of the Northeast corner of East McKinley and Maplehurst

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of C-4 Automobile Oriented Commercial.

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

1. Existing Conditions – The subject property is located along the heavily travelled E. McKinley Avenue corridor that serves as the one of the principal arterial roadways connecting Mishawaka and South Bend to downtown Elkhart. Traffic volumes in the immediate vicinity are anticipated to remain consistent or increase in future years due to added travel lane projects. The annexation parcel is mostly a vacant wooded area with a small paved lot in the south part of the property previously serving a prior gas

Proposed Ordinance No. _____

Ordinance No. _____

station. Adjacent land uses include a dealer-only auto auction business to the north; a commercial building to the west; a used automobile sales businesses, vacant commercial property, and an automobile repair business to the south; and a used automobile sales business owned by the appellant to the east.

2. Character of Buildings in the Area – The character of buildings and land uses located along E. McKinley Avenue corridor vary greatly and include commercial, industrial, and residential land uses.
3. The most desirable/highest and best use – Because of the property's location along a highly travelled mixed use corridor, the most desirable use for the property is commercial or lesser intense industrial use including the proposed mini-self storage facility.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. All of the adjacent properties are either commercial zoned or occupied by commercial uses.

Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified a preferred land use of the subject property as open space. The plan does not reflect subsequent changes in the adjacent land use patterns from the mid-1990s to the early 2010s which permitted commercial uses to the west, north, and east. The proposed use is reasonably consistent with the goals and objectives of the plan and existing adjacent land uses.

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: West of 1500 E. McKinley Avenue - Northeast corner of E.
McKinley Avenue & Maplehurst Avenue

Date: June 13, 2023

Petition: 23- 14

Prepared By: DJS

GENERAL INFORMATION

Applicant: 1500 McKinley LLC (d/b/a Cars2You on adjacent property to the east) / Wightman

Status: Property Owner / Surveyor & Site Design Consultant

Request: To annex, establish zoning, and approve a preliminary site plan for a self-storage facility

Existing Zoning: Unincorporated St. Joseph County (R Single Family District)

Proposed Zoning: C-4 Automobile Oriented Commercial with a Use Variance (AP 23-18) to allow a self-storage facility

Lot Size: 2.34 acres including the adjacent Maplehurst Avenue right-of-way

Applicable Regulations: Section 137-379 to 137-380 / C-4 Automobile Oriented Commercial District & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County – C Commercial District (Dealer-Only Automobile Auction / Greater Mishawaka Auto Auction)

South: C-4 Automobile Oriented Commercial (Used Automobile Sales / Cars2You and Rite Way Auto, Vacant, and Automobile Repair / Town & Country Tire and Auto)

East: C-4 Automobile Oriented Commercial (Used Automobile Sales / Cars2You owned by the Applicant)

West: C-1 General Commercial (Commercial Building)

Thoroughfare: E. McKinley Avenue & Maplehurst Avenue

School District: Penn-Harris-Madison

Township: Penn

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

Comprehensive Plan: Open Space

ANALYSIS

Proposal:

The petitioner, 1500 McKinley LLC, is proposing to annex, establish zoning, and approve a preliminary site plan to allow for the construction of a mini-self storage facility.

The 2.08 acre site, which includes one parcel (tax parcel 014-1019-0272.09), is located on the north side of E. McKinley Avenue east of Maplehurst Avenue. A majority of the site is a vacant wooded area with a small paved lot in the south part of the property previously serving the prior Swifty's gas station. The adjacent properties to the south and east are also owned by the applicant and occupied by the Cars2You used automobile sales business (1500 E. McKinley Avenue). Property to the south was annexed into the City of Mishawaka in 1940 as a part of a large approximate 5 sq. mile annexation and zoned for commercial use. The property to west across Maplehurst Avenue was annexed in 1995 and zoned for commercial use. The property to the east was annexed in 2010 and zoned for commercial use for the applicant's used automobile sales business.

As indicated on the preliminary site plan, the development will include 5 storage unit buildings, an entrance drive from E. McKinley Avenue, and the associated access drives. The storage unit buildings will be located on both the annexation parcel and the applicant-owned property to the south zoned C-4 Auto Oriented Commercial and currently used for display of vehicles. Although not shown on the plan, an off-site storm water retention basin will be provided within the applicant-owned property to the east. The existing retention basin serving the adjacent property is proposed to be expanded to provide additional storm water storage for the proposed storage unit property. No phasing is shown on the site plan so it is anticipated that it will be developed in one phase. An office building/space is also not shown within the property. No parking spaces will be required if there are no on-site employees.

A Use and Developmental Variance appeal (AP 23-18) was submitted concurrent with the annexation and zoning petition. A mini-storage facility, which is an I-1 Light Industrial use, is not a permitted use in the C-4 Auto Oriented Commercial District. Rezoning to the I-1 District zoning classification is not desired as it would allow for several permitted uses that would not be appropriate for the property. As a result, Planning Staff instructed that the C-4 Auto Oriented Commercial zoning and use variance be requested. The commercial zoning also requires landscaping and design regulations on the type of architectural materials that can be used on the buildings which are not required for industrial zoned property. Staff believes that due to the location along a highly travelled commercial corridor, commercial landscaping and design regulations were appropriate for the property.

Several developmental variances were also identified in the appeal including reduced building setbacks, an increased fence height in the required front setback, and a reduction in required parking to zero spaces. Since the appeal was filed, the preliminary site plan was revised which modify several of the developmental variances as requested. Specific conditions of approval and development regulations will be included as a part of the use variance approval.

If the proposed annexation and zoning request is approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/ screening, grading, erosion control, and any other required improvements.

Annexation:

Adjacent properties to the west, south, and east were annexed into the city between 1940 and 2010 and zoned for commercial use. Properties to the south and east are owned by the applicant and occupied by a use automobile sales business.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. With the previous annexations outlined above, a total of 922.93 feet, or 72.5%, of the entire 1273.86 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located north of E. McKinley Avenue east of Maplehurst Avenue, and is bordered to the north by a dealer-only automobile auction business within unincorporated St. Joseph County; to the west by a commercial building; to the south by used automobile sales businesses, vacant commercial property, and an automobile repair business; and to the east by a used automobile sales business owned by the appellant.

