



AGENDA

March 24, 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): 2332 853 0793
Meeting password: 3PHvZs4BSt5

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: [23328530793@mishawaka.webex.com](https://mishawaka.webex.com/join/23328530793)

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of March 10, 2025

5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2025-07 Use Variance to allow for and Assembly
Hall/Event Center/Banquet Hall in C-2 Shopping
Center Commercial District - 526 W. McKinley

Appeal No. 2025-08 Use Variance to allow for Outside Storage of
Landscape Materials - 2019 & 2001 Lincolnway
West

Petition No. 2025-03 Rezone from C-1 General Commercial to R-1
Single Family Residential for an Existing
House - 115 Virginia St.

Petition No. 2025-04 Rezone from C-1 General Commercial to R-3
Multi-Family Residential to allow 7 Multi-
Family Residential Building with 20 Dwelling
Units - 2400 & 2406 Schumacher Dr.

Petition No. 2025-05 Rezone from I-1 Light Industrial & R-2 Two
Family Residential to C-4 Automobile Oriented
Commercial - 1032 E. Jefferson (NW corner) &
1023 E Jefferson (SW corner)

Petition No. 2025-06 Rezone from R-1 Light Industrial to R-1
Single Family Residential for an Existing
House - 1113 Ann St.

A letter from the City Plan Commission regarding their
recommendations from their March 11, 2025, meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2025-03 Rezone from C-1 General Commercial to R-1
Single Family - 505 Carlton St.

P.O No. 2025-04 Rezone from R-2 Two Family Residential to I-1
Light Industrial - 400 Block of E. 10th St.

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2024-35**AA** Amending the Wellhead Protection Ordinance
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages, 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

March 10, 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 March 10, 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 February 17, 2025, were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

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

Kate Gradeless, Senior at Mishawaka High School and member of the Executive Committee within the Mayor's Youth Council, Marget-Coppens Clark, Senior at Mishawaka High School and member of the Executive Committee within the Mayor's Youth Council, and Ty Caruso, Senior at Marian High School and Vice President of the Mayor's Youth Council all spoke before the Common Council. Ms. Gradeless stated the project they would be doing for the year was called Project Shoe City and they had a slideshow presentation for the Council explaining more about it. Ms. Gradeless began stating the Ball Band Plant in Mishawaka had been founded in 1838 and it was originally a wool mill. Ms. Gradeless stated it was a major Mishawaka employer and was demolished in the year 2000. Ms. Gradeless stated they employed 5,000 workers at its peak, which amounted to approximately 15% of the Mishawaka population. Ms. Gradeless stated

the ball band shoes were sold all across the country and Mishawaka was crucial in the research and development and the Red-Ball Jets as they were called, sold for 20 years. Ms. Gradeless stated the sneakers were very culturally significant as they were one of the first real sneakers and there were a lot of characteristics in the original shoes that could be seen in the shoes worn today. Ms. Gradeless stated there was still a company in Oregon that still made Red Ball Jets currently. Ms. Coppens-Clark stated in order to honor the Ball Band plan that year, their project was to install shoes across prospective locations all over the city and there would be 8 to 10 structures in highly populated and well-lit locations. Ms. Gradeless stated there would be sponsorships of shoes by local businesses and community organizations. Ms. Coppens-Clark stated they were working with Patronicity through a partnership with IHCD and their goal was to raise \$35,000 in funding with Patronicity matching 100% of the funds. Mr. Caruso stated they had a lot of success with Patronicity in the past as the Pocket Park was a Patronicity project, which was on the outdoors on the side of the City Hall building. Mr. Caruso stated they hoped to successfully complete the project "Project Shoe City" with the help from their mentors and hoped to make this project their next accomplishment through fundraising efforts and their partnership with Patronicity. Mr. Caruso described a display of the shoe itself and stated on the front of the statue, it would be made of fiberglass with a shell exterior, and they would have a custom shoe design, and they would be working with the sponsor on that. Mr. Caruso stated there would be accessibility and sensory features with the shoe so all people could access them and on the side of the shoe, there would be a QR Code displayed that could be used to read more about the history of the shoe.

Mrs. Voelker stated this was a great idea for Mishawaka and asked about the manufacturer of the shoe and how much it would cost to sponsor a shoe. Mr. Caruso stated on their website they had a list of donation sizes, and you could donate from \$5 up to \$5,000. Mrs. Voelker asked if she wanted to personally sponsor a shoe, what would be the sponsorship cost. Mrs. Wood stated they had a budget committee that was currently working on that, and it was \$5,000 for the cost of the shoe, but since they were working with Patronicity, the shoe itself would be \$2,500, because the matching funds would then make up the difference through Patronicity. Mrs. Voelker asked if they did not have the sponsorship levels. Mrs. Wood stated no, they were not selling shoes currently and publicly at that time and they were just trying to raise funds.

Mrs. Hazen asked how large the shoes were going to be. Mrs. Wood stated the shoes themselves were going to be at least 5 feet tall and they would be similar to the height of the bison as the Battell Center. Mrs. Hazen asked if the shoes were going to be lit or if they would be more like the bison and be painted. Mr. Caruso stated they would be painted, and they would be decorated by members of the Youth Council, so they would all look different.

Mr. Mammolenti thanked the Youth Council members for their presentation that evening and stated for himself and others on the Council and other citizens of Mishawaka, this project brought about emotional feelings for them to represent and honor Uniroyal. Mr. Mammolenti stated his grandfather migrated from Italy and ended up working in that factory as well, so it served a lot of great memories, and it would be great to see that displayed throughout the city.

Mr. Emmons asked about the ivy that was associated with the pocket park the Youth Council worked on last year and if that was still in progress and if it was still a possibility. Mrs. Wood stated currently, the ivy they had received from the Chicago Cubs was currently being grown in the greenhouse and they were lucky enough to get a couple of starts and they had a wonderful gardener Jake Crawford, who they all knew and she stated they had an enormous amount per se but they definitely had a good amount of it and it would be put in sometime in the Spring or later in the summertime. Mr. Emmons thanked the three students for their presentation, and he knew the project would be a success like all of the other ones had been ever since the Youth Council started and he appreciated all of the work the three of them and their fellow classmates had put into it.

Mr. Hixenbaugh thanked the Youth Council for their presentation and the work they were doing, and they looked forward to seeing their project come to fruition as it moved forward.

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

PROPOSED ORDINANCE NO. 2024-35

**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.**

**Amending the Wellhead Protection Ordinance
(Petitioner Requesting Amendment)**

Based on the request by the Administration, the chair entertained a motion to delete the proposed ordinance in its entirety and substitute in the revised language that was distributed to the Council by the Clerk’s Office. Mr. Banicki moved the motion and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously, and the amendment was made to the proposed ordinance.

PROPOSED ORDINANCE NO. 2024-35AA was assigned to the Land Use Planning Committee.

PRIVILEGE OF THE FLOOR

Matt Lyszkiewicz, Route Manager for Waste Management, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Lyszkiewicz stated he was present that evening to provide the Council with updates and answer some questions for them.

Mr. Mammolenti thanked him for coming that evening and for being willing to continue the dialogue between the Council and WM. Mr. Mammolenti stated as he mentioned in prior meetings, he knew they all expected some growing pains which he thought were pretty minimal

in the grand scheme of things but in the last couple of weeks there had been some miscommunication with some of the residents and their team. Mr. Mammolenti stated thankfully Mr. Lentsch had taken care of it shortly thereafter and thanked Mr. Lentsch for that. Mr. Mammolenti stated the most recent incident pertaining to a couch that was set out by the curb on the normal trash pickup day, and it did not get picked up from one particular resident's home. Mr. Mammolenti stated they did the same thing the following week and it still did not get picked up and after calling Mr. Lentsch, it was picked up within about an hour afterwards. Mr. Mammolenti stated his suggestion was to allow residents to have the ability to look online for the application or be able to call WM directly on the phone to book online and he believed there was miscommunication between his team and some folks in customer service about some of the verbiage in the terms of their contract. Mr. Mammolenti stated this was a big move for the city and he thought the Council and the Administration did an outstanding job in working together and answering questions that needed to be answered, and they wanted to relay the correct information to the residents in order to eliminate confusion and disconnect. Mr. Mammolenti stated he understood that this was a growing process, but he thought if they could eliminate some of the miscommunications, that would be outstanding. Mr. Lyszkiewicz stated unfortunately there were some issues on their end, and it was from their dispatch team as far as the miscommunications were concerned and they did not understand the time buckets and things like that and it seemed like if the issues were not getting to him or Mr. Lentsch, then they were not getting addressed in the proper amount of time that they agreed to. Mr. Lyszkiewicz stated they were dialing in more and more every single day on with proper communication and they were trying to get more direct contacts as opposed to getting somebody somewhere that was not familiar with the town, the contract, and all of that. Mr. Mammolenti asked if it was possible to have the information on the app and online. Mr. Lyszkiewicz stated they definitely should be able to, but he would have to work with their tech team and their customer service team to make that happen. Mr. Mammolenti stated it was confusing what for the large item pickups and if they could exceed 50 pounds or not. Mr. Lyszkiewicz stated it was not the problem that it exceeded 50 pounds; it was that they tried to get a second body out to it to help minimize the possibility of injuries or anything like that. Mr. Mammolenti stated he understood that, but he took that as explanation for the additional bag that they were allotted and not for the large items, because every large item like a couch, a refrigerator, or another appliance obviously weighed more than 50 pounds and he believed that was where the confusion came in when they were trying to schedule it and they were told now that they did not even have to schedule it. Mr. Mammolenti stated on a good note, two of his neighbors had walked out that morning after setting out two large coaches on their curb the previous evening and they were both picked up on their trash day, so he at least wanted to provide that positive information. Mr. Mammolenti stated he thought if they could just clean some things up and work on communication, it would make things a lot easier. Mr. Lyszkiewicz stated they were doing a lot of things to strive for that to give the residents the proper information as to why they were missed and getting notes to the residents on the containers and if they could move it to a certain spot or anything like that. Mr. Lyszkiewicz stated, for example, if somebody had an alleyway and it was not a contracted or safe alleyway to go into, they had a note for those to please put the containers curbside. Mr. Lyszkiewicz stated he had seen a huge downtick in missed pickups, but they would continue to work on good,

consistent communication. Mr. Mammolenti asked when a resident called their location or their customer service, where was that being answered and if it was in Mishawaka. Mr. Lyszkiewicz stated no, not always unless it was coming directly to him, somehow it could go to somewhere like Detroit or someone remotely working. Mr. Mammolenti stated that point, he did understand the miscommunication where each municipality may have different rules and with Mishawaka, they had a different contract than others did. Mr. Mammolenti asked how they would ensure that when their residents called, they were given the correct information pertaining to the city in which they lived. Mr. Lyszkiewicz stated every town contract, even an open market customer, had a scope of service or SOS and everything should be there directly for the customer service representative to read and to say if that customer service representative actually did the research and was actually at the computer and finding it rather than just speaking it out could be part of the issue. Mr. Mammolenti thanked Mr. Lyszkiewicz again for coming to the meeting that evening.

Mr. Hixenbaugh stated he wanted to go back to the discussion about their residents calling in and just to underscore and clarify, his reading of the contract was that with regard to the bulk items that were being collected that it was not incumbent upon the resident to make a call to set that up and that was built in as an automatic feature of the contract that they entered into with WM and asked if that was correct. Mr. Lyszkiewicz stated that was correct and they should not have to call in unless it was going to be over, that should be the only instance when they needed to call.

