



## **AGENDA**

**August 21, 2023**

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

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

**WebEx Telephone Number:1-408-418-9388  
Meeting Number (access code): 2338 681 2710  
Meeting password:SNjgpH6Zq33**

**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: [23386812710@mishawaka.webex.com](https://23386812710@mishawaka.webex.com)**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of August 07, 2023
5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2023-18      Use Variance to allow Mini Storage and Developmental Variances for Setback, Fencing, and Parking - Northeast corner of E. McKinley and Maplehurst

A letter from the City Plan Commission regarding their recommendation from their August 08, 2023 meeting.

#### 6. Report of Special Committee

#### 7. Ordinances on First Reading

P.O No. 2023-37      Right-of-Way Vacation of unimproved alley - N/S alley bounded by W. Front St., N. Spring St., W. 1<sup>st</sup> St., and N. Mill St.

P.O No. 2023-38      PUD Amendment to allow Microblading in Unit 14 - 6910 N. Main St.

#### 8. Resolutions

#### 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.  
(Assigned to Land Use Planning Committee)

P.O. No. 2023-29      Rezone from C-1 to R-3 Multi-Family Residential - 2406 Schumacher Dr. & adjacent property  
(Assigned to Land Use Planning Committee)

P.O. No. 2023-31      Establishing 1202 E. Mishawaka Ave. a Historic Landmark  
(Assigned to Land Use Planning Committee)

P.O. No. 2023-35      Establishing a Designated Outdoor Refreshment Area - DORA  
(Requesting postponement to September 11th)

P.O. No. 2023-36      Amending the Municipal Code Park and  
Recreation - DORA  
(Requesting postponement to September 11th)

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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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](mailto: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**

**August 07, 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, August 07, 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 (P), Mr. Hixenbaugh (P)**  
**P: Present E: Electronically Participating A: Absent**

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

Minutes for the Regular Meeting on July 17, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following petitions to the council who referred them to the City Plan Commission for their recommendation.

|                             |                                                                                                                                             |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Petition No. 2023-18</b> | Right-of-Way Vacation of unimproved alley – North-South alley bound by W. Front Street, N. Spring Street, W. 1st Street, and N. Mill Street |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|

|                             |                                                                      |
|-----------------------------|----------------------------------------------------------------------|
| <b>Petition No. 2023-19</b> | PUD Amendment to allow Microblading in Unit 14 – 6910 N. Main Street |
|-----------------------------|----------------------------------------------------------------------|

**Clerk Block opened the public hearing on Proposed 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.**

Gary King, 7230 East Marion Street, spoke in favor of **Proposed Vacation No. 2023-02**. Mr. King stated they were at the meeting about two to three weeks ago when the Plan Commission



approved their request to vacate the alley and just for general reference, the alley had not been used for anything. Mr. King respectfully requested that the vacation of the alley be approved. Todd Lang also spoke in favor of **Proposed Vacation No. 2023-02**. Mr. Lang stated they were there a couple of weeks ago and they felt this would be beneficial to them and beneficial to the city to not have to worry about that piece of property.

**Public Hearing for Proposed Vacation closed at 7:08 p.m. and Mr. Hixenbaugh stated pursuant to state law later in that evening's proceedings, they would conduct second reading and public hearing of the ordinance dealing with the proposed vacation.**

**Clerk Block opened the public hearing on Proposed 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.**

Ken Prince, Director of Planning and Community Development, spoke in favor of **Proposed Vacation 2023-03**. Mr. Prince stated the area requested for vacation was the area in front of the former Police Station. Mr. Prince stated over the years, the area had been reconfigured several times, once by the state when they configured when the state highway went through, then when Main Street was connected to Church Street and Front Street was connected in residual pieces. Mr. Prince stated now the city had conveyed the property to Cressy and Everett Commercial. Mr. Prince stated there were several plats there and in the downtown where the city wanted to clean up loose ends. Mr. Prince continued to say this was one of the loose ends to clean up by vacating the right-of-way. Mr. Prince mentioned the city was retaining the right of access to the property, so that the property had access to the traffic signal. Mr. Prince continued to state the city would also retain easements for the sewer that traveled through the property. Mr. Prince stated in addition to platting the property, they would also have right-of-way dedicated for the existing riverwalk connection by the raceway. Mr. Prince stated this was all part of the purchase agreement that was executed when the property transferred. Mr. Prince reiterated the vacation was for cleanup up for the front portion of the property.

**Public Hearing Closed at 7:11 p.m.**

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

### **PROPOSED ORDINANCE NO. 2023-35**

#### **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ESTABLISHING A DESIGNATED OUTDOOR REFRESHMENT AREA Establishing a Designated Outdoor Refreshment Area - DORA (Assigned to Public Health & Safety Committee)**

Mr. Hixenbaugh stated for the record that given the significance of the matter, the public should anticipate that the Public Health & Safety Committee would be holding a special committee

meeting in the near future in order to receive presentation from the administration with regard to this proposed ordinance and also to provide the council with the opportunity to ask further questions. Mr. Hixenbaugh stated furthermore, in light of some preexisting travel plans on multiple plans of the council, the public should not anticipate that they would be voting on the matter on August 21<sup>st</sup> but rather it would be rescheduled for public hearing and final action at a later date in September.

### **PROPOSED ORDINANCE NO. 2023-36**

#### **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.**

#### **Amending the Municipal Code Park and Recreation - DORA (Assigned to Public Health & Safety Committee)**

Mr. Hixenbaugh stated again for the record that since this proposed ordinance operated in conjunction with the previously referred to ordinance, this would also be part of the work of the Public Health & Safety Committee, in terms of additional public hearings and the public should also anticipate that this would not be heard on August 21<sup>st</sup> but would be heard on the same evening that they heard the DORA ordinance.

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

### **RESOLUTION R2023-19**

#### **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**

#### **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**

Ken Witkowski, Police Chief of the Mishawaka Police Department, spoke in favor of **RESOLUTION R2023-19**. Chief Witkowski stated this was a practice they had been doing since the homicide unit dispersed back two to three years ago so if they had an officer involved in a shooting or anything that resulted in death, they had the other agencies do the investigation. Chief Witkowski stated this outlined all of that and was what they had been doing before and this just finalized the practice of the past. Chief Witkowski stated, for example, say they had an officer-involved shooting, they would not investigate their own and they would bring in investigators from the county and South Bend to do the investigation. Chief Witkowski stated he would answer any further questions.

Mr. Hixenbaugh thanked Chief Witkowski for the information.

Question was called for at 7:15PM for **RESOLUTION R2023-19. 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 R2023-20**

#### **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 Authorizing Property Disposal and Purchase Agreement – Temple Park**

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-20**. Mr. Prince stated with the resolution they had before them, there was a picture on the last page he wanted displayed. Mr. Prince stated Temple Park was broken into three different parcels. Mr. Prince stated the blue area highlighted was one of the three parcels and going back 50+ years, the city had leased the property to the church and they had conducted park operations on it. Mr. Prince stated the blue area was the part they did not own, but the actual lease area was the middle parcel and the lease originally was not correct which was what they were trying to fix. Mr. Prince stated as part of their purchase of Temple Park, they were researching the issue and came to a verbal agreement with Twin City Baptist Church regarding how to proceed and even though Twin City did not have plans for expansion in that area, they did not want to make parking improvements with the understanding that they were going to be there for the life of the improvements. Mr. Prince stated essentially, they identified a desire to purchase the area outlined in blue and at that point, Twin City Baptist Church indicated that they did not have any immediate need for it, but they would like potential room for future expansion and at the same time the green area, the area purchased by Redevelopment, was demolished and dilapidated the home on the property so it was currently vacant and it was planned to be used for the first time homebuyer program at some point in time. Mr. Prince stated they requested that rather than to straight purchase the blue property that the church would acquire the green property and in addition to that, there was a jog in the property line that ran east and west which was denoted in red so they had to basically have someone go out and stake that property line so they could have a straight fence running east and west to make separation between the park and church property. Mr. Prince stated what they did was they had two appraisals done of the area in blue, deducted at the same square foot price the area in green and at that point in time, they were merely asking the Council's permission to sell the property outlined in red. Mr. Prince stated it had taken years to get to this point and the ultimate transfer of funds was about \$30,000 for the purchase of property. Mr. Prince stated it was more meaningful in terms of cleaning it up from a title standpoint for the perpetuity of the park than it was a significant financial commitment. Mr. Prince stated he would answer any questions.

Question was called for at 7:21PM for **RESOLUTION R2023-20**. Motion carried by unanimous roll call vote (summary: Yes = 9).

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

### **RESOLUTION R2023-21**

**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**  
**Adding Miscellaneous Property to the City's Acquisitions List**

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-21**. Mr. Prince stated as part of any TIF District when looking to acquire property, you had an improvement plan where you had to identify the properties you were acquiring. Mr. Prince stated in 2014 when they did a wholesale amendment of the TIF District that included many road corridors and many redevelopment properties, they thought it would be more truthful to come to the council on an individual basis rather than to try to add hundreds of properties to the Acquisition List at that point in time with no discussion and did not want to hold up the process. Mr. Prince stated the property they were looking at was at 512 N Cedar Street on Cedar and the areas they were looking to add to the Acquisitions List included seven properties, with willing buyers and sellers that were all adjacent to the 512 N Cedar Street property. Mr. Prince stated made it known they did have an interest and mentioned that cleanup costs were contingent on having a plan for redevelopment and ultimately the acquisitions were aid their planning for redevelopment and they also had other cash and funding priorities for the city, so this was the push down the road so to speak. Mr. Prince stated ultimately, he would see cleanup on the properties being a year or two away, regardless if the acquisitions moved forward or not. Mr. Prince stated they needed a developer to come forward with a plan for the property they found appropriate and they found a little bit of interest in it, but again since they did not have the priority with their finances to move forward, they held off on any serious discussions until such a time where they had the funds available. Mr. Prince stated he was happy to answer any questions.

Mrs. Voelker asked about the two properties not included in this, the green house and the blue house that were adjacent to the building that had just gotten torn down on the corner of Cedar and Mishawaka Avenue and asked if those homes were targets for the redevelopment. Mr. Prince

stated they may consider them at some point but they were not identifying them as being included in the request of adding the properties to the acquisition list. Mr. Prince stated the corner property was challenging, because it was owned by Lamar for the billboard. Mr. Prince stated they would love to see the entire corner change and improve, but they were not ready to consider anything there. Mrs. Voelker asked if they were ready to consider the northwest corner of Mishawaka Avenue and Cedar and it seemed like a really challenging property to be utilized as residential currently and was undesirable. Mr. Prince did not specify whether it was in consideration. Mrs. Voelker asked if they were thinking next year was when they would begin the work. Mr. Prince stated that would be the soonest. Mr. Prince stated as the properties would be redeveloped, the remaining foundations that were in place were actually being removed as part of the development and that was really what had to happen. Mr. Prince stated you wanted to also make the properties clean and acceptable for the repurposing, in this case for residential use, and they could spend millions and millions to cleanup everything or strategically clean it up for a lower cost if they had a development plan associated with it.

Mr. Hixenbaugh stated going back to his discussion of eminent domain and the fact that the action being purposed that evening did not exercise the power of eminent domain that governmental entities had. Mr. Hixenbaugh thanked Mr. Prince for clearly identifying and labeling various parcels on the map and asked with regard to the parcels that were identified for acquisition that did not have signed purchase agreements in place, if it was a fair summary to say that they had committed to purchase them as they would become available and as the timing and finances allowed for, but no deal had been consummated at that point. Mr. Prince stated that was correct. Mr. Hixenbaugh asked if an owner of one of the parcels did not have a current purchase agreement in place and chose to sell it to someone, they would not be prohibited from doing so and the property would stay on the list regardless but they had the ability to sell and otherwise use the property as any of them would use if they owned it. Mr. Prince stated that was correct.

Question was called for at 7:32PM for **RESOLUTION R2023-21. Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

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

### **PROPOSED ORDINANCE NO. 2023-25**

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

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

**(Petitioner requesting postponement)**

Mr. Compton made a motion to honor the petitioner’s request. With a second from Mr. Banicki, a voice vote was held. The motion passed unanimously and **PROPOSED ORDINANCE NO.**

2023-25 was postponed for further action until August 21<sup>st</sup> as part of the regularly scheduled council meeting.

**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  
(Petitioner requesting postponement)**

Mrs. Voelker made a motion to honor the petitioner's request. With a second from Mr. Banicki, a voice vote was held. The motion passed unanimously and **PROPOSED ORDINANCE NO. 2023-31** was postponed for further action until August 21<sup>st</sup> as part of the regularly scheduled council meeting.

**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**

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.

Mr. Hixenbaugh stated for the record, they would incorporate by reference the comments made by the two residents earlier in the public hearing held on the matter.

Question was called for at 7:37PM for **PROPOSED ORDINANCE NO. 2023-32. 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. 5853.**

**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**

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

Ken Prince, Director of Planning and Community Development, spoke in favor of **PROPOSED ORDINANCE NO. 2023-33**. Mr. Prince asked that his previous comments be reflected in the public hearing.

Question was called for at 7:39PM for **PROPOSED ORDINANCE NO. 2023-33. 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. 5854**.

### **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**

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.

Cecilia Brown, 56827 Sundown Road South Bend, spoke in favor of **PROPOSED ORDINANCE NO. 2023-34**. Mrs. Brown stated she did not have much to add, as she was at the last meeting but she wanted to purchase it to transition it.

Mr. Compton stated as he understood it, she was looking to purchase the property and she was wanting to use it for commercial use and to also have an apartment in it and asked if that was correct. Mrs. Brown stated yes. Mr. Compton asked how big the apartment would be. Mrs. Brown stated it would be a single use, private unit for family of hers. Mrs. Brown stated it would be a one bedroom, one kitchen and living room single resident unit. Mr. Compton asked if there were off street parking there. Mrs. Brown stated there was not off street parking and it was on the lot, so there were 7 spots available for the business and there would be 2 spots transitioned for the resident and a guest.

Mrs. Voelker asked if she was moving her business from somewhere else or starting her business there. Mrs. Brown stated they split their time between Arizona and Indiana, so they felt it would be a good time to open a second location in Indiana. Mrs. Brown stated they would maintain their business in Arizona, but it was pretty self-sufficient as they had great staff there and this would be the second location. Mrs. Voelker asked what kind of services the business provided.

Mrs. Brown stated they offered body contouring, laser fat reduction, hair reduction, HydraFacial, Geneo, spray tan and just about anything they could think of but they were always changing their menu and adding new services. Mrs. Voelker asked if she was from Mishawaka. Mrs. Brown stated she was from South Bend. Mrs. Voelker welcomed her to Mishawaka and wished her luck in her business.

Question was called for at 7:44PM for **PROPOSED ORDINANCE NO. 2023-34. 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. 5855.**

## **NEW BUSINESS**

Mr. Emmons made a reminder that on August 17<sup>th</sup>, they would have the West End Neighborhood meeting at St. Bavo's with Senator Dave Niezgodski speaking about the new legislation passed at the state house, mainly some of the new laws that went into effect in July and some that would go into effect in October. Mr. Emmons stated he would also be there afterwards to answer any questions they may have. Mr. Emmons welcomed all to attend and refreshments would be served courtesy of West End Bakery.

ADJOURNMENT 7:46PM

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

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



DATE: May 23, 2023

Deborah S. Block, IAMC, MMC

TO: Board of Zoning Appeals  
City of Mishawaka, Indiana

JUN 01 2023

City Clerk  
Mishawaka, IN

The undersigned appellant respectfully shows the Board:

1. I, **1500 McKinley LLC**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

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

2. The above-described real estate presently has a zoning classification of C-4 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner: Storage buildings.
4. Appellant desires to (*Explain what is proposed that violates the Ordinance.*) Construct secure storage units on property formerly occupied by the Swiftly Gas Station.
5. The Zoning Ordinance of the City of Mishawaka requires (*Explain ordinance requirements and note Section Number of the Ordinance.*)

137-380 (3)b – from the required 12.5' side set back to a 5' side setback along Maplehurst.

137-380 (4) – from the required 32.6' rear set back to 25' rear setback for buildings 2,3,4 & 5 and a 5' rear setback for building 1.

137-380(8)b – to allow 7' high fence along Maplehurst to 15' North of McKinley and to allow 7' high fence along interior lot line to 15' North of McKinley.

137-380 (9)a – From the required parking to zero parking required.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. – I would not be able to build the storage units the size and location I want them without getting approval.
7. Answer the following necessary questions for a **USE VARIANCE**:

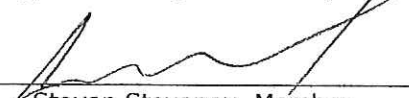
- (1) Will approval be injurious to the public health, safety, morals, or general welfare of the community? **YES OR NO and explain your reason why.**

*No, the site has been cleaned of contamination. The site can now be improved.*

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

- (3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*  
Yes, with adjacent zoning, these variances will accommodate the intended use of the property. Also, IDEM restrictive covenants on this site make traditional commercial development Economically impractical.
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *YES OR NO and explain your reason why.*  
Yes, staff has recommended a C-4 zoning for this property to remain consistent.
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *YES OR NO and explain your reason why.*  
  
No.

