



AGENDA

August 07, 2023

City Flag Presentation

Joshua Lang

6:30PM

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): 2336 424 8213

Meeting password:AbJmZnMR247

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: 23364248213@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of July 17, 2023

5. Petitions, Communications, Remonstrance and Memorial

Petition No. 2023-18	Right-of-Way Vacation of unimproved alley - N/S alley bound by W. Front St., N. Spring St., W. 1 st ST., AND n. Mill St.
Petition No. 2023-19	PUD Amendment to allow Microblading in Unit 14 - 6910 N. Main St.

A public hearing on Vacation 2023-02 required by State Statute on behalf of Todd Lang & Nathan Sherman, Gary & Linda King, and Rachelle Morris petition for vacation of the public right-of-way for the first east/west alley north of East Marion Street

A public hearing on Vacation 2023-03 required by State Statute on behalf of the City of Mishawaka have filed a petition for vacation of the public right-of-way, part of Front Street (not improved as a street) between the east side of Church Street / Main Street

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2023-35	Establishing a Designated Outdoor Refreshment Area - DORA
P.O. No. 2023-36	Amending the Municipal Code Park and Recreation - DORA

8. Resolutions

R2023-19	Interlocal Agreement between the City of South Bend and City of Mishawaka and Board of Commissioners for Mutual Investigation of Officer involved shooting in St. Joseph County
R2023-20	Authorizing Property Disposal and Purchase Agreement - Temple Park
R2023-21	Adding Miscellaneous Property to the City's Acquisitions List

9. Ordinances on Second Reading

- 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. 2023-31 Establishing 1202 E. Mishawaka Ave. a Historic Landmark
(Petitioner requesting postponement)
- P.O. No. 2023-32 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
(Assigned to Land Use Planning Committee)
- P.O. No. 2023-33 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
(Assigned to Land Use Planning Committee)
- P.O. No. 2023-34 Rezone from C-1 General Commercial to C-6 Linear Office Commercial to permit a Residential Unit - 1644 Lincolnway East
(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

July 17, 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, July 17, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Roll Call.

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

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

Minutes for the Regular Meeting on July 10, 2023 were approved as received from the Clerk's Office.

Clerk Block read a letter from the Historic Preservation Commission regarding their recommendation from their July 5, 2023 meeting and a letter from the City Plan Commission regarding their recommendations from their July 11, 2023 meeting.

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

PROPOSED ORDINANCE NO. 2023-31

AN ORDINANCE TO ESTABLISH 1202 EAST MISHAWAKA AVENUE AS A LOCAL HISTORIC LANDMARK WITHIN THE CITY OF MISHAWAKA, INDIANA.

**Establishing 1202 E. Mishawaka Ave. a Historic Landmark
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-32

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED,

**COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF
MISHAWAKA INDIANA**

**Right-of-way vacation for first East/West Alley N. of E. Marion St., starting at Christyann
St. Then to the west 110’ for the first North/south alley
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-33

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

**Right-of-way vacation for part of Front St. (Not improved) between the East Side of
Church/Main St. connector and the St. Joseph River Raceway
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-34

**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 General Commercial to C-6 Linear Office Commercial to permit a
Residential Unit – 1644 Lincolnway East
(Assigned to Land Use Planning Committee)**

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

RESOLUTION R2023-16

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A
WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE
PROPERTY LOCATED AT: SOUTH OF 1505 S. BYRKIT AVE.**

Fiscal Plan for property south of 1505 S. Byrkit Ave.

Ken Prince, Director of Planning and Community Development, spoke in favor of
RESOLUTION R2023-16. Mr. Prince stated the property before them for consideration for
annexation was just under 20 acres and 60% contiguous to the city. Mr. Prince stated by state
law it needed to be at a minimum of 12.5% to the city for it to be annexed and as required by
state law, they were required on every annexation to investigate how they were going to provide
services to the property, specifically from a budgetary perspective. Mr. Prince stated they
reviewed and sent this to every department so they could see if it could be accommodated from

the existing budget. Mr. Prince stated in this case, this area of Byrkit and Fir was already in the city and was being maintained by the city and this was immediately to the west of the mobile home park and between Dragoon Trail and 12th Street on the west side of the road. Mr. Prince stated all departments indicated they could provide services under the existing budget and he was happy to answer any questions.

Question was called for at 7:08PM for **RESOLUTION R2023-16. 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.

RESOLUTION R2023-17

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: WEST OF 1500 E. MCKINLEY AVENUE, MISHAWAKA, IN 46545, AT THE NORTHEAST CORNER OF E. MCKINLEY AVENUE AND MAPLEHURST AVENUE

Fiscal Plan for property west of 1500 E. McKinley Ave. – 100' North of the Northeast corner of E. McKinley & Maplehurst

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-17.** Mr. Prince stated this was very similar to the previous fiscal plan and this was on the northern part of the city and just east of Maplehurst. Mr. Prince stated somehow when the properties were originally annexed, the first frontage of the properties were brought into the city but the back half was not brought into the city. Mr. Prince stated in this case, the owner wanted to annex the back portion of the property into the city. Mr. Prince stated this had been distributed to all departments and they indicated that they could serve the property under the existing budget. Mr. Prince stated it was a 2.34 acre property and it was 72.5% contiguous to the city. Mr. Prince stated he was happy to answer any questions.

Question was called for at 7:11PM for **RESOLUTION R2023-17. 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 resolution passed 9-0.

RESOLUTION R2023-18

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING AN ORDER OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING A CERTAIN DECLARATORY RESOLUTION FOR THE CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY THE CITY OF MISHAWAKA, REDEVELOPMENT COMMISSION

Approving a Declaratory Resolution for the Consolidated Area Improvement Project – The Mill Phase II

Mayor Wood spoke in favor of **RESOLUTION R2023-18** and encouraged the council to support this resolution. Mayor Wood stated this was a big deal to the city of Mishawaka. Mayor Wood stated housing was a huge issue for them, in fact he considered it one of their biggest challenges currently. Mayor Wood stated they were fortunate on one hand, as they were a growing city and growing much quicker than most of the towns and cities in the state of Indiana but what that caused for them was a challenge on the other hand to be able to keep up with the growth. Mayor Wood stated they were looking to encourage housing developments of all kinds in all areas of the city and there was none more transformative than what was occurring right downtown with the partner they were going to hear from later that evening. Mayor Wood stated when The Mill came in as a new development for them and it was a new challenge for them and a new way of looking at what their downtown could be and in fact, it changed their outlook on taking on projects such as this in the future. Mayor Wood stated what had since occurred had been transformational for the downtown and the project had not only been a huge success, but it had encouraged all kind of economic development and private development and people were living in Mishawaka for the first time ever in some cases, coming across state lines to live in Mishawaka to not only live there but live specifically in downtown Mishawaka. Mayor Wood stated he knew of examples where they had kept some of their own residents, because they had options like The Mill in Mishawaka. Mayor Wood stated that was encouraging not just for them as a city, administration and government team, but encouraging for the citizens as well as they now had options that they did not have before. Mayor Wood stated with that, now there were activities in the downtown area that never would have nor could have existed before and the attitude toward downtown had changed and it now was an attractive spot to go visit because of all of the work that had been done and the investments put into that area. Mayor Wood stated the thing he heard the most was how much individuals loved going to downtown Mishawaka and what a great place it was to go visit in the evening and spend some quality time with family and friends who may not have directly lived in The Mill, but none of it would be there without The Mill. Mayor Wood stated it had now been successful and they were looking at entering Phase II. Mayor Wood stated they had sought out and worked with a partner that they knew and trusted, Flaherty & Collins. Mayor Wood stated they had done everything they said they would do from the start and had been a good partner to work with whether to sponsor events, hear concerns or bring up their own concerns and they could not have asked for a better partner. Mayor Wood stated these projects were highly sought after and they were pretty fortunate to attract a project like this and helped them deal with not only their growth but to attract a future for Mishawaka that they may miss and gave an opportunity for future leaders to come to Mishawaka with the amenities they wanted and lifestyle they wanted. Mayor Wood encouraged the Council to support this and thought this kept the momentum alive in downtown Mishawaka and it would be them on the right trajectory. Mayor Wood stated they were not taking away park land to put the project up and had not received any tax dollars on the property since 1993 even though they had spent a lot on it with the infrastructure underneath it and cutting the grass every couple of weeks. Mayor Wood stated this was their chance to make that site productive and set the tone for the future of Mishawaka. Mayor Wood stated this was not necessarily a risk but it certainly was an opportunity for them.

Mr. Bellovich asked based on the last 18 months, what he thought the monthly occupation rate for the Phase I residence was. Mayor Wood stated their partners from Flaherty & Collins were present that evening and they could talk to him about that more accurately but he did ask them that before the meeting and they said it was at right about 97% to 98%, which was full on capacity essentially. Mayor Wood stated it had remained there and they had waiting lists for new applicants as well. Mayor Wood stated they heard of situations that at one point it was 80% of residents there coming from outside of the city of Mishawaka and 35% coming from outside of the state of Indiana. Mayor Wood stated these people could live anywhere and they were choosing to live in downtown Mishawaka and in doing so, they were supporting local businesses around the city.

Mr. Hixenbaugh thanked Mayor Wood for the work he and the department heads, particularly Mr. Prince, had done to get them to that point and they looked forward to hearing more from the developer and others that evening.

Ken Prince, Director of Planning and Community Development, invited Brian Prince up to the podium to begin the presentation on behalf of the developer and that would be followed by a presentation from Baker Tilly discussing the specifics of the financial side. Mr. Prince stated the purpose of the resolution in question was to split out the property, it was currently in their consolidated tax increment financing district and that financing would expire in 2029, and the point of separating it into a new tax increment financing district was to extend the financing period roughly an additional ten years which would allow for the financing of the project. Mr. Prince stated over that 25 year period, the taxes would be collected from the project and the new taxes on the property based on the development would be rolled back into the project to pay the debt that would pay for the infrastructure associated with the project. Mr. Prince stated he would be happy to answer any questions, otherwise he would turn it over to Mr. Prince.

Mr. Hixenbaugh asked, for the benefit of those in attendance who may be as familiar with TIF or those participating remotely, if Mr. Prince could expand briefly on what the TIF district was and what the limitations were on how it could be used as well as the specific actions to create a single site TIF district that was imbedded in the resolution in front of them. Mr. Prince stated the purpose of tax increment financing (TIF) was it was used as a redevelopment tool afforded by state law and they did it as well as any. Mr. Prince stated Elkhart had TIF districts and South Bend had TIF districts and what happened was you would have an area where you wanted to encourage development in and to encourage that redevelopment, you needed a financing source and so by creating a TIF district, what happened was the property taxes and other taxes within that district are captured in terms of new development for a period of time to pay for infrastructure and associated expenses with it. Mr. Prince used the ice rink as an example and stated they could use it to build the new building downtown and TIF was used to build the ice rink and it was also used to buy the equipment in it, but what TIF did not pay for was staffing and the employee costs associated with running the building. Mr. Prince stated they could not use TIF for the maintenance costs of projects. Mr. Prince stated they had what was called a Legacy TIF that used to not have an expiration date and then a number of years ago, the state legislature passed a law that said if you did not have any debt associated with it, that your TIF would expire. Mr. Prince stated in this case, the fact that the TIF district expired in 2039 would not provide enough revenue in order for them to do the project, which was why they were asking

for the roughly ten year extension in order to fund the project and they thought it would be an appropriate use of funds. Mr. Hixenbaugh asked, as a partial summary, that this was not a situation where by creating the single site TIF district and by financing it, their contribution through TIF proceeds, that they were avoiding having to look through their general fund and making hard decisions about what not to spend on public safety and parks but they were tapping into another state sanctioned vehicle for financing economic development projects that did not cause them to have to dip into their general fund and if that were correct. Mr. Prince stated that was correct and as a redevelopment tool, they were only talking about new taxes and essentially with all of the existing tax base they had, they would not be using that in order to fund the project and would only be using the taxes generated from the project that would be going back into it.

Mr. Compton stated he believed the development agreement spoke to the city shall contribute approximately \$13.6 million, which Mr. Prince stated was correct, and also that \$5 million on hand would be contributed by the commission and he asked Mr. Prince to help him understand what that meant. Mr. Prince stated when the original Mill project was purposed, they had a gap in funding in terms of what the development could pay for and Flaherty provided a spreadsheet identifying what the project costs were, what the rent was and whatever the gap was associated with funding the project. Mr. Prince stated they knew very specifically that if they wanted this project with a parking garage in downtown Mishawaka, that there was a certain amount of funding that had to be provided. Mr. Prince stated the overall gap on the project was actually close to \$20 million and when they originally proposed it, they did not want it to affect any of their other projects they had on the books that time and to hopefully accomplish that, they suggested extending TIF district and also that they apply for READY funds and on top of that they had applied for state funding in terms of a grant and Brian Prince could get more into that, but the state was providing over \$5 million in grant funds to the project. Mr. Prince stated that \$13.6 million identified in the development agreement was what they were required to make up, because ultimately even though they thought the project was well positioned for READY funds, it did not receive any READY funds for the project, so there was the gap to be made up and they looked to take money from the consolidated TIF it was currently in and push some of their other projects further down the road and provide the \$5 million gap. Mr. Prince stated as he presented it at last week's meeting, \$3 million of that was up front and \$2 million of it went in when they completed the project in 2 years. Mr. Prince stated in terms of the stack of capital that went into this, you had well over \$40 million provided by the developer, over \$5 million provided by the state and the remaining balance was identified as \$13.6 million as would be presented by Baker Tilly and that number was going down, because of the economic additions and increase of interest rates and borrowing costs and ultimately what they could generate through the TIF was not \$8.5 million but more like \$7.9 million from it. Mr. Prince stated when they established the development agreement with Flaherty & Collins, they set their number so it wasn't constantly fluctuating and that was where they were in terms of financing. Mr. Compton appreciated Mr. Prince's explanation.

Mrs. DeMaegd stated Mr. Prince had just mentioned that this would require them to push other projects further down the road and asked what those projects would be. Mr. Prince stated their cash position in tax increment financing generated roughly \$18 million a year and roughly a portion of that was committed to the stimulus bond that was approved by the Council that paid

for the ice rink, among other projects like the projects currently going on at Battell. Mr. Prince stated as far as the other projects that would be pushed on, they had long-term capital needs, with the examples being the expansion of Union Street to Bremen, they were in acquisition mode and had not currently acquired the existing Dodge building because part of the agreement entailed that the city clean the building out before acquisition and they were working on doing that. Mr. Prince stated with his experience of 20 years in the city, it took longer to do projects and ultimately when talking about the Dodge foundry, for example, they were looking at a \$12 million expense over the next five years, so with that generation of TIF districts it could be simply moving all of the projects they currently had within the TIF districts scheduled to be completed 6 months down and that would accomplish the gap of \$5 million.

David Flaherty, CEO of Flaherty & Collins Properties, spoke in favor of **RESOLUTION R2023-18** and began the presentation for Phase II of the Mill at Ironworks Plaza. Mr. Flaherty stated the company was founded 30 years ago by himself and Jerry Collins and they were very specific in what they did, which were public-private partnerships with a big component in multi-family. Mr. Flaherty stated it was very specific but when it fit it worked very well for them and they got their deals done. Mr. Flaherty began the presentation with a PowerPoint display and stated bigger was not always better, but they had been doing it for a long time with \$3 billion worth of development with some of it in the works today. Mr. Flaherty stated they were not nationwide as they weren't on the west coast and they were an Indiana based company but they were also down in Florida, out on the east coast and in Kansas so they were heavy in the Midwest but they worked outside of that area too. Mr. Flaherty stated in this day and age, development was harder than it may have been in a long time with interest rates being higher and banks getting beaten up and it was harder to get a loan, so the only way you could get a loan is if you had a relationship and he backed all of their loans personally and everything he owned, he put it on the line. Mr. Flaherty stated this helped get deals done and he was comfortable doing this because they believed in Mishawaka and this particular development as well. Mr. Flaherty stated they were a little unique because 80% of the time, they used his money and Brian Prince chipped in as well which made getting deals done easier and they were in these projects for the long haul and they wanted to build, stabilize and hold on to the properties. Mr. Flaherty stated the fact that they stayed in their deals long term they thought was a real plus and they only had sold 1 development in the last 10 years and he regretted selling that one. Mr. Flaherty went through a couple examples of deals that they had done. Mr. Flaherty first discussed 360 Market Square in Indianapolis, Indiana which had 292 luxury units, a 40,000 sq. ft. Whole Foods Market and a 550-space parking garage and Mr. Flaherty actually lived there. Mr. Flaherty stated the second example was the Steelepointe Harbor in Bridgeport, Connecticut which had 420 luxury apartments, 10,000 sq. feet of retail and a 461-space parking garage and it would be breaking ground in the summer of 2023. Mr. Flaherty stated another development was The Cove at 47th in Cape Coral, Florida which had 327 luxury apartments, 19,000 sq. feet of retail and a 569-space parking garage and it would be opening in late 2024. Mr. Flaherty stated the next development was Stonewater at the Riverwalk in Elkhart, Indiana which had 205 luxury apartments, 6,300 sq. feet of retail and 71 parking garage spaces. Mr. Flaherty stated another development was The Banks in La Porte, Indiana which had 194 luxury apartments and 5,267 sq. feet of retail and it opened in February of 2022 and was so successful that they were working to start on a second phase there as well. Mr. Flaherty stated the next development was the 11th Street Central TOD Project in Michigan City, Indiana which had 220 luxury apartments, 6,000 square ft. of retail, a

549-space parking garage and it would be right by a new train station for the south shore line. Mr. Flaherty stated this would be breaking ground in mid-2023. Mr. Flaherty then displayed The Mill at Ironworks Plaza and they could not be more proud of the development and they exceeded what was originally projected. Mr. Flaherty stated this showed the strength of Mishawaka and the desire to be downtown and had unbelievable success not just with the apartments, but with the retail as well and that was why they were bullish on moving into the second phase. Mr. Flaherty stated he was very proud of the development and they were going to own it forever and they hoped after completing the second phase of The Mill, they could do even more work in Mishawaka. Mr. Flaherty turned the presentation over to Brian Prince.

Brian Prince, Vice President of Development for Flaherty & Collins and Lead Project Developer of The Mill Phase II, spoke in favor of **RESOLUTION R2023-18** and began his portion of the presentation. Mr. Prince stated he wanted to start out by talking about the successes of Phase I and he believed past performance was a great indicator in future success with anything, good or bad. Mr. Prince stated some of the great highlights in Phase I were roughly 80% of the Phase I residents came from outside of Mishawaka as well as over 30% of the Phase I residents coming from outside of the State of Indiana. Mr. Prince stated the average income of residents was over \$120,000 annually, which was pretty surprising to them with some CEOs, CFOs and high level executives staying in this development. Mr. Prince stated for example, they had a higher up executive from Beacon Health who was one of their first leasers of the development moved from Naperville to The Mill and he loved the walkability and the environment of the Mill and was very happy to be there. Mr. Prince stated what they had found was roughly 50% of people stayed within the same city after leaving their development, so not only were they bringing in individuals from outside of the city and state but they were keeping them in the area as well for the future. Mr. Prince stated with this being a wood frame project similar to a single family home, they were not able to hire 100% union, however all of their site work and road work, HVAC, plumbing and electrical were union contractors. Mr. Prince stated they ended up having a little over or close to 50% of them being of the union trade just by default. Mr. Prince stated all of the retail was 100% leased and all of the businesses were doing very well. Mr. Prince stated specifically Sun King and Social Cantina had come in and there was a report of Sun King that said on any given week, the Mishawaka location for Sun King could be their #1 performing store and on average out of all of the Sun King locations they had, this store was #2 or #3 overall even given all of the other store sizes and their locations. Mr. Prince stated Social Cantina was also doing well with being open every day and their lunch crowd was very strong there and their CEO was head over heels for the Mishawaka store and they were looking at doing potentially a second option for Phase II. Mr. Prince stated some of the goals for Phase II and started with the first goal which was to continue to draw in new people with disposable income to the community and make Ironworks Plaza a destination. Mr. Prince stated 230 units was never going to fill the tables every day for Sun King and Social Cantina and that was not what would keep the lights on but what would keep the lights on was the fact that people from outside of the area came and visit these facilities as well. Mr. Prince stated they wanted more density here, bring another 227 units, bring more bodies, more retail space and make this a true walkable district. Mr. Prince stated they also wanted to provide more options and affordability for folks to get in, so in Phase I they were at around 5% for their studio unit and were roughly at 12% in Phase II, giving those workers possibly at the surface level and opportunity to be a part of this development, get access to all of the great amenities but at the same time not pay for more unit than they actually needed.

Mr. Prince stated they added that option and also had taken a reduction on their traditional 2-bed 2-bath unit and created a 1 bedroom with a den unit. Mr. Prince stated the 1 bedroom den unit gave residents the flexibility to those who did not need a second bathroom, a smaller square footage with the same functionality of what you would have gotten with a 2 bedroom and a smaller amount having to be paid. Mr. Prince stated they had seen a lot of success with the 1 bedroom den option, especially from those who worked from home. Mr. Prince stated the rent range for Phase II was anywhere between \$1100-2000 a month on average depending on unit size, this phase would be a mix of studios, one bedrooms and two bedrooms and they were still going to offer co-working space and private offices in the unit. Mr. Prince stated there would be space in the amenity area to work in for folks who did work from home and be able to lease or rent private offices which had printing stations and things of that nature. Mr. Prince stated Phase II would also have roughly 10,000 square feet of retail space and the goal was to attract a great river front dining option. Mr. Prince stated the project cost for Phase II for the total development being approximately \$63 million with the Developer bringing \$43 million to the table, with the state pitching in \$5.6 million in RDTC Tax Credits, land contribution of \$1 million and the City contribution of \$13.6 million. Mr. Prince stated the Phase II program would have roughly 227 units in total with 13% of the units being studios, 47% being one bedroom units, 20% being one bedroom with a den units and 20% being two bedroom two bath units. Mr. Prince stated the retail would be 10,000 square feet and the garage would be a 420 space garage with 130 free public parking spaces. Mr. Prince stated in the 227 units, they figured up to 1.5 persons per unit, there was around 340 people in the development and if they took the average income in Phase I and applied it to Phase II, \$120,000 a year with the 340, that would be \$40.8 million of income in that one development from a salary perspective and this would obviously lead to additional spending capacity to help support local businesses and things of that nature. Mr. Prince stated from an economic development job creation standpoint, roughly \$28 million of the overall hard costs would be their labor cost on the project with an estimated 350 construction jobs averaging somewhere in the ballpark of \$80,000 a year with benefits and they would then add roughly 6 full time positions at the property with property management, leasing, and on site folks. Mr. Prince stated because this was a Phase II development, they were just adding to what they had in Phase I as far as the unit employees were concerned. Mr. Prince stated with the commercial jobs within Biebs & Ash, there were 8 full time employees and 2 part time employees and they averaged \$20+ an hour plus another \$10 an hour with tip out. Mr. Prince stated Sun King had roughly 30 employees and their starting wage was \$10 an hour, with the managers obviously making more. Mr. Prince stated Social Cantina had approximately 50 employees with an average compensation of over \$50,000 annually inclusive with tips. Mr. Prince invited Keith Cole up to the podium.