Mr. Violi stated speaking of the app, he had been trying to use the Waste Management app and Mr. Lentsch was aware of it and he had done everything he possibly could to get it to work and he simply could not get the app. Mr. Violi asked if they could have a timeline for when the app was going to be going live. Mr. Lyszkiewicz stated he could not provide them with a timeline for that and he remembered when they were before the Council last time that they mentioned that they could get with Mr. Violi, but they could not get with every single customer, but something should be relayed and hopefully next time, he could have a solid answer for them. Mr. Lyszkiewicz stated he knew that it was in the works, and they were continuing to work on the app, but maybe with this specific situation he could get with Mr. Violi and help him out. Mr. Violi stated it was not just about him and there were a lot of other people who were counting on it especially given the fact that there were a lot of things that were said that they would have, and they did not, and they were at the point where they needed to get this moving. Mr. Lyszkiewicz stated he completely agreed, and he could not answer the technical questions because he was not working in that background, but hopefully next time he came before them he would have an answer for them. Mr. Violi stated hopefully next time they come before the Council they could have the app set up. Mr. Lyszkiewicz stated they could certainly expect that.

Mr. Carroll stated it seemed like you had to have a customer ID number to be able to log into the Waste Management app. Mr. Violi stated that was what he had been told. Mr. Carroll stated he was not so sure that it was a technical issue so much as it was that many residents had not been given their customer ID number and that could be a mailing where they could be given their customer ID number if they wanted to set up the app and go from there. Mr. Carroll stated he did

not think that they had to work with an IT company and deal with that. Mr. Lyszkiewicz stated he would have to do some further digging and see what he could come up with. Mr. Emmons stated he was concerned about the residents in his district, who are primarily seniors, and the large containers that had been distributed were not convenient for a lot of seniors and he knew the constituents could call in and ask for a smaller bin, 64-gallon bins instead of the 96-gallon bins. Mr. Emmons asked how long it would take for those residents to receive the smaller bins. Mr. Lyszkiewicz stated the swapping of the bins should be completed within two weeks. Mr. Emmons asked if that would be done on the same day that the trash is picked up. Mr. Lyszkiewicz stated yes, it would be more than likely set up for the day that the trash was picked up that way that container could be emptied, and the other worker can come by and swap the containers. Mr. Emmons stated he was just speaking for his district, and he could not speak for all of the city, but he knew that in his district, they had a lot of elderly people, and those big containers were just too much to handle especially when the weather was not favorable. Mr. Lyszkiewicz stated they had the supply of bins available and were actually ahead of schedule on getting the right bins out, so as long as they called in and they continued that process, they would be continuing to deliver them. Mr. Lyszkiewicz stated they had already delivered around 200 to 300 of the containers and every day they had 30 to 40 deliveries and about half of those were swaps from the bigger to the smaller containers. Mr. Emmons stated he appreciated that.

Mr. Hixenbaugh stated he found it puzzling that now during a second council meeting that they were having to ask again about the app that was a commitment that WM made to them as part of the contract and they did not say that it was going to be available at the end of the first quarter or at the end of the second quarter or end of the year. Mr. Hixenbaugh stated he thought Mr. Carroll hit the nail on the head and he could use the app because he purchased an extra container and the paper invoice had his customer ID number on it, otherwise he would have no idea what it was and he strongly suspected that was the issue for the vast majority of their residents who were trying to use the app. Mr. Hixenbaugh stated rather than having to have him come to another council meeting again, although they may invite him again as they were working through the transition issues, his ask would be that whomever does handle IT related issues for WM that between then and two weeks from then when they would meet again, somebody provide them with some concrete estimate for when their app would be up and running and he believed that was a reasonable request on the part of their residents. Mr. Hixenbaugh stated it was not necessarily directed at Mr. Lyszkiewicz himself, but if he could communicate that back to whomever was the appropriate person, he would appreciate it. Mr. Lyszkiewicz stated he appreciated them having him and he would definitely communicate that to his associates. Mr. Lyszkiewicz stated they had meetings every other Friday and he would continue to work with the IT team to make sure they were on top of it and not let it slide by. Mr. Lyszkiewicz stated they would make it a priority and, as Mr. Hixenbaugh said, they were almost in number and it still was not here, which was a concern. Mr. Hixenbaugh stated he appreciated Mr. Lyszkiewicz's patience with him but his strong sense of what was going on was that another commitment that WM made, which was to provide them with better customer service and provide their residents with customer service so that administrative personnel were not having to field so many calls were still occurring. Mr. Hixenbaugh stated they were happy to help but they had a lot of things

beyond trash and recycling that they needed to help their residents with as well. Mr. Hixenbaugh stated his sense of it was there was still too much that was being funneled towards their staff that, in his mind, matched up with the commitment WM made to them in their presentation and in the contract with regard to their own customer service issues. Mr. Hixenbaugh stated he knew it was a work in progress, and he agreed with Mr. Mammolenti that they knew all along that there were going to be transition issues but from his standpoint, he was disappointed that they were not further along with some of the transition issues, and he suspected Mr. Lyszkiewicz and others at WM were as well, but if he could provide the Council with some guidance as to when the app was going to work and when the people fielding the phone calls were going to be up and running so that it was not as labor intensive on their staff with the city, he would appreciate that. Mr. Lyszkiewicz stated the app working alone would solve at least half of those calls and he would continue to work with the customer service tech team to stay on top of the issues and to make sure the work was completed.

Ms. Hahn stated she had seen on more than one occasion in more than one neighborhood that the drivers actually got out of the truck and picked up a piece of trash that either just was there or came out of a bin, so she had seen some really good things happening and she wanted to make mention of that. Mr. Lyszkiewicz stated that was great to hear, especially after the wind they had in the past week.

Mr. Hixenbaugh stated to follow up on Ms. Hahn's comments, he was not hearing huge complaints from his friends and neighbors, so there was a lot that was going well but it was just those few areas where if they could work together to address them, that would be much appreciated. Mr. Hixenbaugh stated they appreciated Mr. Lyszkiewicz being there and the work that they were doing on a daily basis to make it work along with everybody else at WM, so if they could communicate back between then and their next council meeting in two weeks, where they were on certain issues, he believed that would be well received by the Council. Mr. Lyszkiewicz stated they would most definitely do that, and he appreciated their time.

Matt Lentsch, Executive Director of Development and Governmental Affairs, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Lentsch stated every other week they met with the County Executive, the Route Manager, and the Customer Service person for the whole United States and they were covering a lot of the things that had been discussed that evening. Mr. Lentsch stated they had been working with Tim Ryan and his folks from Central Services out of a job related to trash and a lot of it was getting much better than it was. Mr. Lentsch stated there were still some issues and they continued to bring them up as they encountered them, and they had some conversations in the prior week as it was related to the contract and missed pickups. Mr. Lentsch stated things were being addressed and they promised him personally that the information related to the account numbers was going to go out and they were just finalizing them but were holding them accountable. Mr. Lentsch stated the route managers and the people on the ground locally had taken care of the issue that Mr. Mammolenti had mentioned earlier within an hour and they were demanding that the people on the ground and the customer service team were being demanded to be brought up to speed and it was becoming much better than it had been in the

past. Mr. Lentsch stated he felt like they were making great progress and he was grateful for his friends from WM being present that evening to answer questions but he just wanted to relay to the Council that they were making progress, even though it was not as much at times as he would like but he had seen a significant increase in their response time and their ability to work with the city and make sure that they were following through on what they promised.

Mr. Hixenbaugh thanked Mr. Lentsch for all of his work on this and he knew that he was not only responding to the concerns from the Council, but from their residents as well so it was through his hard work that in conjunction with some good people at WM that they were as far along in the process as they were. Mr. Lentsch stated they were committed to taking care of the issues right away, no matter the calls or the circumstances.

NEW BUSINESS

Ms. Hahn announced Thursday, March 20th she had the honor of hosting the 1st District monthly meeting on Mr. Emmons' behalf and the meeting would be held at St. Bavo's at 7PM with Director of Code Enforcement, Ken Witkowski speaking. Ms. Hahn stated all were welcome and as usual, donuts from the West End Bakery would be served as well.

Mr. Carroll stated the 2nd District meeting would be Thursday, March 13th at 7PM in the Blair Hills common room in the pool complex. Mr. Carroll stated all were welcome.

Mr. Mammolenti made a reminder that the Twin Branch Neighborhood Watch meeting would be on Wednesday, March 19th at 7PM at Fire Station #4 and they were still confirming their guest speaker for that evening. Mr. Mammolenti stated all were welcome.

Mr. Hixenbaugh stated it was his pleasure to announce that the annual State of the City Address by Mayor Wood had been scheduled in conjunction with a council meeting for Monday, April 14th. Mr. Hixenbaugh stated the council meeting would begin at 6PM in the Council Chambers at City Hall and it would be immediately followed by the Mayor's State of the City Address. Mr. Hixenbaugh stated all were welcome to attend.

ADJOURNMENT 6:34PM

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.

City of Mishawaka, Indiana
Board of Zoning Appeals

AP 25-07
Received
MAR 04 2025
Planning and
Community Development

DATE: 02/21/2025

TO: Board of Zoning Appeals

City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, Abdelrahman Farhan / M + A PROPERTY LLC, am the owner of the following described real estate located within the City of Mishawaka, Township, St. Joseph County, State of Indiana, to-wit:

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

526 N. McKinley Ave., Mishawaka, IN 46545
2. The above-described real estate presently has a zoning classification of C-2 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: C-1/Event Center.

4. Appellant desires to (Explain what is proposed that violates the Ordinance.)
C-2 zoning classification does not allow for an Assembly Hall/Event Center/Banquet Hall.
zoning.

5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.)
Division 3 - Commercial Districts - Subdivision II - Sec 137-301 - Uses.

6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
Strict adherence to the Ordinance requirements would violate the intent/uses of Sec 137-326 for permitted uses in order to be able operate as an Event Center/Hall

7. Answer the following necessary questions for a **USE VARIANCE**:

(1) Will approval be injurious to the public health, safety, morals or general welfare of the community? *YES OR NO and explain your reason why.*

- No, as this will be for private, commercial use. -

(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *YES OR NO and explain your reason why.*

- No, this change does not affect the value of the area adjacent to the property. -

(3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*

- Yes, because of the current C2 zoning classification, does not allow for the proposed business. -

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *YES OR NO and explain your reason why.*

- Yes, because the C2 classification does not allow for an event hall. -

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *YES OR NO and explain your reason why.*

- No this approval will have no interference with the Mishawaka 2000 Comprehensive Plan. -

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

Signature of Property Owner/Title Holder

Abdelrahman Farhan



CONTACT PERSON:

Name: Latenia Anderson

Address: 51287 Windy Willow Court

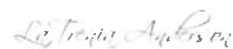
Day Phone Number: 2692083449

Fax Number: 2692083449

Email: afarhan483@sbcglobal.net

Second Property Owner/Title Holder

latenia Anderson



LaTrenia Anderson

13681 wood haven drive

5743343290

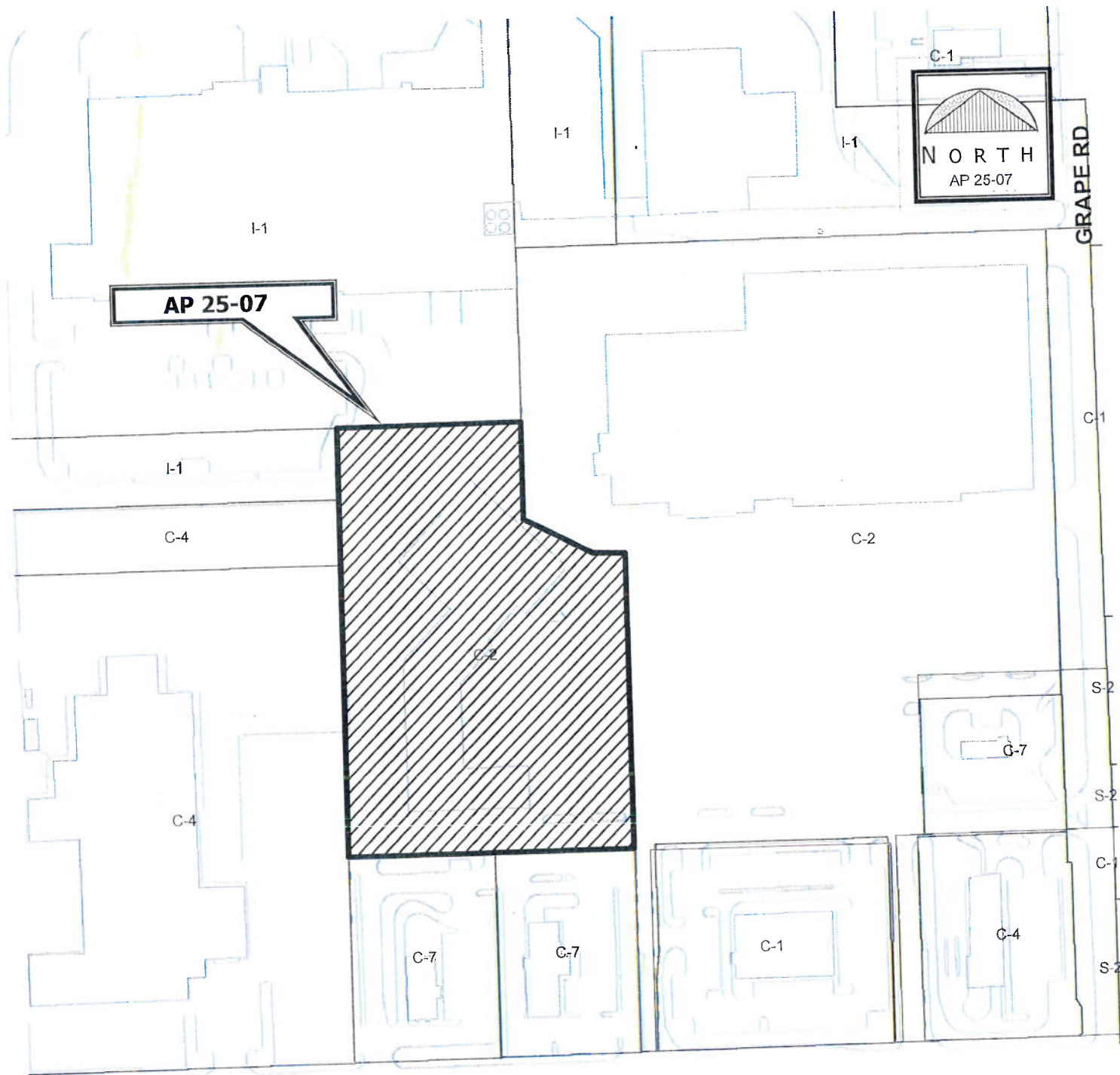
0

levislounge23@gmail.com

LEGAL DESCRIPTION

A tract of land in southeast quarter of the southwest quarter of section 4, township 38 north, range 3 east, City of Mishawaka, St. Joseph County, Indiana, said tract being more particularly described as follows:

Commencing at the southwest corner of the southeast quarter of the southwest quarter of said section 4; thence east along the south line thereof, 400.00 feet; thence north 00 18' 44" east, 290.00 feet, said point being the true place of beginning; thence continuing on the aforesaid being of north 00 18' 44" east, 515.00 feet thence south 89 55' 29" east, 225.61 feet; thence south 00 17' 00" west, 118.63 feet thence south 44 43' 00" east, 115.08 feet; thence south 89 43' 00" east, 42.63 feet; thence south 00 17' 00" west, 315.00 feet; thence north 89 55' 29" west, 349.85 feet to the place of beginning.



W MCKINLEY AVE

Location Map AP 25-07

M&A PROPERTY LLC (OWNER) /
LATRENIA ANDERSON (PROSPECTIVE
TENANT)

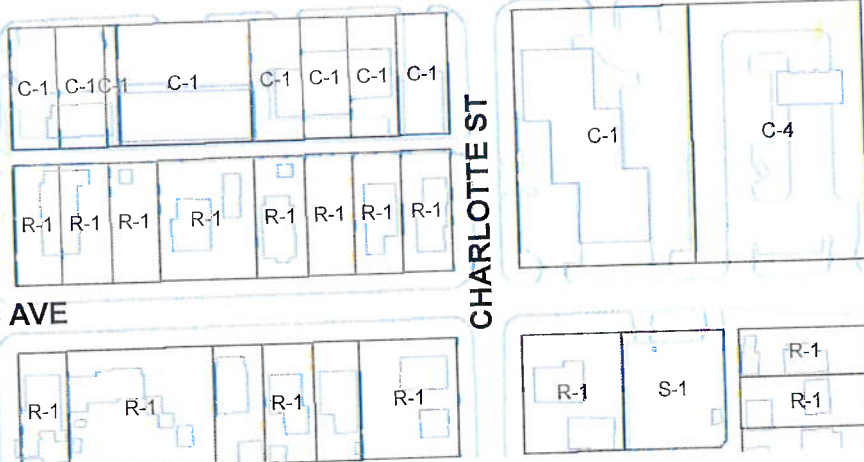
526 W. MCKINLEY AVENUE

USE VARIANCE TO ALLOW FOR AN
ASSEMBLY HALL/EVENT CENTER/
BANQUET HALL IN THE C-2 SHOPPING
CENTER COMMERCIAL DISTRICT

FOREST AVE

SS AVE

CHARLOTTE ST



DATE:

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

AP 25-03
Received

MAR 18 2025

The undersigned appellant respectfully shows the Board:

1. I, **Jessica Bauer, New Generation Landscaping & Lawn LLC**, am the owner of the following described real estate located within the City of Mishawaka, Paul Township, St. Joseph County, State of Indiana, to-wit:

Lots Numbered 29, 30, & 31 as shown on William Ernsperger's Plat of Arbor Park, as recorded in Plat Book 8, page 54 of the records of St. Joseph County, Indiana, now within and a part of the City of Mishawaka, excepting therefrom a tract of land described as follows, viz: Beginning at the Southeast corner of said Lot Numbered 31; running thence North 46 feet; thence West 83 feet; thence South 46 feet to the South line of said Lot; thence East on said South line, 83 feet to the place of beginning. Subject to an easement for a sewer running in a Northeasterly direction from the dwelling house situated on the land excepted out of Lot Numbered 31 above described, to Lincoln Way West.

- 2001 + 2019 LINCOLN WAY W., MISHAWAKA, IN 46544**
2. The above-described real estate presently has a zoning classification of C-4 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: Landscaping Contractor.
4. Appellant desires to (Explain what is proposed that violates the Ordinance.) Outside storage of materials use as part of business size cover
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.) No outside storage of materials
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. 48' x 32' / 4 boxes
7. Answer the following necessary questions for a **USE VARIANCE**:
- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? YES OR NO and explain your reason why. Keep from blowing
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? YES OR NO and explain your reason why. Not track material outside of property
 - (3) Does the need for the variance arise from some condition peculiar to the property involved? YES OR NO and explain your reason why. Keep from blowing
 - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? YES OR NO and explain your reason why.
 - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? YES OR NO and explain your reason why.

w

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

Jessica Bauer

Jessica Bauer (Mar 17, 2025 12:24 EDT)

Jessica Bauer

Pedro Rocio

Pedro Rocio (Mar 17, 2025 11:24 EDT)

New Generations Landscaping & Lawn LLC, Pedro Rocio

CONTACT PERSON:

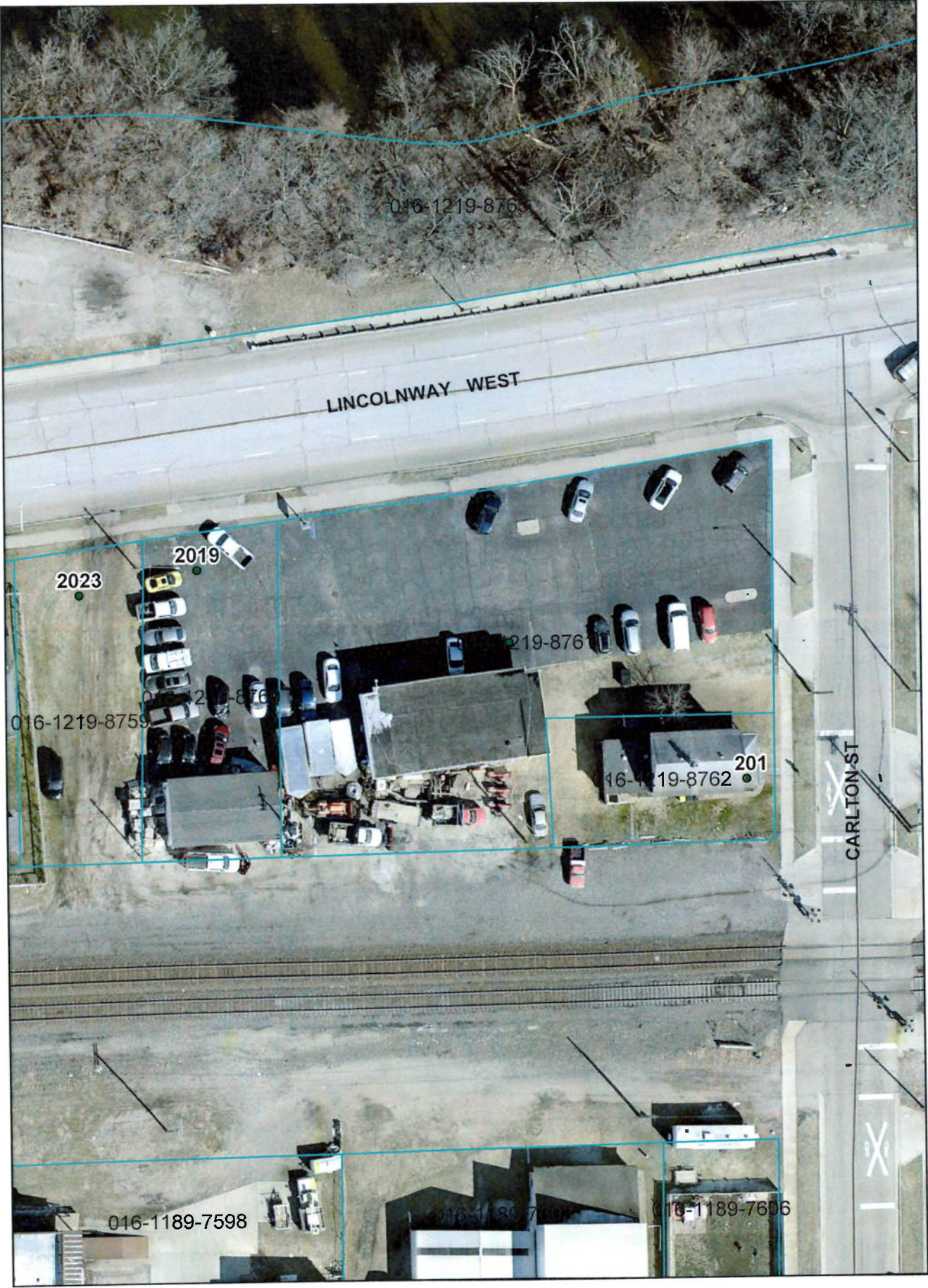
Name: Pedro Rocio

Address: 2001 Lincolnway W Mishawaka, IN 46544

Day Phone Number: (574) 302-0341

Fax Number: N/A

Email: pedrorocio574@yahoo.com



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

Pls 26-03
Received
MAR 18 2025
Planning and
Community Development

RE: PETITION TO REZONE

The undersigned, Robert Henry, respectfully submits this petition as the owner of the following real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana:

Property Address:

115 Virginia St, Mishawaka, IN 46544

Legal Description:

Lot 3 & 4, C.G. Klein's Subdivision

PARCEL IDs:

16-1229-8996 & 16-1229-8995

The above-described parcel is 100% owned by *Henry Carolyn A Living Trust*, with Robert Henry as the sole executor.