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

  
\_\_\_\_\_  
Stoyan Stoyanov, Member

N/A \_\_\_\_\_  
Print Name Here

**CONTACT PERSON:**

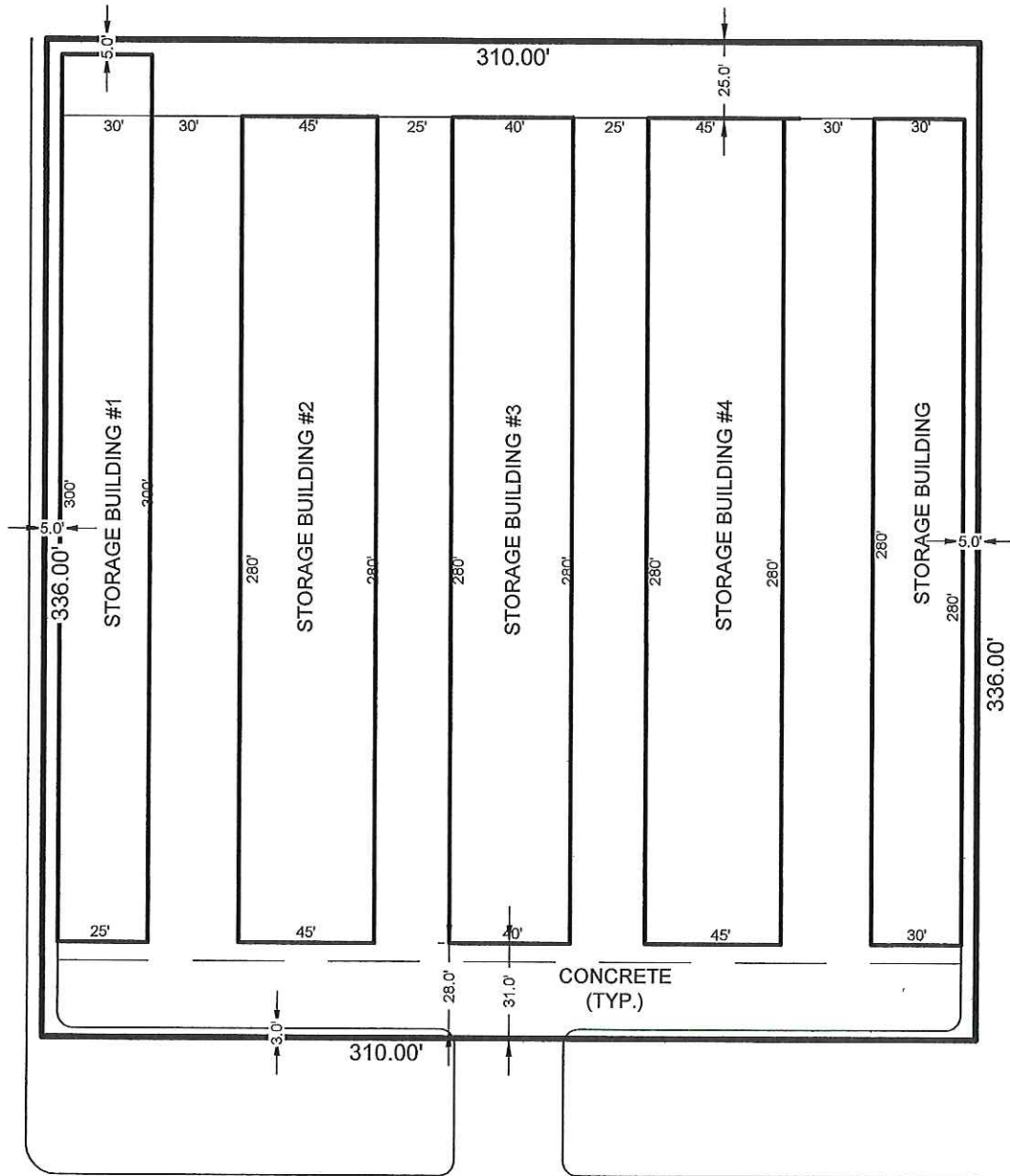
Stoyan Stoyanov  
1500 E. McKinley Avenue  
Mishawaka, IN 46545  
574-329-8909  
[sales@cars2you.com](mailto:sales@cars2you.com)

J. Bernard Feeney  
1405 N. Michigan Street  
Plymouth, IN 46563  
574-936-3469  
[bfeeney@gowightman.com](mailto:bfeeney@gowightman.com)

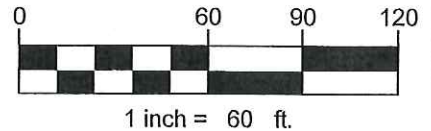
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# PRELIMINARY SITE PLAN

MAPLEHURST AVE.



MCKINLEY HWY.

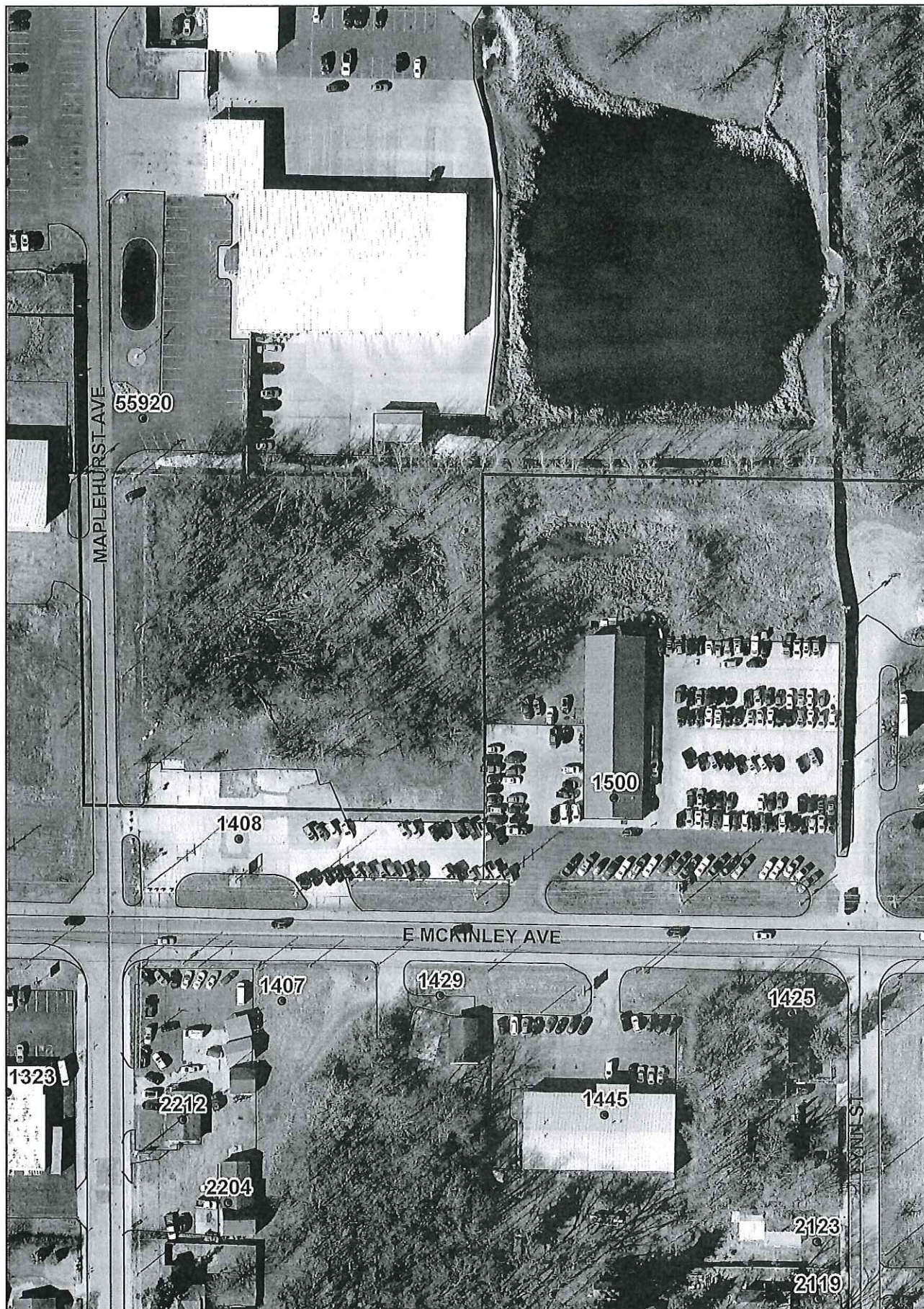


1405 N. MICHIGAN ST. PLYMOUTH, IN. 46563  
574.936.3469  
www.gowightman.com

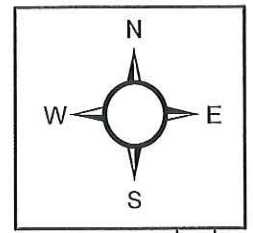
CLIENT: STOYAN  
PROJECT:  
JOB No:  
DATE: 05/01/2023  
SCALE: 1"=60'

10F1









**AP 23-18**

**EXISTING CITY LIMITS**

**E MCKINLEY AVE**

**LYNN ST**

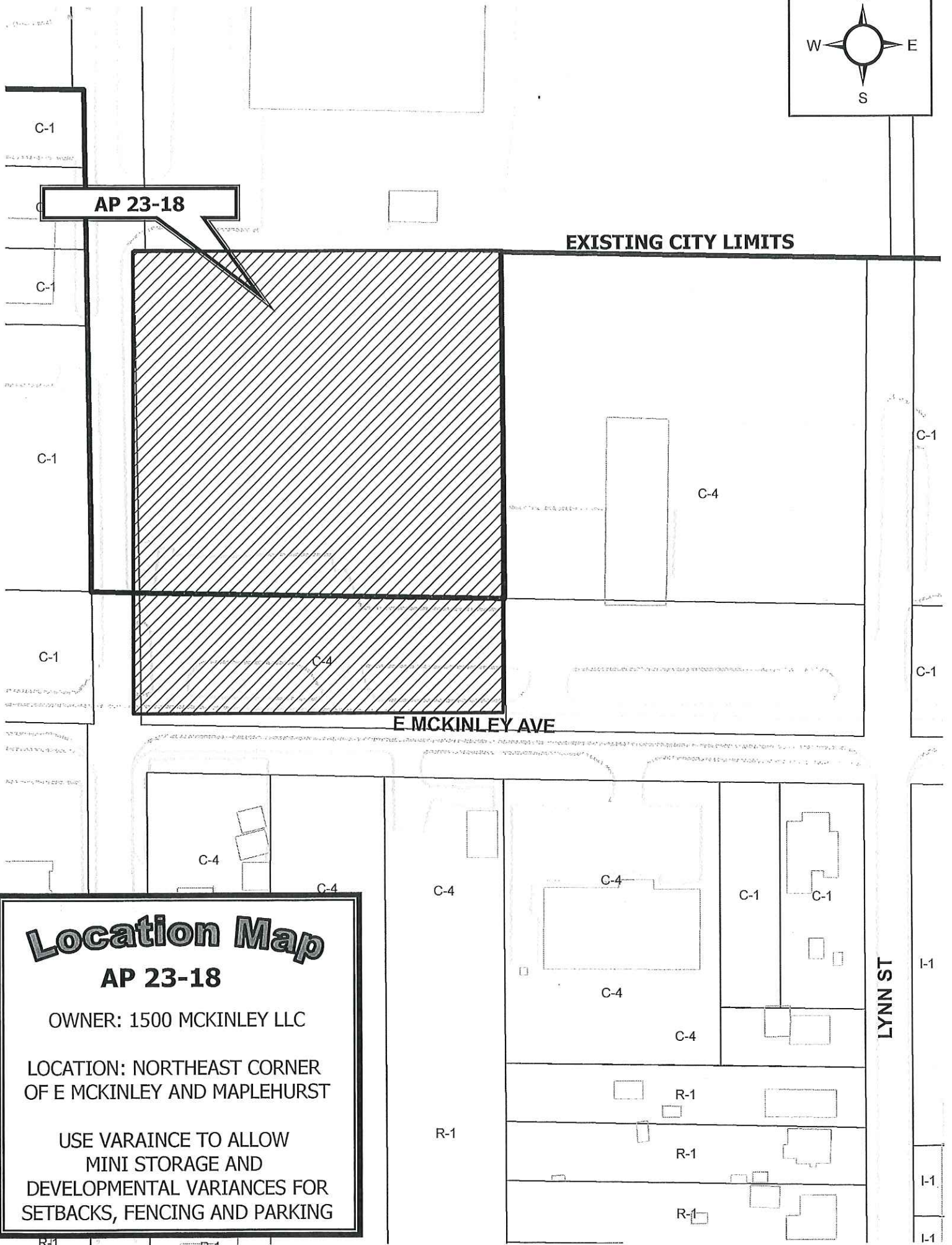
# Location Map

**AP 23-18**

OWNER: 1500 MCKINLEY LLC

LOCATION: NORTHEAST CORNER  
OF E MCKINLEY AND MAPLEHURST

USE VARAINCE TO ALLOW  
MINI STORAGE AND  
DEVELOPMENTAL VARIANCES FOR  
SETBACKS, FENCING AND PARKING





# CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Deborah S. Block, IAC, MMC

July 12, 2023

AUG 09 2023

City Clerk  
Mishawaka, IN

Honorable Members of the Common Council  
City of Mishawaka, Indiana

RE: Plan Commission Recommendation  
August 8, 2023, Public Hearing

Honorable Members:

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

**PETITION #23-18** A petition by City of Mishawaka requesting to **vacate the north/south alley located between West Front Street, West First Street, North Spring Street, and North Mill Street.**

The Commission, with a vote of 9-0, recommended approval.

**PETITION #23-19** A petition by University Gardens requesting to amend the University Gardens Planned Unit Development, **6910 N Main St, Granger, Indiana** to allow for microblading services.

The Commission, with a vote of 9-0, recommended approval.

Respectfully,

*Donna M Burkart*

Donna Burkart, Administrative Planner  
Secretary, Plan Commission



**STAFF REPORT**

Location: North/South Alley – Block bound by W. Front Street, N. Spring Street, W. First Street, and N. Mill Street Date: August 8, 2023

Petition: 23-18 Prepared By: DJS

**GENERAL INFORMATION**

Applicant: City of Mishawaka  
Status: Adjacent Property Owner  
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 (Mixed-Use Multi-Family Residential and Commercial / The Mill at Ironworks, Phase 1)  
South: C-3 City Center Commercial (Public Service / City Hall)  
East: C-3 City Center Commercial (Vacant & Parking Lot)  
West: C-3 City Center Commercial (Vacant & Parking Lot)

Thoroughfare: W. Front Street, N. Spring Street, W. First Street, and N. Mill Street

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: General Commercial

**ANALYSIS**

The Petitioner, the City of Mishawaka, is requesting to vacate a 16.5' wide north-south alley in the block bound by W. Front Street, N. Spring Street, W. First Street, and N. Mill Street. The alley is between Lots 2, 4, 6, and 8 on Spring Street, and Lots 1, 3, 5, and 7 on Mill Street, in the "Original Plat of St. Joseph Ironworks" recorded in 1835.

The alley, which is approximately 280' in length, is mostly unimproved excluding an access drive off W. First Street. This drive currently provides access to a city-owned parking lot within the southeast corner of the block.

No overhead utility lines are located within the alley. The City's GIS shows no underground utilities (electric, sanitary sewer, or water) are present. The presence of any private underground utilities is unknown at this time.

The purpose of the proposed vacation is to reduce future hindrances for anticipated development within the block. By vacating the alley, the entire block will not be encumbered by an unimproved or unneeded

alley. A replat (Replat 23-04) to combine all the existing lots on each side of the alley into two separate lots was submitted concurrent with the vacation petition. Once vacated, the west half of the alley will be added to proposed Lot 3, and the east half of the alley will be added to proposed Lot 4.

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

### **RECOMMENDATION**

Staff recommends in favor of Petition 23-28 to vacate the 16.5' wide north-south alley running approximately 280' in length and bound by W. First Street to the south and W. Front Street to the north. 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 mostly unimproved and the vacation will reduce future hindrances for anticipated development.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Excluding a small public parking lot in the southeast corner of the block, the alley does not provide access to any adjacent lots or existing structures. The parking lot will likely be removed with the future development of the adjacent property.
- 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. The existing right-of-way is mostly unimproved.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan. The plan identifies general commercial development as the preferred land use within the block.

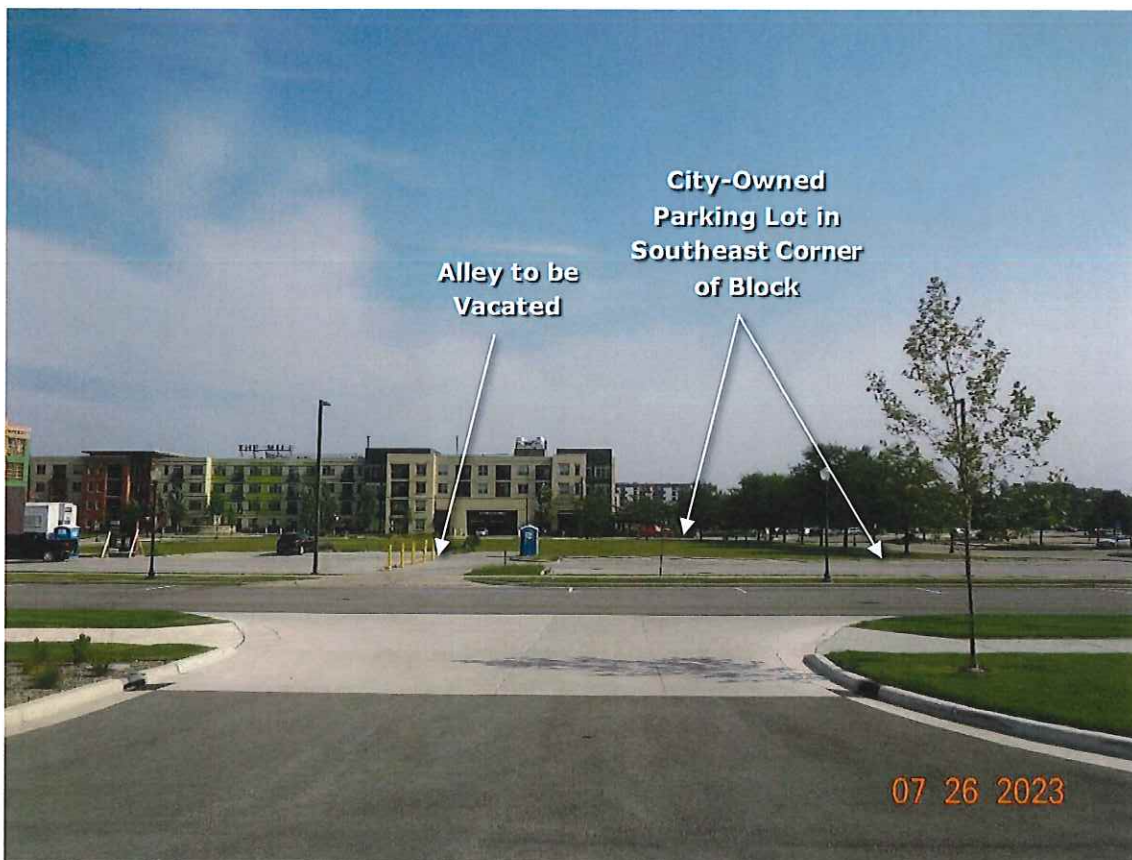
### **ATTACHMENTS**

Aerial Photograph of Area to be Vacated, Photos, Petition, Location Map





Aerial Photograph  
N/S 16.5' Wide Alley to be Vacated



P1. Looking northerly from the City Hall parking lot south of W. 1<sup>st</sup> Street toward alley.

