



AGENDA

September 11, 2023

PSAP Budget Update
6:00PM

Meetings of Standing Committees
Council Conference Room
6:45PM

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

WebEx Telephone Number:1-408-418-9388
Meeting Number (access code): 2342 104 3261
Meeting password:PRi9xsXsx25

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: 23421043261@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 21, 2023

5. Petitions, Communications, Remonstrance and Memorial

Appeal No 2023-27 Use Variance to allow Adult Daycare in I-2 Heavy Industrial District - 550 Union St.

A public hearing on Vacation 2023-04 required by State Statute on behalf of the City of Mishawaka for vacation of public right - of-way described as: the north/south alley located between West Front Street, West First Street, North Spring Street, and North Mill Street

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2023-39 Approving 12 Hour Shift Schedule for Mishawaka Police Department

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. 2023-35 Establishing a Designated Outdoor Refreshment Area - DORA
(Requesting postponement to November 20th)

P.O. No. 2023-36 Amending the Municipal Code Park and Recreation - DORA
(Requesting postponement to November 20th)

P.O No. 2023-37 Right-of-Way Vacation of unimproved alley - N/S alley bounded by W. Front St., N. Spring St., W. 1st St., and N. Mill St.
(Assigned to Land Use Planning Committee)

P.O No. 2023-38 PUD Amendment to allow Microblading in Unit 14 - 6910 N. Main St.
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

If technology is needed to present, please advise the Clerk's Office by 4:00pm the Friday before the meeting by emailing: dblock@mishawaka.in.gov or calling 574-258-1616.

Download Council Packet Link:

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

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

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 21, 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 21, 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 (E), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (P), Mr. Emmons (A), 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 August 7, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following appeal by title and read a letter from the City Plan Commission regarding their recommendation from their August 8, 2023 meeting.

**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**

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

PROPOSED ORDINANCE NO. 2023-37

**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 of unimproved alley – N/S alley bounded by W. Front St., N.
Spring St., W. 1st St., and N. Mill St.**

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2023-38

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

**PUD Amendment to allow Microblading in Unit 14 – 6910 N. Main St.
(Assigned to Land Use Planning Committee)**

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 until September 11th meeting)**

Mr. Compton made a motion to honor the request of the petitioner. The motion was seconded by Mr. Banicki and Clerk Block polled the council on the motion to postpone.

Motion carried by unanimous roll call vote (summary: Yes = 8).

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

PROPOSED ORDINANCE NO. 2023-29

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

Rezone from C-1 to R-3 Multi-Family Residential – 2406 Schumacher Dr. and adjacent property

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

Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The committee report passed 8-0.

Terry Lang, Wightman Office at 1402 Mishawaka Avenue, spoke in favor of **PROPOSED ORDINANCE NO. 2023-29** and represented the petitioner. Mr. Lang stated the petition before them was a property that was split zoned in the city of Mishawaka. Mr. Lang stated the front portion of it was zoned C-1 General Commercial use and the back portion of it was zoned R-3 immediately adjacent to the Town and Country Estates neighborhood. Mr. Lang stated the Fried family was looking to rezone it to all R-3, so they could build a series of buildings which would be townhomes to set up in a fashion with duplexes and quadplexes. Mr. Lang stated they met with the neighborhood association multiple times with regards to revisions they would like to see and adopted almost 99% of the things they asked for on the site plan to create the duplexes. Mr. Lang stated the site plan with regard to the building portion of it immediately adjacent to the Town and Country Estates neighborhood was set up for duplexes and a green space area among the north side. Mr. Lang stated all of the units in the Town and Country Estates neighborhood were all zoned R-3 and identical with what they were asking for the use. Mr. Lang stated the southern portion of it, adjacent to the C-1 General Commercial, was set up for quadplexes there and the units would be set up on individual lots as the owner had developed them over time and if the owner so desired to sell them, they could be sold as individual lots or individual buildings. Mr. Lang stated this left options open for the developer at the time if they desired to exit and move on. Mr. Lang stated the surrounding neighborhood, Town and Country Estates, to the north was R-3 and immediately to the west was a Light Industrial factory, to the east was a R-1 neighborhood, in the Normain Heights area, and then to the south was the Michiana Chrysler Jeep in that car dealership, a C-9 automotive use. Mr. Lang stated in making multiple revisions to the site plan, they had counted the number of units they were asking to put on the property and met with the Planning Department and their staff as well as the Plan Commission to look at the site plan and the ultimate master plan for the city of Mishawaka was the property to either be the Commercial use or R-3. Mr. Lang stated at the Plan Commission stage when meeting with the members, discussion took place as to making this more palpable for the council and the Plan Commission members so they put together a series of bullet point items of commitments that needed to be made and they were willing to stick with those commitments for the property. Mr. Lang stated one of the items that was a concern of the residents of the Town and Country Estates was that they were worried there would be an absentee owner of the property with rental units being unattended, but the Frieds were intending to live onsite in one of the duplex units as an assurance that there would be someone onsite actively watching the property to make sure they were being maintained in an orderly fashion and that there was not anything obtrusive going on to the neighborhood around them. Mr. Lang stated they also had communicated with the Engineering Department with regard to the capacity to handle sewer, water and electric uses on the site with which all of them came back favorable and that the city had the capacity to add the six additional buildings they were looking to put onsite there. Mr. Lang stated the residential use was the highest and best use of the property. Mr. Lang stated concerns with regard to them not being ownership units and were instead rental units and also traffic going in and out of the area

were brought up at a couple of the meetings with residents. Mr. Lang stated with the owners planning to live onsite, they ensured the residents in the neighborhood that construction would not be impactful on the area, as it would be controlled when contractors would be onsite and the hours of operation would be from 7AM to 5PM. Mr. Lang stated construction hours were sometimes determined by the weather and in certain cases, you had to work when you could to get things done scheduling wise, but they were looking to be a good neighborhood and put a fence up along the northern side to minimize the fact that the units would be next door to the neighborhood. Mr. Lang stated with the use of the property being residential, they wanted to be a good neighbor. Mr. Lang stated one of the key things the council needed to be aware of was that a split zone piece was something that should not have happened that way, but it did and he could relate because he had a property in the east of Mishawaka that was split zoned identically to this property. Mr. Lang stated he thought this would be the best approach, as well as the least impactful approach to the area and it allowed the developer to put in the residential development, given the fact that there was a shortage of homes and townhomes in the area. Mr. Lang stated he would be happy to answer any questions.

Mrs. Voelker thanked him for his work and asked if he could remind her how many units in total the plan called for. Mr. Lang stated the north side would have 3 units of duplexes and on the south side would be the quadplexes up against the commercial zoned area and he believed there would be 3 or 4 units of those there. Mrs. Voelker asked for clarification if he was saying there would be 18 units in total. Mr. Lang stated that was correct.

Mr. Compton asked if he could tell him how much of the property was zoned R-2. Mr. Lang stated about 25% of it.

Dixie Mason, 329 Imus Court, spoke in opposition of **PROPOSED ORDINANCE NO. 2023-29**. Mrs. Mason stated rezoning the property on Schumacher was something that just did not seem to fit for them and safety was one of the biggest issues. Mrs. Mason stated the city could help do anything with their safety issues they had in the past but nothing could be done in the future, she had been told. Mrs. Mason stated mailboxes had been ran over and replaced, yards had been repaired from traffic running through them and they had more young families moving in that had kids riding bikes or scooters and the parents walking with smaller kids in strollers as well as senior citizens walking very regularly. Mrs. Mason stated if the property stayed zoned as was, most of the businesses had to use McKinley to enter and exit off of McKinley, because they were prohibited from using Imus and Leyte. Mrs. Mason stated market value sounded good but they had concerns with that. Mrs. Mason stated they already had some rentals on Main Street and also a few rentals in their neighborhood which showed no accountability for ownership and you could tell the rentals from the houses that were owned, as they were not well maintained but were market value rentals. Mrs. Mason stated by adding additional rental properties to the neighborhood, they would be facing possible market value changes. Mrs. Mason stated as longtime homeowners, the concern was real of the addition changing the demographics even more. Mrs. Mason stated they loved their neighborhood and yes changes happened, but they embraced positive changes that enhanced the surrounding homes. Mrs. Mason stated their

representatives, the Council, were being entrusted that they keep the vision of the neighborhood that showed pride and respect of ownership. Mrs. Mason stated they would like to see the area remained commercial and that section was already set up for commercial and there had been no problems with the neighbors. Mrs. Mason stated yes, there was noise and they were aware of what might go into the area concern and they would rather have ownership in the area, if not it remaining commercial. Mrs. Mason stated commercial tax development could create more in property tax revenue, depending on the business that would go in that, and that was good for the city and she concluded asking the council to vote no.

Mrs. Voelker asked about her statement on prohibited traffic. Mrs. Mason clarified that those were trucks. Mrs. Voelker asked if any other car or vehicle that was visiting a business along Schumacher was welcome to travel through. Mrs. Mason stated that was correct, but they did not get a lot of that. Mrs. Voelker asked about renting versus ownership and if the units being built were built as homeowner occupied units, if she would have the same concerns as she did with rental units. Mrs. Mason stated they were totally against rentals and home ownership would be preferred.

Marjorie White, 115 Redwood Court, spoke in opposition of **PROPOSED ORDINANCE NO. 2023-29**. Mrs. White stated she was there on behalf of their president, who was in California. Mrs. White stated although there had been some concessions made on the part of the developer to ease some concerns, it just was not enough to sway the people in favor. Mrs. White stated all of the residents on Leyte were extremely opposed to the development and Nick, the president, had been communicating their opinions concerns throughout the entire process and their opinions were being weighed. Mrs. White stated everyone felt the current use was the best use of the property rather than having rentals. Mrs. White stated they had a recent meeting with the developer and they provided them with clarification on several issues but they were just too far apart with what the residents felt comfortable with. Mrs. White stated ultimately, they believed the homeowners of the neighborhood would agree to properties for sale and not for rent.

Nancy Zawaki, 2709 Schumacher Drive, spoke in opposition of **PROPOSED ORDINANCE NO. 2023-29**. Mrs. Zawaki stated she had lived on Schumacher Drive for 22 years. Mrs. Zawaki stated she hoped everyone on the Council had an opportunity to physically look at the property in question, because it was a pretty unique situation and hopefully they did that before casting their vote that evening. Mrs. Zawaki stated their neighborhood consisted of single family homes and duplexes which were in Town and Country. Mrs. Zawaki stated there were three streets in Town and Country, Schumacher, Imus and Lenson, and they were all owned homes. Mrs. Zawaki no more apartments were needed in the area and less than a mile from where they were proposing this, there were four apartment complexes currently with three on Main Street, the Addison Apartments, Williamsburg Apartments and Remington Court, and one on Grape Road, Runaway Bay. Mrs. Zawaki stated that amounted to a total of 1,208 apartments less than a mile from where they were. Mrs. Zawaki stated their neighborhood was built in the 1960s and Mayor Wood talked about preserving historic areas in Mishawaka and she was not saying that 1960 homes were historic, but she felt it was worth preserving as it was. Mrs. Zawaki stated in the 22

years she had lived there, she had not ever had any problems whatsoever. Mrs. Zawaki stated the single family homes on the three streets she referenced earlier would be impacted by the apartment development. Mrs. Zawaki asked rhetorically why one person wanting to develop on the property at 2406 Schumacher Drive overtake all of the people that lived there and the homeowners on Schumacher Drive. Mrs. Zawaki stated it was pretty obvious the residents in the neighborhood were against this development and she was as well.

Gordy Corm, 2739 Lenson Drive, spoke in opposition of **PROPOSED ORDINANCE NO. 2023-29**. Mr. Corm stated they all wanted it to be homes for sale and not for rent in their area. Mr. Corm stated people would be more inclined to keep up their homes rather than keep up their rental properties. Mr. Corm stated if it was individually owned, you would be more likely to keep up the property with the amount of money you would be putting into it. Mr. Corm stated it was a great neighborhood and they would like to leave it the way it was the best they could.

Mr. Compton thanked the neighbors for coming out that evening to speak and stated there was a concerted effort. Mr. Compton stated he had been on the council 17 years and he had not gotten as many phone calls on any other issue. Mr. Compton stated he was disappointed and felt this was the perfect scenario for the property and thought it was a perfect buffer between commercial and residential. Mr. Compton stated he thought there was a number of rentals in the neighborhood they lived in and if this were an issue of making a decision for the greater good of Mishawaka as opposed to an opinion or desire of the citizens, he would vote for it but it was not. Mr. Compton stated he would vote against it but he did know there was a new landowner there and he knew the property had sat vacant for a long time and it would not continue to stay vacant. Mr. Compton stated he hoped this would be a situation where the people who lived the closest, the Town and Country Estate folks, who would really be impacted by this would not be disappointed. Mr. Compton stated it could be much more disruptive in their lives, in safety, in traffic than what an apartment building would be and they needed apartments. Mr. Compton stated he knew there were a lot of them, but they were in huge demand. Mr. Compton stated he just wanted to express his opinion and in this case, he would follow the lead of the citizens and their requests and he appreciated them making their voices heard.

Mr. Mammolenti asked Mrs. Mason if she and all of the other residents were fully aware of the several different businesses or different types of companies that could come to that location. Mrs. Mason stated they were and they were given a list at one time and did look them over. Mr. Mammolenti stated he just wanted to make sure, because there were some rare choices that could be a possibility.

Mr. Lang addressed the council once again and stated in sending out the notices to everybody within 300 feet, according to the guidelines, he had the pleasure of pulling the names of everybody in the Town and Country Estates and about 25% lived outside of the area with addresses out of the state or out of the city, so there were rentals there. Mr. Lang stated with regard to rental of homes or townhomes as Mrs. Voelker had asked, his daughter was currently looking for a home to rent and one of the local real estate companies that rented a lot of homes,

Realty Plus on Grape Road, had a waiting list for home rentals of 150 families for the same type of townhome they were looking for at that time. Mr. Lang stated nobody liked development next door to them and he went through it himself but you had to weigh the pros and the cons of those things that could go there.

Mr. Mammolenti thanked Mr. Compton specifically and the other folks who had taken a lot of their time to meet with the constituents as well as meeting with the developer and residents. Mr. Mammolenti thanked the neighbors for their tireless efforts throughout the process and their efforts were duly noted and he thought as they sat in the position there as the council, they were put in a tough situation, as Mr. Compton mentioned, where it came down to the greater good of the city but also involved listening to the citizen's opinions too and this was a tough call. Mr. Mammolenti stated this was what government was all about and he appreciated their efforts and their concerns and he wanted them to be aware of what potentially could go in the area if this were to be turned down that evening. Mr. Mammolenti stated he felt this development was best for the city in that area, but he was going to listen to the residents and their passion and would not be in favor that evening.

