



AGENDA

March 10, 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): 2349 138 8599
Meeting password: w2A6C4PFXPS

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

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

Dial: 23491388599@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of February 17, 2025
5. Petitions, Communications, Remonstrance and Memorial

Petition No. 2025-01 Rezone from C-1 General Commercial to R-1
Single Family - 505 Carlton St.

Petition No. 2025-02 Rezone from R-2 Two Family Residential to I-1
Light Industrial - 400 Block of E. 10th St.

Mayor's Youth Council Presentation

6. Report of Special Committee
7. Ordinances on First Reading

P.O. No. 2025-03 Amending the Wellhead Protection Ordinance

8. Resolutions
9. Ordinances on Second Reading
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An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages, 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 Packet Link below:

<https://mishawakain.portal.civicclerk.com/event/979/files/agenda/3280>

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

February 17, 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 February 17, 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 (A), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), Mr. Mammolenti (E), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Mr. Hixenbaugh stated the record would reflect that in light of Mr. Mammolenti's participation remotely, there would be all roll call votes that evening.

Minutes for the Regular Meeting on February 3, 2025, were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals regarding their recommendation from their February 11, 2025 meeting.

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

RESOLUTION R2025-03

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA ESTABLISHING A REVOLVING FUND PURSUANT TO INDIANA CODE 5-1-14-14 AUTHORIZING A DOWNTOWN FORGIVABLE LOAN PROGRAM UNDER SUCH REVOLVING FUND AND CERTAIN RELATED MATTERS
Establishing Revolving Fund for Downtown Forgivable Loan Program

Ken Prince, Director of Planning and Community Development for the City of Mishawaka, spoke in favor of **RESOLUTION R2025-03**. Mr. Prince stated he was pleased to present a program for them that evening that would have a profound and positive impact on the downtown. Mr. Prince stated they went through a process of asking the Council, their appointed boards, and

their elected officials all about what the priorities should be for the city moving forward and the most common answer was improvements to the historic downtown in Mishawaka. Mr. Prince stated based on that, they previously had a low interest loan program in the city that had not been used for about 10 years and the reason for that was that the interest rate that was charged at that time was not appreciably different than what you could get at a bank, so there was really no advantage of working through the city at that point in time. Mr. Prince stated moving forward to create the loan program, they reached out to their special counsel for the Redevelopment Commission regarding guidance on how it should be structured and what they recommended was that it be done through EDIT funds rather than through TIF funds. Mr. Prince stated there were different regulations per state statute on how you could fund programs and the creation of a renewable loan program that would have been through TIF would require another community development corporation to be created and another board to oversee it. Mr. Prince stated funding for the initial round of loans they were requesting was the \$500,000 that was used at that time for the COVID loan program. Mr. Prince stated as they recalled, they used TIF and refunded TIF into EDIT and those EDIT funds were then used to provide the funding for the loan program. Mr. Prince stated those funds had been repaid and they had those funds available for this particular program. Mr. Prince stated since this program was forgivable and not going to come back, this meant that it was finite. Mr. Prince stated to summarize the program more specifically, it was broken down to three areas being the historic downtown blocks to the east of city hall, north of city hall, and south of city hall, the first source block which would be treated differently than the rest of C-3 zoned property since it was a significant area in the downtown, and they also included a small area of the west end. Mr. Prince stated regarding the details of the fund; this would be a matching grant fund for a forgivable loan up to \$50,000 for Hardscape Construction with a minimum of a \$5,000 project for those funds. Mr. Prince stated the general goal of the program was to reduce commercial blight despair, create distinctive character sense of place improvements, honor and promote existing outstanding and notable historic structures, increase commercial activity, increase the diversity of residential housing units, promote unique individual local stores, promote restaurants, eateries, coffee shops, and other things that provided something to do. Mr. Prince stated in terms of the program, the program had to be oriented to direct the funding, and they could not have the funding just open to everything and they had to define the characteristics they were looking for and then look to put the money into those characteristics specifically. Mr. Prince stated one of the first things they did was identify the areas that were secluded from receiving the forgivable grant loan funding, so if the properties had received TIF funds in the last 15 years, they would be excluded and if they received a tax abatement in the last 15 years they would be excluded. Mr. Prince stated the primary reason for those two exclusions was because they had already received the incentive from the city, and they were not going to duplicate that. Mr. Prince stated they would only provide the funding to commercial buildings or commercial buildings with first floor commercial uses and upper-level residential uses. Mr. Prince stated they had significant numbers of properties that were solely residential downtown, and they did not want to provide funding for those properties. Mr. Prince stated properties that were owned by government entities, quasi government entities, receiving tax dollars, not-for-profit entities, and religious institutions were all excluded from receiving funding. Mr. Prince stated after the December 17th meeting, they added language that provided

loans for material only that were less than \$2,000 and for those specific entities, if the improvements were requested by the city as part of the implementation of a larger streetscape initiative. Mr. Prince stated grants would be limited by property parcel and not by address and the loans would be limited to one loan per parcel based on the time periods that were given, that way the funds would be distributed in the most impactful way. Mr. Prince stated project types that would be excluded from the forgivable loan program were things involving deferred maintenance or things consistently changing like signage, painting (except as part of a complete façade change), HVAC, or water replacement as well as no wiring, electrical, roofing, repair of canopies, repair of rotting wood, and tuckpointing masonry. Mr. Prince stated as it would work, there would be an application process through the Redevelopment Commission, and they would have a little bit of discretionary authority but specifically they had written it so there was not a lot of discretion involved and he used the example that if you had a Mexican restaurant that wanted to locate, it was not up to the Redevelopment Commission to determine but they had enough Mexican restaurants and they did not need another and that was not the purpose of it. Mr. Prince stated they would be looking at if certain equipment or materials would be included or not included in the program and act on it accordingly. Mr. Prince stated another aspect to the program was that no city funding would be provided for the projects until the end of the project, so the potential applicant would apply to the Redevelopment Commission, the Redevelopment Commission would approve their request which would initiate the loan, but no payment would be received until all of the improvements were complete. Mr. Prince stated this measure would be taken so that the city was not put in the middle of making sure that the improvements were completed, and they were also so they were not looking for collections if they provided funding upfront and those improvements were not completed, and they tried to retrieve those funds back. Mr. Prince stated the terms of the loan varied based on the time it took to complete the improvements. Mr. Prince stated for example, if a loan happened and they only completed half of the improvements, they very specifically stated in the program that they would not receive funding and they needed to know that going in. Mr. Prince stated if they did not meet the grace period, they would cancel the forgivable loan and they would not receive the funding on the other end, so this put the onus on the applicant to complete the project to receive the designated funding. Mr. Prince stated lastly, the only thing that they requested was that the loans would be limited only to the property owners. Mr. Prince stated obviously they had a lot of restaurants downtown where it was a rental situation and they loved those restaurants and would love to see them apply but those applications had to be worked through the owner of the property to ensure that the funds would be used appropriately given that the property owner would be the one responsible for the building. Mr. Prince stated if work was going to be hired out, they would have to be providing multiple quotes and they did not want anything to protect the city's investment and they wanted to make sure the process was competitive and they did not get one quote and that quote was astronomical, so it would put onus on the applicant to provide multiple quotes. Mr. Prince stated if work was being performed by the owner, the only thing eligible for reimbursement would be material costs, so they would not be paying the owner for their own labor and doing a project. Mr. Prince stated another element would be if it were a restaurant, café, bar, or entertainment venue, they must sign the application committing to the municipal riverfront development project area liquor license eligibility requirements. Mr. Prince stated

