



AGENDA

July 01, 2024

Meetings of Standing Committees
Council Conference Room
5:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
6:00PM

WebEx Telephone Number:1-408-418-9388
Meeting Number (access code): 2335 384 6035
Meeting password: XkmPi3CNm26

Livestream #1:
<https://mishawaka.in.gov/government/elected-appointed-officials/common-council/>

Livestream #2
<https://www.facebook.com/cityofmishawaka/>

Livestream #3:
www.youtube.com/@cityofmishawaka635

Livestream #4:
@MichianaAccessTV on Facebook

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial: 23431188365@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of June 17, 2024

5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2024-25 Use Variance to allow for Two Permanent
Storage Containers for Fireworks - 940 E. 12th
St.

Appeal No. 2024-27 Use variance for Fine Line Micro Tattooing
Services - 314 W. Cleveland Rd.

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2024-08 Rezone from C-1 General Commercial to C-10
Filling Station Commercial for proposed Casey's
Convenience Store & Gas Station - SE corner of
Douglas & Fir Rd.
(Assigned to Land Use Planning Committee)

P.O. No. 2024-17 Additional Appropriation: **CEDIT**

Repairs and Maintenance

2209-50-436-02

City Maintenance

City Hall elevators

\$250,000.00

Battell Park Band Shell

\$500,000.00

\$750,000.00

(Assigned to Budget & Finance Committee)

P.O. No. 2024-18 PUD Amendment to allow a Third Drive-Thru
Restaurant and reduction of Parking Spaces -
Vacant Lot S, of 3625 Bremen Hwy
(Assigned to Land Use Planning Committee)

P.O. No. 2024-19 Annexing and Establishing Zoning as R-1 Single Family - East side of Fir Rd across from Preserve Apartments, extending to Clover Rd.
Public Hearing- NO VOTE

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages, <https://www.facebook.com/cityofmishawaka/> and www.youtube.com/@cityofmishawaka635 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, IAMCA, 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.

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REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 17, 2024

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 June 17, 2024, at 6:00PM. 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 attends 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.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (A), Mr. Mammolenti (P), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Minutes for the Regular Meeting on June 3, 2024, and Special Meeting on May 30, 2024, were approved as received from the Clerk's Office.

Clerk Block read a letter from the City Plan Commission regarding their recommendation from their June 11, 2024, meeting.

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

PROPOSED ORDINANCE NO. 2024-17

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

Additional Appropriation: CEDIT – Repairs and Maintenance 2209-50-436-02: City Maintenance, City Hall elevators - \$ 250,000.00 Battell Park Band Shell - \$500,000.00, \$750,0000

(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2024-18

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

**PUD Amendment to allow a Third Drive-Thru Restaurant and reduction of Parking space
– Vacant Lot S, of 3625 Bremen Hwy
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2024-19

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annexing and Establishing Zoning as R-1 Single Family – East side of Fir Road across
from Preserve Apartments, extending to Clover Road
(Assigned to Land Use Planning Committee)**

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

RESOLUTION R2024-10

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
AMENDING RESOLUTION R2022-10, R2022-22, R2023-03, R2023-12 AND R2023-25,
WHICH ADOPTED A PLAN OF DISTRIBUTION OF THE PROCEEDS OF THE CITY
OF MISHAWAKA’S GRANT FROM AMERICAN RESCUE PLAN ACT OF 2021**

Rebecca Maguire, City Controller, spoke in favor of **RESOLUTION R2024-10**. Mrs. Maguire stated she was introducing the resolution. Mrs. Maguire stated as they heard, they had amended the resolution and the ARPA plan many times with that evening being their next amendment and at the end of the agenda, they would be hearing about the corresponding appropriation for the said amendment to the resolution. Mr. Maguire stated Jim from Habitat for Humanity and Ken Prince, Director of Planning and Community Development, were present that evening to speak about and explain the amendment. Mr. Hixenbaugh thanked Mrs. Maguire for her work on this.

Ken Prince, Director of Planning and Community Development for the City of Mishawaka, spoke in favor of **RESOLUTION R2024-10**. Mr. Prince stated he was very excited to be there with Habitat for Humanity and as the Council knew, Habitat for Humanity in St. Joseph County had been a great partner of the city going back to 2018 with the Carter Work Project at the Fields At Highland and that was a project that had been monumental in terms of what it had been able to accomplish. Mr. Prince stated they were so excited about this component, because as Mayor Wood identified in his State of the City, there was a real need here for the large economic development projects happening throughout the county and all of that would require workforce housing and there was a demand and as they talked about with the comprehensive plan, the old workforce housing, 900 square foot house that you used to be able to get for \$80,000 was now \$160,000 to \$200,000. Mr. Prince stated there were a few houses that he was able to search for that were under \$200,000 and they all had code violations or yellow tags associated with them when he did the research for the comprehensive plan. Mr. Prince stated affordable housing was a

critical issue for the city moving forward and they believed that the \$2 million being proposed would enable Habitat for Humanity to acquire land and then ultimately develop a subdivision, very much like the Fields At Highland and it was a perfect use of those funds to improve the city. Mr. Prince stated at the request of President Hixenbaugh, they forwarded a draft of the memorandum of understanding that was replicated for the funds where they used the template from the Carter Work Project to forward to them and it identified specifically some of the parameters that they envisioned as part of the project. Mr. Prince stated this had nothing to do with Southwest Little League and in part, because they were having so many problems with Southwest Little League and they had asked Habitat to look for that property to develop houses and now that they had given Southwest Little League another chance, it was very important that they now provided them another opportunity to provide a different property rather than Southwest Little League, so it was important to note that the future property when it eventually became public, would not be the Southwest Little League and would be located in a completely different part of town. Mr. Prince stated the other thing he wanted to note was that since the great recession of 2008, their home construction essentially dropped at that point of time from being over 100 houses per year to roughly about 50 houses per year, so what Habitat for Humanity did in terms of growth was even though it might be 15 homes a year, it was very significant relative to the single-family home growth of Mishawaka. Mr. Prince introduced Jim Williams to talk about the Habitat for Humanity program as a whole and what it did and the houses they were looking to do per year. Mr. Prince stated Jim was one of the most well-known people in the community, as most of the Council knew. Mr. Prince asked Mr. Williams to approach the podium.

Jim Williams, President, and CEO of Habitat for Humanity, spoke in favor of **RESOLUTION R2024-10**. Mr. Williams thanked the Council for the opportunity to be there that evening and thanked Mayor Wood as well as all the Council for helping them create such an effective partnership, a public-private partnership between Habitat for Humanity of St. Joseph County and the City of Mishawaka. Mr. Williams stated he was proud to say that they had built 115 houses in Mishawaka and that their families, more specifically their Mishawaka families, were paying over \$170,000 in property taxes. Mr. Williams stated he was sure the Council was aware of the housing crisis that they had around the country and Mishawaka, like many cities around America, was struggling to provide entry-level housing. Mr. Williams stated he tried to stay away from the term affordable housing, because sometimes people had a negative connotation and they thought it was heavily subsidized government housing and many times they assumed it was poorly constructed. Mr. Williams stated that was not what Habitat for Humanity was building but the need was great. Mr. Williams stated the statistic that he used was there was about 14,000 families in St. Joseph County that paid over 30% of their gross income for housing and they needed a program like Habitat, because they were currently renting, and their rents kept going up and they felt stuck, and they did not know what to do. Mr. Williams stated many of those 14,000 families lived in the City of Mishawaka. Mr. Williams stated Habitat was near completion of the Jimmy and Roseland Carter Work Project subdivision in the Fields at Highland and he was sure all the Council knew that where that was on the corner of Byrkit and Jefferson. Mr. Williams stated there were 76 homes there and they were not all Habitat families with 60% approximately being Habitat families and 40% were market rate homes that they were

selling to the general public, which was creating a diverse, healthy, vibrant, mixed-income community, but since they were coming to the end of that project and were excited about that along with the park and everything associated with that sense of community, they needed to be looking for land for their next project. Mr. Williams stated they loved working with the City of Mishawaka, and he was so glad that they can not just give them words about what they would like to do, but they could point to the Fields At Highland to show them what they were capable of doing when they worked together, but they did need to identify their next property. Mr. Williams stated they had located a nine-acre property and made an offer on it, so they had a signed purchase agreement, and they were in the due diligence phase at that point and waiting for the seller to provide documentation and title work. Mr. Williams stated part of the agreement was contingent upon them receiving the funds from the City of Mishawaka and if they did receive the funds, they would use them for land acquisition, demolition, relocation, and minor administrative but mostly for land acquisition and infrastructure. Mr. Williams stated the total project cost to build a minimum of 40 single-family home owner occupied residential homes, he emphasized that because none of them would be rentals and Habitat was about ownership and they actually were trying to shoot for more than 40 homes, but to make sure they did not over promise, they said 40 homes but it would be a total investment of \$13 million that Habitat would be making. Mr. Williams stated they did need assistance with it and the \$2 million would be helpful but they were bringing \$13 million to the table to make it happen. Mr. Williams stated recently, Habitat International did an economic analysis for all of its affiliates across the country by taking their audited financial statements as well as their house production numbers and those were put into a software program called Implant and it gave an idea of what kind of economic impact their home building efforts had in St. Joe County and the City of Mishawaka and what it told them was that every dollar that they invested in the community purchasing construction materials, paying subcontractors, all of those things that would be assumed they were spending money on, actually an additional \$1.67 of impact went into the community. Mr. Williams stated so if they invested \$13 million, there would be another \$21.7 million from residual positive economic impact because of that activity. Mr. Williams stated the 40 houses would help 40 families, but the impact went much further beyond that as it could also add another \$60,000 per year to the property tax rolls and he liked that number, because it was getting them closer and closer to a total of a quarter of \$1 million that Habitat families would be paying every year in property taxes. Mr. Williams stated he could not tell them how many people in the community believed that their Habitat families got the houses for free, because they did not and they worked very hard for the houses as they had a mortgage and were part of the community and they were paying property taxes and based on past work, they projected that maybe 50 to 70 more children would be added to the roles on the School City of Mishawaka schools as a result of the investment as well. Mr. Williams thanked the Council for their consideration and for the chance to tell them a little bit about what Habitat was doing and they were excited and they were one of the top producers across Habitat in the United States and as Ken said, they were trying to increase their house production to a minimum of 15 houses a year and that might not sound like a lot, but that would put them in the top 5% of Habitat affiliates in the country and out of 1,000 affiliates, it would put them in the top 40. Mr. Williams stated it was expensive to build houses, so they were proud of the work they had been able to do, but they realized it was a partnership

and they thanked the City of Mishawaka for their support and what they had done. Mr. Williams stated he would answer any questions they had.

Mr. Mammolenti thanked Mr. Williams for the great presentation but more importantly for all that he did for the City of Mishawaka and most importantly for the families. Mr. Mammolenti stated the week he worked on Habitat homes was one of the most rewarding weeks he ever had in his life, and it did not go unnoticed with all the efforts that he and his team made, so he wanted to thank him for that. Mr. Mammolenti asked regarding the relocation of the homeowners on the property that they were going to purchase if he could help walk him through a little bit of the process of relocating some of the occupants. Mr. Williams stated he was purposefully not identifying the specific property just because there was a chance it did not go through and he did not want to needlessly worry residents and what have you, but he did want to assure the Council that Habitat was committed to handling it in a way that would not harm residents and would do everything in their power. Mr. Williams stated what he meant by that was that the easiest thing for them to do would be to tell the seller to take care of it before they would take ownership, but Habitat was not in the business of creating hardship or making people homeless in order for them to build houses for other families, so what they had said was they wanted to be in control of the process so they could be responsible for doing it right. Mr. Williams stated for example, they had just said with their board and internally, families would have a minimum of 6 months. Mr. Williams stated if this went through and they had to relocate and rehome some families, they wanted to treat them with dignity and with respect realizing that even if their homes were in very poor condition, that they wanted to then help them find another housing situation that was equal to or better than what they currently had. Mr. Williams stated they would give them a minimum of 6 months and then they would get professional help and consultants to help walk them through that process and then give them plenty of time and plenty of notice and give them resources and build referrals. Mr. Williams stated they had already reached out to a few places to see if they would accept families that would like to move to their location. Mr. Williams stated hopefully that helped a little bit. Mr. Mammolenti stated it did and thanked Mr. Williams.

Mrs. Voelker asked out of the forty homes they were proposing to build if it would be a 60/40 Habitat to market rate community or if he anticipated it being primarily Habitat. Mr. Williams stated it would be a 60/40 development and that was their philosophy and the way they would do any project going forward. Mr. Williams stated they did not want to create isolated, concentrated poverty and they did not want their Habitat families to feel isolated. Mr. Williams stated they wanted to create neighborhoods that really, by the time they were done, felt like any other neighborhood in the City of Mishawaka and where there was mixed income, there was diversity and vibrancy and a sense of community so it would be a 60/40 split approximately. Mr. Williams stated sometimes, for whatever reason, could not control exactly how many people were willing to buy the market rate houses so it might be 65/35, but as close to 60/40 as they could get.

Mr. Violi stated he said the total cost would be \$13 million and they would be building 40 homes out of \$13 million do when he did the math, he knew it said \$325,000 per home and asked if that would be the market rate and if he could explain to him how that cost came up. Mr. Williams

stated they just did the math that he just did, and it did not make any sense for them to go forward with it without assistance. Mr. Williams stated if they did not have the funds from the City of Mishawaka, if they could not apply for the funds to match the funds, the dollars, and cents as well as the accounting would not make sense for them to do it. Mr. Williams did think that the City of Mishawaka had interest in improving the McKinley Corridor which by the way, Habitat had just purchased the old medical building at 524 McKinley and that would become their new main office, so they were helping with that improvement of the McKinley Corridor and that 2.5 acres just to the west of that building, they just closed on that last Tuesday. Mr. Williams stated they also purchased the three lots behind their building which they could build more houses on if they needed to, so they were trying to do that and just from a home building perspective, the numbers did not make sense but when they looked at the comprehensive view of helping improve a blighted area and to do something that would be very close to the Carter Work Project, the Fields At Highland. Mr. Williams stated they were getting the impression that would be something that would be helpful to the City of Mishawaka, which was why they were willing to make an investment in a way that might be different than what they would normally do. Mr. Violi asked what an average price for a Habitat family versus the market value would be or what some type of ballpark value would be. Mr. Williams stated unfortunately, five years ago when they did the Carter Work Project, the houses appraised for \$130,000 which seemed high at the time but that was a good entry-level price. Mr. Williams stated now, five years later, the exact same house was appraised for \$260,000. Mr. Williams stated whether they liked to hear it or not, an entry-level home, 1400 square feet, three bedrooms, two bath, full basement, one-stall garage in St. Joe County in Indiana cost \$250,000 and that was what they were up against. Mr. Williams stated they had a creative way of how they helped low- and modern-income families afford that and one of the ways they did that was with extremely low interest and 0% interest second mortgage, but that was beyond what they could get into right then and there. Mr. Williams stated they were trying to help families afford what an entry-level house cost and he was proud to say that their families now were getting into a brand-new energy efficient home for \$1,000 a month and you could not rent a three-bedroom in St. Joe County for \$1,000 a month.

Mrs. Hazen asked if the \$2 million they were requesting from the City of Mishawaka would cover the land acquisition and the infrastructure and if they were not going to ask the city for additional funds for those things. Mr. Williams stated other than what they would normally do with HUD funding, CDBG or homes, sometimes it was down payment assistance, sometimes it was construction reimbursement and those were programs they did every year, and they could help families get into those houses but they would not make any other requests for infrastructure or acquisition or anything like that.