Mr. Bellovich stated he had lived in Blair Hills for 41 years and he was on the board of Blair Hills for 10 years and it was great to see all of the citizens come out they were that evening, but he heard some comments about rentals and he just wanted to advise the group that they had a department that if something was not right and if structure was deteriorating or if grass was too high, he would ask them to pick up the phone and call Code Enforcement. Mr. Bellovich stated they were very responsive and they would come out if they called and they had five people who were full time in that department and were very dedicated, so he asked them to utilize Code Enforcement.

Mrs. Voelker stated she was going back and forth about this a lot and she thought when someone purchased a property, they wanted to do their best and develop something that seemed to be good business for them and what would be a good situation for the community surrounding them. Mrs. Voelker stated she sympathized and supported development in Mishawaka but she had to say looking at the current zoning and looking at the factory across the street from the proposed area and looking at the list of things that could go in there, she thought the zoning was appropriate and she was not in favor of this.

Mr. Banicki asked Mr. Trippel for clarification, this were voted down that evening if there was a one-year period before they could bring it back to the Council as the same ordinance. Mr. Trippel stated that was correct. Mr. Hixenbaugh stated he believed the phrase was it could not be substantially the same proposal, but Mr. Banicki did accurately state the timeframe. Mr. Hixenbaugh if in fact there was a no vote by a majority of the Council that evening, the 12 month period started to click that night before the same project could be brought back through the process.

Ken Prince, Director of Planning and Community Development, wanted to let everyone know the procedure of how things happened and stated this was a hearing item before the Council because of the requested change in zoning. Mr. Prince stated but for example, by right they could put a hotel in the property (even though Mr. Prince did not think a hotel would go on this property) and it would not come before the Council and only come before the Plan Commission. Mr. Prince stated if they had somebody interested in building a hotel and this got turned down that evening, they could apply and build a hotel with no hearing, no notice, no public meeting and it would only be a matter of submitting the site plan before the Plan Commission if it met their ordinance requirements and if it were approved. Mr. Prince stated he just wanted to make clear how the process worked.

Mr. Compton asked Mr. Prince, with this being split zoned, if a commercial business were wanting to come in there if they had to rezone to make the property completely commercial. Mr. Prince stated only if they were going to use all of the property as commercial and they could very easily use the current residentially zoned property for a retention pond or that type of thing to fit it under the current zoning. Mr. Prince stated he needed to look at the rules relative to that split zoning but that was his understanding. Mr. Compton stated his concern was that whatever might be planned to be there, a whole different group of neighbors would come out and be opposed to a business, so it kind of locked this property into nothing. Mr. Prince stated that residentially zoned property was actually part of the wooded area and then the current proposal he believed with a good portion of it, if not all of it, was going to be proposed as remaining open space because of the location. Mr. Prince stated it was a difficult area to get to so he did not think it had much viability whatsoever in terms of commercial use. Mr. Prince stated there was very little potential for development and as the current design had it laid out, it was very logical in terms of the approach of the two different zonings of property. Mr. Prince stated the retention pond in the area that kind of bled up to the northeast was the area that was zoned residential.

Mrs. DeMaegd stated in the last couple of months, she had been through both neighborhoods, the Town and Country Estates and the neighborhood directly to the west of them. Mrs. DeMaegd stated she had knocked on every door and spoke to as many residents there in each community she could and appreciated them taking the time to talk to her and have their feelings, worries, concerns and hopes for the property told to her. Mrs. DeMaegd stated as a person who was strong on the rights of property owners, she thought this was a hard choice for her as well as it was for Mrs. Voelker but she was going to be voicing her opinion for the residents because they had taken the time, given the effort and had such passion for their neighborhoods and it was a good thing. Mrs. DeMaegd stated she was told by several neighbors that there was nothing they could do but now they knew that was not always the truth and that was not always the way things worked. Mrs. DeMaegd stated they had a voice and she appreciated them letting the Council know.

Mr. Hixenbaugh added that he would also be voting no that evening. Mr. Hixenbaugh also acknowledged the significant effort the developer made to not only put together the written commitments but to meet and to try to address the concerns of the surrounding neighborhood.

Mr. Hixenbaugh stated he wished that would have happened sooner in the process and perhaps they would be looking at a different outcome, but however they got to that point, they were at that point. Mr. Hixenbaugh stated he, like others, saw some value in the proposal and the underlying landowner at some point in time had to be allowed the opportunity to build something there and he suspected the vast majority of them would agree with that. Mr. Hixenbaugh stated whether this was the right project or not was the question before them, but at some point in time something had to be allowed to be developed and built there. Mr. Hixenbaugh congratulated those of the residents who worked the neighborhood and shared information with their neighbors. Mr. Hixenbaugh stated he was not sure he received the most phone calls he ever had on one issue in this case, but it certainly was right up there with regard to their outreach to the Council directly. Mr. Hixenbaugh stated more to the point, these type of matters in his mind did not always simply boil down to a show of hands and a preference on the part of the neighborhood even though that was important and a piece of the puzzle, but they also had to look at what was in the best interest of the community as a whole and that was where he saw some value in the proposal. Mr. Hixenbaugh stated however, in this instance, the fact that those buildings that lied on Schumacher were solely commercial and industrial in nature, led him to believe that this was the highest and best use of the property to remain commercial. Mr. Hixenbaugh stated for the here and now based on the proposal, he was going to be voting against it but that was with the understanding that at some point in time, the developer needed to have the ability to receive some return on their investment and they would see what the future held.

Question was called for at 7:50PM for **PROPOSED ORDINANCE NO. 2023-29. Motion failed by unanimous roll call vote (summary: No = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance failed 8-0.

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

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

Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The committee report passed 8-0.

Krista Hill, Senior Planner with the Department of Planning and Community Development, spoke in favor of **PROPOSED ORDINANCE NO. 2023-31.** Mrs. Hill stated her role that

evening was as the Secretary of the Historic Preservation Commission. Mrs. Hill stated the Historic Preservation Commission heard this in their July meeting and they recommended unanimously in a favorable recommendation to the Council, so she just wanted to say thank you to Mrs. Lou Ann Welsh and Mr. Brent Spring, the owners, and also Frankie Spring who was participating via WebEx and the amount of time and effort that went into putting the petition together. Mrs. Hill thanked them for wanting to preserve their home.

Lou Ann Welsh, Married to Brent Spring who was the owner of 1202 E. Mishawaka Avenue, spoke in favor of **PROPOSED ORDINANCE NO. 2023-31**. Mrs. Welsh stated the exterior of the house had changed very little since it was built in 1928 and it was a good example of colonial revival architecture. Mrs. Welsh stated no additions had been made to the structure and the most significant change was the replacement of the original green tile roof to a shingled roof in the 1960s due to a fire that was contained to an upstairs bedroom and the attic. Mrs. Welsh stated pictures obtained of the house in the late 30s and early 40s showed the façade of the house the same even down to the knocker on the front door. Mrs. Welsh stated beginning with the first owner in 1928, the house had been owned by some hardworking and remarkable Mishawaka citizens. Mrs. Welsh stated four of the six previous owners were business people with businesses located in Mishawaka with the fifth being Principal of Mishawaka High School and if that was not enough, the Gates family confirmed what many neighbors had told them for years that Billy Graham performed his first wedding ceremony in their home. Mrs. Welsh stated the neighborhood where 1202 E. Mishawaka Avenue was located was an old neighborhood filled with charming and well cared for properties. Mrs. Welsh stated it was important to preserve the history and architecture of these old houses for future generations. Mrs. Welsh stated they would not be the first house in the area to be designated as a historic landmark and if they agreed to confirm the designation, she was confident that it would not be the last. Mrs. Welsh thanked the Council for their consideration.

Mr. Mammolenti commended both Mrs. Welsh and Mr. Spring on all of the years of extreme hard work and every time he drove by, they were doing some sort of yard work and hard work to maintain the property to near perfection. Mr. Mammolenti congratulated them both.

Brent Spring, owner of 1202 E. Mishawaka Avenue, spoke in favor of **PROPOSED ORDINANCE NO. 2023-31**. Mr. Spring stated since they first walked into the house just prior to their wedding, they walked in and Mrs. Welsh walked up the staircase and said that they did not need to look any further and she had done most of the pushing and working and encouraging him to do all of the things to keep it the way it was and they were in the process currently of redoing the front porch. Mr. Spring stated the next process was having the windows restored because they had original windows in all of the house except for the room where the fire was. Mr. Spring appreciated their consideration.

Mrs. Voelker stated the sweat equity they put into the house with all of the hard work over the years really showed and with talking about rental properties with the last matter that came before them, pride of homeownership really showed and pride of Mishawaka history really showed and it was important they as a community and as individuals recognized the history in their community and take care of their properties so they could remain the wonderful city that they

were. Mrs. Voelker stated the history sometimes seemed not as important with so many other things that were seen as bigger than that but when it came to walking a neighborhood and seeing a beautiful home, you were maintaining your property and recognizing and honoring the historic nature of the property, not just the architecture of the property but also the many prominent families that had lived there in the past and upheld your neighborhood as well. Mrs. Voelker thanked Mr. Spring and Mrs. Welsh for being willing to do that and Frankie for the hard work in putting the document together so they could get to that point.

Frankie Spring, daughter of Brent and Lou Ann, spoke in favor of **PROPOSED ORDINANCE NO. 2023-31** and also prepared the application. Ms. Spring stated she thought her mom said most of the things regarding the history of the house but she wanted to add that it was a fun experience to prepare the application and it taught her a lot of new things about the history of the house. Ms. Spring was happy to provide her expertise to help this application happen.

Mrs. Voelker thanked Mrs. Hill for everything she did for the Historic Preservation Commission and putting together the documentation that was required for designating a historic landmark was meticulous and to her, would be daunting and mind boggling so she really appreciated the work she had done on this one and the work she did on the landmark they had recently and all of the meticulous work she did for Historic Preservation Commission.

Question was called for at 8:01PM for **PROPOSED ORDINANCE NO. 2023-31. Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5856.**

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) (Requesting postponement to September 11th)

Mrs. Voelker made a motion that the Council grant the petitioner's request. With a second from Mrs. DeMaegd, Clerk Block polled the Council on the motion to postpone.

Motion passed by unanimous roll call vote (summary: Yes = 8).

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

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
(Requesting postponement to September 11th)**

Mrs. Voelker made a motion that the Council grant the petitioner's request. With a second from Mrs. DeMaegd, Clerk Block polled the Council on the motion to postpone.

Motion passed by unanimous roll call vote (summary: Yes = 8).

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

PRIVILEGE OF THE FLOOR

Jeffrey Miller, 321 W 7th Street, announced the West End Neighborhood Watch would be meeting on Wednesday September 6th at 7PM at City Hall and their guest speaker would be Judge John Broden of St. Joseph County Circuit Court. Mr. Miller stated all Mishawaka residents were welcome to attend.

ADJOURNMENT 8:05PM

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

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

Please understand that you or your representative **MUST** be present at the public hearing. In the case of a USE VARIANCE, two (2) public hearings will be conducted— one hearing with the Board of Zoning Appeals and one hearing with the City Council, normally the following week after the Board hearing. It is the responsibility of the Appellant to establish the date and time of the public hearing with the Common Council. **PERSONAL NOTIFICATION IS NOT GIVEN FOR THE COMMON COUNCIL PUBLIC HEARING.** The staff for the Board does send notification for the Board of Zoning Appeals meeting, along with a staff report to the Appellant. You are welcome to call the Department of City Planning if you have any questions. Secretary to the Board is:

Donna Burkart

(574) 258-1625 Fax (574) 968-6999

The following are the questions that **MUST** be addressed and discussed within the body of your appeal.

DEVELOPMENTAL VARIANCE

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why.*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why.*
3. Will strict application of the terms of this chapter result in practical difficulties in the use of the property? *Explain your reason why.*

USE VARIANCE

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

NO the approval will not be injurious to the public health, safety, morals, or general welfare of the Community. We will use the building as an adult day service, where the attendees will learn skills that can help them with their activity of daily living. This is a great way to use the building. We will also use it as our offices.

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

No, the value of the property adjacent will lower due to granting if this variance. The building has been vacant for some years and the landscaping environment appears to be deteriorating due to lack of care. Our use of the building will enhance the landscaping appearance of the area, as we start using and taking care of the building, through regular maintenance. The building next door is owned by the city, and it is not in a usable condition.

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

No, the building is designed with large open spaces that are very appropriate for effective and efficient use for adult day service.

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

Yes, we will have a huge building that cannot be used economically for office use only. We need the variance to be granted for use to use this building economically. This is a large building and day service program requires huge space for people with various needs to have their needs met without overcrowding.

5. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?
Explain your reason why. **No**

SIGN VARIANCE

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why*
3. Will strict application of the terms of the On-Premise Sign Standards Ordinance result in practical difficulties in the use of the property? *Explain your reason why*

THIS IS NOT A FILL-IN FORM, BUT A SAMPLE APPEAL TO BE USED AS A GUIDE WHEN PREPARING YOUR APPEAL

DATE: 08/14/2023

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. **Comfy Homes LLC**, I am the owner of the following described real estate 550 South Union Street located within the City of Mishawaka, ____ Township, St. Joseph County, State of Indiana, to-wit:

550 S Union

(PROVIDE ACCURATE LEGAL DESCRIPTION AND ALSO THE COMMON ADDRESS—A TAX KEY NUMBER IS NOT A LEGAL DESCRIPTION) see attached

2. The above-described real estate presently has a zoning classification of Industrial 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: Adult Day Service and Office Use.
4. Appellant desires to (Explain what is proposed that violates the Ordinance.)

The current classification as industrial zoning is outdated. The buildings around us are owned by the City of Mishawaka and none of those buildings are currently used for industrial purposes. The neighboring buildings have no active industrial usage.

5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.)
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
Without the granting of the variance, the building will remain vacant or underutilized. The building was acquired in good faith that the zoning variance will be granted. The granting of the variance will contribute to community development, and jobs. Many adults will benefit by having a place they look forward to going to every morning and returning home with a fulfilled sense of purpose and accomplishment for a day well spent.

