

AGENDA

Monday, January 19, 2015

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

January 05, 2015

- 5. Petitions, Communications, Remonstrance and Memorials**

A letter from the City Plan Commission regarding recommendations from their January 13, 2015 meeting.

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**

P.O. NO. 2015-01 Rezone from I-2 Heavy Industrial to R-1 Single Family - 140,144,148,150 W. Marion St.

- 8. Resolutions**
- 9. Ordinances on Second Reading**
- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**
- 12. New Business**
- 13. Adjournment**

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk



REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
January 5, 2015

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday January 5, 2015, at 7:00 p.m. The meeting was called to order by City Clerk Deborah Block all were asked to stand for the Pledge of Allegiance.



Roll Call.

Present: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman, Mr. Emmons.

Absent/Excused: Mr. Banicki.

Others present; Mary Ellen Hazen Chief Deputy I, Linda Dotson Chief Deputy II, and Council Attorney Mike Trippel.

ELECTION OF OFFICERS

Clerk Block asked for nominations for President of the Council. Mr. Compton nominated Woody Emmons with a second by Mr. Mammolenti the motion carried.



Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman, Mr. Emmons.

Mr. Emmons presented a plaque to Mr. Mammolenti thanking him for his service and the fabulous job he did in a very time consuming and often a thankless position. Mr. Mammolenti thanked Mr. Emmons and the Council and said it was a great honor to have served and appreciated all the support he received from the Mayor and all department heads it made his job seamless and he enjoyed every minute of it.

Mr. Emmons opened the floor for nominations for Vice President. Mr. Roggeman nominated Ron Banicki for Vice President with a second by Mr. Mammolenti the motion carried. Mr. Emmons asked for a motion to close all nominations, Mr. Compton so moved.



Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman, Mr. Emmons.

The minutes from the December 15, 2014 meeting were approved as received from the City Clerk's Office.

Clerk Block presented the following Petitions to the Council, who referred it to the Plan Commission for their recommendation.

Petition No. 2015-01 Rezone from I-2 Heavy Industrial to R-1 Single Family
140, 144, 148, 150 West Marion Street.

Clerk Block read **RESOLUTION NO. 2015-01** opening it for public hearing.

RESOLUTION NO. R2015-01

Honoring Anna Rohrer

Mr. Kowalewski, said he has been Anna's Coach for the last several years and the one thing he has always stressed in his program was attitude and effort it is nice to be great but it is even greater to be nice. He said Anna can communicate and is so humble all the girls at the races were impressed at how nice she was and that she talked with all of them, it was the impact that she has on others that makes her so great and that was what he was most proud of. Mr. Kowalewski said her parents have done such a wonderful job in raising her. He said they would be traveling to Scotland this week to be part of Team USA in an International Cross Country Meet with elite athletes and college athletes. He wanted to thank the Council and the city for honoring her.

Josh Fletcher 21681 Knobcone Court, Bristol, Indiana said he was the head coach of the Penn High School Track Team and has coached against Anna for the last four years and has never heard a negative thing about her. He said she can look back at her accomplishments and really appreciate them she is so nice, everyone likes her and she is so genuine. Mr. Fletcher said he wanted to congratulate her and wished her well in all of her endeavors.

Mr. Rohr 3910 Rosemont Place, Mishawaka, said his daughter does not bask in the lime light but does not shy away from it and that was one of the things he finds remarkable about her. He said as a parent he worries about nurturing and fostering her raw god given talent, but she has always made it so easy, her pose, integrity, and talent has wowed him. Mr. Rohr said the Council's support has been phenomenal, the School Board, MHS Alumni, the Mayor, the student body, her teammates and her Coach who has gone beyond when the season has ended, it has been incredible to see the community support and it is wonderful that they can all celebrate this together.

Mayor Wood said he was impressed in witnessing Anna's dedication to her community a few days before she left for California she was handing out cookies at the Christmas fest in Mishawaka she helped collect food and distribute food to the needy. He said she has never shied away from any youth council or city event she is so committed to her community and has put Mishawaka on the map. Mayor Wood said Mishawaka has a Dare Program and Anna has been an ambassador for the 5th grade kids who look up to her and she is a perfect role model the City of Mishawaka was grateful to have her in our community, it was a better place to live because of her.