Mr. Hixenbaugh thanked Mr. Williams for the information and his commitment to continue to partner with them. Mr. Hixenbaugh stated Mr. Prince referenced the memorandum of understanding that further detailed the expansion of the partnership and as he read it, just for the record and benefit of the public, the minimum of 40 new homes were intended to be completed and occupied by December 31, 2030 and asked if that was correct. Mr. Williams said yes. Mr. Hixenbaugh stated although their track record spoke of record success in Mishawaka and elsewhere but particularly in Mishawaka, since they were talking about public dollars, the

memorandum also had some adjustments financially should, despite everyone's best efforts and best intentions, Habitat fell short of that target and as he read it, that would be calculated at a rate of \$50,000 per home. Mr. Williams stated that was correct. Mr. Hixenbaugh stated there was a long runway, but their track record spoke of success but it was important for the record to reflect in those unseen circumstances if the target was not able to be reached that there would be an adjustment with regard to the finances, so he appreciated Habitat's willingness to work with them on that end. Mr. Hixenbaugh lastly stated he appreciated his focus on the McKinley Avenue Corridor, because not only would it breathe life into that area with conjunction of the new fire station that was close to being completed but his focus on that area also reflected the fact that over the past couple of years, they had heard, the city had heard and apparently he heard from the residents in the southwestern portion of the city where another site was being planned and he appreciated his willingness to locate their developments in Mishawaka but in a different location and he was confident it would be a win-win for everybody involved. Mr. Hixenbaugh thanked Mr. Williams for that portion of what he had done for Mishawaka as well.

Mayor Dave Wood spoke in favor of **RESOLUTION R2024-10**. Mayor Wood stated they heard a little about the economic impact Habitat had on their community and it was impressive but he was going to tell them about the community impact it had and the families that had lived in these homes who helped build Mishawaka in going to their schools, they were productive citizens, they worked at their shops and manufacturing facilities and they contributed greatly to the fabric of Mishawaka. Mayor Wood stated they had people who lived in the Fields At Highland who worked at the city and they had people who lived at the Fields At Highland who had not lived in the City of Mishawaka but for that opportunity and they had one particular student who lived in the home that President Carter helped build and would not be there otherwise except for that opportunity. Mayor Wood stated he served on his Youth Council as President, and he was now on an affordable housing board for the Lieutenant Governor for the State of Indiana. Mayor Wood stated he remembered working on the first two homes that Habitat built in Mishawaka and the fact that Habitat for Humanity of St. Joe County was one of the biggest producers of Habitat homes anywhere in the country and that most of them were built in Mishawaka, he thought that said an awful lot about their community. Mayor Wood stated he wanted to do a little bragging of their executive director who was one of the most recent recipients of the Sagamore of the Wabash for his outstanding contributions not just in Mishawaka and St. Joe County but in the State of Indiana. Mayor Wood stated they were very proud of their long standing partnership with Habitat for Humanity, specifically to this project they thought that this corridor was ideal for redevelopment and they could not think of a better partner to help them redevelop the McKinley Corridor than Habitat for Humanity, so there would be homes on scattered sites that were now some vacant, some in need of redevelopment and Habitat had moved, as they heard, their offices to Mishawaka and would renovate a building that was in need of renovation right next to the fire station that they were investing millions in and it was a cool project. Mayor Wood stated he thought that these funds would make an enormous impact on families lives and a significant impact in Mishawaka redevelopment and you would see a difference in this corridor once Habitat did what they were going to do. Mayor Wood stated he was sure he would be out there swinging a hammer and he was sure many of the Council would on some of the homes that they would build out there and he wanted to reiterate that this would essentially move the focus of the Southwest Little League site to the corridor and while they thought it would be an ideal location for affordable housing where the former little league used to be, this would shift their

focus in another direction. Mayor Wood encouraged them to support this for the great families that would live there and become Mishawaka residents and contribute to their community. Mayor Wood stated they would be there along the way to make sure this was done right and properly, and he could not think of a better use of COVID funds. Mayor Wood thanked the Council for their great partnership with the use of COVID funds since they were awarded to Mishawaka, and they thought this fell in line with what the original intent was for them and he appreciated the partnership.

Question was called for at 6:32PM for **RESOLUTION R2024-10 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2024-11

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

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2024-11**. Mr. Prince stated as he indicated in his communication with the Council, when they amended the tax increment financing consolidated district in 2014, they made a conscious decision at that time not to add parcels to the acquisition list. Mr. Prince stated if they remembered when they amended the map at that time, they included many roadways that they identified as needing future improvement in the tax increment financing district and they did not want to arbitrarily put essentially what could potentially be 1,000 houses or properties into the acquisition list at that time and it would be much better to bring them to the Council on an individual basis, so, by law, they were required to place any property that they were looking to acquire on that acquisition list for tax increment financing before they purchased the property. Mr. Prince stated in this case, the owner of the 331 Inn approached them, and he was looking to get out of the business, and he asked the city if they had any interest in purchasing the property. Mr. Prince stated given that if you walked out of the front door of the property, you could fall into the street without any problem as it was about five feet from the curb line, they wanted that acquisition and they had reached an agreement on price that would be presented to the Redevelopment Commission and that price was \$330,000 for that property which was the average of two appraisals they received. Mr. Prince stated the issue they had that he mentioned in

the email was the disparity between two appraisals. Mr. Prince stated they had the appraisers sit down and they found a comp that warranted the purchase of the property being \$330,000. Mr. Prince stated as part of their acquisition, they did not seek to get good deals or bad deals and they paid the appraised value. Mr. Prince stated the next property was at 1612 South Union Street and it was a green home located on the east side of the street and had a for sale sign in front of it. Mr. Prince stated when you looked at this property and the line of houses through there, it stuck out 10 to 15 feet in front of the other houses and knowing the proximity of the house relative to the potential widening, they felt it was prudent while the house was empty to make an offer on the property and that offer was \$139,900 which was also the purchase price and the property appraised for just above that. Mr. Prince stated they were getting reasonable value for the property and again, the need for it was the future widening of Union Street. Mr. Prince stated he was happy to answer any questions.

Mrs. Voelker stated she pulled the house up and she understood with the house and the proximity to the street why they would have this on the list, but it was not a bad little house and asked if they would be moving it some place. Mr. Prince stated they had no intention of moving it at that point and he thought when he looked at it, he thought it was one hundred years old. Mrs. Voelker stated her home was older than that and it seemed like it was a nice little house. Mr. Prince stated their sole purpose was because of the future widening of the road and if there was an interested party in relocating the house, they would be happy to work with them, but they wanted to protect the taxpayer's interest. Mr. Prince stated he hated to say that there were literally thousands of nice houses in the city that matched this description, so from their standpoint it was a cost-benefit issue and if it did not cost the city additional funds, they would be happy to work with anyone regarding potential relocation of the home, but right now they had not pursued that. Mrs. Voelker asked if they would be open to allowing that piece of property or house itself to be located if someone approached them about it. Mr. Prince stated yes and again, they were not looking to contribute to the overall cost of the acquisition.

Mrs. Hazen asked if they were paying for business as well for the 331 Inn or if it was strictly the building and the property. Mr. Prince stated it was strictly the building and the property, so they could theoretically open the 331 Inn somewhere else but for the record, he believed the current owner was looking to retire and did not believe his plan was to open another business.

Question was called for at 6:40PM for **RESOLUTION R2024-11 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2024-12

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING AN AGREEMENT EXTENDING THE ST. JOSEPH COUNTY HOUSING CONSORTIUM AND AUTHORIZING EXECUTION THEREOF

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2024-12.** Mr. Prince stated this was the renewal of their participation in the

St. Joseph County Housing Consortium and ever since it was created in the 1990s, they had been required to be part of it as part of their receipt of home funds to the region. Mr. Prince stated as Mr. Williams indicated, they had used home funds for the down payment assistance for Habitat for Humanity and it also had been used to renovate Mary Phillips, so they had good projects that had utilized home funds and this was the same renewal they did every three years with one exception being HUD had requested that they remove the three-year automatic presentation to the Council to renew so if this was approved, their participation would be continual until they requested removal but it would be something that they would have to initiate.

Question was called for at 6:42PM for **RESOLUTION R2024-12 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2024-13

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A REQUEST FOR THE INDIANA STATE BOARD OF ACCOUNTS TO EXAMINE THE FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GAAP, GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Rebecca Maguire, City Controller, spoke in favor of **RESOLUTION R2024-13**. Mrs. Maguire stated in 2021, the State Board of Accounts stated that any city with a population over 75,000 must have their financial statements audited by the State Board of Accounts and those cities under 75,000 would need their legislative bodies request that from the State Board of Accounts and as they wished to have their financial statements audited, it was good for their bond holders, their ratings and this was what they did every year for four decades and this satisfied the request.

Question was called for at 6:44PM for **RESOLUTION R2024-13 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

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

PROPOSED ORDINANCE NO. 2024-08

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-10 Filling Station Commercial for proposed Casey’s Convenience Store & Gas Station – SE corner of Douglas & Fir Rd.
(Petitioner Requesting Postponement to July 1 Regularly Scheduled Meeting)**

Mr. Mammolenti made a motion to honor the request of the petitioner and postpone **PROPOSED ORDINANCE NO. 2024-08** to their July 1st meeting. Mr. Banicki seconded, and a voice vote was held. The motion passed unanimously, and the matter was postponed.

PROPOSED ORDINANCE NO. 2024-14

**AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2024
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024**

Transfer and Additional Appropriation for the Local Bridge & Road Matching Grant Fund

Mr. Violi reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2024-14**. Mrs. Maguire stated as required by State Board of Accounts, when they were awarded their Community Crossing Grant of \$979,500, they must match that with funds from their Motor Vehicle Highway Restricted Fund and this ordinance transferred those funds into the Local Road and Bridge Matching Grant Fund and they were also appropriating both of those amounts, \$1,950,000 and that would be used for their street repair when appropriated.

Question was called for at 6:49PM for **PROPOSED ORDINANCE NO. 2024-14 Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5887.**

PROPOSED ORDINANCE NO. 2024-15

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO INDIANA
CODE 5-13-9-5**

Mrs. Voelker reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2024-15**. Mrs. Maguire stated another annual requirement was to allow investment in any bank in the state

and they were allowed to do this if it had been approved by the state. Mrs. Maguire stated approximately 30 years ago, cities had to invest in every banking institution in the county or in the city and had to have funds in every one and so it had evolved to this point where they were allowed to invest in any state approved banking institution.

Question was called for at 6:51PM for **PROPOSED ORDINANCE NO. 2024-15 Motion passed by unanimous roll call vote (summary: Yes = 7, Abstain = 1).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh.

Abstain: Mr. Carroll. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5888.**

PROPOSED ORDINANCE NO. 2024-16

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31 2024

Additional Appropriation for ARPA Coronavirus Local Fiscal Recovery Grant

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

Rebeca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2024-16.** Mrs. Maguire stated this was the additional appropriation that tied into their previously approved resolution for the amendment of the ARPA Plan, \$2 million.

Question was called for at 6:53PM for **PROPOSED ORDINANCE NO. 2024-16 Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5889.**

NEW BUSINESS

Mr. Emmons announced the First District Neighborhood meeting would be Thursday, June 20th and they would be having a tour of the Mishawaka Wastewater Treatment Plant, and it would be at 7PM. Mr. Emmons stated it would be an informational tour given by Mr. Brill and it would likely be his last, as he would be retiring on Friday. Mr. Emmons stated there would be refreshments from West End Bakery and he looked forward to seeing everyone there.

Mrs. Hazen stated she did not know if any of them had been on the corner of Capital and Lincolnway, but they were making quite a bit of progress with the Mishawaka Inn and asked citizens and Council to drive by and see the progress made. Mrs. Hazen said it was really fascinating and she was excited about it.

ADJOURNMENT 6:56PM

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

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

These minutes are a summary of actions taken at the Mishawaka Common Council meeting. The full video archive of the meeting is available for viewing at www.youtube.com/@cityofmishawaka635 for as long as this media is supported.

Deborah S. Block, MMC, MMC

JUN 20 2024

City Clerk
Mishawaka, IN

NP 24-25

Received

JUN 18 2024

Planning and
Community Development

DATE: June 17, 2024

TO: Board of Zoning Appeals, City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. MCC Self Storage LLC has an undivided 79% ownership interest, and Morris Sales, Inc. has an undivided 21% ownership interest, in the following described real estate (the "Real Estate") located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 2 as shown on the plat of MCC Self Storage Minor Subdivision recorded on March 20, 2023, in the office of the Recorder of St. Joseph County, Indiana as instrument number 2023-05675.

Parcel Number 71-09-15-451-014.000-023

This Real Estate is outlined in red on the attached plat of the MCC Self Storage Minor Subdivision (the "Plat"), but the Real Estate excludes the building on the Plat which is depicted with hatching. The Plat is attached as Exhibit 1. An enlarged image of the portion of the Plat at issue is attached as Exhibit 2. The Real Estate does not have a common address, but it is just northeast of the intersection of Merrifield Ave. and 12th Street.

Mishawaka Fireworks, LLC ("Appellant") operates a fireworks store (the "Store") which is highlighted in blue on the Plat. The Store is on a separate neighboring parcel, and the Store occupies 100% of the area of the separate neighboring parcel. Morris Sales, Inc. owns the parcel on which the Store is located. The Store's address is 940 E. 12th Street.

2. The Real Estate has a zoning classification of Commercial C-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant proposes to place two storage containers, which are forty (40) feet long, eight feet wide, and nine and one-half feet tall, on the Real Estate as depicted by the orange rectangles on the Plat. Appellant seeks to stock fireworks inventory in the storage containers.
4. Appellant requests a use variance in order to place the storage containers on the front half yard area of the Real Estate and use the storage containers for retail storage purposes.

5. The Zoning Ordinance of the City of Mishawaka, specifically Sec. 137-302(5), requires the following in a Commercial C-1 District:

(5) *Accessory buildings.*

- a. Accessory buildings not over 15 feet high **may be located in the rear half yard area**, provided the accessory buildings come not nearer than 30 inches to any rear lot line or side lot line. Additionally, accessory buildings shall not be greater than 720 square feet in floor area.
- b. No accessory building shall be used in whole or part for living or residential purposes.
- c. **No accessory building or accessory building area shall be used for commercial storage purposes.**

(Code 1985, § 159.067; Ord. No. 2930, 9-2-1986; Ord. No. 3263, 4-17-1989; Ord. No. 3297, 8-7-1989; Ord. No. 3363, 3-19-1990; Ord. No. 3466, 3-4-1991; Ord. No. 3698, 6-21-1993; Ord. No. 3703, 6-21-1993; Ord. No. 4020, 2-20-1996; Ord. No. 4565, 2-12-2001; Ord. No. 4576, 4-2-2001; Ord. No. 4584, 5-7-2001)(Emphasis added).

Sec. 106-116 of the Zoning Ordinance of the City of Mishawaka includes the following miscellaneous requirement:

Dumpster and **utility service areas** (including transformers, truck docks, and loading areas) **shall be located where they are not visible from the public right-of-way** and/or the St. Joseph River. Equipment/dumpsters on the ground shall be screened or housed in a structure that is in harmony with the surroundings. The use of screening that utilizes appropriate architectural materials shall be encouraged.

(Code 1985, § 161.58; Ord. No. 4469, 12-20-1999) (Emphasis added).

6. Strict adherence to the Ordinance requirements creates an unusual hardship for Appellant's operation of a retail store because it prohibits Appellant from stocking inventory for its Store.

7. Questions about the requested use variance.

- a. Will approval be injurious to the public health, safety, morals or general welfare of the community?

No. Allowing Appellant to stock inventory in two storage containers will alleviate the need for Appellant to keep all of its merchandise in the Store, and will encourage Appellant to have fewer fireworks in the Store.

Appellant has met the requirements of Indiana Homeland Security and obtained a Fireworks Retail Sales Permit #FR29277C (the "Permit"). The Store was renovated including installation of fire barriers and a revised fire suppression system in order to obtain the Permit.