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.*
- (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.*
- (3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*
- (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.*
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *YES OR NO and explain your reason why.*

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

Signature of Property Owner/Title Holder

Print Name Here

Reuben Kangethe

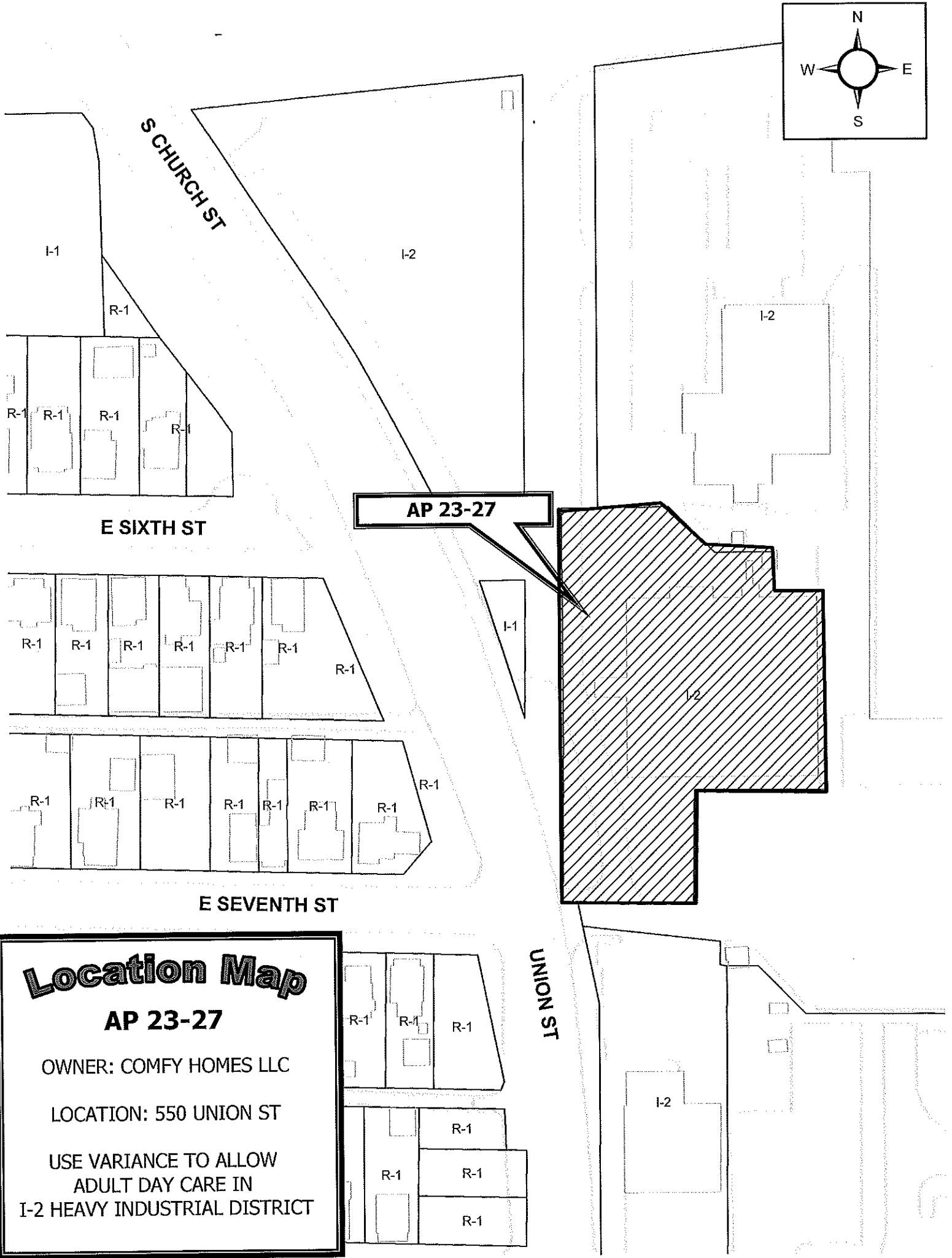
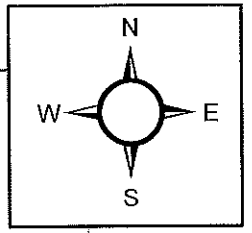
Second Property Owner/Title Holder

Print Name Here

CONTACT PERSON:

Name: Reuben Kangethe/ Comfy Homes LLC
Address: 550 South Union Street, Mishawaka, 46544
Day Phone Number: 574 3002990
Fax Number: 5743450575
Email: rkangethe@residentialoption.com





Location Map

AP 23-27

OWNER: COMFY HOMES LLC

LOCATION: 550 UNION ST

USE VARIANCE TO ALLOW
ADULT DAY CARE IN
I-2 HEAVY INDUSTRIAL DISTRICT



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2023-04</u>
PETITION NO.	<u>2023-18</u>
DATE of HEARING	<u>09-11-23</u>
TIME of HEARING	<u>7:00PM</u>

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

Right-of-Way Vacation of unimproved alley – North/South alley bound by West Front Street, North. Spring Street, West. 1st street., and North Mill Street

NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on September 11, 2023 at 7:00 pm in the Council Chambers, City Hall, 100 Lincolnway West, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

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

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

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2023-39
ORDINANCE NO. _____

Deborah S. Block, MMC, MMC

AUG 30 2023

City Clerk
Mishawaka, IN

**AN ORDINANCE APPROVING A TWELVE HOUR SHIFT WORK SCHEDULE
FOR THE MISHAWAKA POLICE DEPARTMENT**

WHEREAS, the City of Mishawaka ("City") and the Mishawaka Fraternal Order of Police, Lodge 91 ("Union") reached an agreement to change the work schedule for police officers assigned to the Uniform Division within the Mishawaka Police Department ("MPD") to a twelve (12) hour shift work schedule; and

WHEREAS, that agreement is reflected in the attached Memorandum Of Understanding Regarding Twelve Hour Shift Work Schedule ("MOU") signed by Mishawaka Police Chief Kenneth Witkowski, Jr., and Union President Richard Freeman on August 24, 2023; and

WHEREAS, in order to facilitate the change to a twelve hour shift work schedule amendments need to be made to the current Collective Bargaining Agreement between the City of Mishawaka, Indiana and Mishawaka Fraternal Order of Police, Lodge 91, dated January 1, 2023 – December 31, 2024, ("CBA"); and

WHEREAS, those changes to the CBA are listed in Addendum A to the attached MOU; and

WHEREAS, the City, acting by and through its Board of Public Works & Safety, approved the attached MOU and changes to the current CBA in Resolution 2023-12; and

WHEREAS, Ordinance No. 5249 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The attached Memorandum of Understanding Regarding Twelve Hour Shift Work Schedule and the amendments therein to the Collective Bargaining Agreement between the City of Mishawaka, Indiana and Mishawaka Fraternal Order of Police, Lodge 91, dated January 1, 2023 – December 31, 2024, are hereby approved.

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

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

Presiding Officer

ATTEST:

Deborah S. Block /s/

Deborah S. Block, IAMC, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ____ day of _____, 2023 at __.m.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF LAW

August 30, 2023

Mishawaka Common Council
100 Lincolnway West
Mishawaka, Indiana 46544

Deborah S. Block, AMC, MMC

AUG 30 2023

City Clerk
Mishawaka, IN

Re: Twelve Hour Shift Work Schedule for the Mishawaka Police Department

President and Honorable Council Members:

The City of Mishawaka ("City") and the Mishawaka Fraternal Order of Police, Lodge 91 ("Union") reached an agreement to change the work schedule for police officers assigned to the Uniform Division within the Mishawaka Police Department ("MPD") to a twelve (12) hour day.

That agreement is reflected in a Memorandum of Understanding Regarding Twelve Hour Shift Work Schedule ("MOU") signed by Chief Witkowski and Union President Richard Freeman on August 24, 2023.

In order to facilitate the twelve hour shift work schedule, changes had to be made to the current Collective Bargaining Agreement ("CBA") that expires on December 31, 2024. Those changes are reflected in Addendum A to the MOU.

The Board of Public Works & Safety, approved the MOU and amendments to the CBA depicted in the MOU by passing Resolution 2023-12, on August 29, 2023.

Attached to this letter for your consideration is a proposed Ordinance approving a twelve hour shift work schedule for the Mishawaka Police Department and the amendments made to the CBA. The MOU and proposed amendments to the CBA are attached to and referenced in the Ordinance.

Sincerely,

Patrick J. Hinkle

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

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

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

**MEMORANDUM OF UNDERSTANDING
REGARDING
TWELVE HOUR SHIFT WORK SCHEDULE**

WHEREAS, the City of Mishawaka, Indiana ("City") and the Mishawaka Fraternal Order of Police, Lodge 91 ("Lodge") have previously entered into a Collective Bargaining Agreement ("CBA") for a term that ends on or about December 31, 2024; and

WHEREAS, the parties have determined that it is in their mutual best interest to implement a change in the work schedule for police officers assigned to the Uniform Division within the Mishawaka Police Department ("MPD"), such that these officers will begin to work daily shifts that are based upon a Pitman Schedule and consist of a twelve (12) hour day; and

WHEREAS, the parties have determined that it is also in their mutual best interest to implement this change in the daily work schedule for police officers assigned to the Uniform Division on or about January 1, 2024, which is prior to the previously agreed upon expiration date of the CBA; and

WHEREAS, subject to approval by the Board of Public Works and Safety and the Common Council of the City of Mishawaka, that parties have further agreed that it is appropriate for both the compensation received by police officers and certain relevant terms of the CBA to change at the time that the twelve (12) hour shift schedule is implemented;

NOW THEREFORE, the parties do hereby agree as follows:

- A. Subject to the formal approval of a Public Safety Salary Ordinance that incorporates the agreed upon terms, the City will pay to certain police officers represented by the Lodge the following annual salaries and stipends during calendar years 2024 and 2025
1. **2024 Salaries**

a. Captain	\$93,500.00
b. Lieutenant	\$92,000.00
c. Sergeant	\$90,500.00
d. First Class Patrol Officer	\$89,000.00
 2. **2025 Salaries**

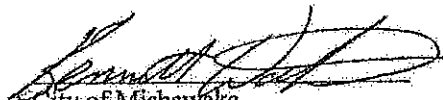
a. Captain	\$94,500.00
b. Lieutenant	\$93,000.00
c. Sergeant	\$91,500.00
d. First Class Patrol Officer	\$90,000.00
 3. **Night Shift Differential** \$26.92/Biweekly
 4. During calendar year 2024, the annual salaries for officers holding the ranks of Second Class Patrol Officer and Probationary Officer shall remain those

salaries previously approved under the terms of Ordinance 5820, As Amended. With respect to calendar year 2025, the annual salaries for Second Class Patrol Officers and Probationary Officers will be established by the parties pursuant to the standard negotiation process.

- B. Effective January 1, 2024, certain relevant Articles of the CBA shall be revised in accordance with the terms set out in "Addendum A," a true and accurate copy of which is attached hereto and incorporated by reference as if fully set out herein. However, to the limited extent that it is necessary to implement certain contractual provisions set out in Addendum A at an earlier date in order to appropriately staff the MPD for calendar year 2024 (e.g., the revised Seniority Pick of Shift process and Uniform Division rank structure now set out in Article IX), the parties have agreed to do so.
- C. In order to facilitate a fair and equitable transition to the twelve (12) hour shift schedule, those banks of leave time (including compensatory time) that officers accumulate under the current terms of Article VIII of the CBA prior to the end of calendar year 2023 will be administered as follows as of January 1, 2024:
1. All accrued banks of leave time (including compensatory time) shall roll over from calendar year 2023 to calendar year 2024 on an hour for hour basis.
 2. To the extent that any bank of leave time (other than compensatory time) is not divisible by either the number twelve (12) (if the officer is assigned to the Uniform Division as of January 1, 2024) or the number nine (9) (if the officer is assigned to the Detective Bureau or Services Division as of January 1, 2024), the remaining portion of the officer's accrued bank of leave time that is not divisible by the relevant whole number corresponding to the officer's assigned daily work hours shall be considered and treated, hour for hour, as compensatory time that is available for use under the relevant terms of the CBA.
 3. Should an officer be transferred (voluntarily or involuntarily) between divisions after January 1, 2024, thereby resulting in a change in the officer's daily work hours, any portion of the officer's accrued bank of leave time (other than compensatory time) that is not divisible by the relevant whole number corresponding to the officer's then assigned daily work hours shall also be considered and treated, hour for hour, as compensatory time that is available for use under the relevant terms of the CBA.
 4. Notwithstanding the terms of Paragraphs (C) (1) – (3) above, each officer (at his or her sole discretion) may choose not to have that portion of any bank of leave time that is not divisible by a relevant whole number be considered and treated as hour for hour compensatory time. Instead, the officer may choose to retain such leave time in his or her leave bank until such time as the leave time becomes otherwise eligible for use under the relevant terms of the CBA.
- D. All other terms of the CBA previously entered into by the parties shall remain unchanged and in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

Dated: 08/24/2023


City of Mishawaka
By Kenneth Witkowski, Junior, Chief of
Police

Dated: 8/24/2023


Mishawaka Fraternal Order of Police, Lodge
91
By Richard Freeman, President

**ADDENDUM A
TO
MEMORANDUM OF UNDERSTANDING
REGARDING
TWELVE HOUR SHIFT WORK SCHEDULE**

CBA CHANGE #1

Article VI (*Divisions and Hours of Work*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 1 – Divisions

There shall be only the following divisions within the Police Department:

A. Uniform Division

Traffic Bureau to consist of a minimum of one (1) officer. The head of the Traffic Bureau will hold the rank of Captain.

B. Detective Division

C. Services Division

Section 2 – Work Schedule

The regular work schedule of police officers shall be as follows:

- A. Uniform Division police officers shall work a two (2) week alternating schedule that is based off the Pitman Schedule. A single shift shall consist of two (2) rotations that work on opposing days: a Rotation 1 working day shall be a Rotation 2 day off and vice versa. A visual depiction of the two (2) week alternating schedule is set out below:

Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	Work	Work	Off	Off	Work	Work	Work
2	Off	Off	Work	Work	Off	Off	Off

- B. The hours of the Traffic Bureau officers will be flexible to assure the orderly function of the Traffic Bureau. Accordingly, the daily working hours and weekly rotation of the Traffic Bureau officers shall be set by mutual agreement of the Chief of Police and the Traffic Bureau Captain. No more than Two Thousand One Hundred Eighty-four (2,184) hours per year will be worked by the Traffic Bureau officers without reimbursement of overtime pay. The Traffic Bureau officers shall not be utilized in such a manner as to evade the paying of overtime to other police

officers.