Mr. Roggeman said honoring Anna was a great way to start off the year. He said he watched her race on the internet with her in the lead and two girls close behind as she kept her steady pace one fell back with the other still close behind her and then came the big hill and he thought of

George Wilson Park and watched her as she took it. Mr. Roggeman said he was glad to honor her again for her great accomplishments.

Mr. Reisdorf said he was fortunate enough to help put this resolution together; there was not enough paper to sing all of her praises. He thanked her for allowing them to honor her it was truly their pleasure

Mr. Mammolenti said he could not add much to the accolades but wanted to say that he wanted to commend her on her praises of being nice, humble, and genuine and a great student.

Mr. Compton said great job and congratulations to her and her coach. He said having the Penn Coach here to sing her praises says a lot about him and her. Mr. Compton told her he also has been following her track career and told her there were people watching her that she doesn't even know, he told her to cherish and remember where she came from.

Mr. Emmons said she was an Ambassador for the City of Mishawaka there was not much more that could be said, other than he knows she was going on to greater things.

Question was called for at 7:27 p.m. on **RESOLUTION NO. R2015-01**  Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman, Mr. Emmons.

Anna thanked everyone for inviting her here and all the people that spoke up for her. She said she has been blessed with this God given talent and proud to represent Indiana, Mishawaka and the United States in the Junior Team in this next challenge in Scotland. She said it makes her happier to inspire people and make her community proud then to win a title or a medal, she would run even if she didn't win, she loves to run.

PRIVILEGE OF THE FLOOR

Melissa Fruscione Rockne Drive in South Bend, said she was representing The Meow Mission Headquartered in Mishawaka and was asking the Council to add to Chapter 14 of the Mishawaka Municipal Code TNR Language (Trap Neuter Return) for stray cats also known as Feral Cats. She said there was a large stray cat colony in Mishawaka. Ms. Fruscione said TNR is the only way to control the population for free roaming cats, this was about providing public health and safety, use and enjoyment of one's personal property, and saving limited capital and resources. She said she knew the Council was currently looking into making some changes to Chapter 14 and hopes they would add the Trap Neuter Return language to the current changes they are considering. Ms. Fruscione said most of these cats are abandoned pets and many of the Mishawaka residents who care for these cats are afraid to do so or speak out because of the current unfriendly law. She said the best way to control this out door population in Mishawaka and support the citizens of Mishawaka would be to use TNR, it reducing new kittens, it reduces intake levels at cat shelters in communities where they support TNR, and as we know it is difficult to find homes for these cats in shelters. Ms. Fruscione said so if we could reduce that number shouldn't we. She said TNR reduces fighting, spraying, and making noise and is much less expensive then catch and kill, we know that catch and kill does not work cats would just

continue to procreate and new cats would move back into that area. Ms. Fruscione said the catch and kill was not stopping the reproduction of cats and was only being harmful. She thanked the Council in advance for their consideration and said The Meow Mission would be happy to help by answering any questions and was willing to help in this endeavor.

Council Committees:

BUDGET & FINANCE COMMITTEE

Mike Compton, Chairman
Matt Mammolenti
Mike Bellovich

LAND USE PLANNING COMMITTEE

Ron Banicki, Chairman
Kate Voelker
John Roggeman

PUBLIC HEALTH & SAFETY/LONG RANGE PLANNING COMMITTEE

Mike Compton, Chairman
John Roggeman
Dan Bilancio

PUBLIC IMPROVEMENTS COMMITTEE

Ron Banicki, Chairman
Mike Compton
John Reisdorf

PERSONNEL COMMITTEE

John Roggeman, Chairman
Matt Mammolenti
Mike Bellovich

SUB-STANDARD HOUSING COMMITTEE

Ronald Banicki, Chairman
John Roggeman
Kate Voelker

COUNCIL ATTORNEY – Mike Trippel

PLAN COMMISSION – Woody Emmons

HPC – Kate Voelker

TRAFFIC COMMISSION – Ron Banicki

MBA – Mike Compton

SOLID WASTE – Woody Emmons

MACOG – John Reisdorf

INSURANCE COMMITTEE – Mike Compton

REDEVELOPMENT COMMISSION – Kris Ermeti & Ross Deal

ANIMAL CONTROL COMMISSION – TBA

FIRE DEPT PLATOON STUDY COMMITTEE – Woody Emmons

BOARD OF ZONING APPEALS – Chuck Trippel

Mr. Roggeman made a motion to except the committees as stated with a second by Mr. Reisdorf the motion carried.

