



AGENDA

January 08, 2024

Meetings of Standing Committees
Council Conference Room
6:45PM

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

WebEx Telephone Number: 1-408-418-9388
Meeting Number (access code): 2338 980 7981
Meeting password: WPx8VvPH2j8

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: 23389807981@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call **ELECTION OF OFFICERS**
4. Approval of the Minutes of the Regular Meeting of December 18, 2023
5. Petitions, Communications, Remonstrance and Memorial

Petition No. 2023-27 PUD Amendment to allow a Convenience Store with Gas Station & C-1 Parking Standards - Lot 2 of Capital & 12th PUD Minor Subdivision

Petition No. 2023-28 PUD Amendment for increased Building Height (69', Reduced Parking Setback (6') and Pavement Drive Aisle Setback (0')), and Outdoor/Open Space for Various Uses - Lot 1 & 2 of the Enclave at Grandview Minor Subdivision

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2024-01 An Ordinance Amending Council Procedural Rules

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2023-57 Rezone from C-1 General Commercial to C-4 Automobile Oriented -411 W. McKinley (Assigned to Land Use Planning Committee)

P.O. No. 2023-58 Rezone from C-1 General Commercial to R-1 Single Family Residential - 617 E. Grove Street (Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

- **Council Committees & Appointments**
- **Council Attorney**
- **Appointments to Various Boards and Commissions**
 - **MBA**
 - **Solid Waste**
 - **MACOG**
 - **Insurance Committee**
 - **Redevelopment Commission**
 - **Plan Commission**
 - **Historic Preservation Commission**
 - **Animal Control Board**
 - **PSAP Executive Board**

- School City of Mishawaka Liaison
- Acceptance of Conflict-of-Interest forms

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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, 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

<https://mishawaka.in.gov/government/elected-appointed-officials/common-council/council-agendas-minutes/>

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

December 18, 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, December 18, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

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

Clerk Block called the roll.

Roll Call.

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

Minutes for the Regular Meeting on December 4, 2023 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their December 12, 2023 meetings.

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

PROPOSED ORDINANCE NO. 2023-57

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 THE CITY OF MISHAWAKA, INDIANA

**Rezone from C-1 General Commercial to C-4 Automobile Oriented – 411 W. McKinley
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-58

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 THE CITY OF MISHAWAKA, INDIANA

**Rezone from C-1 General Commercial to R-1 Single Family Residential – 617 E. Grove
Street
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-59

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, AUTHORIZING AN ISSUANCE OF THE CITY OF MISHAWAKA,
INDIANA TAXABLE ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE
BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT
THERE TO WITH CONNECTION TO THE GRANDVIEW PHASE III PROJECT
(Assigned to Budget and Finance Committee)**

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

RESOLUTION R2023-28

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: 5514 GRAPE ROAD
Use Variance to allow 4 storage containers – 5514 Grape Road (Hobby Lobby)**

Wayne Spears, 6945 South 69th East Avenue, Tulsa, Oklahoma, spoke in favor of
RESOLUTION R2023-28. Mr. Spears stated due to the unexpected volume of sales at the store,
especially at that time of the year, it became necessary that they had some additional storage and
so they were trying to do it in a way that it was screened and not visible as well as not
unattractive.

Mr. Banicki asked how long they planned on using these and if it were just a short-term fix or a
long-term fix. Mr. Spears stated this would be a long-term fix and that was why they were
putting in the fence and the landscaping. Mr. Banicki then asked, with this being long-term, if
this would be more secure than just having storage type of units built onto the back of the
building. Mr. Spears stated he could not speak to that and that would be a question for the Hobby
Lobby design and development team but right now, they just wanted to do the container storage.

Mr. Emmons asked if he had any idea how long the four containers would be there. Mr. Spears
stated all that they had indicated to him was that it would be indefinite. Mr. Emmons stated he
would have liked to have a little more information on that but then asked what size the storage
containers were going to be. Mr. Spears stated in laying out the space they had allowed for the
longer 50-foot containers. Mr. Emmons asked if they were sea van containers or trailers. Mr.
Spears stated they were just containers that sat flat.

Mr. Compton asked if the area he was fencing in would be big enough to hold more than four containers. Mr. Spears stated no. Mr. Compton then asked for clarification if they were strictly holding four containers in this instance and would be back if they were to add more containers. Mr. Spears stated yes to both questions. Mr. Compton stated he was with the other council members regarding the fact that he would much prefer to see another building there rather than container storage, but he knew that was not his place and he was present that evening to represent the client.

Mr. Hixenbaugh wanted to talk a little bit about the past and the staff report in front of them indicated that at least some evidence was in the record that as far back as November of 2022, there were two storage containers that were on site and then there were some changes in the Spring of 2023 and then it morphed into four storage containers at that time. Mr. Hixenbaugh asked if Mr. Spears could help him understand how the containers got on the site without approval. Mr. Hixenbaugh stated he knew things happened in life and he acknowledged that, but he was sure Mr. Spears could understand that their preference was for the approval to take place prior to the containers showing up on site. Mr. Hixenbaugh asked Mr. Spears to help him understand the timeframe. Mr. Spears stated he could only speculate but his history with Hobby Lobby was that the store manager was out of space and ordered some more units to store more goods. Mr. Hixenbaugh stated what was done was done to a certain extent, but his hope was barring approval that evening if it was in fact approved that four remained four and it did not become six, for example, because it was a matter of expediency unless they were going to have more conversation about that and he was glad Hobby Lobby was successful, but he was sure that he could understand that process was important to them and to the community. Mr. Hixenbaugh asked if he could pass that message along to Hobby Lobby's management, he would appreciate that. Mr. Spears stated they would do that.

Ken Prince, Director of Planning and Community Development for the City of Mishawaka, addressed a question by Mr. Emmons regarding when Hobby Lobby applied for this, if there was a specific date involved as to how long they would have the four containers. Mr. Prince stated to answer his question, yes and the approval that Hobby Lobby was requesting would be in perpetuity so they would be allowed to have the four trailers moving forward. Mr. Prince stated similar to other proposals they had received, with Dunham's being his example, where they had requested this for dealing with the peak times when they had product come in and it was really to avoid the ebb and flow of at what point would they need a building and not need a building. Mr. Prince stated their preference was always that they built that building but they were also realist in terms of the retail market and in terms of their needs and how they fluctuated over time. Mr. Prince stated he thought definitively that when this was proposed, their first reaction to this was that four was more than they had ever approved before, and he believed the most they had approved previously was two. Mr. Prince stated they just required fencing for this around the containers but in their mind, the property visibility of this even though it was at the loading dock, it was very visible along Douglas Road and as along Grape Road so that was why they asked for the landscape screening and not just in front of it because of the visibility along Grape Road. Mr.

Prince stated they felt this was a reasonable compromise and that was how they ended up with the recommendation.

Mr. Emmons stated that answered his question, but it still disturbed him that they went ahead and put the containers in before it was approved. Mr. Prince stated usually, the store managers were not aware of the regulation that required them to flag it when the additional went in, so they were allowed to bring trailers in and then pull them out. Mr. Prince stated what they could not do was put them in on a permanent basis and use it as storage, so it took them a while to figure out that they had a problem and that was how this evolved. Mr. Emmons asked Mr. Prince if the containers were flat on the ground. Mr. Prince stated they had been identified as being flat on the ground and they were offloaded and not a trailer.

Mr. Banicki asked if they approved this tonight, if they could put a stipulation of a timeframe where they would review this in one or two or five years to see how it was going and if they continued to need them in five years then maybe it would not be a temporary situation after all and would be more of a need at that point. Mr. Prince stated the thing he would stress was that either it was appropriate or it was not appropriate so if they felt like there was a reason to identify it, they had the ability to put reasonable conditions on the property but if they revisited it in three years and they continued to have the need and they continued to have four trailers out there, he was not sure what the purpose would be to bring it back before the Council other than that they would have the potential to deny it at that point. Mr. Prince stated he deferred to them and to the legal counsel as well on the merits of that. Mr. Banicki asked even if they were to approve it that evening, could they in the future revoke this if all of the sudden there were five or six containers on the site and noticed some things going on that had not been approved. Mr. Banicki added there was a little bit of a trust issue at that time. Mr. Prince stated in his opinion, the only thing they could do was enforce it back to the four if it were approved and that they would not be able to go back and revoke. Mr. Prince stated he knew in other situations that they had that where they had fundamentally not complied but if they brought it back into compliance, which was typically what would happen, he believed that they would not have an issue. Mr. Banicki stated he was concerned because this was right on the road, whereas some of the others were behind or screened off, so this was a front-line type of situation. Mr. Prince stated that was correct and there were two layers of buffer as they had the fence immediately around it which would provide that immediate screening and then what he would call the filtered buffer along in the entrance. Mr. Prince stated the shopping center in the area was built prior to their landscaping standards so it had no landscaping to speak of along there so they did believe the landscaping would help the overall appearance inside. Mr. Banicki stated that scared him a little bit because he thought that was supposed to be a right-in right-out entrance. Mr. Prince stated it never really worked and people drove around it. Mr. Banicki stated he agreed, and he saw people going the wrong ways but then asked a question if they were going to put the trees and the other landscaping there, if that would alter seeing cars coming. Mr. Prince stated what he called it, for lack of a better term, the illegal drive was the left in and he did not believe the problem was with the left out because you could queue up to the signal at Indian Bridge and he had seen a ton of lefts in and not a lot of lefts out because there were multiple ways to make that trip.

Mr. Mammolenti asked if they also put the Big Lots, Dunham's and Dicks Sporting Goods in perpetuity similar to this case where they allowed outdoor storage. Mr. Prince stated he believed so, yes. Mr. Mammolenti referred to the diagram and asked if the plan was for the fence to be placed in the grass area. Mr. Prince stated his understanding was the fencing would be placed immediately in the parking lot area. Mr. Prince stated that would be a good point to clarify with the applicant.

Mr. Compton asked if this was passed, if the variance would be strictly applied to Hobby Lobby and if they moved this would go away. Mr. Prince stated it remained with the property but they would likely pick up the storage containers and take them with them to move and for another retailer to bring it back, he did not know if the new applicant would even be aware of the variance they would receive and if they would even bring it back but in terms of rights, the use variance ran with the property and did not run with the applicant.

Mr. Emmons asked if the trailers were not utilized for a year, for example, if there would be a timeframe of when they needed to be used or whether they could just sit empty forever. Mr. Prince stated the use variance would be for the placement of those containers and they would never verify whether they were being used or not. Mr. Prince stated they could remain there theoretically empty, but he would not know what the point of that would be. Mr. Prince stated theoretically, those containers would have value if they were not being used and he assumed they would be picked up and moved elsewhere.

Mr. Banicki asked when they built onto the building, obviously there would be additional taxes but with these temporary storage units, there would be no taxes involved and asked if that were correct. Mr. Prince stated he was getting above his pay grade, but he would not believe that the personal property would be subject to tax, and it would be taxed as real estate, and the containers theoretically were taxed at some point in time, but he was not quite sure how that worked. Mr. Prince stated very much like a vehicle was taxed, he assumed that the container would also be property that would have to be taxed.

Mr. Hixenbaugh stated he appreciated the effort the staff put into enhancing the screening for these but for that, personally, he would not even consider voting for it except for the fact that they had a precedent as well as they had approved these in other locations so there was a difference in degree and number here but he did appreciate that additional screening and his hope would be that if they received these requests in the future, they would be as vigilant with regard to those screening issues as he had been in this instance and thanked him for that work.

Mr. Banicki asked for Mr. Spears to come up before the Council once again and confirm where the fencing would be and if it would be attached to the building or if it would be on the street. Mr. Spears stated it would be between the street and the building and the landscaping. Mr. Spears, there was a 27-foot drive aisle that would remain for access to the south side of the store. Mr. Spears stated there was a trash compactor there now, so it was about 10 feet to the west of the trash compactor and that was where a couple of the containers would slide in between the

fence and the compactor. Mr. Prince provided a detailed layout of the proposal and displayed the layout.

Question was called for at 7:25PM for **RESOLUTION R2023-28. Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

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

PROPOSED ORDINANCE NO. 2023-54

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 THE CITY OF MISHAWAKA, INDIANA

Rezone from I-2 Heavy Industrial to C-4 Automobile Oriented Commercial – 1213 E. Jefferson Blvd.

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

Grigor Petkov, 1315 Highland Village Drive, Mishawaka, Indiana, spoke in favor of **PROPOSED ORDINANCE NO. 2023-54.** Mr. Petkov stated he owned Greg’s Automotive, which was on the north side of the street, and he purchased the old Reggio’s with the parking lot and also the lots to the west of that all the way up to Merrifield. Mr. Petkov stated he planned on annexing all of the frontage on Jefferson for automotive purposes and the next step would be for him to submit a plan to deal with the building and bringing it up to code just like he did with the parking lot just to the west of it.

Mr. Compton stated this was in his district and he drove through there a lot and appreciated what he was doing and stated he really cleaned that area up and started to make it look more inviting for those who would be driving into the city from the east. Mr. Compton stated he appreciated that and appreciated what he was doing, and he knew a lot of people who missed Reggio’s and their good food, but nothing was forever and then there was a lot of question about what was going to happen to that and how long it was going to sit empty and just become dilapidated. Mr. Compton stated now they were seeing down the street a little further from him with Troop Town, that should really make this look a lot better in that whole entrance and it was something that needed to be done. Mr. Compton thanked Mr. Petkov for taking that on and he was anxious to see how it would look in the future.

Mr. Hixenbaugh stated he also appreciated what Mr. Petkov had done and congratulated him on his success, but his one word of caution was as he moved further to the east and as he acquired

the properties, there was a lot of good for the community that came out of that but as he became closer in proximity to some of the neighbors who lived on the north side of Stanley Street there, if he could please continue to be a good neighbor. Mr. Hixenbaugh stated he always had been a good neighbor, but he thought they were all sensitive to their world changing little by little as Jefferson developed and he asked Mr. Petkov to keep that in mind as he moved forward. Mr. Petkov stated he absolutely would. Mr. Hixenbaugh asked if there was any update on the move to the restaurant space on Mishawaka Avenue. Mr. Petkov stated so far so good. Mr. Hixenbaugh stated to keep up the good work and they looked forward to that as well.