- C. The Detective Division and the Services Division shall work not more than Two Thousand One Hundred Eighty-four (2,184) hours per year, consistent with division work schedules and the efficient operation of the Police Department. Such employees shall work an average of Forty-five (45) hours per week.
- D. A regular workday for officers assigned to the Uniform Division shall consist of Twelve (12) hours, which time shall include Sixty (60) minutes for a meal subject to call. Coffee breaks shall also be allowed subject to call.

Section 3 - Trading Days

- A. Subject to the approval of the officer in charge of the shift or any captain in the absence of all of the supervisors assigned to that shift, police officers shall be permitted to voluntarily trade work or leave days provided however no police officer may work more than Sixteen (16) consecutive hours in a twenty-four (24) hour period. No police officer shall be permitted to trade for more than Sixty (60) days in any single calendar year, but this limitation shall not apply if the trade is for the purpose of participation in athletic events or FOP activities. It must be agreed that:
 - 1. The trade is voluntary, and shall be made through the scheduling software;
 - 2. The trade is for the employee's personal benefit and not the City's benefit; and
 - 3. The time trade will have no effect on the hours of work regarding computation of overtime.
- B. To accomplish such a change, the requesting officer shall initiate a substitution request via the scheduling software for supervisor approval.
- C. Police officers may work any of their off days, i.e., days off, vacation, random days, etc.
- D. The City shall not be involved in or responsible in any way to assure that a police officer is reimbursed time owed him/her as a result of trading days.

Section 4 - Working Hours

- A. The Uniform Division shall be comprised of two (2) shifts: Day Shift and Night Shift. Each shift will contain two (2) opposing workday rotations, which shall be labeled Rotation 1 and Rotation 2. The hours of each shift shall be as follows:

Day Shift	6:30 a.m. to 6:30 p.m.
Night Shift	6:30 p.m. to 6:30 a.m.

- B. The hours of the Detective Division and the Services Division shall be set by the City, but the workday within each division shall be Nine (9) consecutive hours.

CBA CHANGE #2

Article VII, Section 2 (*Extra Duty Pay*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 2 - Extra Duty Pay

- A. Any police officer who works in excess of his/her regularly assigned work week or workday schedule shall receive extra duty pay in addition to any other benefits to which the officer may be entitled. Except as otherwise established by this Agreement, such extra duty pay shall be paid at the rate twice of the police officer's prevailing hourly rate. A police officer's prevailing hourly rate shall be determined by dividing the annual salary by Two Thousand One Hundred Eighty-four (2,184).
- B. Extra duty shall be assigned to police officers as uniformly as possible. In no case shall the City be required to call the officer whose absence created the need for overtime, no matter where the officer's name is on the extra duty roster. The officer's name shall remain in the same order on the list.
- C. The City shall post two (2) extra duty rosters. One extra duty roster, which shall be known as the Uniform Division extra duty roster, shall list the names of all officers assigned to the Uniform Division, except the Traffic Bureau officers, DARE officers, and Community Relations officers, in order of seniority. The other extra duty roster, which shall be known as the Combined extra duty roster, shall list the names of all officers assigned to the Detective Division, as well as all officers assigned to the Services Division, the Traffic Bureau officers, DARE officers, and Community Relations officers, in order of seniority. These rosters shall be posted on January 1st of each calendar year and shall terminate on December 31st of that year. During the year, the number of extra duty hours worked by each officer shall be recorded after the police officer's name on each roster. Work "normally performed by Uniform officers" shall refer to events where officers are working on a public road and/or to control traffic, including, but not limited to, parades, running races, and Independence Day holiday park festivities. A minimum of one (1) officer from the Traffic Bureau will be represented at events that have been planned through the Traffic Bureau. Events that DO NOT require officers to be working on a public road to control traffic will also be offered to the Combined list of officers. These events include, but are not limited to, concerts and security details in City parks.

(1) Assigned Extra Duty

Whenever the City is aware more than six (6) days in advance on the following holidays: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve, that a police officer will be needed for extra duty, the extra duty shall be assigned as follows:

The City shall post a notice stating the number of officers needed, whether the work is that normally performed by Uniform officers, the event, the date, and the hours to be worked. Each day to be worked as extra duty shall be posted separately. The extra duty sheet will be posted for not less than four (4) days. A police officer desiring the extra duty shall sign the sheet and/or request it via the scheduling program. The City shall award the extra duty to the most senior officer with the least amount of extra duty hours worked. If the extra duty is that which is normally performed by Uniform Division officers, then only officers whose names appear on the Uniform Division extra duty roster will be awarded the extra duty, with said hours not being posted until the start of said shift. Officers whose names appear on the Combined extra duty roster will be awarded the extra duty, with said hours not being posted until the start of said shift, only if no officer whose name appears on the Uniform Division extra duty roster requests the overtime. In the event that no officer from either extra duty roster signs the extra duty, or the duty spots have not all been signed, the Chiefs may sign and be awarded the extra duty. They will be awarded the duty based upon seniority and hours. Nothing contained in this section shall be interpreted as entitling officers assigned to the Services Division, Traffic Bureau officers, DARE officers, and/or Community Relations officers to the receipt of an extra duty assignment which is of a nature normally performed by officers assigned to the Detective Division.

The police officer assigned the extra duty shall be notified as soon as possible. Management shall post the assignment notification sheets in several locations around the Mishawaka Police Station and notify the officer by either a text, an email message, or a telephone call. The locations for posting are as follows: Squad Room, Detective Bureau, and front desk. In addition, copies shall be distributed to the Chief's Office, Uniform Division Chief's Office, and to the Lodge President. The Lodge President shall also be furnished copies of the sign-up sheets and/or the scheduling program report containing the officers' signatures.

Officers signing for the overtime shall be responsible to verify whether they have received the overtime assignment. If the officer is off duty for any reason, he/she may verify his/her overtime by telephoning the Chief's Office, the Uniform Division Chief, or by checking the officer's text messages, emails, or telephone (mobile or land line).

Emergency extra duty and call-in duty worked after the overtime has been assigned shall not affect the assignment.

(2) A probationary officer shall be eligible to work extra duty once the officer counts toward the minimum shift strength established by this Agreement.

(3) Emergency Extra Duty

Whenever the City is aware less than six (6) days in advance that a police officer will be needed for extra duty, except where the need for extra duty on a particular shift on a particular day arises after the commencement of the shift, the extra duty shall be assigned in the following manner:

When there is a need for Emergency Overtime at the commencement of a shift that is greater than four (4) hours in duration, the following shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment and the shift needing overtime. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted, with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment.
2. If no officer accepts the assignment, the lowest officer in seniority from the preceding shift not exercising vacation shall be ordered to work the following shift until that officer reaches the sixteen (16) consecutive hours worked limit.
3. Once the ordered officer reaches the sixteen (16) consecutive hours worked limit, a mass scheduling alert shall be sent out for the remaining hours needed. If no officer accepts the assignment for the remaining hours needed, then officers exercising vacation shall be contacted and offered the assignment.
4. If no officer has accepted the overtime assignment, then the lowest officer in seniority from the Uniform Division extra duty roster shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the Combined extra duty roster in the same manner from least to most senior.
5. If no officer has been contacted, then the City may contact the chiefs and offer them the extra duty assignment.

For Emergency Overtime assignments that commence at the beginning of a shift, and last longer than four (4) hours, the overtime assignment shall not be offered to officers working the preceding shift.

When there is a need for Emergency Overtime at the commencement of a shift that is four (4) hours or less in duration, the following shall apply:

1. Officers working the preceding shift shall be contacted and offered the extra duty assignment.
2. If no officer from the preceding shift accepts the extra duty assignment, a mass scheduling alert will be sent out.

3. If no officer accepts the extra duty assignment from the mass scheduling alert; then officers exercising vacation shall be contacted with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment.
4. If no officer on vacation accepts the extra duty assignment, then the officer least in seniority from the preceding shift shall be ordered to stay and work. The officer ordered to stay may contact a chief to offer him or her the extra duty assignment.

When there is a need for Emergency Overtime after the commencement of a shift due to an officer scheduled to leave on **compensatory time**, the following shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment.
3. If no officer accepts the overtime, then the officer scheduled to leave shall be ordered to stay and be paid at the appropriate rate.
4. The officer ordered to stay may contact a chief to offer him or her the extra duty assignment.

When there is a need for Emergency Overtime after the commencement of a shift due to an officer illness, injury, or family emergency, the following procedures shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment.
3. If no officer has accepted the overtime assignment, then the lowest officer in seniority from the Uniform Division extra duty roster shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the Combined extra duty officer in the same manner from least to most senior.
4. The officer ordered to stay may contact a chief to offer him or her the extra duty assignment.

With respect to emergency extra duty in the Detective Division, the Chief of Police or the Detective Division Chief shall have the right to award extra duty to officers within that Division as they deem necessary. Officers awarded extra duty within

the Detective Division shall be paid twice the officer's prevailing hourly rate for each hour worked. A diligent effort shall be made to award extra duty to officers that have been assigned a particular case and the overtime will be directly related to such case. All extra duty hours shall be logged on the Combined extra duty roster.

In the event that a detective is needed for general investigation (emergency call in), the officer doing the call in will refer to the Combined extra duty roster (detective's) and follow the procedure set forth in ARTICLE VII for the uniform division. The FOP will concede that it would be impossible at times for the officer in charge to know who is working a particular case.

In the event that a uniform shift would commence without a supervisor, the City will be entitled to fill the opening. Supervisors will be offered the opening consistent with the provisions of the bargaining agreement. A mass scheduling alert will be sent out to supervisors, with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment. If no supervisor accepts the opening, the supervisor or the officer in charge may contact a chief and offer the supervisor overtime assignment to him or her. This language shall in no way interfere with standard minimum shift strength overtime provisions. No supervisor on vacation shall be contacted for the sole purpose of filling an open supervisor spot. If a supervisor is an additional overtime supervisor, then he/she shall not be considered preceding shift for the purposes of overtime.

Emergency Overtime is to be paid at double time (2.0) rate, but this does not include training. The mandatory rate is to be paid at two and one-half times (2.5) on holidays.

(4) Split Shift - When an officer accepts an overtime assignment on a shift, the officer may attempt a split shift. The split shall be determined by the accepting officer in whole-hour increments. If an officer wishes to attempt a split shift, he/she will notify a supervisor or the officer in charge of the shift. The supervisor will send the notification of the available split shift to all officers except those on vacation. Each officer involved in the split shift will have the overtime hours worked added to their extra duty hours worked bank. If an officer accepts an assignment, and no other officer accepts the split shift, the accepting officer is required to work the full overtime shift.

- D. Officers not wishing to work call-in overtime may sign a waiver to this effect. This waiver may be revoked in writing at any time upon twenty-four (24) hours written notice.
- E. The City will post on the board those officers assigned to Special Weapons and

Tactics (SWAT), evidence technician, Field Training Officer (FTO), DRE (Drug Recognition Expert), motorcycle officer, breath test operator, traffic technician, Major Crimes Detective, Major Crimes Evidence Technician, Instructors, Emergency Response Team (ERT) and SVU Detectives. The posting shall be kept current showing the number of extra duty hours worked by each police officer within their respective specialty or specialties. All extra duty hours worked by the above listed officers shall be logged on both the appropriate specialty list and the appropriate extra duty roster. Any officer accepting an emergency extra duty assignment within a specialty area shall receive hour-for-hour extra duty pay at twice the officer's prevailing hourly rate of pay.

Current number of instructors to be maintained, with additional instructor positions to be added at the discretion of the City.

Specialty pay will be granted for officers on a yearly basis with officers being paid for the top three (3) highest specialties that they are qualified to receive. Qualification for a specialty stipend is dependent upon officer completion of any required training and continued assignment to that specialty.

Any police officer having completed Vehicle Crash II, (ILBA Standard) may be placed on the Traffic Specialty list. On seniority / least numbers of hours worked within that specialty, two (2) officers may be called in on an overtime basis to assist the Traffic Captain or designee at fatal and serious injury accidents unless the accident is determined to fit FACT criteria.

If a trained specialty officer is needed in a specialty other than traffic, the City may call in a police officer for extra duty from the posted specialty list having the most senior officer on the list with the least amount of overtime worked within their specialty being called in first. If the police officer with the most seniority and the least amount of overtime hours worked within their specialty cannot be reached after a diligent effort to contact has been made, then such officer may be bypassed.

- F. Notwithstanding any contrary provision contained in this Agreement, no officer shall be entitled to work more than sixteen (16) consecutive hours, whether as the result of the acceptance of an extra duty assignment or otherwise, unless the time to be worked in excess of sixteen (16) hours is the result of the continuation of a shift.
- G. All extra duty hours worked by an officer, except those hours worked as part of the continuation of a regularly scheduled shift or where an officer is ordered to accept the extra duty assignment in accordance with this Agreement shall be logged on the appropriate extra duty roster. The extra duty hours shall be logged on the

appropriate extra duty roster regardless of whether an officer chooses to receive monetary payment or compensatory time as compensation for the extra duty hours worked.

- H. If an officer accepts an overtime assignment beginning before, and ending after, 2:00 a.m. on the date that daylight savings time ends, the officer shall be allowed to work seventeen (17) straight hours. Any additional hours over seventeen (17) may only be worked as a result of shift continuation.
- I. When there is a need for emergency extra duty not related to minimum shift strength requirements and not related to a specialty, the following shall apply: The City shall have the right to offer the extra duty to officers from the preceding shift or succeeding shift when necessary. The City shall not be required to continue through the entire departmental roster when the City deems it unnecessary. All overtime offered will be consistent with the provisions of this collective bargaining agreement.

CBA CHANGE #3

Article VII, Section 2 (*Court Time Pay*) of the CBA shall be amended only with respect to Subparagraph K, by deleting this subparagraph in its entirety and replacing it with the following provision:

- K. In the event that any shift of the Uniform Division would fall below ten (10) officers for purposes of minimum shift strength due to an officer being in court, emergency extra duty will be called in as follows:

When there is a need for Emergency Overtime after the commencement of a shift due to an officer scheduled to leave for a court appearance, the following shall apply:

1. A mass scheduling alert shall be sent out for a minimum of three (3) hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with officers on the Uniform Division extra duty roster receiving the first opportunity to accept the assignment.
3. If no officer has accepted the overtime assignment, then the lowest officer in seniority from the Uniform Division extra duty roster shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the Combined extra duty officer in the same manner from least to most senior.
4. The officer ordered to stay may contact a chief to offer him or her the extra duty assignment.