Zoning Change:

Staff believes the proposed zoning of the property to the C-4 Automobile Oriented Commercial District with a use variance to allow for a mini-self story facility is appropriate given the adjacent commercial zoned and occupied properties. The commercial zoning will also require landscaping and design regulations for the buildings which are not often not required for storage facility developments on industrial zoned property. Rezoning to the C-4 District will also allow for all other C-4 permitted uses.

Transportation/Roads:

According to the latest available traffic counts along E. McKinley Avenue, there were 14,619 annual average daily trips (AADT) (May 2018) immediately east of N. Merrifield Avenue and 16,545 AADT (May 2022) immediately west of Fir Road/N. Byrkit Avenue. The counts at these location have been relatively constant over the last 20 years with peak counts between 19,000-22,000 AADT. With E. McKinley Avenue serving as the one of the principal arterial roadways connecting Mishawaka and South Bend to downtown Elkhart, traffic volumes are anticipated to remain constant or increase in future years due to added travel lane projects as outlined below.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff, the County Engineering Department, and INDOT, includes added travel lanes along a 1.74 mile section of E. McKinley Avenue within the city limits between Elder Road and Division Street. The projected completion year for part of this project is 2029 with the entire project to be completed by 2035. The plan also includes added travel lanes along a 1.25 mile stretch of E. McKinley Avenue within unincorporated St. Joseph County between Ash Road (Elkhart County line) and Birch Road. The projected completion year for this added travel lane project is 2025.

All pertinent City Departments have reviewed and approved the proposed annexation, zoning, and preliminary site plan.

The Engineering Department had the following comments which shall be addressed with the final site plan and subdivision plat:

1. Remove the two existing drives at the corner of E. McKinley Avenue and Maplehurst Avenue. Throat shall be extended so vehicles don't back up on E. McKinley Ave. or come off of Maplehurst Ave.
2. The existing private lift station and force main shall be properly abandoned.
3. The site has restrictive covenants due to contaminated soils/groundwater from leaking underground storage tanks from previous owners. Confirm with the Indiana Department of Environmental Management that the proposed use is allowed.
4. A subdivision plat is required along with dedicating additional public right-of-way. A 60' half right-of-way shall be dedicated on the north side of E. McKinley Avenue.
5. A cross-access (ingress-egress) easement shall be provided to allow access to and from the adjacent property to the east.

RECOMMENDATION

Staff recommends approval of Petition 23-14 to annex, establish zoning, and approve a preliminary site plan for property located at the northeast corner the E. McKinley Avenue and Maplehurst Avenue. The approval will zone the property to the C-4 Automobile Oriented Commercial District. A separate use variance (AP 23-18) is required to allow for the proposed mini-self storage facility.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is located along the heavily travelled E. McKinley Avenue corridor that serves as the one of the principal arterial roadways connecting Mishawaka and South Bend to downtown Elkhart. Traffic volumes in the immediate vicinity are anticipated to remain consistent or increase in future years due to added travel lane projects. The annexation parcel is mostly a vacant wooded area with a small paved lot in the south part of the property previously serving a prior gas station. Adjacent land uses include a dealer-only auto auction business to the north; a commercial building to the west; a used automobile sales businesses, vacant commercial property, and an automobile repair business to the south; and a used automobile sales business owned by the appellant to the east.
2. Character of Buildings in the Area – The character of buildings and land uses located along E. McKinley Avenue corridor vary greatly and include commercial, industrial, and residential land uses.
3. The most desirable/highest and best use – Because of the property's location along a highly travelled mixed use corridor, the most desirable use for the property is commercial or lesser intense industrial use including the proposed mini-self storage facility.
4. Conservation of property values – The proposed zoning should not be injurious to the property values in the surrounding area. All of the adjacent properties are either commercial zoned or occupied by commercial uses.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified a preferred land use of the subject property as open space. The plan does not reflect subsequent changes in the adjacent land use patterns from the mid-1990s to the early 2010s which permitted commercial uses to the west, north, and east. The proposed use is reasonably consistent with the goals and objectives of the plan and existing adjacent land uses.

ATTACHMENTS

Aerial Map, Photographs, Annexation and Zoning Petition, Preliminary Site Plan, and Location Map



Aerial Photograph
Vacant Land – N. of E. McKinley Avenue & E. of Maplehurst Avenue
Proposed Self-Storage Facility



P1. Looking easterly from Maplehurst Avenue toward the applicant-owned property south of the annexation parcel.



P1. Looking easterly from Maplehurst Avenue toward the wooded area on the annexation parcel.



P3. Looking northerly from south of E. McKinley Avenue toward the property.

Ref 23-14

DATE:

This is not a fill in form. It is to be used merely as a guide in preparing your petition.

TO THE:

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

Deborah S. Block, IAMC. MM

JUN 01 2023

City Clerk
Mishawaka, IN

RE: Petition for Annexation and Zoning Classification

The undersigned 1500 McKinley LLC respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

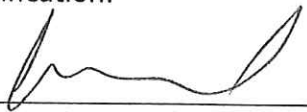
PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 37 NORTH, RANGE 3 EAST, IN ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 3, RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 3, 395.98 FEET; THENCE WEST 310.93 FEET TO A POINT WHICH IS 396 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 3 (SAID POINT ALSO BEING ON THE EAST LINE OF MAPLEHURST STREET); THENCE SOUTH ALONG THE EAST LINE OF SAID MAPLEHURST STREET 396 FEET TO THE SOUTH LINE; THENCE EAST ALONG THE SOUTH LINE OF SAID SECTION 3, 311.14 FEET TO THE PLACE OF BEGINNING, EXCEPTING THE SOUTH 110'.

Petitioners own One Hundred (100%) percent of the above-described parcel of land located in the State of Indiana and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a C-4 Zoning District. Petitioners further state they intend to utilize said land for construction of individual storage units.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above-described parcel of real estate to the City of Mishawaka with a C-4 zoning classification.