Keith Cole, Design Manager with Flaherty & Collins, spoke in favor of **RESOLUTION R2023-18** and began his portion of the presentation. Mr. Cole stated his responsibility on this was to oversee the design process and work with Ken Prince to make sure they were meeting the goals that were required of them. Mr. Cole showed a site plan of the whole Mill Phase II layout and explained to the south of the development was where the 5-story parking garage of the development would be and at the corner of Front and Hill, there was half of the commercial space, approximately 5,000 square feet of commercial, potentially to be split between two to three individual commercial tenants. Mr. Cole stated at the northeast corner, there was the outdoor dining tagged for hopefully a destination restaurant there. Mr. Cole stated on the west

side of the development, you could see a future linear park there and that provided a nice transitional point between the residential piece further west with the community that was there and that side of the building. Mr. Cole stated they had taken on this one where they had a little bit more walkout into the park, so there were residential units that were walkup units to give a little bit of different feel of community to that side of the property versus the more urban walkup to the east side of the property. Mr. Cole stated they had tried to limit the garage entry to a single point to satisfy the request of keeping as much parking as they could on the street front and not have to add additional garage spaces itself. Mr. Cole stated the rest of the parking as it related to residents that would not be the 130 free spaces. Mr. Cole stated in the next slide, they were able to take some economy within this being the second phase so all of the leasing would happen out of the first phase and they dedicated over 7,000 square feet of the amenity space to the Phase II resident, which would be also accessible to Phase I residents as well. Mr. Cole stated to the left, there was an internal courtyard that provided a pet park there as well as some outdoor amenities with it. Mr. Cole stated the semi-internal courtyard to the right would provide more active amenities with a pool and riverfront views and other community spaces supporting it. Mr. Cole displayed a rendering view from the southeast corner, the northeast corner and a further shot from the bridge on the PowerPoint slideshow. Mr. Cole then showed the interior of the building and architecture along with it, which were the co-working spaces, a mailroom, an indoor aqua lounge and more views of the 4th floor terrace where people could work downstairs in the morning or day and in the evening come upstairs and enjoy the views. Mr. Cole supplied a list of all of the features and amenities that came with The Mill Phase II to finish the presentation.

Mr. Compton asked what portion of the \$63 million going into the project would be dedicated to the parking garage. Mr. Compton stated the reason he was thinking about this was because they were putting public money into it and he was thinking about public space and trying to justify it in his head. Mr. Prince stated the parking garage, when you factored in design cost, soft cost, permitting and everything associated with it, was roughly around \$30,000 of space multiplied by 420. Mr. Prince stated in Phase I, the garage was somewhere in the mid \$20,000s all in for space on the garage and this garage in comparison to the garage in Michigan City, that garage came in somewhere in the ballpark of \$47,000. Mr. Compton asked if they could count on a robust program e-verifying employees and making sure people that should not be there were not there. Mr. Prince stated absolutely and that was something they took very seriously in their company and something they would be very meticulous about with this development as well as all of their developments and he gave Mr. Compton that promise. Mr. Compton asked about independent contractors and he assured Mr. Compton they tried to avoid those things and work with their subs to make sure their employees were their employees and got a paycheck and were not just being paid cash. Mr. Prince stated absolutely.

Mr. Mammolenti thanked Mr. Prince and his team for a great presentation and asked if the walkup units were in higher demand than the other units. Mr. Prince stated that was market by market specific and he would say a younger single female, for example, that unit would probably not be in high demand for her. Mr. Prince stated what they were trying to do with the walkups was they wanted residents to feel that they were protected. Mr. Prince stated with someone walking by on the sidewalk on Ironworks Avenue, you would not want for that person to have a direct eye line into your living room, so they supported building the sight up not only because of what was there before from an environmental standpoint that required it but they still liked to

raise their first floor units up two to three feet to provide some sort of a buffer but he thought for those who liked to pull up, got their groceries and go right to their unit as opposed to those who did not mind walking to the elevator, ride the elevator up to their unit, these would be more appealing. Mr. Prince stated he had seen with their walkup units a tendency for some of their older demographic to flock to those options, but it depended on the market and every market was different. Mr. Mammolenti asked if there was a concern of privacy for the residents being so close to the river walk. Mr. Prince stated no and in the situation with the Elkhart development being on the river walk as well as this one, where the pool was located on the amenity deck outside was actually elevated from where the river walk was, so even if people were walking by, they could not even see the pool deck and in The Mill Phase II, it would be even that much higher where the courtyard was elevated. Mr. Prince stated from a privacy standpoint, you could not even get from the river walk up to their area because they were all fob access entry points and they were gated. Mr. Mammolenti asked if they had learned a lot of things about The Mill Phase I and what not to do or who to use in certain construction projects and if he felt confident that they could remedy that. Mr. Prince stated 100% and they were not there to throw anyone under the bus, but obviously when you built a project in the region for the first time, they liked to give everyone an opportunity and they would continue to want to give everyone that same opportunity and sometimes you got burnt in that process, but you did not let that deter you from hiring local and giving everyone a fair opportunity and in turn, you did not go back to the well if it did not work the best for you in the past. Mr. Prince stated even in that regard, it was a successful project and they were back wanting to do it again with the second phase but they also knew who was great from the first time around and they would have those folks back to help them bring Phase II to life. Mr. Mammolenti asked in terms of renovation, how frequently they had that planned out to keep the units fresh and updated. Mr. Prince stated in their initial performance and any time they did a development, they had reserves that they set aside and they collected those from any of the revenues that came in and probably every couple of years they were always trying to see what the next project was and they did not want to fall too far behind as far as technology and appliances were concerned. Mr. Prince stated sometimes you may be four or five years in and there are issues with an appliance in a unit and now it was time to bring the new one in and when you started doing that, you're upgrading everything along with it. Mr. Prince stated about every 5 or 6 years they look and see where they were as compared to the market and making sure they were always on the cutting edge. Mr. Flaherty stated that number sounded about right and you built them a little differently than you would if you were to flip them but on average, about every 5 years or so they would be redoing things like hallway carpets, for example, that happened more often and always looked to try something new or see what the latest technology was. Mr. Flaherty stated it was a constant investment on their part but it was money well spent. Mr. Mammolenti stated earlier, Mr. Flaherty said they only had sold one property and regretted it and asked Mr. Flaherty how long he owned the property prior to selling. Mr. Flaherty stated with that property, they built it and stabilized it and had more coming in the area and they had someone beating down their door for an exchange and they were good operators, so they ran it by the court authority in Kansas City and they were fine with it as well so they sold it to the operators. Mr. Mammolenti thanked them for the presentation and their investment and interest in Mishawaka. Mr. Flaherty stated they had a wonderful community and they wanted to continue to develop in it.

Mr. Emmons asked what his turnover rate was each year. Mr. Flaherty stated in their industry, it ran about 50% and they had less turnover in Mishawaka than they would have in the average industry. Mr. Flaherty stated people liked it there but in reality, when individuals get married and have a family, they did not want to stay in a high density development and wanted the home with a yard, so there was constant turnover but they had less because it was such a unique property and you could not cross the street and get something similar. Mr. Prince stated they were at about a 30% to 35% turnover rate at The Mill.

Mrs. Voelker asked about the garage and the public versus private parking spaces available in the current Mill garage and what would happen in Phase II and if they had any idea how often the garage was being utilized, obviously with big events like the Fourth of July it would be utilized but in normal week with activities going on she was curious about what the utilization was. Mr. Prince stated they did not have that information on hand for one reason being public parking in the garage was free and with it being free, they could better monitor and track it if they were charging for parking. Mr. Prince stated if people were coming in and paying for their parking, they would be able to keep tallies of those numbers but because of the fact that it was free and first come, first serve parking for the public, it was kind of hard for them to track the actual data for vehicles that were not vehicles of their residents. Mr. Prince stated the vehicles of their residents had a fob that they swiped every time they came in or left and they had records of those times but from a public perspective, they had no way of tracking that.

Mrs. DeMaegd asked if there was a time limit for the parking and how that was monitored. Brian Prince stated yes and that parking was city parking, not theirs and they had provided the parking as part of the development agreement and it said in that agreement up to three hours but in theory, if someone was there for four hours their car would not necessarily be towed. Brian Prince stated as the community developed and more density accumulated and parking becomes more of a demand, he could imagine from the city's perspective wanting to ensure that parking was adequate and the enforceability of the parking could become stricter. Mrs. DeMaegd asked Ken Prince about the enforceability of the parking. Ken Prince stated in the development agreement, the first three hours of parking were free and they felt that was important from the city's perspective to ensure that the public had free use during that period of time, but what they wanted was a turnover of parking but they did not want, for example, the office users of the 112 building parking there all day without compensating the owner and that was not what it was intended for. Ken Prince stated what it was intended for was for somewhere to be able to go have dinner, walk around the park, come for the concert and then leave which was how the three hours was set. Ken Prince stated the reality for enforcement though was because they chose not to put in any type of ticketing system, there was no monitoring at that point and they may prevent overnight parking by marking it but right now it was not a problem, as Brian Prince identified. Ken Prince stated in terms of usage, having someone stay there for four to five hours was not a problem and they did not monitor it but as problems would occur is when those instructions would be put in order.

Mr. Hixenbaugh stated, as both Ken Prince and Brian Prince had heard him say in the past, that he believed that one of the opportunities there that they needed to partner together on was to further publicize the parking and granted it was city parking but he did think that making people aware of the fact that for those events that took place downtown, he thought if there was a way to

do a better job of sensitizing the public to the availability of the parking spaces, that that was worthy of pursuing. Mr. Hixenbaugh thanked all of them.

Emma Adlam, Director with Baker Tilly, spoke in favor of **RESOLUTION R2023-18**. Mrs. Adlam stated they put together a couple of slides to summarize the bond structure and proposed repayment of the bonds. Mrs. Adlam stated these would be a 25 year economic development revenue bond and it would be payable solely from the TIF generated from the project with a minimum taxpayer payment agreed to by Flaherty & Collins. Mrs. Adlam stated the minimum taxpayer payment would be lower during the construction period so about \$100,000 in 2025 and approximately \$376,670 in 2026. Mrs. Adlam stated the property was expected to be completed and fully assessed for taxes payable in 2027, so the full minimum payment would be \$850,000 starting in 2027 and there would be a 1.75% annual escalator on that minimum tax payment. Mrs. Adlam stated the bonds were structured to equal the minimum tax payment, so the debt service will increase as the minimum tax payments would increase as well. Mrs. Adlam stated there was no other revenue pledge by the city or the Redevelopment Commission for the project. Mrs. Adlam stated Flaherty & Collins had brought in Hageman Capital to be the bond purchaser, so Hageman was taking the risk that the taxes would be paid and that minimum taxpayer payment would be made. Mrs. Adlam stated the size of the bonds were determined based on the minimum tax payment and also defined based on the current interest rate environment. Mrs. Adlam stated the estimated interest rate was currently 7% and given that constraint, the TIF revenues could support an amount of \$10,762,000 and of that amount, interest needed to be set aside during the construction period and the interest would begin occurring when the bonds were issued that year, however the TIF revenues did not begin in full until payable 27, so they needed to borrow some of the bond proceeds to be set aside to make the interest payments in the beginning years of a little over \$2 million. Mrs. Adlam stated the net proceeds available for the construction of the project was estimated to be \$7,880,000 of the amount. Mr. Adlam showed a chart to summarize the comparison of the Estimated Annual Project TIF and Estimated Annual Debt Service. Mrs. Adlam stated they were also asked to look at the local income tax revenue that could be potentially generated from the project. Mrs. Adlam stated as they heard from the Flaherty & Collins team, for Phase I the average annual income was about \$120,000. Mrs. Adlam stated based upon information from the Department of Revenue, they made some assumptions for deductions and exemptions, assuming about 94% of the annual income, which brought that number down to about \$112,800. Mrs. Adlam stated of the resident assumptions that Flaherty & Collins mentioned, they were assuming about 50% were new to the county and local income taxes were really generated based on the residents of the county, so they assumed for illustrative purposes about 50% were new to the county. Mrs. Adlam stated with that, they had new income to the county of a little over \$19 million and the 2023 local income tax rate was 1.75%, so for all of the communities combined the new local income tax revenue was calculated at \$335,580. Mrs. Adlam stated what that meant for the city specifically was Mishawaka itself received a portion of the different buckets of local tax revenue, as broken down between the four buckets of local tax revenue in her presentation. Mrs. Adlam stated of the \$335,580 received countywide, the city would receive approximately \$26,666 in actual annual dollars from the local income taxes from the residents.

Mr. Compton asked, in his terms, if they were going to borrow a bond for x millions of dollars over 24 years and the way they were going to pay for that would be through taxes that the

building generated, taxes Flaherty & Collins paid, and instead of going into the TIF fund or at least a portion of them, they would use that to make payments on the money they borrowed and if that was correct. Mrs. Adlam stated that was correct. Mr. Compton asked if she knew if everything that they were going to pay in taxes in that 24-year period would be required to pay that debt or would there be a balance left over for the TIF fund. Mrs. Adlam stated the debt service payments that would be due were essentially equal to the minimum tax payments and in the event that the assessment was higher than the minimum and the TIF revenues were higher, then you did not have to make additional debt service payments. Mrs. Adlam stated they were kind of protected as a floor as your minimum tax s payments but that did not mean the assessed value or tax rate would not be higher to generate higher annual TIF revenues and that would stay with the Redevelopment Commission. Mr. Compton stated so it was possible the estimates as they saw them, they were considering they would use all of that income and asked if that were correct. Mrs. Adlam stated that was correct but it could be higher.

Mr. Hixenbaugh asked if the income tax revenue projection was for The Mill Phase II or if it was inclusive for both phases. Mrs. Adlam stated it was for Phase II. Mr. Hixenbaugh asked, in round numbers, if he doubled that if that would be the total impact of The Mill if all of the assumptions imbedded in the slide were attached to Phase I as well. Mrs. Adlam stated yes, assuming similar number of residents for Phase I.

Mr. Compton talked to Ken Prince about contractors, developer contractors and consultants and this was a discussion they had in the past in and it stated in the development agreement that you were required to have a license by the City of Mishawaka or any other entity, which could mean the state, that that would be upheld on the project and was required for this project. Mr. Compton asked if he took that as the plumbers on this project would have to be licensed and/or in a registered apprenticeship program. Mr. Prince stated in general, it would have to be the firm licensed not the individual employees and he could tell him that the individual firms definitively would be licensed and for the people working on the project, it would be based on whatever normal practices the city followed. Mr. Compton stated state law said that if you were a plumber, you were to be licensed and the development agreement said or other entities involved, which told him that they should follow what the law said. Mr. Prince stated that was correct and the question lied more in terms of the scope of work and how that applied, so that was state law in terms of implementing it but they had people who worked on plumbing where you had a discipline, in this case a general contractor who did plumbing work, that was not a licensed plumber whether it was installing a sink or that type of item and ultimately that came down to Mr. Hunt's interpretation or somebody from the state enforcing that law rather than to have the city fully staff someone going in to check every employee for every piece of work they were doing to make sure that person was licensed. Mr. Prince stated as a city, they had chosen the fact that they had to have the firm licensed and bonded in order to protect the work that was happening but when you got down to that individual basis is where he thought they had the discrepancy that they had to work through. Mr. Prince stated nobody questioned the ability to be qualified on a project but did that mean an apprentice who was not licensed, could they work on a project or not work on a project. Mr. Compton stated he believed the law said you were to be a licensed plumber or in a certified apprenticeship program. Mr. Compton suggested he look at his language there because it did not support, in his opinion, the agreement. Mr. Prince stated all he could say was the intent and how it was enforced in the past and they had that same language in

multiple agreements over the last 20 years and what it had meant was that they wanted them licensed and bonded with the city of Mishawaka as a firm and not in terms of individuals.

Mr. Hixenbaugh thanked everyone who had presented that evening and for the work that was done by all involved to bring them to that point. Mr. Hixenbaugh stated this was an exciting opportunity and there was some element of risk the developer was taking on as well some element of risk the city was taking on but the way that this was structured most definitely minimized the risk on the part of the city. Mr. Hixenbaugh stated it also gave him a great deal of confidence that they had The Mill Phase I that had performed to expectations and probably exceeded expectations with regard to how it had worked out and that was a compliment to everyone involved in that project. Mr. Hixenbaugh stated he liked the fact that as he thought about the retail component on the ground floor of The Mill, he did not view those as direct competitors with any of their existing businesses in the downtown area per se and as Mr. Prince of Flaherty & Collins referenced earlier, it sounded like their philosophy was to welcome others to be successful and be in business in downtown and he thought this was a situation where a rising tide was a result of that. Mr. Hixenbaugh appreciated the work that went into it, he appreciated the way the transaction had been structured and they would talk more details of the transaction when they got to the bond ordinance but he was most definitely in support of this.

Question was called for at 8:32PM for **RESOLUTION R2023-18. 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 Council took a 10 minute break and reconvened at 8:42PM.

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

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.

The record reflected that the matter of this proposed ordinance would be presented as a whole. A roll call vote was held for the revised committee report.

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 committee report passed 9-0.

Lee Clark, President of Empire Management, spoke in favor of **PROPOSED ORDINANCE NO. 2023-24**. Mr. Clark stated he was the property manager for the property located at 712 Division Street. Mr. Clark stated he was asking for it to be rezoned to R-2 to match its current use and the use it happened been used as since the 1940s. Mr. Clark stated there had been a fire at the property and they had to redo all of the electrical lines and through the permitting process, they discovered the nonconforming use.

Mr. Banicki stated this looked like a pretty small house compared to what he considered to be a duplex or multi-family home. Mr. Banicki asked if there were other houses in the neighborhood that had steps that appeared to go up to the roof. Mr. Clark stated not that he knew of but he knew there were other duplexes in the area but not constructed in that manner. Mr. Clark stated some point in the past, somebody walled off the interior wall and turned it into a duplex and the top unit was a little over 450 square feet and it was a small little one bedroom unit that rented for right around \$900. Mr. Banicki asked if they had separate utilities. Mr. Clark stated that was what they were trying to do that evening, per the code they had to get the meter to separate it out so that way there could be individual meter bases for each unit with their own breaker panels.

Mr. Mammolenti asked if either of the units were occupied at that time. Mr. Clark stated they were not and they were in the process of renovation at that time. Mr. Mammolenti asked how far into the renovation they were. Mr. Clark stated they had gotten probably 60% of the way, a lot of the interior wiring was laid out and they just needed to finalize the electrical permitting so that way they could get everything inspected and seal the units back up. Mr. Mammolenti asked if this were not to pass that evening, would it still be rented as a single unit. Mr. Clark stated it would cost a lot of money to take it back to a single unit and they would have to do some interior renovations, open the steps back up and would be cost prohibitive.

Mr. Compton asked Mr. Clark if he was the owner of the property. Mr. Clark stated he was not, he was the property manager and the owner was RWP Investments out of Washington. Mr. Compton asked how many properties they owned in the community. Mr. Clark stated RWP was a partnership between the owners of one of the other companies he managed for and one of his associates and this was the only one they owned in Mishawaka and owned several others around the area. Mr. Compton stated he lived around the corner from the property and went by there pretty regularly and it did not look very good on the exterior and he was hoping to see something done to make this look better in a rough neighborhood. Mr. Compton stated an absentee landlord would not have a lot of incentive to do that and he was really concerned. Mr. Clark stated RWP was owned by Daniel Williams and his other company, never had any issues with them and the whole history of it was he purchased it with a tenant already upstairs and they did a renovation to the bottom unit, placed the tenant in there for about \$1100 a month in a 2 bedroom unit and then the tenant upstairs moved out, they did a renovation to that, the new tenant moved in and a fire almost immediately broke out after that. Mr. Clark stated he had not had an opportunity to do an exterior fixing up to make it look nice. Mr. Compton asked how long RWP had owned this. Mr. Clark stated he believed it was purchased by them in 2020 and then the fire occurred in June of 2022 and they had been dealing with insurance and so on ever since then.

Mr. Bellovich asked if he was saying the property had not been renovated and no one had occupied it since last June. Mr. Clark stated that was correct and there was damage to it and dealing with insurance, getting contractors lined up and hired First Response to do all of the general contracting and it had been a very slow process. Mr. Bellovich asked if this was approved that evening, how long he thought it would take for the renovations to be completed. Mr. Clark stated they were ready to go and they missed the first reading last week but the electricians were already out there because they had issues with permits on Tuesday they went out and kicked the electricity on the job site, so they were trying to get it going as soon as possible to get people moved in there.

Mr. Compton asked if he was aware, when they had tenants in the year or so before the fire, if they had any problems with them, problems in the neighborhoods, complaints or police calls. Mr. Clark stated not to his knowledge, no and he talked to the individual who owned it directly multiple times and he never gave him any issues about tenants. Mr. Clark stated they did do a full background check and they made sure there would not be people in there that would be undesirable for the neighborhood. Mr. Compton asked where his business was located. Mr. Clark stated his office address was 2537 Grape Road in Mishawaka and he was local.

Mr. Hixenbaugh stated like Mr. Compton, he drove by the site pretty regularly and like him, he had not seen much noticeable activity but he could be driving by at the wrong time of the day. Mr. Hixenbaugh stated what he found concerning when he drove by was a piece of wood that looked to be half of the trellis on the front porch but it was laying there and had been laying there for some time. Mr. Hixenbaugh stated that did not speak to the property manager or professional landlord that was trying to be a good neighbor to those in the neighborhood and asked if he could help him understand why that piece of wood, that he probably could of stopped his car and walked up to the porch and picked up and taken it out of the site of the neighbors, why it was still there. Mr. Clark stated it had not been reported to them and they were good at dealing with Code Enforcement and they all had their phone numbers at the office and if they had been made aware of it, they would have removed it. Mr. Clark stated they managed a lot of properties, over 400 properties in the area, and he was sure that Mr. Williams did not know about it either. Mr. Hixenbaugh asked with regard to the tenants who occupied the property, would it be the same folks who lived in the property prior to the fire or if he anticipated that they would have new tenants. Mr. Clark stated it would be a different group of tenants and the tenants in there prior were moved to different homes and they were still with them. Mr. Hixenbaugh asked how they monitored the activity, behavior and interaction between their tenants and the neighborhood. Mr. Clark stated if they were not being good neighbors, they relied on the residents of the area and they used the tools that were available to them with Code Enforcement and others and they could also contact their office and he gave the neighbor directly to the north his business card in case there were any problems. Mr. Clark stated they relied on community tools as far as to report how it looked from the exterior. Mr. Hixenbaugh stated he almost mentioned earlier that there were other multi-family units in the vicinity and that was true, the staff report made reference to that but as he read the staff report and the maps attached to it, those other multi-family units were not adjacent to his property but rather they were down Grove Street further to the west. Mr.