The Appellant will continue to be subject to inspections of the State Fire Marshall and the Mishawaka Fire Marshall.

The Real Estate already has a six-foot-high chain link fence between proposed location for the storage containers and 12th Street. The fence is depicted as a green line on the Plat. Appellant would be willing to have slats installed in the fence to reduce visibility between the storage containers and 12th Street.

- b. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

No. The use of the area adjacent to the Real Estate will not be affected by the variance in an adverse manner. The parcel directly north of the proposed location of the storage containers is zoned I-2. The parcel directly east of the proposed location of the storage containers is zoned I-2. The parcel directly south of the proposed location of the storage containers, which is across 12th Street, is zoned I-1. The parcel directly west of the proposed location of the storage containers is the Store, which is zoned C-1. There is no accessory building restriction on the neighboring industrial properties. The pertinent portion of the zoning map is attached as Exhibit 3. The proposed location of the storage containers is marked with a black star. As such, storage containers are already permitted in the community. Moreover, the nearest residential property to the proposed location for the storage containers is over 550 feet away. Further, the value of the area adjacent to the Real Estate will not be affected by the variance in a substantially

adverse manner.

- c. Does the need for the variance arise from some condition peculiar to the property involved?

Yes. The Store covers 100% of the parcel on which it operates and there is no room for Appellant to stock inventory in the Store.

Further, the parcels adjacent to the Real Estate have industrial zoning classifications, and accessory buildings are not prohibited in the industrial classifications.

- d. Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes. The prohibition against commercial storage in an accessory building and the prohibition against accessory buildings in the front half yard area preclude Appellant from stocking merchandise for its Store.

- e. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No, the approval of this use variance will not substantially, if in fact at all, interfere with the Mishawaka 2000 Comprehensive Plan.

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

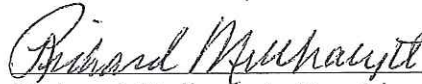
Appellant

MISHAWAKA FIREWORKS, LLC


Charles Long, Member

Co-Owner

MORRIS SALES, INC.

 6/18/24
Richard Mulhaupt, President

Co-Owner

MCC SELF STORAGE LLC

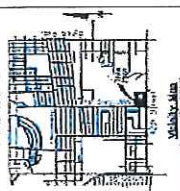
  06/18/24

Brad Beer, Member

CONTACT PERSON:

Joshua A. Visser
SOPKO, NUSSBAUM, INABNIT & KACZMAREK
5th Floor - Plaza Building
210 S. Michigan Street
South Bend, Indiana 46601
Telephone: (574) 234-3000
Email: joshv@sni-law.com

Scale: 1" = 100'-0"



Map of the property showing the layout of the storage units and surrounding area.

USE OF INFORMATION:

This map was prepared for the purpose of showing the location of the property and the layout of the storage units. It is not intended to be used for any other purpose.

OWNER'S CERTIFICATE:

I, the undersigned, being the owner of the property, hereby certify that the information contained in this map is true and correct.

NOTARIZATION STATEMENT:

I, the undersigned, being the owner of the property, hereby certify that the information contained in this map is true and correct.

OWNER'S CERTIFICATE:

I, the undersigned, being the owner of the property, hereby certify that the information contained in this map is true and correct.

NOTARIZATION STATEMENT:

I, the undersigned, being the owner of the property, hereby certify that the information contained in this map is true and correct.

OWNER'S CERTIFICATE:

I, the undersigned, being the owner of the property, hereby certify that the information contained in this map is true and correct.

MCC SELF STORAGE MINOR SUBDIVISION
A Part of the Southeast Quarter of Section 15 Township 37 North
Range 3 East, West Township, St. Joseph County, Indiana

Map 22-12
Received
MAY 13 2023

Surveyor's Name
Surveyor's License No.

Surveyor's Address
Surveyor's Phone No.

Surveyor's Email
Surveyor's Website

Surveyor's Signature
Surveyor's Title

Surveyor's Seal
Surveyor's Commission No.

Surveyor's Date
Surveyor's State

Surveyor's City
Surveyor's County

Surveyor's Zip
Surveyor's Country

Surveyor's Fax
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EXHIBIT

2

Tables

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S02.0'10"W

4.00'

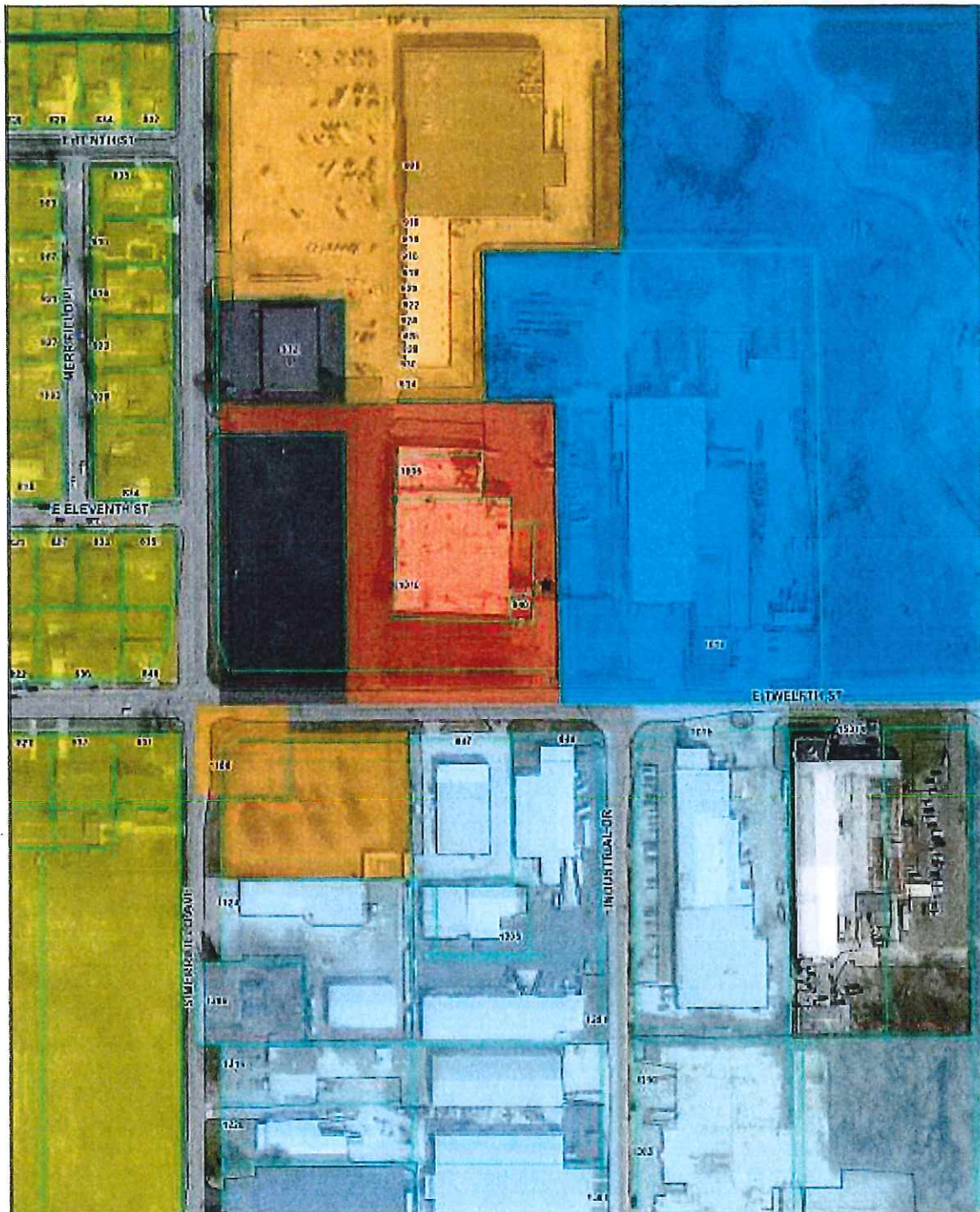
Morris Sales, Inc.
DR 0903482

N87°29'50"W

36.00'

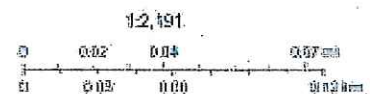
31'

City of Mishawaka Zoning

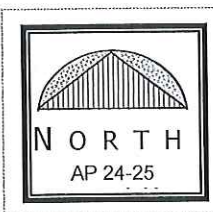


6/7/2024, 8:57:48 AM

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|--|---|--|
| <ul style="list-style-type: none"> Property Line Street Flow Route Flow Edge Flowing Proposed Water Waterway Waterway Waterway | <ul style="list-style-type: none"> R-1 Single-Family Residential R-2 Medium-Density Residential R-3 High-Density Residential C-1 General Commercial C-2 Shopping Center Commercial C-3 City Center Commercial C-4 Auto-Related Commercial C-5 Neighborhood Commercial C-6 Neighborhood Commercial C-7 Neighborhood Commercial | <ul style="list-style-type: none"> I-1 Light Industrial I-2 Heavy Industrial I-3 Medium Industrial I-4 Heavy Industrial I-5 Heavy Industrial I-6 Heavy Industrial I-7 Heavy Industrial I-8 Heavy Industrial I-9 Heavy Industrial I-10 Heavy Industrial |
|--|---|--|



R-1 R-1
E TENTH ST



S MERRIFIELD AVE

AP 24-25

**PROPOSED²
STORAGE CONTAINER
LOCATION**

E TWELFTH ST

INDUSTRIAL DR

Location Map

AP 24-25

MCC SELF STORAGE LLC & MORRIS
SALES, INC (OWNERS) / JOSHUA
VISSER (LEGAL COUNSEL)

940 E. 12TH STREET

USE VARIANCE TO ALLOW FOR
TWO PERMANENT STORAGE
CONTAINERS FOR FIREWORKS

JUN 20 2024

City Clerk
Mishawaka, IN

AP 24-27

DATE: June 21, 2024

TO: Board of Zoning Appeals

City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, Mark Shea, Trustee for The Rosemary & John C. Shea Revocable Trusts represent the owners of the following described Real Estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana to wit: W 1/2 Se 1/4 Sec 21-38-3e Beg 40' N & 142.77' W Se Cor W 513.93' N 363' E 667.35' S 23' W 142.58' S 300' and Centennial Place 340 W Cleveland Rd.
2. The above-described real estate presently has a zoning classification of C2 District under the zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above described property with retail stores as tenants and in accordance with the zoning district.
4. Appellant desires to expand a current service providing tenant to provide fine line micro tattooing services (a subset of services to microblading/permanent makeup) to be performed within approximately 1200 square feet of the existing Centennial Place building. 314 W CLEVELAND
5. The Zoning Ordinance of the City of Mishawaka requires a use variance for providers of Tattooing Services within the C-2 Commercial Shopping Center Zoning District. The Appellants' tenant, Aesthetic Beauty Studio relies on the revenue from fine line micro tattooing services in addition to their permanent make up and microblading lines of business. Limiting Aesthetic Beauty Studio to only retail permanent make up and microblading sales would be detrimental to the business.
6. The approved use variance will not be injurious to the public health, safety, morals or general welfare of the community since all services will be performed indoors and within the existing store space. Our tenant, Aesthetic Beauty Studio has been operating the business offering similar services for five years and is simply moving a few blocks west of her current location. The use and value of adjacent property of Centennial Place will not be impacted either positively or negatively. Adding fine line micro tattooing services to an existing business will be unnoticeable to adjacent property owners unless they are customers. All services will be performed in the existing store front at Centennial Place and all services will be performed on an "appointment only" basis. More than a majority of appointment services offered will be for microblading and customers will be nearly exclusively female.
7. The need for the variance only arises because the ordinance did not contemplate the combination of microblading and fine line micro tattooing services sales within one store, and limiting Aesthetic Beauty Studio to only microblading services would be detrimental to the business. The Appellant believes this proposed use is consistent with the general commercial development directed by the Mishawaka 2000 Comprehensive Plan primarily because several other stores offer the same services and have been approved.

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

Mark F Shea, Trustee

Contact:

Mark Shea

466 S Prospect Avenue

Elmhurst, IL 60126

M: 630.258.3065

E: mshea24@comcast.net

Danielle Rzepka
574 250 2195
dan.rzepka@gmail.com

Donna Burkart

From: Mark shea <mshea24@comcast.net>
Sent: Thursday, June 20, 2024 12:19 PM
To: Donna Burkart
Subject: Re: Variance Receipt - 340 W Cleveland

CAUTION: This email originated from outside the City of Mishawaka. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

I authorize Danielle Rzepka to represent Centennial Place in the use variance. The address is 314 w Cleveland
Mark Shea
630.258.3065

On Jun 20, 2024, at 11:40 AM, Donna Burkart <donna.burkart@mishawaka.in.gov> wrote:

Also, can you verify the actual location address in the plaza that the shop will be at?

Donna

Administrative Planner
City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, IN 46544
Phone: 574-258-1625
Fax: 574-968-6999

<image001.jpg>

From: Donna Burkart
Sent: Thursday, June 20, 2024 11:25 AM
To: Mark shea <mshea24@comcast.net>
Cc: danirzepka@gmail.com
Subject: RE: Variance Receipt - 340 W Cleveland

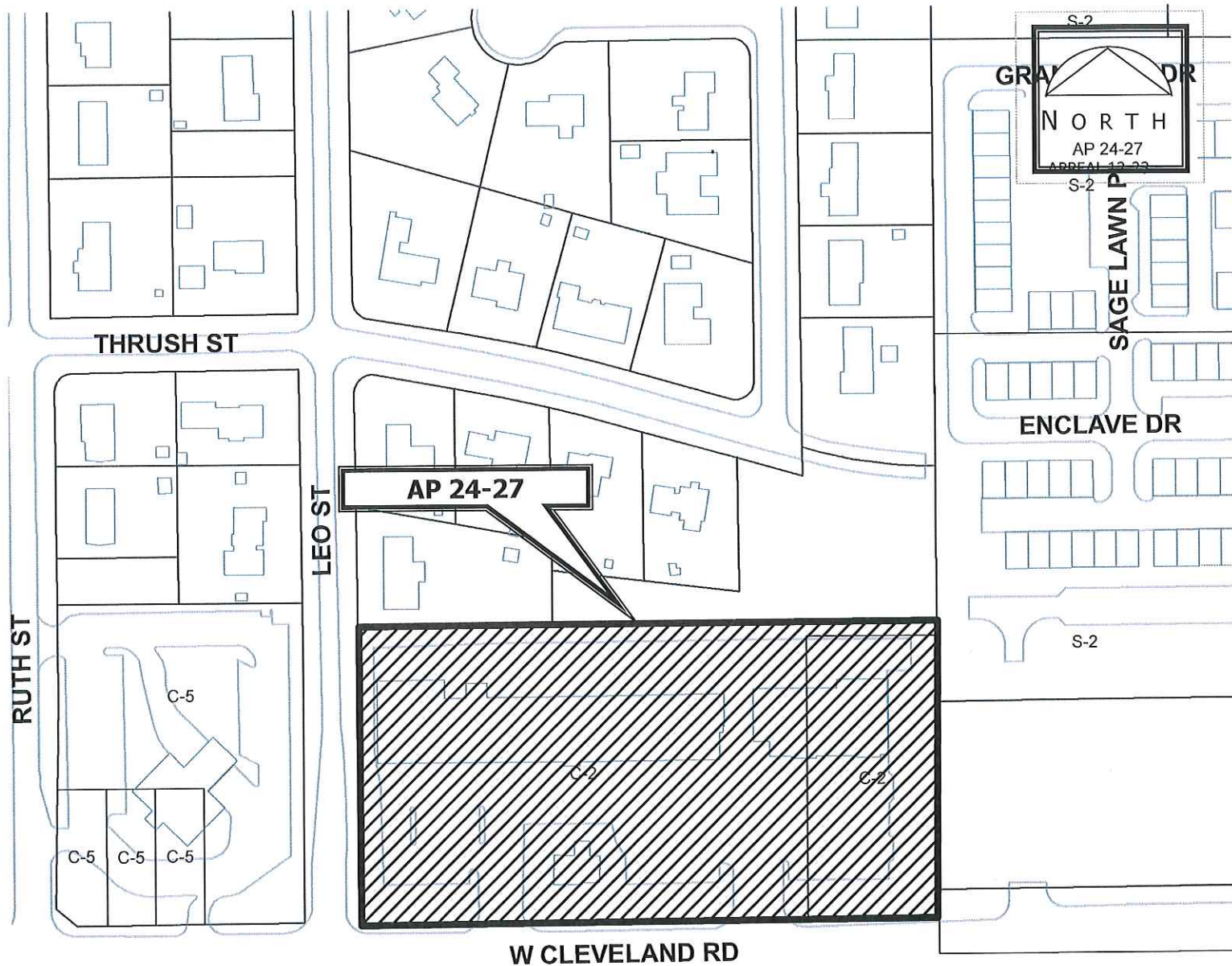
Mark,

Would you be able to send us something via email stating that you are ok with allowing Danielle Rzepka to represent the variance on your behalf? This is just to keep for our records in case anything was questioned since the variance didn't have your signature on it. It would be much appreciated!