**STAFF REPORT**

Location: 6910 N Main St, Building 14, Suite B

Date: August 8, 2023

Petition: 23 19

Prepared By: DMB

**GENERAL INFORMATION**

Applicant: University Gardens Inc/Nicole Walasinski  
Status: Property Owner/Tenant  
Request: Amend University Gardens PUD to allow microblading  
Zoning Classification: S-2 Planned Unit Development  
Lot Size: Irregular  
Applicable Regulations: Section 137-671 to 137-679 S-2 Planned Unit Development District  
Section 137-41 Amendment to Zoning Ordinance & Zoning Map

**SPECIAL INFORMATION**

Area Development Pattern: North: S-2 Planned Unit Development  
South: S-2 Planned Unit Development  
East: R-3 Multi-Family Residential  
West: S-2 Planned Unit Development  
Thoroughfare: North Main Street & East Cleveland Road  
School District: Penn-Harris- Madison  
Township: Harris  
Public Utilities: All utilities are available to the site  
Comprehensive Plan: Service Commercial

**ANALYSIS**

The petitioners are requesting to amend the University Gardens Planned Unit Development to allow for microblading services within one of the units. Microblading is a form of semi-permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

University Gardens PUD was established in 1980 as a professional and commercial development and the uses have generally followed the C-1 General Commercial District. The need to amend the PUD arises from the fact that a tattoo establishment is not an approved use within the C-1 zoning district. The PUD was amended in 2018 (Ordinance No. 5612) for units 21 & 22 only and in 2019 (Ordinance No. 5652 & Ordinance No. 5662) for units 13, 25, & 26 only to allow for microblading services.

***It should be noted that while microblading is a service that can be found in a spa or beauty salon, it is a form of tattoo and not specifically permitted within the zoning district or the PUD as established.***



All pertinent City Departments have reviewed this request and recommend approval.

### RECOMMENDATION

Staff recommends in favor of Petition #23-19 to amend the University Gardens PUD to allow microblading services. This recommendation is based on the following findings of fact:

1. Existing Conditions – The use will be located near other buildings with similar personal services/salon uses. There have been 3 PUD Amendments (2018 & 2019) for units that have been approved for microblading use.
2. Character of Buildings in Area - The character of the buildings located within this development and the surrounding area are professional and commercial as well as being utilized for microblading use.
3. The most desirable/highest and best use – Because of the parcel's location within the professional/commercial development, the most desirable use for the property is commercial/personal services.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.

### ATTACHMENTS

Photographs, Petition, Aerial, Location Map



View of Unit 14



Front view of Unit 14 and adjacent units



1st Reading 8/21/23

2nd Reading

Passed

Failed

Continued To

PETITION #23-18

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-37

ORDINANCE NO. \_\_\_\_\_

Deborah S. Block, IAC, MMC

AUG 09 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, 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:

the north/south alley located between West Front Street, West First Street, North Spring Street, and North Mill Street, more particularly described as THE NORTH/SOUTH ALLEY MEASURING 16.5 FEET IN WIDTH AND APPROXIMATELY 280 FEET IN LENGTH ADJACENT



PROPOSED ORDINANCE NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

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.

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. \_\_

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: North/South Alley – Block bound by W. Front Street, N. Spring Street, W. First Street, and N. Mill Street Date: August 8, 2023

Petition: 23-18 Prepared By: DJS

**GENERAL INFORMATION**

Applicant: City of Mishawaka  
Status: Adjacent Property Owner  
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 (Mixed-Use Multi-Family Residential and Commercial / The Mill at Ironworks, Phase 1)  
South: C-3 City Center Commercial (Public Service / City Hall)  
East: C-3 City Center Commercial (Vacant & Parking Lot)  
West: C-3 City Center Commercial (Vacant & Parking Lot)

Thoroughfare: W. Front Street, N. Spring Street, W. First Street, and N. Mill Street

School District: School City of Mishawaka

Public Utilities: Public Right-of-Way

Comprehensive Plan: General Commercial

**ANALYSIS**

The Petitioner, the City of Mishawaka, is requesting to vacate a 16.5' wide north-south alley in the block bound by W. Front Street, N. Spring Street, W. First Street, and N. Mill Street. The alley is between Lots 2, 4, 6, and 8 on Spring Street, and Lots 1, 3, 5, and 7 on Mill Street, in the "Original Plat of St. Joseph Ironworks" recorded in 1835.

The alley, which is approximately 280' in length, is mostly unimproved excluding an access drive off W. First Street. This drive currently provides access to a city-owned parking lot within the southeast corner of the block.

No overhead utility lines are located within the alley. The City's GIS shows no underground utilities (electric, sanitary sewer, or water) are present. The presence of any private underground utilities is unknown at this time.

The purpose of the proposed vacation is to reduce future hindrances for anticipated development within the block. By vacating the alley, the entire block will not be encumbered by an unimproved or unneeded

alley. A replat (Replat 23-04) to combine all the existing lots on each side of the alley into two separate lots was submitted concurrent with the vacation petition. Once vacated, the west half of the alley will be added to proposed Lot 3, and the east half of the alley will be added to proposed Lot 4.

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

### **RECOMMENDATION**

Staff recommends in favor of Petition 23-28 to vacate the 16.5' wide north-south alley running approximately 280' in length and bound by W. First Street to the south and W. Front Street to the north. 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 mostly unimproved and the vacation will reduce future hindrances for anticipated development.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient. Excluding a small public parking lot in the southeast corner of the block, the alley does not provide access to any adjacent lots or existing structures. The parking lot will likely be removed with the future development of the adjacent property.
- 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. The existing right-of-way is mostly unimproved.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan. The plan identifies general commercial development as the preferred land use within the block.

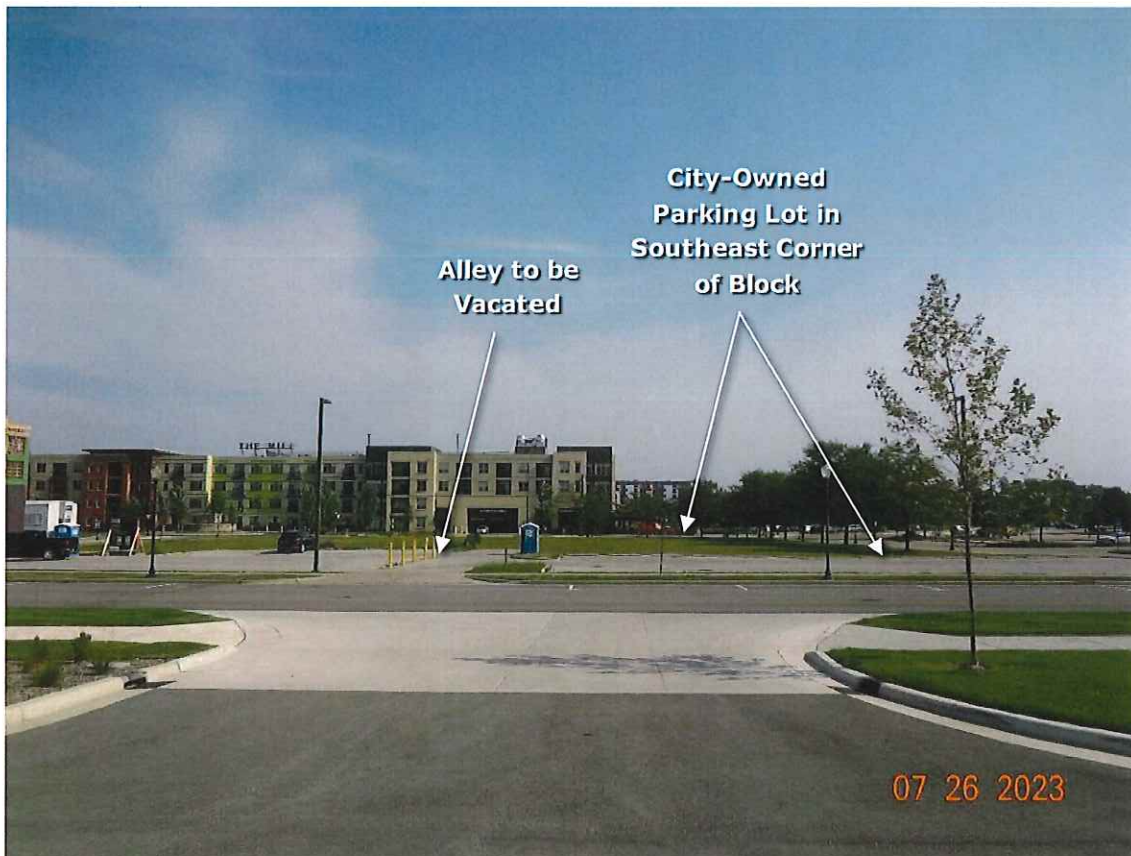
### **ATTACHMENTS**

Aerial Photograph of Area to be Vacated, Photos, Petition, Location Map





Aerial Photograph  
N/S 16.5' Wide Alley to be Vacated



P1. Looking northerly from the City Hall parking lot south of W. 1<sup>st</sup> Street toward alley.





# 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, IAMC, 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



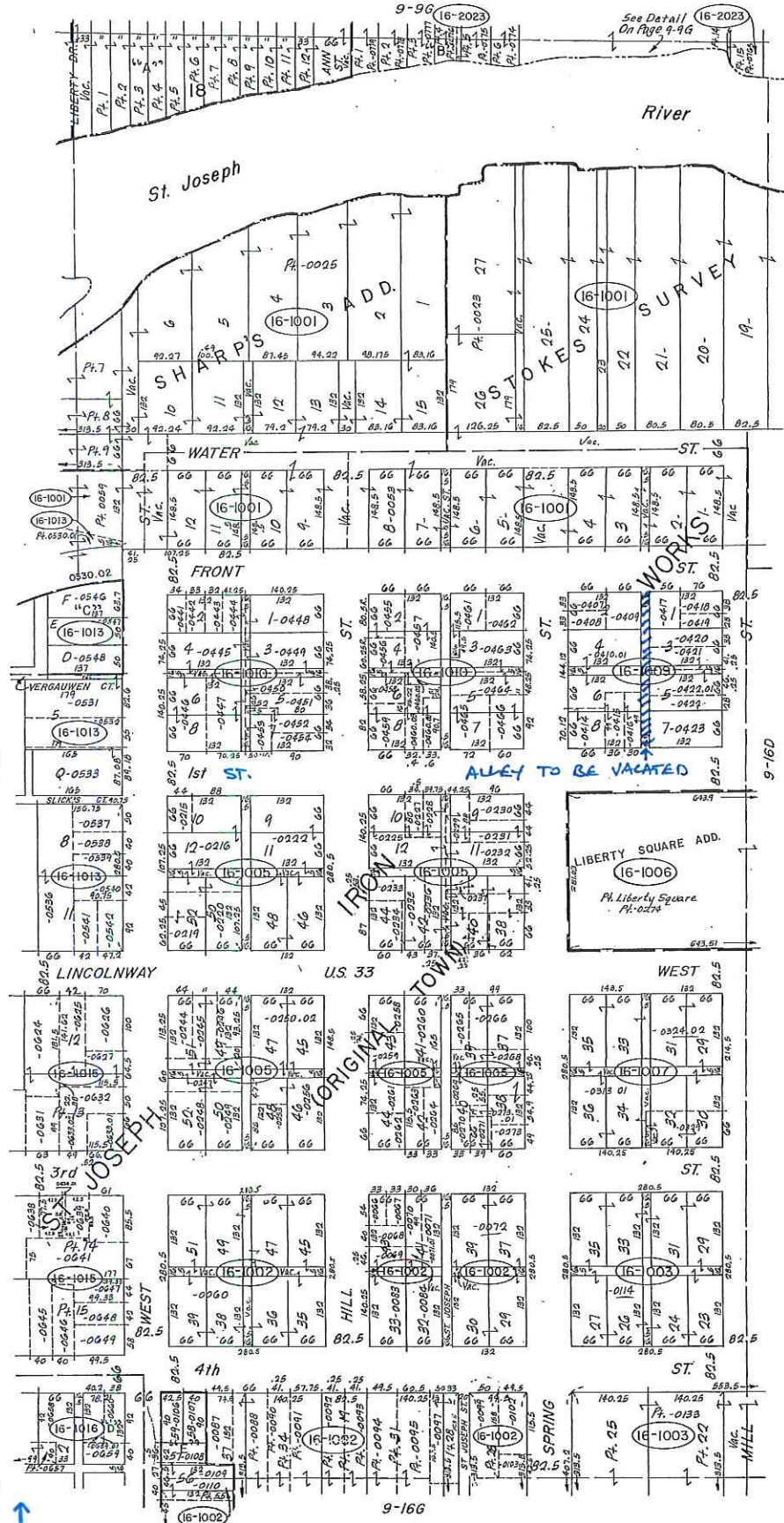
"A"  
INDIANA CITY (ORIGINAL  
TOWN)  
"B"  
BATTALL'S PARK ADD.  
"C"  
DAVIS SUB.  
"D"  
MILBURN'S ADD.  
"E"  
TALLIEU 3rd ADD.

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

Revised Copyright 2004  
Copyright 1987  
THE SIDWELL COMPANY

SCALE: 1" = 100'