Hixenbaugh asked if those were the multi-family units he was referring to or if there were others in that same block that they were unaware of. Mr. Clark stated those were the ones he was referring to. Mr. Hixenbaugh asked, to the best of his knowledge, if he would agree with him that on that block, the block this property sat on, all of those homes appeared to be zoned R-1 single family. Mr. Clark stated that was correct. Mr. Hixenbaugh stated he appreciated his answer, but he was not crazy about the fact that their Code Enforcement needed to receive a phone call from the neighbors with regard to that piece of wood that had been laying on the porch for some time before his firm took action and it was concerning to him. Mr. Hixenbaugh stated in terms of how the property impacted the neighbors that lived in close proximity, it was very concerning. Mr. Clark stated he did not talk to the general contractor and when it was in the renovation process, they were kind of in that limbo area where they could not fully step into their job and they did not have direct control over those contractors. Mr. Clark stated their other homes in the area did not have issues like that and they took care of the tenants if there was an issue, they submitted a work order request through their tenant portal and they took care of it right away. Mr. Clark stated occasionally some owners would ask them, on top of their annual inspections of the properties, to do a biannual inspection to make sure everything was good with the property.

Mr. Mammolenti asked who had been mowing the property. Mr. Clark stated they had a company that did it bi-weekly. Mr. Mammolenti stated he had referenced his relationship with Code Enforcement their locally and asked if he had any open violations or citations with them. Mr. Clark stated not really but sometimes he would get an email from Code Enforcement because a tenant on a duplex left the trash cans sitting in the street and to contact the tenant, small things like that. Mr. Mammolenti asked if he knew the cause of the fire. Mr. Clark stated it was an electrical fire that started in the kitchen from a light that was in there with some old wiring and he went through it with the Fire Marshal and he said it was something that happened with older wiring in some of the homes. Mr. Mammolenti stated it was concerning that he managed 400+ properties and as Mr. Hixenbaugh and others had mentioned, the falling wood that had not been noticed in quite some time was still there and also when this how was rented, how much managing really went into it and how much monitoring was being done to make sure they were good neighbors was a concern of his. Mr. Mammolenti stated he knew he mentioned his process of how often he typically drove by it. Mr. Clark stated there was always an annual exterior inspection of the home and just walking up to it to look for any obvious siding, wind damage or damaged shingles and on the interior, they had a regular checklist through their property management software that had them take pictures of certain items in the home and make notes of those items. Mr. Mammolenti asked if that was just annually, one time. Mr. Clark stated annually was standard and some of their clients requested an inspection twice a year. Mr. Mammolenti stated he had mentioned the improvements that were going to be done on the interior and asked if he knew of any that would on the external side of things. Mr. Clark stated there was no plan at that point to do any painting or anything like that, but the landscaping would be cleaned up and anything that looked unsuitable to getting a tenant, they cleaned it up so they could get photos of the property and get it on the market. Mr. Mammolenti asked when the owner purchased this, if it was never brought to his attention that it was zoned R-1. Mr. Clark stated he was not the buyer's agent and he would guess that title would have said that this was a

nonconforming use but he was never notified of that, so it either slipped through the cracks in title which rarely happened or he was okay with the nonconforming use but he was not sure.

Mr. Emmons stated looking at the structure and the outside of the home, the fire did not impair the look of the home. Mr. Clark stated that was probably correct and in the back, it did a little bit of damage to the roof but that was about it. Mr. Emmons stated to him, it almost looked like a substandard home and he would not want to move into the home. Mr. Emmons stated he was not doing anything to the outside and not only the house, but the sidewalk, the steps up to it and the steps on the outside were hazardous and he did not see how he, personally, looking at the roof and the condition of the outside of the house would want to live there. Mr. Emmons also mentioned if he lived in that neighborhood, he would be concerned and would not want that house next to him. Mr. Clark stated they had a plan to replace the exterior steps and when they went to market it, they had a conversation with the owner. Mr. Emmons asked how long he had been the property manager for the house. Mr. Clark stated since Mr. Williams purchased it in 2020, but it had been sitting there for a year with other contractors working on the property. Mr. Emmons asked if he had really done nothing to it on the outside and yet they had people living in it. Mr. Clark stated when they were living there, it did not look like it did now and when homes sat for an extended period of time, they started to look like that. Mr. Emmons stated he could understand some wear and tear, but looking at this house that did happen over two years.

Mr. Compton stated he tended to support these and this was not the first time this happened where a person got in a jam, because a single family home got converted to a duplex before it was required to have zoning changes and the house went up for sale or you needed to get a loan and in this case, a fire happened and then here we were and they tended to come to the Council. Mr. Compton stated he usually supported these, but if he came to them today and said he wanted to convert the house he would say no. Mr. Compton understood this was 1947 and the steps inside had been removed and it just would not make sense to go back to single family and he did not like that it was in this neighborhood but most of all, he did not the way it looked. Mr. Compton stated he knew it was small potatoes, as Mr. Hixenbaugh said, but the lattice laying on the front porch had been there for quite some time and certainly since he had been watching the house well over a month. Mr. Compton stated he was going to support it but with the amount of properties he had to manage, he likely would see the Council again and he needed to see these places cleaned up. Mr. Compton stated they had a problem in their neighborhoods with this kind of stuff and told him to not be part of it. Mr. Compton stated he was a property manager and he was in this business and asked him to not be part of the problem and be part of the solution. Mr. Clark stated when that property was occupied, he would see that it would look nicer. Mr. Compton stated it should not look like this now and if somebody driving by who had any say so over property, it would take 5 minutes to walk up and move something off of the porch. Mr. Compton stated it looked abandoned and that hurt their neighborhoods. Mr. Clark stated he agreed.

Mr. Banicki asked if the only parking was available on the street. Mr. Clark stated yes there was only street parking and there were two spots in the front and he believed they wanted another

spot and a half. Mr. Clark stated to the south of it, there was no other home there and it was the backyard of the home that faced Grove Street so they did not see that there would be an issue to have parking along that road there. Mr. Banicki asked who owned the property where they wanted to park at. Mr. Clark stated it was the person on Grove Street, but their property did not front Division right there. Mr. Banicki asked if that was where the fence was. Mr. Clark stated yes and so any overflow parking from theirs would be going to the south there. Mr. Banicki asked if this was just on the street. Mr. Clark stated there was no alleyway or anything such as that.

Mr. Mammolenti asked prior to the fire, he said it was fully occupied on the top and bottom locations and if the top was a one bedroom. Mr. Clark stated yes, it was a one bedroom with a living room and a small kitchen. Mr. Mammolenti asked how many bedrooms the downstairs had. Mr. Clark stated it was a two bedroom. Mr. Mammolenti asked in the time prior to the fire, how many residents occupied the top and bottom. Mr. Clark stated there was a single male when he first bought it that was living there and he moved out, they renovated it and rented it back out to another single male and the bottom they rented it out to a single lady and he used the other bedroom and as an office area. Mr. Mammolenti asked if it was just two adults. Mr. Clark stated it was just two adults.

Mr. Bellovich asked, since the fire was in June of last year and he assumed the owner of the property had insurance, why it had taken 13 months and the project still was not completed. Mr. Clark stated there were problems with the insurance company and he hired a company to do the general contracting and they had a problem with getting companies out there and then finally when they really got the ball rolling with everything that was when they ran into the issue when they started to pull electrical permits. Mr. Bellovich stated he was really having a problem with this and he did not think he would be supporting it.

Mr. Banicki stated when looking at this house and the direct neighbors with some pictures online, the houses to the north were very nice, well-groomed and taken care of and this house obviously needed help but having the steps outside and changing it at some point, the financial gain did not make it fit the neighborhood it was in. Mr. Banicki stated like Mr. Compton said if they came in to ask for approval that day from an empty slate, they would say no. Mr. Banicki stated it being what it was in that tight area, this was the smallest property and if a family were to move in there, there would be no place for kids and it was just not the right spot for this to be a multi-tenant facility and he would not be supporting it.

Mr. Hixenbaugh thanked Mr. Clark for his patience with them and he knew it was not easy to answer those type of questions but they did appreciate it. Mr. Hixenbaugh stated he would also not be supporting it based upon what they had heard that evening and the additional information in the staff report, he could not conclude that rezoning this as R-2 multi-family would conserve property values in the neighborhood. Mr. Hixenbaugh stated Mr. Banicki referenced the houses to the north and if you drove around the block on Grove Street, the houses to the south were really well maintained as well. Mr. Hixenbaugh stated this home in that stretch stood out like a

sore thumb and the lack of activity to try to remediate the effects of the fire was concerning to him, the lack of urgency to care for the neighbors was not what he thought any one of the councilmembers would want to live next to and he also had supported these and could not really remember ever voting no on these, especially when it was a long-term use like this but this was an unprecedented situation. Mr. Hixenbaugh stated if this was an empty lot, he would not be in favor of sticking an R-2 into the neighborhood when every other property on that block was zoned R-1 single family and he was not in favor of it and would be voting no.

Question was called for at 9:13PM for **PROPOSED ORDINANCE NO. 2023-24 Motion failed by unanimous roll call vote (summary: Yes = 0 No = 9).**

No: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance failed 9-0.

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
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. Clerk Block polled the council on the committee report.

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 committee report passed 9-0.

Mr. Hixenbaugh stated consistent with requirements of Indiana law, public hearing on this proposed ordinance was held at their previous council meeting so at that time, the matter was opened for questions or comments from the council. Hearing none, Mr. Hixenbaugh called for the question.

Question was called for at 9:15PM for **PROPOSED ORDINANCE NO. 2023-26 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. 5850.**

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
Vote Only**

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried. Clerk Block polled the council on the committee report.

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 committee report passed 9-0.

Mr. Hixenbaugh stated consistent with requirements of Indiana law, public hearing on this proposed ordinance was held at their previous council meeting so at that time, the matter was opened for questions or comments from the council. Hearing none, Mr. Hixenbaugh called for the question.

Question was called for at 9:16PM for **PROPOSED ORDINANCE NO. 2023-27 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. 5851.**

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**

Mr. Banicki reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Compton, the motion carried. Clerk Block polled the council on the committee report.

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 committee report passed 9-0.

Ken Prince, Director of Planning and Community Development, spoke in favor of **PROPOSED ORDINANCE NO. 2023-28** and stated he would like for the record that the testimony from **RESOLUTION R2023-18** which reflected the nature of the project and the details be reflected for this public hearing on this proposed ordinance. Mr. Hixenbaugh stated the record would reflect that.

Phil Faccenda, Barnes & Thornburg and Bond Counsel to the city, spoke in favor of **PROPOSED ORDINANCE NO. 2023-28**. Mr. Faccenda stated he would discuss the bond ordinance just briefly, which was essentially the document that authorized the issuance of the bonds they had been talking about which were the economic development revenue bonds or TIF revenue bonds. Mr. Faccenda stated what was before the council was what they called a parameters ordinance which allowed them some leeway as they set upper maximums with regard to the provisions of the bonds. Mr. Faccenda stated for instance, they heard in the presentation provided by Baker Tilly that somewhere around \$10,600,000 would be the projected principal amount and the bond ordinance allowed them to go up to \$12.5 million. Mr. Faccenda stated it was not anticipated that it would go that far but that was what was before the Council in the document. Mr. Faccenda stated a few more terms of the bonds that were worth noting were a 7.5% interest rate right now projected, a 25-year term which was part of the earlier presentation and finally, the bonds were payable solely from the tax increment revenues generated from the project site and the taxpayer minimum payment. Mr. Faccenda stated the full faith and credit of the city was not pledged in the bonds in any way and it would be payable solely from the TIF revenues generated from the property and the bond purchaser was well aware of that and their documentation would follow accordingly. Mr. Faccenda stated he would be happy to answer any additional questions.

Question was called for at 9:22PM for **PROPOSED ORDINANCE NO. 2023-28 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. 5852**.

NEW BUSINESS

Mr. Emmons made a reminder that he would be having his neighborhood meeting Thursday June 20th at 7PM at St. Bavo's and the guest speaker would be Mayor Dave Wood giving an abbreviated State of the City Address and looked forward to it. Mr. Emmons invited each and every citizen to attend and they would have refreshments provided by West End Bakery.

ADJOURNMENT 9:22PM

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

Date: July 18, 2023

Deborah S. Block, IAC, MMC

PET 23-18
Received

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

JUL 21 2023

City Clerk
Mishawaka, IN

JUL 18 2023

Planning and
Community Development

Re: Petition for Vacation of Public Right of Way

The undersigned City of Mishawaka, through its Department of Planning and Community Development, respectfully requests 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 NORTH/SOUTH ALLEY MEASURING 16.5 FEET IN WIDTH AND APPROXIMATELY 280 FEET IN LENGTH ADJACENT TO LOTS 2, 4, AND ADJACENT NORTH 1/2 VACATED EAST/WEST ALLEY SPRING STREET AND LOTS 8, 6, AND ADJACENT SOUTH 1/2 VACATED EAST-WEST ALLEY SPRING STREET ON THE WEST, AND ON THE EAST LOTS 1, 3, AND ADJACENT NORTH 1/2 VACATED EAST/WEST ALLEY MILL STREET AND LOTS 7, 5, AND ADJACENT SOUTH 1/2 VACATED EAST-WEST ALLEY MILL STREET, ALL OF THE ORIGINAL PLAT OF ST. JOSEPH IRON WORKS TO THE CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA.

COMMONLY KNOWN AS: THE NORTH/SOUTH ALLEY LOCATED BETWEEN WEST FRONT STREET, WEST FIRST STREET, NORTH SPRING STREET, AND NORTH MILL STREET

Petitioner further states they are the owner of the property immediately adjacent to the above-described right of way.

Wherefore, the Petitioner prays and respectfully requests 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.

Kenneth B. Prince, AICP, ASLA
Executive Director of Planning &
Community Development
ADJACENT PROPERTY OWNER

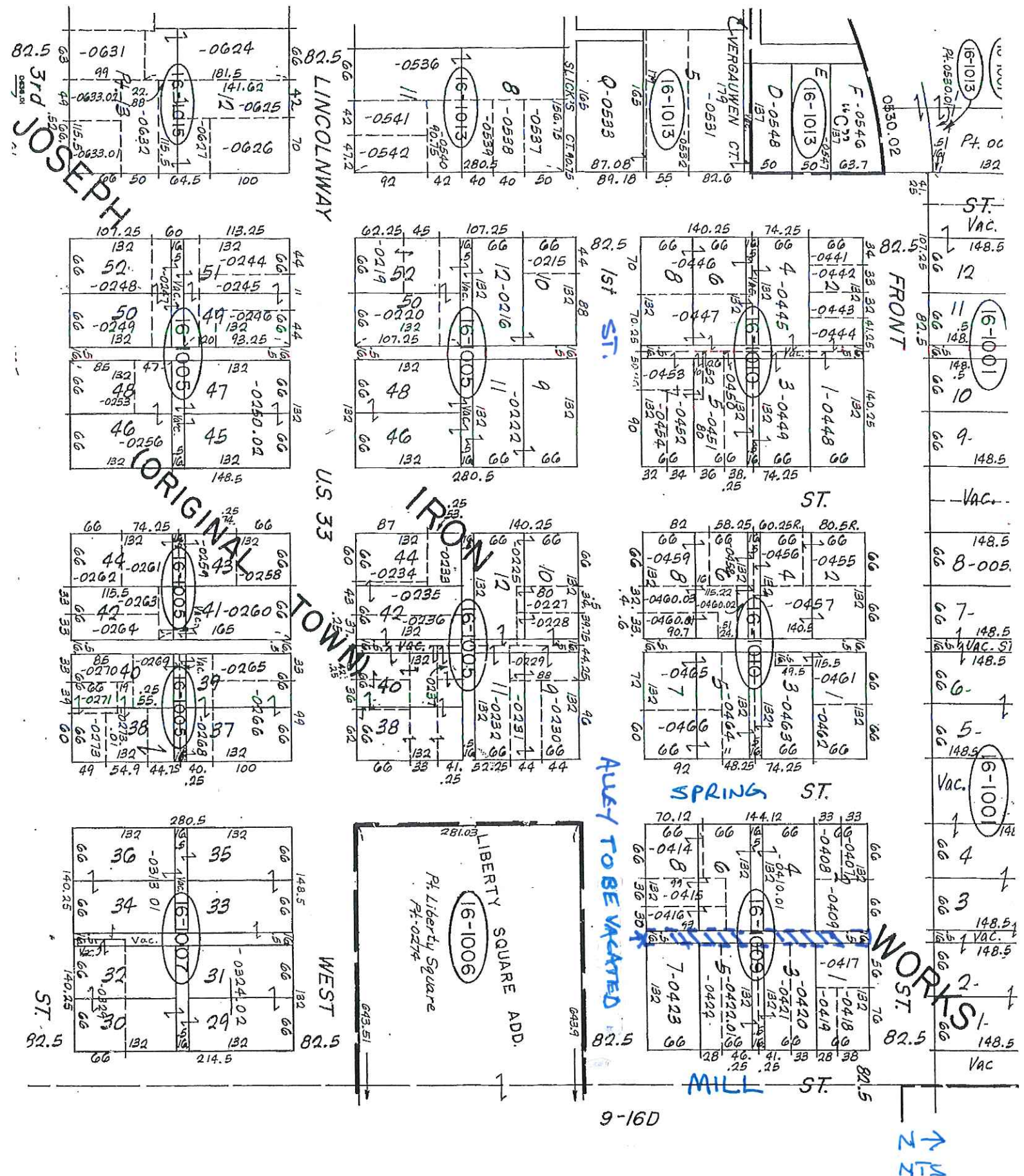
CONTACT PERSON:
Derek J. Spier, AICP
City Planner
100 Lincolnway West
Mishawaka, IN 46544
574-258-1625

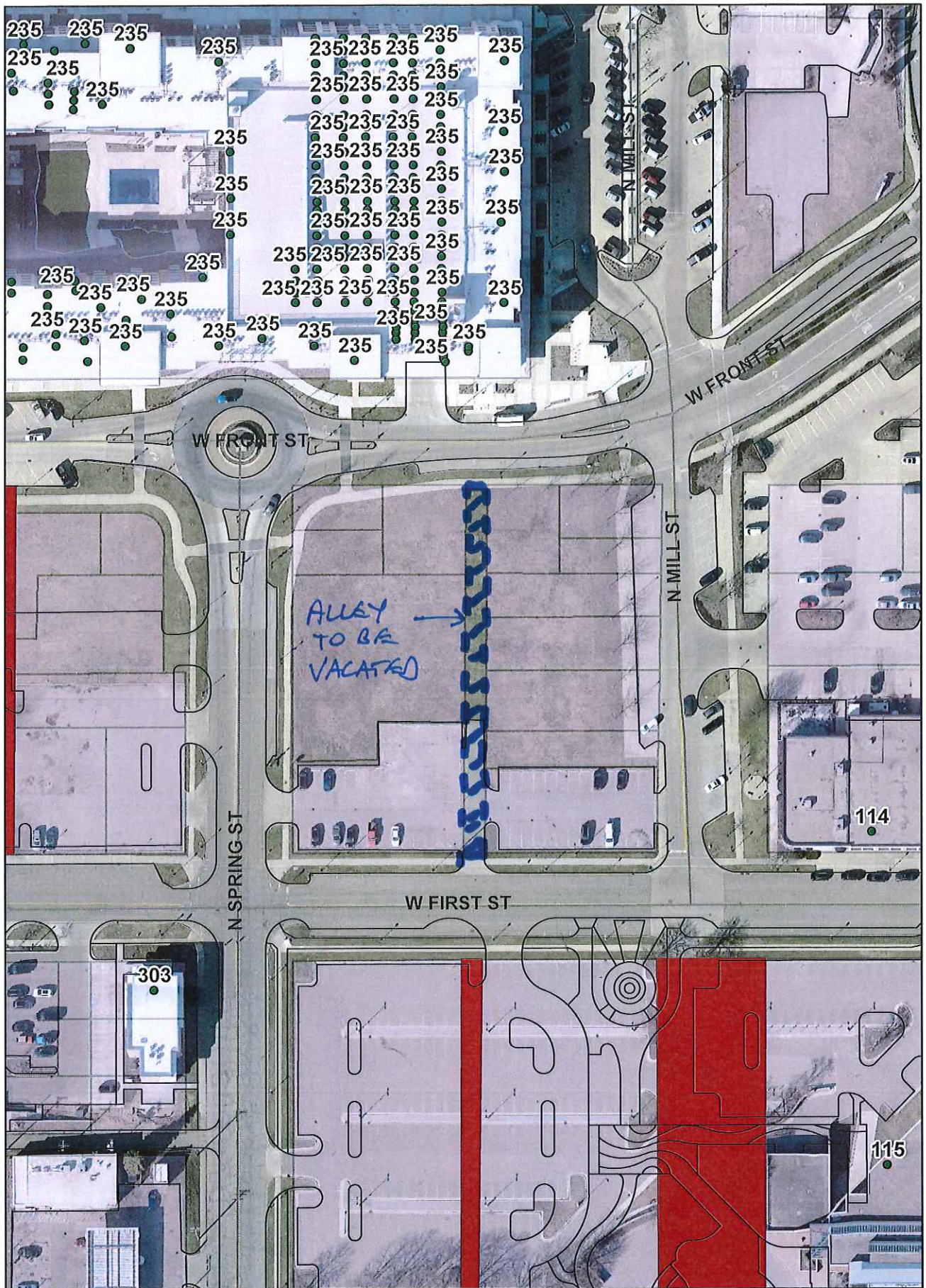
PENN TWP.
WI 1/2 NE 1/4 SEC 16 T.37N. R.3E.