Question was called for at 7:30PM for **PROPOSED ORDINANCE NO. 2023-54. Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich. Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5876.**

PRIVILEGE OF THE FLOOR

Ken Prince, Director of Planning and Community Development for the City of Mishawaka, also served on the Board of the Mishawaka Food Pantry and they had done something different this year. Mr. Prince stated they were holding a gala as opposed to an annual Pantry of Plenty dinner they did right before Christmas in years past. Mr. Prince stated they were trying to change things up and gain more excitement so on December 29th they would be holding a gala and he wanted to make the public aware of that. Mr. Prince stated there was still time to purchase tickets and they were \$60 a piece, which he knew was expensive, but this was their major fundraiser year, and it would go to a very good cause. Mr. Prince stated those who had interest, he recommended they contact Doris Portolese, the Penn Township Trustee and Penn Township actually owned the building the food pantry was run in, and they were a great partner. Mr. Prince stated he just wanted to pass that information along and hopefully make it to Facebook where other people could view it and get that information.

NEW BUSINESS

Clerk Block read the following three resolutions in their respective entirety honoring Mike Bellovich, Mike Compton and Maggie DeMaegd for their years of service to the City of Mishawaka.

RESOLUTION R2023-29

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA HONORING MIKE BELLOVICH FOR SERVICE TO THE CITY OF MISHAWAKA

WHEREAS, the Honorable Mike Bellovich was duly elected to the Common Council of the City of Mishawaka, and

WHEREAS, the Honorable Mike Bellovich has faithfully discharged his duties as Councilman for the Second District,

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

1. The Council, Mayor and Clerk gratefully acknowledge the past thirteen years of service rendered by Mr. Bellovich on the Common Council.
2. The Council, Mayor and Clerk publicly commend Mr. Bellovich for his dedicated interest in the welfare of the City of Mishawaka and its citizens.
3. The Council, Mayor and Clerk wish Mr. Bellovich well as he leaves the Mishawaka Common Council and encourage him to continue serving our community in the years ahead.

Mr. Hixenbaugh provided Mr. Bellovich with a plaque and asked Clerk Block to read the other two resolutions as well and then they would have one vote on all three of them at the end.

RESOLUTION R2023-30

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA HONORING S. MICHAEL COMPTON FOR SERVICE TO THE CITY OF MISHAWAKA

WHEREAS, the Honorable S. Michael Compton was duly elected to the Common Council of the City of Mishawaka, and

WHEREAS, the Honorable S. Michael Compton has faithfully discharged his duties as Councilman for the Fifth District,

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

1. The Council, Mayor and Clerk gratefully acknowledge the past sixteen years of service rendered by Mr. Compton on the Common Council.
2. The Council, Mayor and Clerk publicly commend Mr. Compton for his dedicated interest in the welfare of the City of Mishawaka and its citizens.

3. The Council, Mayor and Clerk wish Mr. Compton well as he leaves the Mishawaka Common Council and encourage him to continue serving our community in the years ahead.

Mr. Hixenbaugh provided Mr. Compton with a plaque.

RESOLUTION R2023-31

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA HONORING MAGGIE DEMAEGD FOR SERVICE TO THE CITY OF MISHAWAKA

WHEREAS, the Honorable Maggie DeMaegd was duly elected to the Common Council of the City of Mishawaka, and

WHEREAS, the Honorable Maggie DeMaegd has faithfully discharged her duties as Councilwoman-At-Large,

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

1. The Council, Mayor and Clerk gratefully acknowledge the past four years of service rendered by Mrs. DeMaegd on the Common Council.
2. The Council, Mayor and Clerk publicly commend Mrs. DeMaegd for her dedicated interest in the welfare of the City of Mishawaka and its citizens.
3. The Council, Mayor and Clerk wish Mrs. DeMaegd well as she leaves the Mishawaka Common Council and encourage her to continue serving our community in the years ahead.

Mr. Hixenbaugh wanted the record to reflect that they had a plaque for Mrs. DeMaegd as well and they would make sure that was delivered to her, as she unfortunately was not able to be with them that evening.

Mayor Dave Wood publicly acknowledged the service of the three councilmembers. Mayor Wood stated Mishawaka public service, as he always said, was different and here you served your family, your friends, your neighbors and you did so with a passion for your hometown and when he looked at the two councilmen right in front of them, they had done an outstanding job of serving their hometown. Mayor Wood stated when he thought of their public service, they did it selflessly and passionately and he thought they could walk away knowing that they had left their city in a far better place than when they found it. Mayor Wood stated they served their districts and at large representing the people who lived here and not only did they do that, but they were very trusted in how they did it and in many cases, you could call the city or any one of their offices but the two of them served in a way that people went to them. Mayor Wood stated when they went to them, they did so because they knew that they would receive a compassionate ear, they would receive honesty and they knew they would go to bat for their residents and there was no better public service than that. Mayor Wood stated they could also take heart in walking away and one of the best things about serving Mishawaka was that you could point to what you had

impacted. Mayor Wood stated you could drive down the street, you could talk to your friends, your neighbors, your families as you were driving by and you could tell stories about how you served and how you improved the neighborhood, how you impacted a project, how something was there that would not have been there without their support. Mayor Wood stated that was public service at its heart and he had served an awful long time with the two of them, in particular and they had been to a lot of meetings and they had been in a lot of discussions about how they could improve the city and its ordinances and its services and all along the way, they did disagree from time to time but they did it respectfully and they served selflessly and that was all they could ask for in Mishawaka. Mayor Wood stated it was all their citizens could ask or and they left hard shoes to fill but they also set a great example for public servants to follow and like any good public servant who left, they would never try to let him get away cleanly. Mayor Wood thanked both of them for their willingness to continue to serve as both of them would continue to serve on boards and commissions going forward, lending their expertise to their citizens. Mayor Wood thanked them both from the bottom of his heart but also on behalf of their citizens, he wanted to thank them because they were both a class act. Mayor Wood stated the only thing he had never known was that Mike Compton was S. Michael Compton and was curious to know what the S stood for. Mayor Wood concluded by thanking them both for their service and he was proud of both of them.

Mr. Compton stated the S in his name stood for Samuel in Samuel Michael Compton and he was named after both of his grandfathers who were both Samuels and both interesting characters. Mr. Compton stated where he came from was a story of America as his one grandfather was a coal miner in Southern Indiana and his mother talked about when she remembered when he came home, John L. Lewis had negotiated health care benefits for their family and that always sat with him and was something that drove him to do the things he did. Mr. Compton stated his other grandfather immigrated here from Syria and was a Shiite Muslim and here he was, the byproduct of those two men and that only happened in America, that he could think of. Mr. Compton thanked the Council, Mayor Wood, his staff and when he thought about the 17 years he sat up there, he had been through quite a lot personally and professionally and there had been great support during all of that time by a number of people sitting on the Council and it did not go unrecognized and unremembered by himself and his family. Mr. Compton wished them all good luck in the future and it was not a difficult job but it did have its moments and he wished the three new council members the best of luck and if he could be of any help to any of them, he was certainly a phone call away. Mr. Compton spoke to Mr. Bellovich directly and stated he knew this did not end the way he may have liked it to end and he could appreciate that and to a degree he felt bad about and he had some empathy for that. Mr. Compton stated Mr. Bellovich's opinions, his thoughts, his viewpoints from his marine service, from his experience in human resources was all helpful to them and really brought a lot to the table and he understood where he came from when he talked about organized labor and different things of that nature of the workforce. Mr. Compton thought they complimented each other in those areas. Mr. Compton stated lastly that they did this, as Mayor Wood said, for their families and their citizenry and he could not have done it without the support of his wife. Mr. Compton stated when he was a union representative and a city councilman, he was gone up to four nights a week every week and she never really complained too much even though there were times but did not complain too much and had as much of an interest in what he was doing as he did, which was important. Mr. Compton stated he could not have done what he did and at least still be married and he did not

want that to change, so he wanted to thank everyone. Mr. Compton stated he was not going to go away completely but he was ready to be fully retired and his time had come, and it was time for someone else to step into the role. Mr. Compton stated he was going to miss the people and he was not going to miss some of the circumstances but anytime like he had left jobs in the past and such, you missed people over time. Mr. Compton stated he would continue to see the members of the Council as well as the Administration. Mr. Compton stated from a kid who was just a long haired, 18-year-old kid who just wanted to be an electrician and when he looked back on what he had been able to do, he still had to pinch himself. Mr. Compton thanked them all once more and stated he would miss being there.

Mr. Bellovich stated the thirteen years and three months that he had served on the Council had been one of the greatest honors of his life. Mr. Bellovich stated he served thirty years in the Marian Corps, active duty and reserves and that was also something that was a great honor for him but he thought Mishawaka over the years had been a very well-run city from the Administration and the support that the Council gave and he thought that over the years, their meetings in Mishawaka certainly had not been as exciting as their city to the west but one of the things that he really appreciated was as a group, they worked well together. Mr. Bellovich stated they had not always agreed on the issues but they had managed to resolve everything and he thought that Mishawaka had a great future ahead. Mr. Bellovich stated he knew the four elections that he ran in, he always appreciated the fact that in his elections and across the city, they had clean elections and they had a lot of integrity on the Council and he appreciated the kind words of the Mayor and his leadership for the City of Mishawaka. Mr. Bellovich also wanted to thank Mr. Hixenbaugh for his tenure as President of the Council and all of the meetings he had participated in had been orderly and organized and he thought most of that credit went to Mr. Hixenbaugh. Mr. Bellovich stated and he also, like Mr. Compton, would be hanging around on one of the commissions and he still wanted to help Mishawaka move forward and concluded by thanking everyone present that evening.

Mrs. Voelker stated she felt like she was losing to work husbands but on a serious note she enjoyed the give and take herself and Mr. Compton had as they sat next to each other for an extended period of time, and she also appreciated Mr. Compton's respect for whoever came up to the podium to speak, whether it was for or against an issue, he had always been very respectful even if he did not agree. Mrs. Voelker stated she also admired the way he led individuals to answer that they may or may not have wanted to give or admit. Mrs. Voelker stated she and Mr. Bellovich spent a lot of time on the phone over the years, over twelve years, and she was going to miss him a lot. Mrs. Voelker stated she knew she would see them in the future and wanted to thank them both. Mrs. Voelker stated they had both been great mentors to her and she truly appreciated all they both did.

Mr. Banicki gave a heartfelt thank you to Mr. Compton, Mrs. DeMaegd and Mr. Bellovich and stated it had been an honor and privilege working with all of them. Mr. Banicki stated it was not a goodbye forever it was just until next time and they all had each other's cellphones so if there was anything they needed of them, feel free to reach out because they would always be willing to help and there would be open phone lines both ways.

Mr. Emmons stated it had been a pleasure and a joy working with Mr. Bellovich and Mr. Compton. Mr. Emmons stated he, along with Mr. Banicki, were on the board there until both of them came on and he had enjoyed sitting next to Mr. Bellovich for a number of years, chit chatting during the meetings and catching up on things either he missed, or Mr. Bellovich missed and had served on the wage and negotiations with both Mr. Bellovich and Mr. Compton for years and both of them were very diligent on labor and on negotiations. Mr. Emmons stated it had been a privilege and gave all of his joy to Paula Compton, Mr. Compton's wife, as well as Pat Bellovich, Mr. Bellovich's wife. Mr. Emmons stated without the wives, they would not have been successful, and the wives made them successful because they had to come home and have the shoulder to cry on sometimes and the ear to listen and that was what wives were for and he complimented both Paula and Pat, even though Mrs. Bellovich was not present that evening. Mr. Emmons stated it had been a privilege to serve with Mr. Bellovich and Mr. Compton and looked forward to working with them in the future. Mr. Emmons asked them both not to be strangers.

Mr. Mammolenti echoed some of the comments made by his colleagues and formally thanked Mrs. DeMaegd, Mr. Compton and Mr. Bellovich for their time and he think Mr. Compton had mentioned this was not a hard job but there were hard things within the job and saying goodbye to your friends was definitely one of them and thankfully it only happened every four years. Mr. Mammolenti stated the great things that he appreciated most about both of them was that once the elections were over, it became about we and the City of Mishawaka came first. Mr. Mammolenti always appreciated their regards and their thoughts for the City of Mishawaka, and he also wanted to thank them both for being on the wage committee. Mr. Mammolenti stated as Mr. Compton mentioned, Mr. Bellovich's experience in Human Resources was invaluable at the table and helped bring a different perspective in how he communicated with the other side of the table, and he knew it was never easy, but he sure helped that process along. Mr. Mammolenti stated Mr. Compton's experience with the union and the negotiations always was a great asset and he could not thank either of them enough for making that process as easy as possible. Mr. Mammolenti stated, as Mayor Wood had mentioned, he hoped they would find value in driving throughout the city in years to come, knowing all of the wonderful things that they did and had a part of. Mr. Mammolenti thanked them both very much and looked forward to chatting with them in the near future.

Mr. Hixenbaugh added his thanks to both of them for not only their service there but for who they were as residents of the community. Mr. Hixenbaugh stated between their colleagues and Mayor Wood, they hit the high points, but he had the privilege of serving with more Council colleagues than he thought he could count but he could say without any hesitation that he had never served with any better people than Mike Bellovich and Mike Compton. Mr. Hixenbaugh stated the similarities between the two always struck him and it was not just in the first names that they used were the same, but it was those qualities of character that both of them evidenced on a regular basis that really were consistent across the board and it had been a pleasure to work with both of them. Mr. Hixenbaugh stated he felt like he was a better person from having worked with them and he knew the work of the Council had been better and the community was a better place for their years of service. Mr. Hixenbaugh thanked them for everything they had done, thanked them for who they were and thanked both of their spouses for being wonderful people as well for their support of them. Mr. Hixenbaugh looked forward to seeing what the next stage of

both of their lives would hold because he was confident that great things were still to come. Mr. Hixenbaugh thanked them both once again.