those would specifically require no smoking and closing at 1AM because nothing good seemed to happen after 1AM and they wanted them to all follow those same restrictions. Mr. Prince stated any owner that had an existing establishment that went beyond that, they were welcome to continue that and they did not have a problem with that but what they did have a problem with was putting money into a venue where they would have trouble particularly late at night. Mr. Prince stated this would cover use changes, fire suppression, building code life improvements, life safety improvements, exterior facade improvements, window replacement, and restoration for upper floors, grease interceptors for new restaurants, and grease interceptor upgrades for existing restaurants. Mr. Prince stated he was not reading the match amounts but there were different match amounts based on the location. Mr. Prince stated for example, it was harder to replace a grease interceptor financially when you were doing it to an existing restaurant, so the reimbursements were actually higher for existing restaurants then it was for a new restaurant but the new restaurant would be at 50% and in the historic core outstanding notable area, that would be 75% they would look to cover the cost because that was a benefit to the city in keeping that grease out of their system which was already being generated by the restaurant. Mr. Prince stated interior remodels for the restaurants, permanent outside seating, and streetscape landscaping, new permanent façade lighting, decorative façade lighting, murals, and publicly displayed art would also be covered and one thing that South Bend did very well was they partnered with a group of mural artists and all they had to do was provide the paint and the mural artists did a lot of the murals you saw in downtown South Bend. Mr. Prince stated that went back to the \$2,000 provision where they would be willing to provide materials for a variety of establishments and 100% of the material cost would be covered by the city for that type of project and storefront window enhancements were also identified. Mr. Prince stated he was happy to answer any questions.

Ms. Hahn asked Mr. Prince if he could elaborate on the term ‘match’ that he used in his presentation and if that meant the individual business owner had to come with their own \$5,000 before they asked for \$5,000. Mr. Prince stated that was correct and, for example, grease interceptors for new restaurants would be a 50% match so hypothetically if the grease interceptor costed \$30,000, they would have to front the \$30,000 upfront and they could be potentially reimbursed \$15,000 of that \$30,000 based on the 50% match. Ms. Hahn asked if he had a designated person in his office or who was working within this to go over the applications and to grant applications to facilitate the process. Mr. Prince stated they currently did not and as she was aware, the Council funded an additional position in his department specifically to be able to do that work and they did go through an advertising process and had not found anyone suitable for the job requirements, so they did do a number of interviews and they were great people but they just were not the right fit for the program. Mr. Prince stated their hope at that time would be to hire a recent college graduate and they were working with Human Resources to post the job at Ball State University and Indiana University to try to draw some interest in the position from students who were graduating in May. Ms. Hahn asked once they got that person in place and the applications started flowing, how long he thought the application process was going to be from the time they filled it out to the time they were approved. Mr. Prince stated the issue was likely going to be the completeness of the application, so his guess was that people would come in that

did not have the multiple quotes needed to be obtained but if they had all of the information in place, the Redevelopment Commission met once a month and he imagined it would be less than 30 days based on a complete application to know if they had approval or did not have approval. Ms. Hahn thanked Mr. Prince for his time and also for including the West End in this.

Mr. Hixenbaugh stated Mr. Prince did very well in terms of his presentation and perhaps more with regard to the proposed resolution and the underlying document. Mr. Hixenbaugh stated he suspected he would agree with him that they already made a significant number of direct and indirect investments in downtown Mishawaka and other areas of Mishawaka, but he did not think that as their finances allowed them to they could do too much to try to make the core of their downtown area everything that it could be and it was important to all of the Council. Mr. Hixenbaugh appreciated his work on the document and also appreciated the fact that from the time the concept was first discussed, it had evolved and there had been changes made not only as a result of the meeting and the inclusion of the West End, which he thought was a great suggestion and he appreciated he and Mayor Wood taking that to heart, but also the other changes that he had made as things had gone along. Mr. Hixenbaugh stated he was really excited to see how it would play out as they moved forward and thanked Mr. Prince once again. Mr. Prince thanked Mr. Hixenbaugh and stated he failed to mention that they believed this was going to take a few years for somebody to come up with a project, get the quotes, and get it submitted so their thought was the funding would likely last a few years. Mr. Prince stated they had been contacted by a few downtown business owners but there was still significant opportunity for funds and different opportunities as they became available. Mr. Hixenbaugh stated that was a fair point and personally he viewed it as a problem of success if it went quickly and that would not be a bad thing at the end of the day. Mr. Hixenbaugh thanked Mr. Prince for the work he and everyone else did.

Mr. Violi asked if this would be something they could renew or if the funding was just set at \$500,000 for now and then they would see how it went. Mr. Prince stated the challenge was going to be coming up with the funding so definitively they would have the opportunity, but it would be playing against what they used to fund fire trucks and police cars and many other infrastructure needs because they were EDIT funds. Mr. Prince stated they just had the opportunity, because of the way the COVID loan program was funded to make that switch. Mr. Violi asked if it would not be recurring. Mr. Prince stated if it was incredibly successful, that would be the Council's prerogative to fund but they would have to see how well the program does and then place the priority accordingly. Mr. Violi asked if the program would be on a first come, first serve basis. Mr. Prince stated yes.

Mayor Dave Wood spoke in favor of **RESOLUTION R2025-03**. Mayor Wood stated the work on this had really gone back several years as far as conceptual thinking and exploring what other communities did was concerned. Mayor Wood stated the research involved had gone on for quite a while and there was a need based on the fact that this impacted people in big ways with building investments and all of a sudden, they ran into a roadblock and let them know that they did not anticipate it. Mayor Wood stated as their downtown continued to grow and thrive, they

had the newer and bigger developer sections, and they always thought that the downtown would be a great opportunity for more of the homegrown businesses to start in the older buildings where they might be a little more affordable. Mayor Wood stated for example, just to give the Council an example of how individuals were impacted, a young couple from the area with strong roots in Mishawaka saw an opportunity to buy the Skylar Rose building so they purchased it and had some thoughts about what they may have wanted to do with it and it drew some interest from people who may have wanted to rent it and all of the sudden, since it was an old building, they had to bring it up to modern code and before they knew it they had to install things like a fire escape or fire suppression within the building or grease traps and these things could cost thousands of dollars. Mayor Wood stated that there was a barrier to entry and so they wanted to not only capitalize on some of the excitement but also, they wanted to promote their existing historic downtown and save some of the older buildings and bring them into a condition where they could serve in a modern way with the current needs of their downtown. Mayor Wood stated they believed it to be the biggest program of its kind in Indiana as they had looked at others that were not quite as big as this, but it was tailor made to Mishawaka and in particular, the historic part of downtown and the West End. Mayor Wood gave a big shoutout to Ken Prince because he was incredibly thorough on this, as he was all of his other work, but he did an outstanding job of putting together all of the details for this and their hope was that it succeeded wildly, investment occurred in some of the older buildings as a result, and from that they saw the need to potentially expand the program and reach a new level of funding or expand the program into other older areas of Mishawaka as well. Mayor Wood stated he was very excited about it and hoped it would be well received, and he encouraged the Council for their support.

Mrs. Hazen asked if they had any plans on letting the Council know quarterly what kind of interest the program had and stated she was very interested in the program and was excited about it as well. Mayor Wood stated he could not imagine having any problem with that early, but it was going to take a while to catch but once it did, they would certainly update the Council, and this would be approved through the Redevelopment Commission for what they could see. Mr. Prince approached the podium and stated every agenda before a loan was implemented, it had to go through the Redevelopment Commission, and they would see it before it was approved.

Question was called for at 6:28PM for **RESOLUTION R2025-03 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2025-04

**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: 1015 W EDISON ROAD,
MISHAWAKA, INDIANA**

Use Variance to allow tattooing – 1015 W. Edison Rd.

Haley Korpai, 1255 Amelia Street Apartment 1010 Granger, IN 46530, spoke in favor of **RESOLUTION R2025-04**. Mrs. Korpai stated she had owned the Body Art Gallery in Town and Country for the past 19 and a half years and she was looking to relocate her business to 1015 W Edison Road.