Copyright 1987
THE SIDWELL COMPANY

9-16C

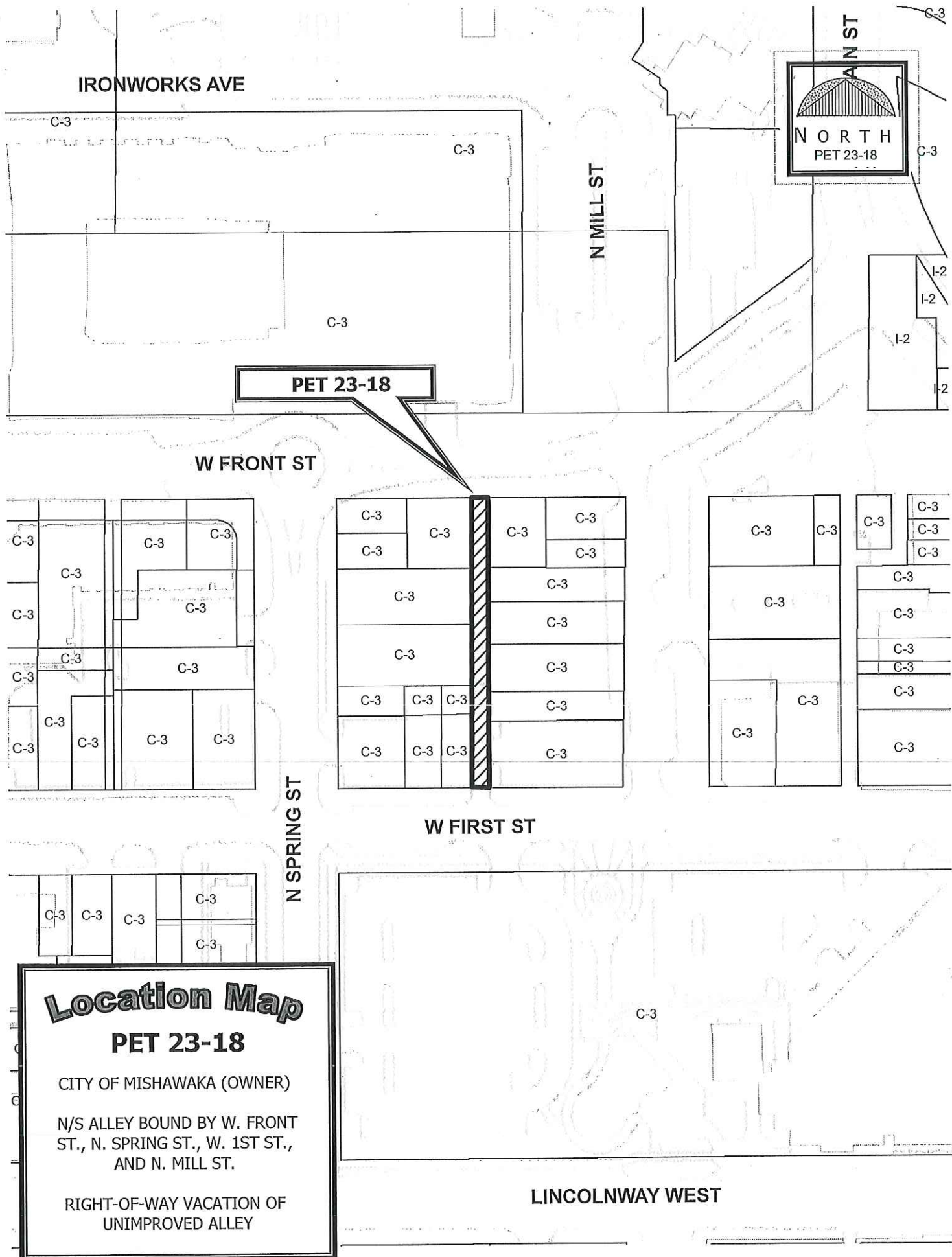






ALLEY VACATION

↑
N
NTS



Deborah S. Block, MMC, MMC

JUL 21 2023

City Clerk
Mishawaka, IN

DATE:

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

RE: PETITION FOR PUD AMENDMENT

The undersigned University Gardens Inc. 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:

Unit 14 University Gardens' Office Park
6910 N Main

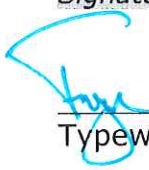
Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for a *professional and commercial development and the uses have generally followed the C-6 Linear Office Commercial District*

Petitioner(s) desire said real estate to be amended to allow for microblading.

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

Signature(s) of Property Owner(s)

Signature(s) of Property Owner(s)

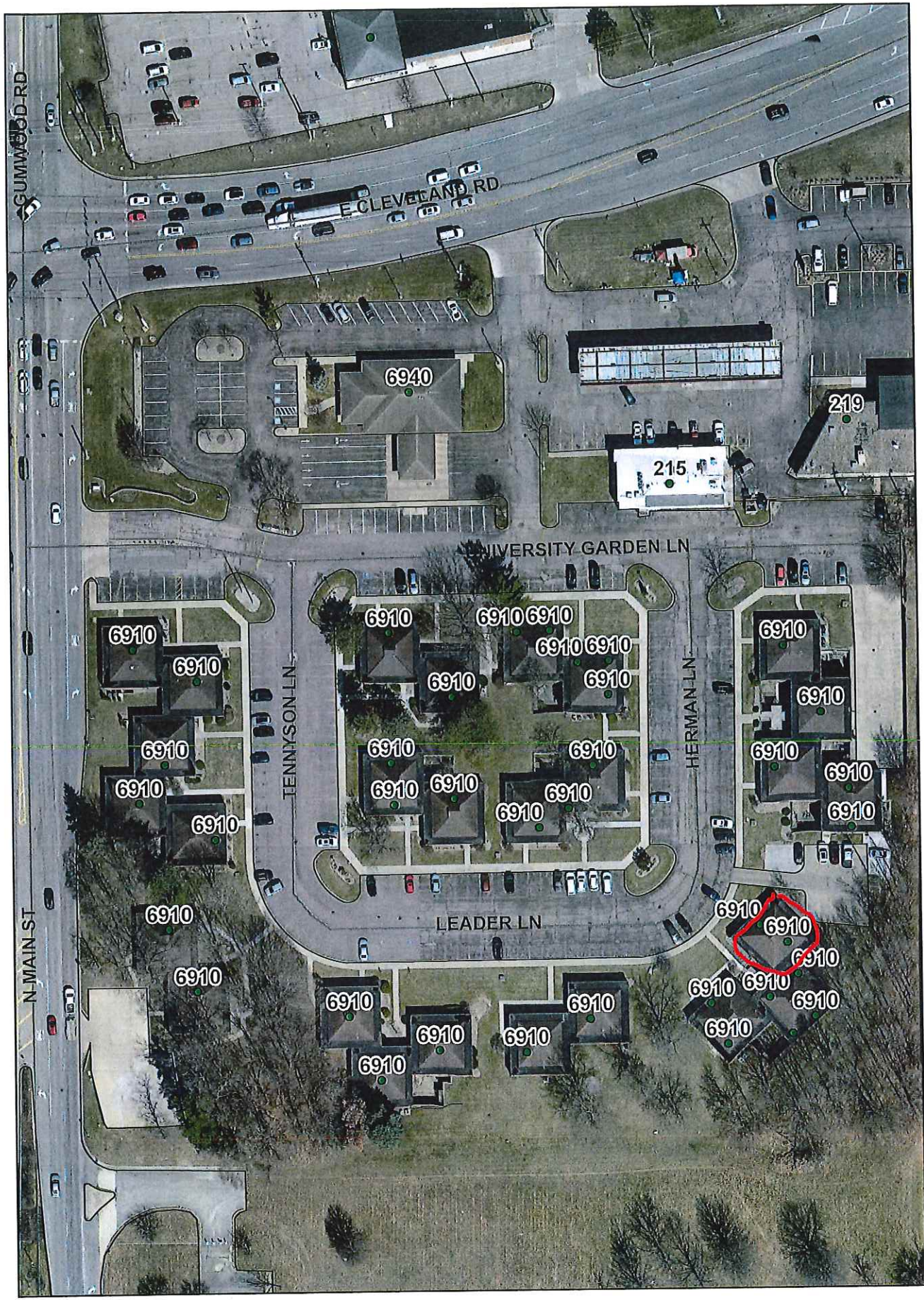


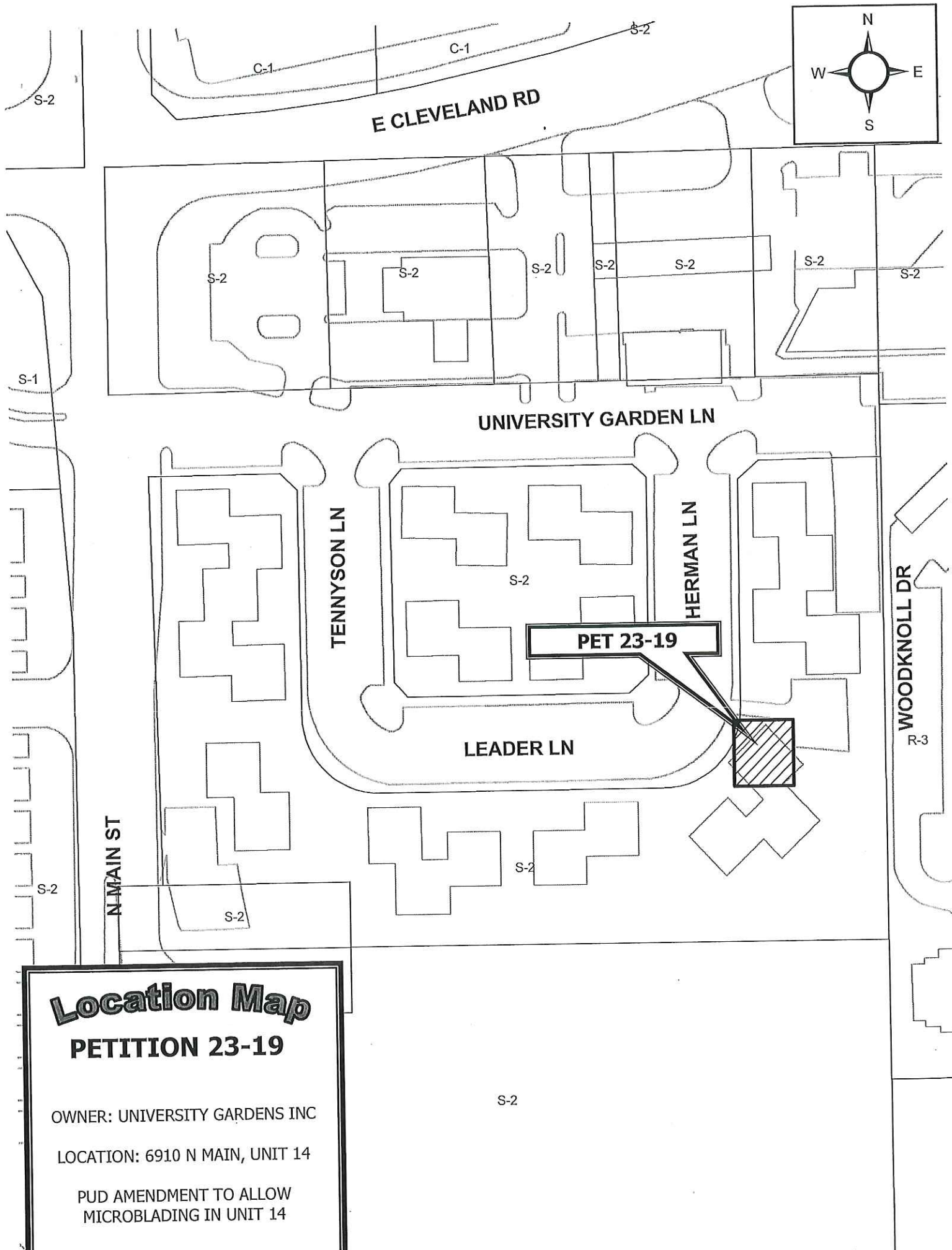
Typewritten name also

Typewritten name also

CONTACT PERSON:

Name Nicole Walasinski
Address 6910 N. Main St. Building 14, Suit B, Granger, IN 46530
Phone Number/ Fax (574) 300-9634
Email nicolewalasinski@gmail.com





Location Map

PETITION 23-19

OWNER: UNIVERSITY GARDENS INC

LOCATION: 6910 N MAIN, UNIT 14

PUD AMENDMENT TO ALLOW
MICROBLADING IN UNIT 14



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2023-02</u>
PETITION NO.	<u>2023-15</u>
DATE of HEARING	<u>08-07-23</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by Todd Lang & Nathan Sherman, Gary & Linda King, and Rachelle Morris petition for vacation of the public right-of-way described:

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.

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on August 07, 2023 at 7:00 pm in the Council Chambers, City Hall, 100 Lincolnway West, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

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.

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

Raven Boston, Chief Deputy I Michael Hixenbaugh, Chief Deputy II
City Hall, 100 Lincolnway West Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@mishawaka.in.gov Website: Mishawaka.in.gov



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2023-03</u>
PETITION NO.	<u>2023-16</u>
DATE of HEARING	<u>08-07-23</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by the City of Mishawaka have filed a petition for vacation of the public right-of-way described:

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.

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

Raven Boston, Chief Deputy I Michael Hixenbaugh, Chief Deputy II
City Hall, 100 Lincolnway West Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

AUG 03 2023

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2023-35

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, ESTABLISHING A DESIGNATED OUTDOOR REFRESHMENT AREA**

WHEREAS, Indiana Code 7.1-3-31 authorizes the establishment of a Designated Outdoor Refreshment Area;

WHEREAS, the Common Council believes it is in the best interests of the City to create a Designated Outdoor Refreshment Area in the City's downtown, as authorized by Indiana Code 7.1-3-31 et seq, which Area is shown on the attached Map- Exhibit A;

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. All definitions in Ind. Code 7.1-3-31 *et seq.* shall apply to this Ordinance.
2. The Common Council hereby adopts the Map of the City of Mishawaka Downtown Designated Outdoor Refreshment Area attached hereto as Exhibit A and incorporated herein by reference;
3. That the following area is designated as the City of Mishawaka Downtown Designated Outdoor Refreshment Area:

A PART OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2 IN THE MILL AT IRONWORKS AS RECORDED UNDER INSTRUMENT NUMBER 1735080 IN THE OFFICE OF RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF WEST FRONT STREET TO THE SOUTHEAST CORNER OF LOT 2 IN IRON WORKS PHASE II AS RECORDED UNDER INSTRUMENT NUMBER 0833003 IN SAID OFFICE OF RECORDER; THENCE NORTHERLY ALONG THE WEST RIGHT-OF-WAY LINE OF NORTH MAIN STREET TO THE NORTHEAST CORNER OF OUTLOT A IN SAID THE MILL AT IRONWORKS; THENCE WESTERLY

ALONG THE NORTH PROPERTY LINE OF SAID OUTLOT A, ALSO GENERALLY BEING THE SOUTH BANK OF THE ST. JOSEPH RIVER, TO THE WEST LINE OF SAID LOT 2 IN THE MILL AT IRONWORKS PROJECTED NORTHERLY; THENCE SOUTHERLY ALONG SAID PROJECTED WEST LINE AND THE WEST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING.

SAID DESCRIBED TRACT CONTAINS 18.24 ACRES, MORE OR LESS.

Except all residential property is excluded.

4. The Common Council finds that the Shelbyville Downton Outdoor Refreshment Area is consistent with the City of Mishawaka's Zoning Code.
5. The Common Council hereby approves and adopts the minimum signage designating the City of Mishawaka Downtown Designated Outdoor Refreshment Area attached hereto as Exhibit B (we need exhibit B for the (COM) and incorporated herein by reference and directs the City to place the signage at the designated locations on Exhibit C;
6. The Common Council recognizes that additional signage designating the City of Mishawaka Downtown Designated Outdoor Refreshment Area may be warranted and necessary, Exhibit B and C are only minimum standards and therefore the City of Mishawaka Board of Public Works and Safety is hereby authorized and granted full authority to increase the number or change the type of signage in their sole discretion;
7. Dates and Hours of Operation:
The City of Mishawaka Downtown Designated Outdoor Refreshment Area shall be in effect during all authorized times pursuant to Ind. Code 7.1-3-1-14 as amended from time to time by the Indiana General Assembly.
8. The following retailer permittees have submitted a completed application to the City to participate in the Area as a Designated Permittee and the City finds that each of them is an appropriate Designated Permittee and requests the Indiana Alcohol Commission to issue each a "refreshment area designation":
 - a. Sun King – Ironworks Ave., Ironworks Plaza
 - b. Public House – Ironworks Ave
 - c. Social Cantina – The Mill, Ironworks Plaza
 - d. Chicory Café?

Any additional licensed premises located within the Downtown Refreshment Area who desires to be designated as "Designated Permittee" and granted a "refreshment area designation" shall submit an application to the City for approval and recommendation by the Common Council by Resolution.

9. The City of Mishawaka Board of Public Works and Safety adopted the City of Mishawaka Special Event Permit Application which is attached hereto and incorporated herein by reference as **Exhibit D** (to be developed). A Special Event Permit Application, including the Exhibit 1 "State Form Designated Outdoor Refreshment Area Designation Form" shall be submitted to the City of Mishawaka Planning and Community Development Department for approval by the Board of Works prior to:
 - a. A Designated Permittee expanding their operations into the Area outside of their designated outdoor patio area;
 - b. An Approved Vendor, either by this Ordinance or future Resolution, requesting a temporary permit to serve in the Area;
 - c. Any Organization holding a special event in the Area with a Vendor requesting a temporary permit to serve;
10. Any establishments that desires to be a "vendor" for the Downtown Designated Refreshment Area shall submit an application to the City for approval by the Common Council. The following establishments have submitted an application and the Common Council now finds that they are appropriate Vendors for the Downtown Refreshment Area and hereby recommends their approval by the Board of Public Works and Safety upon completion of the Special Event Permit Application and the State Form Designated Outdoor Refreshment Area Designation Form for each event:
 - a. TBD
 - b. TBD
 - c. TBD

Any additional establishments whom desire to be Vendor's shall submit an application for review and approval by the Common Council by Resolution. This Application must be submitted prior to submission of the Special Event Permit Application required under paragraph 10. Upon approval by the City Council each additional Special Event Permit and Application shall be submitted to the City Planning and Building Department.

11. Designated Permittees identified in paragraph 9 have been identified on Exhibit A.
12. Vendor's location may be at any or all of the designated areas within the Downtown Designated Outdoor Refreshment Area as shown on Exhibit A, subject to approval of the Special Event Permit and State Form by the City of Mishawaka Board of Public Works and Safety.
13. Business Participation:
 - a. Nothing in this Ordinance prohibits a business, landlord, or other establishment from prohibiting open containers of alcoholic beverages to enter their premises or from prohibiting alcoholic beverages purchased from another establishment to enter their premises.
 - b. The City of Mishawaka maintains full authority and control over the sidewalks and common area and no one may prohibit or limit open containers in accordance with Ind. Code 7.1-3-31 within the Designated Outdoor

Refreshment Area in those spaces except for the City of Mishawaka Police Department.

14. Upon receipt of "refreshment area designation" from the Indiana Alcohol Commission the Designated Permittee as defined by Ind. Code shall remove all stanchions, fencing, or other means of separation previously required by law from all common areas, sidewalks, and right of way of the City of Shelbyville as provided by Ind. Code 7.1-3-31-15. Failure to remove said enclosures within 72 hours' notice from the City shall result in a fine in accordance with §?.

15. In accordance with Ind. Code 7.1-3-31 *et seq.*

- a. A person may consume an alcoholic beverage purchased from a designated permittee or vendor anywhere within the refreshment area boundaries, subject to the right of any retailer permittee or business within the refreshment area to refuse to allow individuals to enter the licensed premises or business with an alcoholic beverage.
- b. All Designated Permittees and Vendors may allow a person to exit the designated permittee's or vendor's licensed premises with not more than two(2) open containers of an alcoholic beverage at a time. The contents of an open container may not exceed the following:
 - i. Beer or flavored malt beverage of not more than sixteen(16) ounces.
 - ii. Wine, cider, or hard seltzer of not more than twelve (12) ounces.
 - iii. A mixed drink of not more than ten (10) ounces containing not more than two (2) ounces of liquor.

16. A sign, as required by Ind. Code 7.1-3-31-16, and attached hereto as **Exhibit D** (TBD) must be posted at each exit of a Designated Permittee and on the licensed premises of a Vendor.

17. Glass containers may only be allowed in a Designated Permittee's Outdoor dining area and may not be removed into the Downtown Designated Outdoor Refreshment Area.

This Ordinance shall be in full force and effect upon its passage, approval, and publication pursuant to Indiana law.

Passed by the Common Council of the City of Mishawaka, Indiana, on this _____ day of _____, 2023.

Gregg Hixenbaugh, President

ATTEST:

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

Presented to the Mayor this _____ day of _____, 2023

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

Approved this _____ day of _____, 2023

David A. Wood
Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

OFFICE OF THE MAYOR

Dear President Hixenbaugh and the Honorable members of the Mishawaka Common Council;

The General Assembly for the State of Indiana has allowed the creation of Designated Outdoor Refreshment Area(s) (DORA) under Indiana Code 7.1-3-31.

The City of Mishawaka has made improvements and supported investment and growth in the downtown area including City parks such as Beutter Park, the Riverwalk and Kamm Island Park, as well as Ironworks Plaza, which downtown park development has resulted in improved and expanded recreational opportunities to draw more residents, visitors, and patrons to Mishawaka.

As a result of such downtown park development numerous stores, shops, entertainment venues and restaurants have chosen the downtown area of Mishawaka for their businesses.

It is my belief and that of the Mayor Wood's administration that having a DORA will attract more visitors, citizens, and patrons to local businesses within the downtown area.

We also believe that implementing a DORA in downtown Mishawaka, more specifically in and around Beutter Park and the Ironworks Plaza will provide a significant economic boost to local businesses.

I therefore ask for your support of the proposed DORA ordinance and the revision to the Mishawaka Parks ordinance related to alcohol use as well.

Sincerely,

Matthew Lentsch

Executive Director of Development and Governmental Affairs

Exhibit A

W MISHAWAKA AVE EXHIBIT A

DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)

N MAIN ST

E MISHAWAKA AVE

ST. JOSEPH RIVER

OUTLOT "A"
THE MILL AT IRONWORKS
INSTR. #1735080

LOT 2
THE MILL AT IRONWORKS
INSTR. #1735080

N HILL ST

IRONWORKS AVE

N MILL ST

LOT 1
THE MILL AT IRONWORKS
INSTR. #1735080

LOT 2

IRONWORKS PHASE II
INSTR. #0833003

W FRONT ST

N SPRING ST

W FIRST ST

N WEST ST

VERGAUWEN CT

TOWLE AVE



N CHURCH ST



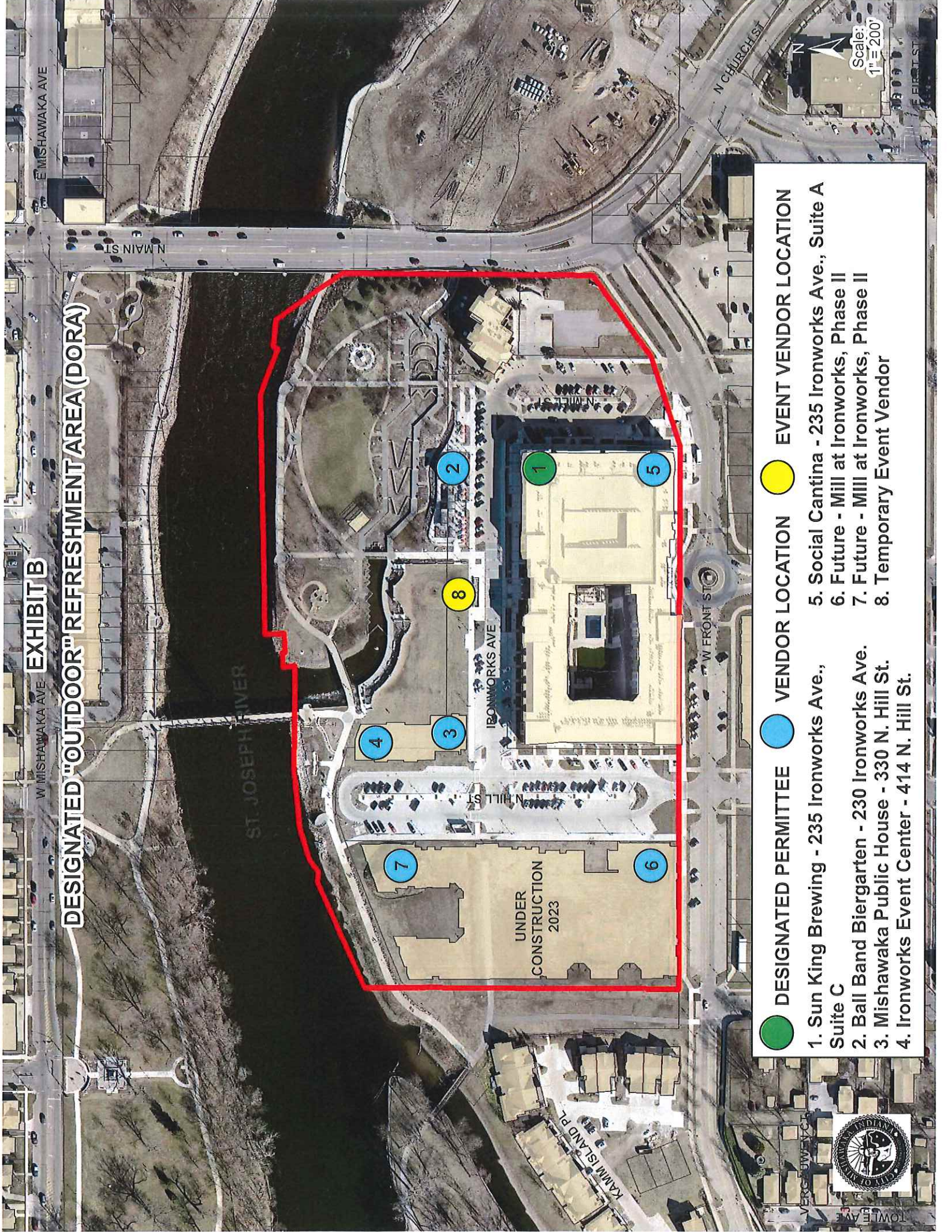
Scale:
1" = 200'

E FIRST ST

Exhibit B

EXHIBIT B

DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)



- | DESIGNATED PERMITTEE | VENDOR LOCATION | EVENT VENDOR LOCATION |
|---|---|-----------------------|
| 1. Sun King Brewing - 235 Ironworks Ave., Suite C | 5. Social Cantina - 235 Ironworks Ave., Suite A | |
| 2. Ball Band Biergarten - 230 Ironworks Ave. | 6. Future - Mill at Ironworks, Phase II | |
| 3. Mishawaka Public House - 330 N. Hill St. | 7. Future - Mill at Ironworks, Phase II | |
| 4. Ironworks Event Center - 414 N. Hill St. | 8. Temporary Event Vendor | |

Scale: 1" = 200'

Exhibit C

Ironworks Plaza

DOWNTOWN REVITALIZATION PROJECT

The City has dedicated itself to the revitalization of its historic downtown.