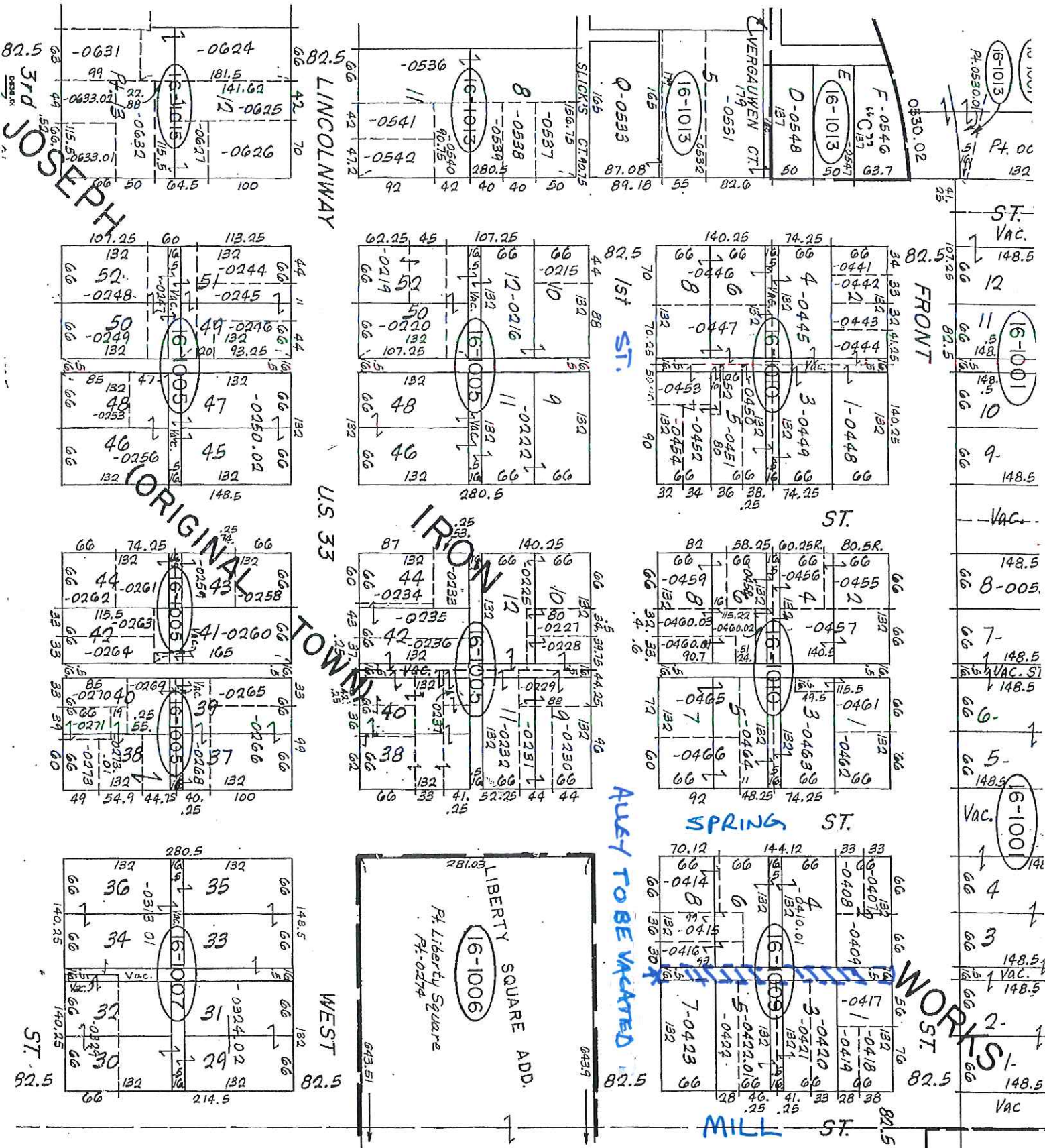
9-16C



9-16C

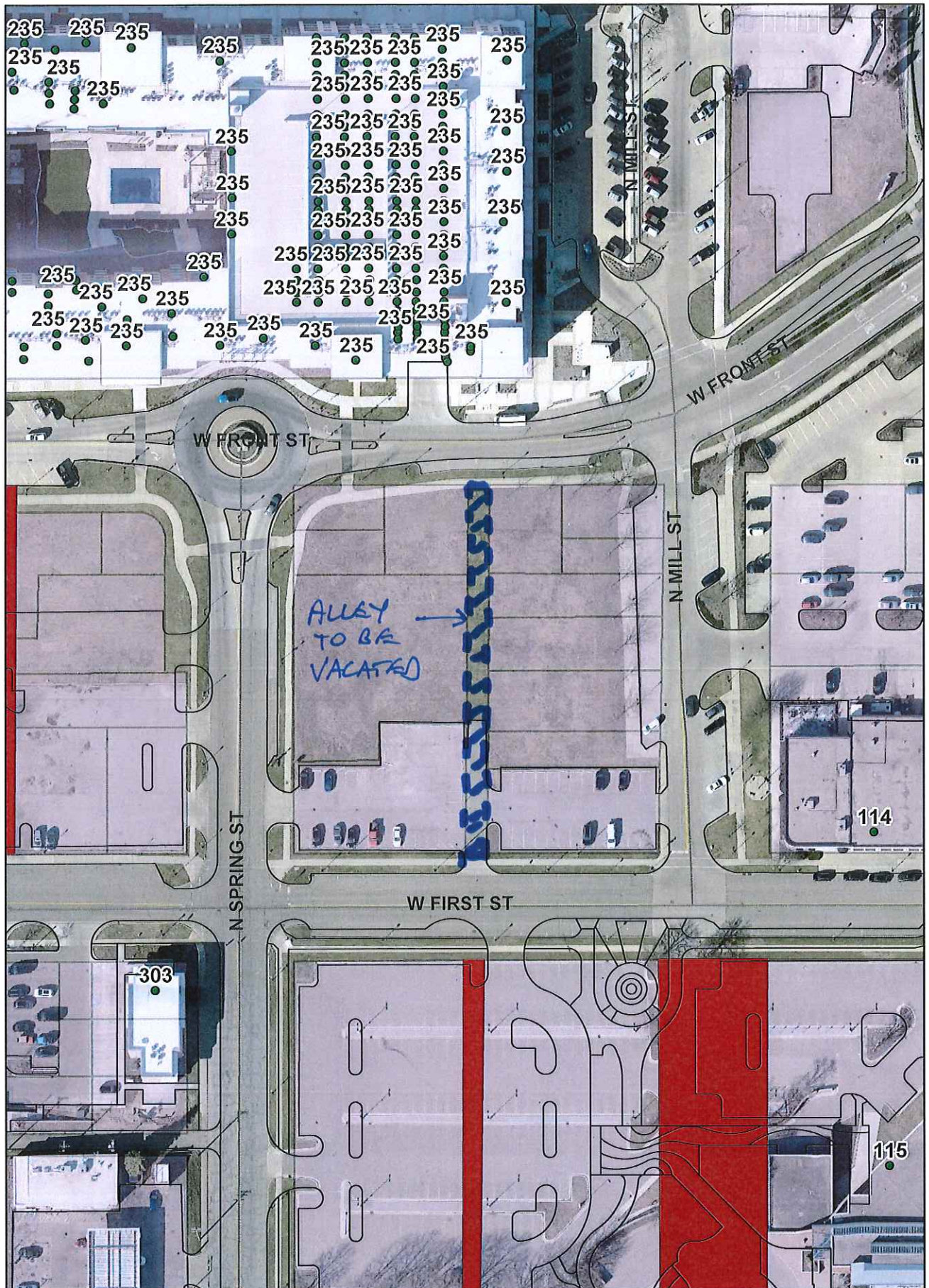
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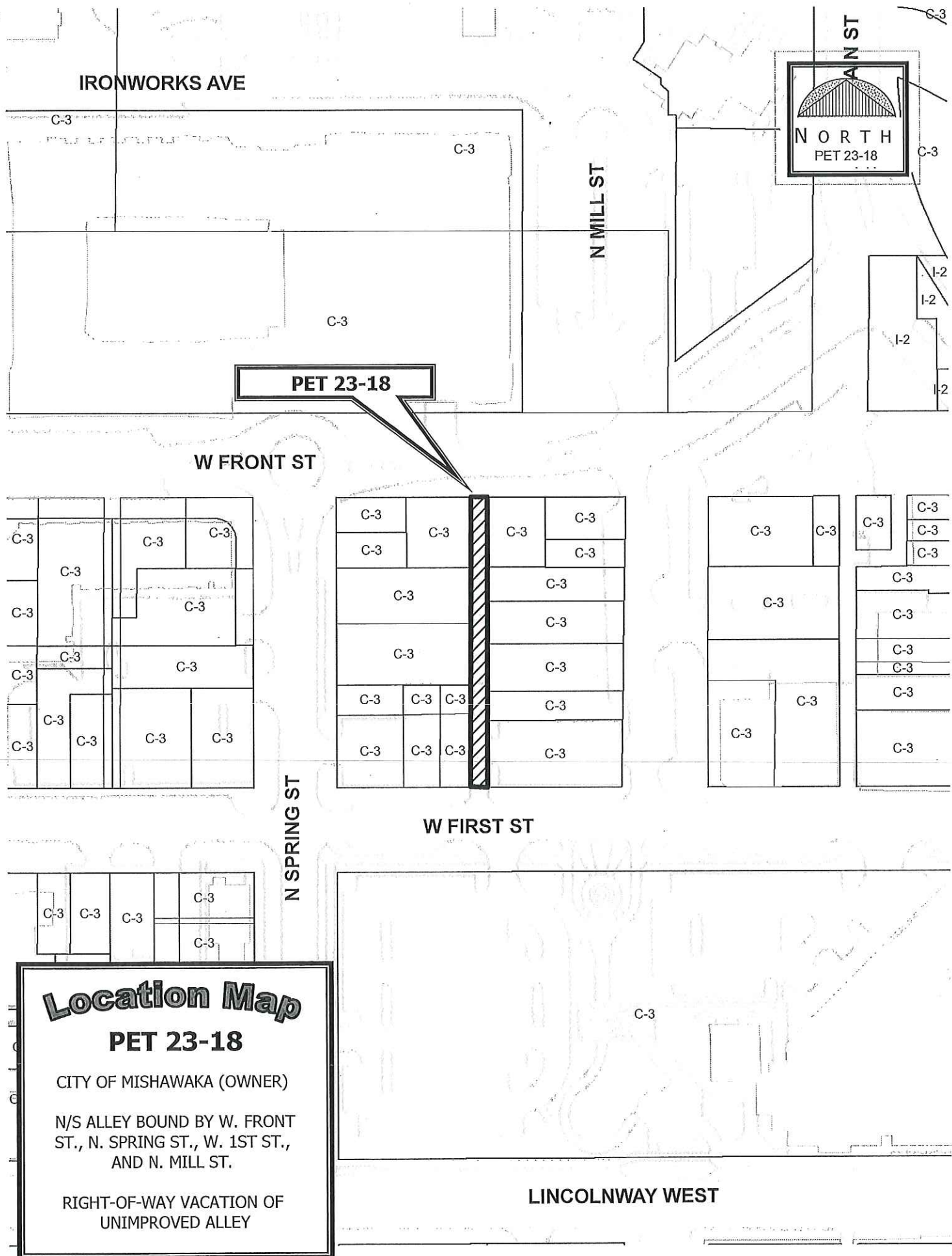




ALLEY VACATION

↑  
N  
NTS





AUG 09 2023

City Clerk  
Mishawaka, IN

1st Reading

2nd Reading

Passed

Failed

Continued To

PETITION 23-19

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-38

ORDINANCE NO. \_\_\_\_\_

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

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

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

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

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

Unit 14, University Gardens Office Park

COMMON ADDRESS: 6910 North Main Street

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow microblading services in Unit 14 only.

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

1. Existing Conditions – The use will be located near other buildings with similar personal services/salon uses. There have been 3 PUD Amendments (2018 & 2019) for units that have been approved for microblading use.
2. Character of Buildings in Area - The character of the buildings located within this development and the surrounding area are professional and commercial as well as being utilized for microblading use.
3. The most desirable/highest and best use – Because of the parcel's location within the professional/commercial development, the most desirable use for the property is commercial/personal services.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.



Proposed Ordinance No: \_\_\_\_\_

Ordinance No: \_\_\_\_\_

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: 6910 N Main St, Building 14, Suite B

Date: August 8, 2023

Petition: 23 19

Prepared By: DMB

**GENERAL INFORMATION**

Applicant: University Gardens Inc/Nicole Walasinski

Status: Property Owner/Tenant

Request: Amend University Gardens PUD to allow microblading

Zoning Classification: S-2 Planned Unit Development

Lot Size: Irregular

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

**SPECIAL INFORMATION**

Area Development Pattern: North: S-2 Planned Unit Development  
South: S-2 Planned Unit Development  
East: R-3 Multi-Family Residential  
West: S-2 Planned Unit Development

Thoroughfare: North Main Street & East Cleveland Road

School District: Penn-Harris- Madison

Township: Harris

Public Utilities: All utilities are available to the site

Comprehensive Plan: Service Commercial

**ANALYSIS**

The petitioners are requesting to amend the University Gardens Planned Unit Development to allow for microblading services within one of the units. Microblading is a form of semi-permanent makeup that provides a means to partially or fully camouflage missing eyebrow hair with the appearance of simulated hair using fine deposits of cosmetic tattoo pigments.

University Gardens PUD was established in 1980 as a professional and commercial development and the uses have generally followed the C-1 General Commercial District. The need to amend the PUD arises from the fact that a tattoo establishment is not an approved use within the C-1 zoning district. The PUD was amended in 2018 (Ordinance No. 5612) for units 21 & 22 only and in 2019 (Ordinance No. 5652 & Ordinance No. 5662) for units 13, 25, & 26 only to allow for microblading services.

***It should be noted that while microblading is a service that can be found in a spa or beauty salon, it is a form of tattoo and not specifically permitted within the zoning district or the PUD as established.***

All pertinent City Departments have reviewed this request and recommend approval.

### RECOMMENDATION

Staff recommends in favor of Petition #23-19 to amend the University Gardens PUD to allow microblading services. This recommendation is based on the following findings of fact:

1. Existing Conditions – The use will be located near other buildings with similar personal services/salon uses. There have been 3 PUD Amendments (2018 & 2019) for units that have been approved for microblading use.
2. Character of Buildings in Area - The character of the buildings located within this development and the surrounding area are professional and commercial as well as being utilized for microblading use.
3. The most desirable/highest and best use – Because of the parcel's location within the professional/commercial development, the most desirable use for the property is commercial/personal services.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the nature of the business is similar to that of a salon and should not generate more traffic than any of the existing businesses within the development.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan identifying this area for service commercial uses.

### ATTACHMENTS

Photographs, Petition, Aerial, Location Map



View of Unit 14





Front view of Unit 14 and adjacent units

Petition #2023-19

Deborah S. Block, MMC, MMC

DATE:

JUL 21 2023

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

City Clerk  
Mishawaka, IN

**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)

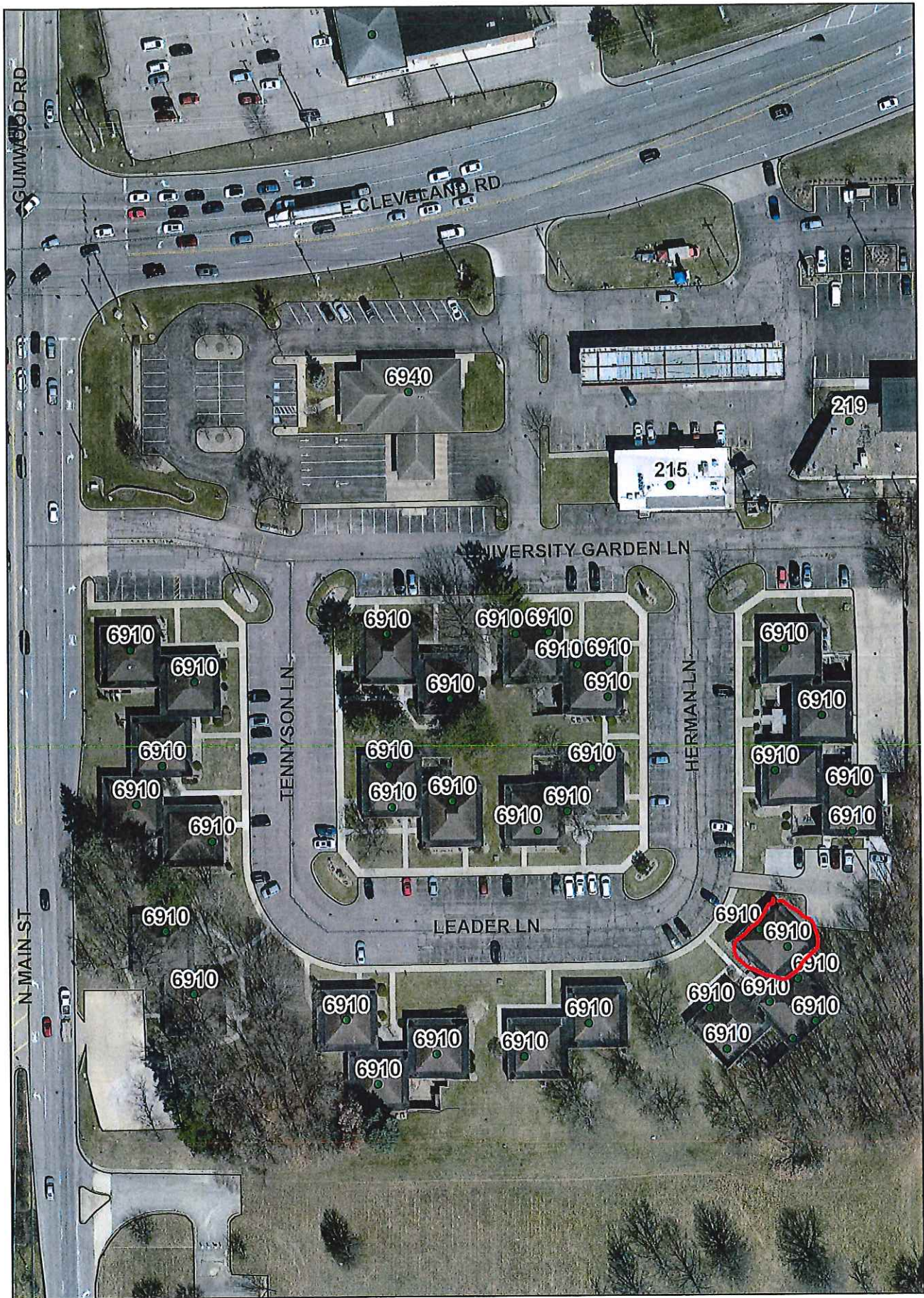
  
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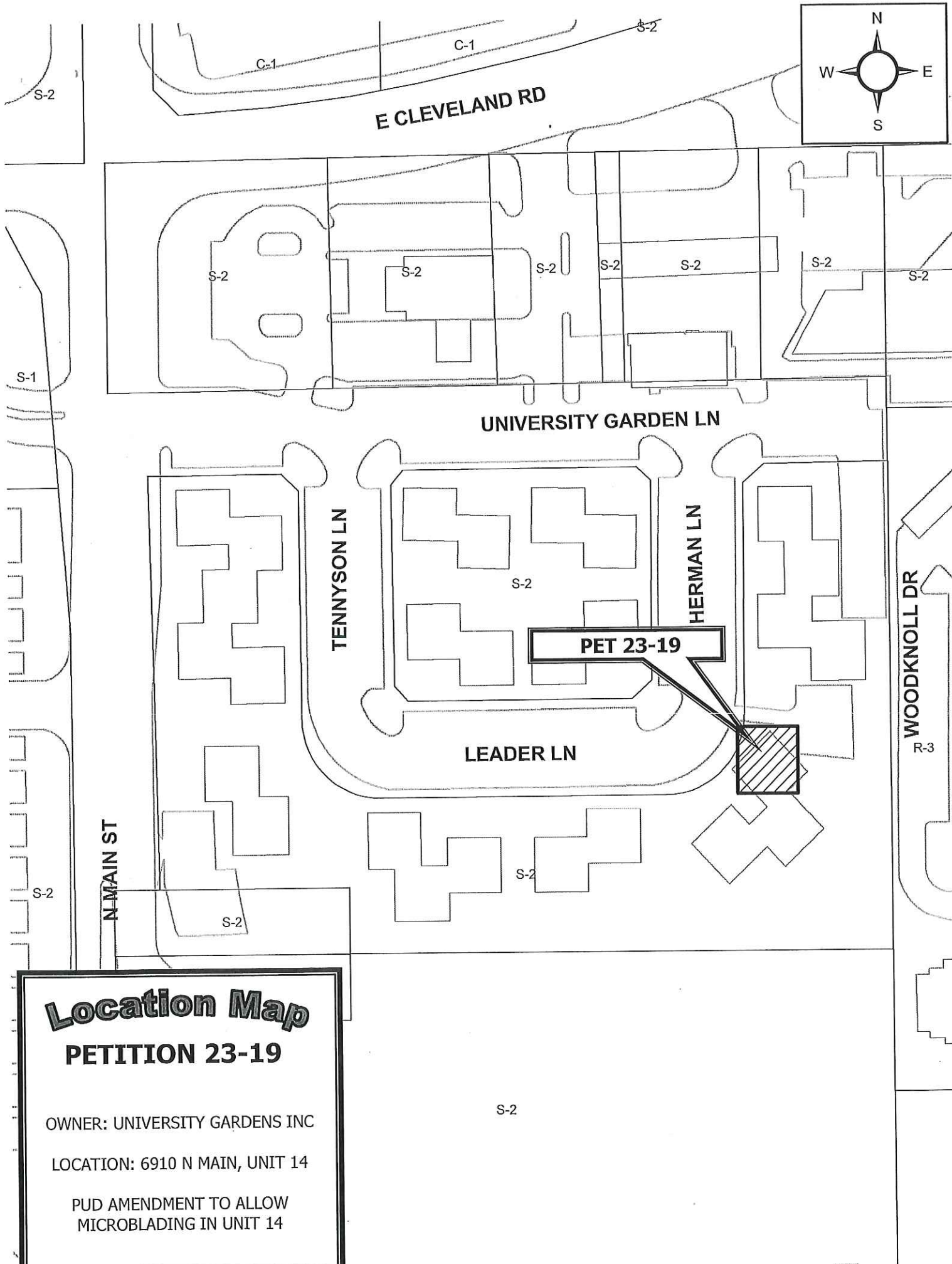
**CONTACT PERSON:**

Name Nicole Walasinski  
Address 6910 N. Main St. Building 14, Suite 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

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 7<sup>th</sup> Council meeting to the August 21<sup>st</sup> 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 10<sup>th</sup> meeting to the August 7<sup>th</sup> 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 7<sup>th</sup> 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](mailto:kprince@mishawaka.in.gov)

Website- [www.mishawaka.in.gov](http://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