Thanks!

Donna

Administrative Planner
City of Mishawaka



Location Map

AP 24-27

MARK SHEA, TRUSTEE FOR ROSEMARY
AND JOHN C. SHEA REVOC. TRUST
(OWNER) / DANIELLE RZEPKA
(FUTURE TENANT)

314 W. CLEVELAND ROAD

USE VARIANCE FOR FINE LINE
MICRO TATTOOING SERVICES

1st Reading 4-22-24

2nd Reading

Passed

Failed

Continued To

PETITION 24-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-08

ORDINANCE NO. _____

Deborah S. Block, IAC, MMC

APR 15 2024

City Clerk
Mishawaka, IN

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

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

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

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

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

PARCEL 1:

PART OF LOT NUMBERED EIGHT (8) AS SHOWN ON THE RECORDED PLAT OF HOGUE'S FARM SUBDIVISION, RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 12, PAGE 16, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 40 FEET WEST AND 35 FEET SOUTH OF THE NORTHEAST CORNER OF SAID SECTION 4 (SAID NORTHEAST CORNER IS LOCATED 660 FEET WEST OF THE EAST LINE OF LOT NUMBERED 8 IN SAID ADDITION), THENCE SOUTH 125 FEET; THENCE WEST 220 FEET; THENCE NORTH 125 FEET; THENCE EAST 220 FEET TO THE PLACE OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN IN PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS) ON THE NORTH LINE OF THE NORTHEAST QUARTER, A DISTANCE OF 40.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 33.0 FEET TO THE SOUTH EXISTING RIGHT OF WAY OF DOUGLAS ROAD AND BEING THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST PARALLEL WITH THE NORTH LINE OF THE NORTHEAST QUARTER ON THE SOUTH EXISTING RIGHT OF WAY OF DOUGLAS ROAD, A DISTANCE OF 220.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 12.00 FEET TO THE SOUTH PROPOSED RIGHT OF WAY OF DOUGLAS ROAD; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST ON SAID SOUTH PROPOSED RIGHT OF WAY, A DISTANCE OF 220.00 FEET, THENCE NORTH 00 DEGREES 09 MINUTES 43 SECONDS WEST, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.06 ACRES MORE OR LESS.

Proposed Ordinance No: 2024-08

Ordinance No: _____

PARCEL 2:

PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF SAID SECTION 34, 260 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION 34; THENCE SOUTH, PARALLEL WITH THE EAST LINE OF SAID SECTION 34, 160 FEET; THENCE WEST, PARALLEL WITH THE NORTH LINE OF SAID SECTION 34, 233.17 FEET TO THE CENTER LINE OF FIR ROAD; THENCE NORTHWESTERLY, ON THE CENTER LINE OF FIR ROAD, 56.27 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUING ON SAID CENTER LINE OF FIR ROAD AND ON SAID CURVE, HAVING A RADIUS OF 4326.33 FEET, 137.93 FEET TO THE NORTH LINE OF SAID SECTION 34; THENCE EAST, ON THE NORTH LINE OF SAID SECTION 34, 43.33 FEET TO THE POINT OF BEGINNING, IN ST. JOSEPH COUNTY, INDIANA.

EXCEPTING, A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, OF THE SECOND PRINCIPAL MERIDIAN, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS), ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 34, A DISTANCE OF 260.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 33.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 09 MINUTES 43 SECONDS EAST, A DISTANCE OF 11.95 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST, A DISTANCE OF 131.04 FEET; THENCE SOUTH 72 DEGREES 33 MINUTES 03 SECONDS WEST, A DISTANCE OF 68.80 FEET; THENCE SOUTH 02 DEGREES 55 MINUTES 30 SECONDS EAST, A DISTANCE OF 66.44 FEET; THENCE SOUTH 27 DEGREES 23 MINUTES 21 SECONDS EAST, A DISTANCE OF 31.58 FEET; THENCE NORTH 89 DEGREES 57 DEGREES 53 SECONDS WEST, A DISTANCE OF 14.52 FEET; THENCE NORTH 35 DEGREES 21 MINUTES 31 SECONDS WEST, A DISTANCE OF 155.79 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 283.39 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

PART OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 160 FEET SOUTH AND 40 FEET WEST OF THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST; THENCE WEST, PARALLEL WITH THE SOUTH LINE OF LOT SEVEN (7), IN THE RECORDED PLAT OF HOGUE MINUTES S FARM SUBDIVISION, A DISTANCE OF 413.7 FEET, MORE OR LESS, TO THE EASTERLY LINE OF FIR ROAD; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF FIR ROAD, 191.09 FEET, MORE OR LESS, TO THE SOUTHWESTERLY CORNER OF SAID LOT 7; THENCE EAST, ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 303.5 FEET, MORE OR LESS, TO A POINT 40 FEET WEST OF THE EAST LINE OF SAID SECTION 34; THENCE NORTH 157 FEET TO THE PLACE OF BEGINNING, AND BEING A PART OF LOT SEVEN (7) IN THE RECORDED PLAT OF HOGUE MINUTES S FARM SUBDIVISION, RECORDED AUGUST 10, 1935. IN PLAT BOOK 12, PAGES 16-17.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 34; THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST (BASIS OF BEARINGS), ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 34, A DISTANCE OF 607.20 FEET; THENCE SOUTH 35 DEGREES 21 MINUTES 31 SECONDS EAST ON THE CENTERLINE OF FIR ROAD, A DISTANCE OF 196.27 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 40.48 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 57 MINUTES 53 SECONDS EAST, A DISTANCE OF 14.52 FEET; THENCE SOUTH 27 DEGREES 23 MINUTES 21 SECONDS EAST, A DISTANCE 34.67 FEET; THENCE SOUTH 35 DEGREES 21 MINUTES 31 SECONDS EAST, A DISTANCE OF 160.76 FEET; THENCE SOUTH 54 DEGREES 38 MINUTES 29 SECONDS WEST, A DISTANCE OF 7.03 FEET; THENCE NORTH 35 DEGREES 21 MINUTES 31 SECONDS WEST, A DISTANCE OF 203.51 FEET TO THE POINT OF BEGINNING.

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-10 Filling Station Commercial designated in "The Zoning Ordinance of 1966" as amended.

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

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential because of the homes that existed on the properties at the time and the site was not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, if it were not for the extenuating factors associated with the City wellfield the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is not appropriate given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.

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5. Responsible development and growth - The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.

FAVORABLE

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district - The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.
3. The most desirable use for which the land in each district is adopted - The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is desirable given that there is already a fueling station convenience store located at the northwest corner of the intersection.
4. The conservation of property values throughout the jurisdiction - The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
5. Responsible development and growth - The proposed change to filling station commercial is responsible development and growth because there is an existing fueling station on the northwest corner of the intersection. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.

Proposed Ordinance No: 2024-08

Ordinance No: _____

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2024, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor



WWW.KRIEGDEVAULT.COM

May 14, 2024

Stephen A. Studer
Direct Dial: (574) 277-1207
E-mail: sstuder@kdlegal.com

SENT BY EMAIL

rboston@mishawaka.in.gov

Attn: Members of Council
City of Mishawaka
Planning Department 100
Lincolnway West
Mishawaka, IN 46544
Phone: 574-258-1625

Deborah S. Block, WMC, MMC

MAY 14 2024

City Clerk
Mishawaka, IN

Re: Mishawaka Plan Commission Recommendation
Petition #24-05 – To rezone from C-1 General Commercial to C-10 Filling
Station Commercial to allow for the construction of a Casey's General Store – a
convenience store and gas station business

Dear Members of the Common Council:

We are contacting you to formally request a postponement of the meeting for consideration of request scheduled for **Monday, May 20, 2024 at 6:00pm**. We ask that the meeting be moved to **Monday, June 17, 2024 at 6:00pm**.

Should you have any questions or concerns regarding this matter, please contact me or my assistant, Mary Brown (574-277-1200).

Thank you for your assistance.

Very truly yours,

Stephen A. Studer

SAS/mkb
Enclosure

STAFF REPORT

Location: Southeast corner of E Douglas Rd and Fir Rd

Date: April 9, 2024

Petition: 24- 05

Prepared By: SA/KP

GENERAL INFORMATION

Applicant: SEC Investments LLC / Kimley-Horn & Associates, Inc.

Status: Property Owner / Civil Engineering Consultant

Request: To rezone from C-1 General Commercial to C-10 Filling Station Commercial to allow for the construction of a Casey's General Store- a convenience store and gas station business.

Zoning Classification: C-1 General Commercial District

Lot Size: 2.3 acres

Applicable Regulations: Section 137-529 to 137-530 C-10 Filling Station Commercial / Amendments to the Zoning Map, Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Vacant Land)
South: Unincorporated Saint Joseph County (Vacant)
East: Unincorporated Saint Joseph County (Residential)
West: Unincorporated Saint Joseph County (Residential) & C-8 High Density Suburban Commercial

Thoroughfare: E. Douglas Rd. & Fir Rd.

Council District: 5

School District: Penn-Harris-Madison

Township: Penn

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

Comprehensive Plan: On the Capital Avenue Land Use Plan from 2003 the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses.

ANALYSIS

The Petitioner, SEC Investments LLC, is requesting to rezone from C-1 General Commercial to C-10 Filling Station Commercial (3) three parcels containing approximately 2.3 acres of land. Located on the

southeast corner of the intersection of Douglas and Fir Roads. The (3) three parcels consists of 15022 Douglas Road (027-1078-204901) vacant house, 5328 North Fir Road (027-1078-2050) vacant land, and (027-1078-204905) a vacant lot. Surrounded by S-2 Planned Unit Development to the north, C-8 High Density Suburban Commercial to the west, and unincorporated parts of Saint Joseph County to the south, east, and west.

Over the past year, staff has communicated with the applicant's consultants multiple times and indicated that staff would be recommending denial of the proposed request. The request is very similar in scope to the Family Express located at the northwest corner of the same intersection that was annexed and zoned for a fueling station in 2015. The sole reason for the recommended denial is the presence of the City's recently completed Juday Creek Wellfield and the need to protect the public water supply long-term. The concept of placing the wellfield on the Juday Creek Golf Course was approved by the Council and Redevelopment Commission in 2016 following the approval of the Family Express. For the last 8 years the City has been working on the design and construction of not only the wellfield and filtration plant, but the many construction projects required to implement this massive piece of public infrastructure that we envision will serve the City for the next 100 years.

Staff is recommending denial of the proposed change in zoning because the site is located within the 1-year time of travel of the wellfield. We could recommend restrictions outside of the 1-year time of travel as well, and the proposed location within the 1-year time of travel represents the seriousness of the risk to the wellfield.

For general reference- time of travel means the time required for groundwater to move through the water bearing zone from a specific point to a well. In layman terms, the 1-year time of travel is the area in which it would take a molecule of water/liquid contaminants 1 year or less to reach the well. The City continues to work to make sure the entire area around the wellfield area is managed to protect our drinking water supply from viral, microbial, and direct chemical contamination.

As identified previously, when the wellfield property was purchased, the Family Express located at the northwest corner of the intersection of Fir Road and Douglas Road, which is currently located within the 1-year time of travel, had already been approved. In investigating potential locations for the wellfield, the City took into consideration all the known risks associated with placing the wellfield. Attached to this staff report is a map that identifies the one year time of travel and the various known risk factors that surround the wellfield. One of the reasons of the location chosen was that by placing the wells in the golf course, it naturally provides an area of control and protection around the wells. Just because there are existing risk factors, does not mean that more risk factors should be added, even if the additional risk is relatively small.

The total area of the one year time of travel is about 450 acres. This is a relatively large area for a City to place with no potential risks. That being said, each new development that has been proposed and approved in or adjacent to the 1-year time of travel since the approval of the wellfield in 2016 has had restrictions placed on the approval that reflect the location of the wellfield.

When the City purchased the Juday Creek Golf course, and then leased the property back to the previous owner for their continued use and operation, the following provisions were placed that restricted the use of chemicals and fertilizers on the golf course:

As part of the on-going ordinary maintenance, the Seller/Lessee shall adhere to all of the City's existing requirements and future requirements by state and federal agencies solely for the operation of the City's proposed municipal wellfield. As to Seller/Lessee's ongoing ordinary maintenance, Seller/Lessee would, pursuant to City instructions, use only those chemicals and fertilizers approved by the City. Seller/Lessee would not install any new wells for irrigation purposes, unless approved and consented to by the City. Any restriction of existing storm water areas of any storm or any storm water retention areas later created on the leased parcel by Seller/Lessee would be reviewed and be subject to the prior approval of the Buyer/Lessor. It is understood that the operation of the City's proposed municipal wellfield may, from time to time, change based upon then state and federal regulations which the parties acknowledge may be more restrictive over time. If the restrictions, federal or state, substantially restrict with Seller/Lessee's usual and normal operations of its golf

course, Seller/Lessee may, at its option, terminate this lease and any prepaid rental payments shall be refunded by the City to the Seller/Lessee.

When a portion the Penn Farm property was purchased for potential wellfield use, the following restrictions were placed over the entire Penn Farm as part of the buy-sell agreement with the City. Underground tanks are specifically prohibited as part of the restrictive covenants of the business park.

The Seller agrees to prepare and record covenants and restrictions over the Sellers property to create an association or other entity to provide for the perpetual maintenance of public improvements, as well as, create limitations on the use of the property that are consistent with the Buyer's desire to create a municipal wellfield adjacent to the site. Specifically, the Seller shall prohibit the use of underground fuel storage tanks, restrict the type of fertilizers and chemicals that can be stored or used on the property, prohibit the construction of new wells on the property, limit the means and methods of storm water retention, and otherwise identify that the all applicable requirements of the City, State, and Federal governments relating to well head protection, as may be modified over time, shall be complied with in full.

Also, as part of the proposed Auto Mall property located north of Cleveland Road, West of Capital, located outside the 1-year time of travel, a condition was placed that specifically prohibits Filling stations from being constructed on the property. This property is outside of the 1-year time of travel, but still in reasonably close proximity to the wellfield.

All of these development sites are also restricted on how stormwater is retained. No new drywells or underground percolation system is permitted to be used within these developments in close proximity to the wellfield.

Staff also acknowledges that vast improvements have been made to fuel underground storage containment systems over time and the current known risks are relatively low. Double wall tanks with an internal sensor are now an industry standard. That being said, environmental standards used for drinking water are getting more and more restrictive over time. There is also no accounting for human error or accidents that have the potential to occur over time that should be considered when considering this rezoning request.

