



AGENDA

February 03, 2025

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): 2345 059 7211
Meeting password: qfMT3nQPp47

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: [23450597211@mishawaka.webex.com](https://mishawaka.webex.com/join/23450597211)

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages, 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 Packet Link below:

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.

Scan the QR Code to access all Common Council Meeting Agenda's, Packets, and Meeting Minutes.



REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

January 27, 2025

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 January 27, 2025, 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.

City Clerk Debbie Ladyga-Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), 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 December 16, 2024, were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their January 15, 2025 meeting.

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

PROPOSED ORDINANCE NO. 2025-02

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

**Rezone from C-1 Commercial to R-1 Single Family – 611 S. Main St.
(Assigned to Land Use Planning Committee)**

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

RESOLUTION R2025-01

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A
WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE
PROPERTY LOCATED AT: 15503 DOUGLAS ROAD GRANGER IN, 46530 – NORTH
SIDE OF DOUGLAS ROAD APPROXIMATELY 1,200' WEST OF FIR ROAD
Fiscal Plan for Annexation of 7.72 acres – Douglas Rd.**

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2025-01**. Mr. Spier stated that this property was located between the Holiday Inn and the Elevate on Main apartment complex. Mr. Spier stated it was approximately 1,200 feet west of Fir Road. Mr. Spier stated the developer was proposing to construct Stoneleaf Reserve, a senior apartment complex made up of three apartment buildings with 234 units. Mr. Spier stated per state law, properties were required to be 1/8th contiguous to the existing city limits in order to be annexed at 12.5% and in this case, the property was over 81% contiguous. Mr. Spier stated that in order to prepare the plans, they sent the request to all city departments for review, and they were then asked what expenditure or costs were required to service the area and if the request was being accommodated within the current approved city budget. Mr. Spier stated in this case, the property was in a pocket of unincorporated area, existing immediately adjacent to the city limits and the developer was responsible for installing and extending any utilities to the site and constructing any required improvements within the public right-of-way so there were no additional expenditures anticipated by the city at that time. Mr. Spier stated he was happy to answer any questions.

Question was called for at 6:11PM for **RESOLUTION R2025-01 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

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

PROPOSED ORDINANCE NO. 2024-45

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

**Annexation of 7.72 Acres and Rezoning to S-2 Planned Unit Development for Apartment
Complex – Douglas Rd.**

VOTE ONLY

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

Mr. Hixenbaugh stated consistent with requirements of Indiana Law dealing with annexations. The Council held a public hearing on this matter at their meeting on January 13, 2025 so at that

time, Mr. Hixenbaugh opened the floor for questions and comments from the Council regarding the matter. Hearing none, Mr. Hixenbaugh thanked Mr. Spier and the Planning Department for their work on this.

Question was called for at 6:11PM for **PROPOSED ORDINANCE NO. 2024-45 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5923.**

PROPOSED ORDINANCE NO. 2025-01

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL – CIO (01-01-2025 thru 12-31- 2026) (Amendment Requested)

The chair entertained a motion to amend **PROPOSED ORDINANCE NO. 2025-01** as requested by the Administration. Mr. Banicki moved the motion and with a second from Mr. Mammolenti, a voice vote was held on the motion. The amendment on the proposed ordinance was made.

Mr. Mammolenti reported the Public Health & Safety Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

John Roggeman, Corporation Counsel for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2025-01AA**. Mr. Roggeman stated he was there requesting the support of the Council on behalf of the Administration. Mr. Roggeman stated as many of them knew, they spent some time together with the Local Firefighters 360 in several meetings and they came to a two-year agreement that year and they were happy about that. Mr. Roggeman thanked the members of the Council that were on that committee as well as President Hyatt and President Higgins as well. Mr. Roggeman thanked Clerk Block and Chief Deputy Clerk Boston as well for the amendment that was made as they got signatures and got all of the required documents together for the meeting that evening. Mr. Roggeman stated Chief Woodward and Chief Higgins would be speaking that evening as well.

Mr. Hixenbaugh thanked Mr. Roggeman for his work on this not only at the negotiating table, but also with the cleanup and putting it into proper formatting and they appreciated it. Mr. Hixenbaugh asked with regard to the amendment that was approved a couple minutes prior, if he agreed with him that it was a very technical change in nature with changing a reference in one clause of the contract from master firefighter to first class firefighter and in another clause of the contract, changing some language with regard to

reassignment from an ambulance to a fire suppression vehicle that was no longer necessary based on the outcome of the bargaining and if it was a minor change. Mr. Roggeman stated that that was correct, and it was signed off on by all parties involved. Mr. Hixenbaugh stated when they approved the salary in late 2024, they talked about the financial investment that they were making as a result of the outcome of the negotiation in the fire department and more so in fire department salaries. Mr. Hixenbaugh stated his recollection was that for 2025, they agreed to a 13% increase and for 2026, a 4.5% increase on top of that, and asked if that was correct. Mr. Roggeman stated that that was correct. Mr. Hixenbaugh stated all of them on the Council, in the Administration, in the Fire Administration, and the Union believed that was a worthy investment in public safety in Mishawaka and asked if that was accurate. Mr. Roggeman stated yes, that was accurate. Mr. Hixenbaugh stated they also agreed to some contract changes that clarified some matters but also built in some efficiencies with regard to the day-to-day operations of the Fire Department. Mr. Hixenbaugh asked if Chief Woodward would summarize that. Mr. Roggeman stated the Chief would be better to address those day-to-day operations. Mr. Hixenbaugh appreciated the work Mr. Roggeman did on this as well as Mrs. Maguire, Chief Woodward, and everybody else involved from the Administration as well as the council members involved. Mr. Hixenbaugh stated he thought that this was more comprehensive than what they just concluded with the police department, but they were able to problem-solve and work through some more complicated issues, but they came through it very well and he appreciated the work he did to help them get through it.

Bryon Woodward, Chief of Fire for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2025-01AA**. Chief Woodward stated, like Mr. Hixenbaugh said, this was probably one of the longer and more thorough negotiations in his time after serving on several committees as a union member and as fire management, but he commended Local 360. Chief Woodward stated there was some language that was cleaned up regarding the daily operations and making some stuff that allowed them to have more people at work and potentially save them some overtime money. Chief Woodward stated they also took out some language about training times on weekends and with being a young department, they had to make sure they were keeping their people safe and could do their job, because it was important to their firefighters especially the ones who had been working for a long time and for them to have the foresight to be able to look for it and realize they were making generational changes with these improvements but they were necessary for their time. Chief Woodward stated as far as the salaries were concerned, they could not be more worthy of the raises. Chief Woodward stated the process was trying at times, but all good things were and he thanked all of the councilmembers involved especially the ones doing it for the first time, which was interesting and also thanked Mr. Roggeman, Mrs. Maguire, Local 360, and his team. Chief Woodward stated the negotiations were a great success and it was a win-win on both sides.

Mr. Mammolenti thanked everyone involved in the process and even though it was difficult at times, he thought it was important to mention that both sides of the table were extremely professional throughout and both sides of the table had the best interest of the city and the fire department at heart. Mr. Mammolenti stated from Mrs. Maguire's office,

Chief Woodward's staff, Local 360, and the councilmembers involved, Mr. Hixenbaugh, Ms. Hahn, Mr. Violi and himself, were very grateful for their professionalism and all of the stuff they did on a daily basis. Mr. Mammolenti thanked Chief Woodward. Chief Woodward stated he agreed that the best part was how professional it was and how levelheaded everyone was because in year's past, it was not that way. Chief Woodward stated the negotiations had come a long way and appreciated how they worked out.