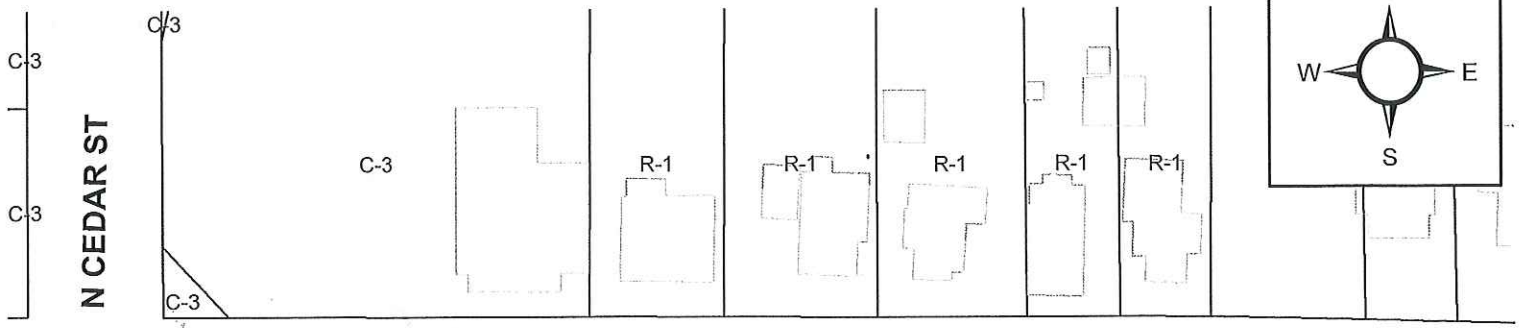
Deborah S. Block, AMC, MMC

JUN 01 2023

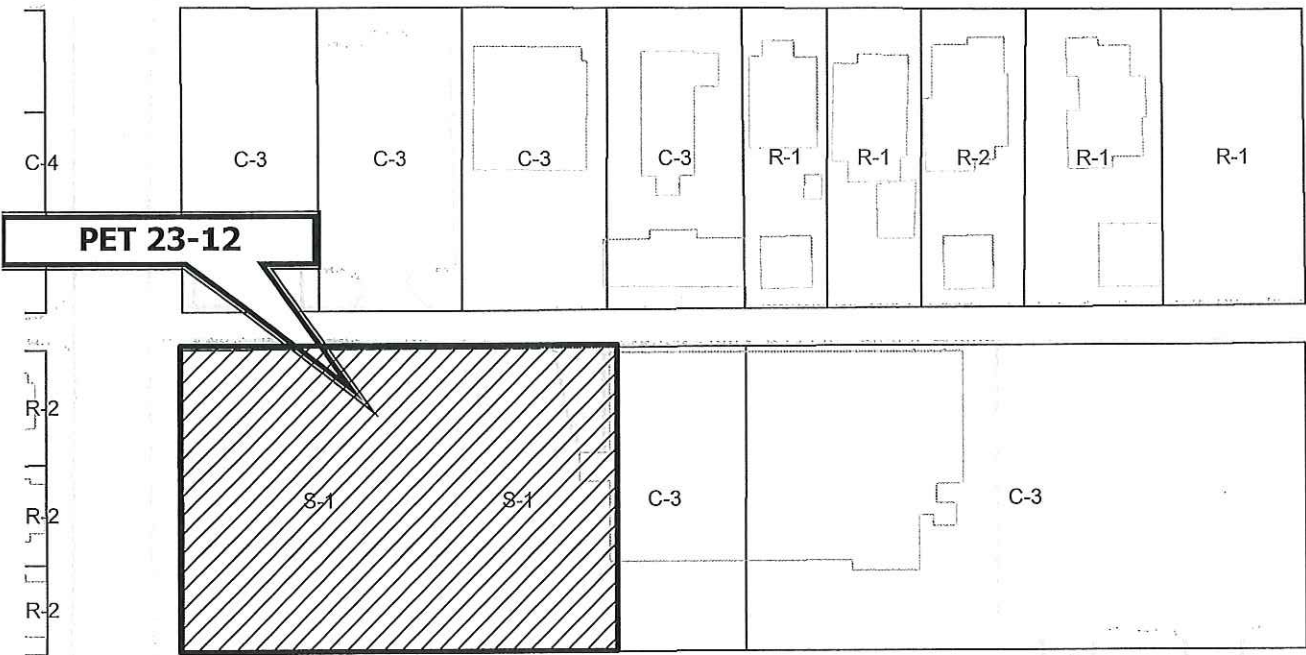
City Clerk  
Mishawaka, IN

**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 10<sup>th</sup> meeting to the August 7<sup>th</sup> 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 7<sup>th</sup> 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](mailto:kprince@mishawaka.in.gov)

Website- [www.mishawaka.in.gov](http://www.mishawaka.in.gov)

1st Reading 6/19/23

2nd Reading

Passed

Failed

Continued To

PETITION 23-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-29

ORDINANCE NO. \_\_\_\_\_

Deborah S. Block, JAMC, MMC

JUN 14 2023

City Clerk  
Mishawaka, IN

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

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

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

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

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

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

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

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



Proposed Ordinance No: \_\_\_\_\_

Ordinance No: \_\_\_\_\_

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

COMMON ADDRESS: 2406 Schumacher & Adjacent vacant property

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

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

1. Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long standing residential developments like Normain Heights and Town & Country Estates.
2. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there is residential to the north and east;
3. The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as this is a downzoning to match existing neighboring zoning; and
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 12 units per acre.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Presiding Officer



Proposed Ordinance No: \_\_\_\_\_

Ordinance No: \_\_\_\_\_

ATTEST:

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

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

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

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

\_\_\_\_\_  
David A. Wood, Mayor

Regarding Schumacher Drive Re-Zoning petition 2023-06

Good evening Mishawaka City Council members, my name is Nicholas Brenner. I am the HOA president for Town & Country Estates. I am unable to make the Monday meeting as I am traveling for work. I did want to reach out prior to the Monday vote to let you know the feelings of the residents of Town & Country Estates since we border the direct north of the proposed development. These statements are not necessarily my personal opinion but the opinions of the 108 homes that I represent.

The proposed Schumacher development has been unanimously opposed at every single step by not only the residents of Town & Country Estates but of the neighboring community and the surrounding businesses. Although there have been some concessions made on the part of the developer to try to ease some concerns of the neighborhood, it is just not enough to sway the people in their favor. Hopefully you put more weight into what the Leyte residents say given their proximity to the proposed development. While some other people in the neighborhood have varying degrees of opposition, all of the residents on Leyte are extremely opposed to this development. They felt like the neighborly thing to do would have been to have a conversation about this proposed development before the property was purchased, not after and now it is just trying to be pushed through the approval process. I have assured them that I have been communicating their opinions and concerns throughout the entire process and they are happy to know that their opinions are being weighed in this decision.

As I'm out and about in the neighborhood doing maintenance, I have had quite literally dozens if not a hundred+ conversations with people over the past several months. Without exception everyone feels that the current use is the best use of the property and would much rather have it stay zoned commercial property with a bakery being the leading vote-getter! We did recently have a meeting with the developer. They provided us with some clarification on several issues and I went back to the homeowners and presented them with that new information. We're just too far apart with what the residents would feel comfortable with and what the developers want to build. Ultimately I believe the homeowners in the neighborhood would agree to properties for sale not properties for rent and want to see significantly less units in total than what is proposed. If we could have come closer to a building plan with homes for sale and not rentals that mimics Town & Country Estates layout I believe that everyone in the neighborhood could be more receptive but that is just my opinion. If any of you would like to chat about this more please send me an email or you can text me and I'll get back to you. I don't typically carry my personal phone around the hospital so a phone call will most likely not reach me. I am currently in Fresno California so there is a time difference FYI.

## Deb Block

---

**From:** Terry Lang <tlang@gowightman.com>  
**Sent:** Wednesday, August 16, 2023 12:16 PM  
**To:** Dale "Woody" Emmons; Mike Bellovich; Kate Voelker; Michael Compton; Ron Banicki; Maggie DeMaegd; Gregg Hixenbaugh; Matt Mammolenti; Anthony "Tony" Hazen  
**Cc:** Nathan Flickner; Seth Freed; Deb Block  
**Subject:** Freed Rezoning Petition

>>> FROM EXTERNAL SENDER <<<

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

Dear Council Member,

You, as a member of the Mishawaka City Council, have been or will be receiving phone calls and emails about the above referenced rezoning petition from the surrounding residents. This email is to give you a little background information.

I am emailing you with regards to an upcoming rezoning petition coming up at the next City Council meeting.

Seth and Jamie Freed are Mishawaka residents who are looking to develop a 2.6 acre split zoned parcel in the City of Mishawaka.

The Freed petition is located on Schumacher Drive North of McKinley and South of Leyte Street.

The petition is asking for the entire property to be zoned R-3 (Multi-Family Residential).

The property is currently split zoned R-3 (Multi-Family Residential) on the Northeast 25% and C- 1 (General Commercial) for the remaining 75% of the property South. See the attached Zoning map showing said split zoning.

The surrounding properties are zoned as follow:

North is R-3 Multi-Family Residential

East is R-1 Single Family Residential

South is C-9 Automobile Sale Commercial

West is I-1 Light Industrial

We have met with the neighbors three times over the past two months. Our Site Plan has been modified after each meeting to meet the suggested changes that the residents wanted to see. Please see the attachment labelled Site Plan.

We have created a Site Plan with a mixed use of Duplexes on the north half of the property and Quadplexes on the South half of the property. The Town & Country Estates Subdivision located to the North is all duplexes subdivision with 59 duplexes or 118 residents. The property to the South is the Michiana Chrysler Dodge Jeep Ram Fiat automobile dealership.

There is currently a 1200 square foot Commercial office located in the Southwest corner of the property.



The current existing zoning of the C-1 Commercial part of the Freed property would allow over 134 different commercial uses, without any required rezoning at all. See the attached second exhibit, which lists these possible uses.

The developers are planning on living onsite to ensure this new residential neighborhood is well maintained and not a nuisance to the existing residents. The City of Mishawaka Planning staff and Engineering departments reviewed the proposed project Site Plan and gave it a favorable recommendation to the Planning Commission. Mishawaka Utilities has also reviewed the proposed plan and has indicated they have the capacity to supply city services to this project. The Planning Commission recommended a favorable recommendation to the City Council.

The Freed property has been commercially used in the past and the Planning staff's recommendation shows our proposed use to be the highest and best use of the property. Nobody likes development next door to them, but this proposed use is the least impactful of what could potential go there as it is currently zoned. There is currently a shortage of residential homes and townhouses in the Mishawaka area.

The Freed's have also provided a list of written commitments to the City of Mishawaka, to ensure the quality of the proposed residential project.  
If you have any questions of the developers, their contact info as listed below.

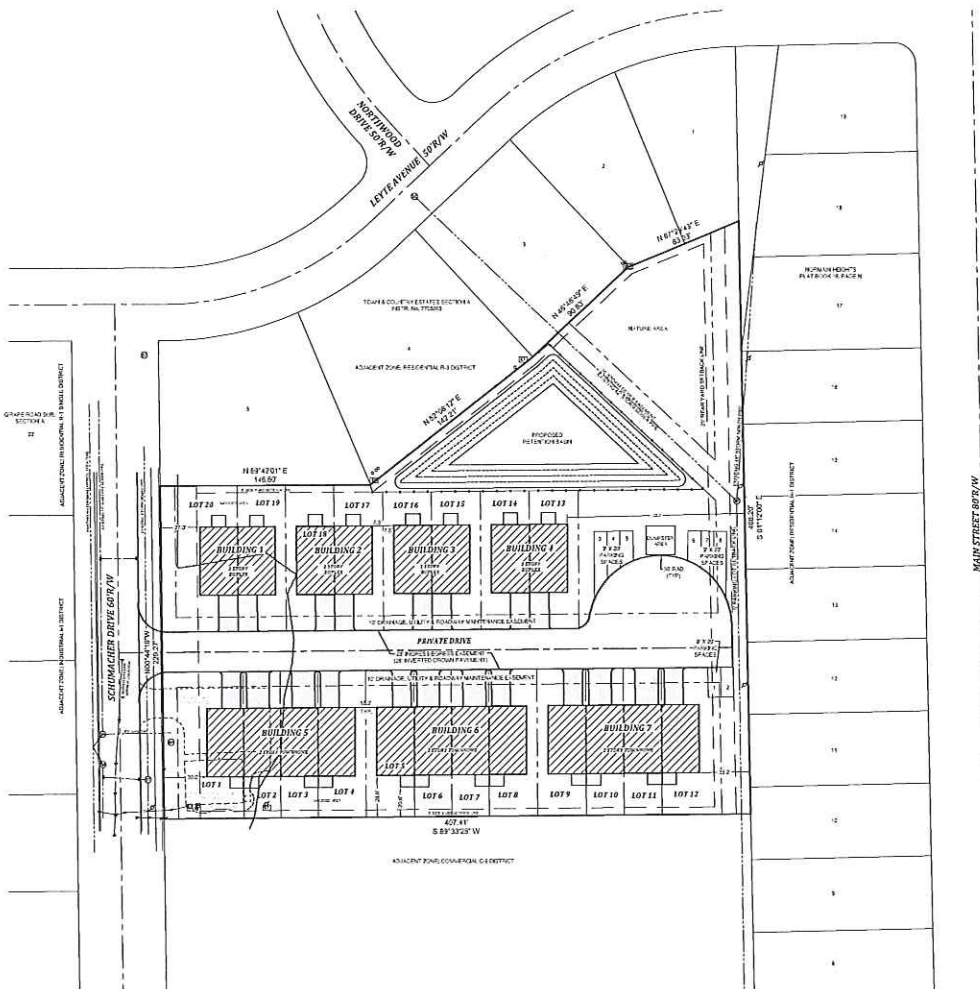
Seth and Jamie Freed  
1-260-234-1965  
sfreed@pellani.com

Please review the stated facts for this site and vote with an open mind for the good of our City.  
Thank you and have a great day.

**Terry Lang PS**

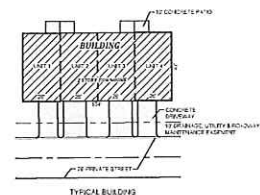
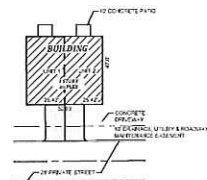
OFFICE 574.228.5904  
1402 E MISHAWAKA AVE, SOUTH BEND, IN 46615  
[GOWIGHTMAN.COM](http://GOWIGHTMAN.COM)





# **PRELIMINARY SITE PLAN** PART OF THE SOUTH-EAST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PEORIA COUNTY, ILLINOIS **FOR REZONING PURPOSES ONLY**

- NOTES:**
1. PROPERTY ADDRESS: 2408 AND 2408 SCHUMACHER DRIVE
  2. PROPERTY OWNER: FREED CAPITAL, LLC C/O SETH FREED, MEMBER  
 131 E. BORELY AVENUE, MISHAWAKA, ILLINOIS 62545  
 814-151-7007, 815-234-1865, SETH@FREEDCAPITAL.COM
  3. CURRENT ZONING: COMMERCIAL C-1 DISTRICT
  4. PROPOSED ZONING: RESIDENTIAL SUBDISTRICT
  5. CURRENT USE: SMALL RETAIL OFFICE AND LARGE WOODED AREA
  6. PROPOSED USE: 7 MULTIFAMILY BUILDINGS
  7. BUILDINGS SHALL BE SERVED BY MUNICIPAL WATER AND SANITARY SEWER
  8. SITE SHALL COMPLY WITH ALL SETBACK AND LANDSCAPE REQUIREMENTS OF THE RESIDENTIAL SUBDISTRICT ZONING ORDINANCE



- LEGEND**
- 1. LOT LINE
  - 2. BUILDING FOOTPRINT
  - 3. DRIVEWAY
  - 4. PARKING SPACE
  - 5. SIDEWALK
  - 6. STREET
  - 7. LOT DIMENSIONS
  - 8. BUILDING DIMENSIONS
  - 9. ADJACENT ZONE RESIDENTIAL DISTRICT
  - 10. ADJACENT ZONE COMMERCIAL DISTRICT
  - 11. PROPOSED PAVEMENT
  - 12. PROPOSED SETBACK
  - 13. PROPOSED DRIVEWAY
  - 14. PROPOSED PARKING SPACE
  - 15. PROPOSED SIDEWALK
  - 16. PROPOSED STREET



**WIGHTMAN**  
 1402 NORTH 14TH AVE.  
 SUITE 100, PEORIA, IL 61614  
 314-233-1441  
[www.wightman.com](http://www.wightman.com)

PROJECT NAME:  
**REZONING PETITION**

FREED CAPITAL, LLC  
 C/O SETH FREED  
 131 E. BORELY AVE.  
 MISHAWAKA, IL 62545

REVISIONS

| NO. | DATE       | DESCRIPTION           |
|-----|------------|-----------------------|
| 1   | 01/15/2020 | PRELIMINARY SITE PLAN |

DATE: 01/15/2020  
 SCALE: 1" = 30'  
 DRAWN BY: JAC  
 CHECKED BY: JAC

1 of 1



June 2, 2023

Updated August 4<sup>th</sup>, 2023

Mishawaka Planning Department  
100 Lincolnway West  
Mishawaka, Indiana 46544

Attention: Ken Prince, Planning Director

**RE: FREED REZONING – WRITTEN COMMITMENTS**

Dear Ken,;

Written Commitments items.

- Rental Rates shall be at the market rates.
- The application process will include: Applicants personal information, applicants rental history, applicants employee information, deposits, applicants questionnaire.
- Qualifications Criteria: Minimum credit score, positive reference, gross monthly income 3-4 times rent, application authorization to perform background checks on applicants.
- Buildings located on the North side of the private street shall be limited to single story Duplexes.
- Buildings located on the South side of the private street shall be limited to two story Quadplexes.
- The wood area Northeast of the existing City Storm sewer shall remain undisturbed.
- install screening approved by the city of Mishawaka along the north side of the property from Shumaker to the east side of the retention area.
- Construction times will be from 8am to 5pm.
- Phased construction: Phase 1, all infrastructure IE: road, screening fence on north property line, etc., and 1 building. Phase 2, 3 to be determined after construction begins.
- Each phase will be fully funded before beginning construction to make sure no building is left partially constructed.
- Developers are planning to live on site for the foreseeable future.

If you have any questions, please feel free to contact me.

Very truly yours,

**Terry Lang PS**

OFFICE 574.228.5904  
1402 E MISHAWAKA AVE, SOUTH BEND, IN 46615  
[GOWIGHTMAN.COM](http://GOWIGHTMAN.COM)





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[gowightman.com](http://gowightman.com)

## C - GENERAL COMMERCIAL

(a) *Permitted uses.* Only the following uses are permitted:

- (1) Adult day care center.
- (2) Animal hospitals.
- (3) Animal kennels.
- (4) Animal veterinarians.
- (5) Antique shops.
- (6) Appliance sales and services.
- (7) Art galleries.
- (8) Art supply stores.
- (9) Assembly hall.
- (10) Auctions.
- (11) Automobile accessory shops.
- (12) Automobile leasing offices.
- (13) Bait shops.
- (14) Bakery shops.
- (15) Ballrooms.
- (16) Banks, savings and loans, credit unions, and loan offices.
- (17) Barbershops and beauty shops.
- (18) Bed and breakfasts.
- (19) Beverage stores.
- (20) Bicycle sales and service.
- (21) Book and stationery stores.
- (22) Bowling alleys.
- (23) Candy stores.
- (24) Carry-out restaurants.
- (25) Cafeterias.
- (26) Catering services.
- (27) Ceramic tile sales.
- (28) Churches, synagogues, and similar places of worship.
- (29) Clothing and apparel stores.
- (30) Clubs and lodges.
- (31) Coin-operated laundries.
- (32) Colleges and universities.
- (33) Community centers, private or public.

(34) Community welfare or health centers.

(35) Comprehensive car care centers.

(36) Computer sales.

(37) Confectionery stores.

(38) Controlled uses as defined in section 137-4.

(39) Convents or rectories.

(40) Dairy stores.

(41) Dance schools.

(42) Day nurseries or day care centers.

(43) Delicatessens.

(44) Department stores.

(45) Design studios.

(46) Detective agencies.

(47) Driving schools.

(48) Drug stores.

(49) Dry cleaning, pick up and delivery.

(50) Eating and drinking establishments without drive-in or drive-through service.

(51) Floor covering sales.

(52) Florist shops.

(53) Furnace and air conditioning sales and service.

(54) Funeral homes and mortuaries.

(55) Furniture stores.

(56) Game arcade and pool hall or billiard hall.

(57) Glass sales.

(58) Gift shops.