EXHIBIT C

DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)

LIBERTY DR
W GROVE ST
ANN ST
ELIZABETH ST
E GROVE ST
CHRISTYANN ST

W MISHAWAKA AVE

ST. JOSEPH RIVER

SIGN
LOCATIONS

N MAIN ST

N HILL ST

IRONWORKS AVE

N MILL ST

W FRONT ST

N WEST ST

N SPRING ST

N CHURCH ST

KAMM ISLAND PL

You are now entering the

Downtown Mishawaka

D.O.R.A.

Designated Outdoor Refreshment Area

- No exploring outside of the D.O.R.A. boundaries with your beverage
- All beverages must be served in DORA designated cups. Throw cups away before entering the next liquor establishment and before leaving the D.O.R.A.
- No BYOB. All beverages must be purchased at a participating establishment
- All participants must be 21 years of age



N
NTS

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-36

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "PARKS AND RECREATION ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the General Assembly for the State of Indiana has allowed the creation of Designated Outdoor Refreshment Area(s) (DORA) under Indiana Code 7.1-3-31; and

WHEREAS, the City of Mishawaka has made improvements and supported investment and growth in the downtown area including City parks such as Beutter Park, the Riverwalk and Kamm Island Park, as well as Ironworks Plaza, which downtown park development has resulted in improved and expanded recreational opportunities to draw more residents, visitors, and patrons to Mishawaka; and

WHEREAS, as a result of such downtown park development numerous stores, shops, entertainment venues and restaurants have chosen the downtown area of Mishawaka for their businesses; and

WHEREAS, having a DORA will attract more visitors, citizens, and patrons to local businesses within the downtown area; and

WHEREAS, having and implementing a DORA in downtown Mishawaka, more specifically in and around Beutter Park and the Ironworks Plaza will provide a significant economic boost to local businesses; and

WHEREAS, the Parks and Recreation Ordinance does not presently allow persons to bring possess, sell, consume beer, ale, or any other alcoholic beverage, into any park, except on written permission from the board of parks and recreation or its duly authorized agents.

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

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

Deborah S. Block, IAMC, CMO, 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

OFFICE OF THE MAYOR

Dear President Hixenbaugh and the Honorable members of the Mishawaka Common Council;

The General Assembly for the State of Indiana has allowed the creation of Designated Outdoor Refreshment Area(s) (DORA) under Indiana Code 7.1-3-31.

The City of Mishawaka has made improvements and supported investment and growth in the downtown area including City parks such as Beutter Park, the Riverwalk and Kamm Island Park, as well as Ironworks Plaza, which downtown park development has resulted in improved and expanded recreational opportunities to draw more residents, visitors, and patrons to Mishawaka.

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It is my belief and that of the Mayor Wood's administration that having a DORA will attract more visitors, citizens, and patrons to local businesses within the downtown area.

We also believe that implementing a DORA in downtown Mishawaka, more specifically in and around Beutter Park and the Ironworks Plaza will provide a significant economic boost to local businesses.

I therefore ask for your support of the proposed DORA ordinance and the revision to the Mishawaka Parks ordinance related to alcohol use as well.

Sincerely,

Matthew Lentsch

Executive Director of Development and Governmental Affairs

JUL 18 2023

City Clerk
Mishawaka, IN

RESOLUTION NO. 2023-19

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA APPROVING AN INTERLOCAL AGREEMENT BETWEEN
THE CITY OF SOUTH BEND, INDIANA, THE CITY OF MISHAWAKA, INDIANA
AND THE BOARD OF COMMISSIONERS OF ST. JOSEPH COUNTY, INDIANA,
FOR THE MUTUAL INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS IN
ST. JOSEPH COUNTY**

WHEREAS, the City of Mishawaka, Indiana, through the Mishawaka ("MPD") has a history of cooperating with the City of South Bend and St. Joseph County in the investigation of officer-involved shootings or deaths in St. Joseph County; and

WHEREAS, the City of South Bend, the City of Mishawaka, and St. Joseph County have established practice and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of alleged other action(s) of an officer; and

WHEREAS, Indiana Code 36-1-7, the Interlocal Cooperation Act, authorizes one or more governmental entities to exercise, jointly or by one entity on behalf of others, powers that may be exercised by such units severally; and

WHEREAS, the Indiana Cities of South Bend and Mishawaka, along with the County of St. Joseph share a combined interest in entering into an Interlocal Agreement so that by working cooperatively, they may thoroughly, fairly, and impartially investigate incidents of officer-involved shootings or deaths as a result of alleged other action(s) of an officer in St. Joseph County; and

WHEREAS, pursuant to IC 36-1-7, the City of Mishawaka will cooperatively assist the City of South Bend and St. Joseph County by investigating incidents of officer-involved shootings or deaths as a result of alleged other action(s) of an officer of the South Bend Police Department or the St. Joseph County Police Department; and

WHEREAS, The City of South Bend, the City of Mishawaka, and St. Joseph County, Indiana, have entered into an Interlocal Agreement, a copy of which is attached hereto and incorporated herein as Exhibit A, containing all the governing provisions for Mishawaka's participation in the cooperative investigation service.

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

Section I. The Common Council of the City of Mishawaka, Indiana, has considered and hereby ratifies, confirms, and approves the Interlocal Agreement attached as Exhibit A to this Resolution, governing the City of Mishawaka Police Department's participation investigation of officer-involved shootings and deaths as a result of alleged other action(s) of an officer in St. Joseph County, Indiana.

Section II. The Mayor is authorized to execute the Interlocal Agreement in form and substance the same as or similar to that of the Agreement attached hereto as Exhibit A.

Section III. This Resolution shall be in full force and effect retroactively as of January 1, 2023 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, on this ____ day of _____, 2023, at ____ o'clock, P.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor for his approval and signature this ____ day of _____, 2023.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED and SIGNED by me this ____ day of _____, 2023.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

Deborah S. Block, JMC, MMC

July 17, 2023

JUL 18 2023

Mishawaka Common Council
100 Lincolnway West
Mishawaka, Indiana 46544

City Clerk
Mishawaka, IN

Re: Officer Involved Shooting Investigation

President and Honorable Council Members:

Attached is a proposed resolution approving an interlocal agreement between Mishawaka, South Bend and St. Joseph County for the mutual investigation of officer involved shootings in St. Joseph County.

The Interlocal Agreement is attached to the resolution as Exhibit A, which in turn has attached to it Exhibit 1, which is the MOU between the Mishawaka Police Department, the St. Joseph County Police Department and the South Bend Police Department, which has been signed by the respective chiefs and sheriff.

The proposed resolution mirrors the resolution to be presented to the South Bend Common Council.

Thank you for your attention to this matter.

Sincerely,

Patrick J. Hinkle

Cc: Kenneth Witkowski, Chief of Police Mishawaka Police Department

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

John J. Roggeman
City Attorney
100 Lincolnway West
Mishawaka, IN 46544
(574) 258-1702
fax: (574) 254-0197

David V. Bent
Assistant City Attorney
320 W. Fourth Street
Mishawaka, IN 46544
(574) 255-3680
fax: (574) 255-3969

ST. JOSEPH COUNTY OFFICER-INVOLVED SHOOTING INVESTIGATIONS
INTERLOCAL AGREEMENT

This St. Joseph County Officer-Involved Shooting Investigations Interlocal Agreement (this "Agreement") is entered into on _____, 2023 by and between the Board of Commissioners of St. Joseph County, Indiana (the "County"), the City of South Bend, Indiana ("South Bend"), and the City of Mishawaka, Indiana ("Mishawaka") (collectively, the "parties") as it relates to the South Bend Police Department's (the "SBPD"), the Mishawaka Police Department's (the "MPD"), and the St. Joseph County Police Department's (the "SJCPD") investigation of incidents in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of alleged other action(s) of an officer.

RECITALS

A. The SBPD is a public safety and law enforcement unit supervised by the Chief of Police (the "SBPD Chief") and operating within South Bend in St. Joseph County, Indiana, in accordance with its legal authority and jurisdiction; and

B. The MPD is a public safety and law enforcement unit supervised by the Chief of Police (the "MPD Chief") and operating within Mishawaka in St. Joseph County, Indiana in accordance with its legal authority and jurisdiction; and

C. The SJCPD is a public safety and law enforcement unit supervised by the Sheriff (the "Sheriff") and operating within St. Joseph County, Indiana in accordance with its legal authority and jurisdiction; and

E. The parties desire to continue past and ongoing efforts to cooperate and coordinate their functions and expertise and agree that the terms, conditions, and operations provided for in this Agreement will be in the best interest of their respective communities; and

F. The parties are governmental entities and political subdivisions organized and existing pursuant to the laws of the State of Indiana; and

G. Indiana Code 36-1-7, the Interlocal Cooperation Act, authorizes one or more governmental entities to exercise, jointly or by one entity on behalf of others, powers that may be exercised by such units severally; and

H. The parties agree that it is desirable, advantageous, and in the public interest to enter into an Agreement for joint and cooperative action as embodied herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and pursuant to the authority granted the parties under Ind. Code 36-1-7, the parties agree as follows:

Article I. Statutory Authority; MOU Incorporated

Section 1.01 Authority. The parties make this Agreement under the authority and subject to the terms and provisions of the Interlocal Cooperation Act, Ind. Code 36-1-7 (the "Act"). The parties agree that, upon its full approval by South Bend, Mishawaka, and the County (and their respective fiscal bodies,), this Agreement will satisfy each requirement of Section 4(a) of the Act, exempting it from the necessity of approval by the Indiana Attorney General.

Section 1.02 MOU Incorporated. The parties agree to the terms and understandings set forth in the Memorandum of Understanding between SBPD, MPD, and SJCPD attached hereto as Exhibit 1. The MOU includes the purpose, duration, termination, staffing/supplying, and administration of this Agreement.

Section 1.03 Budget. Each agency is responsible for their own cost of involvement. I.C. 36-1-7-7 applies to each agency. In the event that any money is received or disbursed, the St. Joseph County Treasurer is delegated the duty to account for all monies.

Article II. General Provisions

Section 11.01. No Third-Party Beneficiaries. The parties expressly disclaim the existence of any third-party beneficiaries of this Agreement. Nothing in this Agreement, express or implied, is intended or will be construed to confer upon any person or entity, other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof will be for the sole and exclusive benefit of the Parties.

Section 11.02. Relationship. Nothing in this Agreement will be construed to create an agency or joint-venture relationship between South Bend, Mishawaka, and the County, and no employee of the County, will be deemed an employee of South Bend or Mishawaka.

Section 11.03. Indemnification. The Parties agrees to defend, indemnify, and hold harmless each Party (and their officers and employees) from and against any and all claims of any nature which arise from the performance by the Parties under this Agreement and from all costs and attorney fees in connection therewith, except for claims arising out of the negligence of the Parties (or their officers or employees). The obligations of the Parties under this Section 11.03 will survive the expiration or termination of this Agreement.

Section 11.04. Assignment. No party may assign this Agreement or any of its rights, interests, obligations, or duties hereunder, whether by operation of law or otherwise, without the express written consent of the other parties.

Section 11.05. No Waiver. The failure or delay of any party to enforce at any time any provision of this Agreement shall not be construed as a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any such right will have effect unless given in writing signed by the party waiving such right. No waiver of any

breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach. No waiver of any right will be deemed a waiver of any other right hereunder.

Section 11.06. Severability. Should any part of this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or against public policy, said offending section shall be void and of no effect, and shall not render any other section herein, nor this Agreement as a whole, invalid. Those rights, interests, obligations, and duties hereunder, which by their nature should survive, shall remain in effect after termination, suspension, or expiration hereof.

Section 11.07. Non-Discrimination. Pursuant to Ind. Code § 22-9-1-10, neither the parties, nor any of their contractors or subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11.08. Counterparts. This Agreement may be executed in counterparts, each of which when executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same Agreement.

Section 11.09. Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the State of Indiana, and any dispute relating to the subject of or arising out of this Agreement shall be subject to the sole and exclusive jurisdiction of the Circuit and Superior Courts of St. Joseph County, Indiana.

Section 11.10. Further Assurances. The parties agree that they will each undertake in good faith, as permitted by law, any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

Section 11.11. Exhibits. All Exhibits described herein and attached hereto are incorporated into the Agreement by reference. (**Exhibit 1**)

Section 11.12. Entire Agreement. This Agreement, as it may be amended from time to time, encompasses the entire agreement of the parties concerning its subject matter, and no understanding, discussion, negotiation, or agreement will be binding on the parties unless it is set forth herein.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed
on the date first above written.

**ST. JOSEPH COUNTY,
INDIANA**

**CITY OF SOUTH BEND,
INDIANA**

**CITY OF MISHAWAKA,
INDIANA**

Carl Baxmeyer,
President of the Board of
Commissioners

James Mueller, Mayor

Dave Wood, Mayor

ATTEST:

ATTEST:

Deborah Fleming, D.M.D.,
Vice President of the Board
of Commissioners

Dawn Jones, South Bend
City Clerk

Deborah Block, Mishawaka
City Clerk

Derek Dieter, Member of the
Board of Commissioners

ATTEST:

John Murphy, St. Joseph
County Auditor

APPROVED pursuant to
St. Joseph County Council.
Resolution
No.: _____

APPROVED pursuant to
South Bend Common
Council Resolution
No.: _____

APPROVED pursuant to
Mishawaka Common
Council Resolution
No.: _____

Randall L. Figg, President of
St. Joseph County Common
Council

Sharon McBride, President
of the South Bend Common
Council

Gregg Hixenbaugh,
President of Mishawaka
Common Council

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MISHAWAKA POLICE DEPARTMENT,
THE ST. JOSEPH COUNTY POLICE DEPARTMENT,
AND THE SOUTH BEND POLICE DEPARTMENT**

This **Memorandum of Understanding (MOU)** sets forth the terms and understanding between the Parties: *Mishawaka Police Department (MPD)*, the *St. Joseph County Police Department (SJCPD)*, and the *South Bend Police Department (SBPD)*, to establish practice and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of alleged other action(s) of an officer.

I. BACKGROUND

As of December 31, 2021, the St. Joseph County Metro Homicide Unit (MHU) dissolved. Previously officer-involved shootings or deaths as the result of alleged other action(s) of an officer were investigated by MHU. The dissolution of MHU necessitates the establishment of practice and procedure for a thorough, fair, and impartial investigation of incidents in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of alleged other action(s) of an officer.

II. DURATION

The Parties enter into this MOU voluntarily. This MOU may be modified in writing by mutual consent of authorized officials from MPD, SJCPD, and SBPD. This MOU shall be effective as of January 1, 2023 and upon signature by the Chief of MPD, the Sheriff of SJCPD, and the Chief of SBPD, and will continue until terminated in writing by any party with 30 days of notice. Upon 30 days' notice, any work on outstanding investigation(s) will continue until completed by the investigating agency.

III. PURPOSE AND SCOPE

The purpose of this MOU is to establish practice and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of alleged other action(s) of an officer. This does not include jail deaths or incidents. In other incidents not covered by this MOU, the Chief(s) of Police or Sheriff of the involved department may decide that the investigation will follow the process provided in this MOU. Each Department shall operate accordingly within their respective policies.

IV. PROCESS

The policy of each Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair, and impartial manner.

1. **TYPES OF INVESTIGATIONS-** Officer-involved shootings and deaths involve several separate investigations. The investigations may include:
 - a. A criminal investigation of the suspect's actions.
 - b. A criminal investigation of the involved officer's actions.
 - c. An administrative investigation as to policy compliance by involved officers.
 - d. A civil investigation to determine potential liability.

2. **CONTROL OF INVESTIGATIONS-** The control of the investigation, as determined by the type of investigation, is as follows:
- a. **CRIMINAL INVESTIGATIONS -** The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol and through this MOU.
 - i. Investigators from surrounding agencies will be assigned to work on the criminal investigation of officer-involved shootings and deaths. One uninvolved agency shall be the lead investigating agency and will provide a lead investigator and lead evidence technician. The lead agency shall be responsible for collection and proper chain of custody of all evidence. The assigned investigators will be referred to herein as the joint criminal investigation team. This *may (based on agency personnel issues)* include at least one investigator from the agency that employs the involved officer, however all measures should be taken to ensure this does not occur.
NOTE: if a SBPD officer is involved, then the joint criminal investigation team would consist of SJCPD and MPD; SJCPD involved then MPD and SBPD would investigate; if MPD involved, then SJCPD and SBPD would investigate.
 - ii. The criminal investigation will be handled according to the Criminal Investigation section of this MOU.
 - b. **ADMINISTRATIVE AND CIVIL INVESTIGATION-** Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.
3. **INVESTIGATION PROCESS-** The following are the standard procedures used in the investigation of an officer-involved shooting or death:
- a. **UNINVOLVED OFFICER RESPONSIBILITIES-** Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved by the lead agency. This officer should, as appropriate:
 - i. Secure the scene and identify and eliminate hazards for all those involved.
 - ii. Check for injured persons and evacuate as needed.
 - iii. Take reasonable steps to obtain emergency medical attention for injured individuals.
 - iv. Request additional resources from their department or other agencies.
 - v. Coordinate a perimeter or pursuit of suspects.
 - vi. Brief the lead agency upon arrival.
 - b. **DEPARTMENT/SUPERVISOR RESPONSIBILITIES-** Upon arrival at the scene, the first uninvolved supervisor should ensure completion of the duties as outlined above, plus:
 - i. Attempt to obtain a brief overview of the situation from any uninvolved officers.
 - 1. If there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

- ii. If necessary, the involved-agency supervisor may administratively order any involved-agency officer(s) to immediately provide public safety information necessary to secure the scene, identify injured parties, and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses, and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
 - iii. Provide all available information to the respective-agency Shift Supervisor and Communication Center. If feasible, sensitive information should be communicated over secure networks.
 - iv. Take command of and secure the incident scene with additional members until properly relieved.
 - v. As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - vi. Each involved officer should be given an administrative order not to discuss the incident with other involved officers or department members pending further direction from their supervisor.
 - vii. Witness Identification and Interviews- Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with joint criminal investigation team to utilize available law enforcement personnel for the following:
 1. Identification of all persons present at the scene and in the immediate area.
 2. Witnesses who are willing to provide a formal interview should be asked to meet or be transported to where investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by any officer (except those who are directly involved).
 - c. **DEPARTMENT/SHIFT SUPERVISOR RESPONSIBILITIES-** Upon learning of an officer-involved shooting or death, the Department Shift Supervisor shall be responsible for coordinating all aspects of the incident until they are relieved by lead agency.
 - d. **INQUIRIES OF INCIDENT-** All outside inquiries about the incident shall be directed to the commander or authorized designee of the assigned joint criminal investigation team.
4. **NOTIFICATIONS-** The following persons shall be notified as soon as practicable:
- Chief of Police/Sheriff • Division Chief(s) • Office of Professional Standards/Internal Affairs (IA) • Critical Incident Stress Management (CISM) Team
 - Chaplain • Coroner (if necessary) • Involved officer's agency representative (if requested) • Public Information Officer • St. Joseph County Prosecutor's Office

- City/County legal

5. **AUDIO AND VIDEO RECORDINGS-** Any officer involved in a shooting or death shall be permitted to review available Mobile Audio/ Video (MAV), body-worn video (BWC), CAD entries or other video or audio recordings prior to providing a recorded statement or completing reports. I.C. § 36-8-2.1.5 Any MAV, body-worn video, CAD entries and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the City or County Attorney's Office, as appropriate. Any MAV, body-worn video, CAD entries and other known video or audio recordings of an incident shall be retained until otherwise authorized by the City or County Attorney's Office.
6. **INVOLVED OFFICERS-** The following shall be considered for the involved officer:
 - a. Any request for legal representation will be accommodated.
 - i. Any involved officer will be afforded the opportunity to consult individually with a representative of their choosing or an attorney prior to providing a formal interview or report.
 - ii. Involved officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - b. Discussions with licensed attorneys will be considered privileged as attorney-client communications (I.C. § 34-46-3-1).
 - c. Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.
 - d. A licensed psychotherapist should be provided by the respective department to each involved officer. A licensed psychotherapist may also be provided to any other affected members, upon request.
 - i. Interviews with a licensed psychotherapist will be considered privileged (I.C. § 34-46-3-1).
 - ii. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - iii. A separate fitness-for-duty exam may also be required.
 - e. Communications with critical incident stress management services providers and peer support team members are generally confidential and may not be disclosed to a third party or in a criminal, civil, or administrative proceeding without a court order or as authorized by I.C. § 36-8-2.5-2.
 - f. Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.
 - g. Each involved officer should be given reasonable administrative leave following an officer-involved shooting or death.