Ms. Hahn congratulated Mrs. Korpai on 19 years of running her business and she was familiar with where she was at. Ms. Hahn asked in her new location, if she would be expanding any of her services or if it was going to be very similar to what she was already doing. Mrs. Korpai stated at that point in time, she did not want to make it an issue, but she was being forced out in a sort of way, so she had the opportunity to rent the new building, which was significantly bigger than what she was currently occupying. Mrs. Korpai stated she grew up into the business she had, and she had intentions to grow into an even bigger business, so there may be things she brings in along the way but as for right now, she would be just going to run the same business in a new location. Ms. Hahn stated she was sure she would do well. Mrs. Korpai thanked Ms. Hahn.

Mr. Hixenbaugh stated he was fortunate enough to be on the Council in 2006 when they approved her use variance the first time and he had not heard anything in the intervening years to lead him to believe that that was a bad decision, and he was happy she was interested in continuing to be located in Mishawaka and he wished her well. Mrs. Korpai thanked Mr. Hixenbaugh.

Question was called for at 6:31PM for **RESOLUTION R2025-04 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2025-05

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AUTHORIZING THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION TO LEASE WITH OPTION TO PURCHASE MUNICIPALLY OWNED PROPERTY IN ACCORDANCE WITH THE CITY OF MISHAWAKA MUNICIPAL CODE CHAPTER 2, ARTICLE 5, DIVISION 3, SEC. 2-492 & 493
Authorizing Leasing with Option to purchase City Property – 400 block of East 10th Street

John Roggeman, Corporation Counsel for the City of Mishawaka, spoke in favor of **RESOLUTION R2025-05**. Mr. Roggeman stated it had been a little bit of a trip to get this matter all finished, but they were at the stage now where they were ready. Mr. Roggeman stated they would be leasing a portion of property where Central Services was located, and this portion was an unused piece of ground there and the library wished to use it to build some storage units there. Mr. Roggeman stated the lease was with an option to purchase with the original term being 10 years, but it could be renewed as well if they did not want to purchase it. Mr. Roggeman stated with them tonight was Dick Currey, the attorney for the library board as well as

representatives from the library who were present. Mr. Roggeman thanked them all for their patience and efforts in working through the project and he thanked Ken Prince as well. Mr. Roggeman stated they were requesting the Council's approval, and it had already been approved by the library board and then it would go to the Redevelopment Commission next week for final approval if the Council were to pass it.

Mayor Dave Wood spoke in favor of **RESOLUTION R2025-05**. Mayor Wood stated he was going to give a little bit of historic context from where this came from. Mayor Wood stated discussions on this matter had been ongoing for years now and they began many years ago when they were looking at the time to create a funding source dedicated for the 911 Communications Center and in doing so, it required a bit of a tax restructuring throughout the county and everybody had to take a bit of a pay cut including the library who graciously supported that in recognition of the critical services the 911 Communications Center provided. Mayor Wood stated they then started talking about how they might partner and listened to their needs at the time and it was for an attractive shed or garage and where that could be with it still being close to the library downtown. Mayor Wood stated they had bought some property back in the early 2010s that was the former Scott Brass property, and they converted it into their Central Services facility. Mayor Wood stated it came with a residual piece of property along 10th Street and so they owned it, they mowed it, and they wanted good use for it, but they did not have a particular need for it before this came about. Mayor Wood stated they wanted it to fit in with the neighborhood and so they brainstormed this and worked through all of the necessary details and now they were in the final voting process. Mayor Wood encouraged the Council to support the matter in recognition of the good partners that they had at the library and again, this got started when they were looking to find a new funding source for the 911 Communications Center.

Ken Prince, Director of Planning and Community Development for the City of Mishawaka, spoke in favor of **RESOLUTION R2025-05**. Mr. Prince stated the resolution before them only authorized the sale or lease and the actual lease agreement would be approved by the Redevelopment Commission the following week and they wanted in terms of progress that once it was approved by the Redevelopment Commission, the property needed to be rezoned to I-1 Light Industrial and they wanted this to happen first before they would submit that for rezoning. Mr. Prince stated that it was to come as they brought things forward and they wanted to make sure they were all aware of that. Mr. Prince stated they thought it would be a great transitional use with very low intensity and the concept of it being brought into the Central Services facility was similar to School City who used the gas pumps, and they would go in through the main gate and they would be refenced off while still providing them with continual access to 10th Street. Mr. Prince stated he was happy to answer any questions.

Mr. Violi asked if it was on the corner of 10th Street and Union. Mr. Prince stated no and there was a fenced business, then an auto business, then a driveway that went back to Central Services that was gated that was not typically used, and then there was an empty lot, and then there was the Housing Authority property.

Mrs. Hazen stated she understood that currently it was zoned R-1 and then it needed to be rezoned and asked if at that point if they would notify the neighbors in the neighborhood. Mr. Prince stated that was correct.

Mr. Emmons asked if this would just be a block building. Mr. Prince stated yes, it would be a metal storage building. Mr. Prince stated this type of building would match the auto repair building as well as the building Central Services was located in. Mr. Prince stated when talking about the intensity of the use, with Central Services you think of the salt truck and the fueling and how often the library would be accessing it and using it for storage would be a very minute activity relative to the neighborhood. Mr. Prince stated when you thought about access, even though they were keeping the drive to 10th Street, they were going to be accessing it through their main drive off 8th Street so that intersection was going to be where they were going to get access and coming into the property. Mr. Prince stated they would be generating no traffic off of 10th Street with this use compared to any other use that it might be used for in the future. Mr. Emmons stated he asked the question, because he figured the building would be a complementary to the neighborhood. Mr. Prince stated Mr. Kromkowski from DLZ was the designer of the building and was there that evening and he was sure he could better answer any questions there were regarding the design of the building.

Mrs. Hazen asked if the drive that was referenced earlier was ever used or if it was very rarely used and by them putting up this building, would it not be used anymore at all and they were going to come off Union and if that was correct. Mr. Prince stated that was correct and from a safety standpoint, if anything ever blocked the main entrance to Union Street, they wanted the ability to get out, so it was important to keep the access from an emergency access standpoint but to answer her questions, they did not typically use it and did not anticipate using it following the construction of the building.

Dick Currey, attorney for the Mishawaka-Penn-Harris Library Board of Trustees, spoke in favor of **RESOLUTION R2025-05**. Mr. Currey thanked John Roggeman, Mayor Wood, and Mr. Prince for covering a majority of what he planned on presenting to the Council so his remarks would be fairly brief. Mr. Currey stated in response to one of Mr. Emmons' questions, this would be landscape that was part of the plans that needed to be approved before construction could begin and there was a rendering as Exhibit B to the proposed lease which he thought all of the Council had received. Mr. Currey stated the primary purpose of that was to provide additional storage for the library, particularly a new bookmobile that had been ordered and was in the process of being constructed for delivery later in 2025 so that they could serve housebound patrons of the library. Mr. Currey stated the initial term of the lease was for 10 years with four 10-year renewal options during any of which the library could exercise its option to purchase at the end of the first 10-year period. Mr. Currey stated the city also had the option to force the library into a purchase at which time they would need to have a minor subdivision, because it was two lots in a parcel of another.

Donna Meeks, Mishawaka-Penn-Harris Library Director, spoke in favor of **RESOLUTION R20254-05**. Mrs. Meeks thanked all of the Council, because his had been years in the making and from the Board of Trustees to every staff member, they were so excited because they all gave them \$50,000 toward the bookmobile and it had been purchased and now, they needed a place to park it. Mrs. Meeks stated this would change lives and they had identified several underserved areas, as not everyone could get to the library, but everyone needed books. Mrs. Meeks stated this was going to allow them to hit the low-income families that did not come in as well as for their senior centers as this would allow them to have a library card instead of just being dropped a box of books and they were going to be able to actually shop. Mrs. Meeks stated this was life changing and she just wanted to make that known to the Council and thanked all of them. Mr. Hixenbaugh stated he recalled having multiple conversations with her about the adjustment to the option income tax and she was very diplomatic in her advocacy on behalf of the library, so he was happy when they were able to partner with them out of their ARPA funding for the bookmobile and he was also pleased that they were able to partner with her in another different way. Mr. Hixenbaugh thanked Mrs. Meeks.