Property Owner Signature

STOYAN STOYANOV
PRINT - Stoyan Stoyanov - Member

5-23-2023

DATE

CONTACT PERSON:

Stoyan Stoyanov
1500 E. McKinley Avenue
Mishawaka, IN 46545
574-329-8909
sales@cars2you.com

J. Bernard Feeney
1405 N. Michigan Street
Plymouth, IN 46563
574-936-3469
bfeeney@gowightman.com

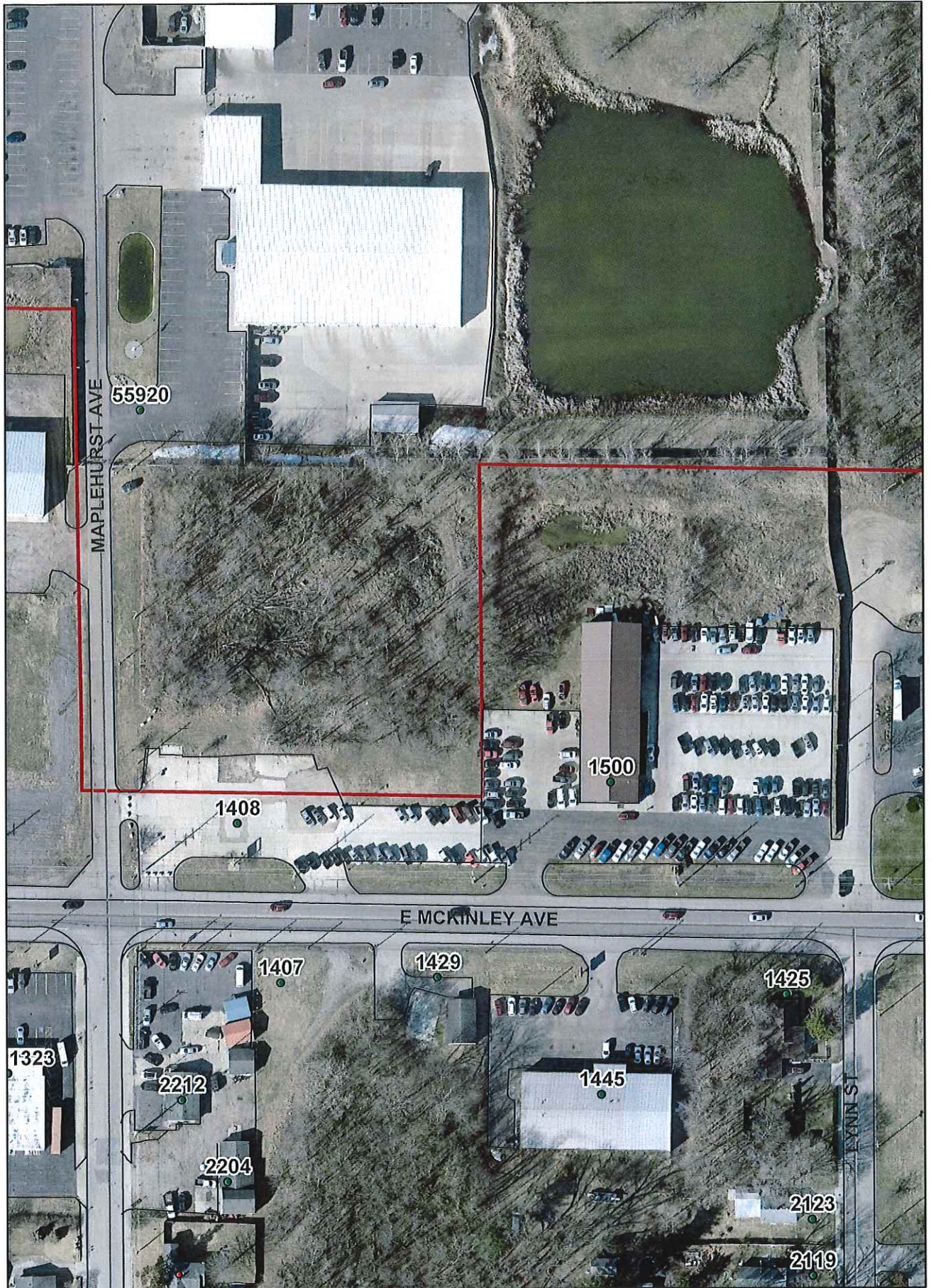
MAPLEHURST AVE.

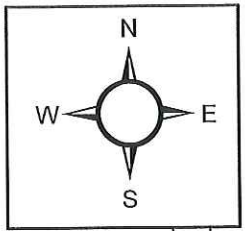


CLIENT: STOYAN

PROJECT:

10F1





EXISTING CITY LIMITS

PET 23-14

E MCKINLEY AVE

LYNN ST

Location Map

PET 23-14

OWNER: 1500 MCKINLEY LLC

**LOCATION: 100' NORTH OF THE
NORTHEAST CORNER OF
E MCKINLEY AND MAPLEHURST**

**ANNEXATION AND REZONING
TO C-4 AUTOMOBILE
ORIENTED COMMERCIAL**

C-4

C-4

C-4

C-4

C-4

C-4

C-1

C-1

R-1

R-1

C-1

C-1

I-1

I-1

I-1

C-1

C-1

C-1

C-1

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 23-06
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2023-29
ORDINANCE NO. _____

Deborah S. Block, JAMC, MMC

JUN 14 2023

City Clerk
Mishawaka, IN

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

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

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

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

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

Parcel I: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Beginning at a point on the East line of Schumacher Drive, 229.31 feet South 0°27'35" East of the Southwest corner of Lot Numbered 5 as shown on the recorded Plat of Town and Country Estates, Section "A", as recorded in Instrument No. 7705865 in the office of the Recorder of St. Joseph County, Indiana; thence North 0°27'35" West along said East line of Schumacher Drive, 229.31 feet to the Southwest corner of said Lot 5; thence North 89°32'25" East along the Southerly line of said Lot 5, 146.52 feet to the Southwest corner of Lot 4 in said recorded Plat; thence North 52°48'39" East along the Southerly line of said Lot 4, 142.47 feet to the Southwest corner of Lot 3 in said recorded Plat; thence North 47°10'54" East along the Southerly line of said Lot 3, 90.48 feet to the Southwest corner of Lot 2 in said recorded Plat; thence North 67°57'44" East along the Southerly line of said Lot 2, 83.03 feet to the Southeast corner of Lot 1 in said Plat, said corner being on the West line of the recorded Plat of Normain Heights, as recorded in Plat Book 16, Page N in Recorder's Office; thence South 0°51'43" East along said West line of Normain Heights, 408.67 feet; thence South 89°54'42" West, 407.65 feet to the point of beginning.

EXCEPTING a parcel of property commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded in Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 89°32'25" East, 75.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.00 feet to the place of beginning.

PARCEL II: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3

Proposed Ordinance No: _____

Ordinance No: _____

East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded on Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana ; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.0 feet to the place of beginning.