7. **CRIMINAL INVESTIGATION-** The lead agency is responsible for oversight of the criminal investigation as to the circumstances of any officer-involved shooting involving injury or death, or death as a result of alleged other action(s) of an officer. Any involved department administrative or civil investigation shall not interfere with or supersede the criminal investigation.

Once public safety issues have been addressed, the joint criminal investigation team should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The involved member shall be given the opportunity to make a statement at that time or later, but in any event, within 72 hours barring extenuating circumstances. Before giving any statement, an involved member shall be given the opportunity to review their MVR (mobile video recorder) and CAD entries.

The following shall be considered for the involved officer:

- a. Supervisors and Office of Professional Standards/IA personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring interviews or indirectly providing topics for inquiry.
- b. If requested, any involved officer will be afforded the opportunity to consult individually with a representative of their choosing or an attorney prior to speaking with investigators. However, to maintain the integrity of each involved officer's individual statement, involved officers shall not consult or meet with a representative or attorney collectively or in a group prior to being interviewed.
- c. If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by investigators, the 72-hour guide/rule applies (NOTE: *barring extenuating circumstances*).
- d. Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including an administrative investigation. However, no administratively obtained statement will be provided to any investigator(s) unless the officer consents (Garrrity Rule).

8. **REPORTS BY INVOLVED OFFICERS-** If suspect(s) remain outstanding or subject to prosecution for related offenses, each department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal departmental procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

- 9. ADMINISTRATIVE INVESTIGATION-** In addition to all other investigations associated with an officer-involved shooting, each department shall conduct an internal administrative investigation of involved officers to determine conformance with department policy. This investigation shall be conducted under the supervision of the respective Office of Professional Standards/IA. Interviews and interrogations of members shall be subject to department policies, contract(s) or working agreements, and applicable laws.
- 10. CIVIL LIABILITY RESPONSE-** A member of the involved department may be assigned to work exclusively with the legal counsel for the involved department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation. All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.
- 11. DEBRIEFING-** Following an officer-involved shooting or death, the involved department should conduct both a critical incident/stress debriefing and a tactical debriefing. Furthermore, the use of peer support program is strongly encouraged to offer mental, emotional, and physical support to service members.
- a. **CRITICAL INCIDENT/STRESS DEBRIEFING-** A critical incident/stress debriefing should occur as soon as practicable. The applicable Division Chief or Commander is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event. The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order. Attendance at the debriefing should only include those members of the department directly involved in the incident, which can include involved support personnel. Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the department, including supervisory and Office of Professional Standards personnel.
 - b. **TACTICAL DEBRIEFING-** A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police/Sheriff should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to the investigators and administrative investigators.
- 12. MEDIA RELATIONS-** Media releases are generally prepared and disseminated by the lead agency, in coordination with the involved legal department. No other department members shall make any comment to the media unless they are authorized by the lead agency's Chief of Police/Sheriff, in coordination with the involved department's Chief of Police/Sheriff. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the Chief of Police/Sheriff, or lead agency.

V. FUNDING

This MOU is not a commitment of funds.

VI. REPORTING

SPBD, MPD, and SJCPD will meet, to evaluate effectiveness and adherence to this MOU, annually on the first Monday in February or at a mutually agreeable time in February.

VII. COUNTERPARTS

This MOU may be executed in counterparts, all of which shall be deemed originals.

VIII. GOVERNING LAW

This MOU shall be governed by the laws of the State of Indiana and venue shall be in St. Joseph County, Indiana.

THE UNDERSIGNED have read and understand the forgoing terms of this MOU and do, by their respective signatures hereby agree to its terms.



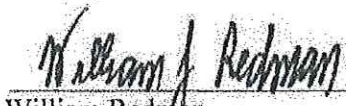
Scott Ruszkowski
Chief of Police
South Bend Police Department

Date: 04.18.2023



Kenneth Witkowski
Chief of Police
Mishawaka Police Department

Date: 05/19/2023



William Redman
Sherriff
St. Joseph County Police Department

Date: 4-26-23

AUG 01 2023

City Clerk
Mishawaka, IN

RESOLUTION NO. 2023-20
Property Disposal and Purchase: Temple Park 501 East Edgar Avenue

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, AUTHORIZING THE CITY OF MISHAWAKA
REDEVELOPMENT COMMISSION TO PURCHASE PROPERTY IN
ACCORDANCE WITH THE CITY OF MISHAWAKA MUNICIPAL
CODE CHAPTER 2, ARTICLE 5, DIVISION 3, SEC. 2-492 & 493**

WHEREAS, pursuant to the City of Mishawaka Municipal Code, whenever the Mayor or any department head determines that any personal property or real estate belonging to the City is no longer needed, a written request shall be presented to the Common Council for the passage of a resolution authorizing the sale of the property. The procedure for sale of the City property shall conform to current state law; and

WHEREAS, the City had previously leased property from Twin City Baptist Church for over 50 years. As part of the renovation and investment in Temple Park located at 501 East Edgar Avenue, the City Administration and Twin City Baptist Church desired to change the lease agreement to a City purchase of the previously leased property to insure the long term use of the property commensurate with the reinvestment; and

WHEREAS, as part of the transaction, the Church desired to acquire property previously purchased and cleared by the City of Mishawaka Redevelopment Commission adjacent to the Church's property. The acquisition was identified and reflected in a Buy Sell Agreement executed between the City of Mishawaka Redevelopment Commission and Twin City Baptist Church dated July 24th, 2023; and

WHEREAS, the Buy Sell Agreement was made contingent on the approval of the Common Council of the City of Mishawaka concerning the disposal of public property reflected herein; and

WHEREAS, the property being purchased and conveyed to the City is currently located within the boundary of Temple Park, part of Lot 1 of the yet to be recorded Temple Minor Subdivision as identified in Exhibit A, approximately 1.3 acres located at 501 East Edgar Street, City of Mishawaka, St. Joseph County, Indiana. The City is also conveying to Twin City Baptist Church, as part of the transaction, property previously purchased and cleared by the City of Mishawaka Redevelopment Commission. This property is currently located within the boundary of Lot 2 of the yet to be recorded Temple Minor Subdivision as identified in Exhibit A, and is approximately 0.47 acres located south of and adjacent to 1516 north Division Street, tax ID # 016-2093-305704501, City of Mishawaka, St. Joseph County, Indiana. A location map is attached and made part of the resolution; and

WHEREAS, in addition to the exchange of properties, it was identified as part of the research into the property boundaries and the drafting of a replat, that the common line between the Twin City Baptist Church Property and Temple Park was not straight and reflective of the improvements that had been made over time. The yet to be recorded Temple Minor Subdivision includes a small sliver of City owned property (estimated at 5' in width) within the boundary of Lot #2 that is currently owned by the City that is proposed as being transferred to Twin City Baptist Church; and

WHEREAS, the Redevelopment Commission is the entity of the City which has been delegated the power and duty to investigate, study, and develop areas within the corporate boundaries of the City of Mishawaka and is the entity being used as the entity to complete this transaction; and

WHEREAS, IC 36-1-11-1 identifies the sale or lease of property by the City to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code does not require the independent appraisal and offering the property for public bid; and

WHEREAS, the Redevelopment Commission has identified the belief that the sale of the properties and associated projects comply with applicable federal, state and local laws; and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, that:

1. The City of Mishawaka Redevelopment Commission is authorized to sell the City owned property at 501 East Edgar and as otherwise identified herein.
2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on August _____, 2023.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the _____
day of August _____, 2023, at the hour of _____ .m.

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of August , 2023, at
the hour of _____ .m.

David A. Wood
Mayor of the City of Mishawaka, Indiana



LOCATION MAP

BUY AND SELL AGREEMENT

THIS AGREEMENT, made and entered into as of the 24th day of July, 2023 by and between Twin City Baptist Church, hereinafter referred to as “Seller”, and **CITY OF MISHAWAKA**, acting by and through its Redevelopment Commission, hereinafter referred to as “Buyer”, All of St. Joseph County, State of Indiana,
WITNESSETH THAT:

The Seller promises and agrees to sell and convey to the Buyer, and the Buyer promises and agrees to purchase of and from the Seller, as part of the purchase, the Buyer promises and agrees to convey to the Seller, exchanging parcels of land for the sum of Twenty Nine Thousand One Hundred and Fifty Five Dollars and zero cents. (\$29,155), the property being purchased and conveyed to the Buyer is currently located within the boundary of Temple Park, part of Lot 1 of the yet to be recorded Temple Minor Subdivision as identified in Exhibit A, approximately 1.3 acres located at 501 East Edgar Street, City of Mishawaka, St. Joseph County, Indiana. Buyer promises and agrees to convey to the Seller for a value which has been reflected in the sale price identified herein the property being purchased and conveyed to the Seller is currently located within the boundary of Lot 2 of the yet to be recorded Temple Minor Subdivision as identified in Exhibit A, approximately 0.47 acres located south of and adjacent to 1516 north Division Street, tax ID # 016-2093-305704501, City of Mishawaka, St. Joseph County, Indiana.

This purchase is contingent on the following:

1. Upon the Seller’s approval of this agreement, the Seller shall concurrently sign the plat of the Temple Minor subdivision which will then be recorded by the Buyer prior to closing.
2. As a public entity, the Buyer is subject to specific purchasing laws identified by the Indiana Code. This includes adding this property to an official acquisition list, as well as approving the sale of City property, that requires the approval of the Common Council of the City of Mishawaka.

Subject to and upon the terms and conditions hereinafter set forth:

1. Buyer shall obtain, at Buyer's expense, a commitment for a \$50,000 Owner's Policy of Title Insurance for Lot 1 and a \$30,000 Owner's Policy of Title Insurance for Lot 2 of the Temple Minor Subdivision in which the title insurance company shall agree to insure merchantable title in the name of the Buyer after delivery of a Deed to Buyer from Seller. Any defects in title which tend to render the same un-merchantable shall be submitted by the Buyer and to the Seller in writing and the Buyer and the Seller shall be given reasonable time to correct the same. If the Buyer and Seller shall fail or refuse to cause such defects to be corrected, Buyer and Seller shall have the option of accepting title subject to defects for their respective lots, or of terminating this Agreement.
2. After the title to the described real estate has been approved by the Buyer and Seller for their respective Lots, and upon payment of the balance of the purchase price by the Buyer to the Seller, the Seller and Buyer shall execute and deliver a Deed in a manner prescribed by the Title Company conveying the real estate above described to the other party, free and clear of all liens and encumbrances, except as provided herein, and subject to all covenants, restrictions, easements, and zoning ordinances of record.
3. It is understood and agreed by the parties hereto that Buyer is purchasing the real estate and personal property covered by this agreement in an "as is" condition and that Seller has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.
4. It is understood and agreed by the parties hereto that the Seller is acquiring the real estate from the Buyer covered by this agreement in an "as is" condition and that the Buyer has made no guarantees or warranties, expressed or implied, concerning said personal property, real estate, or any improvements thereon.

5. Pending the approval of the Common Council, this Transaction is estimated to be closed on or about the first of September, 2023, subject to the availability of all parties.
6. Seller shall deliver possession of the real estate above described to the Buyer at the time of closing. The Seller has identified that no tenants are currently residing on the property. Furthermore, the Seller agrees to deliver possession to the buyer with no tenants occupying the premises nor with any tenants holding any lease hold interest in the property. The Buyer shall be permitted to inspect the premises on the day of closing to insure the property is not occupied.
7. Buyer shall deliver possession of the real estate above described to the Seller at the time of closing. The Buyer has identified that no tenants are currently residing on the property. Furthermore, the Buyer agrees to deliver possession to the Seller with no tenants occupying the premises nor with any tenants holding any lease hold interest in the property. The Seller shall be permitted to inspect the premises on the day of closing to insure the property is not occupied.
8. The Seller and Buyer shall have no salvage rights in the real estate being conveyed. If salvage rights are desired, all such salvage rights are to be approved by both the Buyer and Seller prior to exercising any salvage rights.
9. Risk of loss or damage to any improvements located upon the real estate above described shall remain with the Seller and Buyer for their respective properties until the time of delivery of the Deeds conveying title.
10. Seller acknowledges that because Federal Funds may be used by the Buyer in the purchase of the subject property that the sale on behalf of the Seller is voluntary. Seller further acknowledges that the Buyer will not use the power of eminent domain to acquire the property. Seller acknowledges that the estimate of the fair market value of the transaction of property to be \$29,155. Seller further acknowledges that since the purchase is a voluntary, arm's length transaction, Seller would not be eligible for

relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation.

11. Seller and Buyer shall pay any unpaid taxes and assessments on their respective properties for prior years. Taxes, if applicable, shall be prorated to the date of closing based upon the last official tax rate.
12. The covenants, agreements, and conditions herein contained shall be binding upon the parties hereto and shall also extend to and be binding upon their respective heirs, legal representatives, and assigns.
13. Vendor's Affidavit. Seller and Buyer shall provide the other party with an executed Vendor's Affidavit at the Closing in form acceptable to the Title Company.
14. In addition to any other obligations assumed by the Buyer hereunder, the Buyer shall pay, for deed preparation, and all closing fees, plus the costs associated with recording the deed.
15. Seller and Buyer shall also maintain a proper insurance on their respective properties until Closing, fully insuring it against loss.
16. In the event that the Seller or Buyer breaches any of the terms of this Agreement and the party not in default employs attorneys to protect or to enforce its rights hereunder and prevails, then the party in default agrees to pay all reasonable costs, attorney fees, and expenses incurred by the party not in default in enforcing the covenants and agreements contained herein.
17. No modification to this Agreement shall be valid unless in writing and signed by all parties.

18. If any provision of this Agreement is deemed void or unenforceable, the same shall in no way impair the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

19. It is expressly agreed and understood that this Agreement contains all of the agreements of the parties and that no verbal agreements of any kind shall be binding upon the parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

BUYER

SELLER

CITY OF MISHAWAKA, acting by and
Through its Redevelopment Commission
By:

Twin City Baptist Church
420 East Jefferson Boulevard
Mishawaka, IN 46545

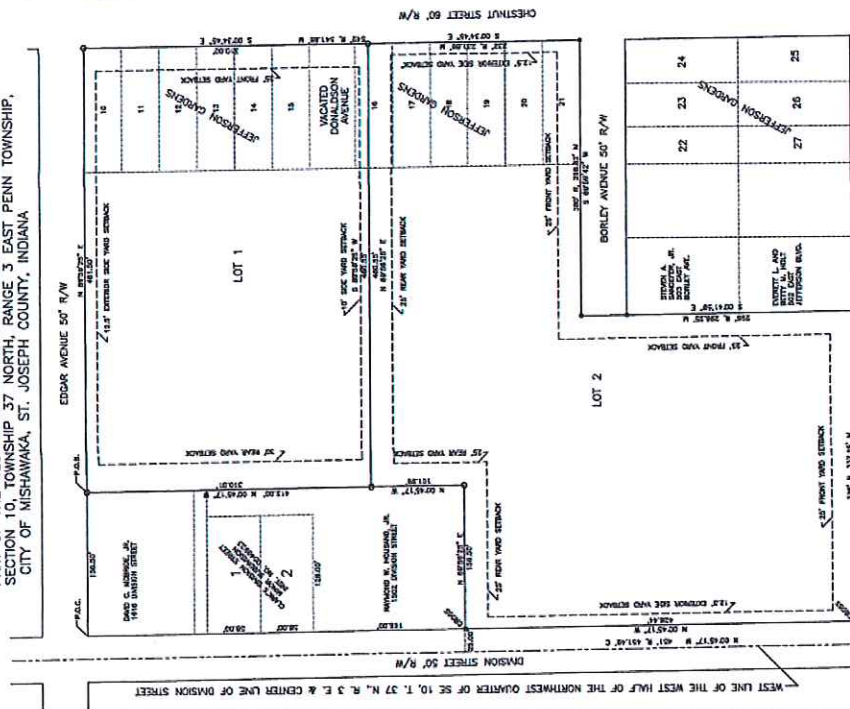
President

Signature

Secretary

Printed Name and Title

ART OF THE WEST HALF OF THE NORTHWEST QUARTER OF
SECTION 10, TOWNSHIP 37 NORTH, RANGE 3 EAST PENN TOWNSHIP,
CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA



JEFFERSON BOULEVARD 30' R/W		STREET CLASSIFICATION		WIDTH	
S 40° 30' 00" W		NAME	CLASSIFICATION	LOCAL	LOCAL
LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SEC. 10, T. 37 N., R. 3 E. AND CENTER LINE OF JEFFERSON BLVD.		GRANDIN STREET	LOCAL	24'	
		DEWEY STREET	LOCAL	24'	
		DEWEY STREET	LOCAL	24'	
		JEFFERSON BLVD.	LOCAL	24'	
		JEFFERSON BLVD.	JACKS RETAIL	24'	
OUTWHEIST CORNER OF THE NORTHWEST QUARTER OF SEC. 10, T. 37 N., R. 3 E.		LATHAM, LARRY	LOCAL	24'	
		WILSON, RICHARD	LOCAL	24'	
		WILSON, RICHARD	LOCAL	24'	
		WILSON, RICHARD	LOCAL	24'	
		WILSON, RICHARD	LOCAL	24'	

[illegible]

OWNER'S CERTIFICATE

THIS IS TO CERTIFY THAT THE UNDERSIGNED ARE THE OWNERS OF THE LAND DESCRIBED IN THE P.L.M. MAP, AND THAT THEY HAVE OBTAINED THE NECESSARY CONSENT OF THE NEIGHBORING LAND OWNERS TO THE USES AND PURPOSES HEREIN SET FORTH, AND DO HEREBY ACKNOWLEDGE AND ADOPT THE P.L.M. MAP, THE TITLE AND TITLE THEREIN INDICATED.

DATED THIS _____ DAY OF _____ 2021.

CITY OF MESQUITE

[illegible]

TIME _____ DAY OF _____

NOTARY PUBLIC, RESIDING IN _____
OF _____ COUNTY, I HEREBY
CERTIFY _____
ACTED IN _____ COUNTY

NOTARY COMMISSION EXPIRES _____

[illegible]

COUNTY OF ST. JOSEPH)
BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, DO
PERSONALLY APPEAR THE ABOVE NAMED PERSON(S),
AND (LOCAL) SEVERALLY AND JOINTLY AND
ACKNOWLEDGE THE FOREGOING INSTRUMENT AS HIS
(THEIR) VOLUNTARY ACT AND DEED FOR THE
PURPOSES THEREIN EXPRESSED.

WITNESSES MY HAND AND NATURAL SEAL
THIS _____ DAY OF _____
19____

NOTARY PUBLIC, RESIDING IN _____ COUNTY, INDIANA
BY COMMISSIONER _____
EXPIRES _____
ACTING IN _____ COUNTY

University of California at Berkeley, and the University of California at San Diego. The researchers found that the more people who were involved in the decision-making process, the more likely they were to make a decision that was consistent with the ethical principles of the research. The researchers also found that the more people who were involved in the decision-making process, the more likely they were to make a decision that was consistent with the ethical principles of the research.

[illegible]

I, DAVID A. STELLA, PRESIDENT, CITY OF INDIANAPOLIS,
 DO hereby certify that DAVID A. STELLA, PRESIDENT,
 CITY OF INDIANAPOLIS,
INDIANAPOLIS, INDIANA is the
 true and correct owner of the above described
 vehicle, and that the same is being used for the
 purpose of SALES.
 DATED THIS 12 DAY OF NOVEMBER, 2021.
 I, DAVID A. STELLA, PRESIDENT, CITY OF INDIANAPOLIS,
 DO hereby certify that DAVID A. STELLA, PRESIDENT,
 CITY OF INDIANAPOLIS,
INDIANAPOLIS, INDIANA is the
 true and correct owner of the above described
 vehicle, and that the same is being used for the
 purpose of SALES.
 DATED THIS 12 DAY OF NOVEMBER, 2021.