Clerk Block read the conflict of Interest Reports for 2015. President Emmons asked for a motion to accept the conflict reports. Mr. Reisdorf made a motion to accept with a second by Mr. Mammolenti the motion carried.

Mr. Mammolenti said he would be having his neighborhood watch meeting at Twin Branch School at 7:00 p.m., January 21, 2015. He said Ken Prince, City Planner and Terry Zeller, Superintendent of Parks would be his guest speakers regarding the Master Plan of the park area hoping to get feedback from the citizens.

Mr. Emmons said his neighborhood meeting would be Thursday January 15, 2015 at St. Bavo School with Ken Cotter speaking on the functions of the Prosecutor's office

There being no further business to come before the Council, President Mammolenti adjourned the meeting at 7:39 p.m.

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

Woody Emmons
Woody Emmons, Presiding Officer



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

January 14, 2015

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 15 2015

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
January 13, 2015, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed Ordinances were considered:

PETITION #15-01 A petition submitted by Thomas E. and Patricia L. Benford, and Mathew and Sherianne Johnson requesting to rezone **140 West Marion Street, 144 West Marion Street, 148 West Marion Street, and 150 West Marion Street** from I-2 Heavy Industrial District to R-1 Single Family Residential District.

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

Pursuant to I.C. 36-7-4-605, the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed Ordinances regarding the above matters.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

Enclosure

cc: Patricia Benford

STAFF REPORT

Location: 140, 144, 148, & 150 W. Marion St.

Date: Jan 13, 2015

Petition: 15 01

Prepared By: KM

GENERAL INFORMATION

Applicants: Thomas E. & Patricia L. Benford (owners of 140 and 144 W. Marion and executors of the estate of William & Juanita Mammon, 150 W. Marion), and Mathew & Sherianne Johnson (owners of 148 W. Marion)

Status: Property Owners

Request: Rezone from I-2 Heavy Industrial District to R-1 Single Family Residential District

Zoning Classification: I-2 Heavy Industrial District

Lot Size: 123' X 176' (total of all 4 lots)

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-1 Extensive Open Space and Public Use District
South: R-1 Single Family Residential District
East: R-1 Single Family Residential
West: I-2 Heavy Industrial District

Thoroughfare: West Marion Street west of Main Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The Petitioners are requesting to rezone 140 W. Marion Street, 144 W. Marion Street, 148 W. Marion Street, and 150 W. Marion Street from I-2 Heavy Industrial District to R-1 Single Family Residential District. The property is located on Marion Street west of Main Street.

Prior to the 1980's residential uses were permitted in industrial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts. Originally constructed as private residences, the homes historically have remained residential in their use.

Mr. and Mrs. Benford are the executors of the estate of William and Juanita Mammon (150 W. Marion Street) and indicate the sale of the property is being held up due to the industrial zoning of the property. The Benford's and the Johnson's felt it best to rezone the adjoining properties to prevent a similar occurrence in the future.

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #15-01 to rezone 140 W. Marion Street, 144 W. Marion Street, 148 W. Marion Street, and 150 W. Marion Street from I-2 Heavy Industrial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are some industrial zonings in the neighborhood, but the neighborhood surrounding the property to the south, and east are used as single family dwellings, and their historic use as a single family dwellings would be compatible to the area;
2. Use and value of the area adjacent to the properties included in the rezoning will not be affected in a substantially adverse manner because given the context of their location, their relationship to surrounding residential properties, and the potential of development as an industrial project, staff feels that the most desirable use for these properties is their historical single-family use;
3. Because the parcels area located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for these properties;
4. As opposed to the range of potential industrial development that could occur with the current zoning, rezoning these properties to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for industrial use, however, the Plan calls for low density residential immediately to the south and to the east, and their historic use as single family homes is compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP



East view of homes to be rezoned

JAN 15 2015

1st Reading 1-19-15
2nd Reading
Passed
Failed
Continued To

PETITION 15-01

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2015-01**

ORDINANCE NO. _____

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:

Lot 4, Battells Subdivision, Block 68; and
Lot 3, Battells Subdivision, Block 68; and
Lot 2 Except 1 X 45 ft SW Corner, Battells Subdivision, Block 68 & 5' Vacated street South & Adjacent; and
Lot 1 & 1' X 45' SW Corner Lot 2, Block 68, Battell Subdivision

COMMON ADDRESSES: 140 West Marion Street
144 West Marion Street
148 West Marion Street
150 West Marion Street

which real estate is now classified as I-2 Heavy Industrial District shall hereafter be within and a part of that District known as R-1 Single 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. There are some industrial zonings in the neighborhood, but the neighborhood surrounding the property to the south, and east are used as single family dwellings, and their historic use as a single family dwellings would be compatible to the area;
2. Use and value of the area adjacent to the properties included in the rezoning will not be affected in a substantially adverse manner because given the context of their location, their relationship to surrounding residential properties, and the potential of development as an industrial project, staff feels that the most desirable use for these properties is their historical single-family use;
3. Because the parcels area located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for these properties;

Proposed Ordinance No: 2015-01

Ordinance No: _____

4. As opposed to the range of potential industrial development that could occur with the current zoning, rezoning these properties to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for industrial use, however, the Plan calls for low density residential immediately to the south and to the east, and their historic use as single family homes is compatible and consistent with the historic residential 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 _____, 2015, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2015, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2015, at _____ o'clock ____M.

David A. Wood, Mayor

December 11, 2014

RECEIVED
DEBORAH S. BLOCK, MMC

DEC 30 2014

CITY CLERK
MISHAWAKA, IN

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

RE: PETITION TO REZONE

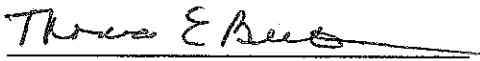
The undersigned, Thomas E. & Patricia L. Benford, Thomas E. & Patricia L. Benford as the executors of the estate of William W. & Juanita M Mammon, and Mathew & Sherianne Johnson respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

- ✓ 140 W. Marion St. --- Lot 4 Battells Sub Blk 68
- ✓ 144 W. Marion St. --- Lot 3 Battells Sub Blk 68
- 148 W. Marion St. --- Lot 2 Ex 1 x 45 Ft SW Cor Battells Sub Blk 68 & 5' Vac St So & Adj
- ✓ 150 W. Marion St. --- Lot 1 & 1' X 45' SW Cor Lot 2 Blk 68 Battell Sub

Petitioners own one hundred (100%) percent of the above described parcels of land which carry a zoning classification of I2 Industrial District. Said property is Single Family Residences.

Petitioners desire said real estate to be rezoned to R1 Single Family Residential. Petitioners further state that they intend to utilize said land for Single Family Residences.

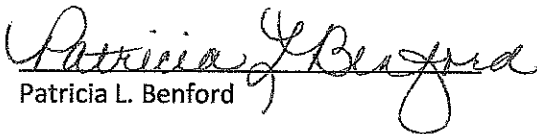
Wherefore, the petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcels of land located in the City of Mishawaka.



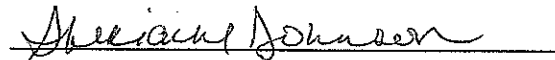
Thomas E. Benford



Mathew Johnson



Patricia L. Benford



Sherianne Johnson

Contact Person:

Pat Benford

144 W. Marion St.

Mishawaka, IN 46545

574-255-4057-home; 574-261-0994-cel

benfordpat@sbcglobal.net

Pet 15-01



PETITION 15-01

Location Map

PETITION 15-01

140, 144, 148, & 150
W MARION STREET

REZONE FROM I-2 HEAVY
INDUSTRIAL TO R-1 SINGLE
FAMILY RESIDENTIAL