Question was called for at 6:45PM for **RESOLUTION R2025-05 Motion passed by unanimous roll call vote (summary: Yes = 8).**

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

NEW BUSINESS

Appointment to Mishawaka Fire Merit Commission

Mr. Hixenbaugh stated the chair entertained a motion to postpone indefinitely the making of their appointment to the Mishawaka Fire Merit Commission. Mr. Banicki moved the motion and with a second from Mr. Violi, Clerk Block held a roll call vote on the motion.

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

Yes: Mrs. Hazen, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The motion passed 8-0 and the matter was postponed indefinitely.

Acceptance of Conflict-of-Interest forms

Clerk Block read that they had Conflict-of-Interest forms from the following councilmembers:

Dale “Woody” Emmons

Matt Carroll

Lou Ann Hazen

Tony Violi

Gregg Hixenbaugh

Matt Mammolenti

Mr. Hixenbaugh stated the chair entertained a motion to accept the Conflict-of-Interest forms from those councilmembers whose names were just read by Clerk Block. The motion was moved by Mr. Banicki and with a second from Mr. Emmons, Clerk Block held a roll call vote on the motion.

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

Yes: Mrs. Hazen, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The motion passed 8-0 and the forms were accepted.

Mr. Emmons made a reminder that the 1st District would be holding their monthly meeting on Thursday, February 20th at St. Bavo's at 7PM. Mr. Emmons stated they would have the Youth Service Bureau there represented by Christina McGovern and she would be explaining the services that they offered. Mr. Emmons stated all were welcome and, as usual, there would be refreshments provided from the West End Bakery.

Mr. Mammolenti made a reminder that the Twin Branch Neighborhood Watch would be meeting on Wednesday, February 19th at 7PM at Fire Station #4 off of Harrison Road. Mr. Mammolenti stated their guest speaker would be Alan Grzeskowiak, the Chairperson of the Historic Preservation Commission and he would be talking about his roles and responsibilities of the Commission. Mr. Mammolenti stated all were welcome.

ADJOURNMENT 6:49PM

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.

FEB 21 2025

City Clerk
Mishawaka, IN

Pet 25-01
Received
FEB 19 2025
Planning and
Community Development

DATE: February 18th, 2025

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

RE: PETITION TO REZONE

The undersigned **Savant Investments 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:

505 Carlton St, Mishawaka, IN 46544

(LOT NUMBERED TEN (10) AS SHOWN ON THE RECORDED PLAT OF ST. JOSEPH PARK, AN ADDITION TO THE CITY OF MISHAWAKA, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 140 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY INDIANA. APN: 71-09-17-409-006.000-023)

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of **C1-General Commercial** District. Said property is **currently a vacant office building**.

Petitioner desires said real estate to be rezoned to **R1-Residential Single Family** District. Petitioner further states that they intend to utilize said land for **conversion from office building to a single-family residential house keeping the existing building footprint intact with no additional structures or additions**.

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.

 , manager

Savant Investments, LLC
Manager, Scott Bischoff

CONTACT PERSON:

NAME: SCOTT BISCHOFF
ADDRESS: 4702 E LAFAYETTE BLVD, PHOENIX, AZ 85018
PHONE NUMBER: 847-800-6882
FAX NUMBER: 866-203-6224
EMAIL: SCOTTBISCHOFF@ME.COM

LINCOLNWAY WEST

C-1

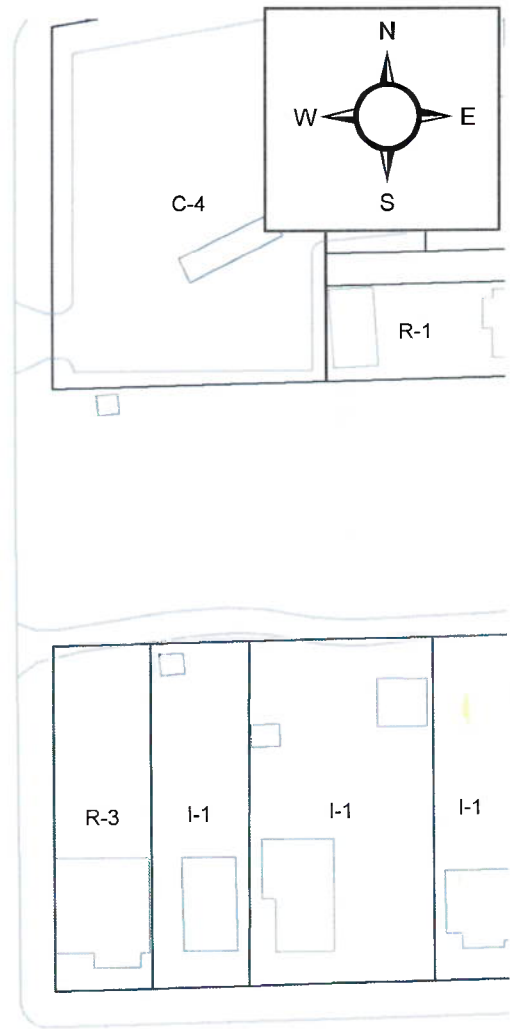
C-1

C-1

C-4

C-4

C-4



PET 25-01

Location Map

PET 25-01

OWNERS:
SAVANT INVESTMENTS LLC

LOCATION:
505 CARLTON ST

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

CARLTON ST

CARLTON ST

FEB 21 2025

City Clerk
Mishawaka, IN

PET 25-02

Received

FEB 19 2025

Planning and
Community Development

Date: February 19, 2025

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

RE: PETITION TO REZONE

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

Lots 11 & 12 of Ward & Laings 1ST Addition – 400 Block of E. 10th Street, Mishawaka, IN 46544

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-2 Two-Family Residential District. Said property is currently vacant land with the adjacent property to the west including an access drive for the City of Mishawaka Central Services building.