Question was called for at 7:56PM for **RESOLUTION R2023-29, RESOLUTION R2023-30 and RESOLUTION R2023-31. Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich. Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The three of the resolutions passed 8-0.

Mr. Hixenbaugh concluded the meeting by wishing everyone a Merry Christmas and a Happy New Year and hopefully they would all have a chance to be able to enjoy some time with family and friends over the holidays and they looked forward to seeing everyone in the New Year. Mr. Hixenbaugh also made a reminder that at a prior Council meeting, they changed the date of the first Council meeting in January, so they would be next convening there in the Council Chambers on January 8th, 2024, at 7PM.

ADJOURNMENT 7:57PM

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

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

Date: 12/07/23
Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

PET 23-27
Received
DEC 20 2023
Planning and
Community Development

RE: C-Store PUD Amendment

The undersigned, Owner, of 1635 IRONWOOD LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

A part of the Southeast Quarter (¼) of the Southeast Quarter (¼) of Section 14, Township 37 North, Range 3 East, in the City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Lot 2 Capital-12 TH PUD Minor Subdivision

COMMON ADDRESS: Northwest Corner of Capital Avenue and 12th Street, Mishawaka

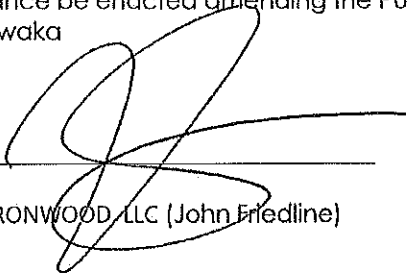
Petitioner owns one hundred percent (100%) of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for office and retail development containing a financial institution uses.

Petitioner desires said real estate to be amended as follows:

1. Additional Use:

1. To allow fueling stations as allowed in the C-10 district.
2. To allow for parking standards for a C-1 district

WHEREFORE, the petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, and appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka

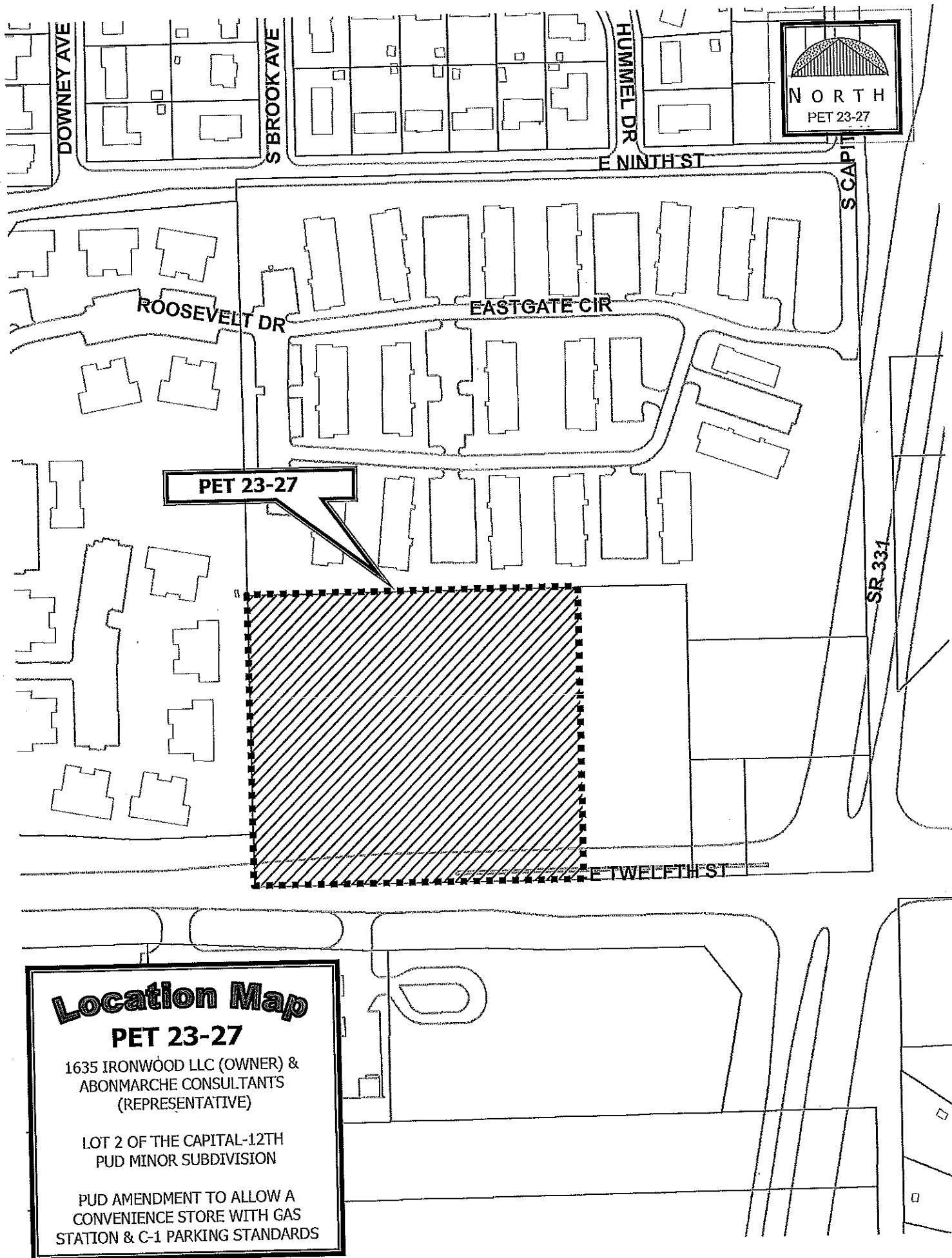


1635 IRONWOOD, LLC (John Friedline)

CONTACT PERSON

Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 538-2201
sruby@abonmarche.com





Location Map

PET 23-27

1635 IRONWOOD LLC (OWNER) &
ABONMARCHE CONSULTANTS
(REPRESENTATIVE)

LOT 2 OF THE CAPITAL-12TH
PUD MINOR SUBDIVISION

PUD AMENDMENT TO ALLOW A
CONVENIENCE STORE WITH GAS
STATION & C-1 PARKING STANDARDS



Engineering • Architecture • Land Surveying

Date: 12/20/23

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

Received
DEC 20 2023
Planning and
Community Development
P65 23-28

RE: Grandview Phase III PUD Amendment

The undersigned, Gumwood Acquisitions, LLC, respectfully certifies its ownership of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Lots 1 and 2 of the Enclave at Grandview Minor Subdivision as recorded under instrument #2023-05677 in the Office of the Recorder of St. Joseph County, Indiana.

COMMON ADDRESS: Northwest Corner of Gumwood Road and Cleveland Road

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for multifamily uses and commercial uses within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts ("PUD").

Petitioner desires that the PUD be amended as follows, for that portion of said real estate which is generally depicted in yellow on the plan attached :

1. PUD Exclusions and Additions:

1. A maximum building height of 69' shall be allowed.
2. A parking setback of 6' from the north property line.
3. Use of outdoor/open space activated for hotel courtyard/reception areas, banquet or gathering space, entertainment, retail market and food and beverage service.

Exclusion from the height amendment request will be the portions *outside* the central lot residing ~ from Gumwood Road approximately 288' west, from Cleveland Road approximately 315' north and from the west property line 415' east and as indicated in the attached graphic.

WHEREFORE, the petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, and appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka

PROPERTY OWNER:

GUMWOOD ACQUISITIONS, LLC

By: Great Lakes Capital Management, LCL

Its; Manager



Richard Deahl, General Counsel

CONTACT PERSON

Steve Ruby

Abonmarche Consultants

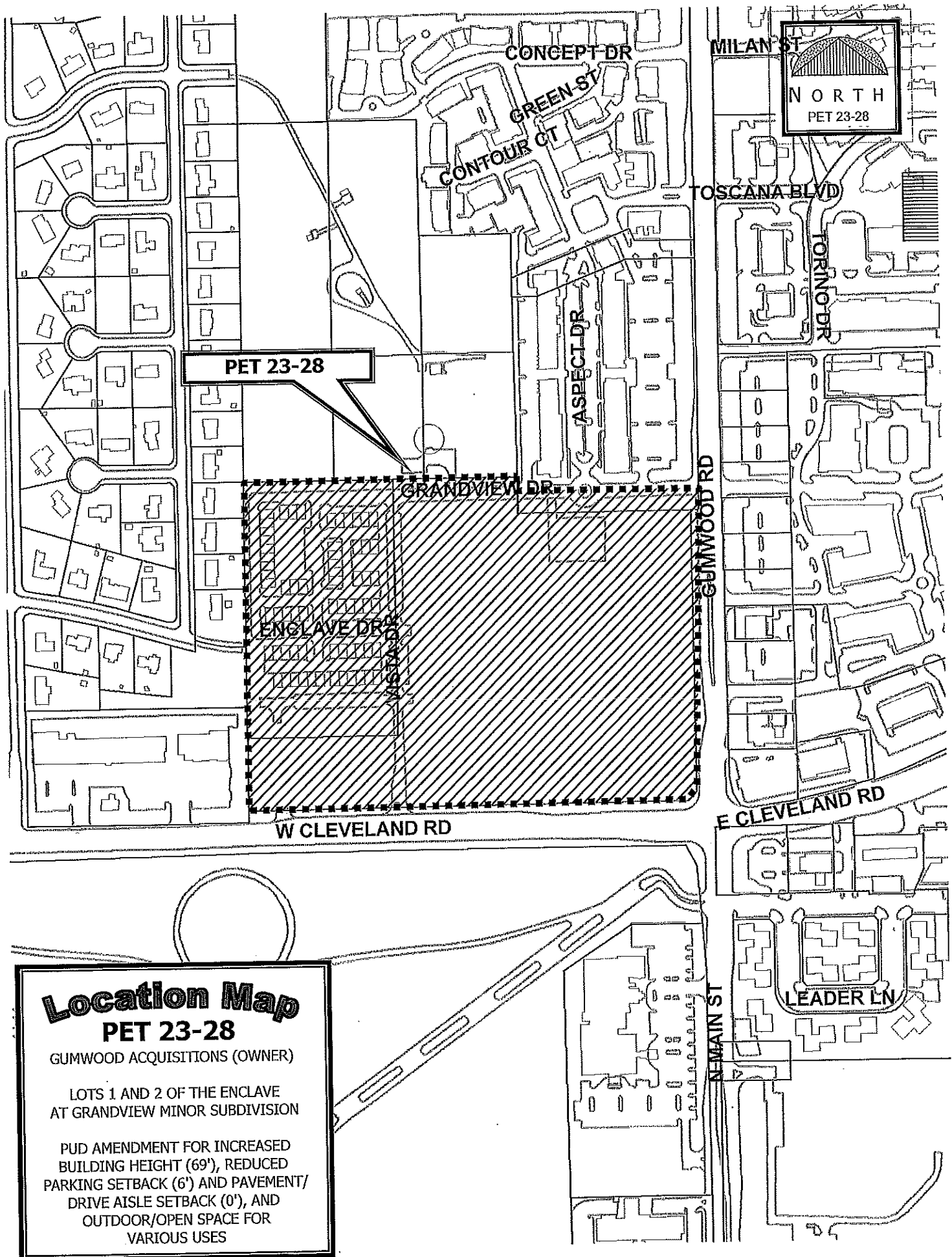
315 W. Jefferson Blvd.

South Bend, IN 46601

(574) 538-2201

sruby@abonmarche.com





PROPOSED ORDINANCE NO. 2024 - 01

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AMENDING CHAPTER 2, ARTICLE II OF THE MUNICIPAL CODE OF THE CITY OF
MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, OF THE CITY OF
MISHAWAKA, INDIANA

WHEREAS, Chapter 2, Article II of the Municipal Code of the City of Mishawaka, Indiana provides for the procedural rules under which the Common Council (the "Council") of the City of Mishawaka, Indiana operates; and

WHEREAS, the Council desires to amend the procedural rules for its operation found in Chapter 2, Article of the Municipal Code of the City of Mishawaka, Indiana in the manner attached hereto as Exhibit "A".

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

Section 1. Chapter 2, Article II of the Municipal Code of the City of Mishawaka, Indiana, be, and the same is hereby amended in the manner shown on Exhibit "A" attached hereto.

Section 2. This Ordinance shall be in full force and effect from and after its passage by the Common Council and any other steps required by Indiana law for such Ordinances have been taken.

PASSED by the Common Council on the ____ day of _____, 2024 at _____ o'clock ____m.

Gregg Hixenbaugh, Council President

ATTEST:

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

PRESENTED to the Mayor this _____ day of _____, 2024 at
_____ o'clock _____.m.

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

APPROVED by me this _____ day of _____, 2024 at
_____ o'clock, _____.m.

David A. Wood
Mayor

ARTICLE II. COMMON COUNCIL

DIVISION 1. GENERALLY

Secs. 2-23—2-47. Reserved.

DIVISION 2. ORGANIZATION

Sec. 2-48. Presiding officer.

- (a) The presiding officer of the common council, which is the president, or the vice-president or other designated councilmember, when the president is not available, shall take the chair precisely at the hour fixed for the opening of the meeting and shall call the council to order if a quorum is present.
- (b) The presiding officer shall preserve order and decorum. He may speak on points of order in preference to council members and shall decide questions of order according to the rules adopted by the common council. If an appeal should be requested on his ruling, the question on appeal should be put: "Shall the decision of the chair stand as the decision of the council?" An appeal from the presiding officer's decision shall be heard by and on the request of any two members of the common council. A simple majority vote shall prevail.
- (c) The presiding officer shall ask for a voice vote of the common council on any motion before it. If a vote is necessary, his question shall be: "All in favor of the question, say 'aye' or 'yes'; those opposed to the question say 'nay' or 'no.' " If the presiding officer cannot determine the vote, or if a division of the council is called for, the council shall be individually polled by the clerk and the votes recorded.
- (d) The presiding officer shall prohibit loud talking or any other disturbance within the council chamber.
- (e) The presiding officer shall sign all ordinances passed by the council before their presentation to the mayor. He shall sign all ordinances after enrollment as well as the journal of the proceedings.