(59) Grocery and food stores.

(60) Governmental buildings.

(61) Gymnasiums and gymnastic schools.

(62) Handicraft shops.

(63) Hardware stores.

(64) Health clubs.

(65) Health facility.

(66) Hobby shops.

(67) Home improvement retail stores.

(68) Hospitals.



(66) Hotels.

(70) Household pest extermination shops.

(71) Ice cream shops.

(72) Janitorial offices.

(73) Jewelry stores.

(74) Laundries, pick up and delivery.

(75) Lawn mower sales and service.

(76) Libraries.

(77) Liquor stores.

(78) Locksmiths.

(79) Marine accessory shops.

(80) Medical clinics.

(81) Medical laboratories.

(82) Motels.

(83) Motor bus terminals.

(84) Motorcycle accessory shops.

(85) Museums.

(86) Music stores.

(87) Newspaper offices.

(88) Nursing facility.

(89) Office buildings.

(90) Office supply and equipment sales.

(91) Offices.

(92) Optical shops.

(93) Paint, wallpaper, and decorating stores.

(94) Parking garages.

(95) Parking lots.

(96) Personal service establishments.

(97) Pet shops.

(98) Philanthropic institutions.

(99) Photocopy duplicating shops.

(100) Photographic studios.

(101) Photography supplies, equipment, and photofinishing.

(102) Pool and billiard supplies.

(103) Post offices.

(104) Printing shops.

(105) Private parks and playgrounds.

(106) Professional offices:

- a. Advertising agencies.
- b. Accountants.
- c. Architects.
- d. Attorneys.
- e. Chamber of commerce.
- f. Chiropractors.
- g. City planning.
- h. Dentists.
- i. Engineering consultants.
- j. Government.
- k. Health agencies.
- l. Insurance agencies.
- m. Interior decorating.
- n. Labor organization.
- o. Manufacturing agent.
- p. Market research.
- q. Mortgage brokers.
- r. Music instructors.
- s. Optometrists.
- t. Osteopaths.
- u. Personnel management counselors.
- v. Physicians and surgeons.
- w. Podiatrists.
- x. Public relations.
- y. Real estate brokers.
- z. Social service organizations.
- aa. Stock and bond brokers.

(107) Publishers.

(108) Radio or television studios.

(109) Railway stations.

(110) Required off-street parking.

(111) Restaurants without drive-in or drive-through service.

(112) Retail stores.

(113) Schools, public, parochial, or business.

(114) Shoe repair shops.

(115) Shoe stores.

(116) Social service organizations.

(117) Sporting goods stores.

(118) Storm window and storm door sales.

(119) Studios: art, music, ceramics, drama, speech, dance, and similar skills.

(120) Tailoring and alterations.

(121) Tanning salons.

(122) Taxicab dispatching.

(123) Taxidermy services.

(124) Tire sales and service.

(125) Tobacco stores.

(126) Transit transfer centers.

(127) Travel agencies.

(128) Union halls.

(129) Upholstery shops.

(130) Utility offices.

(131) Vending machine sales and service.

(132) Water softener sales and service.

(133) One temporary building for the construction industry which is incidental to erection of the buildings permitted by this section.

(134) Customary agricultural operations (truck farming); provided, however, that no storage of manure will be permitted within 1,000 feet of any property line.

(b) *Conditional uses.* The following uses may be conditionally approved by the board of zoning appeals for property already zoned C-1 general commercial district:

(1) Bingo hall.

(2) Branding establishment; provided, however, that it is at least 750 feet away from any residentially zoned or legal nonconforming residential property, public and private elementary, middle or high school, parks and churches as measured by a line between the nearest lot line of the branding establishment.

(3) Scarifying establishment; provided, however, that it is at least 750 feet away from any residentially zoned or legal nonconforming residential property, public and private elementary, middle or high school, parks and churches as measured by a line between the nearest lot line of the scarifying establishment.

(4) Tattoo establishment; provided, however, that it is at least 750 feet away from any residentially zoned or legal nonconforming residential property, public and private elementary, middle or high school, parks



and changes as measured by a line between the nearest lot line of the lottee parcel.

Code 1985, § 159.066; Ord. No. 2930, 9-2-1986; Ord. No. 3256, 3-20-1989; Ord. No. 3270, 5-1-1989; Ord. No. 3466, 3-4-1991; Ord. No. 3686, 5-3-1993; Ord. No. 3698, 6-21-1993; Ord. No. 4020, 2-20-1996; Ord. No. 4078, 8-5-1996; Ord. No. 4098, 10-7-1996; Ord. No. 4303, 8-17-1998; Ord. No. 4568, 2-20-2001)

## R-3 RESIDENTIAL MULTI-FAMILY

### c. 137-215. - Intent.

The residential R-3 district is designed to accommodate higher density multiple unit residential areas so as to ensure their proper location in terms of the social and economic requirements of the community, the need for multiple unit residential buildings, the effect of multiple unit residential uses on the value of adjacent areas, and the ability of the municipality, now and in the future, to provide the additional services which may be required for higher density multiple unit residential areas.

Code 1985, § 159.045; Ord. No. 2893, 6-2-1986)

### c. 137-216. - Uses.

Only the following uses are permitted:

- (1) Apartment complex.
- (2) Apartment house.
- (3) Nursing facility.
- (4) Health facility.
- (5) Clinics for humans.
- (6) Personal service shops. Personal service shops may be permitted when designed as a structural component of one high-density multiple unit residential building of at least 100 dwelling units, provided that the total shop area does not exceed 5,000 square feet, and that all personal service uses are below the first story ceiling, limited to the following uses:
  - a. Pre-school.
  - b. Day care center.
  - c. Barbershop.
  - d. Beauty shop.
  - e. Self-service laundry facilities.
  - f. Bank, savings and loan, credit union.
  - g. Private community center.
  - h. Pharmacy.
  - i. Dry cleaning, pickup and delivery station.
  - j. Postal substation.
  - k. Travel bureau.
- (7) Churches, synagogues, and similar places of worship. Rescue missions or temporary revival tents are not permitted.
- (8) Elementary and high schools, private parks and playgrounds, public libraries, private or community

swimming pools, community recreational buildings, colleges, universities, and accessory buildings

incidental to these uses, including athletic fields.

- (9) Customary agricultural operations (truck farming); provided, however, that no storage of manure will be permitted within 1,000 feet of any property line.
- (10) One temporary building for the construction industry which is incidental to erection of buildings permitted by this section.
- (11) Adult day care center.
- (12) Permitted accessory uses located on the same lot with the permitted principal use shall be limited to the following:
  - a. Private garages.
  - b. Customary home occupations or professional offices conducted by the resident only; provided that there be no external evidence of the use except a professional sign not over one square foot in area attached to an outside wall and flush mounted. No electrical signs shall be permitted.
  - c. All signs shall conform with requirements of chapter 129.
- (13) Two-family dwellings or duplex dwellings.

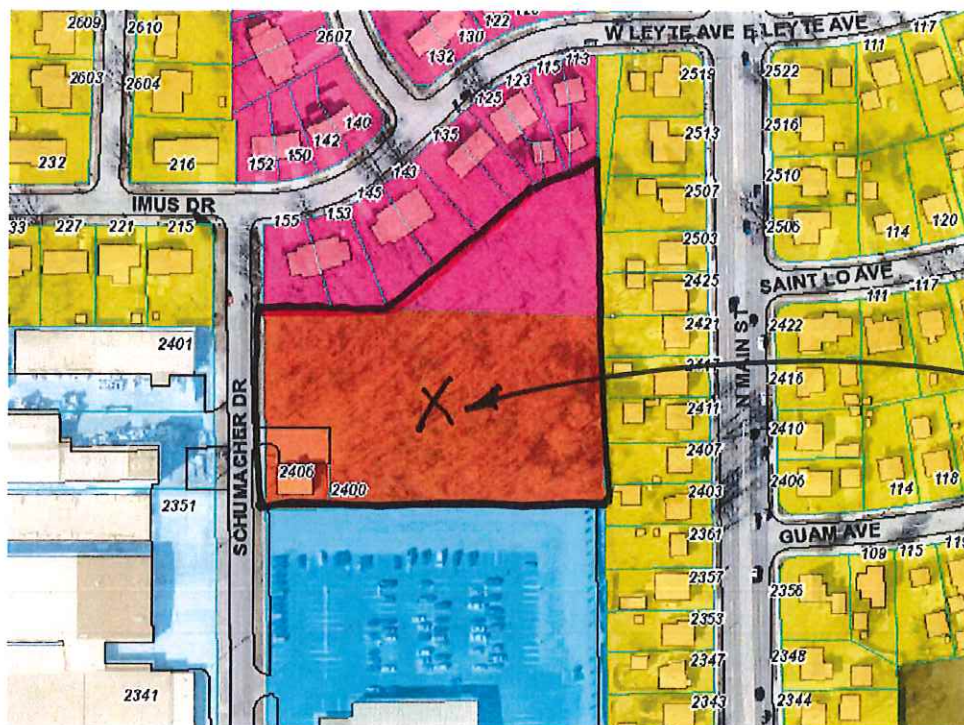
Code 1985, § 159.046; Ord. No. 2893, 6-2-1986; Ord. No. 3270, 5-1-1989; Ord. No. 3363, 3-19-1990; Ord. No. 3686, 5-3-1993; Ord. No. 3838, 6-20-1994; Ord. No. 4020, 2-20-1996)

c. 137-217. - Height, area, and developmental regulations.

In the residential R-3 district, the height of buildings, the minimum dimensions of yards and setbacks, and the minimum lot area per multiunit dwelling shall be as follows:

- (1) *Height*. No building hereafter erected or structurally altered shall exceed 120 feet or ten stories in height.
- (2) *Front building setback*.
  - a. There shall be a front building setback of at least 25 feet for all new principal buildings.  
Nonconforming buildings shall adhere to the applicable sections regulating nonconformances.
  - b. On through lots the required front building setback shall be provided on both streets. No accessory buildings shall project beyond the front building setback line on either street.
- (3) *Side building setback*.
  - a. *Interior lots*.
    - 1. A side building setback shall not be less than five feet in width as measured from the fascia board or parapet to the side lot line.
    - 2. For buildings greater than 35 feet or 2½ stories in height, the minimum width of each side building setback shall be increased by a total of five feet for each additional one story in height.
  - b. *Corner lots*.
    - 1. On corner lots the front building setback and interior side building setback regulations shall apply; however, the exterior side building setback shall not be less than 50 percent of the required front building setback





MISHAWAKA  
ZONING MAP

PETITION PARCEL

Handwritten signature or initials.

**STAFF REPORT**

Location: 2406 Schumacher and adjacent vacant property

Date: April 11, 2023

Petition: 23 06

Prepared By: CH

**GENERAL INFORMATION**

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

Status: Property Owners/Surveyor & Site Designer

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

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

Lot Size: 2.8 acres

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

**SPECIAL INFORMATION**

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

Thoroughfare: Schumacher Drive

School District: Penn-Harris-Madison

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

Comprehensive Plan: Low to medium density residential

**ANALYSIS**

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

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

The reason for the change is so the petitioner can build 6 four-unit residential buildings. With this petition the property owner is only seeking to establish the proper zoning for the proposed multi-family use. If approved, a site plan laying out phases of development will be required prior to the beginning of any construction or issuance of any permits. A detailed final site plan will address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development. A subdivision plat will also be required to establish all necessary easements.

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



The Engineering Department had no concerns with the change in zoning, however, did have comments that will need to be addressed on the subdivision and site plan. 1. Sanitary sewer shall be privately maintained and will not qualify for sewer insurance; 2. With roadway private, all maintenance (paving, plowing, etc.) would be the developer's responsibility; 3. Storm sewer easement shall be 30', not 20'; 4. Existing 10" sanitary stub is only 6' deep, so may need to be raised to provide adequate cover over pipe; 5. All proposed runoff shall be directed to proposed retention basin and be sized to handle 100 year, 24 hour storm event. This may have constraints with groundwater depths, provide Geotech report to confirm; 6. Sidewalk along Schumacher Dr within project limits shall be replaced.

Other pertinent City Departments reviewed and approved the request.

**RECOMMENDATION**

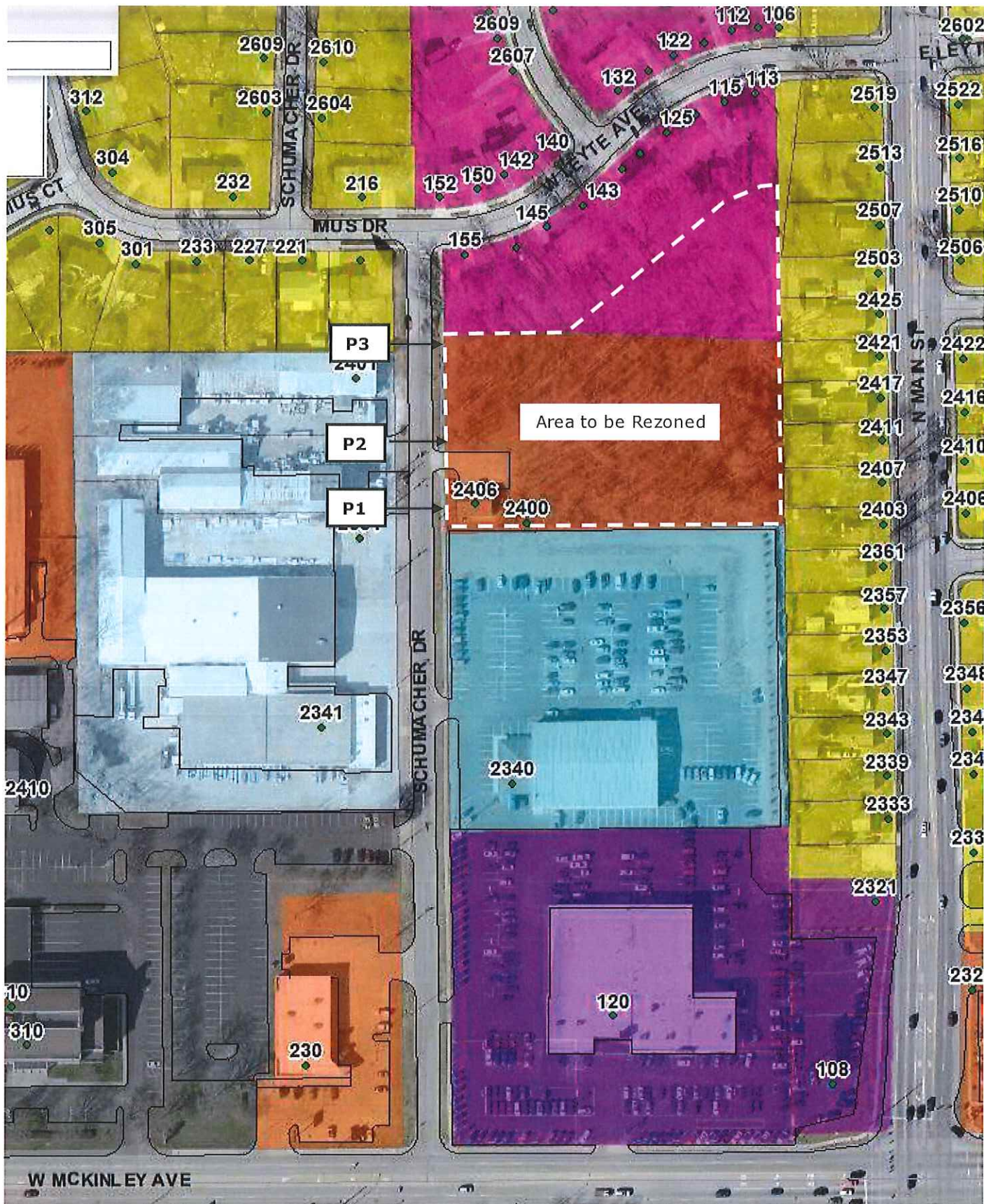
The Planning Department recommends **in favor** of Petition #23-06 to rezone the property at 2406 Schumacher Drive and the adjacent vacant property to R-3 Multi-Family Residential District. This recommendation is based upon the following findings of fact:

- 1. Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long standing residential developments like Normain Heights and Town & Country Estates.
- 2. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there is residential to the north and east;
- 3. The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family District is a desirable use for this property;
- 4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as this is a downzoning to match existing neighboring zoning; and
- 5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 12 units per acre.