To this end, the City already has experienced the impact of faulty storage tanks can have on a City Municipal Wellfield. There used to be municipal wells at Ward Baker Park which had to be closed as a result of leaking fuel tanks at the intersection of 12th and Byrkit. In 2008, the City received 8.15 million dollars from a class action settlement concerning the use of Methyl tert-butyl ether (MTBE) which is a flammable liquid that had been used as an additive for unleaded gasoline since the 1980s. MTBE increases octane and oxygen levels in gasoline and reduces pollution emissions. MTBE spread more easily underground than other gasoline components due to its higher solubility in water. Legislation passed in 2005 then prompted gasoline refiners to replace MTBE with ethanol. Staff brought this history up not because of a specific chemical, but as an indication of how circumstances and standards change over time. When the tanks were originally installed at the Fir/Byrkit fueling stations we are reasonably confident that the tanks met an industry standard at the time. Our understanding is that chemicals and additives also continue to evolve over time, but again, when MTBE was introduced, it was done so with the best of intentions. What is the next chemical, hazard, industry standard that is going to change that might have a causal relationship to our ability to provide clean and safe drinking water?

Staff also has a concern regarding precedent should this request ultimately be approved. If the Penn family was approached to allow a convenience store/fueling station at the intersection of Veteran's Parkway and Douglas Road, should the City allow the change in their covenants and zoning to allow it, given that is approximately the same distance from the wells as the proposed Casey's General store? This intersection will likely be a prime potential location for this type of use because this intersection will likely be signaled. With the Mishawaka Fieldhouse regional recreation facility going in, there will be a steady stream of potential customers that will be using Veteran's Parkway.

Note, the burden is on the applicant relative to this request. There is no inherent right to place a fueling station on this site. The site is currently zoned C-1 Commercial which permits a wide range of commercial uses by right including a drug store, restaurant, banks, medical clinic, hotels and many more. A convenience store could also be constructed by right on the property without fueling. Staff would also potentially support a rezoning request for drive-thru uses for this prime corner location. In short, the

reasonable use of the property is not being denied or hindered. Our singular focus is to insure the long term operation of the wellfield which has taken close to 8 years to plan and develop at a total cost of over 40 million dollars.

Although staff is recommending denial solely on the basis of the wellfield, there are also other site plan and logistical factors that will need to be worked out should the proposed change in zoning be approved.

The site is located on a hard corner in a location that was formerly residential. It is important that the adjacent properties to the east and south are both properly screened while also still allowing for the future redevelopment of those properties for commercial purposes over time. Cross access easements will need to be provided to both the east and south. If and when those properties are developed as commercial, they would then have the ability to remove screening and buffering and connect to the existing access points proposed at Casey's. We feel that this would also be beneficial for Casey's. Knowing that the traffic on both Douglas Road and Fir Road will increase over time, the stacking at the intersection and the proximity of the proposed drives to the intersection could make certain turning movements more difficult during peak traffic times. Having cross access where turning movements can potential be made further from the intersection could aid in safely moving traffic.

The concept site plan, although acceptable for rezoning purposes, does not identify important elements such as the minimum commercial landscaping required in conjunction with the development of the property. Landscaping and using full cut off fixtures for site lighting, exterior building lighting, and under canopy lighting will be important given the adjacent residential uses.

Juday Creek is located adjacent to the site and the drainage structure conveying it actually goes southwest through the middle of the intersection of Douglas and Fir. The Casey's site is currently located in area identified as flood fringe and as such the finished floor of the building and fueling locations will need to be raised to two feet above the hundred year flood elevation. Casey's consultants have this information and we believe the site can be raised without issue.

The Engineering Department has also recommended denial of the request. They commented that the applicant neglected to state how they plan to merge well head protection requirements as previously discussed on multiple occasions. They also identified that a traffic impact study has not been presented, although it would be more appropriate to follow with such a study following the rezoning of the property if it is approved. Engineering also indicated that the developer will need to identify what improvements are necessary to retain current levels of service for both Fir and Douglas Roads. Engineering identified that a minimum dedicated right turn lane and left turn lane for Fir Road will be required. A sidewalk/pathway will need to be constructed on both Fir Road and Douglas Road frontage. Left turn lane on Fir Road will need to be modified as it appears the thru lane is pushed to this proposed movement.

The Electric Department commented that they will need to discuss electric service needs with the contractor prior to construction. One of the parcels 15022 Douglas Road (027-1078-204901) is currently serviced by AEP.

RECOMMENDATION

We have been asked by the Council on known contested requests to prepare findings both for and against the petition. As such, the staff recommendation for denial is listed first. Findings for approval, which is not recommended is listed second.

Staff recommends against Petition 24-05 to rezone 2.3 acres of property located at the southeast corner of Douglas and Fir Roads from C-1 General Commercial to C-10 Filling Station Commercial for a proposed Casey's convenience store and gas station business and that it be forwarded to the Common Council with a **unfavorable** recommendation. This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603 which requires both the Planning Commission and Common Council as the Legislative Body of the City pay reasonable regard to the following:

1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential because of the homes that

existed on the properties at the time and the site was not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, if it were not for the extenuating factors associated with the City wellfield the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.

2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is not appropriate given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
 3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled roadways. The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
 4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
 5. Responsible development and growth – The proposed change to filling station commercial is not desirable given that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. Underground storage tanks holding large volumes of petroleum products, despite the increases made in the technology still poses a potential risk to the Juday Creek Wellfield.
-

The following are findings for approval of Petition 24-05 to rezone 2.3 acres of property located at the southeast corner of Douglas and Fir Roads from C-1 General Commercial to C-10 Filling Station Commercial for a proposed Casey's convenience store and gas station business and it will be forwarded to the Common Council with a **favorable** recommendation. This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603 which requires both the Planning Commission and Common Council as the Legislative Body of the City pay reasonable regard to the following:

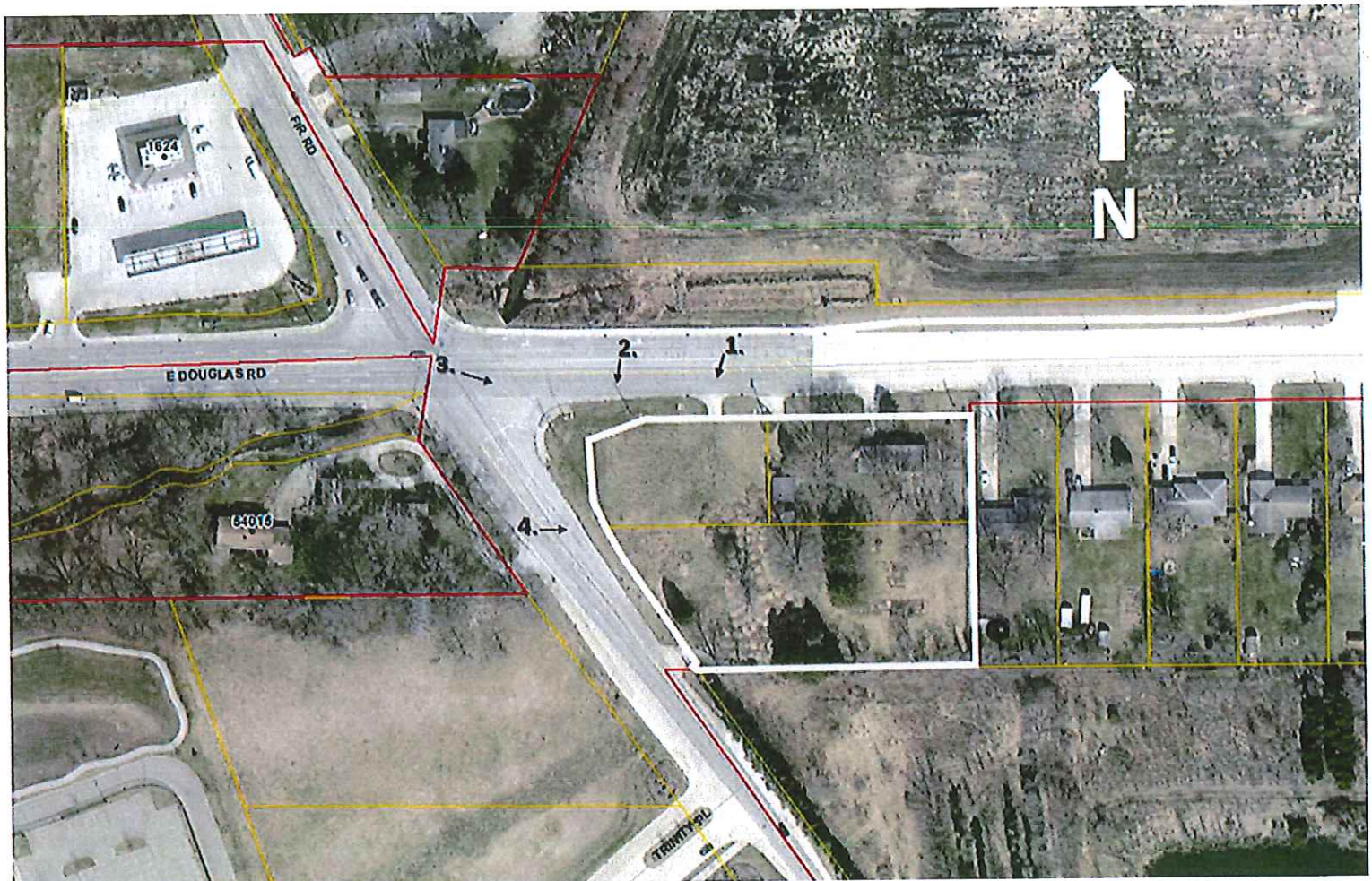
1. The applicable Comprehensive Plan is from the Capital Avenue Land Use Plan that was done jointly with St. Joseph County- the site was identified as existing residential and not guided for future development. The home(s) previously located on the property were subsequently demolished or will be demolished as part of the proposed change in use. The undeveloped area south and east of the site behind the existing residential was guided for office park and medium density residential uses. As such, the higher intensity commercial use of a convenience store/filling station is reasonably consistent with the comprehensive plan.
2. Current conditions and the character of current structures and uses in each district – The current conditions warrant the existing commercial zoning that exists for the property being located at the hard corner of two heavily travelled roadways. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is commercial given that it is located at the hard corner of two heavily travelled

roadways. The proposed change to filling station commercial is desirable given that there is already a fueling station convenience store located at the northwest corner of the intersection.

4. The conservation of property values throughout the jurisdiction – The most impacted properties from the proposed change are the existing single family homes in close proximity to the site. The proposed change is consistent with the continued change to commercial rather than residential uses in the area. Provided the proposed development includes landscaping and buffering consistent with the City's development standards while still allowing for access easements connecting to adjacent properties, the existing residential value should be reasonably conserved while still potentially allowing for the future conversion/higher value of commercial development in the future.
5. Responsible development and growth - The proposed change to filling station commercial is responsible development and growth because there is an existing fueling station on the northwest corner of the intersection. The proposed change to allow for a filling station is appropriate despite that the site is located within the 1-year time of travel for the recently completed Juday Creek Municipal Wellfield. We believe that the underground storage tanks holding large volumes of petroleum products does not pose a substantial risk to the Juday Creek Wellfield because of the increases in technology of petroleum storage tanks that have been made safer over time.

ATTACHMENTS

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



Aerial Photograph



1. South facing from Douglas Rd



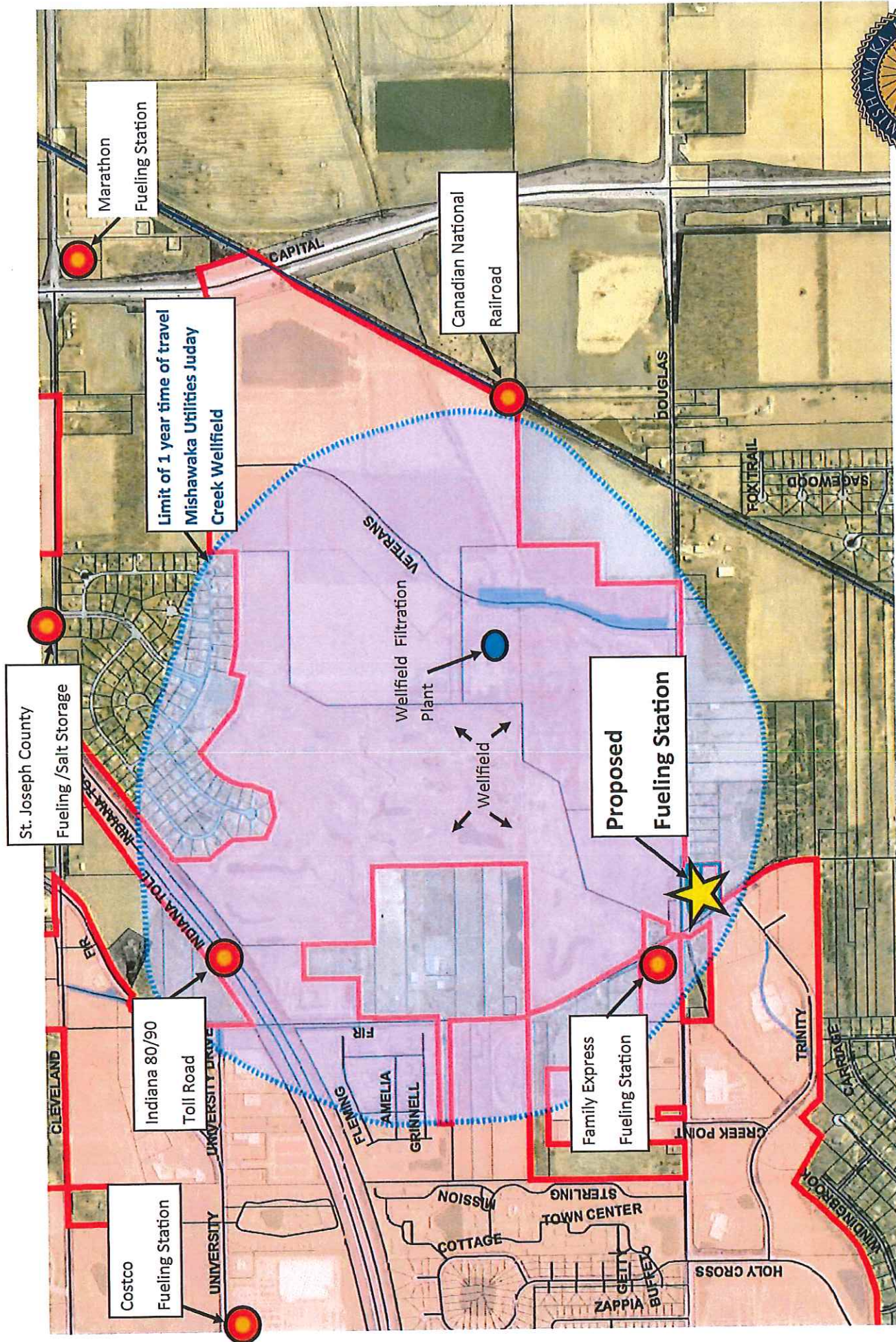
2. Southwest facing from Douglas Rd



3. Southeast facing from Fir Rd



4. East facing from Fir Rd



Mishawaka Utilities Water Division
Juday Creek Wellfield 1 year time of travel

Known existing risk factor
Juday Creek wellfield



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



RE: Petition to Rezone 3 Total Parcels (15022 Douglas Road, 5328 N Fir Road, and vacant)

The undersigned, SEC Investments LLC, ("Petitioner") is the owner of three (3) parcels of land containing approximately 2.3 acres located on the southeast corner of the intersection of Douglas and Fir Roads, Mishawaka, St. Joseph County, Indiana and further described by the legal description attached hereto as EXHIBIT "A".

The Petitioner owns one hundred (100%) percent of the above described 3 parcels of land which are currently zoned C-1 General Commercial District in the city of Mishawaka. Said real estate is improved with a vacant single family dwelling unit in addition to a detached garage and shed.