[illegible]

WINNED BY HAND AND ORIGINAL SEAL

THIS _____ DAY OF _____

NOTARY PUBLIC, RESIDING IN _____

_____ COUNTY, IOWA.

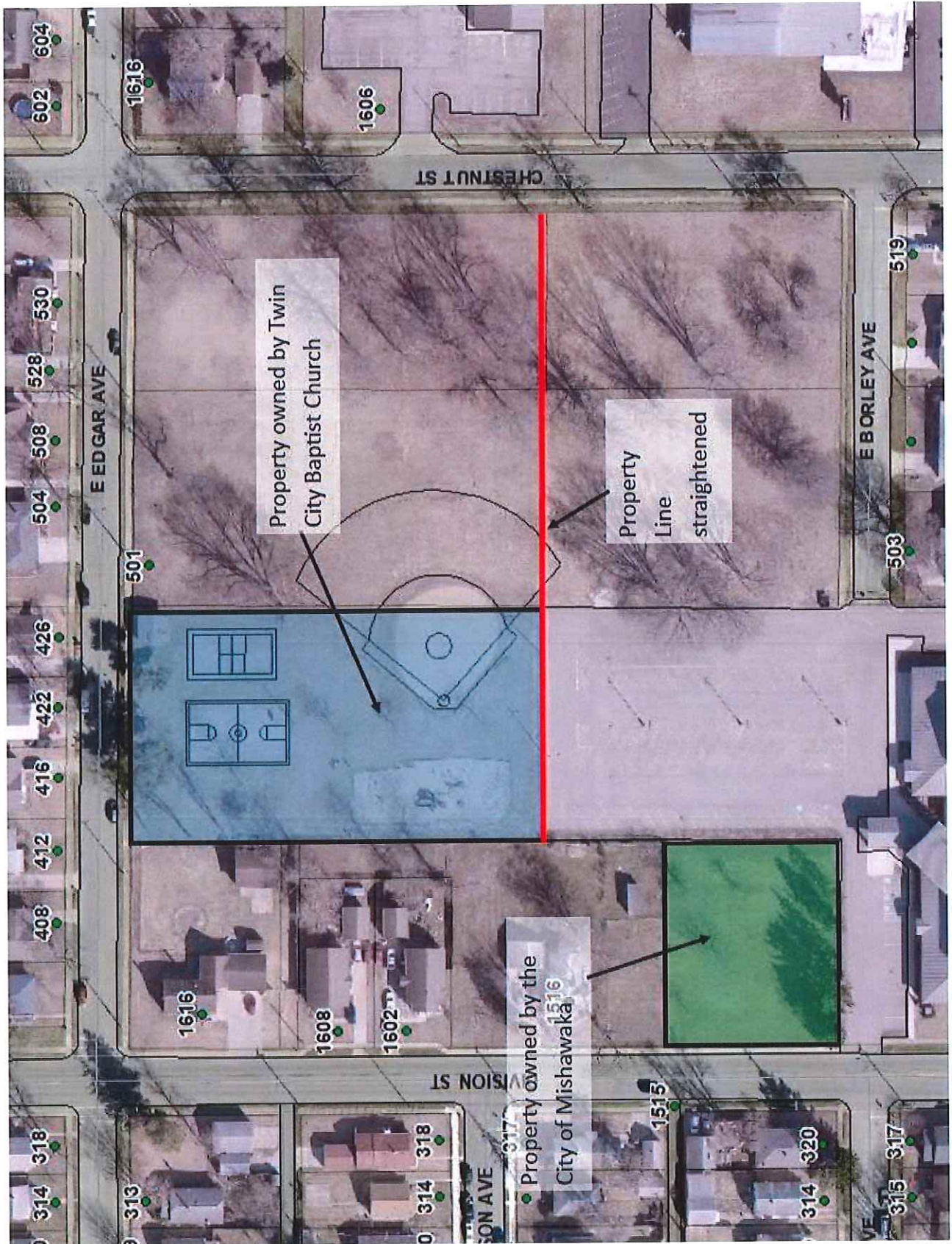
BY COMMISSION _____

EXP-03-31

ACTING IN _____ COUNTY

[illegible]

TEMPLE MINOR SUBDIVISION	ADD LAST NAME FIRST INITIAL	DATE	12	12
	P.O. BOX 53 HARRISBURG, PENNSYLVANIA ST. J. 17101-0053			
FISHER	LAND SURVEYING SERVICES, INC.	11-20-01	11-20-01	11-20-01
		11-20-01	11-20-01	11-20-01



AUG 01 2023

City Clerk
Mishawaka, IN

**RESOLUTION NO. 2023-21
Miscellaneous Property Acquisitions**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S
PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY
APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH
APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN
COMMISSION APPROVING A CERTAIN DECLARATORY
RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE
NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION
OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE
NORTHWEST IMPROVEMENT PROJECT INTO ONE
CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN
AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE
CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY
THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION**

WHEREAS, on February 24, 2014, the City of Mishawaka Redevelopment Commission (the "Commission") approved and adopted its Resolution No. 2014-03 entitled "Resolution of the City of Mishawaka Redevelopment Commission Designating and Declaring Certain Areas as Economic Development Areas, Amending the Boundaries of the Northwest Area Improvement Project, Consolidating the Southside Economic Development Area and the Northwest Area Improvement Project Into One Area, And Amending the Economic Development Plan for the Consolidated Area Improvement Project" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution (i) designated and declared certain areas within the City of Mishawaka, Indiana (the "City") to be economic development areas (the "Expansion Areas") for purposes of tax increment financing pursuant to Section 39 of Indiana Code 36-7-14 (the "Act") to expand the existing Northwest Area Improvement Project (the "Northwest Area"); (ii) removed certain parcels from the Northwest Area; (iii) consolidated the Southside Economic Development Area (the "Southside Area") and the Northwest Area into one area (to be known as the Consolidated Area Improvement Project) (the "Consolidated Area"); and (iv) approved an amendment (the "Plan Amendment") to the Economic Development Plan for the Northwest Area (the "Economic Development Plan") to provide for such Economic Development as amended to serve as the economic development plan for the Consolidated Area Improvement Project (as amended by the Plan Amendment shall hereinafter be referred to as the "Economic Development Plan"); and

WHEREAS, on March 11, 2014, the City of Mishawaka Plan Commission (the "Plan Commission") adopted and approved its resolution 2014-01, determining that the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, conform to the plan of development for the City and approving, ratifying and

confirming the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, and designated such resolution as the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, as required by Section 16 of the Act (the “Plan Commission Order”); and

WHEREAS, Section 16 of the Act prohibits the Commission from proceeding until the Plan Commission Order is approved by the legislative body of the City; and

WHEREAS, the Common Council of the City (the “Common Council”) previously approved the Plan Commission Order by Common Council Resolution 2014-07; and

WHEREAS, as part of the previous approval various public improvement projects were listed as part of the Economic Development Plan; and

WHEREAS, a number of those projects including the redevelopment of the former City Motor Pool site located at 512 north Cedar Street were included in the economic development plan; and

WHEREAS, the Administration is asking the legislative body for its review and approval of adding certain properties to the City’s acquisition list to implement these projects; and

WHEREAS, the description of the properties proposed to be added is as follows:

Properties located west of and adjacent to the former City Motor Pool site located at 512 North Cedar Street, more specifically described as:

522 North Cedar Street
Tax #016-2077-2656
40 Ft N End Lot 7 Brays Sur Of Lot 5

520 North Cedar Street
Tax #016-2077-2657
40 Ft S End Of 80 Ft N End Lot 7 Brays Sur Of Lot 5

518 North Cedar Street
Tax #016-2077-2658
37'Mid Pt Lot 7 Brays Surv Of Lot 5

516 North Cedar Street
Tax #016-2077-2659
28 Ft Mid Plt Lot 7 Bray Survey Of Lot 5

514 North Cedar Street
Tax #016-2077-2661
N 109 Ft Of S 145 Ft Lot 7 Brays Sur Of Lot 5

510 North Cedar Street
Tax #016-2077-2662
36 Ft S Side Lot 7 Brays Sur Of Lot 5

420 North Cedar Street
016-2077-2666
Se Cor Cedar & Alice St 15 37 3e

These properties are graphically depicted on attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. The referenced properties are hereby added to the City's acquisition list as part of the consolidated area improvement projects
2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on August _____, 2023.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the _____
day of August _____, 2023, at the hour of _____ .m.

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of August 2023, at
the hour of _____ .m.

David A. Wood
Mayor of the City of Mishawaka, Indiana



1st Reading 6/19/23

2nd Reading

Passed

Failed

Continued To

PETITION 23-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-25

ORDINANCE NO. _____

Deborah S. Block, AMC, 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:

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

RE: Request for postponement

Ken Prince <kprince@mishawaka.in.gov>

Wed 8/2/2023 5:38 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 second postponement of the second reading of Ordinance 2023-25, the former sculpture area of the former Mishawaka City Hall site, from the August 7th Council meeting to the August 21st Council Meeting.

My understanding from President Hixenbaugh is that the project being proposed by the United Way has changed and Mark Herriman will be providing an update to us prior to the meeting on the 21st.

If you have any questions, please let me know.

Ken

From: Ken Prince

Sent: Friday, June 30, 2023 3:25 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>

Subject: Request for postponement

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

PM 23-12
Received

MAY 24 2023

Planning and
Community Development

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

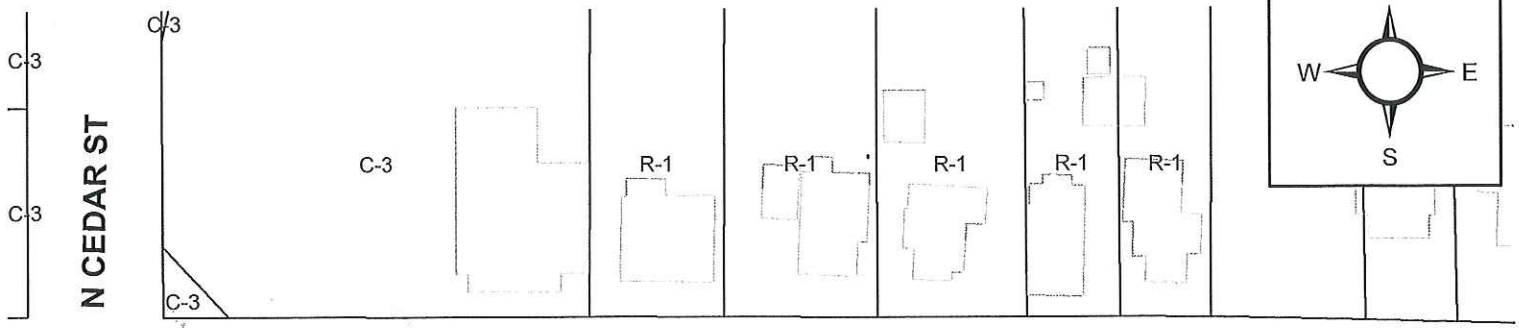
Deborah S. Block, AMC, MMC

JUN 01 2023

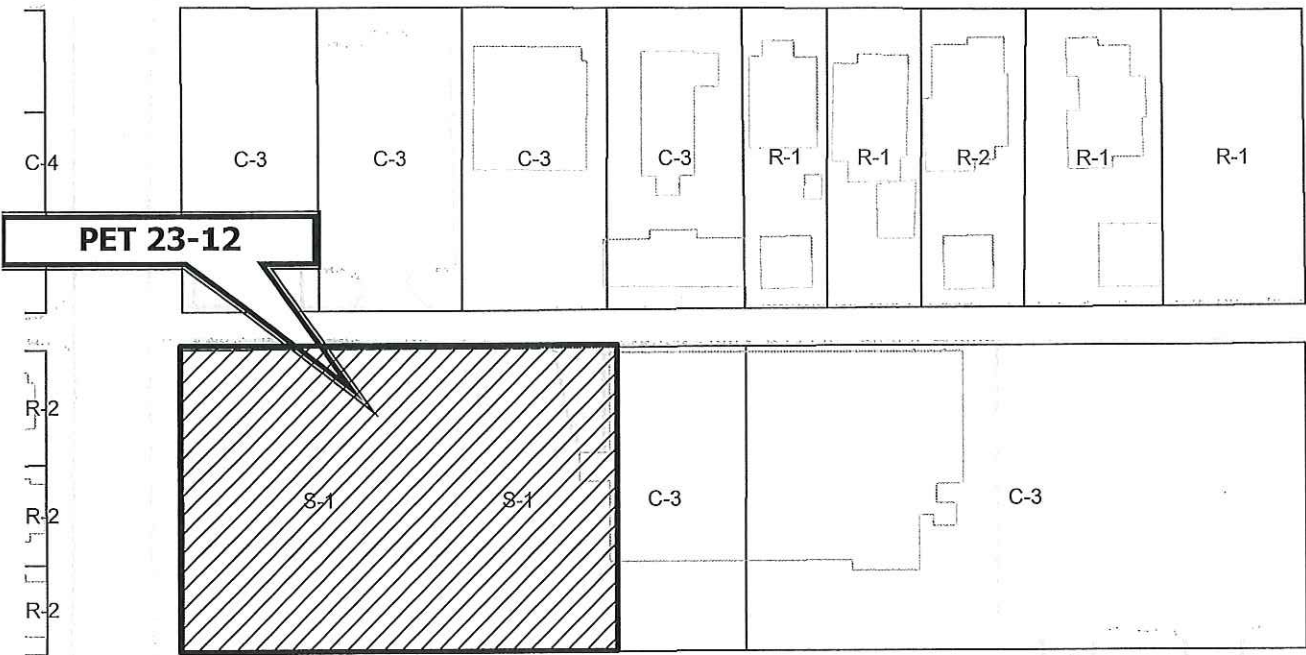
City Clerk
Mishawaka, IN

CONTACT PERSON:

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



LINCOLNWAY EAST



E THIRD ST

LAUREL ST

Location Map

PET 23-12

OWNER: CITY OF MISHAWAKA

LOCATION: NORTHEAST CORNER OF
CEDAR AND EAST THIRD STREET

REZONE FROM
S-1 EXTENSIVE OPEN SPACE
TO C-3 CITY CENTER COMMERCIAL

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

PROPOSED ORDINANCE NO. 2023-31

JUL 10 2023

ORDINANCE NO.

**City Clerk
Mishawaka, IN**

HPC # 23-02

**AN ORDINANCE TO ESTABLISH 1202 EAST MISHAWAKA AVENUE
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 1202 E. Mishawaka Ave., which is listed as Notable in the 1995 Survey wishes to preserved and protected their home by establishing it as a Local Historic Landmark, and

WHEREAS, the Historic Preservation Commission held a public hearing on July 5, 2023 for the purpose of allowing discussion and public comment on the proposed designation of 1202 E. Mishawaka Ave. 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 1202 E. Mishawaka Ave., and is legally described as follows:

Lots 232, 233, and 234 in Lincoln Garden Realty Co. First Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Tax Key Number: PARCELID 016-1045-1977

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 Gates-Spring 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.

_____/s/
Presiding Officer

ATTEST:

_____/s/
Deborah S. Block, IAMC, CMC, City Clerk

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

_____/s/
Deborah S. Block, IAMC, CMC, City Clerk

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

_____/s/
David A. Wood, Mayor

FW: Out of town on the 7th

Christa Hill <chill2@mishawaka.in.gov>

Tue 8/1/2023 9:07 AM

To: Raven S. Boston <rboston@mishawaka.in.gov>

Raven,

The homeowners of 1202 E Mishawaka Ave would like to postpone their Local Landmark hearing to the August 21 meeting. See email below.

Christa Hill

Senior Planner

From: Lou Ann Welsh <loulouwelsh5@gmail.com>

Sent: Tuesday, August 1, 2023 9:04 AM

To: Christa Hill <chill2@mishawaka.in.gov>

Subject: Out of town on the 7th

>>> **FROM EXTERNAL SENDER** <<<

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

Hi Christa,

We wanted to let you know we will be out of town on August 7, 2023. If we could move our historic preservation discussion with the city council back to August 21, 2023 that would be great!

Thank you very much.

Lou Ann Welsh and Brent Spring

1st Reading
*
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAC, MMC

JUL 12 2023

City Clerk
Mishawaka, IN

PETITION #23-15

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-32

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, Todd Lang & Nathan Sherman, Gary & Linda King, and Rachelle Morris have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners own all of land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

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

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

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

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with three new evenly split lots.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The area to be vacated is currently vacant land.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2023.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

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

David A. Wood, Mayor

STAFF REPORT

Location: North of E. Marion St. & West of Christyann St.

Date: July 11, 2023

Petition: 23-15

Prepared By: SA

GENERAL INFORMATION

Applicant: Todd Lang & Nathan Sherman, Gary & Linda King, and Rachelle Morris

Status: Adjacent Property Owners

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-2 Two-Family Residential & R-1 Single Family Residential
West: R-1 Single Family Residential

Thoroughfare: E. Marion St.

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioners are requesting to vacate a 12' wide by approximately 110.5' long east-west alley lying north of E. Marion Street & west of Christyann Street. The alley runs between Christyann Street and a north-south alley.

The owners Todd Land & Nathan Sherman, Gary & Linda King, and Rachelle Morris located at 234 E Marion, 230 E Marion, and 1113 Christyann have all signed the petition. The alley is unimproved and has not been used as a traditional alley for many years. The owners at 234 E Marion have been maintaining a large section of alley which is now covered with grass. There is no longer a curb cut on Christyann Street.

There are two utility poles in the alley carrying electric to three homes and one street light. Access to the poles shall remain. One pole to have access from the north-south alley and the other to have access from Christyann Street. There are no other City utilities in the right-of-way.

If approved, the south 6' of the vacated alley will be combined with the adjacent parcels to the south and the north 6' combined with the adjacent parcel to the north. The Owners/Petitioners at 234 E Marion plan

on purchasing 74' x 6' of the vacated alley (blue area on exhibit A) from the owner at 1113 Christyann and putting up a fence for their dog(s) to have more room to run.

The Electric Department has commented that they will need access to the pole lines.

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

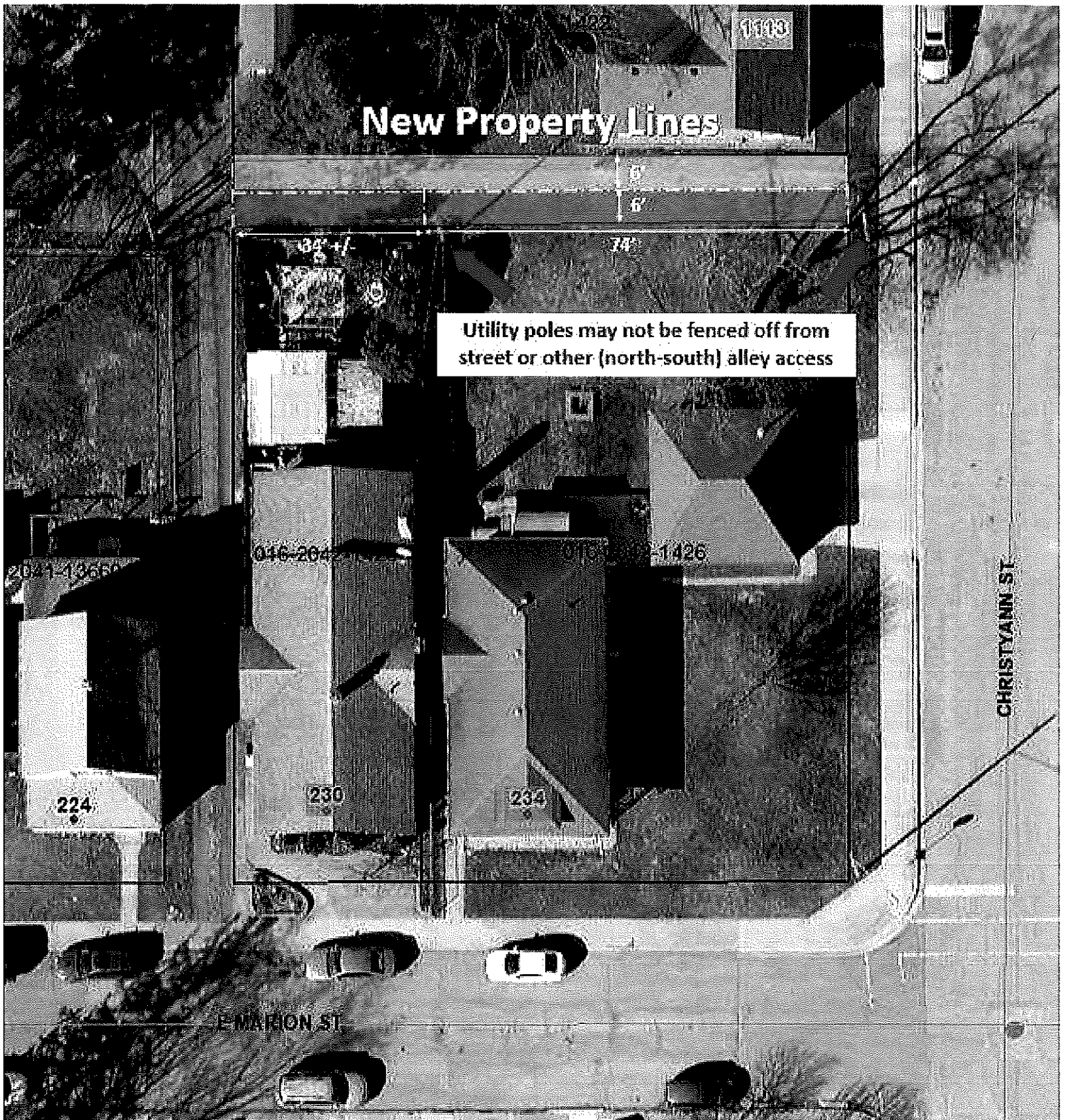
RECOMMENDATION

Staff recommends in favor of Petition 23-15 to vacate the east-west alley north of E. Marion Street & west of Christyann Street. The alley is adjacent to Lots 25 & 26 O'Neills 1st Addn., Lot 27 O'Neills 1st Addn., and Lots 28 and 29 O'Neills 1st Addn. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The alley is unimproved right-of-way. Vacating the alley would allow the adjacent properties to acquire and utilize the land.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The alley is not being used for access.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

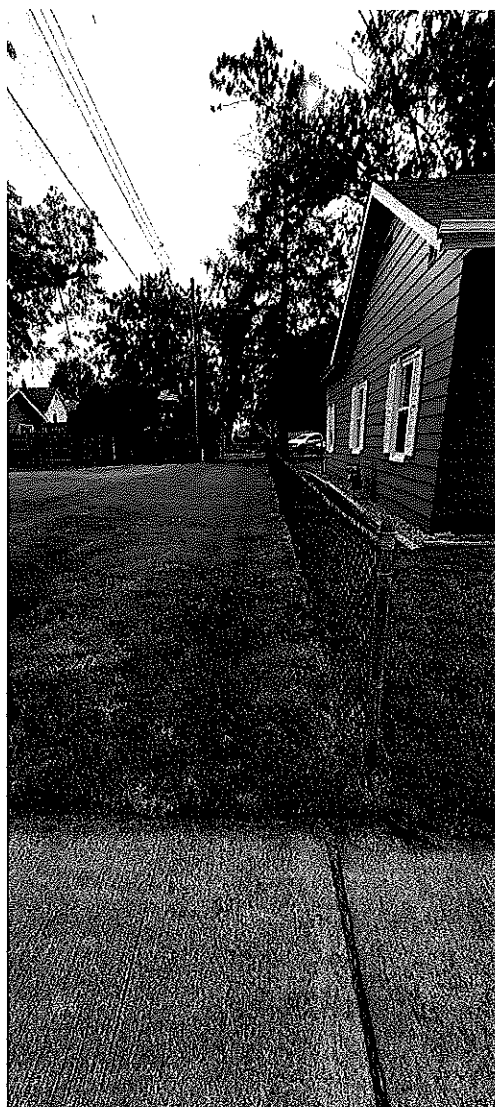
Aerial (Exhibit A), Photos, Petition, Location Map



Aerial (exhibit A) Portions of the vacated alley to be combined with the adjacent parcels



A view looking east down the alley towards Christyann Street



A view looking west down the alley from Christyann St.



A view looking west down the alley from Christyann St



A view north looking from E. Marion St



A view south of the alley towards E. Marion St

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

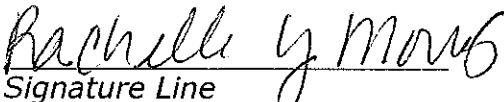
Re: Petition for Vacation of Public Right of Way

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:

NAME

ADDRESS - Nathan Sherman

PHONE NUMBER - 234 E Marion St

EMAIL - 574-360-7105

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

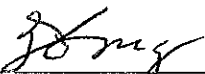
Re: Petition for Vacation of Public Right of Way

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

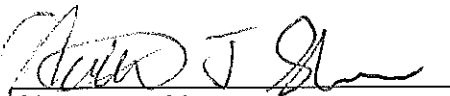
Re: Petition for Vacation of Public Right of Way

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:

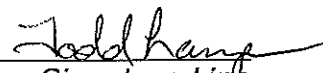
The first east/west alley north of East Marion Street, starting at Christyann Street, then west approximately 110' to the first north/south alley.

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.