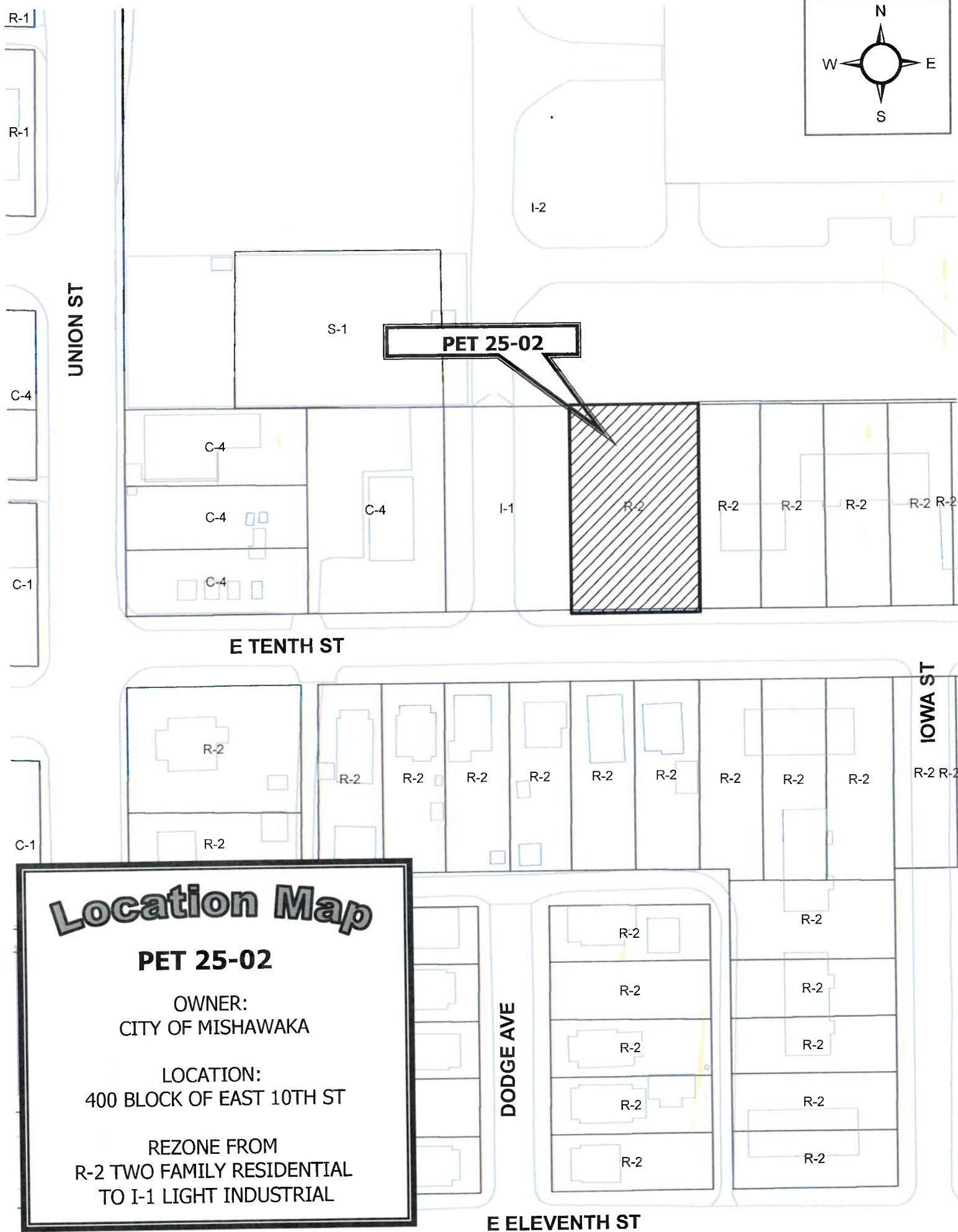
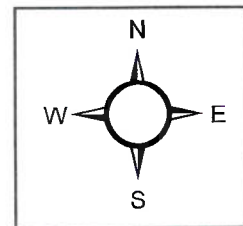
Petitioner(s) desire said real estate to be rezoned to the I-1 Light Industrial District. Petitioner(s) further state that they intend to lease the property, together with said adjacent parcel to the west, to the Mishawaka-Penn-Harris Public Library to allow for the construction of a storage building and associated improvements for vehicles, equipment, and supplies.

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.


Derek J. Spier, AICP
City Planner

CONTACT PERSON:

Name: Derek J. Spier, AICP
Address: 100 Lincolnway West, Mishawaka, IN 46544
Day Phone Number: 574-258-1625
Fax Number: 574-968-6999
Email: dspier@mishawaka.in.gov



Location Map

PET 25-02

OWNER:
CITY OF MISHAWAKA

LOCATION:
400 BLOCK OF EAST 10TH ST

REZONE FROM
R-2 TWO FAMILY RESIDENTIAL
TO I-1 LIGHT INDUSTRIAL

DODGE AVE

E ELEVENTH ST

IOWA ST

MAR 05 2025

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2025-03

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 THE CITY OF MISHAWAKA, INDIANA.

WELLHEAD PROTECTION LAND USE RESTRICTIONS

WHEREAS, in 1966 the City of Mishawaka adopted the Zoning Ordinance to regulate uses and development within the City, and

WHEREAS, the City has recently completed multiple water infrastructure improvement projects expending over 50 million dollars, and

WHEREAS, these improvements include the rehabilitation and expansion of a storage tank on Ireland Road, the construction of a new water tower at the Gumwood Wellfield, the replacement of a 100 year old storage tank and system improvements at Virgil Street adjacent to the Eberhart-Petro Golf Course, the construction of a new wellfield along Juday Creek that will replace the Gumwood Wellfield, new Water Treatment Facility at Juday Creek, and

WHEREAS, the City has identified that the issues surrounding wellhead protection and providing for safe drinking water needed to be further addressed, and

WHEREAS, a need was identified for additional public education and increased availability of wellhead protection maps online, and

WHEREAS, both the Administration and Council members have identified a need and desire for ordinance modifications to both increase and formally codify restrictions regarding development within wellhead protection areas, and

WHEREAS, St. Joseph County has adopted Chapter 52-Water Regulations of the St. Joseph County Code that outlines provisions to help insure safe drinking water, and

WHEREAS, included in the Water Regulations of the St. Joseph County Code is are two sub-categories- Well Drilling and Water Supply System, and Wellhead Protection, and

WHEREAS, the St. Joseph County Health Department is the administrative entity that is responsible for issuing local permits for wells, and

WHEREAS, the Wellhead Protection provisions of the County are oriented to a permit process that is designed to regulate the minimum setback distances for new wells and was not drafted to regulate uses or developmental standards which is predominantly a function of zoning, and

WHEREAS, St. Joseph County within its Wellhead protection requirements defines threats to groundwater as follows: (1) The presence of a hazardous substance or regulated substance in the vadose zone in sufficient quantity or concentration to present a reasonable likelihood that it will damage groundwater; and/or (2) The presence at a facility of any of the following activities or conditions involving hazardous or regulated substances in a manner either not in compliance with applicable federal, state or local requirements, or in a manner which represents an unreasonable risk of release to groundwater, or to soil in a quantity sufficient to present a reasonable likelihood that it will damage groundwater: Water Regulations 49 (a) An underground storage tank; (b) An above-ground storage tank; (c) A drum storage area; (d) A waste pile, including one consisting of contaminated soil awaiting removal; (e) A surface impoundment; (f) A rail or truck-loading or transfer area; and/or (g) An outdoor storage or disposal area exposed to precipitation, and

WHEREAS, the City desires to expand on this definition for the purposes of regulating the storage and distribution of chemicals, materials, uses, and storage methods that are potential threats to groundwater, and

WHEREAS, the City's water system is a public water system that is further reviewed and regulated by the Indiana Department of Environmental Management (IDEM), and

WHEREAS, the City's water system, as a public water system, is subject to continued environmental rule changes by the federal government that continues to increase the standards for public water quality where private wells are not regulated in the same way, and

WHEREAS, the ongoing environmental rule changes by the federal government include but are not limited to lead, copper, and Per- and polyfluoroalkyl substances (PFAS), arsenic, manganese, and

WHEREAS, with the increasing standards for public water, the vulnerability of groundwater infiltration, the higher cost of treatment and filtration, and the potential that exists to force the closure of wells and wellfields from contamination, the City desires to further regulate development within both the one-year and five year time of travel surrounding municipal wellfields.

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", be, and the same is hereby amended as follows:

Add the following:

DIVISION 8. – Wellhead Protection Land Use Restrictions

Sec. 137-870. – Prohibited Uses

The commercial storage and distribution of chemicals, materials, uses, and storage methods identified in Sec. 137-872 shall be prohibited within the one-year time of travel for public wellfields. Maps of the one-year and five-year time of travel shall be as adopted by the City in accordance with the Safe Drinking Water Act and the Indiana Wellhead Protection Rule (327 IAC 8-4.1) which mandates the delineation of maps that identifies the time of travel and a wellhead protection program for each well or wellfield providing groundwater to a Community Public Water System.

Sec. 137-871- Conditional uses.