COMMON ADDRESS: 2406 Schumacher & Adjacent vacant property

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-3 Multi-Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long standing residential developments like Normain Heights and Town & Country Estates.
2. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there is residential to the north and east;
3. The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family 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 this is a downzoning to match existing neighboring zoning; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 12 units per acre.

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

Proposed Ordinance No: _____

Ordinance No: _____

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: 2406 Schumacher and adjacent vacant property

Date: April 11, 2023

Petition: 23 06

Prepared By: CH

GENERAL INFORMATION

Applicant: Freed Capital, LLC/Wightman (Terry Lang)

Status: Property Owners/Surveyor & Site Designer

Request: Rezone from C-1 General Commercial District & R-3 Multi-Family Residential to R-3 Multi-Family Residential

Zoning Classification: C-1 General Commercial District & R-3 Multi-Family Residential

Lot Size: 2.8 acres

Applicable Regulations: Sec. 137-40 Plan Commission;
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map;
Sec. 137-215 thru 137-217 R-3 Multi-Family Residential Developmental Regulations

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential (Town & Country Estates)
South: C-9 Automobile Sales (automobile sales, service & detailing)
East: R-1 Single Family Residential (Normain Heights)
West: I-1 Light Industrial (roofing wholesaler)

Thoroughfare: Schumacher Drive

School District: Penn-Harris-Madison

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

Comprehensive Plan: Low to medium density residential

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-1 General Commercial District & R-3 Multi-Family Residential to R-3 Multi-Family Residential. The property is located at 2406 Schumacher and includes adjacent vacant property.

The property is 2.8 acres. There is an existing 1,200 square foot office building, which is proposed to be demolished. The remaining property is wooded. The northeast portion (where the retention pond is proposed) is currently zoned R-3 Multi-Family Residential.

The reason for the change is so the petitioner can build 6 four-unit residential buildings. With this petition the property owner is only seeking to establish the proper zoning for the proposed multi-family use. If approved, 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. A subdivision plat will also be required to establish all necessary easements.

Based on the proximity to single family residential homes, Planning Staff is requesting a written commitment limiting the building height standard of the R-2 Two Family District be applied, which is 35' as opposed to 120'. Planning also had questions about garages/parking spaces and number of bedrooms per unit.

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. Sanitary sewer shall be privately maintained and will not qualify for sewer insurance; 2. With roadway private, all maintenance (paving, plowing, etc.) would be the developer's responsibility; 3. Storm sewer easement shall be 30', not 20'; 4. Existing 10" sanitary stub is only 6' deep, so may need to be raised to provide adequate cover over pipe; 5. All proposed runoff shall be directed to proposed retention basin and be sized to handle 100 year, 24 hour storm event. This may have constraints with groundwater depths, provide Geotech report to confirm; 6. Sidewalk along Schumacher Dr within project limits shall be replaced.

Other pertinent City Departments reviewed and approved the request.

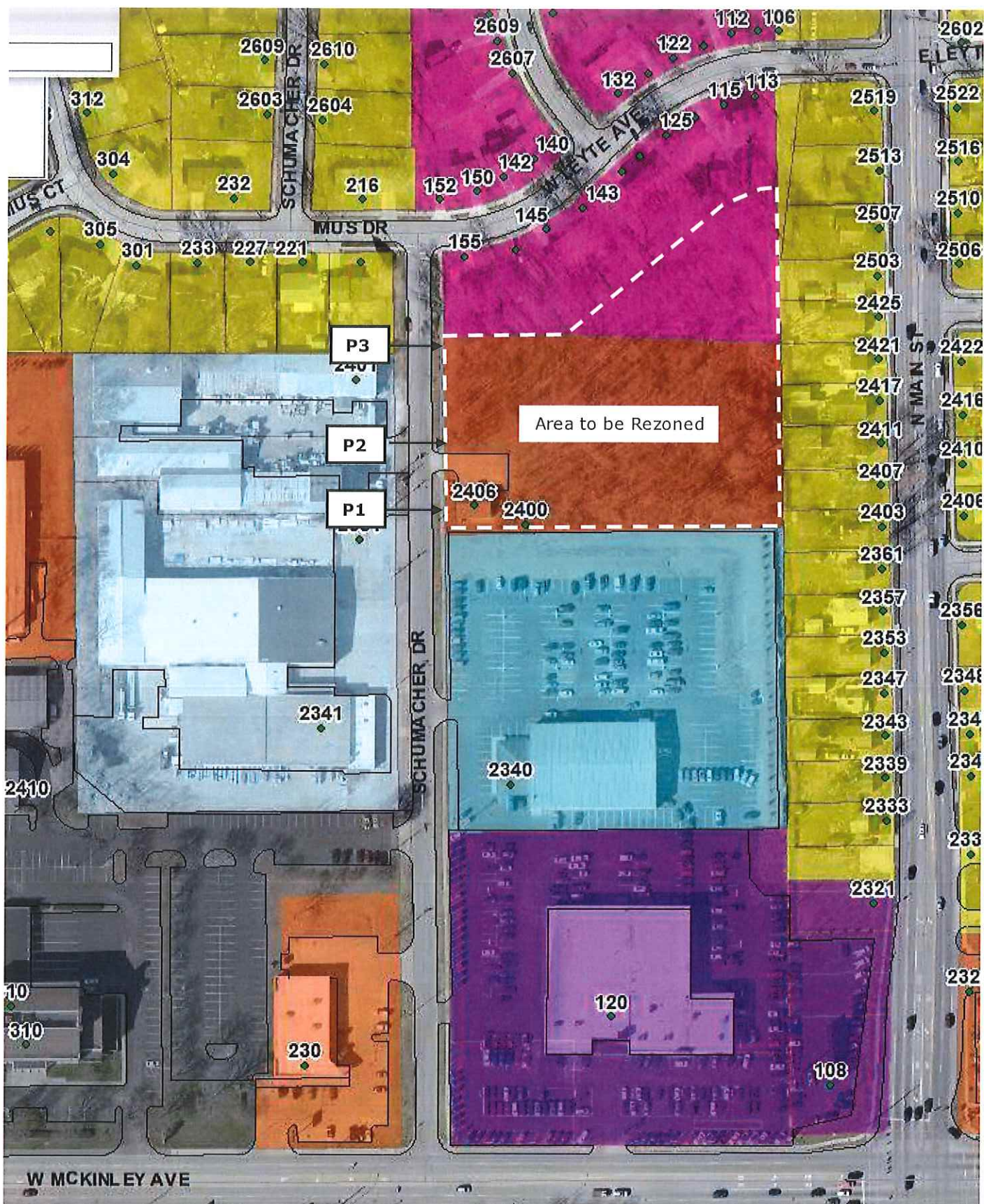
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #23-06 to rezone the property at 2406 Schumacher Drive and the adjacent vacant property to R-3 Multi-Family Residential District. This recommendation is based upon the following findings of fact:

1. Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long standing residential developments like Normain Heights and Town & Country Estates.
2. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there is residential to the north and east;
3. The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family 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 this is a downzoning to match existing neighboring zoning; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 12 units per acre.