CBA CHANGE #4

Article VIII (*Vacations*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 1 - Eligibility and Amount

- A. Vacation time shall inure to the benefit of police officers based upon years of service as follows:
 - 1. Police officers having completed one (1) year of service, but less than two (2) years, shall receive sixty (60) hours of vacation and twelve (12) hours random/personal time.
 - 2. Police officers having completed two (2) years of service, but less than three (3) years, shall receive one hundred eight (108) hours of vacation and twenty-four (24) hours random/personal time.
 - 3. Police officers having completed three (3) years of service, but less than five (5) years, shall receive one hundred eight (108) hours of vacation and thirty-six (36) hours random/personal time.
 - 4. Police officers having completed five (5) years of service, but less than ten (10) years, shall receive one hundred fifty-six (156) hours of vacation and thirty-six (36) hours random/personal time.
 - 5. Police officers having completed ten (10) years of service, but less than fifteen (15) years, shall receive two hundred four (204) hours of vacation and forty-eight (48) hours random/personal time.
 - 6. Police officers having completed fifteen (15) years of service, but less than twenty (20) years, shall receive two hundred sixty-four (264) hours of vacation and sixty (60) hours random/personal time.
 - 7. Police officers having completed twenty (20) years of service, but less than twenty-five (25) years, shall receive three hundred twelve (312) hours of vacation and seventy-two (72) hours random/personal time.
 - 8. Police officers having completed more than twenty-five (25) years of service shall receive three hundred twelve (312) hours of vacation and eighty-four (84) hours random/personal time.
- B. Vacation shall be selected in each Division by seniority per shift.
- C. In the event a police officer, while off duty as a result of vacation is ordered back to work by the City, accepts an emergency extra duty assignment, or is subpoenaed to appear in Court regarding a matter related to his/her employment as a police officer, the City shall pay the officer two (2) times the officer's prevailing hourly rate of pay for the hours worked or the witness fee established by this Agreement, whichever is applicable, and shall also return the earned vacation day to the officer, provided the officer works at least six (6) hours when called in. The City must grant

all requests by an officer to exercise an earned vacation day returned in accordance with this provision if at the time of the request the affected shift is at or above the minimum shift strength established by this Agreement. Furthermore, the City must grant at least two (2) earned vacation day requests on each shift each day, even if the affected shift is already below minimum shift strength, except that if the affected shift is already one (1) below minimum shift strength as a result of an officer exercising a random day, the City must grant only one (1) earned vacation day request. The officer must make an attempt through the Chief's Office to secure an excuse from the subpoena.

Section 2 - Compensation Time Owed

Officers shall be able to request compensation time owed from any supervisor within their division and the compensation time owed shall be awarded on a first requested, first received basis. Compensation time owed requests shall be stamped on a time clock. The City must grant all compensation time owed requests, provided that the City may only grant such requests when the affected shift is above minimum shift strength. At no time may the City grant a compensation time owed request if the resulting shift strength would drop below the minimum as set by this Agreement.

Section 3 - Random Days

- A. Officers shall be able to request a random day from any supervisor within their division and the random day shall be awarded on a first requested, first received basis. The random day selected shall be within one (1) year from the date of the request. Random day requests shall be stamped on a time clock. The City must grant all such requests if, at the time of the request, the affected shift is at or above the minimum shift strength established by this Agreement. Furthermore, the City must grant at least one (1) random day request on each shift each day, even if the affected shift is already below minimum shift strength, except when the affected shift has fallen below minimum shift strength as a result of an officer's absence due to a vacation day.
- B. Random days may be accumulated from year to year. Police officers will make an effort to take all of their random days in the year that they are due; provided, however, that a police officer may not carryover more than one hundred forty-four (144) hours under this Section.
- C. Random Days shall be allotted as of January 1st.
- D. At the end of the calendar year, officers may voluntarily sell back to the City up to

a total of forty-eight (48) hours of their unused random day time valued at their then applicable daily rate of pay.

- E. Officers may voluntarily choose to exchange up to forty-eight (48) hours of their unused random day time for an equivalent bank of compensation time owed on an annual basis. However, the total amount of compensation time owed that is accumulated by officer cannot exceed the maximum established under federal law of four hundred eighty (480) hours.
- F. Effective January 1, 2023, any officer hired by the City shall not be entitled to receive random days. Instead, the officer will receive personal days in an amount equivalent to the number of random days set out in Article VIII, Section 1 above. At no time may the City grant a personal day request if the resulting shift strength would drop below the minimum set by this Agreement. Otherwise, the City shall administer an officer's use of a personal day in the same manner as an officer's use of a random day is administered under the terms of this Agreement.

Section 4 – Earned Vacation Days

- A. Earned vacation days may be accumulated from year to year. A police officer may not carry over more than forty-eight (48) hours of earned vacation time under this section.
- B. All earned vacation days accumulated prior to January 1, 2009, will be in a separate bank and available to be used by the police officer as established by this Agreement. No additional days may be added to this bank. Any earned vacation days that are available in this bank must be used before any other earned vacation days are used.

Section 5 – Vacation Selection

- A. Vacations must be picked in consecutive workday blocks for the officer's workday Rotation (1 or 2) on their assigned shift. Vacations may be picked for a minimum of two (2) consecutive workdays up to seven (7) consecutive workdays in the first round. Vacations picked in the second round, and all further selections can be picked for a minimum of two (2) consecutive work days up to five (5) consecutive work days. Work blocks cannot be split for vacation picks. The police officer shall sign a vacation schedule and note the date and time signed. The police officer next in seniority on the shift will have not less than four (4) days to pick vacation selection. If such police officer fails to pick within the four (4) days, the next police officer in seniority can pick and so on down the list. The police officer that is passed over for failure to pick his/her vacation can sign any time but must pick the vacation from the weeks that are open at the time he/she signs.

- B. Any officer entitled to vacation may choose to take his/her selection as random days or personal days. Hours of vacation time will be converted equally into the officer's random day or personal day bank.

Section 6 - Computation of Years of Service

Vacation time is computed on the basis of a police officer's years of service. If a police officer completes a sufficient number of years of service so as to entitle the officer to additional vacation time as hereinabove provided, the officer shall receive such additional vacation time during the calendar year that the officer completes such year of service.

CBA CHANGE #5

Article IX, Section 2, Subparagraph (A) (2) (*Seniority Pick of Shift*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 2 - Seniority Pick of Shift

2. The police officer shall fill out the Shift Preference Slip and return it to the Lodge Wage & Grievance Committee officer on or before September 15th, listing their first and second choices of shifts. If the police officer fails to return the Shift Preference Slip on or before September 15th, the officer may be assigned to any shift that the Chief determines to be in the best interests of the Department.

CBA CHANGE #6

Article IX, Section 2, Subparagraph (M) (*Seniority Pick of Shift*) of the CBA shall be deleted in its entirety and replaced with the following provision:

M. Anything in this Article to the contrary notwithstanding, the Uniform Division rank shall be not less than the following:

Day Shift

One (1) Captain

Two (2) Lieutenants

Six (6) Sergeants

Night Shift

One (1) Captain

Two (2) Lieutenants

Six (6) Sergeants

Any rank held in excess of the minimum set forth above shall nonetheless be subject to the bumping procedures by Second Class Patrol Officers and First Class Patrol Officers as set forth in the Seniority Pick of Shift Article.

CBA CHANGE #7

Article X, Section 3, (*Sick Leave*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 3 – Policy

During sickness, including pregnancy, a police officer's pay shall continue for a maximum of four hundred eighty (480) work hours, subject to the right of the Board of Public Works and Safety to require a physician's statement confirming the police officer's illness and the officer's inability to perform his/her duties. Medical disabilities shall be determined by the police officer's pension board.

CBA CHANGE #8

Article XI (*Funeral Leave*) of the CBA shall be deleted in its entirety and replaced with the following provision:

In case of death in the police officer's immediate family or the police officer's spouse's immediate family (meaning parent, step-parent, spouse, grandparent, grandchild, parent-in-law, brother, sister, sister-in-law, brother-in-law, child or step-child) a police officer shall receive upon request, three (3) consecutive work days off without loss of regular pay to make preparations for and attend the funeral and burial of such relative and to attend to any necessary business or legal matters of the decedent or the decedent's estate.

In the event of the death of the police officer's or the police officer's spouse's aunt, uncle, niece, nephew or first cousin or in the event a police officer is designated to serve as a pallbearer at any funeral, then in such instances, a police officer will have the day of the funeral off without loss of regular pay.

In addition, the Police Chief or Division Chief, or if either are unable to be reached, then the officer in charge of the police officer's shift, shall have the right to grant, in appropriate cases and in their sole discretion, additional days off work for funerals.

CBA CHANGE #9

Article XVII, Section 2 (*Department Strength*) of the CBA shall be deleted in its entirety and replaced with the following provision:

Section 2 - Minimum Strength

- A. The minimum strength the Uniform Division can operate with, will be as follows:
Day Shift 6:30 a.m. to 6:30 p.m.
Sunday-Saturday: a minimum of twelve (12) officers on motorized patrol.

Night Shift 6:30 p.m. to 6:30 a.m.
Sunday-Saturday: a minimum of twelve (12) officers on motorized patrol.
- B. The "desk" position may be utilized as a light duty position if necessary. The City shall retain the right to place officers at the "desk" position outside of records hours if needed.
- C. Emergency overtime will only be required if shift strength falls below ten (10). In the event that there is a need for additional manpower, the terms of Article XVII, Section 2 (E) shall be implemented.
- D. Probationary officers shall count as shift strength thirty (30) days after successful completion of the FTO program and lateral transfers count as shift strength upon successful completion of the FTO program. However, any Probationary Officer who on the date of hiring has already graduated from either the Indiana Law Enforcement Academy or another certified law enforcement academy recognized by the State of Indiana shall be counted toward minimum shift strength three (3) months after said officer's date of hire, subject to being released from the FTO program. Probationary officers shall be eligible to work extra duty at the time they count toward minimum shift strength.

- E. When there is a need for necessary additional officers (e.g., prisoner guard and crime scene security) those necessary positions shall be considered as shift strength positions. Emergency extra duty procedures shall be followed to fill such positions. If the need for a prisoner guard or crime scene security arises after the commencement of a shift, the overtime shall immediately be offered at the double time rate. In the event no one fills the request for additional officers, the OIC may contact the ERT "On Call." The ERT will then designate an officer (or officers) from the appropriate ERT platoon to be activated in uniform capacity. The ERT officer(s) will be considered shift strength, however, shall not be used for the purpose of motorized patrol or considered preceding shift as opposed to the above stated officers who accepted the request. ERT officers activated in this manner will be compensated at a flat rate of four (4) hours of twice their prevailing wage and shall NOT count as hours worked against them as it pertains to future overtime assignments. In the event that the detail requires the officer to stay more than four (4) hours, then the compensation should remain twice the prevailing rate, hour for hour. Should the shift change during the four (4) hours that the ERT officer is activated, then revert back to standard emergency extra duty procedures. If the need continues into the following shift, revert back to standard emergency extra duty procedures.

CBA CHANGE #10

Article XX VII (*Family Leave*) of the CBA shall be deleted in its entirety and replaced with the following provision:

In the event of a child born to a police officer or a police officer's spouse, a police officer shall receive one (1) day of leave time without loss of pay to attend the child's birth. Any additional leave time, for family or medical purposes, shall be granted by the Chief, or in the Chief's absence the Shift Commander, in accordance with the Family and Medical Leave Act of 1993.

1st Reading 6/19/23

2nd Reading

Passed

Failed

Continued To

PETITION 23-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-25

ORDINANCE NO. _____

Deborah S. Block, AMC, MMC

JUN 14 2023

City Clerk
Mishawaka, IN

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

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

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

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

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

Lots 28-30 Barbee's Sub

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

which real estate is now classified as S-1 Extensive Open Space District shall hereafter be within and a part of that District known as C-3 City Center Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

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

Proposed Ordinance No: _____

Ordinance No: _____

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

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

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

RE: Request for postponement

Ken Prince <kprince@mishawaka.in.gov>

Wed 8/2/2023 5:38 PM

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

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

Good afternoon,

I am writing to request a second postponement of the second reading of Ordinance 2023-25, the former sculpture area of the former Mishawaka City Hall site, from the August 7th Council meeting to the August 21st Council Meeting.

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

If you have any questions, please let me know.