(Code 1968, tit. 20, art. I, § 8; Code 1985, § 30.01; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—President; vice-president, IC 36-4-6-8; requirements for adoption, IC 36-4-6-14.

Sec. 2-49. City clerk as clerk of council.

- (a) The city clerk shall be the clerk of the common council. It shall be his duty to keep an accurate journal of the proceedings thereof. He shall keep a proper file of all papers and documents of every kind and character concerning or pertaining to the proceedings of the common council. He shall be the custodian of all ordinances, resolutions, petitions, memorials, and all other papers pertaining to the business of the common council, except when such ordinances, resolutions, petitions, memorials, or other papers are necessarily in the hands of any committee for the consideration of the committee.
- (b) When directed by the presiding officer, the clerk shall read the titles of ordinances and resolutions before the council. If requested by any member of the council, the clerk shall read the entire text of such ordinance

or resolution. The clerk shall poll the members of the council and shall enter the "yes" and "no" votes on the action of every ordinance and resolution and on all other votes whenever requested by two members.

- (c) The clerk shall perform all other duties as required by law.
- (d) Order of voting. When polling the members of the council for their vote on any ordinance or resolution, the clerk shall begin by first polling the councilperson in the seat farthest to the right of the presiding officer, and then moving to the next succeeding councilperson, except for the presiding officer who shall vote last. The same order of voting shall be used for each ordinance and resolution.

(Code 1968, tit. 20, art. I, § 7; Code 1985, § 30.02; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989; Ord. No. 3563, 1-6-1992)

State law reference(s)—Duties of clerk, IC 36-4-6-9.

Sec. 2-50. Sergeant-at-arms.

- (a) The sergeant-at-arms of the common council shall be the chief of police or shall be a member of the police department designated by the chief of police.
- (b) The sergeant-at-arms shall be responsible to the presiding officer of the common council and shall follow the instructions of the presiding officer in maintaining order and carrying out the rules of the common council.

(Code 1968, tit. 20, art. I, § 8a; Code 1985, § 30.03; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969)

Sec. 2-51. Committees.

- (a) Unless otherwise specially ordered by the council, the presiding officer of the common council shall appoint, subject to the approval of the council, by no later than the second regular meeting of each year, the following standing committees, each to consist of not less than three members:
 - (1) Budget and finance.
 - (2) Land use planning.
 - (3) Public health and safety.
 - (4) Public improvements.
 - (5) Personnel.
 - (6) Substandard housing.
- (b) Select committees, when deemed advisable, shall be appointed by the presiding officer of the common council, subject to the approval of the council.
- (c) The presiding officer of the common council shall also appoint the chairman of each standing and select committee, subject to approval of the council.
- (d) It shall be the duty of the chairman of each committee to call committee meetings, but in the event the chairman is absent or declines to call the meetings, the committee shall meet on the call of any two of its members.
- (e) A select committee, when its report is made and disposed of, shall be deemed to have no other business and to stand dissolved without motion; an affirmative vote on recommitment by a majority of the common council has the effect of reviving the committee.

-
- (f) All actions of any committee shall require a concurring vote of the majority of the members of the committee. Minority reports, when filed, shall be noted by the clerk in the minutes of the meeting at which the report is made. If any committee declines or fails to take action on any matter referred to it by the presiding officer or a majority of the council, the council may by majority vote withdraw the matter for consideration from the committee and may act as a committee of the whole, in considering the withdrawn matter.
 - (g)
 - (h)
 - (i) The presiding officer shall serve as an ex-officio member of each committee of the council and shall refer ordinances to committees for recommendation after first reading. The presiding officer shall call for the committee report from the committee so assigned after second reading of the title of each ordinance and prior to its public hearing.

(Code 1968, tit. 20, art. I, § 5; Code 1985, § 30.04; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3809, 2-7-1994)

Secs. 2-52—2-75. Reserved.

DIVISION 3. MEETINGS

Sec. 2-76. Organization meeting.

The members of the common council shall choose from the members of the council a presiding officer who shall be called the president, and a vice-president who shall preside in the absence of the president, which officers shall serve until the first meeting in January of the next succeeding year, when their successors shall be chosen to serve for one year in like manner. In the event that neither the president nor the vice-president are present at a council meeting, the president may, prior to the meeting, appoint any member of the council to preside at the meeting. In the event of the failure of said appointment by the president, the chairman of the budget and finance committee shall preside at the meeting.

(Code 1968, tit. 20, art. I, § 1; Code 1985, § 30.10; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989; Ord. No. 3667, 3-15-1993)

State law reference(s)—Meetings of common council, IC 36-4-6-7; appointment of president and vice-president of council, IC 36-4-6-8.

Sec. 2-77. Regular meetings.

- (a) The regular meetings of the common council shall be held in the council chamber at 6:00 p.m. on the first and third Mondays of every month, unless any such regular meeting date falls on a day on which the city hall is closed. In such an event the regular meeting for that date shall be held at 6:00 p.m., on the next day that the city hall is open to the public for business. The president of the council shall have the right, in his discretion, to call a pre-meeting prior to any special or regular scheduled council meeting. In the event that said pre-meeting is called by the president, notice of the same shall be given by noting it on the council agenda, which shall be circulated to the councilmembers prior to the meeting date.
- (b) Any regular meeting may be adjourned to a specified day or hour, at which it shall be lawful to transact any business which might have been transacted at the regular meeting of which the adjourned meeting is a

continuation. At the adjourned meeting, the council will not be limited to completing particular items of business which had actually been entered on and left unfinished at the regular meeting, unless the order of adjournment of the regular meeting so limits the work of the adjourned meeting.

- (c) Any regularly scheduled meeting of the common council may be cancelled or rescheduled by majority vote of its elected members.
- (d) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least 48 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting.
- (e) Public notice shall be given by the common council by:
 - (1) Posting a copy of the notice at the principal office of the common council or, if no such office exists, at the building where the meeting is to be held; and
 - (2) Delivering notice to all news media which delivered by January 1 an annual written request for such notices for the next succeeding calendar year to the common council. The common council shall give notice by one of the following methods:
 - a. Depositing the notice in the United States mail with postage prepaid.
 - b. Transmitting the notice by electronic mail.
 - c. Transmitting the notice by facsimile (fax).

(Code 1968, tit. 20, art. I, § 2; Code 1985, § 30.11; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3310, 9-5-1989; Ord. No. 3563, 1-6-1992; Ord. No. 3805, 1-3-1994)

State law reference(s)—Meetings of common council, IC 36-4-6-7; public meetings (Open Door Law), IC 5-14-1.5-1 et seq.

Sec. 2-78. Special meetings.

- (a) Special meetings of the common council shall be held on the call of the mayor or of any five members of the common council. The call shall be in writing and shall specify therein the particular purposes for which the meeting is called. If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under state statute shall not apply, but:
 - (1) News media which have requested notice of meetings must be given the same notice as is given to the members of the common council; and
 - (2) The public must be notified by posting a copy of the notice according to state statute.
- (b) The call shall be signed by the mayor, or, when made by members of the council, by them, and sealed with the seal of the city and countersigned by the city clerk.
- (c) The mayor and each member of the council shall be notified in writing of the holding of the special meeting by the city clerk.
- (d) Only such business shall be transacted at the special meeting as is specifically stated in the call for the special meeting. The minute record shall show the issuance of the call, and the notice of service thereof, for which purpose the officer serving the notice shall return to the clerk, the presiding officer of the council, and the mayor.

(Code 1968, tit. 20, art. I, § 3; Code 1985, § 30.12; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Authority to call special meetings, IC 36-4-6-7(b); public notice of meetings, IC 5-14-1.5-5.

Secs. 2-79—2-99. Reserved.

DIVISION 4. RULES OF PROCEDURE

Sec. 2-100. Quorum.

The majority of all the councilmembers elected shall constitute a quorum.

(Code 1968, tit. 20, art. I, § 4; Code 1985, § 30.20; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Quorum, IC 36-4-6-10.

Sec. 2-101. Order of business.

The business of the common council shall be taken up in the following order, unless by a two-thirds vote the council shall suspend this rule:

- (1) Call to order.
- (2) Pledge of allegiance to flag.
- (3) Roll call.
- (4) Approval of minutes.
- (5) Petitions, communications, remonstrances, and memorials.
- (6) Report from special committees.
- (7) Ordinances on first reading.
- (8) Resolutions.
- (9) Ordinances on second reading and public hearing.
- (10) Privilege of the floor (members of the public to speak only on non-agenda items for such period of time as is allowed by the presiding officer).
- (11) Unfinished business.
- (12) New business.
- (13) Adjournment.

(Code 1968, tit. 20, art. I, § 6; Code 1985, § 30.21; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2214, 10-2-1978; Ord. No. 2493, 12-21-1981; Ord. No. 3563, 1-6-1992)

Sec. 2-102. Rules of council.

The following rules shall constitute the rules of council:

-
- (1) Rule 1. When any member of the council or the public is about to speak on or deliver any matter to the council, he shall respectfully address himself to the chair, and on being recognized shall confine himself to the question before the council, avoiding personalities.
 - (2) Rule 2. When two or more persons arise at once, the chair shall name the member entitled to speak.
 - (3) Rule 3. If any council member, in speaking or otherwise, transgresses the rules of the council, the presiding officer shall, or any member may, call him to order. The member so called to order, or another councilmember, may appeal, and the council shall, if appealed to, decide the case without debate. If the decision is in favor of the member called to order, he may proceed, but not otherwise. If the case requires it, a member so called to order may, after an appeal that fails, be liable to censure or other such punishment as the council may impose.
 - (4) Rule 4. If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the clerk's desk and read aloud to the council.
 - (5) Rule 5. A member may speak as often on the same question as necessary, but the mover of a proposition shall in any case be entitled to close the debate.
 - (6) Rule 6. While the chair is putting the question or addressing the council, no member shall walk out of the chamber. When a member is speaking, no member shall walk between such member and the chair.
 - (7) Rule 7. No member shall be recognized to speak unless in his seat, nor permitted to speak until recognized by the chair.
 - (8) Rule 8. Every motion made by the council and entertained by the chair shall be reduced to writing on the demand of the chair or any member and shall be entered in the minutes with the name of the member making it, unless withdrawn at the same meeting.
 - (9) Rule 9. When a motion has been made, the chair shall state it, or, if in writing, cause it to be read aloud by the clerk before debate of the motion; it shall then be in possession of the council, but may be withdrawn at any time before a decision or amendment.
 - (10) Rule 10. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they are here listed.
 - (11) Rule 11. The motion to adjourn and the motion to fix a time to which the council shall adjourn shall always be in order, the latter motion taking precedence over the former.
 - (12) Rule 12. The motion to lay an amendment on the table shall not affect the subject which it is proposed to amend.
 - (13) Rule 13. The previous question shall be put in this form: "Are you ready for the question?" It shall be admitted when demanded by a majority of the members present, and its effect shall be to put an end to all debate and to bring the council to a direct vote on the motion to commit, if such motion has been made; if this motion does not prevail, then on pending amendments, and then on the main question.
 - (14) Rule 14. The motion to postpone to a day certain can be amended by altering the time or day.
 - (15) Rule 15. The motion to refer may be amended by altering the committee or by giving instructions.
 - (16) Rule 16. A motion to amend and motions to amend amendments shall be in order, and it shall also be in order to offer a further amendment by way of a substitute, to which one amendment or more may be offered, but either may be withdrawn before amendment or decision is reached thereon.

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- (17) Rule 17. No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding regular meeting.
 - (18) Rule 18. A question shall be divided on the demand of any member, without requiring an amendment, if it includes two or more distinct propositions.
 - (19) Rule 19. When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same meeting or the succeeding regular meeting to move for the reconsideration thereof, and such motion shall take precedence over all other motions except a motion to adjourn, and debate thereon shall be in order where the main question is debatable, but not otherwise.
 - (20) Rule 20. Where a motion to reconsider has been passed in the affirmative, the question immediately becomes the business of the council.
 - (21) Rule 21. A motion to reconsider a vote may be tabled, but a motion to reconsider a vote laying a motion to reconsider on the table shall not be in order.
 - (22) Rule 22. When a resolution is offered or a report or other matter presented, the presiding officer may take the reception thereof for granted unless objection is made, in which instance a formal motion shall be required.
 - (23) Rule 23. Appeals, questions of order, objection to the consideration of a question, the reading of papers, leave to withdraw a motion, and suspension of the rules are questions which shall take precedence over and be decided before the questions giving rise to them, which several questions cannot be amended; all questions of order that may arise pending a question that is not debatable must be decided without debate.
 - (24) Rule 24. Ordinances and resolutions shall be numbered in the order as they are passed, but dispatched in order as they are introduced, unless the council shall direct otherwise.
 - (25) Rule 25. Every ordinance shall be read two times before its passage.
 - (26) Rule 26. The first reading of an ordinance shall be by title only, unless any member of the council requests that the ordinance be read in full.
 - (27) Rule 27. No ordinance shall be passed on the same day, or at the same meeting that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members of the council, as is set forth in IC 36-4-6-13.
 - (28) Rule 28. The second reading of the ordinance and reading of resolutions shall be by title only. After the completion of the reading of the title, the reader shall briefly state the subject matter or contents of the ordinance or resolution unless the subject matter or contents is evident from the reading of the title itself.
 - (29) Rule 29. Following the second reading, the ordinance shall be ready for the committee report, public hearing, and action by the council. Following the reading of resolutions, they shall be ready for public hearing and action by the council. Prior to taking a vote on the proposed ordinance or resolution, the presiding officer shall request that anyone who wishes to speak in favor of or against the proposed ordinance or resolution shall state his name and address for the record.
 - (30) Rule 30. No proposition to rescind or change any standing rule or order of the council shall be passed at the same meeting it is submitted; nor shall any proposition having the force and effect of a bylaw or a standing rule or order relating to the governing of the council or the duties of any of the city officers be passed except in the form of an ordinance, and according to the forms prescribed for the passage of ordinances.