The Petitioner desires said real estate to be rezoned to C-10 Filling Station District in the city of Mishawaka. The Petitioner further states that it intends to utilize said land for the development of a proposed convenience store and gas station.

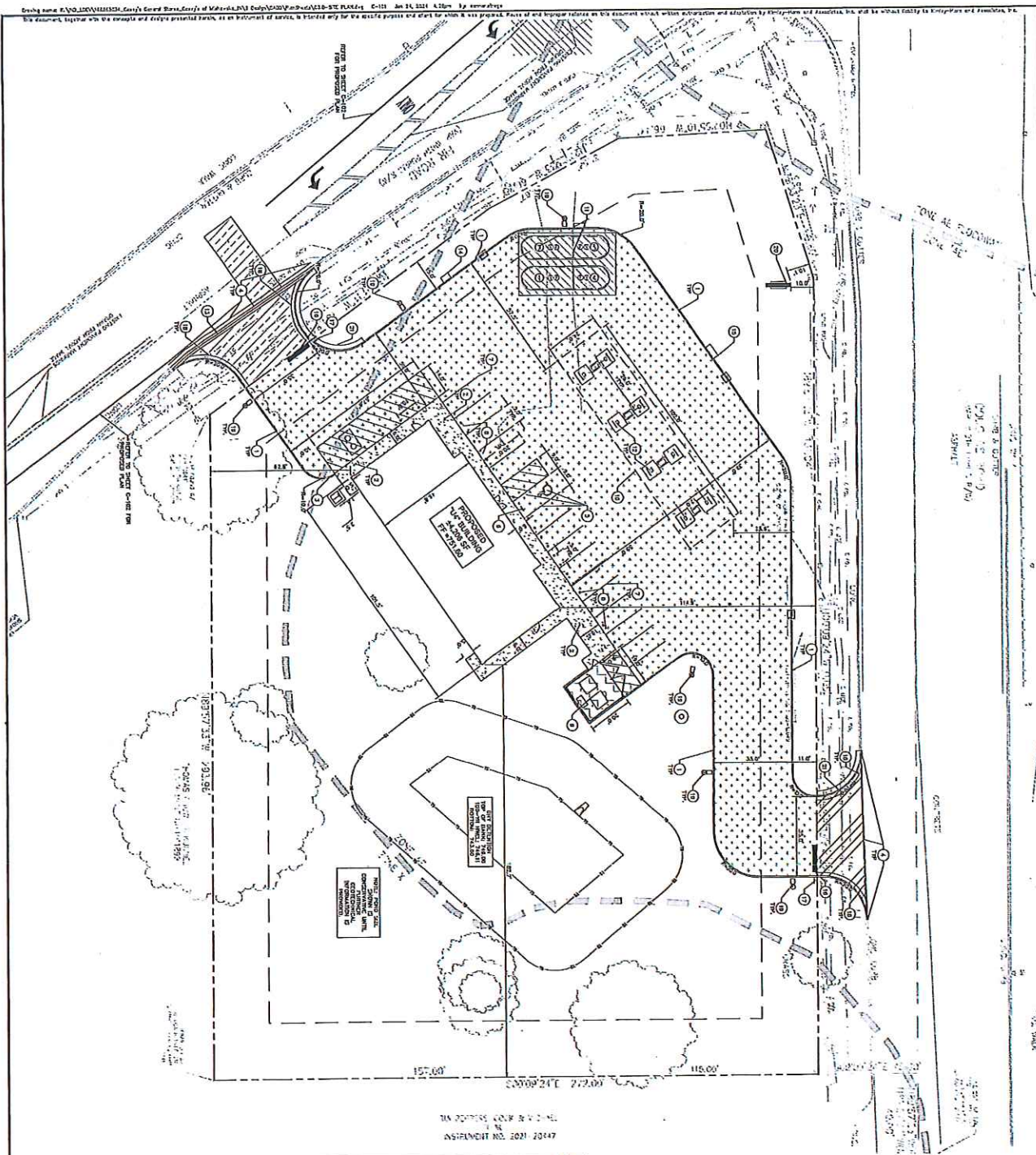
Wherefore, the Petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcels of land in the City of Mishawaka.

PETITIONER: SEC INVESTMENTS, LLC

By: Stephen R. Murphy 3/19/24
Stephen R. Murphy Date
Member

Contact Person:

Name: Connor Strege, PE – Kimley-Horn & Associates, Inc.
Address: 500 East 96th Street, Suite 300, Indianapolis, IN 46240
Phone Number: (317) 218-9465
Email: connor.strege@kimley-horn.com



KEY NOTES

- [illegible]

SITE SUMMARY

SITE SUMMARY	
STRE TREASURY	= 235 ALES
BUILDING AREA	= 61,000 SF
COLLECTOR POWER	= 81 KW
PANING SPACES (STANDARD) REQUIRED	= 24 SPACES
PANING SPACES (ACCIDENTALLY) REQUIRED	= 10 SPACES
PANING SPACES (STANDARD) PROVIDED	= 10 SPACES
PANING SPACES (ACCIDENTALLY) PROVIDED	= 1 SPACES
TOTAL PANING SPACES PROVIDED	= 24 SPACES

PAVING LEGEND

PAVING LEGEND

	2" (50.8 mm) DEEP, 1/2" (12.7 mm) DIAMETER MANHOLE SECTION
	1" (25.4 mm) DEEP, 1/2" (12.7 mm) DIAMETER MANHOLE SECTION
	1" (25.4 mm) DEEP, 1/2" (12.7 mm) DIAMETER MANHOLE SECTION
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	1" (25.4 mm) DEEP, 1/2" (12.7 mm) DIAMETER MANHOLE SECTION

GENERAL PLAN NOTES

NOTES TO CREDIT NOTES SHALL FOLLOW, IN ORDER INCLUDING THE FOLLOWING (BORROWER RECORD, DISBURSMENT INFORMATION AND SPECIAL DONORAL PLAN NOTES)

Planning and Community Development

Received

477 61 244

PET 24-05

SITE PLAN

CASEY'S OF MISHAWAKA
15022 DOUGLAS RD & 5328 N FIR
RD MISHAWAKA, INDIDNA

C-10

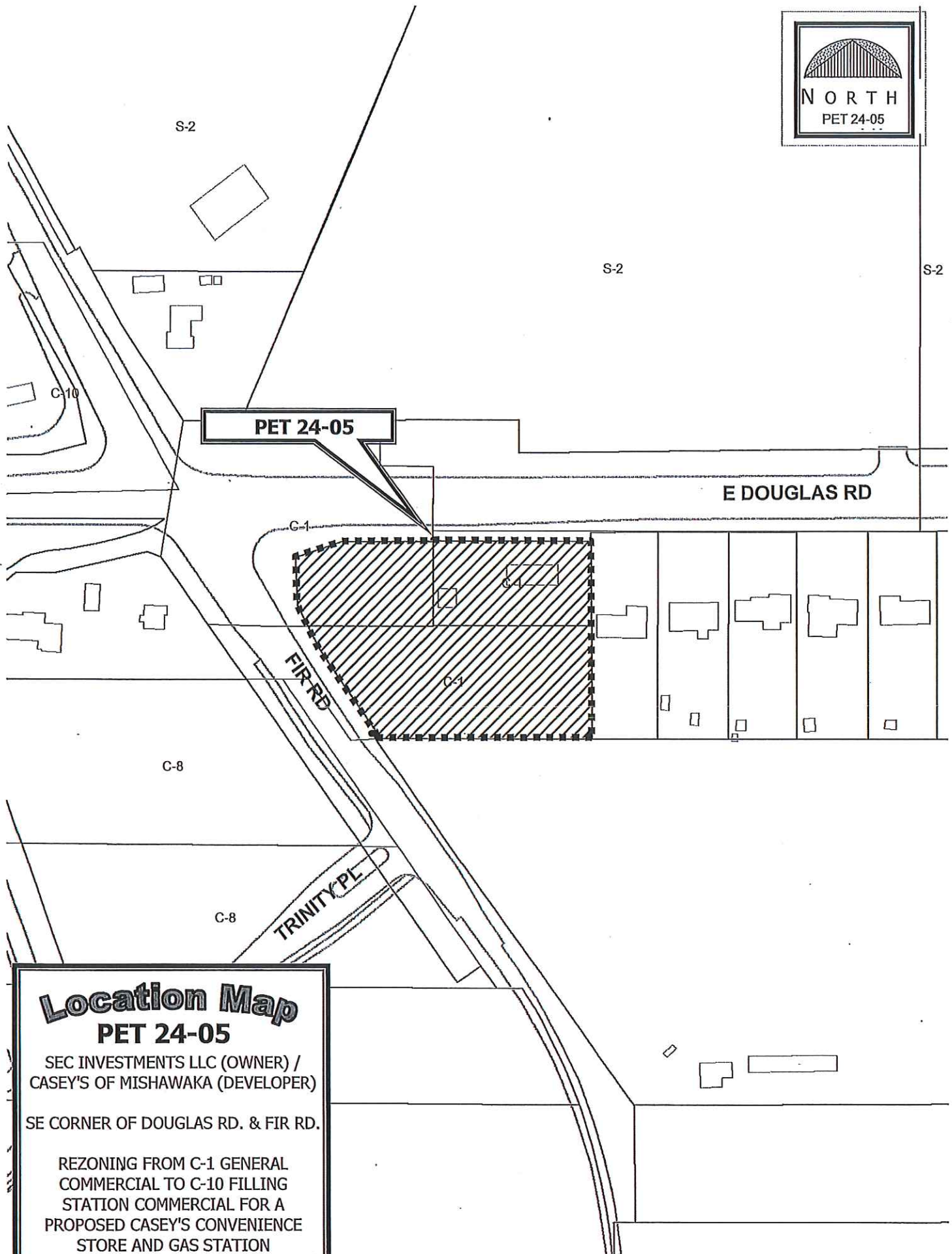
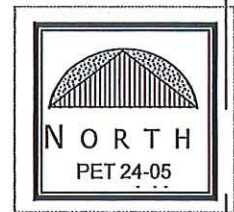


Kimley»Horn
3728 KIMLEY-HORN & ASSOCIATES, P.C.
500 EAST 95TH STREET, SUITE 300,
PACEDALE, PA 19380
PH: 610-391-1100

Indiana Utilities Protection Service
Call 811
before you dig



REVISIONS	DATE	BY
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Location Map PET 24-05

SEC INVESTMENTS LLC (OWNER) /
CASEY'S OF MISHAWAKA (DEVELOPER)

SE CORNER OF DOUGLAS RD. & FIR RD.

REZONING FROM C-1 GENERAL
COMMERCIAL TO C-10 FILLING
STATION COMMERCIAL FOR A
PROPOSED CASEY'S CONVENIENCE
STORE AND GAS STATION

PROPOSED ORDINANCE NO. 2024-17

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2024, in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the CEDIT fund of the City of Mishawaka the sum of \$750,000.00 for assignment as follows:

County Economic Development Income Tax

OTHER SERVICES AND CHARGES

Repairs and Maintenance

2209-50-436-02

City Maintenance

City Hall elevators

\$250,000.00

Battell Park Band Shell

\$500,000.00

\$750,000.00

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana on this

_____ day of _____, 2024 at _____ o'clock, _____. M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 2024 at _____ o'clock, _____ M.

Deborah S. Block, IAMCA, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2024 at

_____ o'clock, _____ M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Date: June 17, 2024
To: Honorable Members of the Common Council
From: Rebecca Maguire
Re: **Additional Appropriations CEDIT fund**

Requesting approval on first reading for June 17th there are two items which require an additional appropriation.

First, is a repair of the historic Battell Park Band Shell. Second is for repair to the elevators at City Hall. Detailed information is attached as provided by Ken Prince.

A supplemental distribution of LIT funds received in May is available for these necessary expenses.

Please contact me with any questions.

c: David A. Wood, Mayor
Ken Prince, Director of Economic Development
Phil Blasko, Park Director



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

Battell Park Band Shell repair

Two years ago, Parks and Central Services noticed deterioration in the limestone areas near the roof of the Battell Park Band Shell. We immediately investigated and it was determined not to be a threat to patrons visiting or using the facility. The following year, the conditions became worse with more damage and notable water leakage. Thinking it was a masonry issue, and knowing masonry work is specialized and a premium in our region now, we asked Weigand Construction to investigate the issue. They used lifts and drones to visually inspect the masonry and roof. Our hope was that we could do a time and materials contract that did not exceed \$50,000 that would have immediately allowed them to work on and address the issues. Unfortunately, they came back and identified that the problem was larger than just isolated repair. The cause was likely many years of slow water infiltration from the roof area to the stone that was now getting worse over time. Not only could they not address the issue in the field, but they also recommended that we hire an architect to prepare plans and a scope to address the issue through the bid process. We hired DLZ of South Bend who had prepared plans and oversaw other restoration work at the Band Shell 25 years ago and had plans of the Band Shell that could be referenced. DLZ determined that the problem was the copper roof and drain system that was leaking impacting the limestone over time through the freeze thaw cycle. DLZ prepared plans to replace the copper roof, fix the drainage, and replace/repair the damaged limestone on the structure. The Board of Public Works opened bids last week. Two bids were received and DLZ is recommending that we move forward with Slatile Roofing and Sheet Metal as the lowest most responsible bidder. The engineer's estimate for this project (base bid) was approximately \$470,000. The two base bids received were \$403,570 and \$420,000. Although the City bid multiple roof types, the plans we are proposing to move forward with are identical in materials (copper roof and limestone) and appearance of the original Band Shell. As such, this work is deemed maintenance, and a Certificate of Appropriateness is not required from the Historic Preservation Commission (HPC) for the work on the building. The work will require the removal of all the landscaping from the base of the structure, although it will be replanted. As such, we are going to ask the HPC for this approval. As part of the bid process, we also asked DLZ to include the replacement of the interior lighting of the Band Shell as an alternate proposal. Two alternates were bid on. One for plain white light, the second for color changing LED lights. Although more expensive by 15K, the Administration is recommending the color changing lights because of both the performance characteristics of the space and the Christmas Tree placement that occurs on a yearly basis. The combined low bid is \$434,020. \$500,000 has been requested to address potential unforeseen conditions and consulting costs associated with the project.



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kayla Yoder, Deputy Controller

City Hall Elevator repairs

Upon purchase of the former Liberty Mutual building, in 2020, the City working through Alliance Architects had both building elevators professionally inspected and evaluated by Stuard and Associates, an independent professional elevator inspection firm. The inspection identified that the elevators were built with the building in 1984, and that they were rebuilt/modernized by Liberty Mutual in 2008. They made specific recommendations including re-doing the cabs, providing pit lighting, and other code related issues that were addressed as part of the City Hall Renovation. What we did not address were the mechanical systems themselves. Noting that per the inspector's report, the optimized life between rebuilds is 20 years. Liberty Mutual waited 24 years before rebuilding. At the time of renovation, we asked specifically if it was problematic waiting on the mechanical rebuild to hopefully maximize the time between rebuilds. We were told that this type of repair/rebuild can and is done independently of other building construction. As such, there was no additional efficiency to be gained by performing the mechanical renovation at that time of the building renovation other than convenience. Ideally, we were hoping that the City would be able to not undergo this mechanical replacement until 2028 or later given the rebuild that occurred by Liberty Mutual in 2008. Unfortunately, that is not the case and we have been informed by our service provider that both elevators need replacement at this time, 16 years after the last rebuild. We are hopeful since we are now through construction, that the proposed replacement will last for 20 years or more. There will be no physical appearance change of either elevator as part of the proposed mechanical rebuild. The plan will be to repair one elevator at a time so that there is always a working elevator in the building.