Ken

From: Ken Prince

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

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

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

Subject: Request for postponement

Good afternoon,

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

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

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

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

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

Ken

Kenneth B. Prince
Executive Director

City of Mishawaka

Planning and Community Development

PLEASE NOTE OUR NEW ADDRESS

100 Lincolnway West

Mishawaka, IN 46544

Phone- (574) 258-1625

Email- kprince@mishawaka.in.gov

Website- www.mishawaka.in.gov



STAFF REPORT

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

Date: June 13, 2023

Petition: 23 12

Prepared By: CH

GENERAL INFORMATION

Applicant: City of Mishawaka

Status: Property Owner

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

Zoning Classification: S-1 Extensive Open Space

Lot Size: 0.54 acres

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

SPECIAL INFORMATION

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

Thoroughfare: East Third Street and South Cedar Street

School District: School City of Mishawaka

Public Utilities: Available

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

ANALYSIS

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

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

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

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

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

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP





P1. A view of the park from Cedar Street



P2. A view of the park from Third Street



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



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

DATE: 5/18/23

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

Pms 23-12
Received

MAY 24 2023

Planning and
Community Development

RE: PETITION TO REZONE

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

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

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

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

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

Signature(s) of Property Owner(s)



Typewritten name also

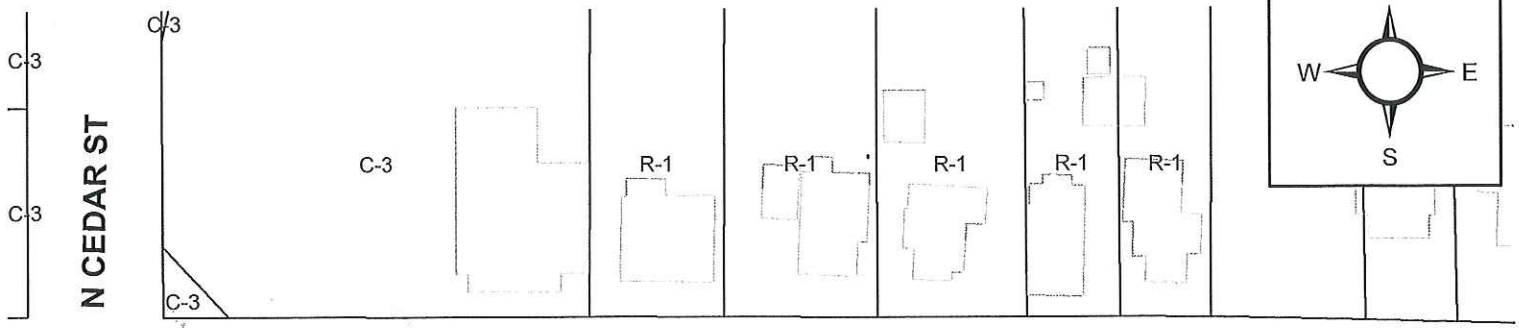
Deborah S. Block, AMC, MMC

JUN 01 2023

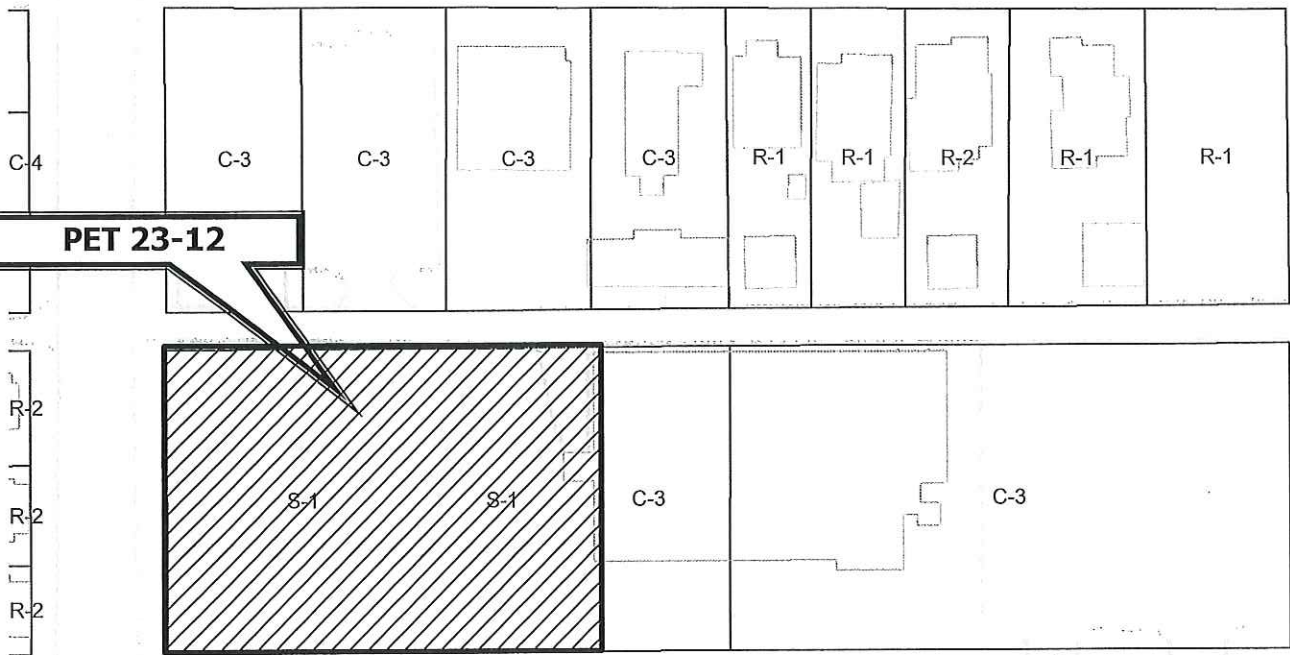
City Clerk
Mishawaka, IN

CONTACT PERSON:

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



LINCOLNWAY EAST



E THIRD ST

LAUREL ST

Location Map

PET 23-12

OWNER: CITY OF MISHAWAKA

LOCATION: NORTHEAST CORNER OF
CEDAR AND EAST THIRD STREET

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

Request for postponement

Ken Prince <kprince@mishawaka.in.gov>

Fri 6/30/2023 3:24 PM

To: Deb Block <dblock@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>; Michael Hixenbaugh <mhixenbaugh@mishawaka.in.gov>; DL-Council <DL-Council@mishawaka.in.gov>
Cc: David A. Wood <dwood@mishawaka.in.gov>; Mark Herriman <mherriman@uwsjc.org>

Good afternoon,

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

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

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

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

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

Ken

Kenneth B. Prince
Executive Director

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

100 Lincolnway West

Mishawaka, IN 46544

Phone- (574) 258-1625

Email- kprince@mishawaka.in.gov

Website- www.mishawaka.in.gov

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: Thursday, September 7, 2023 1:39 PM
To: Gregg Hixenbaugh
Cc: Deb Block
Subject: Mishawaka DORA ordinance

President Hixenbaugh,
I am writing to ask that you and the Mishawaka Common Council would grant an extension for the 2nd reading of the Designated Outdoor Refreshment Area (DORA) related ordinance until the second Mishawaka Common Council meeting in ~~October~~ ^{November}. 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.

Sincerely,
Matt



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

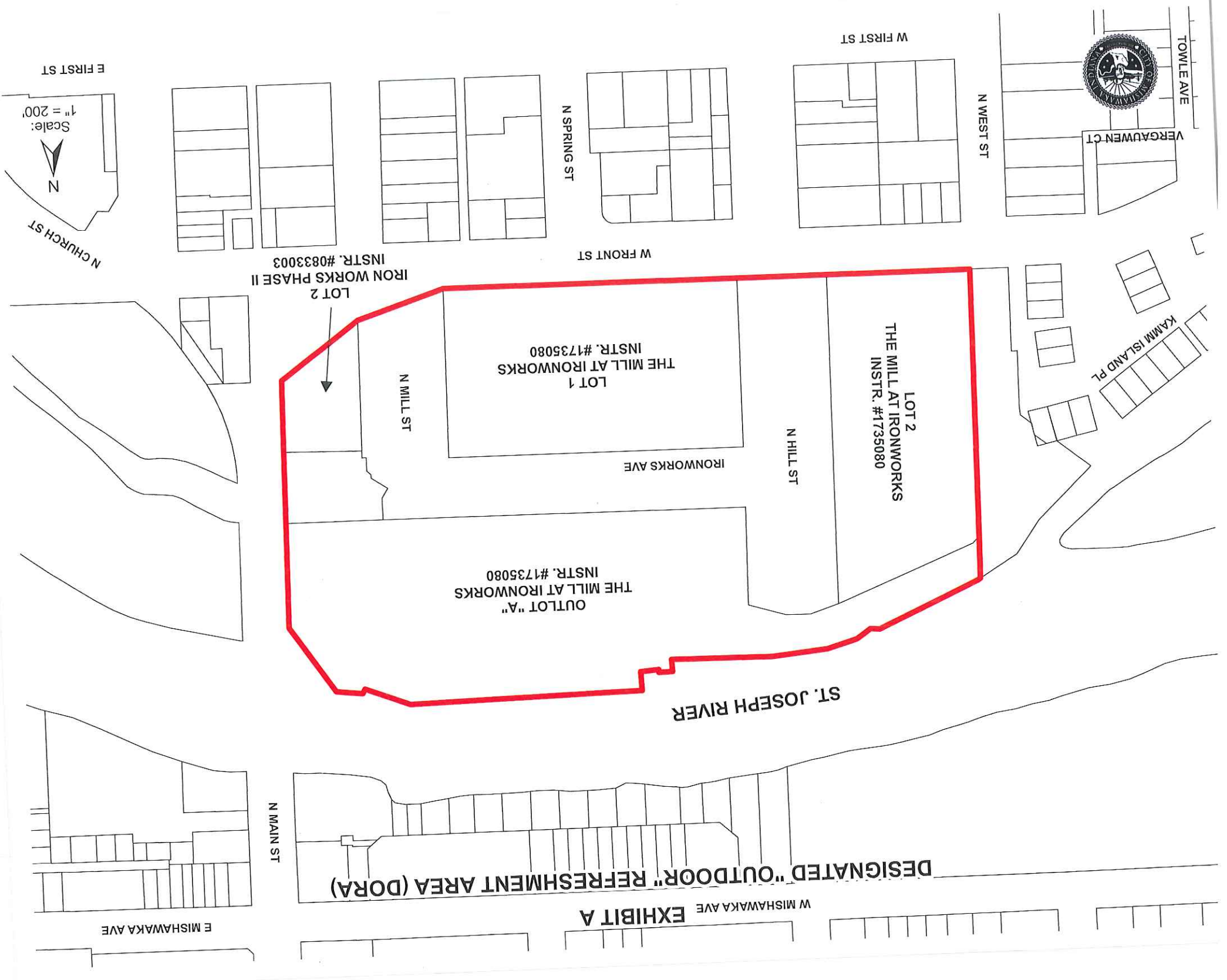


Exhibit B

EXHIBIT B

DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)



Exhibit C

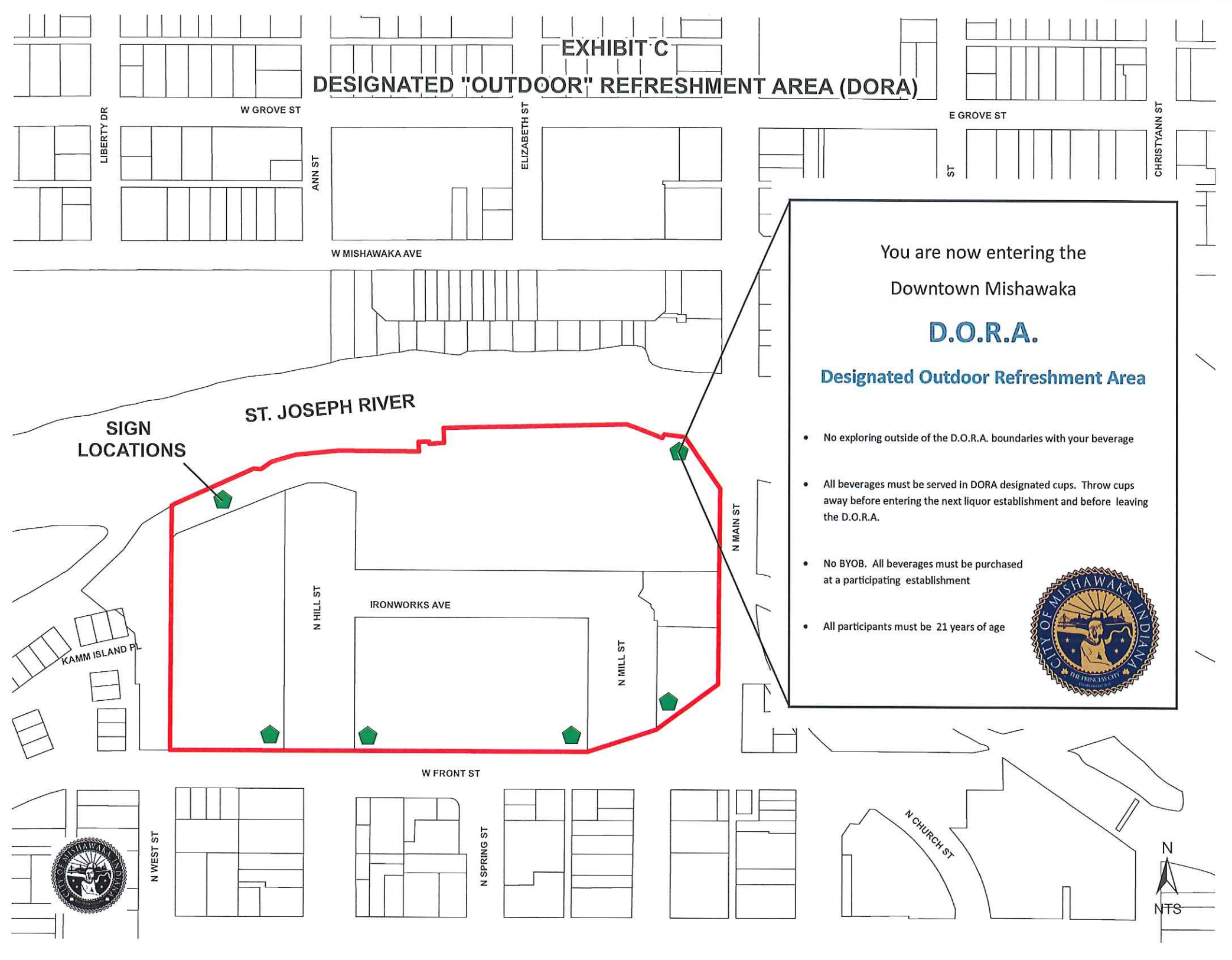
Ironworks Plaza

DOWNTOWN REVITALIZATION PROJECT

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

EXHIBIT C

DESIGNATED "OUTDOOR" REFRESHMENT AREA (DORA)



*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.



DORA

DESIGNATED OUTDOOR REFRESHMENT AREA

URBANA, OHIO

Enjoy Responsibly!

- Hours for the DORA are 7 days/week 11:00AM - 10:00PM
- Refreshments must be purchased in DORA cups to leave any establishment and cups must stay within the boundaries of the signage and flag for cleanup
- Each cup and cup must only be used once, and no person holding a refreshment will allow a cup to be refilled after use
- A list of permitted refreshment items, boundaries of the DORA and additional rules and information can be found on the DORA webpage or by scanning the QR code

Purchase a DORA cup for \$1 and a portion of the proceeds goes to support the continued revitalization of Downtown Urbana!

SUPPORT OUR DOWNTOWN!





Designated Outdoor Refreshment Area (DORA)

- Urbana’s DORA was created to encourage downtown investment.
- This tool has been successful in driving new businesses to open in communities across the State of Ohio, Michigan and other states throughout the US.