The lot was previously conjoined with the adjacent parcel under prior ownership and was utilized for a business. When the previous owner subdivided the parcels, this lot retained its **C-1 zoning** despite no longer being associated with the commercial use. The property is currently zoned **C-1 (Commercial District)** but is used solely as a residential home. The petitioner requests that the property be **downzoned to R-1 (Residential District)** to align with its current and intended residential use.

Wherefore, the petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission for review and, after due consideration, enact an ordinance rezoning the property to R-1.

Respectfully submitted,

Robert Henry

Date: 03/17/2025

Robert Henry, Executor of *Henry Carolyn A Living Trust*
(574)309-3939

Designated Representatives:

Sky Dawson
(260)264-8083
TC@middleamericahomes.com

Seth Dawson
(260)888-3939
Seth@middleamericahomes.com

PET 25-03
Received

MAR 18 2025

Planning and
Community Development

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

Subject: Designation of Representatives for Rezoning Matters

To whom it may concern,

I, Robert Henry, as the Executor of the *Henry Carolyn A Living Trust*, hereby designate **Seth Dawson** and **Sky Dawson** as my authorized representatives for all matters related to the rezoning process for the property located at 115 Virginia St, Mishawaka, IN 46544.

Seth Dawson is the owner of *Middle America Homes*, and Sky Dawson is the transaction manager of *Middle America Homes*. Middle America Homes is assisting me in the sale of the property, and both individuals are authorized to act on my behalf in communications, submissions, and proceedings related to rezoning.

Please direct all inquiries and correspondence regarding this matter to Seth Dawson and Sky Dawson, who will coordinate with me as necessary.

Thank you for your time and assistance.

Sincerely,

Robert Henry

Date: 03/17/2025

Robert Henry
Executor, *Henry Carolyn A Living Trust*

Designated Representatives:

Sky Dawson
(260)264-8083
TC@middleamericahomes.com

Seth Dawson
(260)888-3939
Seth@middleamericahomes.com



How to Verify This Transaction

Every Proof transaction is recorded and saved for a minimum of five years. Whether you receive an electronic or printed paper copy of a Proof document, you can access details of the transaction and verify its authenticity with the information below.

To get started, visit verify.proof.com and enter this information:

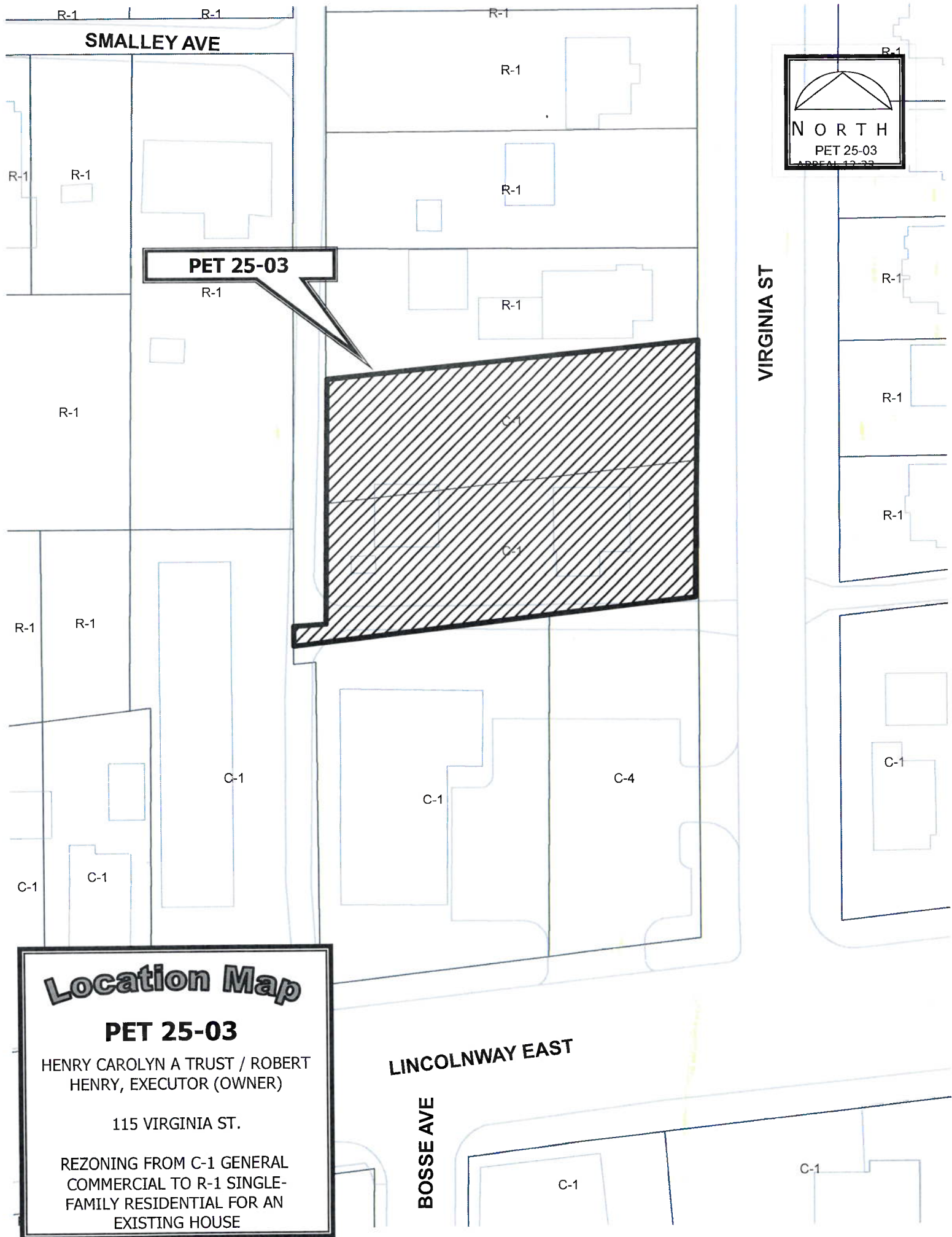
Access ID:

3SRND97Z

Access PIN:

UZ35SB

For more information on how to verify Proof transactions, please visit: support.proof.com



SMALLEY AVE

PET 25-03

NORTH
PET 25-03
APPEAL 12-23

VIRGINIA ST

LINCOLNWAY EAST

BOSSE AVE

Location Map

PET 25-03

HENRY CAROLYN A TRUST / ROBERT
HENRY, EXECUTOR (OWNER)

115 VIRGINIA ST.

REZONING FROM C-1 GENERAL
COMMERCIAL TO R-1 SINGLE-
FAMILY RESIDENTIAL FOR AN
EXISTING HOUSE

December 18, 2024

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

P15 25-04

Received

MAR 18 2025

Planning &
Community Development

RE: PETITION TO REZONE

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

PARCEL I: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Beginning at a point on the East line of Schumacher Drive, 229.31 feet South 0°27'35" East of the Southwest corner of Lot Numbered 5 as shown on the recorded Plat of Town and Country Estates, Section "A", as recorded in Instrument No. 7705865 in the office of the Recorder of St. Joseph County, Indiana; thence North 0°27'35" West along said East line of Schumacher Drive, 229.31 feet to the Southwest corner of said Lot 5; thence North 89°32'25" East along the Southerly line of said Lot 5, 146.52 feet to the Southwest corner of Lot 4 in said recorded Plat; thence North 52°48'39" East along the Southerly line of said Lot 4, 142.47 feet to the Southwest corner of Lot 3 in said recorded Plat; thence North 47°10'54" East along the Southerly line of said Lot 3, 90.48 feet to the Southwest corner of Lot 2 in said recorded Plat; thence North 67°57'44" East along the Southerly line of said Lot 2, 83.03 feet to the Southeast corner of Lot 1 in said Plat, said corner being on the West line of the recorded Plat of Normain Heights, as recorded in Plat Book 16, Page N in Recorder's Office; thence South 0°51'43" East along said West line of Normain Heights, 408.67 feet; thence South 89°54'42" West, 407.65 feet to the point of beginning. EXCEPTING a parcel of property commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded in Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 89°32'25" East, 75.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.00 feet to the place of beginning.

PARCEL II: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded on Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 89°32'25" East, 75.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.0 feet to the place of beginning.

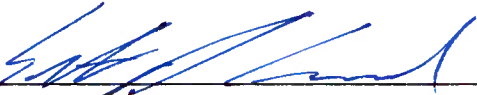
2400 & 2406 SCHUMACHER DR.
MISHAWAKA, IN 46545

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-3 Multi Family Residential and Commercial C-1 District. Said property is currently a vacant wooded lot.

Petitioner desire said real estate to be rezoned to Residential R-3 District.

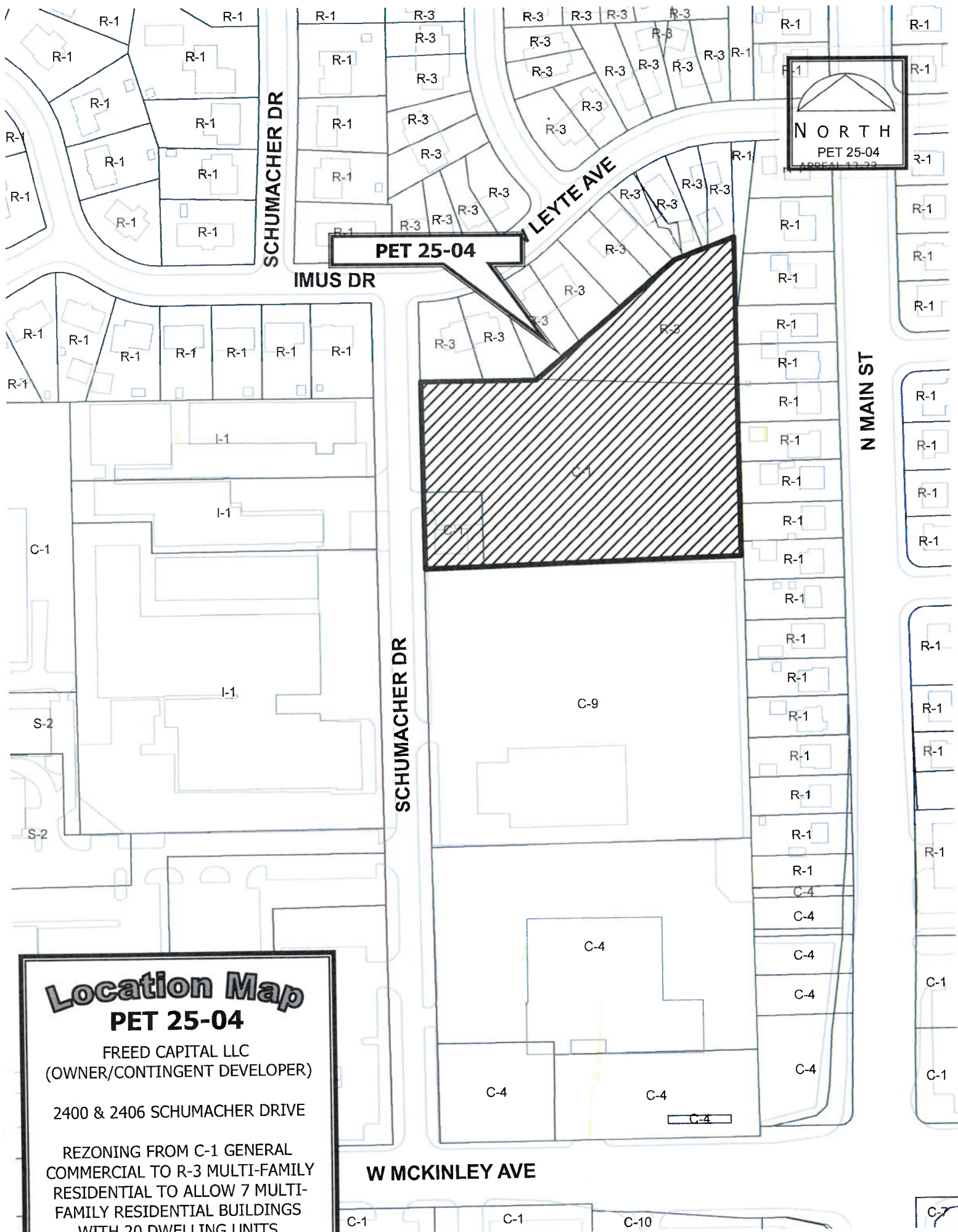
Petitioner further state that they intend to utilize said land for 7 multi family units with access provided by a private street accessing Schumacher Drive.