ATTACHMENTS

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP





P1. Existing building at 2406 Schumacher (to be demolished)



P2. Parking lot and wooded area



P3: North end of the property against property facing Imus

March 22, 2023

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

PK 23-06
Received

MAR 22 2023

Planning and
Community Development

Deborah S. Block, MMC, MMC

MAR 23 2023

City Clerk
Mishawaka, IN

RE: PETITION TO REZONE

The undersigned, Freed Capital, LLC, respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

PARCEL I: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Beginning at a point on the East line of Schumacher Drive, 229.31 feet South 0°27'35" East of the Southwest corner of Lot Numbered 5 as shown on the recorded Plat of Town and Country Estates, Section "A", as recorded in Instrument No. 7705865 in the office of the Recorder of St. Joseph County, Indiana; thence North 0°27'35" West along said East line of Schumacher Drive, 229.31 feet to the Southwest corner of said Lot 5; thence North 89°32'25" East along the Southerly line of said Lot 5, 146.52 feet to the Southwest corner of Lot 4 in said recorded Plat; thence North 52°48'39" East along the Southerly line of said Lot 4, 142.47 feet to the Southwest corner of Lot 3 in said recorded Plat; thence North 47°10'54" East along the Southerly line of said Lot 3, 90.48 feet to the Southwest corner of Lot 2 in said recorded Plat; thence North 67°57'44" East along the Southerly line of said Lot 2, 83.03 feet to the Southeast corner of Lot 1 in said Plat, said corner being on the West line of the recorded Plat of Normain Heights, as recorded in Plat Book 16, Page N in Recorder's Office' thence South 0°51'43" East along said West line of Normain Heights, 408.67 feet; thence South 89°54'42" West, 407.65 feet to the point of beginning. EXCEPTING a parcel of property commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded in Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 89°32'25" East, 75.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.00 feet to the place of beginning.

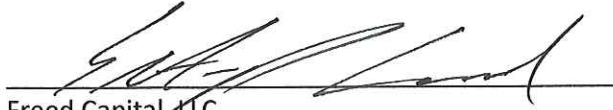
PARCEL II: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded on Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.0 feet to the place of beginning.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of Commercial C-1 District. Said property is currently a vacant wooded lot.

Petitioner desire said real estate to be rezoned to Residential R-3 District.

Petitioner further state that they intend to utilize said land for multi family units with access provided by a private street accessing Schumacher Drive.

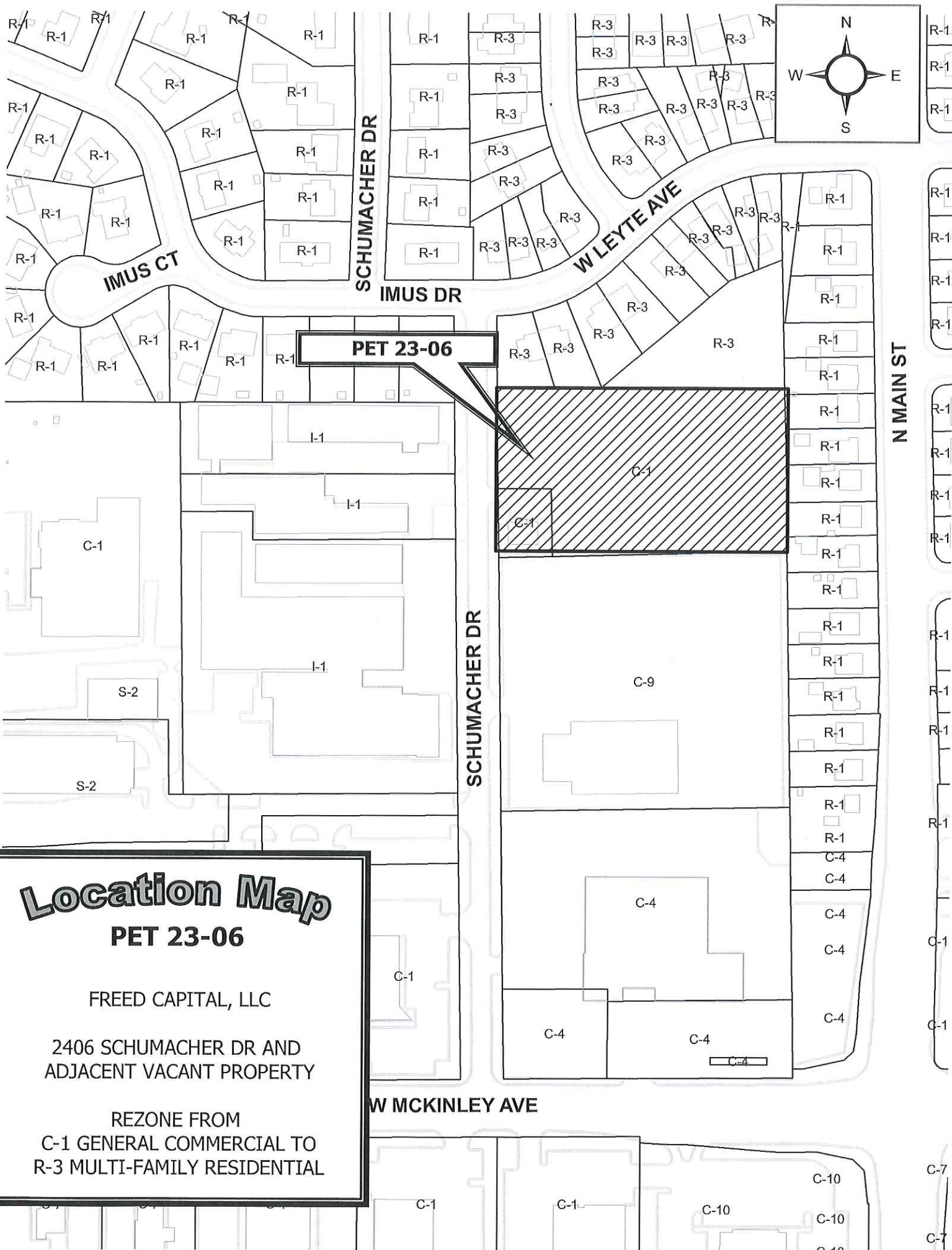
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

A handwritten signature in black ink, appearing to read 'Seth Freed', is written over a horizontal line.