*Designated Outdoor
Refreshment Area
(DORA)*

- **How It Works**

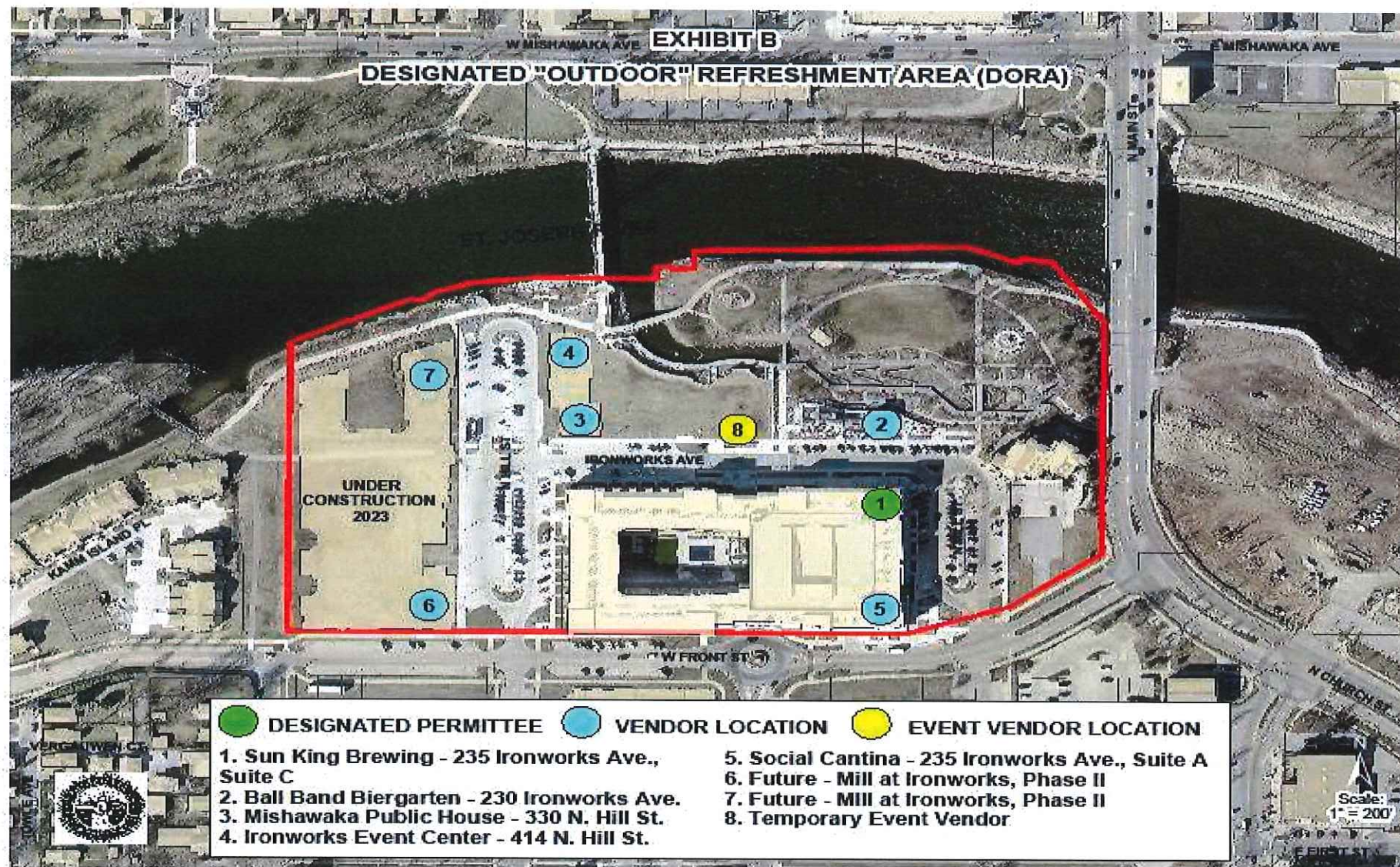
1. Beverages must be purchased at a bar or restaurant located within the DORA boundaries. Cups must be emptied or placed in a trash receptacle before patrons enter another liquor establishment.
2. Beverages must be consumed from special DORA cups. Consumption from other vessels would be considered an "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/El0QRuRyvZ0>

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

container in public is not illegal, having an open container of alcohol in public can support probable cause for the charge of public intoxication.

If you have been charged with violating Indiana's open container or public intoxication laws, contact McNeelyLaw today at 317-825-5110 to talk to an experienced Indiana criminal defense attorney.

This McNeelyLaw LLP publication

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

matthew.lentsch@mishawaka.in.gov

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: Thursday, September 7, 2023 1:39 PM
To: Gregg Hixenbaugh
Cc: Deb Block
Subject: Mishawaka DORA ordinance

President Hixenbaugh,

I am writing to ask that you and the Mishawaka Common Council would grant an extension for the 2nd reading of the Designated Outdoor Refreshment Area (DORA) related ordinance until the second Mishawaka Common Council meeting in ~~October~~ ^{November}. 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.

Sincerely,
Matt



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

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
matthew.lentsch@mishawaka.in.gov

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



From: Janet Whitfield <janetwhitfield.pepsadfc@gmail.com>
Sent: Thursday, August 10, 2023 11:31 PM
To: Gregg Hixenbaugh <gahixenbaugh@mishawaka.in.gov>; Maggie DeMaegd <maggie.demaegd@mishawaka.in.gov>; Dale "Woody" Emmons <demmons@mishawaka.in.gov>; Mike Bellovich <mbellovich@mishawaka.in.gov>; Kate Voelker <kvoelker@mishawaka.in.gov>; Michael Compton <mcompton@mishawaka.in.gov>; Ron Banicki <rbanicki@mishawaka.in.gov>; Anthony "Tony" Hazen <anthony.hazen@mishawaka.in.gov>; Matt Mammolenti <mmammolenti@mishawaka.in.gov>; Krista Neighbour <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 try 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

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

Work Cell: (574) 345-1621
Personal Cell: (574) 532-2834
E-mail: janetwhitfield.pepsadfc@gmail.com
Website: thepartnershipsjc.org

Mailing address: 818 E. Jefferson Blvd.
South Bend, IN 46617

AUG 01 2023

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-35

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

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

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

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

David A. Wood
Mayor

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 2nd 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

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:

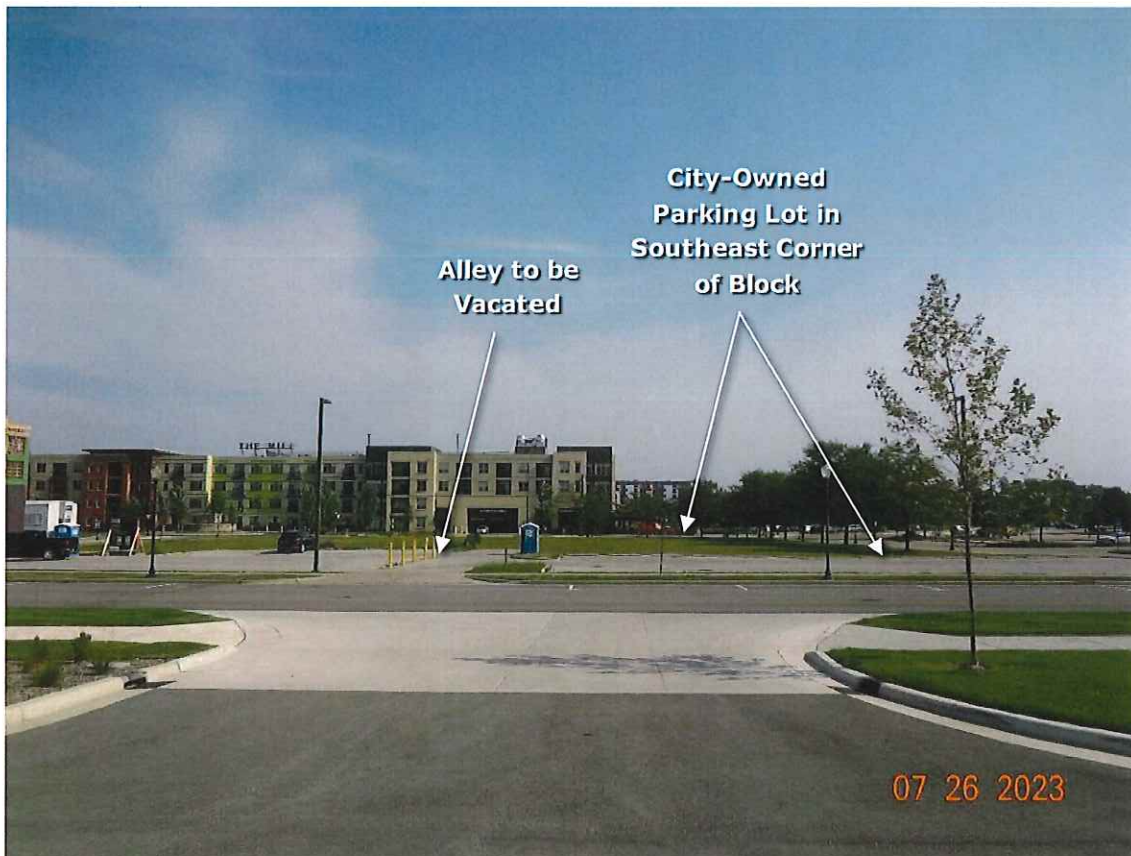
- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The alley is mostly unimproved and the vacation will reduce future hindrances for anticipated development.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult 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. 1st 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.

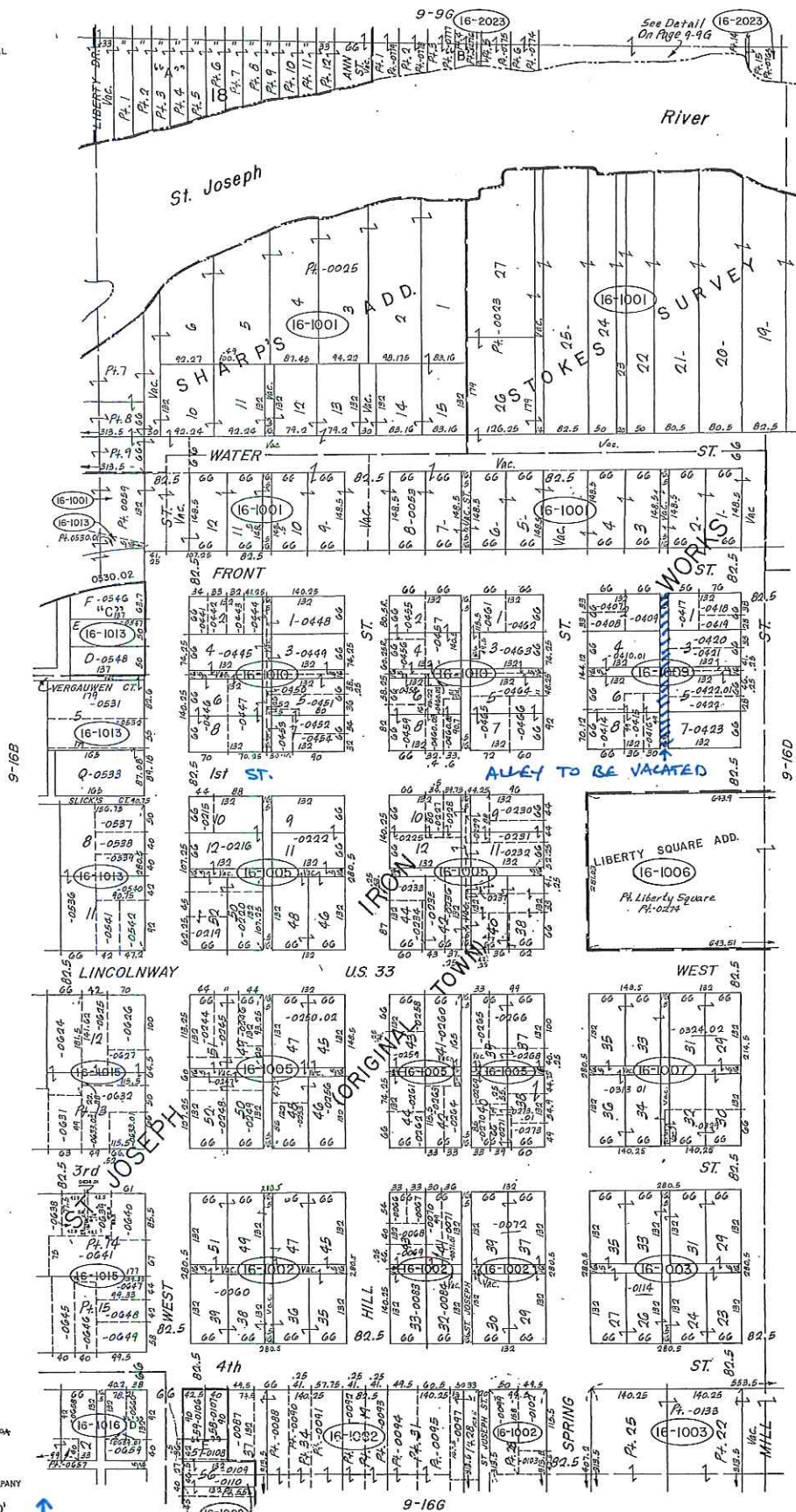
COMMONLY KNOWN AS: THE NORTH/SOUTH ALLEY LOCATED BETWEEN WEST FRONT STREET, WEST FIRST STREET, NORTH SPRING STREET, AND NORTH MILL STREET