Mr. Hixenbaugh thanked Chief Woodward and his command staff who also participated in the negotiations. Mr. Hixenbaugh stated what he really appreciated was that when they got down to the heart of it, he was willing to compromise and the firefighters union was willing to compromise, which in his experience was all part of a good bargaining session and a good working relationship. Mr. Hixenbaugh thanked Chief Woodward for his work on this and the work he and his team did on a daily basis as Mr. Mammolenti said very well.

Ben Higgins, Mishawaka Local 360 President, spoke in favor of **PROPOSED ORDINANCE NO. 2025-01**. President Higgins spoke in favor of the proposed ordinance on behalf of Local 360 and expressed their gratitude to all of the parties involved in supporting the passage of the two-year contract. President Higgins thanked their wage team, the city's negotiating team, and the fire administration for the hard work and dedication in negotiations in the prior year. President Higgins stated as they knew, the negotiations brought a record wage package for them which resulted in better wages for their members and as a result, they had seen a tremendous turnout for applications which wrapped up in the prior week. President Higgins stated he was proud of the progress they made, he was optimistic for the future and he looked forward to the continued growth of the whole team and they were already gearing up for 2026.

Mr. Violi began by thanking everyone who was involved in the process and stated not for one moment did he doubt that they were going to come to an agreement which was a tribute to everyone working together. Mr. Higgins stated he agreed, and it definitely went down to the wire. Mr. Violi agreed with Mr. Hixenbaugh's statement in that there were some trying moments, but nothing deterred him and made him think it was not going to get done.

Mr. Hixenbaugh thanked President Higgins and asked him to pass that appreciation along to those who he represented.

Question was called for at 6:11PM for **PROPOSED ORDINANCE NO. 2024-45 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5924.**

ADJOURNMENT 7:26PM

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.

Board of Zoning Appeals
City of Mishawaka, IN

Received

JAN 21 2025

AP
25-01

January 21, 2025

Good afternoon,

Planning and
Community Development

My name is Haley Korpel and I am the current owner of The Body Art Gallery Tattoo and Piercing Studio located at 2336 Miracle Lane, Mishawaka, IN 46545. I have been in business at this location in Mishawaka for the past 19 years. I am requesting a use variance at the property located at 1015 W. Edison Road, City of Mishawaka, Penn Township, State of Indiana 46545 so that I can potentially move my business to a new location. The property is owned by MJ Investments who supports the move of my business into this property.

In order to move my business and conduct tattoos and body piercings, I would need a use variance. Without this variance I would not be able to do tattoos and body piercings at this location as it is currently zoned C-1 General Commercial under the zoning ordinance of the City of Mishawaka.

The approval will not be injurious to the public health, safety, morals and general welfare of the community because the space where tattoos will be conducted will be managed according to all regulatory codes. Additionally, tattoos and piercings have experienced resurgence in popularity and acceptance in recent decades. Coupled with advancements in tattoo pigments and ongoing refinement of the equipment used, this has led to an improvement in the quality of tattoos and piercings being produced.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner because the tenant space is surrounded by commercial development and there is an adequate private parking lot.

The need for the variance arises from some condition peculiar to the property involved in that the geographic position and size of the space provide an inherent separation between other commercial uses.

The strict application of the terms of this chapter would constitute an unnecessary hardship in the use of the property because tattoo establishments are permitted in C-1 General Commercial zoned properties but only with the approval of a use variance. The location of properties zoned C-1 General Commercial that would meet the strict requirements of the code for a tattoo and piercing business within the city is almost non-existent.

The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan which indicates General Commercial.

I believe that as an established business owner in Mishawaka my business will bring other substantial business to the surrounding area. The Body Art Gallery will continue to adhere to all St. Joseph County Health Department rules and will operate with the upmost sanitation and care for our customers. This new location, if approved, will also give me the opportunity to continue to grow my business in the beautiful City of Mishawaka.

I respectfully request a hearing on this appeal and that after such hearing, the Board grant the requested variance.

Best Regards,

Haley Korpel-Petitioner

Haley Korpall
1255 Amelia St. Apt. 1010
Granger, IN 46530
574-386-9258
hkorpall13@gmail.com

The Body Art Gallery
2336 Miracle Lane
Mishawaka, IN 46545
574-255-6088

MJ INVESTMENTS LLC
101 E. MISHAWAKA AVENUE
MISHAWAKA, IN 46545
TELEPHONE: 574-850-1565

January 20, 2025

Attn: City of Mishawaka

I hereby confirm 1015 W. Edison, Mishawaka, Indiana (legal description attached)
is owned by MJ Investments LLC.

Yours truly,

A handwritten signature in black ink, appearing to read "John Becker", with a long horizontal line extending to the left.

MJ Investments LLC
John Becker, Member

1015 W. Edison

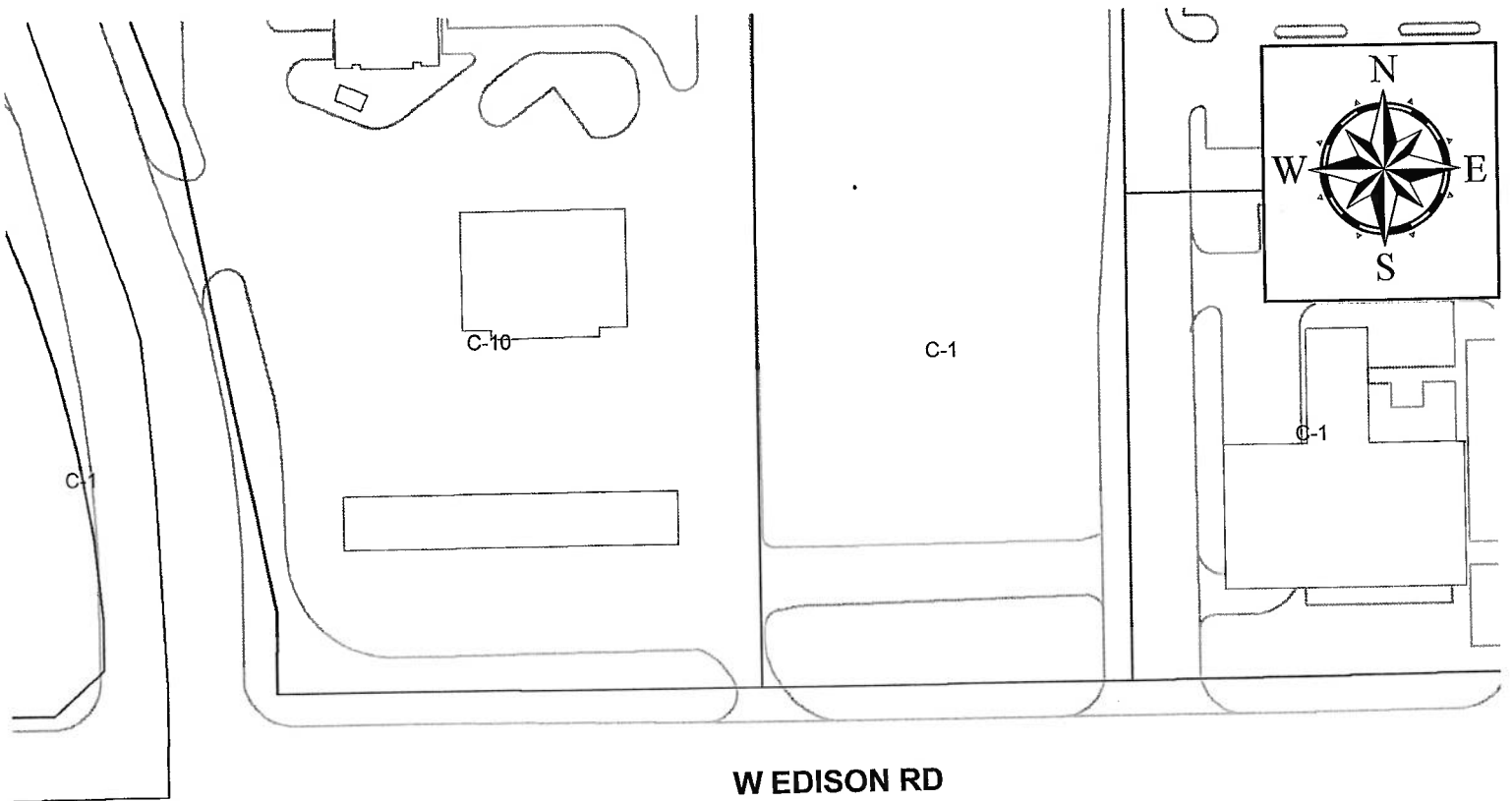
EXHIBIT A VM

PARCEL I: A tract of land in the Northwest Quarter of Section 4, Township 37 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana, said tract being more particularly described as follows:

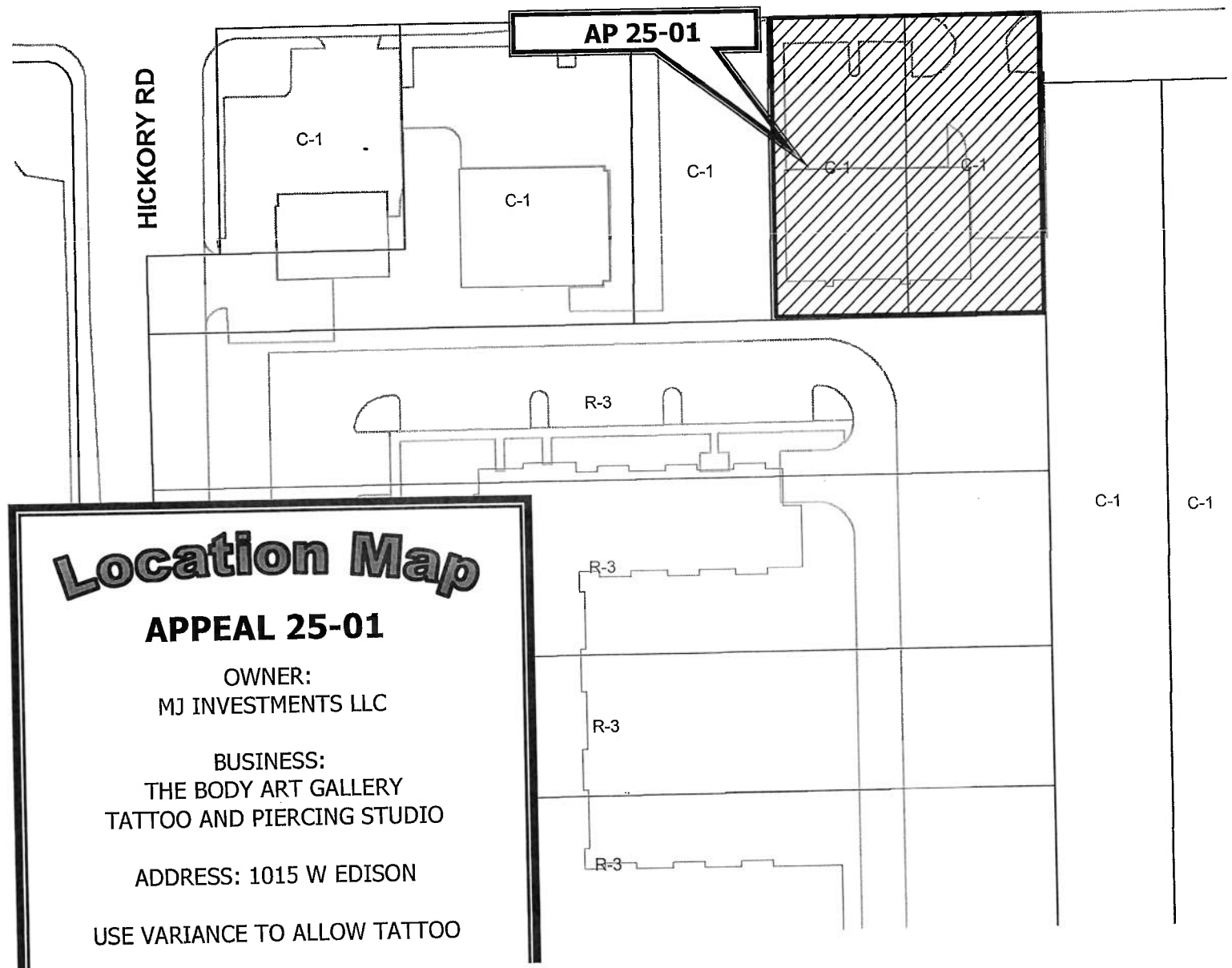
Commencing at the Northwest corner of the Northwest Quarter of said Section 4; thence North 90°00'00" East along said North line, a distance of 420.27 feet; thence South 00°13'59" West a distance of 40.00 feet to the South line of Edison Road; said point being the true place of beginning; thence continuing South 00°13'59" West a distance of 151.89 feet; thence North 90°00'00" East a distance of 75.00 feet; thence North 00°13'59" East a distance of 151.89 feet to a point on the South line of Edison Road; thence South 90°00'00" West along said South line a distance of 75.00 feet to the place of beginning.

PARCEL II: A tract of land in the Northwest Quarter of Section 4, Township 37 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana, said tract being more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 4; then North 90°00'00" East along said North line, a distance of 345.27 feet; thence South 00°13'59" West a distance of 40.00 feet to the South line of Edison Road; said point being the true place of beginning; thence continuing South 00°13'59" West a distance of 151.89 feet; thence North 90°00'00" East a distance of 75.00 feet; thence North 00°13'59" East a distance of 151.89 feet to a point on the South line of Edison Road; thence South 90°00'00" West along said South line a distance of 75.00 feet to the place of beginning.



W EDISON RD



HICKORY RD

AP 25-01

Location Map

APPEAL 25-01

OWNER:
MJ INVESTMENTS LLC

BUSINESS:
THE BODY ART GALLERY
TATTOO AND PIERCING STUDIO

ADDRESS: 1015 W EDISON

USE VARIANCE TO ALLOW TATTOO

APPEAL #24-55

JAN 15 2025

RESOLUTION NO. 2025-02

City Clerk
Mishawaka, IN

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

611 S. Main Street, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **611 S Main Street, Mishawaka, Indiana**, more particularly known and described as follows:

38 ½ ft N End Ea Lots 20 & 21 Mc Inernys 1st Addition

The Use Variance will allow an E-Commerce Store with no retail sales subject to the following Conditions:

1. The property will not be eligible for programs that benefit single family homeowners including but not limited to: sewer insurance, 50/50 curb and sidewalk replacement program, 50/50 alley paving program & disabled parking program;
2. The property will be subject to fire inspections;
3. The business will have no more than 2 onsite employees.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the neighborhood.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner as the new owner intends to improve the building and the look of the property.
3. The need for a variance arises from the rezoning of the property to R-1 and to be able to allow an E-Commerce Store.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the C-1 General Commercial District, rezoning the property would present the best use for the property by reducing the foot traffic that could be possible in the original zoning of C-
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

Section IV. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2025, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2025,
at _____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2025, at
_____ o'clock ____ .m.