Deborah S. Block, IAMC, MMC

JUN 12 2024

City Clerk
Mishawaka, IN

PETITION 24-07

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-18

ORDINANCE NO. _____

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

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

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

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

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

LOT 2 OF THE WEN 14175 BREMEN, LLC MINOR SUBDIVISION AS RECORDED UNDER
INSTRUMENT NUMBER 2024-00737 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY,
INDIANA.

which real estate is now classified as S-2 Planned Unit Development shall hereafter be
amended as follows:

To allow a third restaurant with drive-thru facilities and a reduction of parking spaces.

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

1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include two restaurants with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
2. Character of Buildings in Area – Single tenant commercial buildings, including two restaurants with drive-thru to the north, and a convenience store with gas station and credit union located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west.

Proposed Ordinance No: _____

Ordinance No: _____

- 3. The most desirable/highest and best use – The requested PUD amendment will allow a third restaurant with drive-thru facilities to be constructed within the overall PUD boundary. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, automobile repair shops, and two restaurants with drive-thru facilities.
- 4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6’ high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses.
- 5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. Given the development that has already taken place, an additional restaurant with drive-thru facilities is reasonably consistent with that guided use.

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 _____, 2024, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2024, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: South of 3625 Bremen Highway
Part of the Gateway Plaza – Bremen Highway PUD

June 11, 2024

Petition: 24- 07

Prepared By: CH

GENERAL INFORMATION

Applicant:

WEN 14175 Bremen LLC / Watermark Engineering

Status:

Property Owner / Site Design Consultant

Request:

Amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development to allow a third restaurant with drive-thru facilities and parking reduction

Zoning Classification:

S-2 Planned Unit Development District / Permitted C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities, and two restaurant with drive-thru facilities

Lot Size:

1.41 acres

Applicable Regulations:

Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 5057) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern:

North:

South:

East:

West:

S-2 Planned Unit Development District (Restaurants with Drive-Thru / Wendy’s & Taco Bell)

S-2 Planned Unit Development (Residential / Permitted for C-1 General Commercial Use)

C-1 General Commercial (Credit Union / United Federal Credit Union)

Unincorporated St. Joseph County (INDOT & All Access Storage Access Road, and Single-Family Residential)

Thoroughfare:

Bremen Highway, Meijer Drive & Veldman Drive

School District:

Penn-Harris-Madison School Corporation

Township:

Penn

Public Utilities:

All utilities are available and/or will be extended to/throughout the site at the developer’s expense.

Comprehensive Plan:

General Commercial

ANALYSIS

The applicant, WEN 14175 Bremen LLC, is requesting to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities parking reduction to 24 spaces for a Starbucks.

The 1.41 acre site proposed for multi-tenant commercial development is currently vacant and was recently subdivided as the Wendy’s restaurant to the north was developed.

Per the original PUD regulations (Ordinance 5057), permitted uses within the overall 16.8 acre PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities with no outside storage restricted to an 8.3 acre area south of high tension power lines adjacent to the U.S. 20 bypass, and one restaurant with drive-thru facilities. A PUD amendment in 2022 (Ordinance 5825), allowed a second restaurant with drive-thru facilities, automobile repair shop, waive requirement of written approval of all property owners within the PUD, reduction in parking spaces, and the use of fiber cement board as an approved material.

Due to the recession in the late 2000s and difficulty in assembling the individual properties, the 16.8 acre property has not been able to be developed as a cohesive development as originally envisioned. When approved, there were six homes within the PUD. Only three single-family homes remain within the PUD boundaries. The home to the west is owner-occupied. The two houses to the south are owned by KLT Properties the developer of the All Secure Storage facility to the south. One was damaged by fire and is uninhabitable, but the one to the south at 3717 Bremen Highway was recently purchased and the intent is not known. This site will be subject to the required 6’ high fence and landscape screening between the commercial site and the remaining adjacent residential uses.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable.

The Engineering Department has been made aware that the retention basin, designed to handle the stormwater runoff of both Wendy’s and this site, is not functioning as intended. Engineering initially recommended tabling the PUD amendment until it was resolved. We have agreed to allow the PUD amendment go before the Plan Commission and the Common Council for approval on the zoning action. However, the site plan will not be accepted by the Planning Department for review until there is a properly functioning retention basin as designed, approved by Engineering.

All other pertinent City Departments have reviewed and approved the request. Electric will need to discuss electric needs prior to construction, and Building will require permits prior to construction.

RECOMMENDATION

Staff recommends **approval** to amend a part of the Gateway Plaza – Bremen Highway Planned Unit Development (PUD) to allow a third restaurant with drive-thru facilities and a reduction of parking spaces.

All other previously approved development standards and conditions of approval per Ordinance 5057 and 5825 shall remain applicable to the property.

This recommendation is based upon the following findings of fact:

- 1. Existing Conditions – The subject property is currently vacant and has been approved for commercial development including multi-tenant buildings. Adjacent uses include two restaurants with drive-thru to the north, a credit union and convenience store/gas station to the east, single family residential within the PUD to the south and west permitted for commercial use, and single family residential in unincorporated St. Joseph County to the west.
- 2. Character of Buildings in Area – Single tenant commercial buildings, including two restaurants with drive-thru to the north, and a convenience store with gas station and credit union located east of Bremen Highway and north of Meijer Drive. Three single-family residential homes are located within the PUD boundaries, including two south of the subject property, and one to the west.

- 3. The most desirable/highest and best use – The requested PUD amendment will allow a third restaurant with drive-thru facilities to be constructed within the overall PUD boundary. Permitted uses within the PUD were limited to C-1 General Commercial uses, multi-tenant commercial buildings, self-lock storage facilities without outside storage, automobile repair shops, and two restaurants with drive-thru facilities.
- 4. Conservation of property values – The proposed amendment should not be injurious to property values in the surrounding area. A 6’ high screening fence and landscaping is required along all property lines where adjacent to the remaining residential uses.
- 5. Comprehensive Plan – The property was identified as service commercial in the Mishawaka 2000 Comprehensive Plan. Given the development that has already taken place, an additional restaurant with drive-thru facilities is reasonably consistent with that guided use.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Location Map



Aerial Photograph
Vacant Property



P1. A view west across Bremen Highway



P2. A view south from the Wendy's parking lot.



P3. A view west from Veldman Dr.



MAY 23 2024

City Clerk
Mishawaka, IN

PET 24-07
Received

MAY 10 2024

Planning and
Community Development

Date: May 6, 2024

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

RE: PETITION FOR PUD AMENDMENT

The undersigned, WEN 14175 Bremen 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:

PARCEL II:

A TRACT OF LAND CONTAINING 1.5 ACRES, IN THE SOUTHEAST PART OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, WHICH TRACT IS BOUNDED BY A LINE RUNNING AS FOLLOWS, VIZ: BEGINNING ON THE EAST LINE OF SAID SECTION 28 AT A POINT 14 RODS NORTH OF THE SOUTHEAST CORNER OF THE NORTH HALF OF THE SOUTHEAST QUARTER THEREOF, THENCE RUNNING NORTH ALONG THE EAST LINE OF SAID SECTION A DISTANCE OF 6 RODS; THENCE WEST 40 RODS; THENCE SOUTH 6 RODS; THENCE EAST 40 RODS TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING:

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 37 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER-QUARTER SECTION; THENCE NORTH 00 DEGREES 22 MINUTES 01 SECONDS WEST 231.00 FEET ALONG THE EAST LINE OF SAID SECTION TO THE SOUTHEAST CORNER OF THE OWNER'S LAND; THENCE SOUTH 89 DEGREES 32 MINUTES 18 SECONDS WEST 40.85 FEET ALONG THE SOUTH LINE OF THE OWNER'S LAND TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS ON THE WEST BOUNDARY OF S.R. 331 (ALSO KNOWN AS BREMEN HIGHWAY); THENCE SOUTH 89 DEGREES 32 MINUTES 18 SECONDS WEST 20.00 FEET ALONG SAID SOUTH LINE; THENCE NORTH 00 DEGREES 19 MINUTES 00 SECONDS WEST 99.00 FEET TO THE NORTH LINE OF THE OWNER'S LAND; THENCE NORTH 89 DEGREES 32 MINUTES 18 SECONDS EAST 20.00 FEET ALONG SAID NORTH LINE TO THE WEST BOUNDARY OF SAID S.R. 331; THENCE SOUTH 00 DEGREES 19 MINUTES 00 SECONDS EAST 99.00 FEET ALONG SAID WEST BOUNDARY TO THE POINT OF BEGINNING.

Common address: 3707 Bremen Highway

Petitioner owns one hundred (100%) of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for existing vacant land.

Petitioner desires said real estate to be amended to allow for a third restaurant with drive-thru facilities within the original PUD boundary, located on the above-described parcel, as well as a reduction in the required parking spaces to allow for a total of 24 parking spaces.

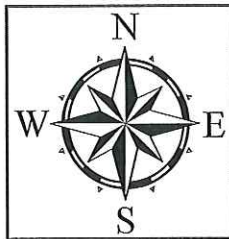
Wherefore, the petitioner respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above-described parcel of land located in the City of Mishawaka.


Signature of Property Owner/Title Holder
(Print Name Here)
Richard Kunholtz, Co-President

Contact Person: Robin Ersfeldt, Watermark Engineering Resources, Ltd.
2631 Ginger Woods Parkway
Suite 100, Aurora, IL 60502
ersfeldt@watermark-engineering.com
708-203-8025

LEGAL DESCRIPTION:

LOT 2 OF THE WEN 14175 BREMEN, LLC MINOR SUBDIVISION AS RECORDED UNDER
INSTRUMENT NUMBER 2024-00737 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY,
INDIANA.



C-7

C-4

C-1

ELMWOOD AVE

S-2

S-2

MEIJER DR

S-2

PET 24-07

VELDMAN DR

S-2

S-2

BREMEN HWY

S-2

S-2

S-2

S-2

C-1

Location Map

PETITION 24-07

WEN 14175 BREMEN LLC
(OWNER)

VACANT LOT SOUTH OF
3625 BREMEN HIGHWAY

PUD AMENDMENT TO ALLOW
A THIRD DRIVE-THRU RESTAURANT
AND REDUCTION OF PARKING SPACES

ST JOSEPH VALLEY PKWY

JUN 12 2024

City Clerk
Mishawaka, IN

PETITION 24-08

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-19

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as R-1 Single Family Residential hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

PARCEL I: A PART OF THE SOUTHWEST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE THREE (3) EAST, ST. JOSEPH COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT ON THE WEST LINE OF THE SAID SOUTHWEST QUARTER OF SECTION 2, 544.58 FEET SOUTH OF THE NORTHWEST CORNER OF THE SAID SOUTHWEST QUARTER, THENCE EAST PARALLEL WITH THE NORTH LINE OF THE SAID SOUTHWEST QUARTER, 869.70 FEET; THENCE SOUTH PARALLEL WITH THE SAID WEST LINE OF THE SOUTHWEST QUARTER, 886.02 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF THE SOUTHWEST QUARTER, 869.70 FEET TO THE SAID WEST LINE OF THE SOUTHWEST QUARTER; THENCE NORTH ALONG SAID WEST LINE, 886.02 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL II: BEGINNING AT A POINT WHICH IS 1231.2 FEET EAST OF AND 1442 FEET NORTH OF THE SOUTHWEST CORNER OF SECTION NUMBERED TWO (2), TOWNSHIP NUMBERED THIRTY-SEVEN (37) NORTH, RANGE NUMBERED THREE (3) EAST; THENCE NORTH 240 FEET; THENCE WEST 373.27 FEET; THENCE SOUTH 240 FEET; THENCE EAST 371.59 FEET TO THE PLACE OF BEGINNING, BEING LOT NUMBERED THIRTY (30) IN THE PLAT OF WILLIAMS SULT'S BABY FARMS INCLUDING THE ADJACENT CLOVER ROAD RIGHT-OF-WAY.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance

Proposed Ordinance No: _____

Ordinance No: _____

of the City of Mishawaka, Indiana, and shall carry a classification for zoning of R-1 Single Family Residential.

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

1. Existing Conditions - The subject property is located east of Fir Road approximately a quarter mile north of E. McKinley Avenue. Fir Road, which is a low to moderate travelled minor arterial road, serves as one of the primary north/south corridors in the northeast part of the city. McKinley Avenue to the south is a heavily travelled principal arterial providing major east/west access between St. Joseph and Elkhart County. Traffic volumes along these roads are anticipated to remain relatively consistent in future years. Adjacent land uses include single-family residential houses, an electric utility substation, and vacant property to the north, east, and south within unincorporated St. Joseph County, and an apartment complex to the west.
2. Character of Buildings in Area - The buildings and land uses along Fir Road are primarily single and multi-family residential. An indoor amusement facility and assisted living facility are located west of Fir Road north of the property.
3. The most desirable/highest and best use - With the property's location adjacent to residential uses, the most desirable use for the property is residential.
4. Conservation of property values - The proposed zoning should not be injurious to property values in the surrounding area. The proposed residential use is compatible with the adjacent single and multi-family residential uses.
5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use of the subject property and adjacent areas as low density residential.

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 _____, 2024, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____,
2024, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

MAY 23 2024

City Clerk
Mishawaka, IN

May 9, 2024

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

PA 24-03
Received

MAY 17 2024

Planning and
Community Development

RE: Petition for Annexation and Zoning Classification

The undersigned Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PARCEL I: A PART OF THE SOUTHWEST QUARTER OF SECTION TWO (2), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE THREE (3) EAST, ST. JOSEPH COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT ON THE WEST LINE OF THE SAID SOUTHWEST QUARTER OF SECTION 2, 544.58 FEET SOUTH OF THE NORTHWEST CORNER OF THE SAID SOUTHWEST QUARTER, THENCE EAST PARALLEL WITH THE NORTH LINE OF THE SAID SOUTHWEST QUARTER, 869.70 FEET; THENCE SOUTH PARALLEL WITH THE SAID WEST LINE OF THE SOUTHWEST QUARTER, 886.02 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF THE SOUTHWEST QUARTER, 869.70 FEET TO THE SAID WEST LINE OF THE SOUTHWEST QUARTER; THENCE NORTH ALONG SAID WEST LINE, 886.02 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

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Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located in St. Joseph County and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a (R-1) Residential District. Petitioners further state they intend to utilize said land for the development of a residential subdivision.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an

appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a (R-1) Residential District.



Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust

Robert P. Loudin

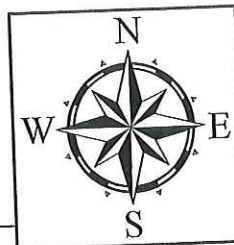
Print Name

Contact Person:

Matthew G. Bertsch, P.S.
Bertsch-Frank & Assoc. LLC
811 Lawrence Drive
Ft. Wayne, IN 46808
(260) 459-9393
mbertsch@bertschfrank.com

DEER RUN DR

PET 24-08



HEMMER LN

S-2

SPICER LN

STEELE LN

FIR RD

CLOVER RD

Location Map

PETITION 24-08

ROBERT P. LOUDIN REVOCABLE TRUST
(OWNER)

LOCATED ON THE EAST SIDE
OF FIR ROAD, ACROSS FROM
THE PRESERVE APARTMENTS,
EXTENDING TO CLOVER ROAD

REZONING AND ESTABLISH ZONING AS
SINGLE FAMILY RESIDENTIAL

C-1 C-1 C-1 C-1 C-4 C-4 C-4 C-4 C-4 C-4 R-1 R-1
C-4 C-4 C-4 C-4 R-1 R-1 R-1 R-1 R-1

E MCKINLEY AVE

STAFF REPORT

Location: 55770 Fir Road & 55721 Clover Road – Vacant Land East of
The Preserve at Fir Road Apartments

Date: June 11, 2024

Petition: 24- 08

Prepared By: DJS

GENERAL INFORMATION

Applicants: Robert P. Loudin, Trustee of the Robert P. Loudin Revocable Trust / Bertsch-Frank & Associates, LLC

Status: Property Owner / Surveyor & Engineer

Request: To annex, establish zoning, and approve a conceptual design for a proposed residential development.