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.



Freed Capital, LLC
Seth Freed, Member
131 E. Borley Avenue
Mishawaka, Indiana 46545
989-415-7607; 260-234-1965
sfreed@pellani.com

CONTACT PERSON:
Wightman c/o Terry Lang, PS
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
tlang@gowightman.com



Location Map PET 25-04

FREED CAPITAL LLC
(OWNER/CONTINGENT DEVELOPER)

2400 & 2406 SCHUMACHER DRIVE

REZONING FROM C-1 GENERAL
COMMERCIAL TO R-3 MULTI-FAMILY
RESIDENTIAL TO ALLOW 7 MULTI-
FAMILY RESIDENTIAL BUILDINGS
WITH 20 DWELLING UNITS

DATE: 03/19/2025

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

Pet 2505
Received
MAR 19 2025
Planning and
Community Development

RE: PETITION TO REZONE

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

1032 E. Jefferson Blvd. Mishawaka, IN 46545

A said 1 acre tract of land, more or less, in the East Half of the Northwest Quarter of Section 10, Township 37 North Range 3 East, bounded by a line running as follows, viz: Beginning at the center of said Section 10; thence North 330 feet; thence West 132 feet; thence South 330 feet; thence East 132 feet to the place of beginning, now within and part of the City of Mishawaka.

EXCEPTING THEREFROM:

A parcel located in in the Northwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana being more particularly described as follows:

Commencing at the center of said Section 10; thence North 89°18'05" West along the East and West Quarter line of said Section 10 a distance of 132.03 feet; thence North 00°29'49" West a distance of 25.00 feet to the North right-of-way line of Jefferson Boulevard and the point of beginning; thence North 00°29'57" West a distance o 10.00 feet; thence South 89°18'05" East a distance of 112.01 feet to the West right-of-way line of Merrifield Avenue; thence South 00°31'27" East along said West right-of-way line a distance o 10.00 feet to the North right-of-way line of Jefferson Boulevard; thence North 89°18'05" West along said North right-of-way line a distance of 112.02 feet to the point of beginning and said in a prior deed to contain 0.03 acres, more or less.

1023 E. Jefferson Blvd. Mishawaka, IN 46545

A parcel of land being part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana, and being more particularly described as follows:

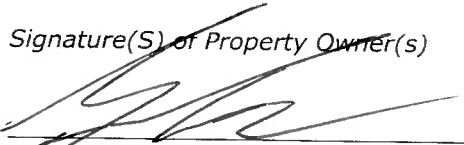
Commencing at the Southwest corner of Lot 6 Bryan's addition to the City of Mishawaka as shown on the recorded plat in the office of the recorder of St. Joseph County, Indiana; thence North 00°51'01" West along the East line of said lot 6, a distance of 4.49 feet to the point of beginning; thence continuing North 00°45'27" West along said East line, a distance of 150.24 feet to a point on of the south right-of-way of Jefferson Boulevard; thence North 90°00'00" East along said North right-of-way line, a distance of 258.52 feet to the West right-of-way line of Merrifield Avenue; thence South 00°55'03" East along said West right-of-way line, a distance of 149.66 feet; thence South 89°52'2" West, a distance of 257.79 feet to the point of beginning.

Petitioner(s) own one hundred (100%) percent of the above-described parcel of land which carries a zoning classification of The NW corner (1032 E Jefferson Blvd.) is split zoned into R-2 Two Family Residential and I-1 Light Industrial. The SW corner (1023 E Jefferson Blvd) I-1 Light Industrial District. Said property 1032 has been used for residential and light industrial use. Said property 1023 had been used for Automobile services (E&T Export Auto LLC) under a grandfathered C-4 use variance which has since expired due to vacancy over a 6th month period.

Petitioner(s) desire said real estate to be rezoned to C-4 Automobile Oriented Commercial District for both 1032 and 1023 E Jefferson Blvd.. Petitioner(s) further state that they intend to utilize said land to expand Greg's Automotive on both 1032 E Jefferson Blvd. and 1023 E Jefferson Blvd.

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 in the City of Mishawaka.

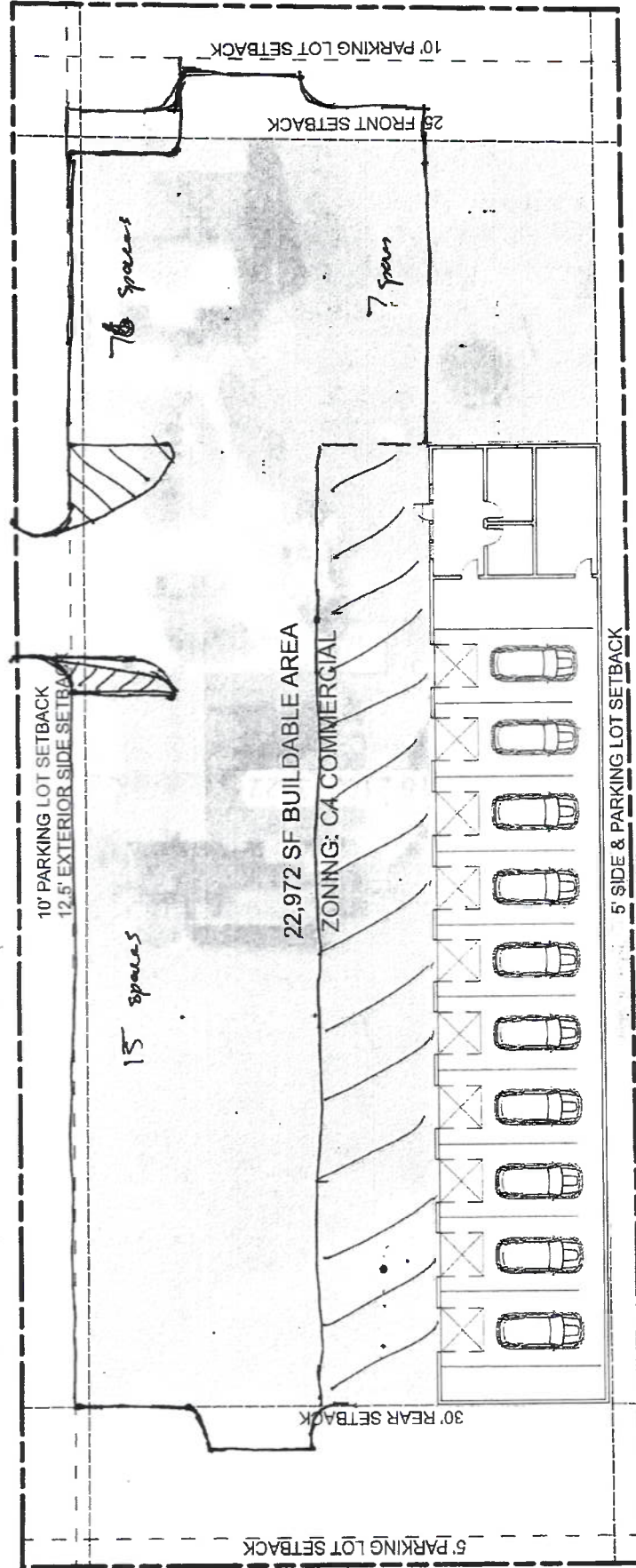
Signature(S) of Property Owner(s)


Grigor Petkov, Petkov and Sons LLC

CONTACT PERSON:

Name: Grigor Petkov
Address: 1102 E Jefferson Blvd.
Day Phone Number: 574-323-7279
Fax Number: n/a
Email: grigormpetkov@yahoo.com

MERRIFIELD AVE.



NW PROPERTY ZONING
SCALE: 1" = 20'-0"

PROJECT # 2216.02
AD
ARKOS
DESIGN

GREG'S AUTO -JEFFERSON EXPANSION
PRELIMINARY SITE PLANS
MARCH 19, 2025

Greg's
AUTOMOTIVE
SALES & SERVICE

JEFFERSON BLVD.

10' PARKING LOT SETBACK

12.5' EXTERIOR SIDE SETBACK

15 spaces

23,380 SF BUILDABLE AREA
ZONING: C4 COMMERCIAL

25' FRONT SETBACK

10' PARKING LOT SETBACK

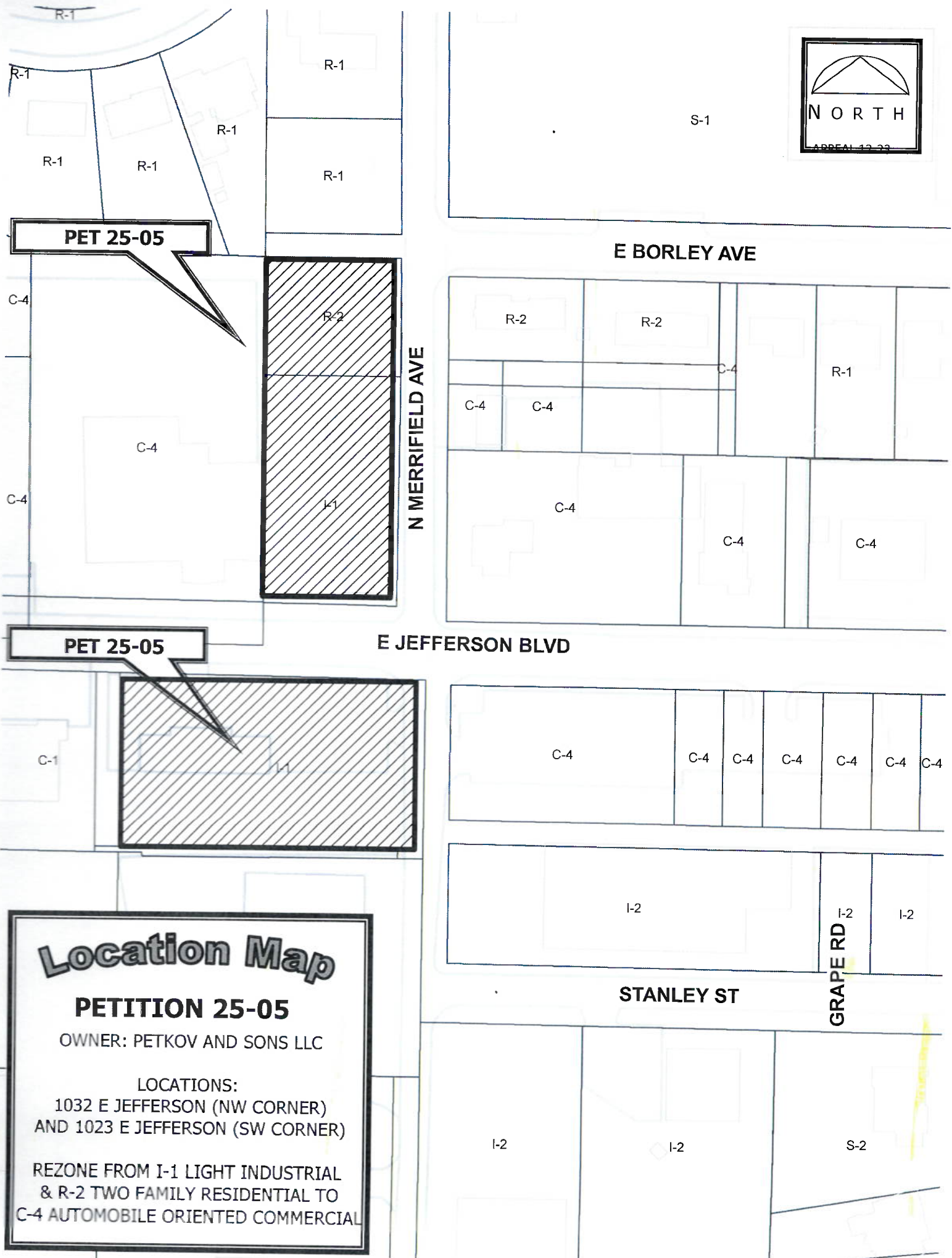
MERRIFIELD AVE.