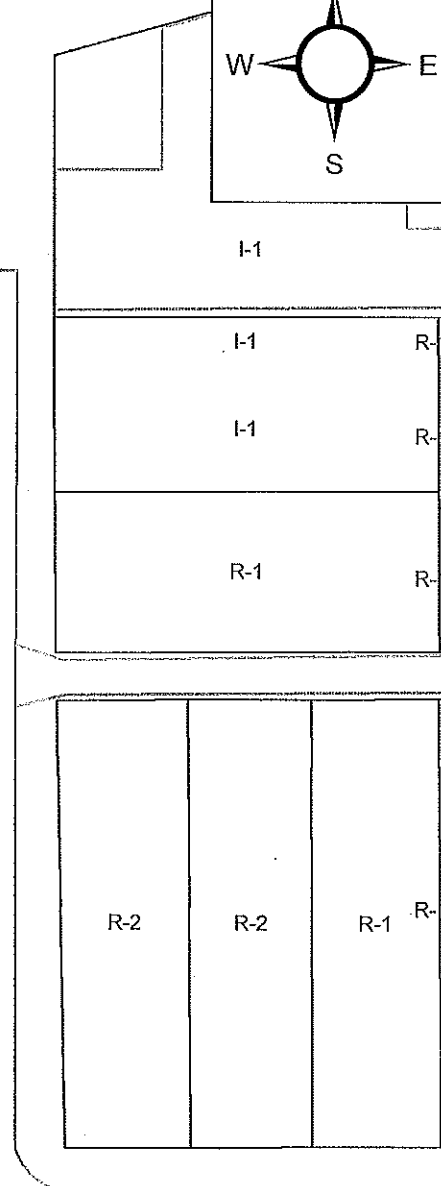
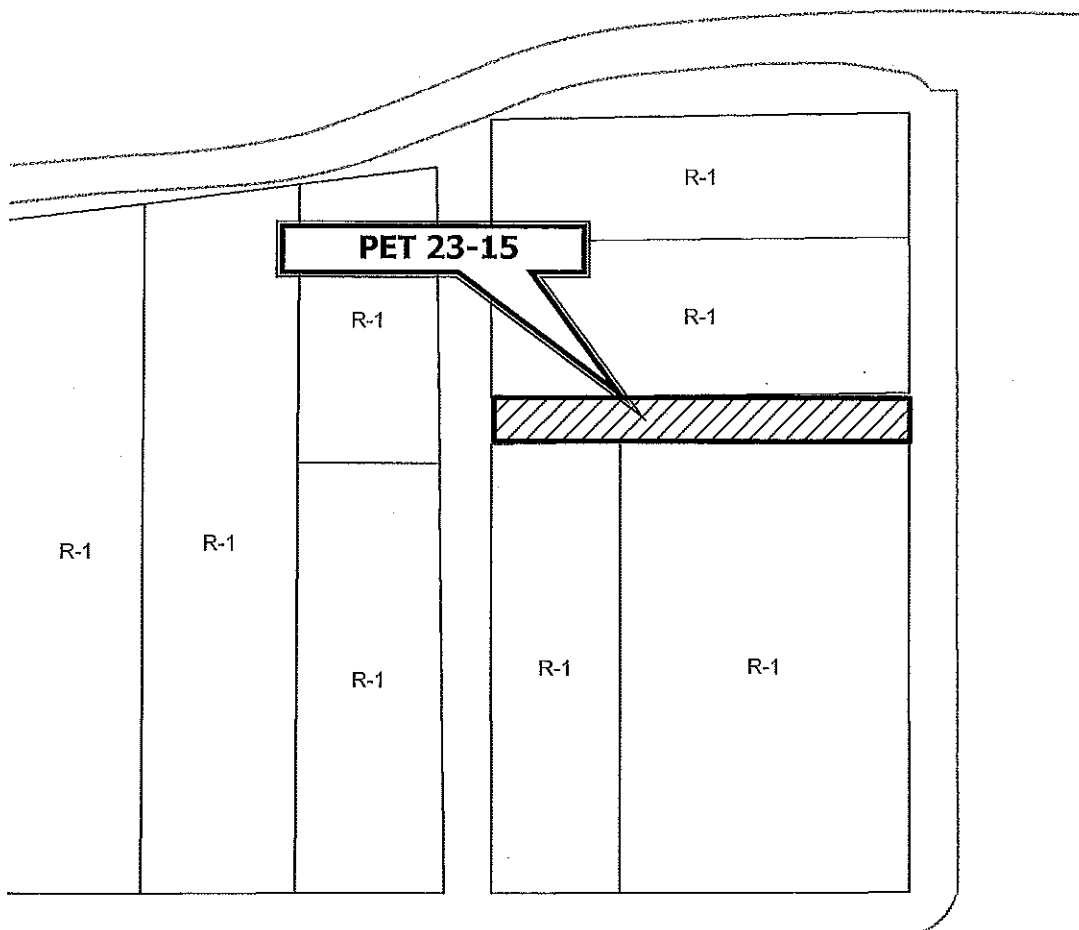
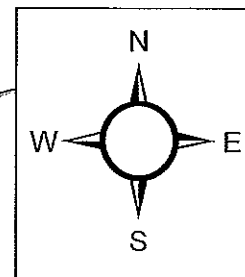
Signature Line
NATHAN J SHERMAN
234 E Marion



Signature Line
TODD LANGE
234 E Marion

CONTACT PERSON: - Nathan Sherman
NAME
ADDRESS - 234 E Marion St
PHONE NUMBER - 574 8360-7105
EMAIL - Nathan.sherman89@gmail.com

I-1 | I-1 | I-1



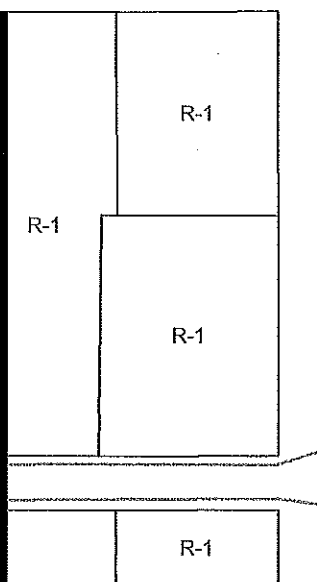
E MARION ST

Location Map

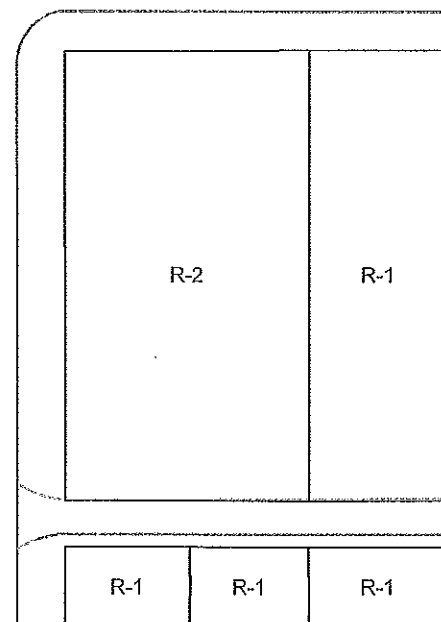
PET 23-15

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



1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

JUL 12 2023

City Clerk
Mishawaka, IN

PETITION #23-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-33

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, City of Mishawaka have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioner owns part of land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

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

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

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

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

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.

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for the adjacent property to be redeveloped with three new evenly split lots.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The area to be vacated is currently vacant land.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place. Utility easements will remain in place or be relocated via a subdivision plat.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2023.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. _____

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

David A. Wood, Mayor

STAFF REPORT

Location: Front St. adjacent to 200 N. Church St.

Date: July 11, 2023

Petition: 23-16

Prepared By: SA

GENERAL INFORMATION

Applicant: City of Mishawaka/Lawson-Fisher Associates P.C.

Status: Owner/Engineers

Request: Vacate Public Right-of-Way

Zoning Classification: Right-of-Way

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: C-3 City Center Commercial
South: C-3 City Center Commercial
East: C-3 City Center Commercial
West: C-3 City Center Commercial

Thoroughfare: N. Church St. & N. Main St.

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: General Commercial (Downtown Retail Sales and Shopping Centers)

ANALYSIS

The Petitioner is requesting the vacation of public right of way. The area is part of Front Street (not improved as a street) between the east side of Church Street/Main Street connector and Saint 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/will be owned by the City of Mishawaka or Church 200, LLC.

The parcel located at 200 N. Church St. is the former City of Mishawaka Police Department. Now with the building being sold a portion of the parking lot located on public right of way will need to be vacated. Adjacent areas to the southeast and northwest have been previously vacated in 1994 and 2001.

The Engineering Department has commented that they will need a Plat to show proper utility easements for the existing facilities.

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

RECOMMENDATION

Staff recommends in favor of Petition 23-16 to vacate the right of way. The area requested is located north of N. Church St. & N. Main St., west of 200 N. Church St., south of the St. Joseph River., east of N. Main St. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. Vacating the right of way would help facilitate the sale of the property.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. The area is currently a parking lot.
- 3) The street does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial, Photos, Petition, Location Map



Aerial



North facing from N. Church St.



West facing from the parking lot



East facing from the light



South facing from the parking lot

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

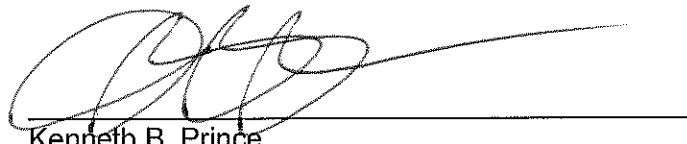
CHRISTOPHER J. JETER, PE
DAN G. DELGADO, PE
JARED M. HUSS, PE
AARON W. BLANK, PS, PE
KEVIN J. SIEDLECKI, PE
CHRISTOPHER M. VANHULLE, PE
MICHELLE M.G. SLACK, PS
DMITRI G. ADAMS, PE
AMANDA R. BUDREAU, PE
JOSEPH D. DUNBAR, PE
PAULIN HAKIZIMANA, PE, PTOE
MARK H. FOSTER, PE
EASA KHAN, PhD, PE, PMP, PTOE
BLAKE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

PE 23-16
Received

JUN 21 2023

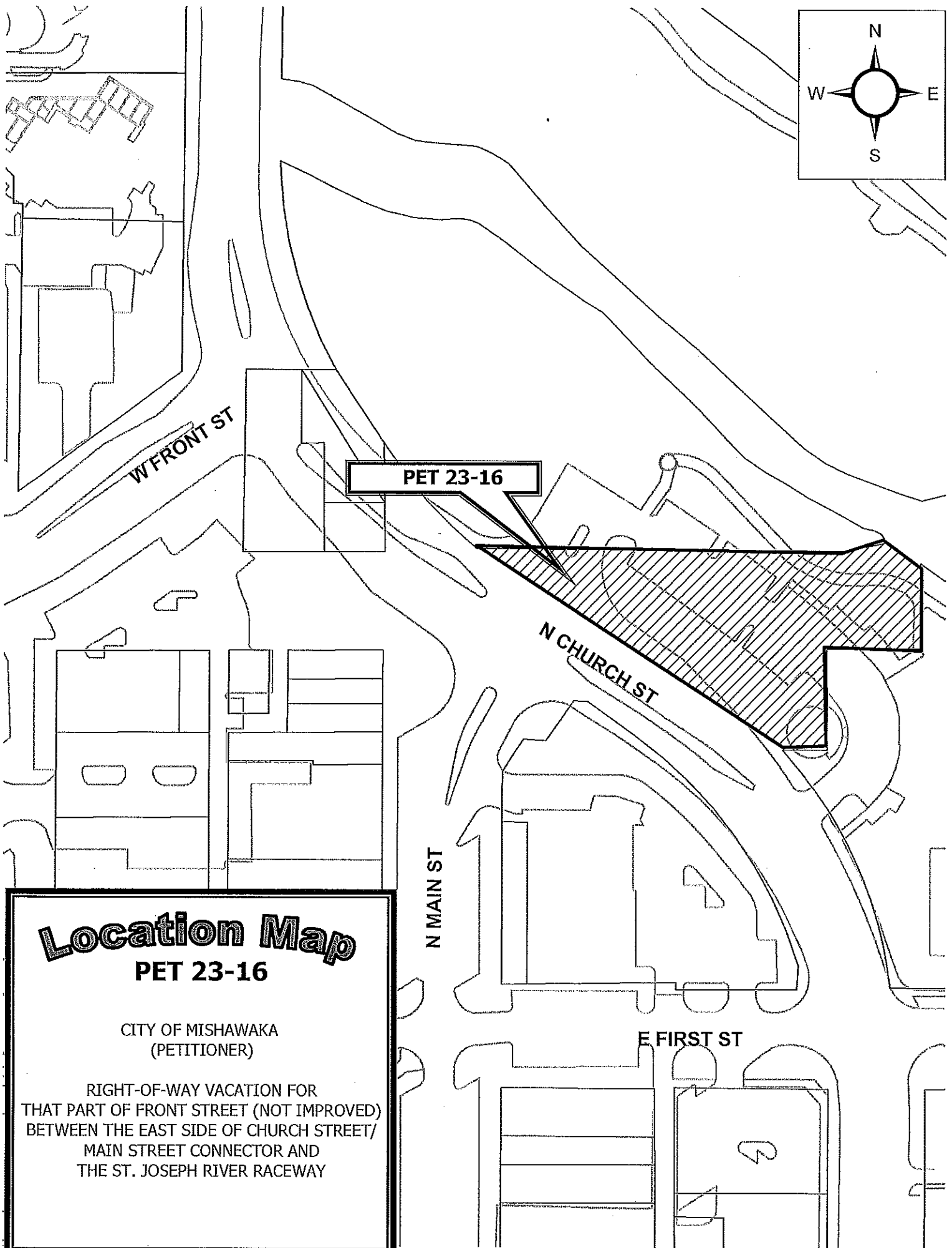
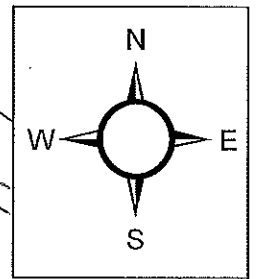
Planning and
Community Development

Deborah S. Block, MMC, MMC

JUN 27 2023

City Clerk
Mishawaka, IN

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



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

1st Reading

2nd Reading

Passed

Failed

Continued To

Deborah S. Block, IAMC, MMC

JUL 12 2023

City Clerk
Mishawaka, IN

PETITION 23-17

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-34

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 4 & 5 of Beiger Farm 1st Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-6 Linear Office 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 – The subject property consists of a single family home that has been used as a business in recent years, and is located on Lincolnway East which includes adjacent commercial uses, although single family homes are immediately adjacent.
2. Character of Buildings – The character of the buildings in the area are predominantly single family homes, but there is also two commercial businesses adjacent to the property to the west, which includes a pizza shop and a guitar lesson space.
3. The most desirable/highest and best use – The property does have a history of being a commercial property and rezoning the property does align with the overall neighborhood area allowing mixed use of a residence and a business.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area. The C-6 Linear Office Commercial District was

Proposed Ordinance No: _____

Ordinance No: _____

determined to be appropriate because the permitted uses are compatible with the existing adjacent uses.

5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan and the proposed zoning is not in conflict 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: 1644 Lincolnway East

Date: July 11, 2023

Petition: 23- 17

Prepared By: DMB

GENERAL INFORMATION

Applicant: Jilann S Schultz

Status: Property Owner

Request: To rezone from C-1 General Commercial District to C-6 Linear Office Commercial

Zoning Classification: C-1 General Commercial

Lot Size: 0.24 acres

Applicable Regulations: Section 137-426 thru 137-428 / C-6 Linear Office Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

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

Thoroughfare: Lincolnway East

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities currently serve the property.

Comprehensive Plan: Low Density Residential (single family houses)

ANALYSIS

The Petitioner, Jilann S Schultz, is requesting to rezone approximately 0.24 acres of property located at 1644 Lincolnway East from C-1 General Commercial to C-6 Linear Office Commercial to allow for the contingent buyer, Cecelia Brown, to use the property as a medical spa as well as a residential unit at this location. The house and the parking lot to the west is zoned C-1 General Commercial.

With this petition, the property owner and contingent purchaser are only seeking to establish the proper zoning required for the proposed and intended use.

The property has a history of being used commercially most recently being as an insurance agency. The property adjacent to the west is currently Rossini Pizza and Kevin's Guitar Studio. The property across from 1644 Lincolnway East is Beiger Elementary School. The surrounding neighborhood is single family residences.

Planning Staff supports the request for rezoning since the C-6 Linear Office Commercial District is compatible with the existing adjacent commercial and residential land uses. Only the following uses are permitted: (1)Banks, savings and loans, credit unions, loan offices;(2)Bed and breakfasts;(3)Churches, synagogues and similar places of worship;(4)Clinics for humans;(5)Convents and rectories;(6)Medical or dental laboratories;(7)Mortuaries and funeral homes;(8)Offices; (9)Public libraries;(10)Single-unit dwellings;(11)Two-unit dwellings or duplex dwellings.

The Planning Staff recommendation is to include installing grass along the front 10' so parking will not be directly next to sidewalk.

The Building, Fire, Electric, and Water Departments have reviewed and approved the rezoning request providing no additional comments.

RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 23-17 to rezone 0.24 acres of property located at 1644 Lincolnway East from C-1 General Commercial to C-6 Linear Office Commercial to allow for the continuation of a commercial business with a residential unit at this location. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property consists of a single family home that has been used as a business in recent years, and is located on Lincolnway East which includes adjacent commercial uses, although single family homes are immediately adjacent.
2. Character of Buildings – The character of the buildings in the area are predominantly single family homes, but there is also two commercial businesses adjacent to the property to the west, which includes a pizza shop and a guitar lesson space.
3. The most desirable/highest and best use – The property does have a history of being a commercial property and rezoning the property does align with the overall neighborhood area allowing mixed use of a residence and a business.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area. The C-6 Linear Office Commercial District was determined to be appropriate because the permitted uses are compatible with the existing adjacent uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan and the proposed zoning is not in conflict with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Photographs, Location Map



View from the south from Lincolnway East



View from the West with neighboring C-1 Property



A view of the parking lot and rear of building from the East

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)

Authenticated
Jilann Shultz
06/20/2023 4:11:15 PM CDT

06/20/2023

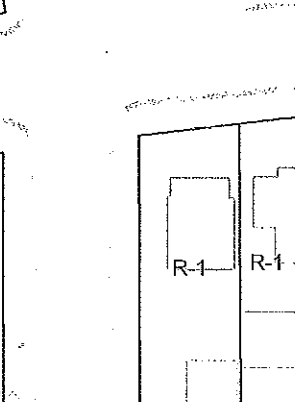
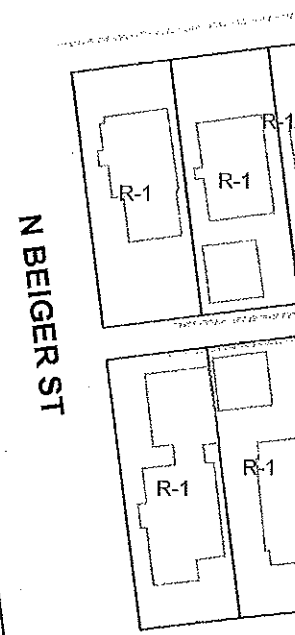
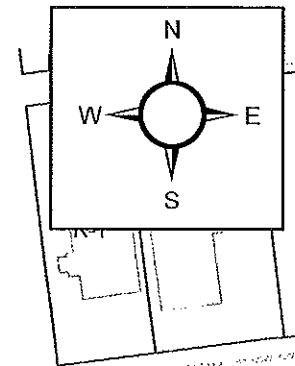
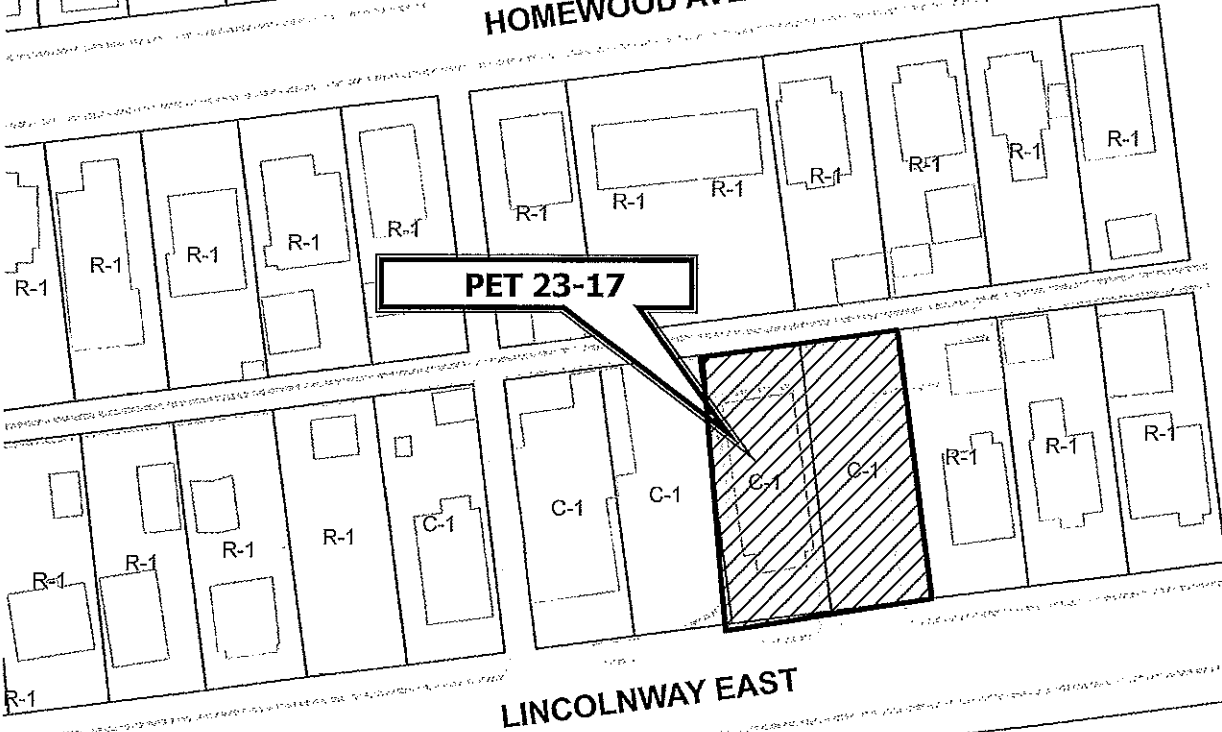
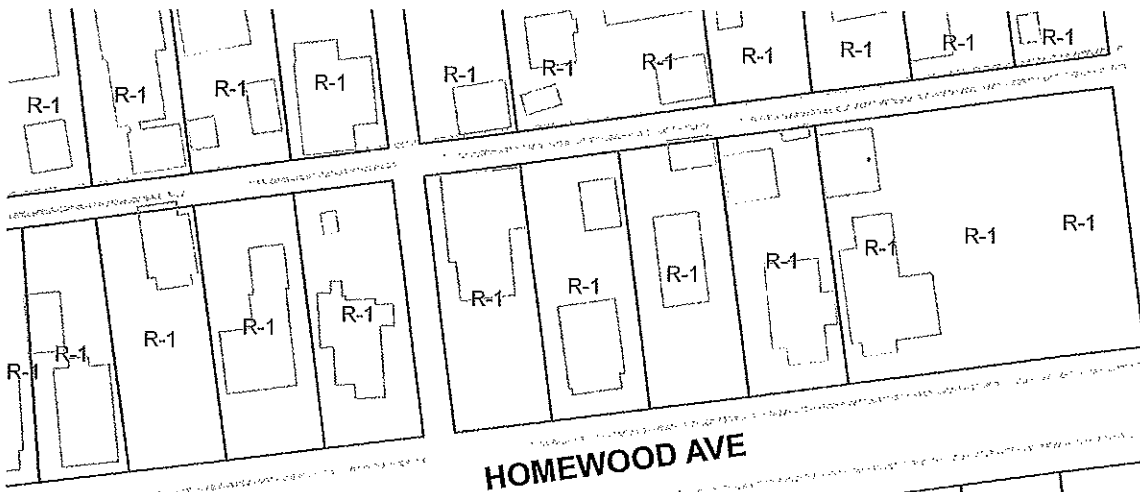
CONTACT PERSON:

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



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