David A. Wood, Mayor

STAFF REPORT

Location: 611 S Main Street

Date: January 14, 2025

Appeal: 24-55

Prepared By: DMB

GENERAL INFORMATION

Applicants: Advanced RE Holdings, LLC
Status: Property Owner
Request: Use Variance to allow for an E-Commerce store with no retail sales
Zoning Classification: C-1 General Commercial (Petition 24-13 to rezone to R-1)
Lot Size: 0.07 Acres
Applicable Regulations: Section 137-301 C-1 Uses
Section 137-42 (4) Board of Zoning Appeals Use Variance, Indiana Code 36-7-4-918.4

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: C-5 Neighborhood Commercial (616 S Main -Three Family home according to tax records & 620 S Main – Quick Mart)
West: R-1 Single Family Residential
Thoroughfare: S Main Street
Council District: 1
School District: School City of Mishawaka
Public Utilities: All public utilities are available and existing.
Comprehensive Plan: General Commercial

ANALYSIS

The appellant, Advanced RE Holdings, LLC, is requesting a Use Variance to run his E-Commerce security business. The property is located on S Main Street between Seventh Street and Eighth Street. The area of S Main Street is mainly zoned R-1 Single Family however there are some properties zoned C-5 Neighborhood Commercial. The property is currently zoned C-1 General Commercial. There is a concurrent petition (24-13) that will be heard by the Plan Commission later this evening.

The building has been vacant for over a year. To use the property as C-1 General Commercial, there would multiple developmental variances that would be needed.

The lot is fully covered with a building which has access in the rear to pull a vehicle inside the building. The building does not offer any off street parking. The Planning staff has requested that the lot be rezoned to R-1 and to allow a use variance for an E-Commerce store with no retail sales. The limited parking situation is not conducive to supporting a high traffic commercial business such as retail sales.

The Fire Department noted that permits will be needed for any work performed to the building.

The Engineering Department is recommending approval with conditions.

Other pertinent City departments have reviewed and approved the request.

RECOMMENDATION

The Staff recommends in favor of Appeal #24-55, Use Variance to allow for an E-Commerce store with no retail sales subject to:

1. The property will not be eligible for programs that benefit single family homeowners including but not limited to: sewer insurance, 50/50 curb and sidewalk replacement program, 50/50 alley paving program & disabled parking program;
2. The property will be subject to fire inspections;
3. The business will have no more than 2 onsite employees.

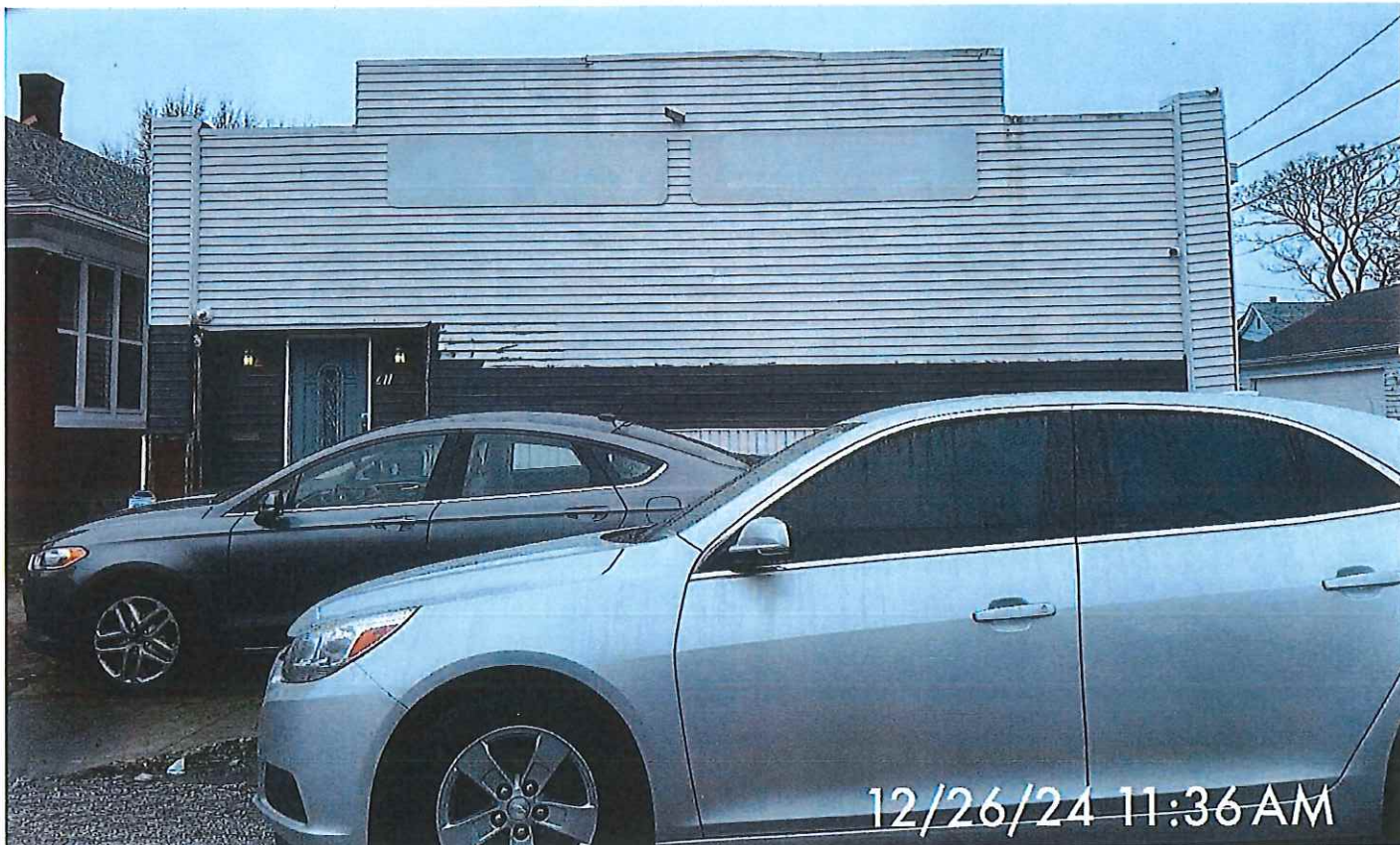
This recommendation is based on the following Findings of Fact per *Indiana Code 36-7-4-918.4*:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have little to no additional impact on the neighborhood.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner as the new owner intends to improve the building and the look of the property.
3. The need for a variance arises from the rezoning of the property to R-1 and to be able to allow an E-Commerce Store.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the C-1 General Commercial District, rezoning the property would present the best use for the property by reducing the foot traffic that could be possible in the original zoning of C-1.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies this intersection as General Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

ATTACHMENTS

Aerial Photograph, Site Photos, Petition, & Location Map





Facing west toward the front of 611 S Main Street



Facing west at the north end of 611 S Main Street along the alley

Date: December 6, 2024

To: Board of Zoning Appeals
City of Mishawaka, Indiana

AP - 24-55
Received

The undersigned appellant respectfully shows the Board:

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

Legal Description: 38 ½ ft N End Ea Lots 20 & 21 Mc Inernys 1st

Common Address: 611 S. Main, Mishawaka, Indiana 46544

2. The above-described real estate presently has a zoning classification of **Commercial Warehouse – C-1 District** under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: Currently, the property is vacant
4. Appellant desires to operate an e-commerce store with office space.
no retail sdos
5. The Zoning Ordinance of the City of Mishawaka requires this to be an R-1 and R-1 does not allow the property to be used as commercial business. Sec. 137-165.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. R-1 does not allow for operation of a business
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

No. The building is currently vacant, which could potentially cause a health and safety issue. Once the building is occupied, the presence of a business could assist in preventing any potential crime and/or the deterioration of the values of the property and neighborhood.

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

No, currently the property is overgrown and encroaching on the neighboring properties. Once occupied, the owner intends cleanup the overgrowth, repair any necessary items, and paint the building.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the need for this variance is due to the rezoning classification of residential.

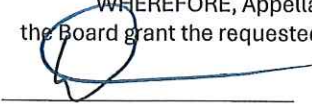
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes. The City wishes to rezone the property as residential. I recently purchased this commercially zoned property for business purposes and wish to have the use variance so that I may operate my business out of the same.

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No, it would not interfere because allowing the security business will not increase foot traffic in the area.