5' SIDE & PARKING LOT SETBACK

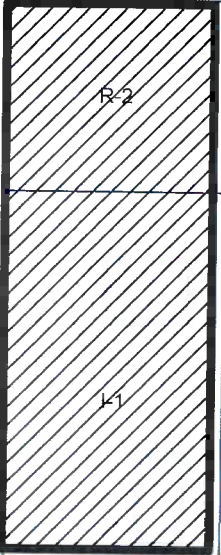
SW PROPERTY ZONING
SCALE: 1" = 20'-0"



GREG'S AUTO -JEFFERSON EXPANSION
PRELIMINARY SITE PLANS
MARCH 19, 2025



PET 25-05



PET 25-05



Location Map

PETITION 25-05

OWNER: PETKOV AND SONS LLC

LOCATIONS:
1032 E JEFFERSON (NW CORNER)
AND 1023 E JEFFERSON (SW CORNER)

REZONE FROM I-1 LIGHT INDUSTRIAL
& R-2 TWO FAMILY RESIDENTIAL TO
C-4 AUTOMOBILE ORIENTED COMMERCIAL

1113 Ann St
Mishawaka IN

This is NOT a fill-in form. It is to be used merely as a GUIDE in preparing your petition.

Pet 25-06

Received

MAR 19 2025

Planning and
Community Development

DATE:

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

RE: PETITION TO REZONE

RDK PROPERTY GROUP LLC
The undersigned ~~(type names(s) of the titleholder(s) of record)~~ 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:

(Give accurate and complete legal description. Tax key numbers and shortened legals alone are not acceptable. Also give the common address or a definitive common location.) **SEE ATTACHED**

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of RI District. Said property is (State the existing use of the real estate).

Petitioner(s) desire said real estate to be rezoned to R1 District. Petitioner(s) further state that they intend to utilize said land for (State the proposed use for the property/ reason for the rezoning).

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

Signature(s) of Property Owner(s)

Typewritten name also

Signature(s) of Property Owner(s)

Typewritten name also

CONTACT PERSON:

NAME **Rob Kolan**
ADDRESS **58192 Windsor Dr Elkhart IN 46517**
PHONE NUMBER **616 886 10417**
FAX
EMAIL **rkolan@yahoo.com**

Identify from:

 Parcels

☐ Parcels

016-2040-1322

Location: 186,499,393 2,339,912,824 Feet

Field	Value
OBJECTID	459771
PARCELID	016-2040-1322
TAXTYPE	R
PARCELSTAT	71-09-09-403-008,000-023
LEGALDESCR	Lot 28 Guilfoyle & Houlihan
PAYYEAR	2026
NAME_1	RDK PROPERTY GROUP LLC
MAILINGADD	58192 Windsong Dr
MAILINGCITY	Elkhart
MAILINGSTATE	IN

Identified 1 feature







1113 Ann St



S-1

S-1



PET 25-06

I-1

I-2

I-1

I-1

I-1

I-1

I-1

I-1

R-1

I-1

I-1

I-2

I-2

R-1

HOWARD ST

ANN ST

Location Map

PET 25-06

RDK PROPERTY
GROUP LLC (OWNER)

1113 ANN ST.

REZONING FROM I-1 LIGHT
INDUSTRIAL TO R-1 SINGLE-
FAMILY RESIDENTIAL FOR AN
EXISTING HOUSE

W MARION ST

R-1

R-1

R-1

ANN ST

R-1

R-1



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
Kenneth B. Prince, ASLA, AICP, Executive Director

March 12, 2025

Deborah S. Block, IAC, MMC

MAR 12 2025

City Clerk
Mishawaka, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
March 11, 2025, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Plan Commission meeting was held on the above date at which time the following petitions were considered:

PETITION #25-01 A request submitted by Savant Investments LLC requesting to rezone 505 Carlton Street from C-1 General Commercial to R-1 Single Family Residential.

The Commission, with a vote of 8-0, recommended approval.

PETITION #25-02 A request submitted by City of Mishawaka requesting to rezone property located in the 400 block of E 10th Street from R-2 Two-Family Residential to I-1 Light Industrial.

The Commission, with a vote of 8-0, recommended approval.

Respectfully,

Donna M Whitt

Donna M Whitt, Administrative Planner
Secretary, Plan Commission

MAR 12 2025

City Clerk
Mishawaka, IN

PETITION 25-01

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 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:

505 Carlton 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:

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.

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. The area to the east and south of the property is zoned R-1 Single Family Residential and rezoning this property would not be incompatible.*
- 2. Current conditions and the character of current structures and uses in each district – The proposed rezoning, R-1 Single Family Residential, would in fact match the look and proposed use of this property. Adjacent land uses primarily include single family with a few neighboring C-1 General Commercial properties and I-1 Light Industrial properties along the railroad tracks.*
- 3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is a single family home. The property does not provide for any off street parking that is generally seen with C-1 zoning even with low intensity businesses.*
- 4. The conservation of property values throughout the jurisdiction – Rezoning this property to the R-1 Single-Family Residential classification will have a favorable and stabilizing*

Proposed Ordinance No: 2025-03

Ordinance No: _____

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 in the surrounding neighborhood. The lot currently does not offer any off street parking so a business in this location creates congested parking on the streets.*

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: 505 Carlton Street

Date: March 11, 2025

Petition: 25 01

Prepared By: DMB

GENERAL INFORMATION

Applicant: Savant Investments LLC / Derek Swisch

Status: Property Owner / Authorized Representative

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: I-1 Light Industrial (Vacant & Single family home)
South: R-1 Single Family Residential (Single family homes)
East: R-1 Single Family Residential (Single family homes)
West: C-1 General Commercial (Single family homes)

Thoroughfare: Carlton Street & W Sixth Street

Council District: 1

School District: School City of Mishawaka

Township: Penn

Public Utilities: All public utilities are available and existing.

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, Savant Investments LLC, is requesting to rezone 505 Carlton Street from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on the corner of W Sixth Street and Carlton Street. The neighborhood is mainly residential south of the property with some neighboring properties to the west zoned C-1. Properties to the north are zoned I-1 Light Industrial and these properties border the railroad tracks.

The property has been zoned C-1 General Commercial. The house has been recently used as an attorney's office in the southern portion of the house and for personal use on the northern portion. The petitioner purchased the house in the fall of 2024 and it is currently vacant. The petitioner plans to rehab the home

Pertinent City Departments have reviewed and approved the request.

RECOMMENDATION

The Planning Department recommends **approval** of Petition #25-01 to rezone 505 Carlton 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. The area to the east and south of the property is zoned R-1 Single Family Residential and rezoning this property would not be incompatible.
2. Current conditions and the character of current structures and uses in each district – The proposed rezoning, R-1 Single Family Residential, would in fact match the look and proposed use of this property. Adjacent land uses primarily include single family with a few neighboring C-1 General Commercial properties and I-1 Light Industrial properties along the railroad tracks.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is a single family home. The property does not provide for any off street parking that is generally seen with C-1 zoning even with low intensity businesses.
4. The conservation of property values throughout the jurisdiction – 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 in the surrounding neighborhood. The lot currently does not offer any off street parking so a business in this location creates congested parking on the streets.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP



Aerial



Facing south from W Sixth Street



Facing west from Carlton Street



Facing north from alley off of Carlton Street



Facing northwest from Carlton Street

DATE: February 18th, 2025

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

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

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.



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

WRITTEN AUTHORIZATION

Savant Investments LLC
505 Carlton St
Mishawaka, IN 46544

Date: February 18th, 2025

I, Scott Bischoff, Manager of Savant Investments LLC, hereby authorize Derek Swisch to act as my representative for the purposes of petitioning to rezone the property located at 505 Carlton St, Mishawaka, IN 46544.

This authorization includes, but is not limited to, submitting rezoning applications, attending meetings, and signing any necessary documents on behalf of Savant Investments LLC.



Scott Bischoff, Manager
Savant Investments LLC

Notary Public:

State of Arizona
County of Maricopa

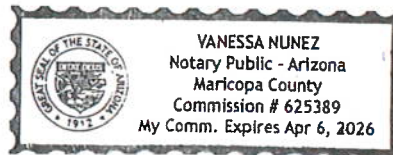
On this 18th day of February, 2025, before me, the undersigned Notary Public, personally appeared Scott Bischoff, Manager of Savant Investments LLC, and acknowledged the execution of the foregoing instrument as his/her/their voluntary act and deed.

Witness my hand and official seal.