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- (31) Rule 31. The rules and practices of Roberts Rules of Order Revised, 1915 (Fourth) Edition, shall govern the council in all cases to which they are applicable and not inconsistent with the standing rules and orders of the council.
 - (32) Rule 32. All proposed ordinances and resolutions shall be filed with the clerk and must be submitted to each and every council member at least 72 hours prior to the next regular meeting of the common council if they are to be considered at that meeting. An exception to this rule can be made by a majority of the members present at the meeting.

(Code 1968, tit. 20, art. I, § 9; Code 1985, § 30.22; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2214, 10-2-1978; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989)

State law reference(s)—Council's authority to adopt rules of governance, IC 36-4-6-6(3); passage of ordinance on day of introduction, IC 36-4-6-13.

Sec. 2-103. Passage of ordinances, resolutions, and orders.

- (a) Every ordinance, order, or resolution of the common council shall immediately upon its passage, enrollment, attestation, and signature by the clerk be presented by the clerk to the mayor, and a record of the time of such presentation made by the clerk.
- (b) If the mayor approves the ordinance, order, or resolution, he shall enter his approval thereon and sign the same; the ordinance, order, or resolution shall then become a law unless the council exercises its right to reconsider under rule 19, as stated in section 2-103. If the mayor does not approve the ordinance, order, or resolution, he shall return it to the clerk, with his objections in writing, within ten days after receiving it, and the clerk shall present it to the common council at its next meeting.
- (c) If the mayor fails to discharge his duty by approving or disapproving the ordinance, order, or resolution within the time allowed, such failure shall be deemed a veto of the council's action; in a written case of disapproval by the mayor, the ordinance, order, or resolution shall not become a law unless at its next regular or special meeting, after the time allowed for the mayor's action, the council shall again pass the same by a two-thirds vote of all the members.
- (d) All ordinances shall within a reasonable time after their approval by the mayor, or their passage over his veto, be recorded in a book kept by the city clerk for that purpose.

(Code 1968, tit. 20, art. I, § 10; Code 1985, § 30.23; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Approval, veto by city executive, IC 36-4-6-16; presentment of ordinances to city executive, IC 36-4-6-15.

Sec. 2-104. Seating of council members.

The presiding officer shall, within 60 days from the date of his election as presiding officer, assign each councilperson to a specific seat beginning with the seat farthest to the right of the presiding officer. The seating assignment shall remain in effect for the year in which the assignment is made.

(Code 1985, § 30.24; Ord. No. 3260, 4-17-1989; Ord. No. 3563, 1-6-1992)

Sec. 2-105. Mayor's annual address to common council.

The mayor shall annually address the common council at its second regularly scheduled meeting each February or at such other time as approved by the common council. The mayor shall provide a statement of finances and the general condition of the city in said annual address.

(Code 1985, § 30.25; Ord. No. 3260, 4-17-1989)

Secs. 2-106—2-123. Reserved.

DIVISION 5. COUNCILMANIC DISTRICTS

Sec. 2-124. District boundaries.

The councilmanic districts are set by the common council as prescribed by state law following each decennial census. Current maps are on file and available for public viewing in the office of the city clerk and the county voter's registration office.

(Code 1968, tit. 20, art. II; Code 1985, § 30.30; Ord. No. 751, 12-18-1933; Ord. No. 1882, 12-19-1974; Ord. No. 2581, 12-20-1982; Ord. No. 90-86, 10-15-1990; Ord. No. 3427, 10-15-1990; Ord. No. 3655, 12-21-1992; Ord. No. 3880, 10-3-1994; Ord. No. 4720, 10-22-2002; Ord. No. 4745, 2-18-2003; Ord. No. 5010, §§ 1, 2, 1-3-2006; Ord. No. 5366, § 1, 12-3-2012)

State law reference(s)—Councilmanic districts in second class cities, IC 36-4-6-3.

Secs. 2-125—2-146. Reserved.

**2024 MISHAWAKA COMMON COUNCIL
COMMITTEES & APPOINTMENTS**

President: Gregg A. Hixenbaugh

Vice President: Ron Banicki

SEATING

Hazen, Voelker, Carroll, Banicki, Hixenbaugh, Emmons, Hahn, Mammolenti, Violi

BUDGET & FINANCE COMMITTEE

Woody Emmons, Chairman

Tony Violi

Kate Voelker

LAND USE PLANNING COMMITTEE

Matt Mammolenti, Chairman

Matt Carroll

TBA

PUBLIC HEALTH & SAFETY COMMITTEE

Matt Mammolenti, Chairman

Lacy Hahn

TBA

PUBLIC IMPROVEMENTS COMMITTEE

Ron Banicki, Chairman

Kate Voelker

TBA

PERSONNEL COMMITTEE

Ron Banicki, Chairman

Woody Emmons

TBA

SUB-STANDARD HOUSING COMMITTEE

Matt Mammolenti, Chairman

Lacy Hahn

TBA

ARPA FUNDING SPECIAL COMMITTEE

Matt Mammolenti, Chairman

Kate Voelker

Matt Carroll

COUNCIL ATTORNEY – Mike Trippel

PLAN COMMISSION – Woody Emmons

TRAFFIC COMMISSION – Ron Banicki

MBA – Gregg Hixenbaugh

SOLID WASTE – Woody Emmons

MACOG – Tony Violi

INSURANCE COMMITTEE – Matt Carroll

REDEVELOPMENT COMMISSION – Kris Ermeti & Janet Whitfield-Hyduk

BOARD OF ZONING APPEALS – Joel Dendiu

ANIMAL CONTROL COMMISSION – Dr Richard Headley & Mariah Covey

HISTORIC PRESERVATION - Kate Voelker

MISHAWAKA SCHOOL LIAISON – Woody Emmons

PSAP EXECUTIVE BOARD – Gregg Hixenbaugh & Tony Hazen

TRANSP0 – Kenny Kahlenbeck 6/8/2026

ARTICLE II. COMMON COUNCIL

DIVISION 1. GENERALLY

Secs. 2-23—2-47. Reserved.

DIVISION 2. ORGANIZATION

Sec. 2-48. Presiding officer.

- (a) The presiding officer of the common council, which is the president, or the vice-president or other designated councilmember, when the president is not available, shall take the chair precisely at the hour fixed for the opening of the meeting and shall call the council to order if a quorum is present.
- (b) The presiding officer shall preserve order and decorum. He may speak on points of order in preference to ~~councilmembers, and~~ council members and shall decide questions of order according to the rules adopted by the common council. If an appeal should be requested on his ruling, the question on appeal should be put: "Shall the decision of the chair stand as the decision of the council?" An appeal from the presiding officer's decision shall be heard by and on the request of any two members of the common council. A simple majority vote shall prevail.
- (c) The presiding officer shall ask for a voice vote of the common council on any motion before it. If a vote is necessary, his question shall be: "All in favor of the question, say 'aye' or 'yes'; those opposed to the question say 'nay' or 'no.'" If the presiding officer cannot determine the vote, or if a division of the council is called for, the council shall be individually polled by the clerk and the votes recorded.
- (d) The presiding officer shall prohibit loud talking or any other disturbance within the council chamber.
- (e) The presiding officer shall sign all ordinances passed by the council before their presentation to the mayor. He shall sign all ordinances after enrollment as well as the journal of the proceedings.

(Code 1968, tit. 20, art. I, § 8; Code 1985, § 30.01; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—President; vice-president, IC 36-4-6-8; requirements for adoption, IC 36-4-6-14.

Sec. 2-49. City clerk as clerk of council.

- (a) The city clerk shall be the clerk of the common council. It shall be his duty to keep an accurate journal of the proceedings thereof. He shall keep a proper file of all papers and documents of every kind and character concerning or pertaining to the proceedings of the common council. He shall be the custodian of all ordinances, resolutions, petitions, memorials, and all other papers pertaining to the business of the common council, except when such ordinances, resolutions, petitions, memorials, or other papers are necessarily in the hands of any committee for the consideration of the committee.

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- (b) When directed by the presiding officer, the clerk shall read the titles of ordinances and resolutions before the council. If requested by any member of the council, the clerk shall read the entire text of such ordinance or resolution. The clerk shall poll the members of the council and shall enter the "yes" and "no" votes on the action of every ordinance and resolution and on all other votes whenever requested by two members.
 - (c) The clerk shall perform all other duties as required by law.
 - (d) Order of voting. When polling the members of the council for their vote on any ordinance or resolution, the clerk shall begin by first polling the councilperson in the seat farthest to the right of the presiding officer, and then moving to the next succeeding councilperson, except for the presiding officer who shall vote last. The same order of voting shall be used for each ordinance and resolution.

(Code 1968, tit. 20, art. I, § 7; Code 1985, § 30.02; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989; Ord. No. 3563, 1-6-1992)

State law reference(s)—Duties of clerk, IC 36-4-6-9.

Sec. 2-50. Sergeant-at-arms.

- (a) The sergeant-at-arms of the common council shall be the chief of police or shall be a member of the police department designated by the chief of police.
- (b) The sergeant-at-arms shall be responsible to the presiding officer of the common ~~council, and~~council and shall follow the instructions of the presiding officer in maintaining order and carrying out the rules of the common council.

(Code 1968, tit. 20, art. I, § 8a; Code 1985, § 30.03; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969)

Sec. 2-51. Committees.

- (a) Unless otherwise specially ordered by the council, the presiding officer of the common council shall appoint, subject to the approval of the council, ~~at by no later than~~ the second regular meeting of each year, the following standing committees, each to consist of not less than three members:
 - (1) Budget and finance.
 - (2) Land use planning.
 - (3) Public health and safety.
 - (4) Public improvements.
 - (5) Personnel.
 - (6) Substandard housing.
- (b) Select committees, when deemed advisable, shall be appointed by the presiding officer of the common council, subject to the approval of the council.
- (c) ~~Each committee shall organize itself by majority vote~~The presiding officer of the common council shall also appoint the chairman of each standing and select committee, subject to approval of the council.
- (d) It shall be the duty of the chairman of each committee to call committee meetings, but in the event the chairman is absent or declines to call the meetings, the committee shall meet on the call of any two of its members.

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- (e) A select committee, when its report is made and disposed of, shall be deemed to have no other business and to stand dissolved without motion; an affirmative vote on recommitment by a majority of the common council has the effect of reviving the committee.
 - (f) All actions of any committee shall require a concurring vote of the majority of the members of the committee. Minority reports, when filed, shall be noted by the clerk in the minutes of the meeting at which the report is made. If any committee declines or fails to take action on any matter referred to it by the presiding officer or a majority of the council, the council may by majority vote withdraw the matter for consideration from the committee and may act as a committee of the whole, in considering the withdrawn matter.
 - (g) ~~When any matter has been referred to a committee, the council member introducing the matter shall have the right to meet with and act as a member of the committee during its deliberation thereon, but he shall not vote.~~
 - (h) ~~A committee may not erase, interline, or blot any ordinance, resolution, or any other paper referred to it, but must enter upon separate paper any amendments it may propose stating the words which it is proposing to insert or omit by reference to page, line, and words of the original paper.~~
 - (i) The presiding officer shall serve as an ex-officio member of each committee of the council and shall refer ordinances to committees for recommendation after first reading. The presiding officer shall call for the committee report from the committee so assigned after second reading of the title of each ordinance and prior to its public hearing.

(Code 1968, tit. 20, art. I, § 5; Code 1985, § 30.04; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3809, 2-7-1994)

Secs. 2-52—2-75. Reserved.

DIVISION 3. MEETINGS

Sec. 2-76. Organization meeting.

The members of the common council shall choose from the members of the council a presiding officer who shall be called the president, and a vice-president who shall preside in the absence of the president, which officers shall serve until the first meeting in January of the next succeeding year, when their successors shall be chosen to serve for one year in like manner. In the event that neither the president nor the vice-president are present at a council meeting, the president may, prior to the meeting, appoint any member of the council to preside at the meeting. In the event of the failure of said appointment by the president, the chairman of the budget and finance committee shall preside at the meeting.

(Code 1968, tit. 20, art. I, § 1; Code 1985, § 30.10; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989; Ord. No. 3667, 3-15-1993)

State law reference(s)—Meetings of common council, IC 36-4-6-7; appointment of president and vice-president of council, IC 36-4-6-8.

Sec. 2-77. Regular meetings.

- (a) The regular meetings of the common council shall be held in the council chamber at ~~7:00~~**7:06:00** p.m. on the first and third Mondays of every month, unless any such regular meeting date falls on a day on which the city

hall is closed. In such an event the regular meeting for that date shall be held at ~~7:00~~6:00 p.m., on the next day that the city hall is open to the public for business. The president of the council shall have the right, in his discretion, to call a pre-meeting prior to any special or regular scheduled council meeting. In the event that said pre-meeting is called by the president, notice of the same shall be given by noting it on the council agenda, which shall be circulated to the councilmembers prior to the meeting date.

- (b) Any regular meeting may be adjourned to a specified day or hour, at which it shall be lawful to transact any business which might have been transacted at the regular meeting of which the adjourned meeting is a continuation. At the adjourned meeting, the council will not be limited to completing particular items of business which had actually been entered on and left unfinished at the regular meeting, unless the order of adjournment of the regular meeting so limits the work of the adjourned meeting.
- (c) Any regularly scheduled meeting of the common council may be cancelled or rescheduled by majority vote of its elected members ~~at the next preceding regular meeting.~~
- (d) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least 48 hours (excluding Saturdays, Sundays, and legal holidays) before the meeting.
- (e) Public notice shall be given by the common council by:
 - (1) Posting a copy of the notice at the principal office of the common council or, if no such office exists, at the building where the meeting is to be held; and
 - (2) Delivering notice to all news media which delivered by January 1 an annual written request for such notices for the next succeeding calendar year to the common council. The common council shall give notice by one of the following methods:
 - a. Depositing the notice in the United States mail with postage prepaid.
 - b. Transmitting the notice by electronic mail.
 - c. Transmitting the notice by facsimile (fax).