The commercial storage and distribution of chemicals, materials, uses, and storage methods identified in Sec. 137-872 may be conditionally approved by the board of zoning appeals and the Common Council outside of the one-year time of travel but within the five-year time of travel for public wellfields. Maps of the one-year and five-year time of travel shall be as adopted by the City in accordance with the Safe Drinking Water Act and the Indiana Wellhead Protection Rule (327 IAC 8-4.1) which mandates the delineation of maps that identifies the time of travel and a wellhead protection program for each well or wellfield providing groundwater to a Community Public Water System.

Sec. 137-872- Identified chemicals, materials, uses, and storage methods

- a) Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum based products
- b) Antifreeze, transmission fluids, brake fluids, and coolants
- c) Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon or halogenated hydrocarbon solvents
- d) Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning
- e) Organic pigments
- f) Liquid storage batteries

- g) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters
- h) Corrosion and rust prevention solutions
- i) Industrial and commercial cleaning supplies, including drain cleaners
- j) Sanitizers, disinfectants, bactericides, and algacides
- k) Pesticides, herbicides, and fertilizers
- l) Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5
- m) Aqueous metals
- n) Road salt
- o) Any other regulated substance in a quantity sufficient to present a reasonable likelihood that it has or is likely to damage groundwater or surface water, and stored, transferred or used in a manner either not in compliance with applicable federal, state or local requirements; or in a manner which represents an unreasonable risk of release to the soil, groundwater or surface water
- p) A drum storage area
- q) Waste pile, including one consisting of contaminated soil awaiting removal
- r) Waste or material surface impoundment that contains waste containing free liquids or other material susceptible to ground infiltration
- s) Rail or truck-loading or transfer area;
- t) Auto salvage facility;
- u) An outdoor storage or disposal area with material susceptible to ground infiltration when exposed to precipitation

Sec. 137-873- Underground Storage Tanks.

Underground storage tanks (UST) shall be prohibited within the one-year time of travel for public wellfields. Underground Storage tanks shall include any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of petroleum, or any other product contain concentrations of drinking water contaminants as tracked and regulated by the Indiana Department of Environmental Management, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. For the purposes of this section this shall not include:

- a) Farm or residential tanks of 185 gallons or less capacity used for storing fuel for noncommercial purposes;

- b) Tank used for storing heating oil for consumptive use on the premises where stored;
- c) Septic tank; as regulated, approved, and permitted by the St. Joseph County, Indiana, Board of Health
- d) Pipeline facility (including gathering lines) regulated under: 1. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); 2. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); or 3. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in divisions (1)(d)1. or (1)(d)2. of this definition.
- e) Surface impoundment, pit, pond or lagoon;
- f) Storm water or wastewater collection system as may be approved by the City of Mishawaka Engineering Department as part of a final site plan.
- g) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, Water Regulations 50 shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.
- h) Property that has established C-10 zoning on the effective date of the DIVISION 8. – Wellhead Protection Land Use Restrictions. This shall specifically not include C-10 Uses identified by reference within a Planned Unit Development Zoning Classification. C-10 zoned property established after the effective date shall comply with all DIVISION 8. -Wellhead Protection Land Use Restrictions.

Sec. 137-874- Conflicting Ordinances

The Wellhead Protection Land Use Restrictions identified herein shall be deemed as additional requirements to minimum legal requirements identified by zoning districts or other local codes and ordinances, also including other governmental entities. In case of conflicting requirements, the most restrictive shall apply.

Section 137-875 Prospective Application

- (a) *New uses.* Consistent with the terms of Section 137-6 of the Municipal Code, in all districts, all buildings or structures erected hereafter, all uses of land, buildings, or structures established hereafter, all structural alteration, enlargement, or relocation of existing buildings or structures occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which the buildings, structures, uses, or land shall be located, unless a variance is granted by the board of zoning appeals and the Common Council.
- (b) *Existing uses.* In all districts, after the effective date of this Ordinance, the existing approved use of any existing lot, building, or other structure may be continued, changed, enlarged or extended, reconstructed, or relocated only in accordance with all applicable regulations of this chapter.

Section 2. 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.

Gregg Hixenbaugh - President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

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

Deborah S. Block, IAMCA, MMC, City Clerk

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

David A. Wood, Mayor

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. _____

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 THE CITY OF MISHAWAKA, INDIANA.

WELLHEAD PROTECTION LAND USE RESTRICTIONS

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WHEREAS, these improvements include the rehabilitation and expansion of a storage tank on Ireland Road, the construction of a new water tower at the Gumwood Wellfield, the replacement of a 100 year old storage tank and system improvements at Virgil Street adjacent to the Eberhart-Petro Golf Course, the construction of a new wellfield along Juday Creek that will replace the Gumwood Wellfield, new Water Treatment Facility at Juday Creek, and

WHEREAS, in 2024 a rezoning petition was received to place an additional gas station and convenience store within the 1-year time of travel (the time required for groundwater to move from a specified point to a well) of the newly completed Juday Creek Wellfield, and

WHEREAS, the request was ultimately approved, the hearing process City has identified that the issues surrounding wellhead protection and providing for safe drinking water needed to be further addressed, and

WHEREAS, a need was identified for additional public education and increased availability of wellhead protection maps online, and

WHEREAS, both the Administration and Council members have identified a need and desire for ordinance modifications to both increase and formally codify restrictions regarding development within wellhead protection areas, and

WHEREAS, St. Joseph County has adopted Chapter 52-Water Regulations of the St. Joseph County Code that outlines provisions to help insure safe drinking water, and

WHEREAS, included in the Water Regulations of the St. Joseph County Code is are two sub-categories- Well Drilling and Water Supply System, and Wellhead Protection, and

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Commented [TG1]: There is no definition for "commercial bulk storage" or "commercial distribution". The zoning ordinance currently has a definition for "bulk storage tanks", "commercial", and "commercial storage", but you can't really put those definitions together to get a specific definition for either "commercial bulk storage" or "commercial distribution".

Sec. 137-871- Conditional uses.

The ~~commercial-bulk~~ storage and distribution of chemicals, materials, uses, and storage methods identified in Sec. 137-872 may be conditionally approved by the board of zoning appeals and the Common Council outside of the one-year time of travel but within the five-year time of travel for public wellfields. Maps of the one-year and five-year time of travel shall be as adopted by the City in accordance with the Safe Drinking Water Act and the Indiana Wellhead Protection Rule (327 IAC 8-4.1) which mandates the delineation of maps that identifies the time of travel and a wellhead protection program for each well or wellfield providing groundwater to a Community Public Water System.

Commented [TG2]: See above comment.

Sec. 137-872- Identified chemicals, materials, uses, and storage methods

- a) Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum based products
- b) Antifreeze, transmission fluids, brake fluids, and coolants
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- d) Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning
- e) Organic pigments

- f) Liquid storage batteries
- g) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters
- h) Corrosion and rust prevention solutions
- i) Industrial and commercial cleaning supplies, including drain cleaners
- j) Sanitizers, disinfectants, bactericides, and algaecides
- k) Pesticides, herbicides, and fertilizers
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- p) A drum storage area
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- r) Waste or material surface impoundment that contains waste containing free liquids or other material susceptible to ground infiltration
- s) Rail or truck-loading or transfer area;
- t) Auto salvage facility;
- u) An outdoor storage or disposal area with material susceptible to ground infiltration when exposed to precipitation

Sec. 137-873- ~~Underground~~Underground Storage Tanks.

Commented [TG3]: Misspelled.

Underground storage tanks (UST) shall be prohibited within the one-year time of travel for public wellfields. Underground Storage tanks shall include any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of ~~any regulated substances or petroleum, or any other product contain concentrations of drinking water contaminants as tracked and regulated by the Indiana Department of Environmental Management,~~ and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. For the purposes of this section this shall not include:

Commented [TG4]: Is this intended to refer to some other regulation or to the items listed in Sec. 137-872? Needs specified.