Freed Capital, LLC
Seth Freed, Member
131 E. Borley Avenue
Mishawaka, Indiana 46545
989-415-7607; 260-234-1965
sfreed@pellani.com

CONTACT PERSON:

Wightman c/o Terry Lang, PS
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
tlang@gowightman.com



Location Map

PET 23-06

FREED CAPITAL, LLC

2406 SCHUMACHER DR AND
ADJACENT VACANT PROPERTY

REZONE FROM
C-1 GENERAL COMMERCIAL TO
R-3 MULTI-FAMILY RESIDENTIAL

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2023-30

ORDINANCE NO.

HPC # 23-01

Deborah S. Block, IAMC, MMC

JUN 14 2023

City Clerk
Mishawaka, IN

**AN ORDINANCE TO ESTABLISH 124 SOUTH RACE STREET
AS A LOCAL HISTORIC LANDMARK
WITHIN THE CITY OF MISHAWAKA, INDIANA.**

WHEREAS, Chapter 125 of the Municipal Code provides for the establishment of Historic Districts within the City of Mishawaka, and

WHEREAS, the owner of 124 S. Race St., which is listed as Outstanding in the 1995 Survey wishes to preserve and protect their home by establishing it as a Local Historic Landmark, and

WHEREAS, the Historic Preservation Commission held a public hearing on June 6, 2023 for the purpose of allowing discussion and public comment on the proposed designation of 124 S. Race St. as a Local Historic Landmark, and

WHEREAS, a Staff report, application, supporting documentation, Preservation Guidelines and Location Map are attached.

WHEREAS, the Commission voted to forward the request to the Common Council with a favorable recommendation.

SECTION 1: The property is commonly described as 124 S. Race Street, and is legally described as follows:

The southern 60.5' of Lot 4 and additional 12' of vacated Race St adjacent to Lot 4 & the southern 60.5' of the west half of Lot 2 in the Original Plat St Joe Iron Works, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Tax Key Number: 016-1012-050601

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, COUNTY OF ST. JOSEPH, STATE OF INDIANA, THAT the above reference property be designated as the Eberhart-Sullivan House, a Local Historic Landmark.

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 p.m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, CMC, City Clerk

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

Deborah S. Block, IAMC, CMC, City Clerk

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

David A. Wood, Mayor

CITY OF MISHAWAKA HISTORIC PRESERVATION COMMISSION

Staff Report for 124 S. Race Street Designation as a Local Landmark City of Mishawaka, Indiana



Google Street View from South Race Street



Google Street View from East Third Street

CITY OF MISHAWAKA HISTORIC PRESERVATION COMMISSION

Name of Landmark: Eberhart-Sullivan House

Location of Landmark: 124 S Race Street

Legal Description: The property is legally described as: the southern 60.5' of Lot 4 and additional 12' of vacated Race St adjacent to Lot 4 & the southern 60.5' of the west half of Lot 2 in the Original Plat St Joe Iron Works, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Property Owner: Robert Sullivan

Guidelines of the District
Attached as Exhibit C.

Map of the District.
Attached as an appendix in Exhibit D.

Reasons for Historic District Designation:

The 1995 Indiana Historic Sites and Structures Inventory identified the house at 124 S Race as Outstanding in the Beiger Historic District. Identified as a bungalow, called the Eberhart House, was built circa 1900. Tax records indicate a building date of 1895 and the homeowner's research has a date of 1892. Pictures submitted with the application show the house was existing in 1903.

It sits at the northeast corner of South Race Street and East Third Street. The Dodge Old People's House, landmarked in 1997 is directly east. The Beiger Mansion, which has been on the National Register from 1973 is northeast of this house. The Main branch of the Mishawaka-Penn-Harris Library is west, across South Race Street. While not a landmark, it was originally the post office, and preserves that on the exterior.

Built as a home for James Clarence Eberhart, Jr, the son of Adolphus Eberhart, a founder of Mishawaka Woolen Company (which became Ball Band and later Uniroyal). It was sold by the Eberharts in 1907, and over the years was converted into apartments and businesses (as seen in the 2004 file picture).

A note was made in the tax records for 2011/2012 that the house was in poor condition. Luckily for Mishawaka, Bob and Faye Sullivan purchased the home in 2012 and began improvements. It became their single family home and Faye also operated His Majesty's Victorian Tea Shop out of the home.

Faye Sullivan was appointed to the Historic Preservation Commission in 2015 because the Mayor would drive by the house on his commute to City Hall and appreciated the work that was going into it. After Faye's passing in 2022, Bob was appointed to the vacancy on the Commission.



File photo from 2004, when it was a religious gift shop.

Recommendation

The staff recommends in favor of creating a Local Landmark at 124 S. Race based on the following reasons:

1. **Architecture/Design** – Rated as Outstanding in the 1995 Historic Sites and Structures Survey. Brick and on the first floor and slate facing on the second story, the large front porch has been there since the beginning. From being noted as being in “poor condition” in the 2011/2012 tax records, the Sullivans spent 3 ½ years refurbishing the house, which included the addition of a garage modeled in the historic nature of the home.
2. **People** – The Eberhart family was a well known name in Mishawaka during the late 1800’s. Adolphus Eberhart (highlighted in the Founders Circle) joined Mishawaka Woolen Manufacturing in 1878 with Martin Beiger. This company eventually became Ball-Band and later Uniroyal. James, the oldest child, who lived in the house from 1892 to 1906, also worked at the company from age 18 until he retired in 1903.



MISHAWAKA
HISTORIC
PRESERVATION
COMMISSION

HISTORIC DISTRICT/LANDMARK NOMINATION APPLICATION

Received
MAY 03 2023
Planning and
Community Development

An application for nomination of a historic landmark may only be submitted by the owner of record of the nominated site. Applications and supporting documentation should be provided to: Mishawaka Department of Planning and Community Development, 100 Lincolnway West, Mishawaka IN 46544 (574)258-1625.