(Code 1968, tit. 20, art. I, § 2; Code 1985, § 30.11; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981; Ord. No. 3310, 9-5-1989; Ord. No. 3563, 1-6-1992; Ord. No. 3805, 1-3-1994)

State law reference(s)—Meetings of common council, IC 36-4-6-7; public meetings (Open Door Law), IC 5-14-1.5-1 et seq.

Sec. 2-78. Special meetings.

- (a) Special meetings of the common council shall be held on the call of the mayor or of any five members of the common council. The call shall be in ~~writing, and~~writing and shall specify therein the particular purposes for which the meeting is called. If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under state statute shall not apply, but:
 - (1) News media which have requested notice of meetings must be given the same notice as is given to the members of the common council; and
 - (2) The public must be notified by posting a copy of the notice according to state statute.
- (b) The call shall be signed by the mayor, or, when made by members of the council, by them, and sealed with the seal of the city and countersigned by the city clerk.

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- (c) The mayor and each member of the council shall be notified **in writing** of the holding of the special meeting by the ~~chief of police or his designee, who shall leave a copy thereof at the last and usual place of residence of any member whom the officer is not able to find~~city clerk.
- (d) Only such business shall be transacted at the special meeting as is specifically stated in the call for the special meeting. The minute record shall show the issuance of the call, and the notice of service thereof, for which purpose the officer serving the notice shall return to the clerk, the presiding officer of the council, and the mayor.

(Code 1968, tit. 20, art. I, § 3; Code 1985, § 30.12; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Authority to call special meetings, IC 36-4-6-7(b); public notice of meetings, IC 5-14-1.5-5.

Secs. 2-79—2-99. Reserved.

DIVISION 4. RULES OF PROCEDURE

Sec. 2-100. Quorum.

The majority of all the councilmembers elected shall constitute a quorum.

(Code 1968, tit. 20, art. I, § 4; Code 1985, § 30.20; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Quorum, IC 36-4-6-10.

Sec. 2-101. Order of business.

The business of the common council shall be taken up in the following order, unless by a two-thirds vote the council shall suspend this rule:

- (1) Call to order.
- (2) Pledge of allegiance to flag.
- (3) Roll call.
- (4) Approval of minutes.
- (5) Petitions, communications, remonstrances, and memorials.
- (6) Report from special committees.
- (7) Ordinances on first reading.
- (8) Resolutions.
- (9) Ordinances on second reading and public hearing.
- (10) Privilege of the floor (members of the public to speak only on non-agenda items for such period of time as is allowed by the presiding officer).
- (11) Unfinished business.
- (12) New business.

(13) Adjournment.

(Code 1968, tit. 20, art. I, § 6; Code 1985, § 30.21; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2214, 10-2-1978; Ord. No. 2493, 12-21-1981; Ord. No. 3563, 1-6-1992)

Sec. 2-102. Rules of council.

The following rules shall constitute the rules of council:

- (1) Rule 1. When any member of the council or the public is about to speak on or deliver any matter to the council, he shall respectfully address himself to the chair, and on being recognized shall confine himself to the question before the council, avoiding personalities.
- (2) Rule 2. When two or more persons arise at once, the chair shall name the member entitled to speak.
- (3) Rule 3. If any ~~councilmember~~council member, in speaking or otherwise, transgresses the rules of the council, the presiding officer shall, or any member may, call him to order. The member so called to order, or another councilmember, may appeal, and the council shall, if appealed to, decide the case without debate. If the decision is in favor of the member called to order, he may proceed, but not otherwise. If the case requires it, a member so called to order may, after an appeal that fails, be liable to censure or other such punishment as the council may impose.
- (4) Rule 4. If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the clerk's desk and read aloud to the council.
- (5) Rule 5. A member may speak as often on the same question as necessary, but the mover of a proposition shall in any case be entitled to close the debate.
- (6) Rule 6. While the chair is putting the question or addressing the council, no member shall walk out of the chamber. When a member is speaking, no member shall walk between such member and the chair.
- (7) Rule 7. No member shall be recognized to speak unless in his seat, nor permitted to speak until recognized by the chair.
- (8) Rule 8. Every motion made by the council and entertained by the chair shall be reduced to writing on the demand of the chair or any ~~member, and member and~~ shall be entered ~~on~~in the minutes with the name of the member making it, unless withdrawn at the same meeting.
- (9) Rule 9. When a motion has been made, the chair shall state it, or, if in writing, cause it to be read aloud by the clerk before debate of the motion; it shall then be in possession of the council, but may be withdrawn at any time before a decision or amendment.
- (10) Rule 10. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they are here listed.
- (11) Rule 11. The motion to adjourn and the motion to fix a time to which the council shall adjourn shall always be in order, the latter motion taking precedence over the former.
- (12) Rule 12. The motion to lay an amendment on the table shall not affect the subject which it is proposed to amend.
- (13) Rule 13. The previous question shall be put in this form: "Are you ready for the question?" It shall be admitted when demanded by a majority of the members present, and its effect shall be to put an end

to all debate and to bring the council to a direct vote on the motion to commit, if such motion has been made; if this motion does not prevail, then on pending amendments, and then on the main question.

- (14) Rule 14. The motion to postpone to a day certain can be amended by altering the time or day.
- (15) Rule 15. The motion to refer may be amended by altering the committee or by giving instructions.
- (16) Rule 16. A motion to amend and motions to amend amendments shall be in order, and it shall also be in order to offer a further amendment by way of a substitute, to which one amendment or more may be offered, but either may be withdrawn before amendment or decision is reached thereon.
- (17) Rule 17. No motion or proposition postponed indefinitely shall be taken up again at the same or next succeeding regular meeting.
- (18) Rule 18. A question shall be divided on the demand of any member, without requiring an amendment, if it includes two or more distinct propositions.
- (19) Rule 19. When a motion has been made and carried or lost, it shall be in order for any member of the majority at the same meeting or the succeeding regular meeting to move for the reconsideration thereof, and such motion shall take precedence over all other motions except a motion to adjourn, and debate thereon shall be in order where the main question is debatable, but not otherwise.
- (20) Rule 20. Where a motion to reconsider has been passed in the affirmative, the question immediately becomes the business of the council.
- (21) Rule 21. A motion to reconsider a vote may be tabled, but a motion to reconsider a vote laying a motion to reconsider on the table shall not be in order.
- (22) Rule 22. When a resolution is offered or a report or other matter presented, the presiding officer may take the reception thereof for granted unless objection is made, in which instance a formal motion shall be required.
- (23) Rule 23. Appeals, questions of order, objection to the consideration of a question, the reading of papers, leave to withdraw a motion, and suspension of the rules are questions which shall take precedence over and be decided before the questions giving rise to them, which several questions cannot be amended; all questions of order that may arise pending a question that is not debatable must be decided without debate.
- (24) Rule 24. Ordinances and resolutions shall be numbered in the order as they are passed, but dispatched in order as they are introduced, unless the council shall direct otherwise.
- (25) Rule 25. Every ordinance shall be read two times before its passage.
- (26) Rule 26. The first reading of an ordinance shall be by title only, unless any member of the council requests that the ordinance be read in full.
- (27) Rule 27. No ordinance shall be passed on the same day, or at the same meeting that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members of the council, as is set forth in IC 36-4-6-13.
- (28) Rule 28. The second reading of the ordinance and reading of resolutions shall be by title only. After the completion of the reading of the title, the reader shall briefly state the subject matter or contents of the ordinance or resolution unless the subject matter or contents is evident from the reading of the title itself.
- (29) Rule 29. Following the second reading, the ordinance shall be ready for the committee report, public hearing, and action by the council. Following the reading of resolutions, they shall be ready for public hearing and action by the council. Prior to taking a vote on the proposed ordinance or resolution, the

presiding officer shall request that anyone who wishes to speak in favor of or against the proposed ordinance or resolution shall state his name and address for the record.

- (30) Rule 30. No proposition to rescind or change any standing rule or order of the council shall be passed at the same meeting it is submitted; nor shall any proposition having the force and effect of a bylaw or a standing rule or order relating to the governing of the council or the duties of any of the city officers be passed except in the form of an ordinance, and according to the forms prescribed for the passage of ordinances.
- (31) Rule 31. The rules and practices of Roberts Rules of Order Revised, 1915 (Fourth) Edition, shall govern the council in all cases to which they are applicable and not inconsistent with the standing rules and orders of the council.
- (32) Rule 32. All proposed ordinances and resolutions shall be filed with the ~~clerk, and~~ clerk and must be submitted to each and every ~~councilmember~~ council member at least 72 hours prior to the next regular meeting of the common council if they are to be considered at that meeting. An exception to this rule can be made by a majority of the members present at the meeting.

(Code 1968, tit. 20, art. I, § 9; Code 1985, § 30.22; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2214, 10-2-1978; Ord. No. 2493, 12-21-1981; Ord. No. 3260, 4-17-1989)

State law reference(s)—Council's authority to adopt rules of governance, IC 36-4-6-6(3); passage of ordinance on day of introduction, IC 36-4-6-13.

Sec. 2-103. Passage of ordinances, resolutions, and orders.

- (a) Every ordinance, order, or resolution of the common council shall immediately upon its passage, enrollment, attestation, and signature by the clerk be presented by the clerk to the mayor, and a record of the time of such presentation made by the clerk.
- (b) If the mayor approves the ordinance, order, or resolution, he shall enter his approval thereon and sign the same; the ordinance, order, or resolution shall then become a law unless the council exercises its right to reconsider under rule 19, as stated in section 2-103. If the mayor does not approve the ordinance, order, or resolution, he shall return it to the clerk, with his objections in writing, within ten days after receiving it, and the clerk shall present it to the common council at its next meeting.
- (c) If the mayor fails to discharge his duty by approving or disapproving the ordinance, order, or resolution within the time allowed, such failure shall be deemed a veto of the council's action; in a written case of disapproval by the mayor, the ordinance, order, or resolution shall not become a law unless at its next regular or special meeting, after the time allowed for the mayor's action, the council shall again pass the same by a two-thirds vote of all the members.
- (d) All ordinances shall within a reasonable time after their approval by the mayor, or their passage over his veto, be recorded in a book kept by the city clerk for that purpose.

(Code 1968, tit. 20, art. I, § 10; Code 1985, § 30.23; Ord. No. 300, 8-6-1906; Ord. No. 1534, 11-3-1969; Ord. No. 2493, 12-21-1981)

State law reference(s)—Approval, veto by city executive, IC 36-4-6-16; presentment of ordinances to city executive, IC 36-4-6-15.

Sec. 2-104. Seating of ~~councilmembers~~council members.

The presiding officer shall, within 60 days from the date of his election as presiding officer, assign each councilperson to a specific seat beginning with the seat farthest to the right of the presiding officer. The seating assignment shall remain in effect for the year in which the assignment is made.

(Code 1985, § 30.24; Ord. No. 3260, 4-17-1989; Ord. No. 3563, 1-6-1992)

Sec. 2-105. Mayor's annual address to common council.

The mayor shall annually address the common council at its second regularly scheduled meeting each February or at such other time as approved by the common council. The mayor shall provide a statement of finances and the general condition of the city in said annual address.

(Code 1985, § 30.25; Ord. No. 3260, 4-17-1989)

Secs. 2-106—2-123. Reserved.

DIVISION 5. COUNCILMANIC DISTRICTS

Sec. 2-124. District boundaries.

The councilmanic districts are set by the common council as prescribed by state law following each decennial census. Current maps are on file and available for public viewing in the office of the city clerk and the county voter's registration office.

(Code 1968, tit. 20, art. II; Code 1985, § 30.30; Ord. No. 751, 12-18-1933; Ord. No. 1882, 12-19-1974; Ord. No. 2581, 12-20-1982; Ord. No. 90-86, 10-15-1990; Ord. No. 3427, 10-15-1990; Ord. No. 3655, 12-21-1992; Ord. No. 3880, 10-3-1994; Ord. No. 4720, 10-22-2002; Ord. No. 4745, 2-18-2003; Ord. No. 5010, §§ 1, 2, 1-3-2006; Ord. No. 5366, § 1, 12-3-2012)

State law reference(s)—Councilmanic districts in second class cities, IC 36-4-6-3.

Secs. 2-125—2-146. Reserved.

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 23-25

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-57

ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

DEC 13 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:

A PARCEL LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, SAID PARCEL BEING LOTS 1-5 AND A 14 FEET VACATED ALLEY LYING WEST OF SAID LOT 1-5, ALSO PART OF LOTS 6 AND 7 AND THE VACATED 14 FOOT ALLEY LYING BETWEEN SAID LOTS AND BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 89 DEGREES 07 MINUTES 01 SECONDS WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF RUSS STREET, A DISTANCE OF 162.98 FEET (REC. 163.19 FEET) THENCE NORTH 00 DEGREES 02 MINUTES 04 SECONDS EAST, A DISTANCE OF 233.15 FEET (REC. NORTH 0 DEGREES 1 MINUTES 37 SECONDS EAST 234.01 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF MCKINLEY AVENUE; THENCE NORTH 89 DEGREES 12 MINUTES 31 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 155.24 FEET; THENCE SOUTH 34 DEGREES 37 MINUTES 39 SECONDS EAST, A DISTANCE OF 13.36 FEET (REC. SOUTH 34 DEGREES 27 MINUTES 52 SECONDS EAST, 13.40 FEET) TO THE WEST RIGHT-OF-WAY LINE OF LIBERTY DRIVE; THENCE SOUTH 00 DEGREES 01 MINUTES 07 SECONDS EAST ALONG THE SAID WEST RIGHT-OF-WAY LINE LIBERTY DRIVE, A DISTANCE OF 221.74 FEET TO THE POINT OF BEGINNING. CONTAINING 0.87 ACRES, MORE OR LESS.