- a) Farm or residential tanks of 185 gallons or less capacity used for storing fuel for noncommercial purposes;
- b) Tank used for storing heating oil for consumptive use on the premises where stored;
- c) Septic tank; as regulated, approved, and permitted by the St. Joseph County, Indiana, Board of Health
- d) Pipeline facility (including gathering lines) regulated under: 1. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); 2. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); or 3. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in divisions (1)(d)1. or (1)(d)2. of this definition.
- e) Surface impoundment, pit, pond or lagoon;
- f) Storm water or wastewater collection system as may be approved by the City of Mishawaka Engineering Department as part of a final site plan.
- g) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, Water Regulations 50 shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

g)h) Property that has established C-10 zoning on the effective date of the DIVISION 8. - Wellhead Protection Land Use Restrictions. This shall specifically not include C-10 Uses identified by reference within a Planned Unit Development Zoning Classification. C-10 zoned property established after the effective date shall comply with all DIVISION 8. -Wellhead Protection Land Use Restrictions.

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Sec. 137-874- Conflicting Ordinances

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Section 137-875 Prospective Application

- (a) New uses. Consistent with the terms of Section 137-6 of the Municipal Code, in all districts, all buildings or structures erected hereafter, all uses of land, buildings, or structures established hereafter, all structural alteration, enlargement, or relocation of existing buildings or structures occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which the buildings, structures, uses, or land shall be located, unless a variance is granted by the board of zoning appeals and the Common Council.
- (b) Existing uses. In all districts, after the effective date of this Ordinance, the existing approved use of any existing lot, building, or other structure may be continued, changed, enlarged or extended, reconstructed, or relocated only in accordance with all applicable regulations of this chapter.

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Section 2. 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.

ATTEST:

Gregg Hixenbaugh - President

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: City of Mishawaka

Date: December 10, 2024

Petition: 24- 12 / WELLHEAD PROTECTION LAND USE RESTRICTIONS

Prepared By: KBP

GENERAL INFORMATION

The Department of Planning and Community Development is requesting approval of the adoption of a modification of the zoning ordinance to add Wellhead Protection Land Use Restrictions. The need and desire for these provisions follow the review and ultimate approval of a convenience store (Casey's General Store) at the southeast corner of the intersection of Fir Road and Douglas Road which is within one-year time of travel area for the Juday Creek Municipal Wellfield. Although Casey's withdrew their request despite having received approval, the resulting C-10 zoning district which permits a convenience store/fueling station remains in place that would allow construction by right. As referenced at the time, the now rezoned property is a virtually identical distance to the Wellfield as the Family Express convenience store which is located at the northwest corner of the same intersection.

At the time of review of the Casey's site, there were numerous discussions regarding the need to have more education, better available maps, and potentially ordinance modifications that better regulate land uses surrounding the City's wellfields. Multiple members of the Administration and Council members identified a need and desire for ordinance modifications to both increase and formally codify restrictions regarding development within wellhead protection areas.

Given the contentious process that occurred as part of the Casey's approval, the Administration did not desire to re-contest a decision that was duly decided by the Council. The decision was made to draft and submit these restrictions only after the withdrawal of the Casey's project. The thought being that the proposed ordinance language could be reviewed independently of any active project. The time of travel maps are now also readily available and can be accessed on the City's website through GIS.

<https://mish.maps.arcgis.com/home/index.html> There are currently four City Wellfields- Division Street, Gumwood, Virgil Street, and Juday Creek. Since the Gumwood wellfield has been replaced by the Juday Creek Wellfield and is in the process of being closed, we have not attached or referenced information on the Gumwood Wellfield.

The need for these additional restrictions is pragmatic given the City's recent completion of multiple water infrastructure improvement projects. These projects included the rehabilitation and expansion of a storage tank on Ireland Road, the construction of a new water tower at the Gumwood Wellfield, the replacement of a 100-year-old storage tank and system improvements at Virgil Street adjacent to the Eberhart-Petro Golf Course, and the construction of a new wellfield and Water Treatment Facility at Juday Creek. These projects represent an investment of over 50 million dollars. Our public water supply is of course critical to public health, but it was also a significant factor considered by Microsoft in their review of the St. Joseph Farms property that has been purchased for the construction of a future data center. Data centers have a very high demand for public water for cooling, and the quality of the water matters.

As part of the hearing for Casey's, the petitioner's legal counsel noted that St. Joseph County has adopted Chapter 52-Water Regulations of the St. Joseph County Code that outlines provisions to help ensure safe drinking water and they further represented that those should be considered the standard to protect the City's Wellfields. In the Water Regulations of the St. Joseph County Code, there are two sub-categories- Well Drilling and Water Supply System, as well as, Wellhead Protection. The ordinance is set up to make the St. Joseph County Health Department as the administrative entity that is responsible for issuing local permits for wells. The Wellhead Protection provisions of the county are oriented to a permit process that is designed to regulate the minimum setback distances for new wells and was not drafted to regulate uses or

developmental standards which is predominantly a function of zoning. These standards are wholly inadequate relative to regulating land uses and development standards near City wellfields.

Using the example of Casey's, the County ordinance only regulates the City's ability to install a well and does nothing to restrict the placement of new uses that could pose a risk to the wellfield. The minimum setback between a public well and an underground fuel storage tank like Casey's is only 200 feet. This makes sense as a minimum relative to an existing wellfield where there are physical limitations that might dictate a closer than ideal placement of an individual well. This is far different than indicating that a safe regulatory distance of new potentially hazardous uses to an existing wellfield is 200 feet. In fact, in staff's research, there was no ordinance or standard that was found that identified a standard for locating commercial underground storage tanks within the one-year time of travel of a municipal wellfield. The County ordinance, in staff's opinion, is much more oriented to individual wells consistent with single family home construction in the County. The City's water system is a public water system that is further reviewed and regulated by the Indiana Department of Environmental Management (IDEM).

The City's water system, as a public water system, is subject to continued environmental rule changes by the federal government that continues to increase the standards for public water quality where private wells are not regulated in the same way. The ongoing environmental rule changes by the federal government include but are not limited to lead, copper, and Per- and polyfluoroalkyl substances (PFAS), arsenic, and manganese. With the ever-increasing standards for public water, the vulnerability of groundwater infiltration, the higher cost of treatment and filtration, and the potential that exists to force the closure of wells and wellfields from contamination, make it prudent to further regulate significant threats to groundwater from a land use perspective. Because wellhead protection areas are independent of zoning, these restrictions are written as an overlay that will follow the well-head time of travel maps that are required by the Indiana Code as part of the establishment of any given municipal wellfield. Specifically, the proposed ordinance identifies that the one-year and five-year time of travel shall be as adopted by the City in accordance with the Safe Drinking Water Act and the Indiana Wellhead Protection Rule (327 IAC 8-4.1) which mandates the delineation of maps that identifies the time of travel and a wellhead protection program for each well or wellfield providing groundwater to a Community Public Water System. The advantage of incorporation by reference is that the areas will evolve and change in real time as new information is obtained, wells are added, or mapping standards change based on State and Federal requirements.

For reference, as part of the St. Joseph County ordinance, within its Wellhead protection requirements, it defines threats to groundwater as follows: (1) The presence of a hazardous substance or regulated substance in the vadose zone in sufficient quantity or concentration to present a reasonable likelihood that it will damage groundwater; and/or (2) The presence at a facility of any of the following activities or conditions involving hazardous or regulated substances in a manner either not in compliance with applicable federal, state or local requirements, or in a manner which represents an unreasonable risk of release to groundwater, or to soil in a quantity sufficient to present a reasonable likelihood that it will damage groundwater: Water Regulations 49 (a) An underground storage tank; (b) An above-ground storage tank; (c) A drum storage area; (d) A waste pile, including one consisting of contaminated soil awaiting removal; (e) A surface impoundment; (f) A rail or truck-loading or transfer area; and/or (g) An outdoor storage or disposal area exposed to precipitation.