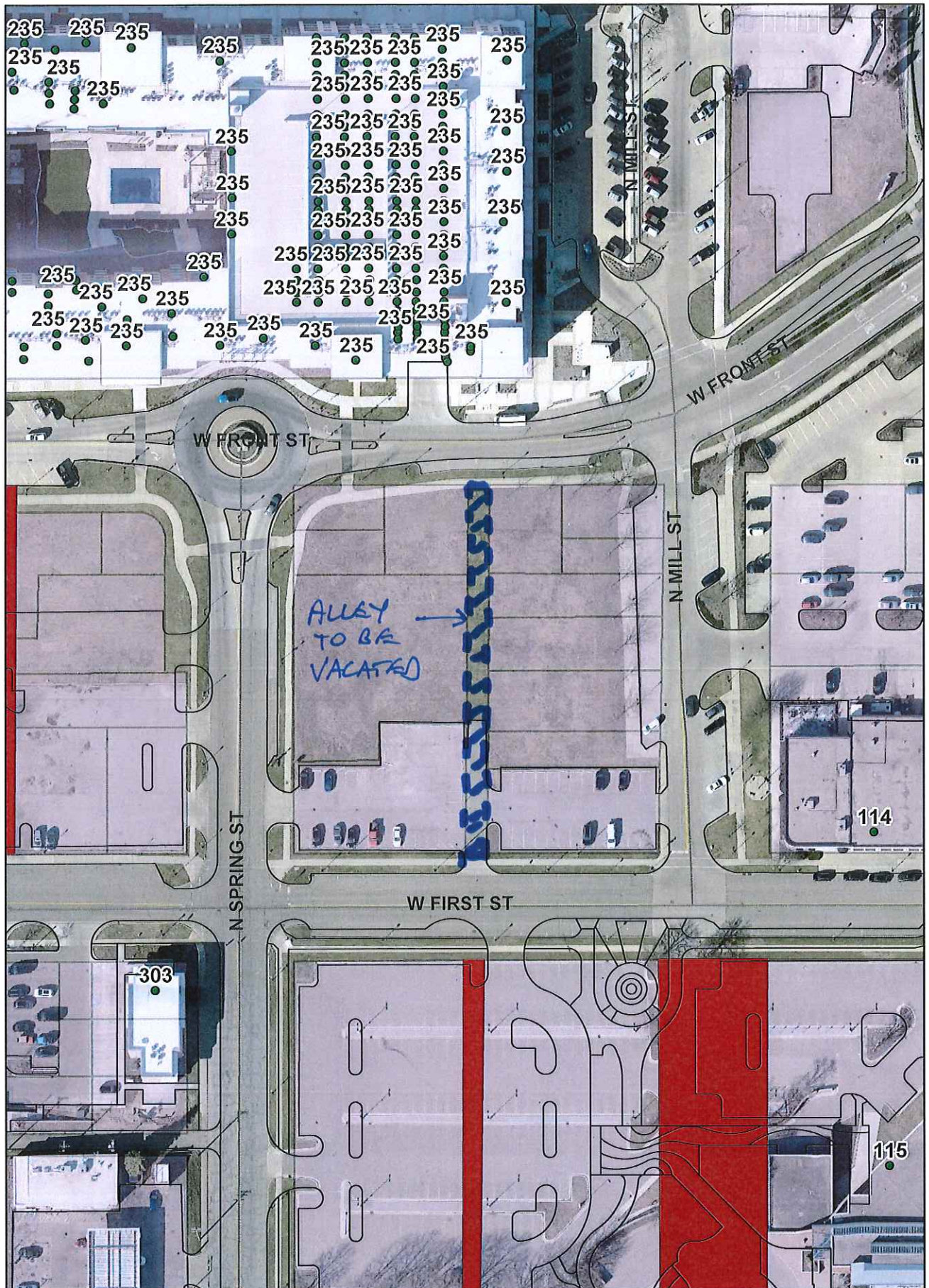
Petitioner further states they are the owner of the property immediately adjacent to the above-described right of way.

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

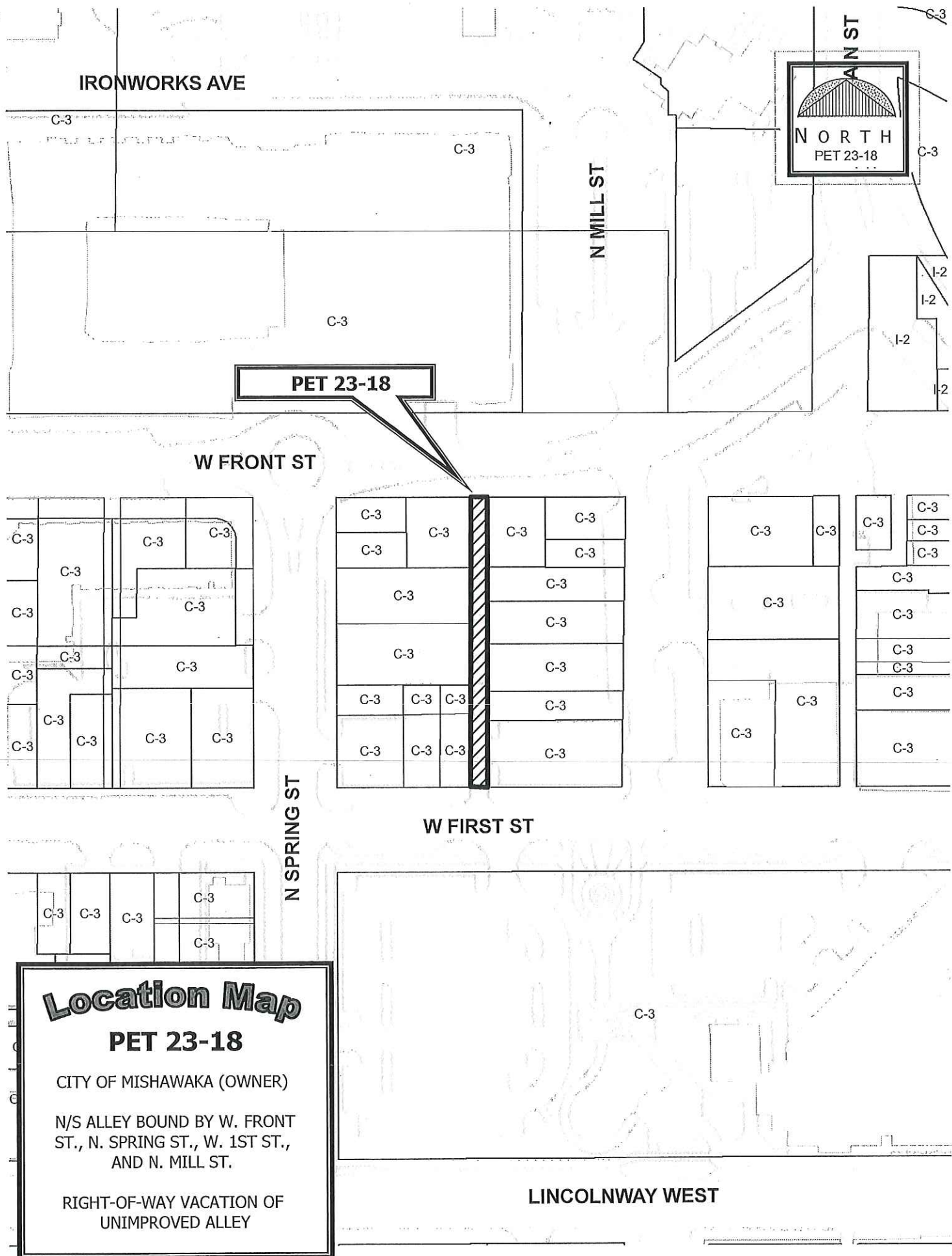
CONTACT PERSON:
Derek J. Spier, AICP
City Planner
100 Lincolnway West
Mishawaka, IN 46544
574-258-1625





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)

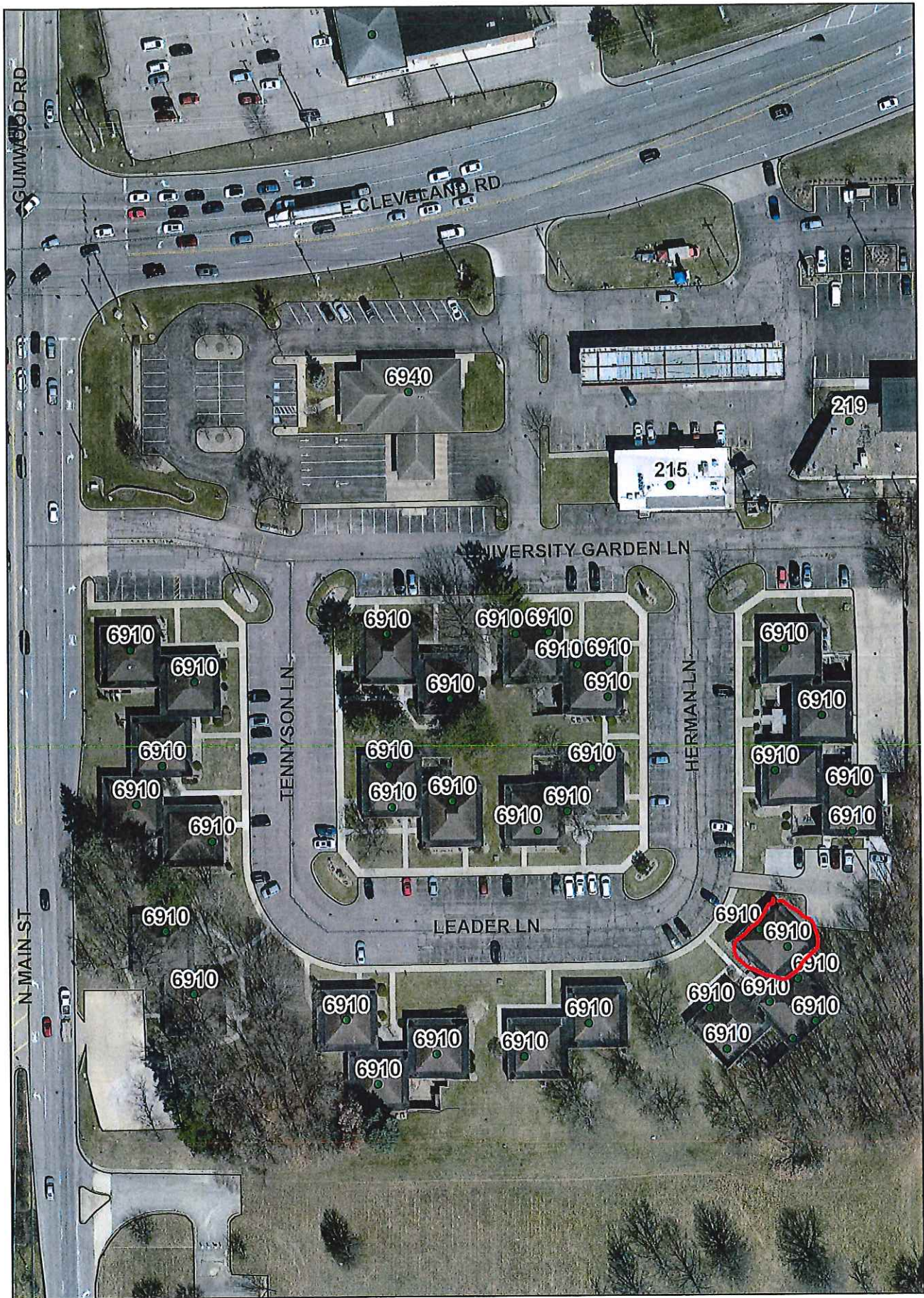


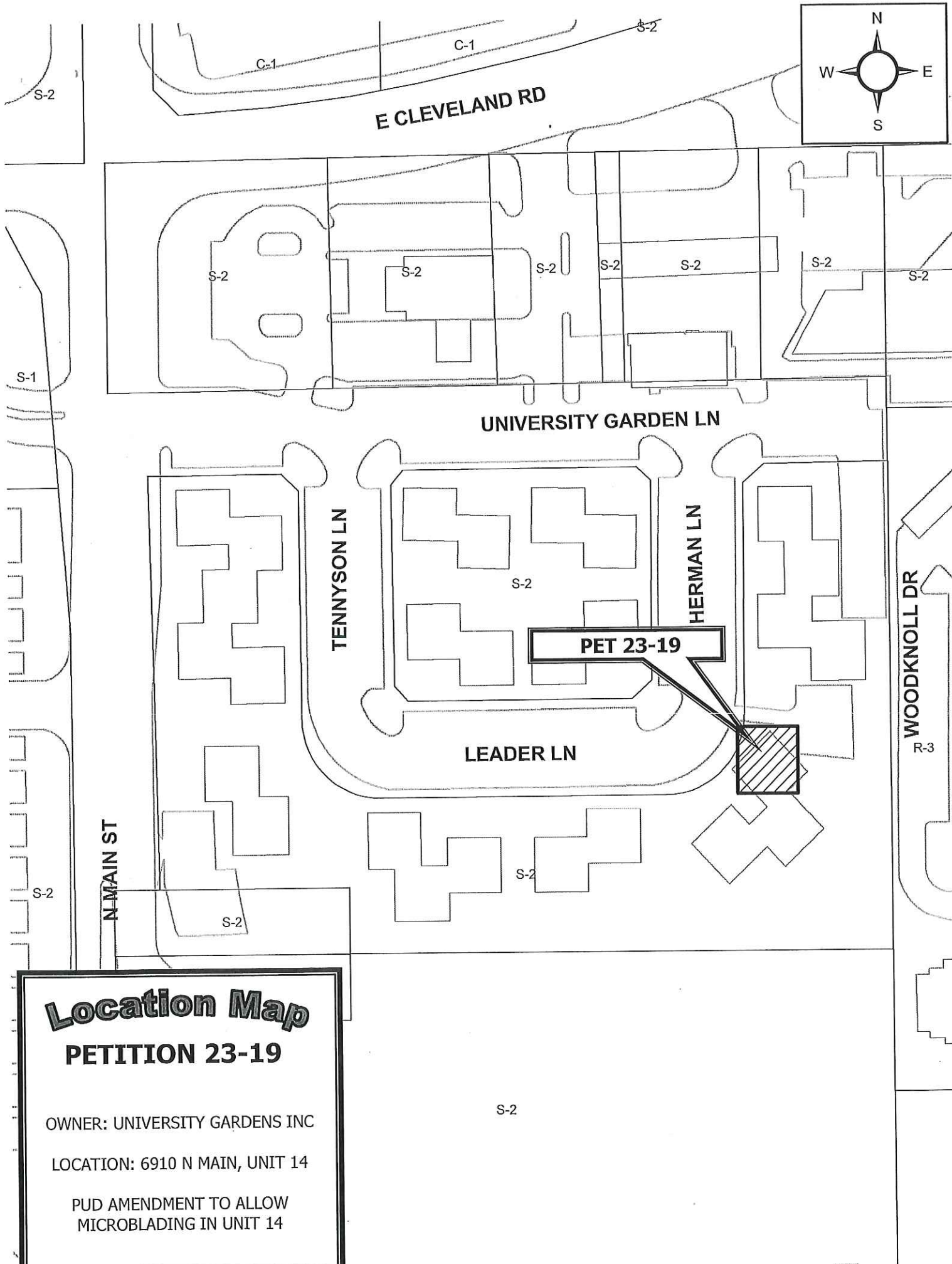
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CONTACT PERSON:

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