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-4 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The subject property, which consists of a vacant commercial structure (formerly a bank), is located at the southwest corner of W. McKinley Avenue and Liberty Drive. McKinley Avenue is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include an automatic car wash facility and multi-tenant commercial buildings to the north; a two-tenant commercial building to the west; single-family residential houses and an electric utility

Proposed Ordinance No: _____

Ordinance No: _____

substation to the south; and a convenience store/gas station and automobile repair business to the east.

2. Character of Buildings – The character of the buildings in the area varies from single and multi-tenant commercial buildings predominantly along W. McKinley Avenue to single-family residential houses to the south.
3. The most desirable/highest and best use – Because of the property's location along W. McKinley Avenue, a highly travelled roadway, and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. The property is currently zoned for commercial use, formerly a bank, with the adjacent properties occupied by several automobile oriented commercial uses. The proposed quick-service oil change business and other permitted C-4 Automobile Oriented Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within the property and along a majority of the McKinley Avenue corridor. The proposal is consistent with the Comprehensive Plan.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

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

Deborah S. Block, IAMCA, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: 411 W. McKinley Avenue

Date: Dec. 12, 2023

Petition: 23- 25

Prepared By: DJS

GENERAL INFORMATION

Applicant: Good Oil Company Inc. / Baldwin Realty LLC / Fritz Engineering Services

Status: Property Owner / Contingent Developer / Civil Engineering Consultant

Request: To rezone from C-1 General Commercial to C-4 Automobile Oriented Commercial to allow for the construction of a Take 5 Oil Change – a quick service drive-thru oil change business.

Zoning Classification: C-1 General Commercial District

Lot Size: 0.87 acres

Applicable Regulations: Section 137-379 thru 137-380 / C-4 Automobile Oriented Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial (Automatic Car Wash Facility / John's Auto Spa), C-1 General Commercial (Multi-Tenant Commercial / Starbuck's & Oak Street Health), & (Multi-Tenant Office Building - Bank / PNC Financial Services Group & Insurance / The Sanders Agency Inc.)

South: R-1 Single Family Residential (Residential) & S-1 Extensive Open Space (Public Utility / Mishawaka Electric Substation)

East: C-4 Automobile Oriented Commercial (Convenience Store & Filling Station / Marathon, & Automobile Repair / Liberty Auto Service)

West: C-1 General Commercial (Two-Tenant Commercial Building / Armed Forces Career Center & Olive Health Center)

Thoroughfare: W. McKinley Avenue & Liberty Drive

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available and will be connected to/throughout the site at the expense of the developer

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners, Good Oil Company Inc. and Baldwin Realty LLC, are requesting to rezone property at 411 W. McKinley Avenue from C-1 General Commercial to C-4 Automobile Oriented Commercial to allow for the construction of Take 5 Oil – a quick service drive-thru oil change business.

The 0.87 acre site, which includes a vacant commercial building, consists of one parcel of property (Tax Parcel 016-2056-1903.01) at the southwest corner of W. McKinley Avenue and Liberty Drive. The building, most recently occupied by Mutual Bank, has been a bank since being constructed in 1974. Adjacent land uses include John's Auto Spa and multi-tenant buildings (Starbucks & Oak Street Health, and PNC Financial Services Group & The Sanders Agency Inc.) to the north; a multi-tenant commercial building (Armed Forces Career Center & Olive Health Center) to the west; single-family residential houses and Mishawaka Electric utility substation to the south; and a Marathon convenience store/gas station and Liberty Auto Service to the east. With the proposed redevelopment of the property, the building and majority of the improvements will be razed.

Per the preliminary site plan, the contingent developer is proposing to construct a one-story 1,760 sq. ft. building with three (3) drive-thru service bays, a twelve (12) space parking lot, and other required infrastructure (utilities, a stormwater collection system, landscaping, etc.).

Access to the site will be provided solely from W. Russ Avenue to the south utilizing the two (2) existing curb cuts/drives. Both drives will allow for unrestricted turning movements to and from W. Russ Avenue. The property currently has one access from W. McKinley Avenue which will be removed. Due to the high traffic volumes on W. McKinley Avenue and proximity to the intersection, maintaining an unrestricted access on W. McKinley was not desired and would likely be a safety hazard for vehicles entering and exiting the property.

Based on 5.5 parking spaces per 1,000 sq. ft. of gross floor area, a total of ten (10) parking spaces are required for the proposed 1,760 sq. ft. building. The preliminary site plan shows that twelve (12) spaces will be provided within a new parking area west of the building and an existing parking row between the access drives on W. Russ Avenue. The access drives and a small portion of the existing paved parking area will be maintained. If the existing parking area is less than the required 10' pavement setback from the Liberty Avenue right-of-way, a developmental variance shall be submitted for review and approval by the Board of Zoning Appeals.

Landscaping and screening shall comply with the commercial landscaping and C-4 Automobile Oriented Commercial District requirements.

Except for the potential pavement setback variance as noted above, the conceptual site plan shows the intent to comply with the height, area and developmental regulations for the C-4 Automobile Oriented Commercial District. If additional variances or a design review waiver for the proposed building materials or colors are required, the Board of Zoning Appeals and/or the Plan Commission shall be petitioned when the final site plan is submitted.

With this petition, the property owner and contingent developer are only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final site plan shall be submitted for Staff review and Plan Commission approval prior to construction. The final site plan shall address storm drainage, grading, utilities, soil erosion control, landscaping, and all other required improvements pertinent to the proposed development.

Since the property is currently zoned for general commercial uses and located along the McKinley Avenue commercial corridor, the Staff supports the request for rezoning. The proposed quick service drive-thru oil change business is not out of character and is compatible with the existing adjacent land uses. Two of the four corners of the W. McKinley Avenue and Liberty Drive intersection are zoned to the C-4 District and are occupied by an automatic car wash facility, convenience store/gas station, and automobile repair business. Furthermore, the proposed use is consistent with the historical commercial use of the property and recommended use per the comprehensive plan.

The rezoning petition and preliminary site plan have been routed to all applicable City Departments for review and comment. All departments have reviewed and approved the request.

The Electric Department commented that they should be contacted to discuss electric service needs.

The Water Department commented that they should be contacted with questions regarding water service, metering, or backflow needs.

The Engineering Department had no comments related to the rezoning petition but provided the following comments to be addressed with the final site plan:

1. The pathway (sidewalk) on the west side of Liberty Drive shall be concrete and not asphalt per Engineering standards.
2. There appears to not be adequate space to provide the required full right turn south bound travel lane on Liberty Drive due to existing utilities.
3. If floor drains are installed, they shall be routed to an oil/sediment water separator.
4. Stormwater management shall be stored on site for 100 year, 24 hour storm event.

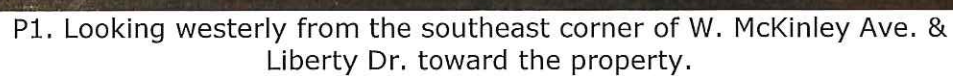
RECOMMENDATION

Staff recommends Petition 23-25 to rezone 0.87 acres of property located at 411 W. McKinley Avenue from C-1 General Commercial to C-4 Automobile Oriented Commercial for a Take 5 Oil Change - a quick service drive-thru oil change business - be forwarded to the Common Council with a **favorable** recommendation. This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property, which consists of a vacant commercial structure (formerly a bank), is located at the southwest corner of W. McKinley Avenue and Liberty Drive. McKinley Avenue is a highly travelled corridor providing major east-west access through the City of Mishawaka and South Bend. Adjacent land uses include an automatic car wash facility and multi-tenant commercial buildings to the north; a two-tenant commercial building to the west; single-family residential houses and an electric utility substation to the south; and a convenience store/gas station and automobile repair business to the east.
2. Character of Buildings – The character of the buildings in the area varies from single and multi-tenant commercial buildings predominantly along W. McKinley Avenue to single-family residential houses to the south.
3. The most desirable/highest and best use – Because of the property’s location along W. McKinley Avenue, a highly travelled roadway, and the adjacent existing commercial zoning and development, the most desirable use of the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. The property is currently zoned for commercial use, formerly a bank, with the adjacent properties occupied by several automobile oriented commercial uses. The proposed quick-service oil change business and other permitted C-4 Automobile Oriented Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within the property and along a majority of the McKinley Avenue corridor. The proposal is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photographs, Petition, Preliminary Site Plan, Location Map





P2. Looking southeasterly from the access drive west of John's Auto Spa toward the property.

November 16, 2023

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

Deborah S. Block, AMC, MMC

NOV 27 2023

City Clerk
Mishawaka, IN

Pet 23-25
Received

NOV 21 2023

Planning and
Community Development

RE: PETITION TO REZONE

The undersigned, GOOD OIL COMPANY, 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:

A PARCEL LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, SAID PARCEL BEING LOTS 1-5 AND A 14 FEET VACATED ALLEY LYING WEST OF SAID LOT 1-5, ALSO PART OF LOTS 6 AND 7 AND THE VACATED 14 FOOT ALLEY LYING BETWEEN SAID LOTS AND BEING MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE SOUTH 89 DEGREES 07 MINUTES 01 SECONDS WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF RUSS STREET, A DISTANCE OF 162.98 FEET (REC. 163.19 FEET) THENCE NORTH 00 DEGREES 02 MINUTES 04 SECONDS EAST, A DISTANCE OF 233.15 FEET (REC. NORTH 0 DEGREES 1 MINUTES 37 SECONDS EAST 234.01 FEET) TO THE SOUTH RIGHT-OF-WAY LINE OF MCKINLEY AVENUE; THENCE NORTH 89 DEGREES 12 MINUTES 31 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 155.24 FEET; THENCE SOUTH 34 DEGREES 37 MINUTES 39 SECONDS EAST, A DISTANCE OF 13.36 FEET (REC. SOUTH 34 DEGREES 27 MINUTES 52 SECONDS EAST, 13.40 FEET) TO THE WEST RIGHT-OF-WAY LINE OF LIBERTY DRIVE; THENCE SOUTH 00 DEGREES 01 MINUTES 07 SECONDS EAST ALONG THE SAID WEST RIGHT-OF-WAY LINE LIBERTY DRIVE, A DISTANCE OF 221.74 FEET TO THE POINT OF BEGINNING. CONTAINING 0.87 ACRES, MORE OR LESS.

411 W. MCKINLEY AVE., MISHAWAKA, IN 46545

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 District. Said property is currently a vacant retail bank.

Petitioner(s) desire said real estate to be rezoned to C-4 District. Petitioner(s) further state that they intend to utilize said land for a drive-thru oil change facility.

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)


Nicole K. Earp, CEO

Signature(s) of Property Owner(s)

CONTACT PERSON:

NAME: RON MUDRICK
ADDRESS: 1201 N US HWY 35 WINAMAC, IN 46996
PHONE NUMBER: (574) 225-0612
EMAIL: RMUDRICK@GOODOILCOMPANY.COM

DEVELOPER / MAIN CONTACT:
ANDY MORRISON
BALDWIN REALTY LLC
4351 CHASE CIRCLE
ZIONSVILLE, IN 46077
(574) 361-7501
ANDY@REALTY-BALDWIN.COM

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 23-26
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2023-58
ORDINANCE NO. _____

Deborah S. Block, IAMC, MMC

DEC 13 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:

LOT NUMBERED FORTY-FIVE (45) AS SHOWN ON THE RECORDED PLAT OF G.W.R. FOWLER'S FIRST ADDITION TO THE TOWN, NOW CITY OF MISHAWAKA, EXCEPTING THEREFROM A PARCEL OF LAND EIGHTY-FIVE (85) FEET IN LENGTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE SOUTH END THEREOF.

COMMONLY KNOWN AS 617 E GROVE

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

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

1. There are commercial uses located along N Cedar Street & E Mishawaka Avenue and residential uses to the north and further west of the property and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;

Proposed Ordinance No: _____

Ordinance No: _____

3. Because the parcel is located in an area with adjacent residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with other residential uses in the area.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

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

Deborah S. Block, IAMCA, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: 617 E Grove Street

Date: Dec. 12, 2023

Petition: 23 26

Prepared By: DMB

GENERAL INFORMATION

Applicant: Felix Martinez & Bernardin Cazares

Status: Property Owners

Request: Rezone from C-1 General Commercial District to R-1 Single Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 0.07 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential District
South: C-1 General Commercial District (single-family home)
East: C-4 Automobile Oriented Commercial District
West: R-1 Single Family Residential District

Thoroughfare: Southwest corner of E Grove Street and N Cedar Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners are requesting to rezone 617 E Grove Street from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on the southwest corner of E Grove Street and N Cedar Street. The neighborhood is a mix of residential and commercial uses along N Cedar Street.

The Petitioners purchased the property in June 2023 and intend to use as their residence. Built in 1929 as a single-family residence, the front of the house facing N Cedar Street, has been used as a shoe repair business in most recent years. The business has been abandoned and any signage referencing the shoe repair business has been removed. In addition, any equipment inside the home has been removed.