Existing Zoning: Unincorporated St. Joseph County (R Single-Family District)

Proposed Zoning: R-1 Single Family Residential District

Lot Size: 19.45 acres including the adjacent Fir Road and Clover Road right-of-way

Applicable Regulations: Section 137-164 thru 137-166 / R-1 Single Family Residential District,
Section 137-41 / Amendments to the Zoning Map &
Indiana Code 36-4-3-2.1 and 36-4-3-3.1, and 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County / R Single-Family Residential (Single-Family House)
South: Unincorporated St. Joseph County / R Single-Family Residential (Vacant)
East: Unincorporated St. Joseph County / R Single-Family Residential (Single-Family Houses & Public Utility / Mishawaka Electric Substation)
West: S-2 Planned Unit Development (Multi-Family Residential / The Preserve at Fir Road Apartments)

Thoroughfare: Fir Road & Clover Road

Council District: To Be Determined (Contiguous to District 5)

School District: Penn-Harris-Madison

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

Comprehensive Plan: Low Density Residential

ANALYSIS

Proposal:

The petitioner is proposing to annex, establish zoning, and approve a conceptual design for a proposed single-family residential development.

The 19.45 acre site, which includes two parcels (Tax Parcels 014-1134-5198.04 & 014-1018-0223.17), is located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The site is vacant and has approximately 870' of frontage on Fir Road and 240' of frontage on Clover Road. The adjacent property to the west was annexed into the City of Mishawaka in 2003 with an S-2 Planned Unit Development (PUD) zoning classification for commercial, industrial, and multi-family residential uses. In 2007, The Preserve at Fir Road apartments was developed immediately west of the property.

Per the conceptual layout for the development, the petitioner plans to construct a 54 lot residential subdivision with public roads, sanitary sewer, and water. The average price of each lot, including the home, is estimated at \$450,000 to \$600,000.

Access is shown on the conceptual site plan from both Fir Road and Clover Road. Two access points are proposed along Fir Road with one access point on Clover Road.

The petitioner is requesting a zoning classification of R-1 Single Family Residential specifically for detached single family dwellings. Development regulations were not specified in the petition. Therefore, the residential PUD shall follow all the R-1 District height, area, and development regulations (Section 137-166).

Currently, the petitioner is only proposing to establish the zoning as R-1 Single Family Residential. If the annexation and zoning request is approved, a subdivision plat for each phase of the development must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), grading, erosion control, and other required improvements.

Annexation:

In 1966 and 2003, the Fir Road right-of-way and adjacent property to the west were respectively annexed into the City. When annexed, the property west of Fir Road was zoned to the S-2 PUD District for mixed use development to include commercial, industrial, and multi-family residential uses.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing boundary to be annexed. With the previous annexations as outlined above, a total of 869.7 feet, or 20.4%, of the total 4,256.3 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located east of Fir Road nearly a quarter mile north of E. McKinley Avenue and bound to the north by a single-family residential house in unincorporated St. Joseph County, to the east by single-family residential houses and a public electric utility substation in unincorporated St. Joseph County, to the south by vacant property located in unincorporated St. Joseph County, and to the west by a multi-family residential apartment complex in the City of Mishawaka.

Zoning Change:

Staff believes that the proposed zoning of this property to the R-1 Single Family Residential District for detached residential dwellings is appropriate given that the adjacent property is zoned for and primarily occupied by single-family residential houses and an apartment complex.

Transportation/Roads:

According to the latest available traffic counts along Fir Road, there were 4,851 annual average daily trips (AADT) north of E. McKinley Avenue (May 2022) and 4,224 AADT north of the railroad spur a quarter mile

north of the property (June 2023). The counts at these locations have fluctuated between 4,038 AADT and 5,396 AADT over the last 17 years and will likely remain consistent in future years.

The 2050 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, includes an auxiliary lane project (center turn lane) along Fir Road from E. McKinley Avenue to the Indiana Toll Road (I-80/90). The plan indicates an anticipated completion date of the project by 2035. The plan and anticipated completion dates for any transportation improvements may be amended in future years dependent on projected travel demand and funding availability.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

Planning Staff had several comments related to the conceptual subdivision design that shall be addressed with the future plat and construction plans.

The Electric Department commented that easements will be required throughout the development. This comment shall be addressed during the subdivision plat process.

RECOMMENDATION

Staff recommends **approval** of Petition 24-08 to annex, establish zoning, and approve a conceptual design for a single-family residential development on a 19.45 site located east of Fir Road approximately 1,200' north of E. McKinley Avenue. The property is proposed to be zoned R-1 Single Family Residential District subject to all the R-1 District height, area, and development regulations.

This recommendation is based on the following findings of fact:

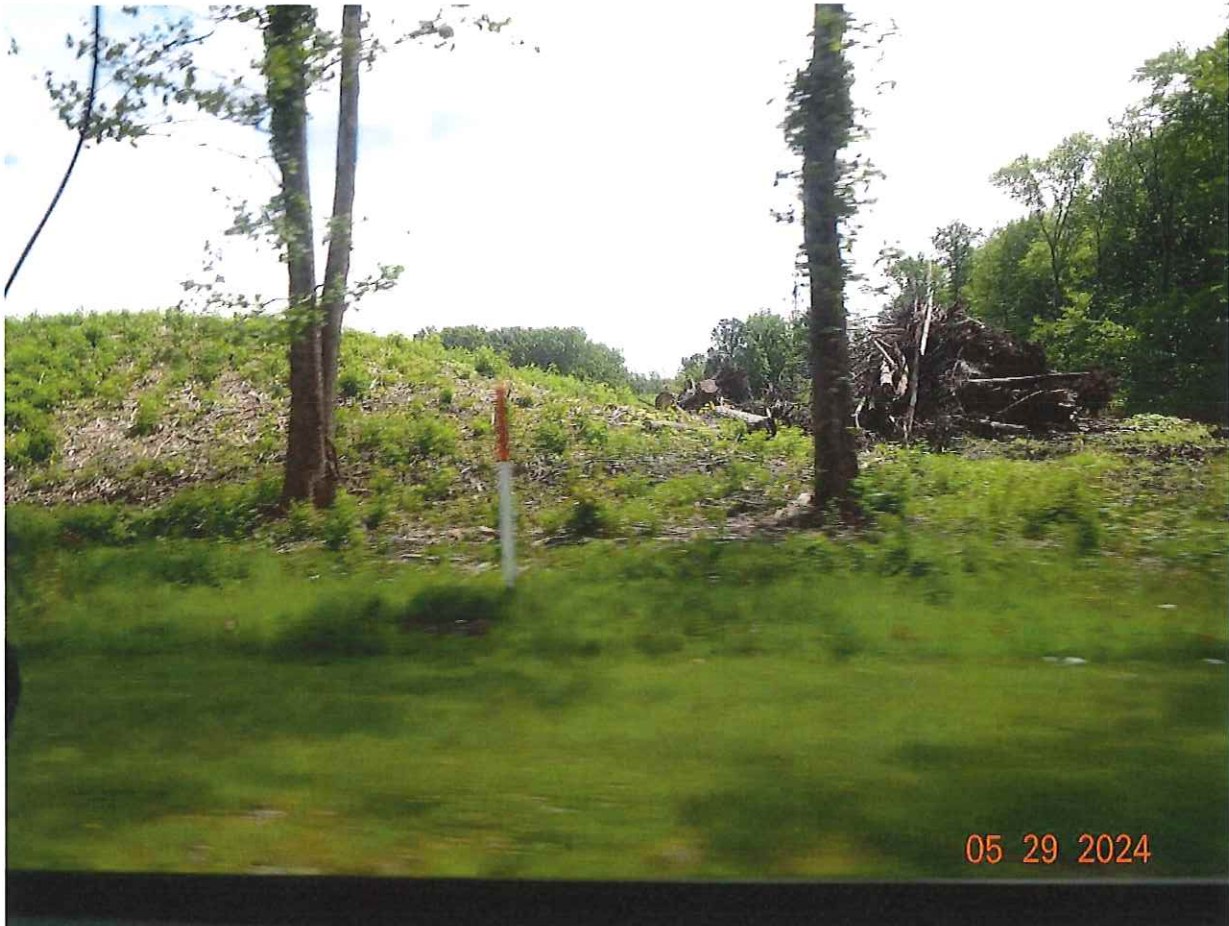
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5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan identifies a preferred or recommended use of the subject property and adjacent areas as low density residential.

ATTACHMENTS

Aerial Map, Photographs, Petition for Annexation and Zoning Classification, Conceptual Design for Residential Subdivision, and Location Map



Aerial Photograph – 55770 Fir Road & 55721 Clover Road
Proposed Single-Family Residential Development



P1. Looking east from Fir Road toward the southwest area of the property.



P2. Looking east from the south access drive to the adjacent apartments toward the property.



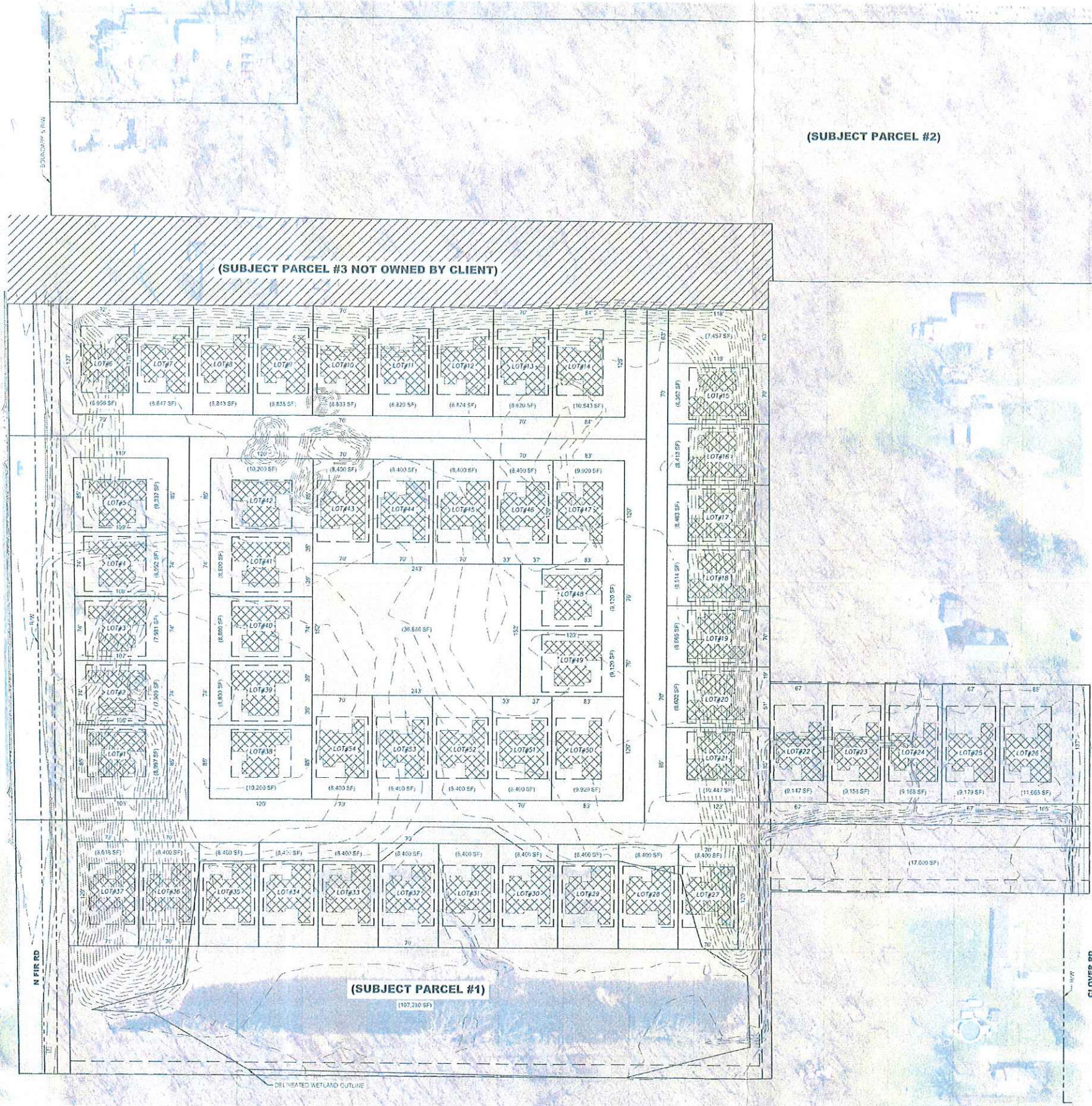
P3. Looking northeasterly from the south access drive to the adjacent apartments toward the property.



P4. Looking east from Fir Road toward the north part of the property.



P5. Looking west from Clover Road toward the southeast corner of the property.



PK 24-03

Received

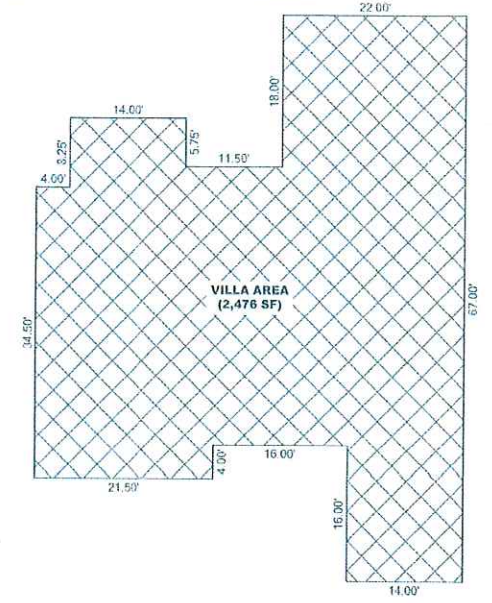
MAY 17 2024

Planning and
Community Development

(SUBJECT PARCEL #3 NOT OWNED BY CLIENT)

(SUBJECT PARCEL #2)

(SUBJECT PARCEL #1)



TYPICAL VILLA DETAIL
SCALE: 1" = 10'

ZONING SETBACKS
(R-1, RESIDENTIAL DISTRICT)

- FRONT SETBACK = NON-THROUGH LOT: 25 FT. MINIMUM
THROUGH LOT: 25 FT. MINIMUM AT EACH END OF THE LOT
- SIDE SETBACK = 5 FT. MINIMUM
- REAR SETBACK = NON-THROUGH LOT: 25 FT. MINIMUM
THROUGH LOT: 25 FT. MINIMUM AT EACH END OF THE LOT
- HEIGHT = 35 FT. MAXIMUM
- LOT AREA = 6,600 SF MINIMUM
- FRONTAGE = 60 FT. MINIMUM

SUMMARY

TOTAL LOTS = 54 LOTS
TOTAL STREET LENGTH = 4,510± FT
DENSITY (LOTS / AC.) = 2.84±

May 17 2024
Planning and
Community Development

BFA BERTSCH-FRANK & ASSOCIATES
LAND SURVEYING & CONSULTING
LAND PLANNING
811 LAWRENCE DRIVE
FORT WAYNE, IN 46804
TELEPHONE (260) 459-6883
FACSIMILE (260) 459-5303

R & R Excavating, Inc

Preliminary SD Layout #1
Fir Road Subdivision
St. Joseph County
Mishawaka, Indiana 46545

REVISIONS		
MARK	DATE	DESCRIPTION

CAD FILE	24037 SD.dwg
DRAWN BY	USC MGB
CHECKED BY	MGB
DATE	05/09/2024
PRJCT NO.	24027.100

SD#1

Schematic Design #1
SCALE: 1" = 60'
NORTH

THE AERIAL SHOWN ABOVE IS DATED 2016