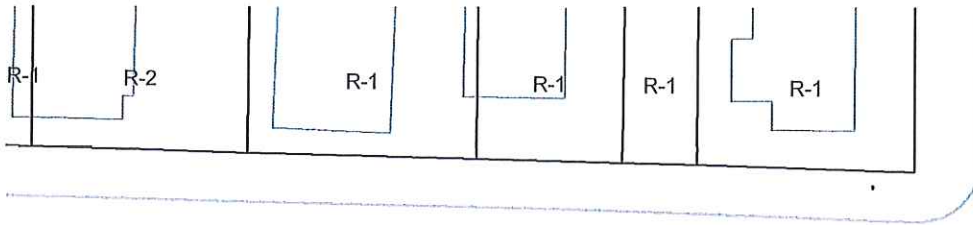
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.



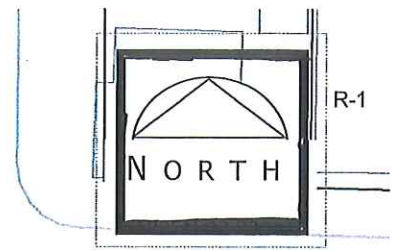
Victor Bieck

Contact Person:

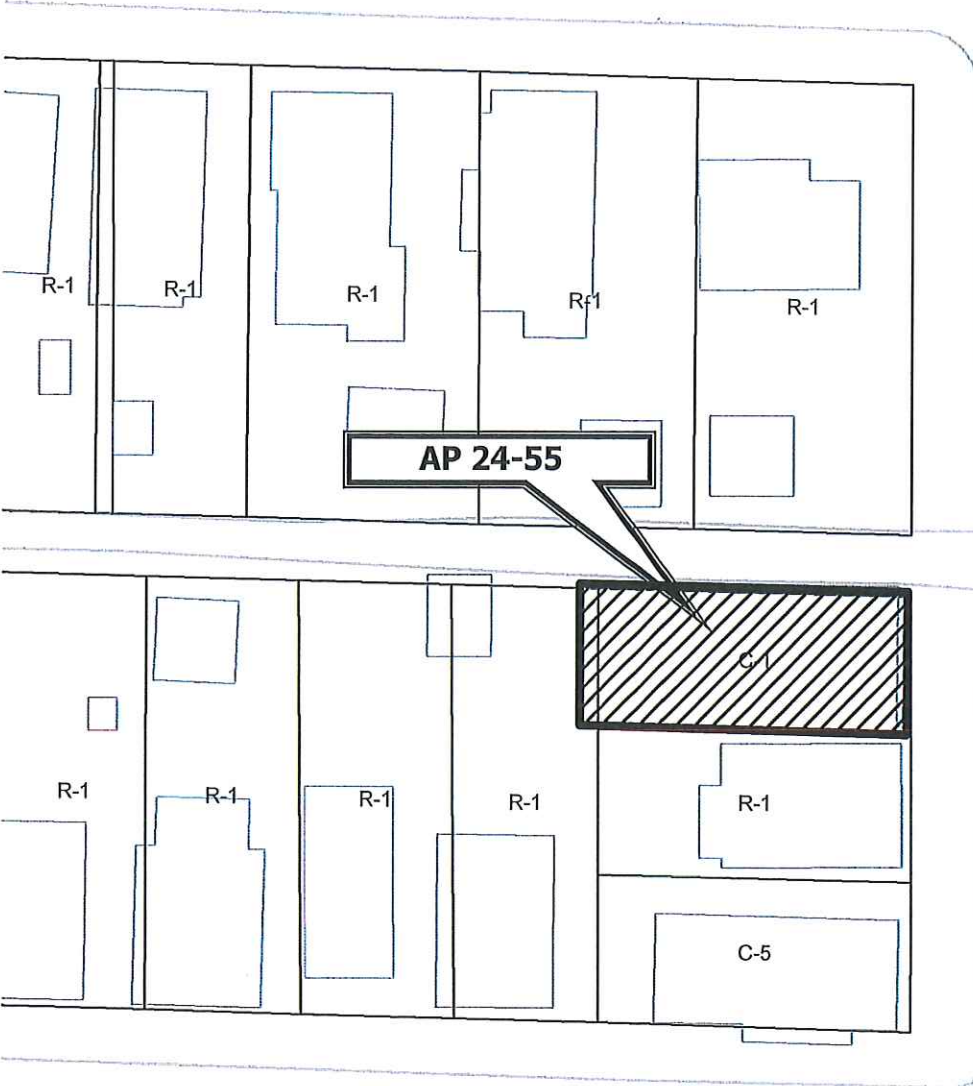
Name:	Victor Bieck
Address:	611 S Main Street Mishawaka, IN 46544
Day Phone Number:	877-364-0918
E-mail:	victor@advancedsecurityllc.com



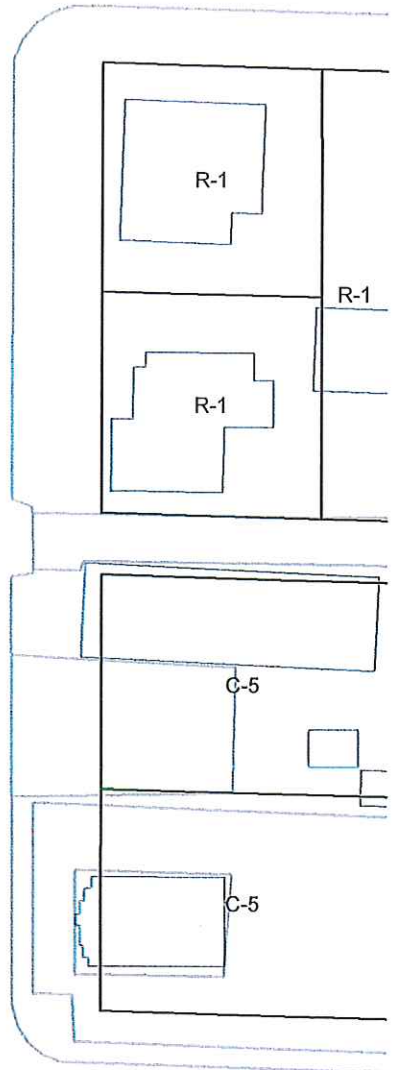
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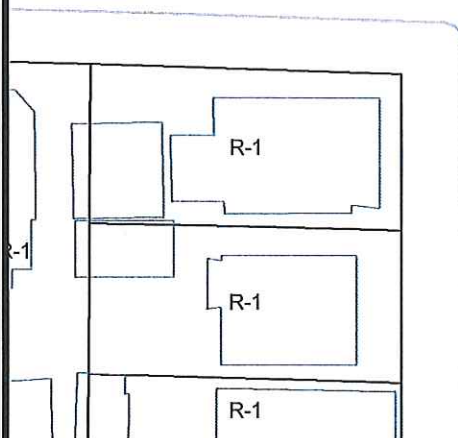
Location Map

AP 24-55

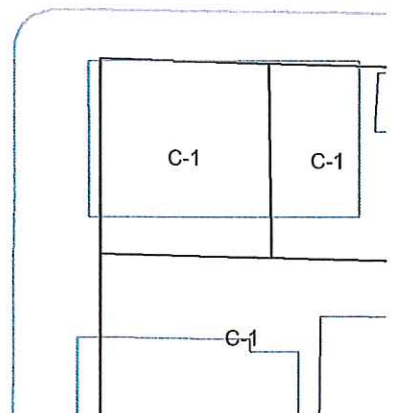
ADVANCED RE HOLDINGS LLC

611 S MAIN STREET

USE VARIANCE TO ALLOW
E-COMMERCE STORE WITH
NO RETAIL SALES
R-1 SINGLE FAMILY RESIDENTIAL
(WITH PET 24-13)



S MAIN ST



PETITION 24-13

JAN 15 2025

CITY OF MISHAWAKA, INDIANA

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2025-02

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:

611 S Main Street, Mishawaka, IN

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, St. Joseph County, State of Indiana, to-wit:

38 ½ ft N End Ea Lots 20 & 21 Mc Inernys 1st Addition

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

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

1. The applicable Comprehensive Plan is the Mishawaka 2000 Comprehensive Plan, created in 1990, which identifies a land use of the subject property as General Commercial. Since that time, the South Main Street area is primarily residential with a few small businesses sprinkled in. The proposed request is consistent with the development that has taken place along this area.
2. Current conditions and the character of current structures and uses in each district - The proposed E-Commerce business is consistent with any commercial development that has occurred on S Main Street. Adjacent land uses include single family, C-5 Neighborhood Commercial and C-1 General Commercial.
3. The most desirable use for which the land in each district is adopted - The most desirable use for the property is a business with minimal foot traffic or Single Family Residential. The proposed E-Commerce business with no retail sales is consistent with the area and the limited off street parking availability. With the potential for development as a higher intensity commercial project in the current C-1 District, staff feels that rezoning this property for future single-family use is more appropriate.
4. The conservation of property values throughout the jurisdiction - As opposed to the range of potential commercial property development that could occur with its current

Proposed Ordinance No: _____

Ordinance No: _____

zoning, rezoning this property to the R-1 Single-Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood.

5. Responsible development and growth - The proposed change is desirable given the varied existing uses and zoning on S Main Street. The size of this lot limits any off street parking so a business that does not offer any retail sales is appropriate.

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 _____, 2025, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2025, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2025, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: 611 S Main Street

Date: January 14, 2025

Petition: 24 13

Prepared By: DMB

GENERAL INFORMATION

Applicant: Advanced RE Holdings, LLC

Status: Property Owner

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

Zoning Classification: C-1 General Commercial District

Lot Size: 0.07 acres

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map, Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: C-5 Neighborhood Commercial (616 S Main -Three Family home according to tax records & 620 S Main – Quick Mart)
West: R-1 Single Family Residential

Thoroughfare: S Main Street

Council District: 1

School District: School City of Mishawaka

Public Utilities: All public utilities are available and existing.

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner is requesting to rezone 611 S Main Street from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on South Main Street between Seventh & Eighth Street and the neighborhood is mainly residential in nature.

The property has been zoned C-1 General Commercial. The building has been vacant for over a year. The Petitioner would like to run his E-Commerce Store out of the location. The lot does not provide any off street parking. The rear of the building does provide access to the interior garage area. Due to the lack of off-street parking, the Planning staff requested that the lot be zoned R-1 Single Family Residential and to allow a use variance for an E-Commerce Store with no retail sales.

There is a concurrent Use Variance (24-55) that was heard at the Board of Zoning Appeals meeting earlier this evening.

The Fire Department noted to get permits for any work performed to the building.

The Engineering Department has recommended approval per conditions on Use Variance.

Pertinent City Departments have reviewed and approved the request.

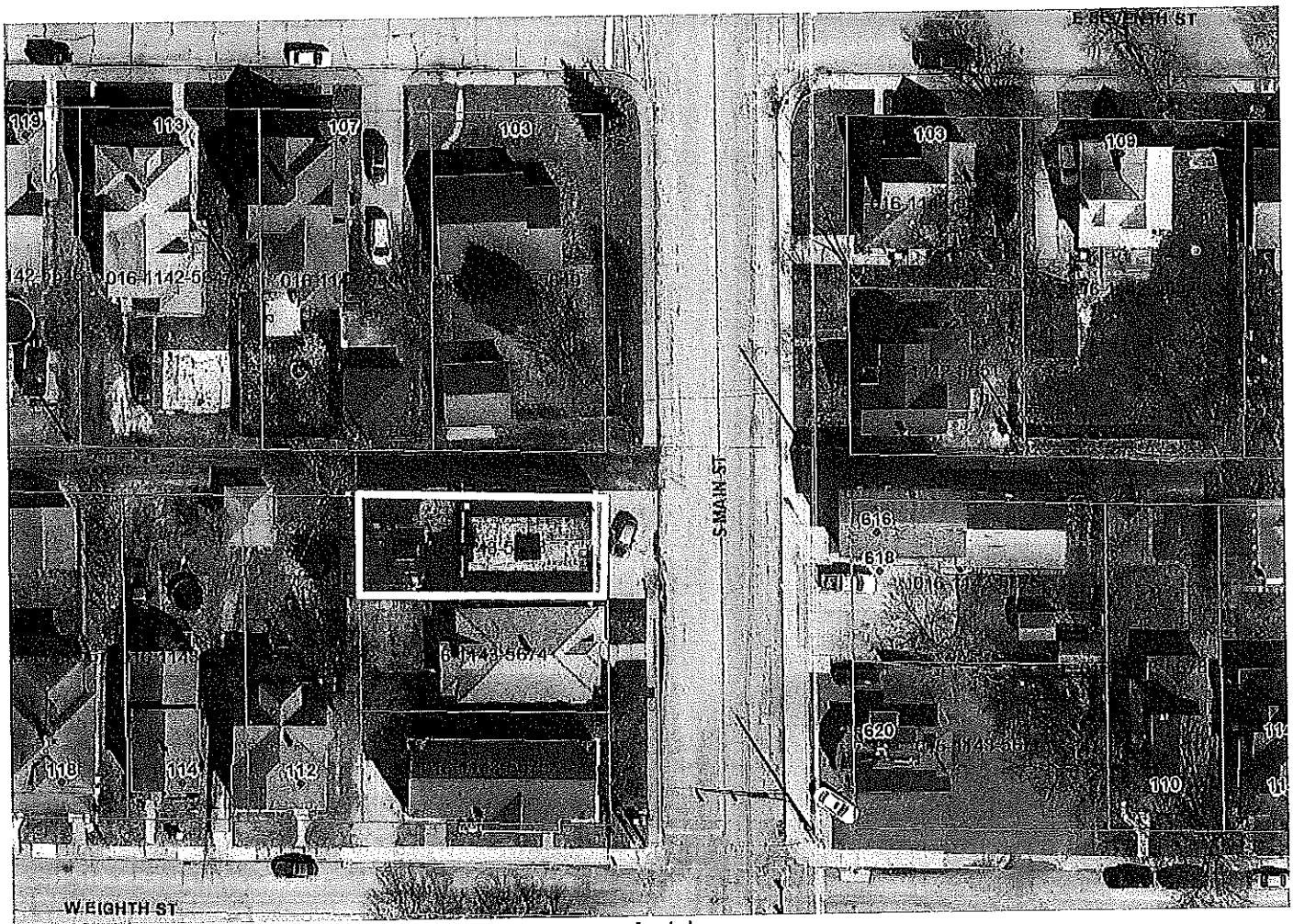
RECOMMENDATION

The Planning Department recommends **approval** of Petition #24-13 to rezone 611 S Main Street from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact per *Indiana Code Section 36-7-4-603*:

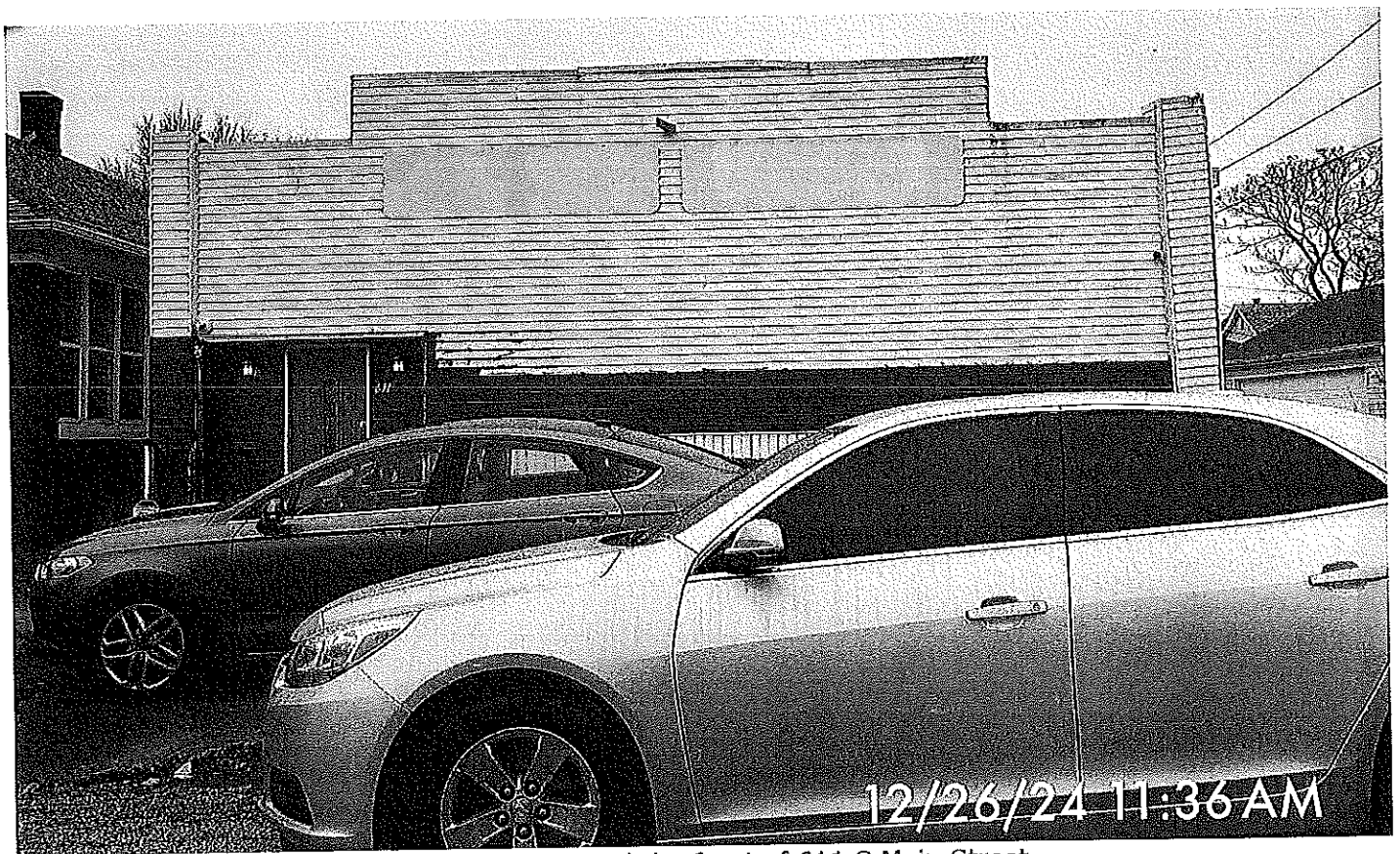
1. The applicable Comprehensive Plan is the Mishawaka 2000 Comprehensive Plan, created in 1990, which identifies a land use of the subject property as General Commercial. Since that time, the South Main Street area is primarily residential with a few small businesses sprinkled in. The proposed request is consistent with the development that has taken place along this area.
2. Current conditions and the character of current structures and uses in each district – The proposed E-Commerce business is consistent with any commercial development that has occurred on S Main Street. Adjacent land uses include single family, C-5 Neighborhood Commercial and C-1 General Commercial.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is a business with minimal foot traffic or Single Family Residential. The proposed E-Commerce business with no retail sales is consistent with the area and the limited off street parking availability. With the potential for development as a higher intensity commercial project in the current C-1 District, staff feels that rezoning this property for future single-family use is more appropriate.
4. The conservation of property values throughout the jurisdiction – As opposed to the range of potential commercial property development that could occur with its current zoning, rezoning this property to the R-1 Single-Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood.
5. Responsible development and growth – The proposed change is desirable given the varied existing uses and zoning on S Main Street. The size of this lot limits any off street parking so a business that does not offer any retail sales is appropriate.

ATTACHMENTS

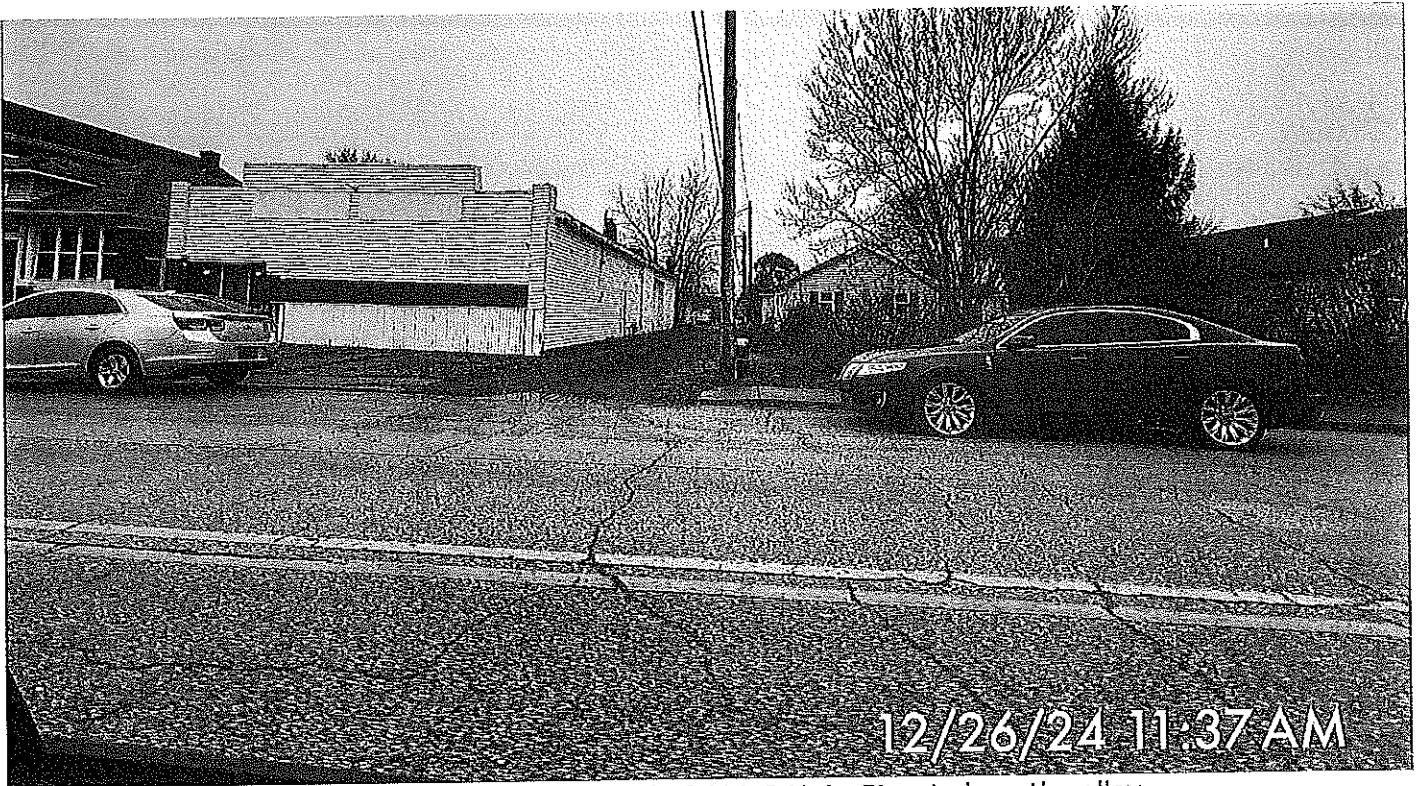
AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP



Aerial



Facing west toward the front of 611 S Main Street



Facing west at the north end of 611 S Main Street along the alley

December 6, 2024

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

Pet 24-13

Received

Planning and
Community Development

RE: PETITION TO REZONE

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

Legal Description: 38 ½ ft N End Ea Lots 20 & 21 Mc Inernys 1st

Common Address: 611 S. Main, Mishawaka, Indiana 46544

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

Petitioner(s) desire said real estate to be rezoned to Residential – R-1 District. Petitioner(s) further state that they intend to utilize said land for a security business as an ecommerce store.