Prior to the 1980's residential uses were permitted in commercial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

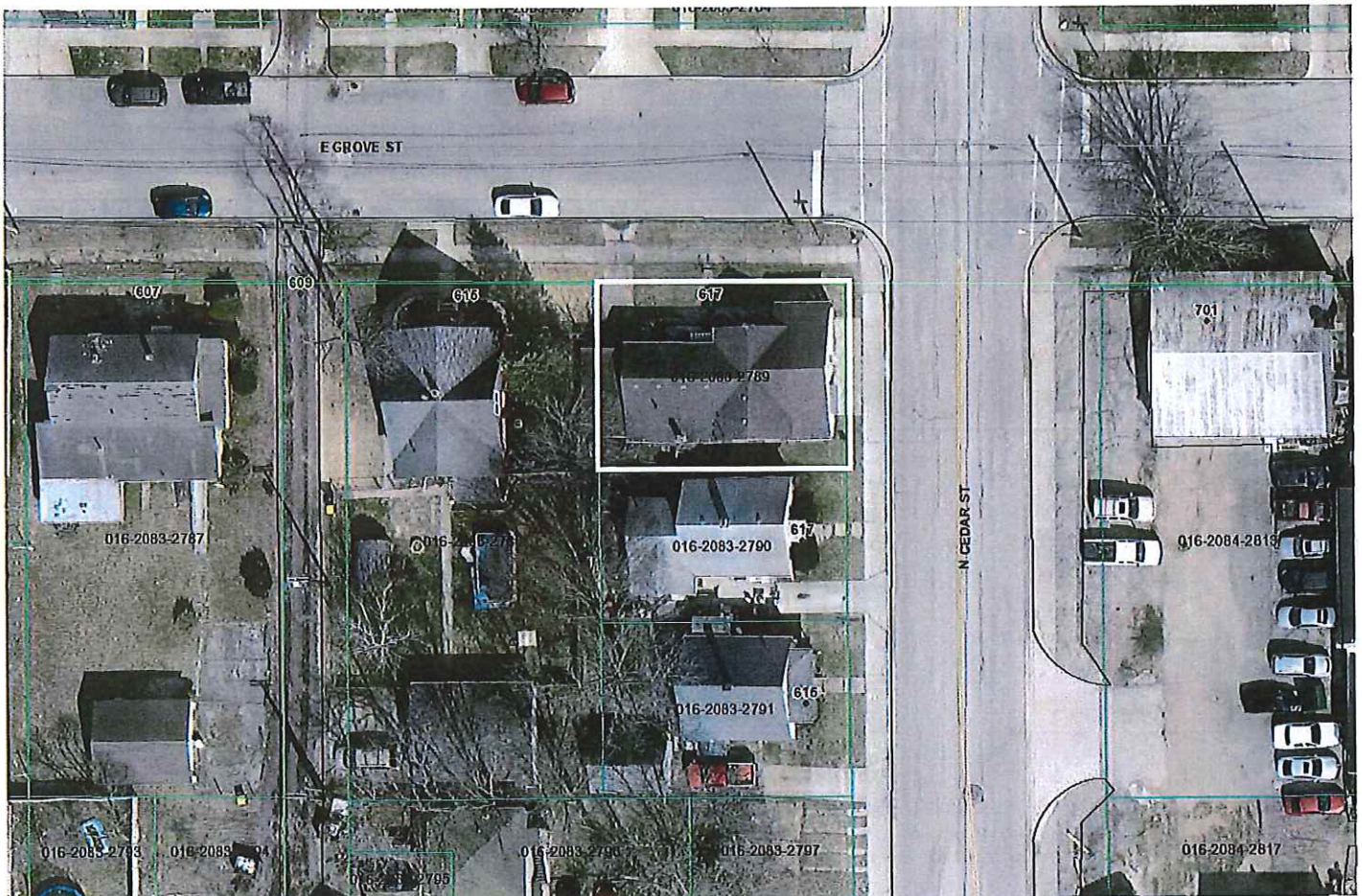
Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #23-26 to rezone 617 E Grove Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are commercial uses located along N Cedar Street & E Mishawaka Avenue and residential uses to the north and further west of the property and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area with adjacent residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for general commercial, but its use as a single-family home would be compatible and consistent with other residential uses in the area.

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP



Aerial



Looking west from N Cedar Street



617 E Grove Street – looking south from E Grove Street

NAME
ADDRESS
PHONE NUMBER
FAX
EMAIL

FELIX MARTINEZ
901 W FOURTH ST
MISHAWAKA IN 46844
(269) 579-0330
Daxx500@icloud.com

DATE:11/21/23

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

RE: PETITION TO REZONE

The undersigned FELIX MARTINEZ AND BERNARDIN CAZARES 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:

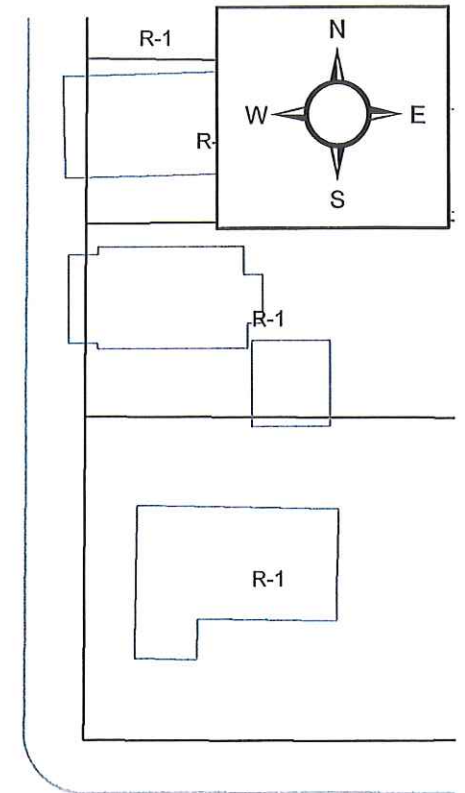
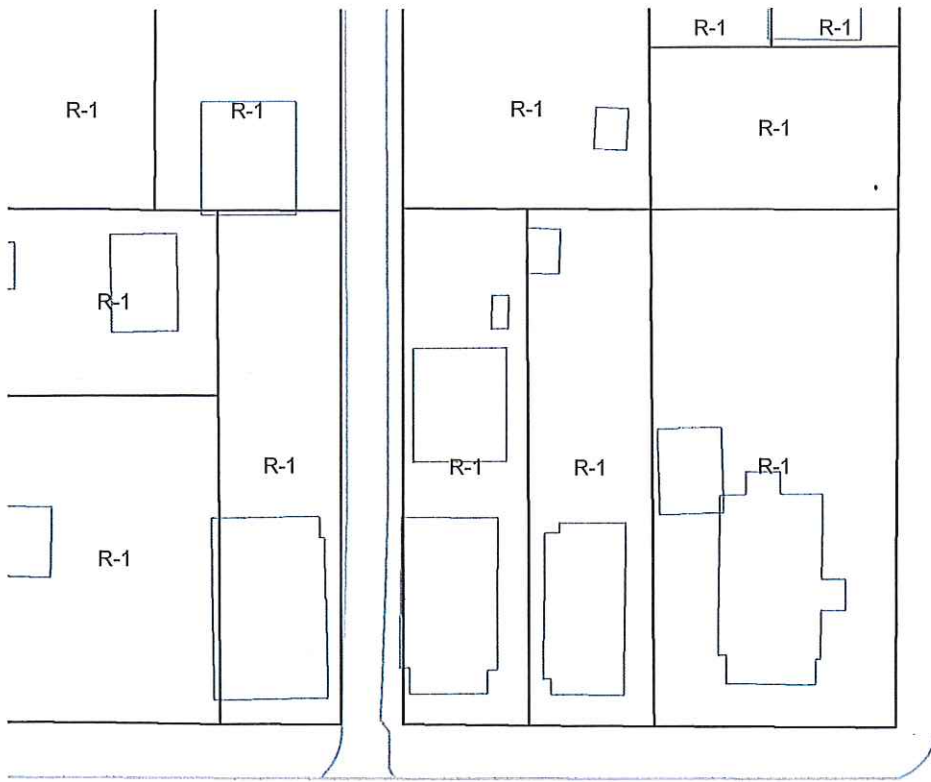
LOT NUMBERED FORTY-FIVE (45) AS SHOWN ON THE RECORDED PLAT OF G.W.R. FOWLER'S FIRST ADDITION TO THE TOWN, NOW CITY OF MISHAWAKA, EXCEPTING THEREFROM A PARCEL OF LAND EIGHTY-FIVE (85) FEET IN LENGTH, NORTH AND SOUTH, TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE SOUTH END THEREOF.

COMMONLY KNOWN AS 617 E GROVE

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. Said property is a home that previously operated a shoe repair store out of the front.

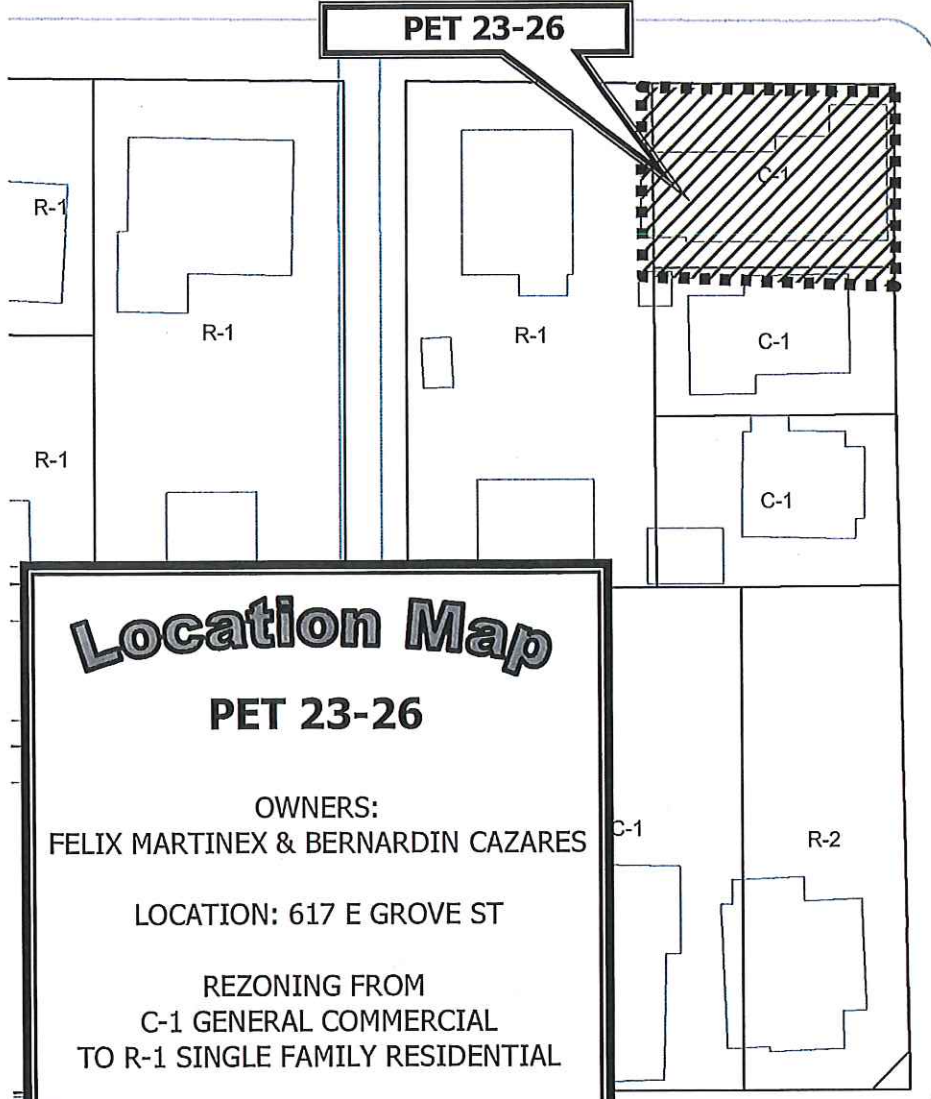
Petitioner(s) desire said real estate to be rezoned to R-1 Single Family District. Petitioner(s) further state that they intend to utilize said land for exclusively as a single family dwelling.

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.

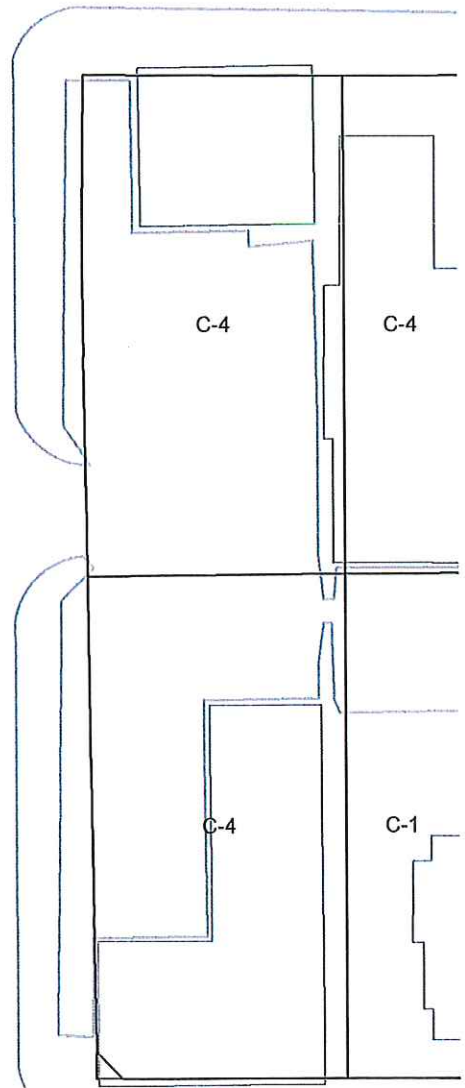


E GROVE ST

PET 23-26



N CEDAR ST



Location Map

PET 23-26

OWNERS:
FELIX MARTINEX & BERNARDIN CAZARES

LOCATION: 617 E GROVE ST

REZONING FROM
C-1 GENERAL COMMERCIAL
TO R-1 SINGLE FAMILY RESIDENTIAL

NOV 27 2023

City Clerk
Mishawaka, IN

DATE:11/21/23

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

Ref 23-200

RE: PETITION TO REZONE

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X Signature(s) of Property Owner(s)
Felix Martinez

Typewritten name also
Felix Martinez

X Signature(s) of Property Owner(s)
Bernardin Cazares

Typewritten name also
Bernardin CAZARES

CONTACT PERSON:

NAME *FELIX MARTINEZ*
ADDRESS
PHONE NUMBER *901 W FOURTH ST*
FAX *MISHAWAKA IN 46844*
EMAIL *(269) 579-0330*
Daxx1500@icloud.com