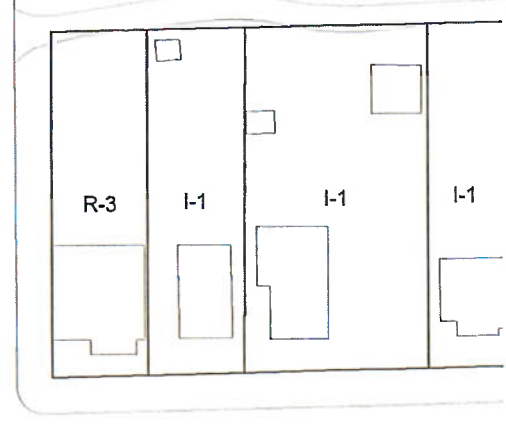
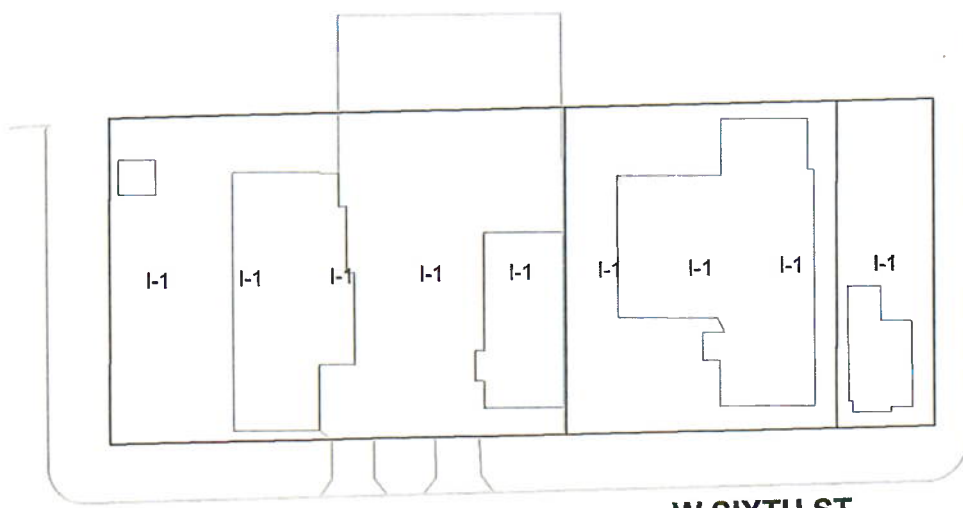
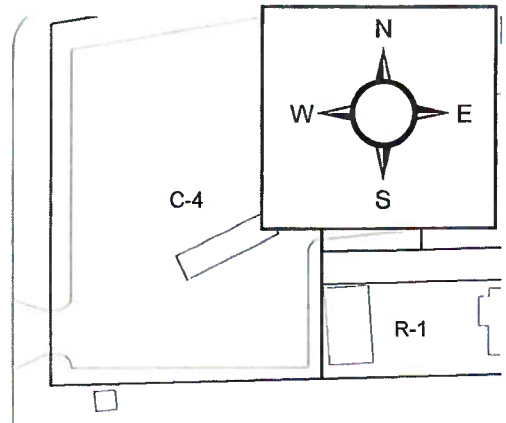
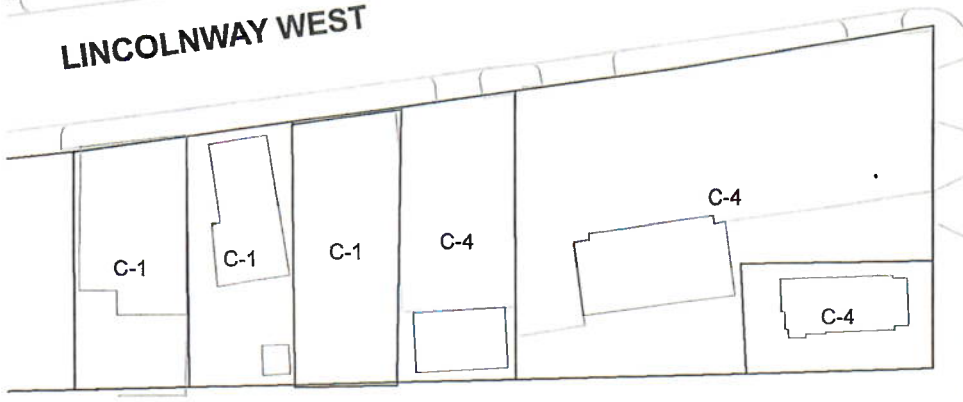


Notary Public

My commission expires: 04/06/2026

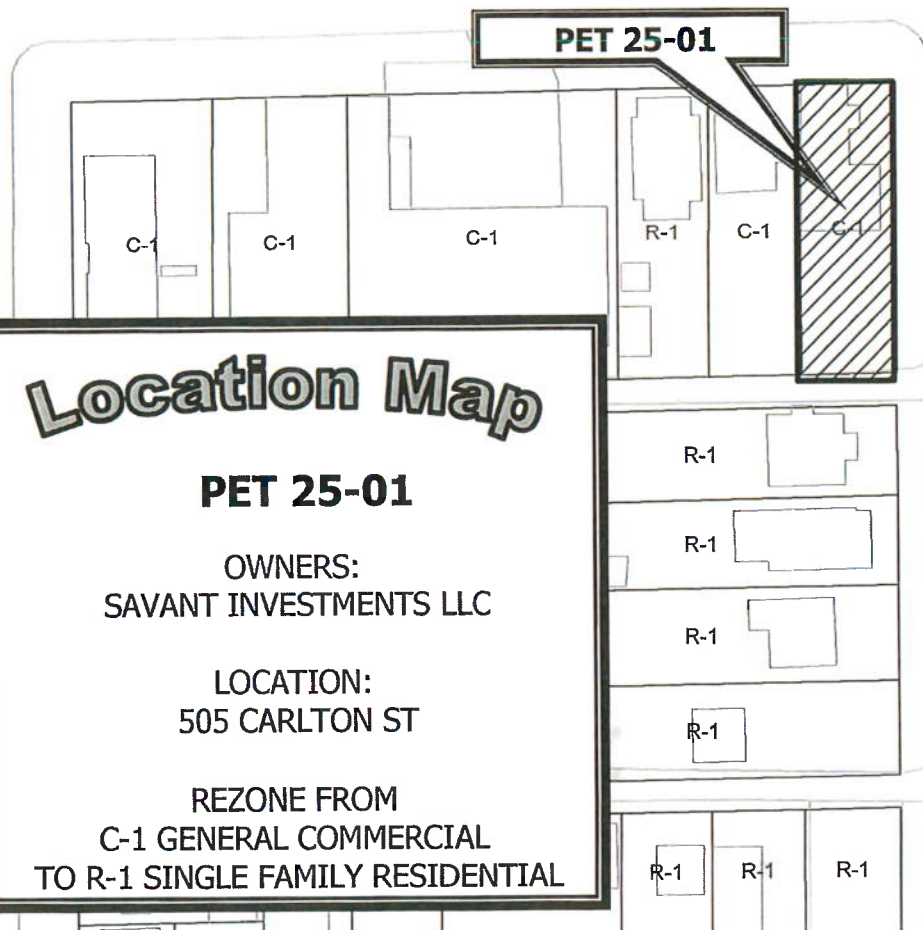


LINCOLNWAY WEST

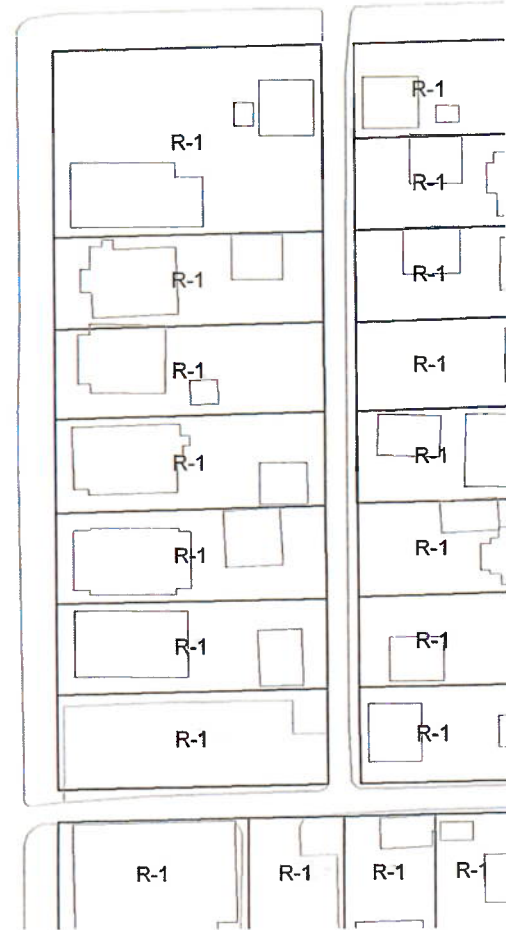


W SIXTH ST

PET 25-01



CARLTON ST



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

MAR 12 2025

City Clerk
Mishawaka, IN

PETITION 25-02

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2025-04

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:

Property located in the 400 block of East 10th Street

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:

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

which real estate is now classified as R-2 Two-Family Residential shall hereafter be within and a part of that District known as I-1 Light Industrial designated in "The Zoning Ordinance of 1966" as amended.

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

- 1. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, recommended industrial use within this property. The proposed land use is consistent with the existing adjacent industrial use and will only be used for inside storage.*
- 2. Existing Conditions – The subject property of one vacant parcel will be combined with the adjacent parcel already zoned I-1 Light Industrial. Adjacent land uses include Heavy Industrial, Automotive Repair, and Residential. Character of Buildings – The character of the buildings in the area are industrial to the north, two-family residential to the east, single-family homes (zoned R-2) to the south, and C-4 auto-oriented to the west.*
- 3. The most desirable/highest and best use – Because of the parcel's location adjacent to residential and an industrial uses, the most desirable use for the property is either Two-Family Residential or a low impact Light Industrial.*
- 4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area since it is compatible with the existing adjacent uses. Additionally, the site shall comply with all screening and landscaping requirements along property lines that are contiguous to residentially zoned properties.*

Proposed Ordinance No: 2025-04

Ordinance No: _____

5. *Responsible development and growth - The proposed change (low intensity) is desirable given the varied existing uses and zoning in the area. The proposed use will not have street parking. Lots will be secured with fencing.*

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: Vacant Lot West of 444 East Tenth Street

Date: March 11, 2025

Petition: 25- 02

Prepared By: SA

GENERAL INFORMATION

Applicant: City of Mishawaka

Status: Property Owner

Request: To rezone from R-2 Two-Family Residential District to I-1 Light Industrial to allow for the construction of a Mishawaka-Penn-Harris-Library storage facility

Zoning Classification: R-2 Single Family Residential

Lot Size: 0.29 acres

Applicable Regulations: Section 137-585 thru 137-587 / I-I Light Industrial District, Section 137-41 / Amendments to the Zoning Map, Indiana Code Section 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: I-2 Heavy Industrial (City of Mishawaka Central Services)
South: R-2 Two-Family Residential (Single-Family Residential)
East: R-2 Two-Family Residential (Two-Family Residential/Barbee Creek Village)
West: I-1 Light Industrial District (Access Drive)

Thoroughfare: East Tenth Street

Council District: 1

School District: School City of Mishawaka

Township: Penn Township

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

Comprehensive Plan: Industrial

ANALYSIS

The Petitioner, the City of Mishawaka, is requesting to rezone an approximate 0.29 acre parcel located in the 400 block of East Tenth Street from R-2 Two-Family Residential to I-1 Light Industrial. This would allow for the construction of a Mishawaka-Penn-Harris Public Library storage facility (*low intensity*) with some limited parking south of the City of Mishawaka's Central Services Facility.

The site is comprised of two separate parcels, one of which is already zoned I-1. The west parcel (Parcel ID 016-1134-525901) zoned I-1 has an access drive for Central Services. The east parcel (Parcel ID 016-1134-5259) is currently zoned R-2 and is a vacant lot.

The Common Council approved Resolution No. 2025-05, which authorizes the City of Mishawaka Redevelopment Commission to enter a lease agreement with an option to buy with the Mishawaka-Penn-Harris Public Library. Per the conceptual site plan submitted with the rezoning petition, the applicant is proposing to construct a 40' x 80' storage facility with some limited parking that will tie the two parcels together. Access to the storage building will be provided by the existing access drive on the west parcel. The east property line will have landscape screening facing residential zoning. A new fence will be erected around the entire site and tied to Central Services fence to the north. While there will be a sliding gate on East Tenth Street, the site will be accessed from Central Services.

With this petition, the applicant is only seeking to establish the proper zoning required for the proposed use. If approved, a detailed final administrative site plan shall be submitted for Staff review. The final administrative site plan shall address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Since the site is located next to an auto repair service zoned C-4 Auto-Oriented Commercial to the west, Central Services zoned I-2 for heavy industrial use to the north, and R-2 Two Family Residential to the east and south, the Staff supports the request for rezoning for this low intensity use. The proposed storage facility is not out of character, and with the required screening and landscaping, is compatible with the existing adjacent land uses.

The Fire, Electric, Engineering, Building, and Water Departments have reviewed and approved the rezoning request providing no additional comments.

The Planning Department had no comments related to the rezoning but has provided the following comment: 7' landscaping screening and opaque fence is required along the east property line next to residential zoning.