APPLICANT/OWNER OF RECORD

Name(s): Robert F. Sullivan

Address: 124 South Race Street

MISHAWAKA, IND 46544

Signature of Owner: Robert F. Sullivan

Street Address of Property, if different from above: _____

The legal description of the property (from deed):

Please provide a written statement describing the structure, building, site and setting forth reasons in support of the proposed designation, including a list of significant exterior architectural features that should be protected.

Cite the specific criteria (there may be more than one) under which you are seeking historic designation (see list attached). Attach additional information if necessary.

Provide the following information:

- Written documentation and evidence establishing that the Applicant is the current owner of record of the nominated property and consents to the proposed historic designation. Such documentation or evidence of record ownership shall include the most recent available title policy in the name of the Applicant or other evidence of record ownership acceptable to the City Planner.
- An overall site plan and front, side and rear photographs of the property. Restoration methods, material samples, etc., if applicable.
- Such other relevant information as requested by the Planning Department or the Commission.
- A list of all property owner of record within 300 feet of the subject property, provided by Planning Staff (574) 258-1625.
- Business size (4 1/2" by 9 1/2"), stamped envelopes addressed to all property owners on the list from the Auditor's office. Do NOT put your return address on the envelopes. If using a stamp meter, do not date.

Preservation Objective

The subject structure, exterior features of the site, and architectural and historic character shall be preserved as a significant resource of Mishawaka and St. Joseph County according to the standards set forth above. The Eberhart home is identified and designed as a single site in the Mishawaka Historic Preservation District.

Exhibit A

Description

The Eberhart Home was constructed in 1892 for James Clarence Eberhart Jr., the oldest of four Eberhart children. James, the oldest son of Adolphus and Sara Eberhart, one of the oldest and most respected families in Mishawaka. The Queen Anne style home is located at 124 South Race Street. The two story home is built of brick on the first story and slate facing on the second story on a granite foundation.

The Eberhart Home is a two story structure with porches on both the front and back of the home. The primary facade of the home faces Third Street and the main entrance faces Race Street, and is located at the Northwest corner of Race and Third Streets. Prominent features include a large front porch for entertaining guests, beautiful planter beds, trees, a large 10' fountain and a decorative iron fence.

The home today includes a grand entry into a large oak foyer with a baby grand piano, and a beautiful, elaborate staircase leading to the second floor. The parlor includes Victorian furnishing to comfort residents and guests so they can relax and enjoy the surroundings. A dining room is adjacent to the parlor and includes a large fireplace with beautiful oak floors. The details of each room goes beyond the furnishings, as you see the details in the wallpapers, fancy trim and crown molding, ornate ceiling medallions, and the chandeliers. At the back of the first floor today you'll find a mother-in-law suite, and a beautiful copper crested ceiling in the ruby red kitchen. On the second floor you'll find a master bedroom suite, and dressing room. Along with a setting room at the top of the stairs, an entertainment room, an office, two bathrooms and a small kitchen/laundry room.

*Attached please find (2) photographs of the front and south side of the Eberhart home in 1903, (2) photographs from 2012 when the Sullivan's purchased the home, and (2) photographs from 2023 when the Sullivans completed the landscaping with flower beds, shrubs, flower trees, bushes, an addition of a two story attached garage modified to match the house and decorated beautiful with the iron fence and gates.