**ATTACHMENTS**

PHOTOS, PETITION, SITE PLAN, AERIAL, LOCATION MAP









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



P2. Parking lot and wooded area





P3: North end of the property against property facing Imus



March 22, 2023

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

PK 23-06  
Received

MAR 22 2023

Planning and  
Community Development

Deborah S. Block, MMC, MMC

MAR 23 2023

City Clerk  
Mishawaka, IN

**RE: PETITION TO REZONE**

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

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

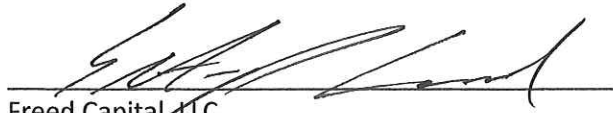
**PARCEL II:** A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded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

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

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

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

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

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

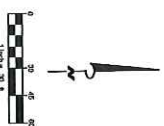
Freed Capital, LLC  
Seth Freed, Member  
131 E. Borley Avenue  
Mishawaka, Indiana 46545  
989-415-7607; 260-234-1965  
[sfreed@pellani.com](mailto:sfreed@pellani.com)

CONTACT PERSON:  
Wightman c/o Terry Lang, PS  
715 S. Michigan Street  
South Bend, Indiana 46601  
574-233-1841  
[tlang@gowightman.com](mailto:tlang@gowightman.com)

Pls 23-00

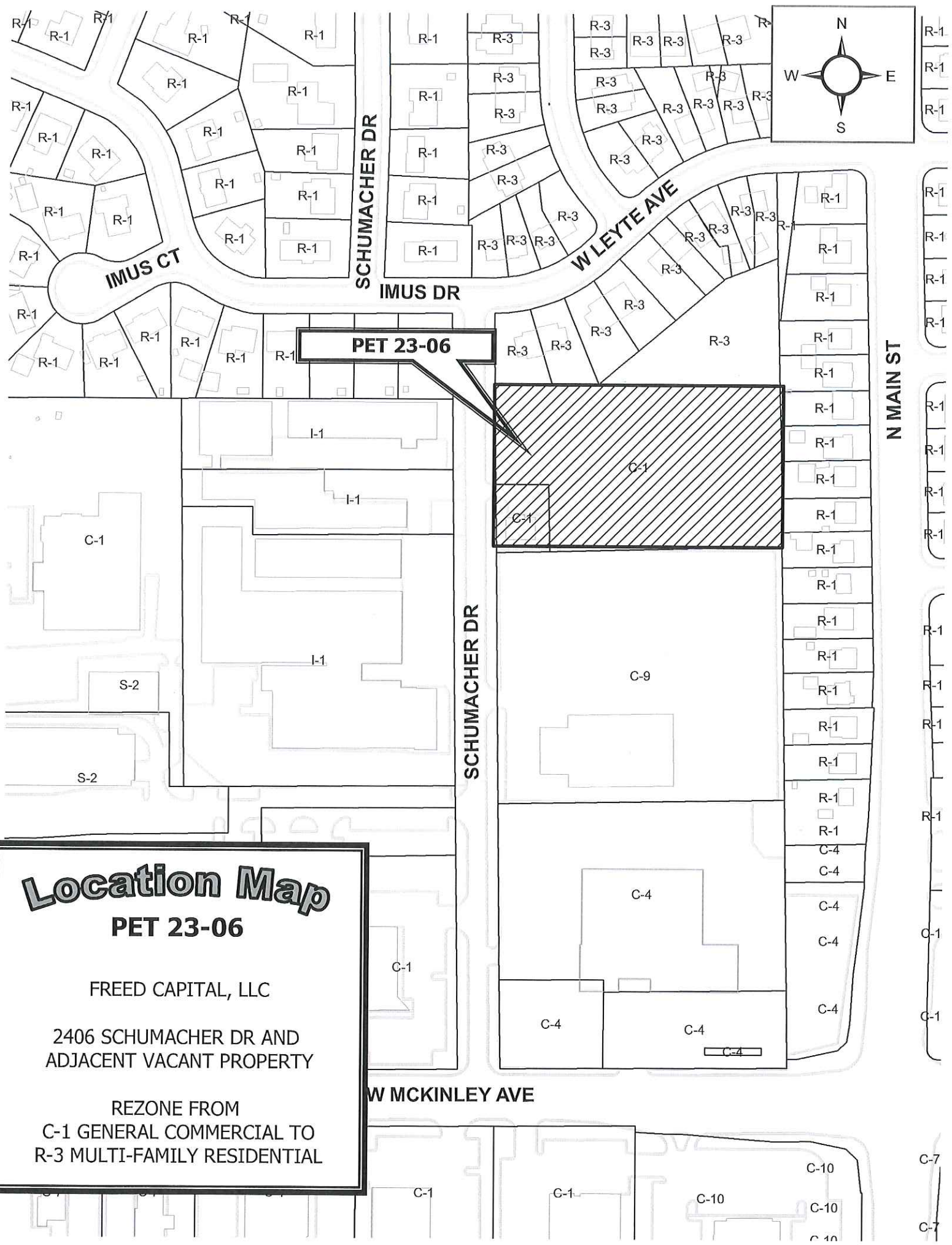


- PRELIMINARY SITE PLAN**  
PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 27 NORTH,  
RANGE 3 EAST, CITY OF MISHAWAKA, PULASKI TOWNSHIP, ST. JOSEPH COUNTY, INDIANA  
**FOR REZONING PURPOSES ONLY**



Job No. 220007  
Layout 1





# Location Map

**PET 23-06**

FREED CAPITAL, LLC

2406 SCHUMACHER DR AND  
ADJACENT VACANT PROPERTY

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

W MCKINLEY AVE

## Freed Rezoning petition

Terry Lang <tlang@gowightman.com>

Fri 6/30/2023 11:12 AM

To: Deb Block <dblock@mishawaka.in.gov>

Cc: Raven S. Boston <rboston@mishawaka.in.gov>; Seth Freed <sfreed@Pellani.com>; Nathan Flickner <nflickner@gowightman.com>

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

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

Deborah,

On behalf of our client, we would like to request that our petition for Rezoning be **Tabled until the August 21<sup>st</sup> meeting.**

I will be out of the country for the meetings in July. We will be scheduling an additional meeting before then.

Thank you for your consideration and have a great Holiday weekend.

**Terry Lang** PS

OFFICE **574.228.5904**

**1402 E MISHAWAKA AVE, SOUTH BEND, IN 46615**

**GOWIGHTMAN.COM**

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Let's learn together. Bing is powered by AI, so surprises and mistakes are possible. Make sure to check the facts, and share feedback so we can learn and improve!

Enter a question

can market value become low income rentals

- ✓ Searching for: can market value become low income rentals
- ✓ Generating answers for you...

Market-rate housing can sometimes fall into the affordable housing category, as it can be available for 30 percent or less of a household income. Income-restricted apartments have rent capped at a percentage of the median income for the area, while income-based housing is capped at 30% of the tenant's gross income. The rent of an income-restricted apartment is not allowed to exceed the market value of apartments in the area. Housing can also be naturally affordable simply because the market rent for the units falls into the range that can be considered affordable to a low- or moderate-income household <sup>1</sup>.

So, it is possible for market value housing to become low-income rentals if they are income-restricted apartments or if they are naturally affordable due to amenities, condition, age, and/or location of the units <sup>2</sup>.

Learn more:

1 of 30

1. commonbond.org 2. allianceforhousingolutions.org +3 more

Market Value can a rental that reflects market value become low income section eight

- ✓ Searching for: can market value rental become low income section eight
- ✓ Generating answers for you...

Yes, it is possible for a rental that reflects market value to become low-income Section 8 housing. A landlord can rent a unit at a price below market value because the gap is subsidized by the Section 8 program <sup>1</sup>. The Fair Market Rents are set in the 40th or 50th percentile so that landlords will be more willing to participate in the Section 8 program because they can receive a decent rent for the unit, and low-income tenants will be able to afford their portion of the rent <sup>2</sup>.

Learn more:

2 of 30

1. benefits.com 2. thebalancemoney.com 3. sparkrental.com +2 more



How can I apply for Section 8?

What are some pros and cons of accepting Section 8 vouchers?

What is the maximum amount of housing assistance allowable?

Ask me anything...



Feedback



**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 preserve and protect 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

1st Reading 8/7/23

2nd Reading

Passed

Failed

Continued To

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.

**DESIGNATED PERMITTEE EVENT VENDOR LOCATION WITHIN THE DORA (See exhibit B)**

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

4. The Common Council finds that the City of Mishawaka downtown (Ironworks Plaza, The Mill and Beuter Park) 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 throughout the entire year and during all authorized times pursuant to Ind. Code 7.1-3-1-14 as amended from time to time by the Indiana General Assembly. The City of Mishawaka Board of Public Works and Safety is hereby authorized and granted full authority to set the days and time the DORA will be open and/or change those days and times as necessary.
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 – 235 Ironworks Ave C, Mishawaka, IN 46544
- b. Public House – 330 Ironworks Ave **Mishawaka**, IN 46544
- c. Social Cantina – 235 Ironworks Ave, Ste A, Mishawaka, IN 46544

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

## Deb Block

---

**From:** Matthew Lentsch  
**Sent:** Wednesday, August 9, 2023 4:34 PM  
**To:** Gregg Hixenbaugh  
**Cc:** Deb Block  
**Subject:** DORA ordinances

President Hixenbaugh,

I am writing to ask that you would grant an extension for the 2<sup>nd</sup> reading of the 2 Designated Outdoor Refreshment Area (DORA) related ordinances until the first Mishawaka Common Council meeting in September. I believe that more time is needed to finalize the DORA ordinances, work out the practical details related to the potential implementation of the DORA as well as more time to educate our citizens most effectively about the DORA and the implications for our community.

As you are aware, the State of Indiana recently passed Senate Enrolled Act 20 which allows for the formation of Designated "Outdoor" Refreshment Areas ("DORA").

The City of Mishawaka ("City") over the last decade has made substantial improvements and supported investment and growth in downtown Mishawaka - more specifically to Ironworks Plaza, Beuter Park, and the Biergarten

Having a designated refreshment area will appeal to more visitors, citizens, and patrons to local businesses within the area.

Several businesses of all kind including restaurants, bars and shops have chosen the City of Mishawaka for their businesses based upon these enhancements.

Thus, having and implementing a Designated Outdoor Refreshment Area (DORA) in downtown Mishawaka, more specifically in and around the Ironworks Plaza will provide a significant economic boost to local businesses with similar initiatives in other cities showing a substantial increase in foot traffic, customer spending, and overall revenue for businesses within the designated area.

We believe that having a DORA will provides patrons opportunities to enjoy beverages outdoors, creating a more vibrant and enjoyable atmosphere for visitors and residents alike that will attract more people to downtown Mishawaka - more specifically to Ironworks Plaza, Beuter Park, and the Biergarten, leading to increased patronage for local restaurants, venues, bars, and shops.

The new legislation and the subsequent DORA ordinance will allow businesses more flexibility in how they serve their customers and enable them to create unique and appealing outdoor environments.

The enactment of a DORA will also encourage partnerships among local businesses, as they can work together to promote the area, coordinate events, and create a consistent and attractive experience for visitors which will strengthen the downtown community and bring a sense of unity among businesses.

Therefore, increasing foot traffic within the area will help the growth and continued economic vitality of Mishawaka's downtown and the Ironworks Plaza and thus creating a DORA will build a livelier, pedestrian-friendly environment.

Respectfully,

Matt

*Matthew Lentsch*



# 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  
IRON WORKS PHASE II  
INSTR. #0833003

W FRONT ST

N SPRING ST

N WEST ST

VERGAUWEN CT

TOWLE AVE

W FIRST ST

E FIRST ST

N CHURCH ST

N

Scale:  
1" = 200'

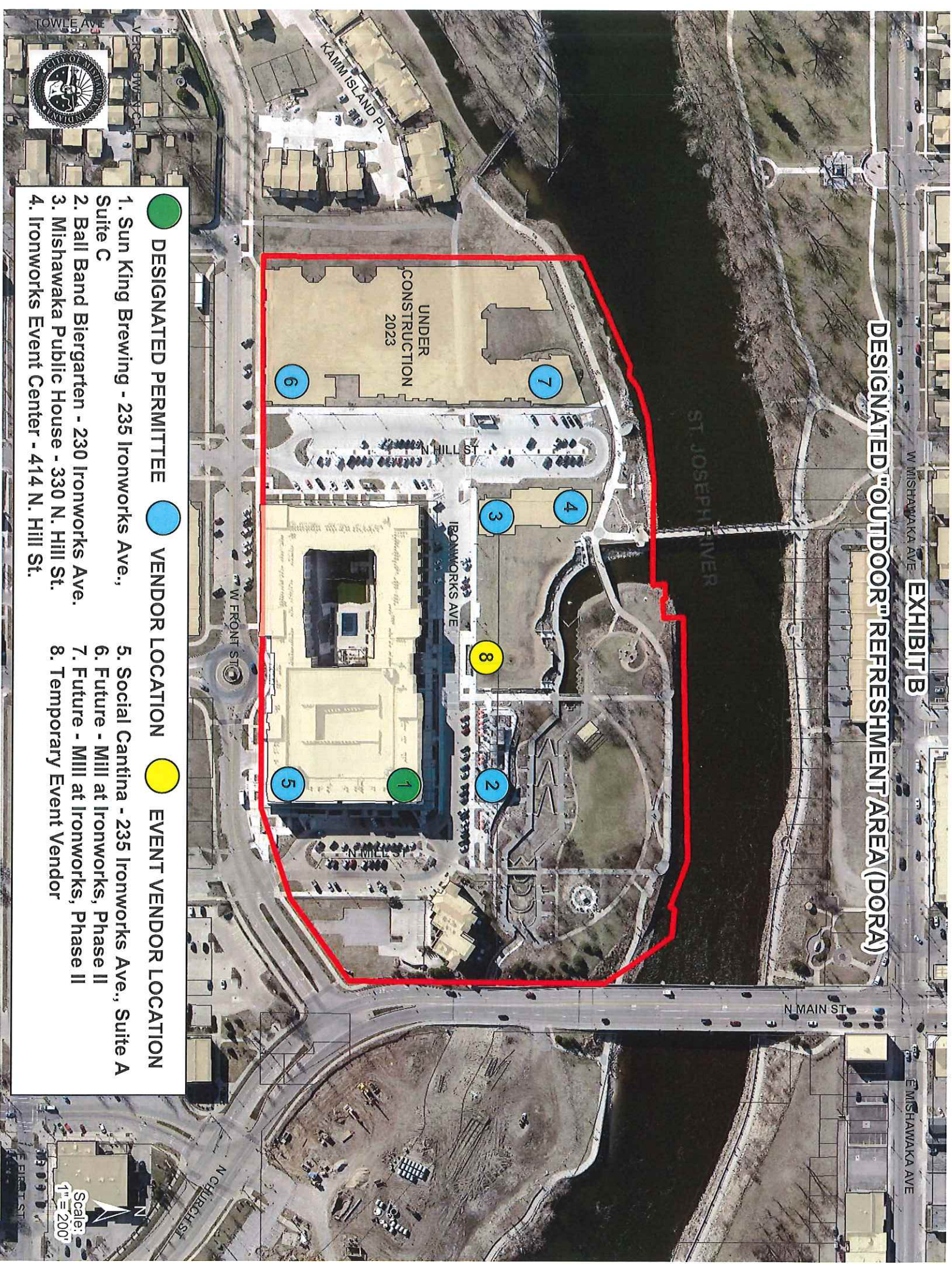


## Exhibit B



# EXHIBIT B

## DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)



- DESIGNATED PERMITTEE
- VENDOR LOCATION
- EVENT VENDOR LOCATION

- Sun King Brewing - 235 Ironworks Ave., Suite C
- Ball Band Biergarten - 230 Ironworks Ave.
- Mishawaka Public House - 330 N. Hill St.
- Ironworks Event Center - 414 N. Hill St.
- Social Cantina - 235 Ironworks Ave., Suite A
- Future - Mill at Ironworks, Phase II
- Future - Mill at Ironworks, Phase II
- 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

ST

CHRISTYANN ST

W MISHAWAKA AVE

ST. JOSEPH RIVER

SIGN  
LOCATIONS

N HILL ST

IRONWORKS AVE

N MILL ST

N MAIN ST

W FRONT ST

N WEST ST

N SPRING ST

N CHURCH ST



Designated Outdoor Refreshment Area

D.O.R.A.

You are now entering the  
Downtown Mishawaka

- 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





## *Designated Outdoor Refreshment Area (DORA)*

- The State of Indiana passed a law on July 1st that will allow cities to designate an area for outdoor alcohol consumption.
- The DORA would allow adults 21 and over to purchase an alcoholic beverage from a participating vendor and to walk within that designated area with a beverage of choice in their designated DORA cup.
- It essentially gives more freedom to our patrons and event visitors and potentially increased business for our outstanding vendors.



*Designated Outdoor  
Refreshment Area  
(DORA)*

- The Designated Outdoor Refreshment Area, better known as DORA, would be along the St. Joseph River and off of Main Street.
- The DORA as designated will help attract more visitors, people, and local businesses to the downtown area.





*Designated Outdoor  
Refreshment Area  
(DORA)*

- The proposed space, off the St. Joseph River in Downtown Mishawaka currently contains Sun King Brewery, Social Cantina, and Mishawaka Public House.
- Those businesses would be included in the Designated Outdoor Refreshment Area.





## *Designated Outdoor Refreshment Area (DORA)*

- Research on other communities that have adopted/implemented a DORA has been thoroughly done.
- Dublin Ohio is one that was looked at and Niles Michigan is another one.
- What we found out based on our research is that the DORA's have been very successful in terms of generating new business and communities with DORA's are not being negatively impacted by increased alcohol related issues.
- We have also learned that visitors coming to these communities with DORA's very much prefer these intentionally designated areas. It allows just for more freedom of movement with the beverage of your choice within the designated area.







## *Designated Outdoor Refreshment Area (DORA)*

- **How It Works**

1. Beverages must be purchased at a bar or restaurant located within the DORA boundaries. Cups must be emptied or placed in a trash receptacle before patrons enter another liquor establishment.
2. Beverages must be consumed from special DORA cups. Consumption from other vessels would be considered an "open carry" violation subject to law enforcement.
3. Beverages are allowed only within DORA boundaries.





## *Designated Outdoor Refreshment Area (DORA)*

- **How It Works (continued)**

4. Beverages may only be carried into stores displaying a green sign indicating that DORA beverages are permitted.
5. Outdoor consumption of alcohol is permitted only during DORA hours (TBD) in the designated area.
6. All other liquor laws would still apply to liquor establishments and patrons, including overserving and drunk driving laws









*Designated Outdoor  
Refreshment Area  
(DORA)*

- What would this DORA ordinance mean for Mishawaka Parks and Parks Department Programming?
- Phil Blasko will address





## *Designated Outdoor Refreshment Area (DORA)*

### Frequently Asked Questions

**Q: Can I bring my own beverages into the DORA?**

A: No. Patrons cannot bring their own alcoholic drinks into the DORA, and purchased drinks must remain in the designated DORA cup.

**Q: What types of alcoholic beverages can I carry in the DORA?**

A: Beer, wine, and liquor are all allowable drinks in DORA cups. Drinks must be purchased from a participating liquor establishment.

**Q: Can I take my DORA beverage from one liquor establishment into another?**

A: No, you cannot take a filled or partially-filled DORA cup from one participating liquor establishment into another participating liquor establishment or back into the establishment where the beverage was purchased. Used cups must be emptied or disposed of before entering a liquor establishment.



## *Designated Outdoor Refreshment Area (DORA)*

### Frequently Asked Questions

**Q: Can I shop with my DORA beverage?**

A: Yes, but only if a retailer indicates that they allow DORA beverages in their store. Please check before entering.

**Q: How will the DORA be enforced?**

A: Mishawaka Police staff will monitor the DORA area and adjust visibility and enforcement as needed.

**Q: What are the responsibilities of liquor establishments participating in the DORA?**

A: Downtown bars and restaurants are held to the same guidelines and laws to ensure the safety of their guests, check IDs, and not over-serve alcohol to patrons.





## *Designated Outdoor Refreshment Area (DORA)*

DORA Public Safety Plan overview: The Plan will help maintain public safety within the DORA. This will be accomplished in the following manner: Chief Witkowski will address.

- A Safety Plan has been developed to ensure public safety within the DORA. The Mishawaka Police Department is committed to working with the community and the businesses within the DORA to preserve and maintain the safety and security of all who visit and work within. The Public Safety Plan includes officer patrol responsibilities, extra police patrol protocols, and a schedule for reviewing and updating the Public Safety Plan.
- The Mishawaka Police Department will provide law enforcement services for the Designated Outdoor Refreshment Area.
- The Mishawaka Police Department is located nearly adjacent to the boundary of the Area. Uniformed officers will patrol the Area as part of their patrol responsibilities and shall provide primary law enforcement services.