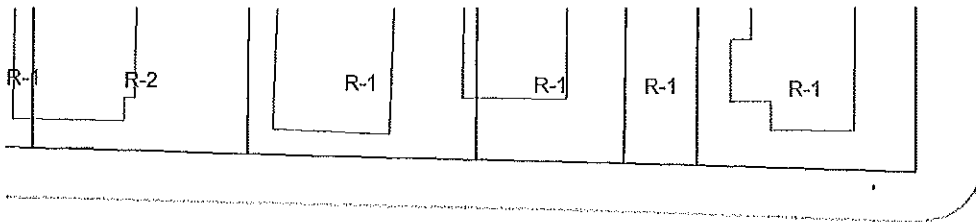
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.



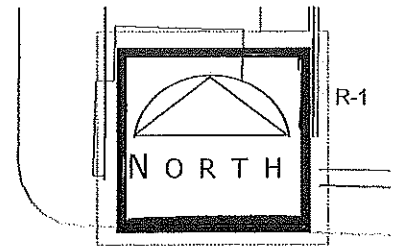
Victor Bleck

Contact Person:

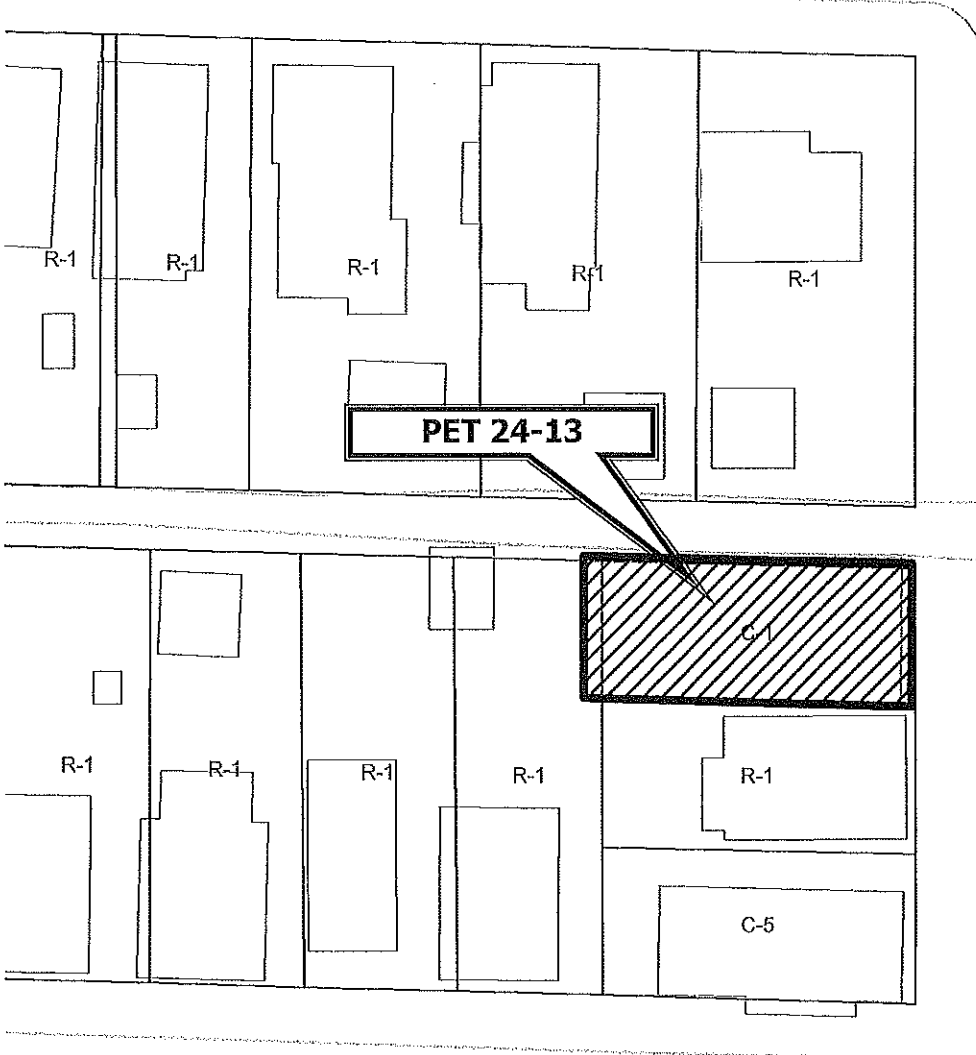
Name:	Victor Bleck
Address:	611 S Main Street Mishawaka, IN 46544
Day Phone Number:	1-877-364-0918
E-mail:	victor@advancedsecurityllc.com



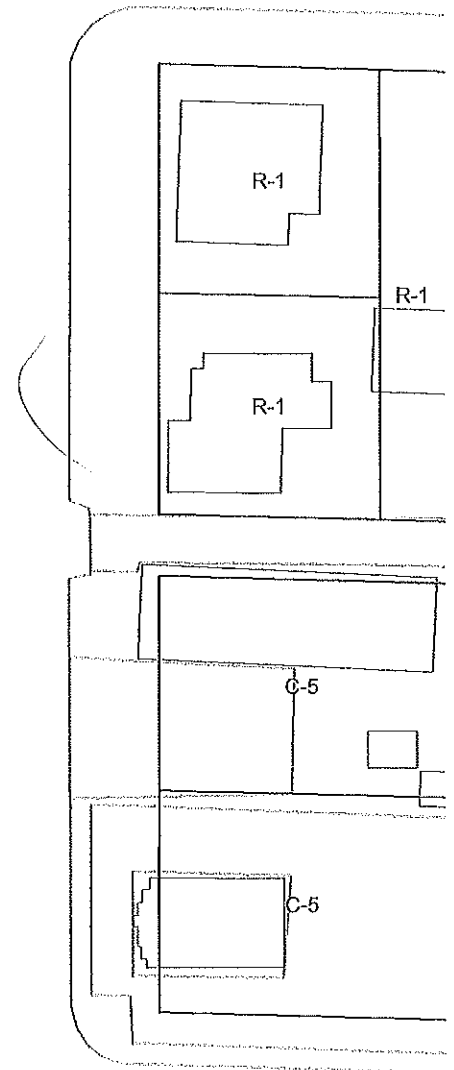
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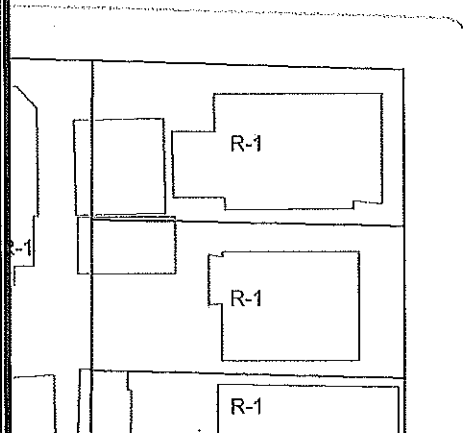
Location Map

PET 24-13

ADVANCED RE HOLDINGS LLC

611 S MAIN STREET

REZONE FROM
C-1 COMMERCIAL DISTRICT
TO R-1 SINGLE FAMILY DISTRICT
(WITH AP 24-55)



S MAIN ST