1903



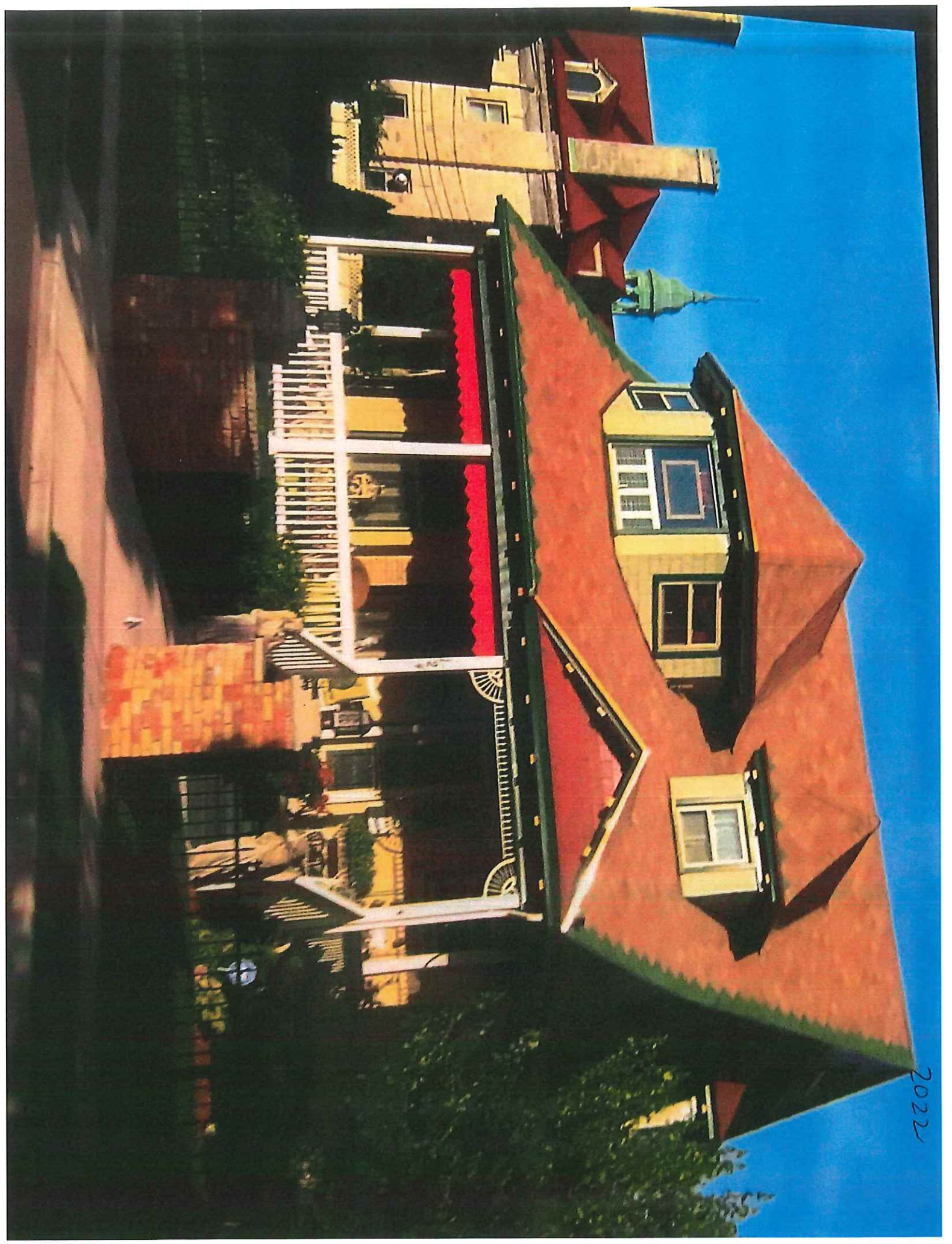
1903





2012





2022

2022

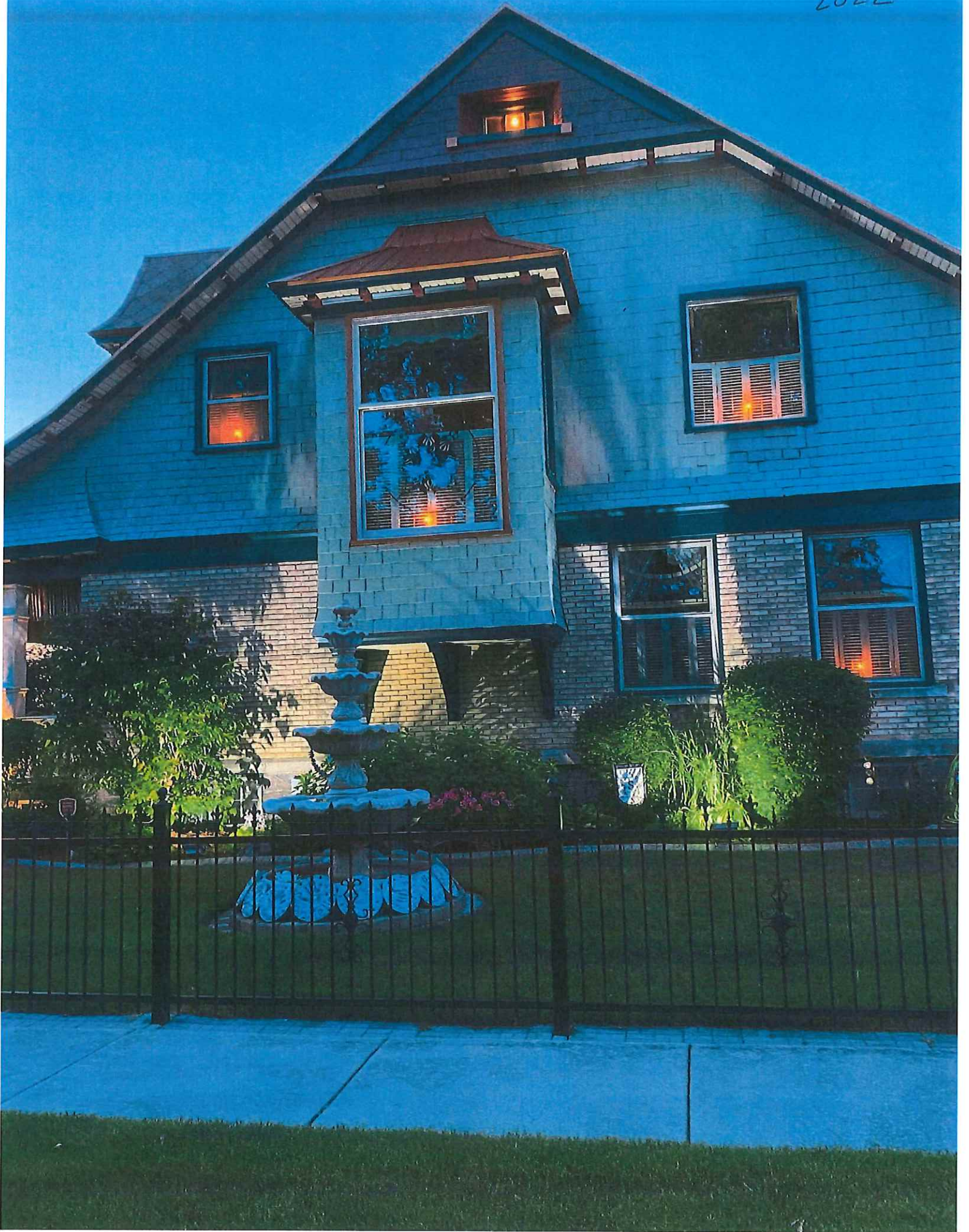


Exhibit B

History

In 1892 the Eberhart Home was constructed for James Clarence Eberhart Jr., the son of Adolphus and Sara Eberhart, one of the oldest and most respected families in the city. The Queen Anne style home is located at 124 South Race Street. The two story home is built of brick and slate on a granite foundation with a large Victorian front porch.

Adolphus Eberhart and the late M.V. Beiger invented and patented the famous Red Ball Knit Boot which became the foundation and beginning of the Mishawaka Woolen Company. James Eberhart worked at the company for his father at the age of 18 and later became the secretary of the company up until he retired in 1903.

James Eberhart, a very popular man in the city and a large stockholder of the Mishawaka Woolen Company, was united in marriage with his bride Miss Mary De Groote on December 28, 1901 at the home of James' sister in Nebraska. After their wedding and extended trip out west, they returned to his residence at 124 South Race Street in Mishawaka and lived there until 1906.

In 1906 James Eberhart constructed a new palatial home at 773 Lincoln Way East where he and his wife lived until his death on February 2, 1915 (now Eberhart/Major House). After James death, his wife, the former Mary De Groote, two brothers E.G. Eberhart, F.G. Eberhart, and sister R.S. Grimes of Nebraska had the Methodist Church constructed on the corner of Church Street and Third Street as a memorial to their worthy parents. The beautiful church and chime of bells are among the most noted in Northern Indiana and constitute a lasting monument to the family name.

The Eberhart Home was sold in 1907 and became home to several families until it was converted into multiple apartments and businesses in the 1990's (doctors office, lawyers office, and lastly a Christian gift shop). The Sullivan's purchased the home in 2012 and spent 3 ½ years refurbishing both the inside and the outside of the home and it is now their residence.