## *Designated Outdoor Refreshment Area (DORA)*

DORA Public Safety Plan overview The plan will help maintain public safety within the DORA. This will be accomplished in the following manner: (Continued)

- The Mishawaka Police Department will provide law enforcement services for the Designated Outdoor Refreshment Area. For planned events within or adjacent to the DORA that may draw larger than normal attendance, the Chief of Police may assign additional officers to patrol the DORA.
- Large special events may require the organizers to provide additional security by hiring off-duty police officers or private security personnel. The Chief of Police has determined that the Public Safety Plan described herein is sufficient to maintain the appearance and public health expectations of areas within the DORA.



## *Designated Outdoor Refreshment Area (DORA)*

Exhibit C: DORA Public Sanitation Plan. The Public Sanitation Plan will provide a framework for maintaining the satisfactory appearance and public health of the proposed DORA, as well as the number of personnel needed to execute the Public Sanitation plan. Tim Ryan will address.

This Public Sanitation Plan can be executed with the existing City of Mishawaka personnel. The City of Mishawaka reserves the right to implement changes or modifications to the Public Sanitation Plan as needed from the commencement of the DORA until the dissolution of the DORA. Any significant changes will be communicated to all participating entities and stakeholders in DORA.





# **DORA - Designated Outdoor Refreshment Area in Dublin Ohio**

- DORA Dublin Ohio How to Video

<https://youtu.be/EI0QRuRwZ0>

**Exhibit?: DORA Public Safety Plan, The Public Safety Plan will help maintain public safety within the DORA. This will be accomplished in the following manner:**

- The Mishawaka Police Department shall provide law enforcement services for the Designated Outdoor Refreshment Area. The Mishawaka Police Department is located nearly adjacent to the boundary of the Area. Uniformed officers will patrol the Area as part of their regular patrol responsibilities and shall provide primary law enforcement services.
- The shift supervisor shall ensure that appropriate attention is provided to the Area during the hours of operation. In the event of the presence of an above-average number of people within the Area, the shift supervisor may assign additional officers as deemed necessary.
- The Area may be patrolled by foot, bicycle, Golf cart or cruiser and may be watched through the use of a drone or other surveillance tools as necessary.
- For planned events within or adjacent to the DORA that may draw larger than normal attendance, the Chief of Police may assign additional officers to patrol the DORA.
- Large special events may require the organizers to provide additional security by hiring off-duty police officers or private security personnel. The Chief of Police has determined that the Public Safety Plan described herein is sufficient to maintain the appearance and public health expectations of areas within the DORA.

The City of Mishawaka reserves the right to implement changes or modifications to the Public Safety Plan as needed from the commencement of the DORA until the dissolution of the DORA. Any significant changes will be communicated to all participating entities and stakeholders in the DORA.



**DRAFT Exhibit C: DORA Public Sanitation Plan.** The Public Sanitation Plan will provide a framework for maintaining the satisfactory appearance and public health of the proposed DORA, as well as the number of personnel needed to execute the Public Sanitation plan. The details are as follows:

- As of the opening of the DORA, fall 2023, there are currently 25 trash receptacles located in the proposed outdoor refreshment area. All trash receptacles are picked up twice daily during the months from April to October. This schedule is then reduced to bi weekly or as needed in the fall and winter months.
- Additional collections will be made on an as needed basis and will be serviced the Central Services Department. The Central Services Department will monitor the receptacles and coordinate additional collections, if needed.
- Trash receptacles may be relocated, and additional trash receptacles may be added within the DORA at the discretion of the Central Services Department. Upon approval of the TBD, additional receptacles may be added by the City or any qualified permit holder, and the servicing of such additional non-City receptacles shall remain the responsibility of the installing entity.
- Each qualified permit holder located within the DORA shall be responsible for the collection of litter near or around the premises occupied by the permit holder.
- The Central Services Department shall evaluate the need and frequency of street sweeping and servicing trash receptacles. The Board of Public Works and Safety have determined that the Public Sanitation Plan described herein is sufficient to maintain the appearance and public health expectations of areas within the DORA. This Public Sanitation Plan can be executed with the existing City of Mishawaka personnel. The City of Mishawaka reserves the right to implement changes or modifications to the Public Sanitation Plan as needed from the commencement of the DORA until the dissolution of the DORA. Any significant changes will be communicated to all participating entities and stakeholders in DORA.

# 2022 Emergency Action Plan: Ironworks Event Center

## **Park Staff:**

Kelsey Smith, Special Events and Activities Director – 574-309-4399

## **Reporting Procedures:**

**In the case of ANY EMERGENCY first call 911 and report the emergency. Then notify Kelsey as soon as possible at 574-309-4399.**

- **To Operate a Fire Extinguisher:**
  - **P** - pull the metal pin/ring
  - **A** - Aim the nozzle at the base of the fire (grab by end of hose)
  - **S** – squeeze the handle
  - **S** – Sweep along the base of the fire
  - **Make sure you always have a buddy when you use a fire extinguisher. No staff member or volunteer will attempt to extinguish a fire alone.**

## **In the event of a fire or a need to evacuate the event area:**

**Event Center** – please exit out of any indicated emergency exit. Walk, do not run. Use a calm voice and remember that we can help mitigate the effect of an emergency with the right attitude – stay calm, stay positive, follow directions. Do not stand in the parking lot or road area – we need room for emergency personnel to arrive.

- You will all meet in the middle grass plot to the west of The Mill apartment complex. If you notice someone who needs assistance, please offer to help. We can leave material items behind; we cannot leave people behind.
- Check in with the supervisor on call and make sure that we have everyone safely to the evacuation meeting spot.
- There are fire extinguishers located within the event center. These extinguishers are only rated to handle trash can sized fires or smaller. Anything larger and the fire department will need to be called out.

Please check in with the supervisor on site and make sure we have everyone safely to the evacuation meeting spot.

## **Suspicious Activity:**

In case of suspicious activity, please contact Kelsey and prepare to give a description and location. You may also ask for “assistance” in your area.



Signs of suspicious activity: person running, nervousness coupled with cupping hands (as in holding a triggering device), constantly favoring one side or one area of the body as if wearing something unusual/uncomfortable, constantly adjusting clothing, repeatedly patting oneself, carrying packages, unattended package/bag, someone asking about police presence/security, questions about where certain staff are located, person taking pictures of event personnel, person misrepresenting themselves.

If you have a gut feeling or notice someone who is not following social norms, please do not hesitate to reach out. False alarms are preferred to a missed alarm.

### **Severe Weather/ Sleet / Ice Storm / Winter Storm**

Weather conditions will be monitored and decisions to suspend, stop, or change operations will be made by the Special Events and Activities Director. In the event of severe weather, sleet, an ice storm, or a winter storm, all staff will report to the event as scheduled or call ahead if they cannot make it. Any changes made during the event will be directed to the point staff who will then distribute the information.

### **Non Life Threatening Injuries / First Aid**

If a non life threatening injury occurs, immediately notify the staff member in charge of your section. First aid kits will be present at all Parks events. Remember, use a calm voice and stay positive. Encourage steady, deep breaths and use reassuring language.

### **Active Shooter in the Park**

Run away from the sound of gunfire.

There are three responses that you can take to an active shooter situation: Run, Hide, Fight.

**RUN:**

1. If there is an escape path, attempt to evacuate.
2. Evacuate whether others agree to or not.
3. Leave your belongings behind.
4. Help others escape if possible.
5. Prevent others from entering the area.
6. Call 911 when you are safe.

**HIDE**

1. Silence your cell phone and turn off the vibrations for notifications.
2. Hide behind large objects (trees, large park equipment).
3. Remain very quiet.
4. Your hiding place should: be out of the shooter's view, provide protection from gunshots, not trap or restrict your movement.

**FIGHT NOTE: THIS IS A LAST RESORT AND YOUR FIRST ACTION SHOULD BE TO GET TO A SAFE PLACE. DO NOT RUN TOWARDS THE ACTIVE SHOOTER. YOU ARE NOT A FIRST RESPONDER AND YOU ARE NOT EQUIPED WITH LIFE-SAVING GEAR. ATTACKING THE SHOOTER IS NOT ENCOURAGED OR EXPECTED. IT IS EXPECTED THAT YOU WILL GET YOURSELF TO SAFETY. THIS IS ONLY LISTED AS IT IS A PART OF THE INDIANA STATE POLICE GUIDE. I EXPECT YOU TO HEAD TO SAFETY.**

1. Attempt to incapacitate the shooter.
2. Act with Physical Aggression.
3. Improvise weapons.
4. Commit to your actions.

Be aware of your environment. Always have an exit plan. Know that in an incident like this, victims are often chosen at random. The first responders to the scene are NOT there to respond to injuries – they are there to incapacitate the active shooter.

When 911 arrives – Remain calm and follow instructions. Keep your hands visible at all times. Avoid pointing or yelling. Know that help for the injured person is on the way.



## Deb Block

---

**From:** Matthew Lentsch  
**Sent:** Monday, August 7, 2023 5:39 PM  
**Subject:** Open containers on sidewalks and in public place are already legal in Indiana; we are not setting precedent as far as I see it here with the DORA; we are in my simple caveman lay perspective bringing structure and definition to it

## Indiana's Open Container Law

### Criminal Law

Nov 1

Everyone knows that a driver of a vehicle cannot drink alcohol while they are driving. What about passengers? Well, passengers can't drink alcohol either under Indiana's open container law.

Indiana prohibits open alcoholic beverages in a vehicle. An "open" container is one that:

(1) has been opened,

(2) has a broken seal, or

(3) has contents that have been removed.

If an alcoholic beverage is open while the motor vehicle is in operation, the motorist commits a Class C infraction. A fine of up to \$500 may be entered for a Class C infraction.

There are three exceptions to this rule. First, a passenger of a transport vehicle, like an Uber or taxi, or a passenger in the living area of a house coach (such as an RV) does not violate the open container law. The law is also not violated if the container is located in a fixed, locked compartment or a fixed center console. Finally, the law is not broken if the container is located behind the last upright seat, or another area not normally occupied by a person. However, this last exception only applies when a vehicle is not equipped with a trunk, like in an SUV.

What if you're not in a vehicle? Can you have an open container of alcohol on the sidewalk? Surprisingly, the Indiana code is silent as to open containers outside of vehicles. Individuals are allowed to have open containers in public places. It is important to remember, though, that there is a law against public intoxication. While an open

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:**



Section 1. Chapter 50, Section 50-3(a)(7) shall be amended to read as follows:

Sec. 50-3. Prohibited acts.

- (a) It shall be unlawful for any person in a city park to:
  - (7) Bring any controlled substance as defined by the laws of the state, drugs, beer, ale, or any other alcoholic beverage, into any park or consume, or have in their possession, or sell, give away, or handle, any controlled substance, or intoxicating alcoholic beverages, except on written permission from the board of parks and recreation or its duly authorized agents or unless the park is in a Designated Outdoor Refreshment Area (DORA) as established pursuant to Indiana Code 7.1-3-31

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, at \_\_\_\_\_ o'clock, P.M.

\_\_\_\_\_  
Gregg A. Hixenbaugh  
Presiding Officer

ATTEST:

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

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



## Deb Block

---

**From:** Matthew Lentsch  
**Sent:** Wednesday, August 9, 2023 4:34 PM  
**To:** Gregg Hixenbaugh  
**Cc:** Deb Block  
**Subject:** DORA ordinances

President Hixenbaugh,

I am writing to ask that you would grant an extension for the 2<sup>nd</sup> reading of the 2 Designated Outdoor Refreshment Area (DORA) related ordinances until the first Mishawaka Common Council meeting in September. I believe that more time is needed to finalize the DORA ordinances, work out the practical details related to the potential implementation of the DORA as well as more time to educate our citizens most effectively about the DORA and the implications for our community.

As you are aware, the State of Indiana recently passed Senate Enrolled Act 20 which allows for the formation of Designated "Outdoor" Refreshment Areas ("DORA").

The City of Mishawaka ("City") over the last decade has made substantial improvements and supported investment and growth in downtown Mishawaka - more specifically to Ironworks Plaza, Beuter Park, and the Biergarten

Having a designated refreshment area will appeal to more visitors, citizens, and patrons to local businesses within the area.

Several businesses of all kind including restaurants, bars and shops have chosen the City of Mishawaka for their businesses based upon these enhancements.

Thus, having and implementing a Designated Outdoor Refreshment Area (DORA) in downtown Mishawaka, more specifically in and around the Ironworks Plaza will provide a significant economic boost to local businesses with similar initiatives in other cities showing a substantial increase in foot traffic, customer spending, and overall revenue for businesses within the designated area.

We believe that having a DORA will provides patrons opportunities to enjoy beverages outdoors, creating a more vibrant and enjoyable atmosphere for visitors and residents alike that will attract more people to downtown Mishawaka - more specifically to Ironworks Plaza, Beuter Park, and the Biergarten, leading to increased patronage for local restaurants, venues, bars, and shops.

The new legislation and the subsequent DORA ordinance will allow businesses more flexibility in how they serve their customers and enable them to create unique and appealing outdoor environments.

The enactment of a DORA will also encourage partnerships among local businesses, as they can work together to promote the area, coordinate events, and create a consistent and attractive experience for visitors which will strengthen the downtown community and bring a sense of unity among businesses.

Therefore, increasing foot traffic within the area will help the growth and continued economic vitality of Mishawaka's downtown and the Ironworks Plaza and thus creating a DORA will build a livelier, pedestrian-friendly environment.

Respectfully,

Matt

*Matthew Lentsch*



# 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



## Deb Block

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**From:** Matthew Lentsch  
**Sent:** Monday, August 14, 2023 2:45 PM  
**To:** Deb Block  
**Subject:** FW: Sharing information on "Best Practices" for DORA's.

Janet sharing best practices from the Division of Mental Health and Addiction re the DORA.

See the information below.

*Matthew Lentsch*

Executive Director of Development and Governmental Affairs  
City of Mishawaka, Mishawaka Utilities  
107 North Main Street  
Mishawaka, IN 46544  
Phone (574) 258-1635; Fax (574) 258-1710  
[www.mishawaka.in.gov](http://www.mishawaka.in.gov)  
[matthew.lentsch@mishawaka.in.gov](mailto:matthew.lentsch@mishawaka.in.gov)

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**From:** Krista Neighbour <krista.neighbour@mishawaka.in.gov>  
**Sent:** Monday, August 14, 2023 2:31 PM  
**To:** David A. Wood <dwood@mishawaka.in.gov>; Matthew Lentsch <matthew.lentsch@mishawaka.in.gov>; Gregg Hixenbaugh <gahixenbaugh@mishawaka.in.gov>  
**Subject:** FYI: Sharing information on "Best Practices" for DORA's.

Hello Mayor, Councilman Hixenbaugh and Matt,

Please see below. Just an FYI email, no need to respond to me.

Sincerely,  
Krista Neighbour



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**From:** Janet Whitfield <[janetwhitfield.pepsadfc@gmail.com](mailto:janetwhitfield.pepsadfc@gmail.com)>  
**Sent:** Thursday, August 10, 2023 11:31 PM  
**To:** Gregg Hixenbaugh <[gahixenbaugh@mishawaka.in.gov](mailto:gahixenbaugh@mishawaka.in.gov)>; Maggie DeMaegd <[maggie.demaegd@mishawaka.in.gov](mailto:maggie.demaegd@mishawaka.in.gov)>; Dale "Woody" Emmons <[demmons@mishawaka.in.gov](mailto:demmons@mishawaka.in.gov)>; Mike Bellovich <[mbellovich@mishawaka.in.gov](mailto:mbellovich@mishawaka.in.gov)>; Kate Voelker <[kvoelker@mishawaka.in.gov](mailto:kvoelker@mishawaka.in.gov)>; Michael Compton <[mcompton@mishawaka.in.gov](mailto:mcompton@mishawaka.in.gov)>; Ron Banicki <[rbanicki@mishawaka.in.gov](mailto:rbanicki@mishawaka.in.gov)>; Anthony "Tony" Hazen <[anthony.hazen@mishawaka.in.gov](mailto:anthony.hazen@mishawaka.in.gov)>; Matt Mammolenti <[mmammolenti@mishawaka.in.gov](mailto:mmammolenti@mishawaka.in.gov)>; Krista Neighbour <[krista.neighbour@mishawaka.in.gov](mailto:krista.neighbour@mishawaka.in.gov)>  
**Subject:** Sharing information on "Best Practices" for DORA's.

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

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

My colleague attended a meeting that the Division of Mental Health and Addiction held recently and discussed the new DORA statute. They sent out follow-up email that included this from Lisa Hutchinson, who works with the Indiana Coalition to Reduce Underage Drinking. I am sharing this with you since I am aware that our city is looking to designate an area as a DORA. I am encouraging you to include these if they are not already part of the plan. We all want what is best for our city and residents especially when it comes to public safety. Being proactive now can help minimize any issues later. I am happy to discuss this with you and I appreciate all that you do for the city of Mishawaka. Thank you.

Lisa Hutchinson wanted to share some "best practices" for communities to be able to recommend to their local entities as they begin meeting with them. Unfortunately, the ATC only gets the list of communities who have applied once the process is near the end so it will be even more important for communities to be vigilant about trying to find out when the DORA issue is being discussed.

**Best Practices for DORAs:**

- Limit the DORA to a specific geographical area that is a manageable size for compliance monitoring, law enforcement and public safety, traffic control, and noise mitigation
- Limit the DORA to public spaces that do NOT include any residential areas (this will lessen the possibility that residents could use the "DORA cup" to fill with their own alcohol as many times as they want and walk around the DORA)
- Mandatory public safety and emergency response plans that could be the municipality plan but may be a more specific plan for the DORA depending on location
- Mandatory, non-transferable wrist bands to identify minors who are not permitted to drink OR adults 21+ who are permitted to drink – a different color each week or month will lessen the possibility that wrist bands can be removed and shared
- Mandatory signage throughout the DORA with alcohol laws regarding carding, underage drinking, drinking and driving, and health and safety warnings about drinking while pregnant or with certain medical conditions or medication
- Voluntary breathalyzer station at the exit of the DORA so people can check their BAC if they are not sure if they can legally drive (this could be done in partnership with your local or county law enforcement agencies)
- Regular compliance checks by ATC excise police - to monitor for underage drinking and sales to minors and over service
- Free space to not for profits to provide information about alcohol and other drugs
- A designated area for families that is alcohol free (and can have activities for families)
- Inclusion of vendors who sell non-alcohol products like snow cones, juice bars, coffee bars, and mocktails
- Use of non-breakable cups or containers which may be branded for the DORA



- Regular review of the DORA policy to make any changes to enhance public health and safety (should be at least 1-2 year)

Link to the ATC Nonrule DORA Policy #31: <https://www.in.gov/atc/files/Nonrule-Policy-031-DORAs.pdf>

If you have any more questions about the DORA – please contact Lisa Hutchinson [lhutcheson@mhαι.net](mailto:lhutcheson@mhαι.net)

Janet Whitfield-Hyduk  
Drug-Free Communities Grant Coordinator  
The Partnership for Drug-Free St. Joseph County

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