To aid in the consistency between ordinances, the proposed land use ordinance modifications incorporates much of the County ordinance language and has expanded and clarified it for the purposes of regulating the storage and distribution of chemicals, materials, uses, and storage methods that are potential threats to groundwater.

The proposed ordinance is written specifically to regulate commercial bulk storage and distribution of chemicals, materials, uses, and storage methods. The point is to make a regulatory distinction between commercial usage and incidental personal use, both at a commercial and residential level. For example, the commercial bulk storage of petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum-based products would be prohibited within the one-year time of travel. It is known and understood that every home and business have petroleum-based products that are being stored and used on the premises. The intent of this ordinance is only to prohibit

the bulk storage/commercial use of such products which by their nature pose an inherent threat and are a vulnerability to municipal wellfields. Another example is road salt. As many are aware the County Highway garage located north of Cleveland Road had issues with salt leaching into the ground and contaminating private wells in the Juday Creek subdivision located in unincorporated St. Joseph County. This bulk storage is what would be restricted and prevented from locating in the one-year time of travel. At the same time, the ordinance does not restrict anyone's storage and use of salt for personal on-site use. The City's wellfield will in fact utilize road salt as necessary for its own winter safety purposes. Relative to protecting groundwater, point source concentrations matter, and the regulations that the City is looking to place are oriented only to the most serious threats and vulnerabilities. The following list is what is being proposed to be regulated in this manner from the proposed ordinance:

- a) Petroleum or petroleum-based products, including fuels, fuel additives, lubricating oils, motor oils, hydraulic fluids, and other similar petroleum based products
- b) Antifreeze, transmission fluids, brake fluids, and coolants
- c) Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon or halogenated hydrocarbon solvents
- d) Inks, printing and photocopying chemicals, and waste rags used for solvent-based cleaning
- e) Organic pigments
- f) Liquid storage batteries
- g) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges, and paint filters
- h) Corrosion and rust prevention solutions
- i) Industrial and commercial cleaning supplies, including drain cleaners
- j) Sanitizers, disinfectants, bactericides, and algacides
- k) Pesticides, herbicides, and fertilizers
- l) Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5
- m) Aqueous metals
- n) Road salt
- o) Any other regulated substance in a quantity sufficient to present a reasonable likelihood that it has or is likely to damage groundwater or surface water, and stored, transferred or used in a manner either not in compliance with applicable federal, state or local requirements; or in a manner which represents an unreasonable risk of release to the soil, groundwater or surface water
- p) A drum storage area
- q) Waste pile, including one consisting of contaminated soil awaiting removal
- r) Waste or material surface impoundment that contains waste containing free liquids or other material susceptible to ground infiltration
- s) Rail or truck-loading or transfer area;
- t) Auto salvage facility;
- u) An outdoor storage or disposal area with material susceptible to ground infiltration when exposed to precipitation

In addition to specific materials and uses, the City also has identified separate restrictions for underground storage tanks (UST's). These restrictions are broader and also pertain to tanks for individual consumption. A good example is the new Auto Mall proposed north of Cleveland Road west of Capital Avenue. Although commercial fueling stations are not permitted within the Planned Unit Development that was approved, they will likely have a need for a dealer only fuel tank for their own use that will be thousands of gallons. Based on the restrictions identified below, the tank, if proposed will need to be an above-ground rather than below-ground tank. Furthermore, it is known and understood that there will continue to be a need for tanks for residential and agricultural uses. Specific exceptions have been made for heating oil, septic systems, and other limited underground storage. Again, the City is looking to place restrictions only on the most serious new threats and vulnerabilities. The following is the list of exceptions from the proposed ordinance.

- a) Farm or residential tanks of 185 gallons or less capacity used for storing fuel for noncommercial purposes;
- b) Tank used for storing heating oil for consumptive use on the premises where stored;
- c) Septic tank; as regulated, approved, and permitted by the St. Joseph County, Indiana, Board of Health
- d) Pipeline facility (including gathering lines) regulated under: 1. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); 2. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); or 3. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in divisions (1)(d)1. or (1)(d)2. of this definition.
- e) Surface impoundment, pit, pond or lagoon;
- f) Storm water or wastewater collection system as may be approved by the City of Mishawaka Engineering Department as part of a final site plan.
- g) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, Water Regulations 50 shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

Relative to the ordinance as proposed, we have proposed to further regulate development within both the one-year and five year time of travel surrounding municipal wellfields. The idea is that within the one-year time of travel, the commercial bulk storage and distribution of chemicals, materials, uses, and storage methods, as well as the use of underground storage tanks, as identified within the ordinance would be prohibited. Within the five-year time of travel area, the commercial bulk storage and distribution of chemicals, materials, uses, and storage methods, as well as the use of underground storage tanks would be permitted only by conditional use. This would allow for both the Board of Zoning Appeals and Common Council to review each individual request within the five-year time of travel. The approval would be discretionary by the Common Council. The City would also have the ability to place conditions on any approval.

For reference, if the only current known non-conforming situation that will be created within the one-year time of travel areas is the Family Express located at the northwest corner of the intersection of Fir Road and Dougla Road which was approved by the City prior to the City having an agreement to purchase the Juday Creek Golf Course property for the wellfield, and prior to the establishment of the time of travel maps that could only be produced after testing and modeling of the wellfield. The former Casey's site is also in the one-year time of travel area and would be grandfathered if a final site plan is filed and approved prior to the effective date of this ordinance. The Common Council has deferred action on this ordinance at their first meeting in December indefinitely, likely to address this property. At this time, we are merely looking for the Planning Commission's recommendation so that the specifics can be worked on at the Council Land Use Committee level before being presented to the Council as a whole.

Within the five-year time of travel, there are multiple uses/businesses that would be grandfathered if the ordinance is adopted. The ordinance would only impact the businesses if current tanks were to be replaced, or if additional tanks are proposed as part of an expansion. If that were to occur, the replacement/expansion would be required to go through the Conditional use process.

Another element considered by staff is that the proposed ordinance only regulates property located within the City of Mishawaka. There are significant areas of both the one-year and five-year time of travel for the wellfields that are located in unincorporated St. Joseph County.

The chart below identifies those specific areas.

Area Calculations for all Wellhead Protection Areas

	Total Area (sq ft)	Within City Limits (sq ft)	Outside of City Limits (sq ft)
Division Street WHPA			
1 year Time of Travel	20,183,251.802104	12,802,095.974328	7,381,155.827776
Percentage		63.43%	36.57%
5 year Time of Travel	63,582,323.104432	42,997,127.219176	20,585,195.885256
Percentage		67.62%	32.38%

Virgil Street WHPA			
1 year Time of Travel	7,975,168.758997	7,975,168.758997	0
Percentage		100.00%	0.00%
5 year Time of Travel	49,986,951.738206	37,756,697.588196	12,230,254.150010
Percentage		75.53%	24.47%

Juday Creek WHPA			
1 year Time of Travel	24,887,077.163788	17,850,892.403055	7,036,184.760733
Percentage		71.73%	28.27%
5 year Time of Travel	75,481,432.534027	41,643,743.54203	33,837,688.991997
Percentage		55.17%	44.83%

Although significant areas are located within unincorporated St. Joseph County, the vast majority of these areas in the County is zoned for agricultural and residential purposes which pose a minimal threat to City Wellfields. There are some commercially and industrially zoned properties along McKinley Avenue in the County, including the Mishawaka Auto Auction site that the City would like to see some similar basic regulations on over time. If this ordinance is passed by the City, the City administration will then initiate discussions with the County. As it stands, we believe the ordinance as presented addresses the vast majority of need as it relates to regulating potential new vulnerabilities to the City Municipal Wellfields.

ATTACHMENTS

Proposed wellhead protection land use restriction ordinance modifications, Ordinance Wellhead Protection Maps for Division Street, Virgil Street, and Juday Creek Municipal Wellfields.