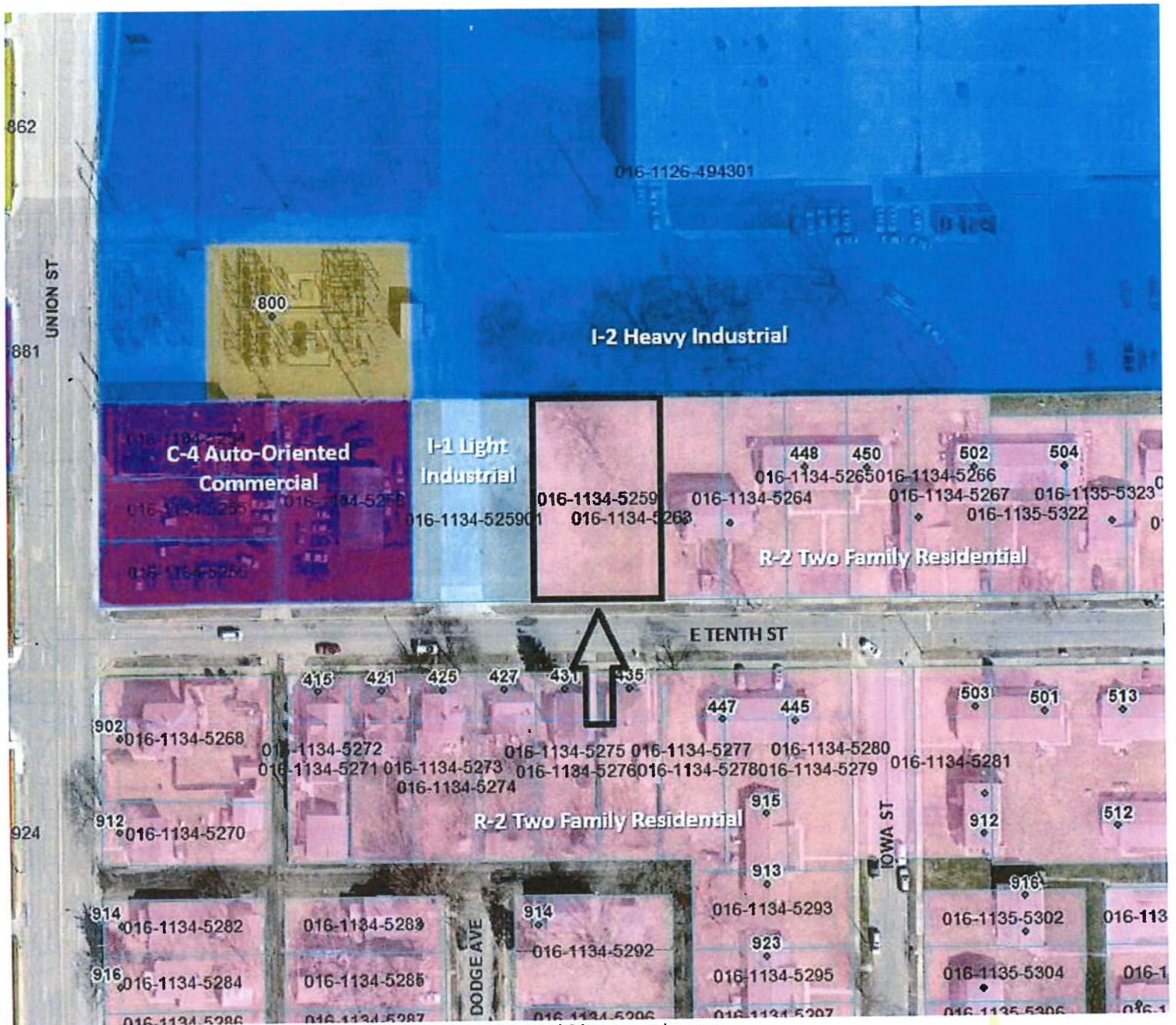
RECOMMENDATION

Staff recommends in **favor** of rezoning Petition 25-02 to rezone approximately 0.29 acres located in the 400 block of East Tenth Street from R-2 Two-Family Residential to I-1 Light Industrial to allow for the construction of a Mishawaka-Penn-Harris-Library storage facility per Indiana Code Section 36-7-4-603. This recommendation is based on the following findings of fact:

1. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, recommended industrial use within this property. The proposed land use is consistent with the existing adjacent industrial use and will only be used for inside storage.
2. Existing Conditions – The subject property of one vacant parcel will be combined with the adjacent parcel already zoned I-1 Light Industrial. Adjacent land uses include Heavy Industrial, Automotive Repair, and Residential. Character of Buildings – The character of the buildings in the area are industrial to the north, two-family residential to the east, single-family homes (zoned R-2) to the south, and C-4 auto-oriented to the west.
3. The most desirable/highest and best use – Because of the parcel's location adjacent to residential and an industrial uses, the most desirable use for the property is either Two-Family Residential or a low impact Light Industrial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area since it is compatible with the existing adjacent uses. Additionally, the site shall comply with all screening and landscaping requirements along property lines that are contiguous to residentially zoned properties.
5. Responsible development and growth - The proposed change (low intensity) is desirable given the varied existing uses and zoning in the area. The proposed use will not have street parking. Lots will be secured with fencing.

ATTACHMENTS

Aerial Photograph with Zoning, Photographs, Conceptional Site Plan & Elevations, Petition, Location Map



Aerial Photograph



North facing from East Tenth Street



East facing from the access drive



West facing from the access drive



North facing from East Tenth Street

MISHAWAKA

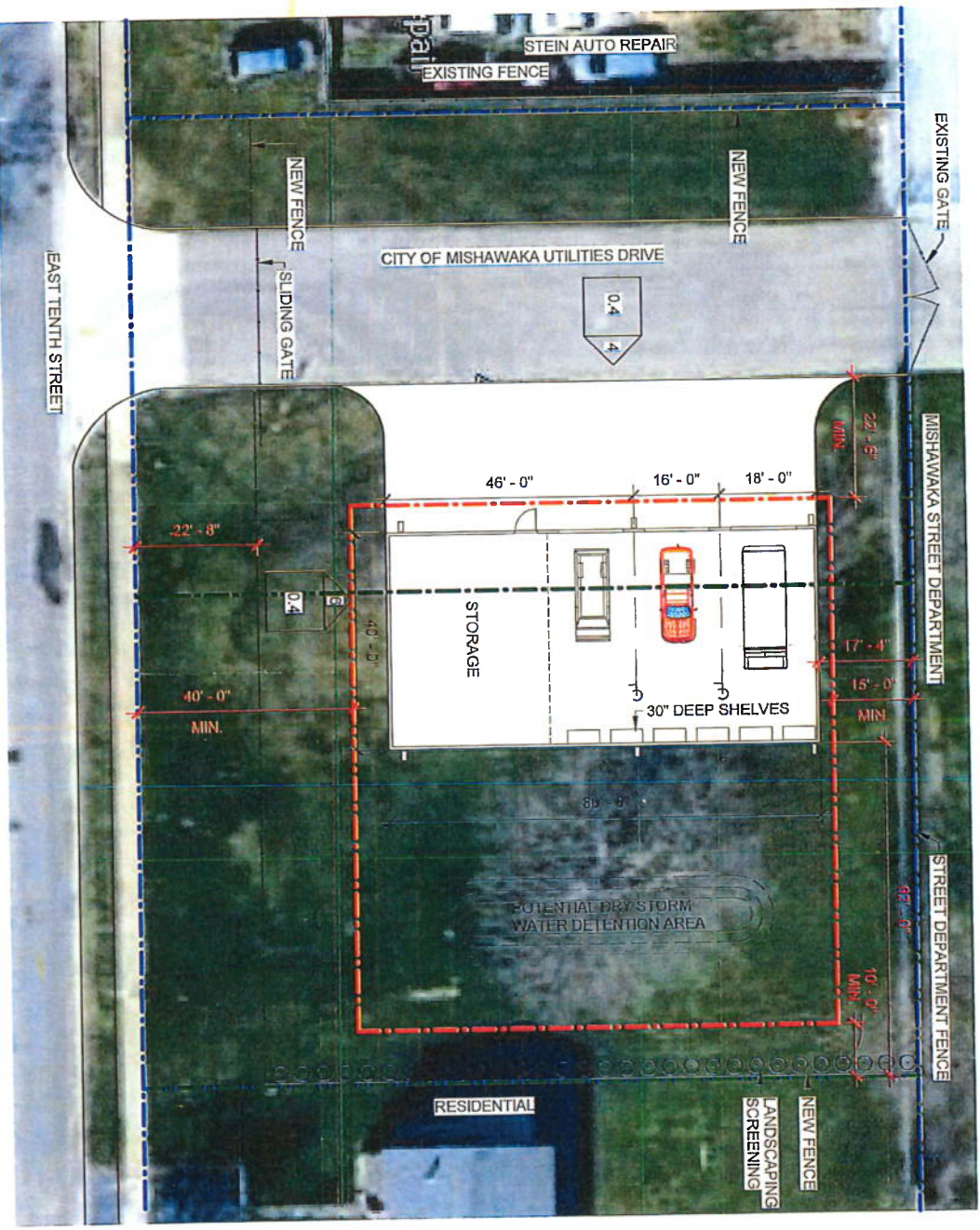
MISHAWAKA-PENN-HARRIS PUBLIC LIBRARY
CAPITAL IMPROVEMENTS - 2020 GENERAL OBLIGATION BOND
NEW VEHICLE STORAGE OPTION 2 - FLOOR PLAN

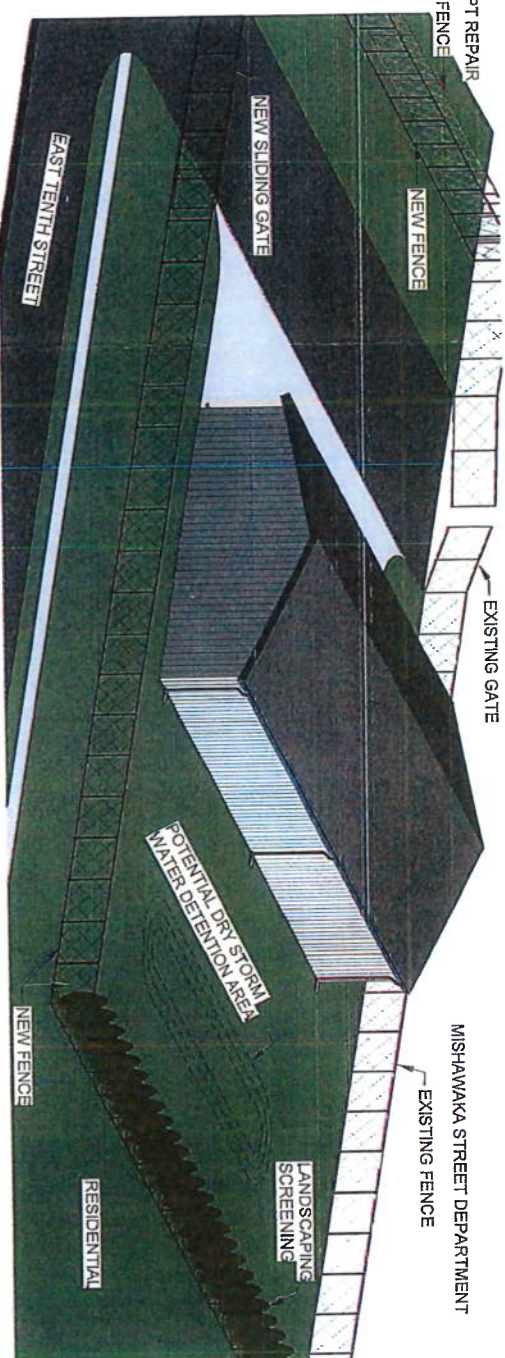
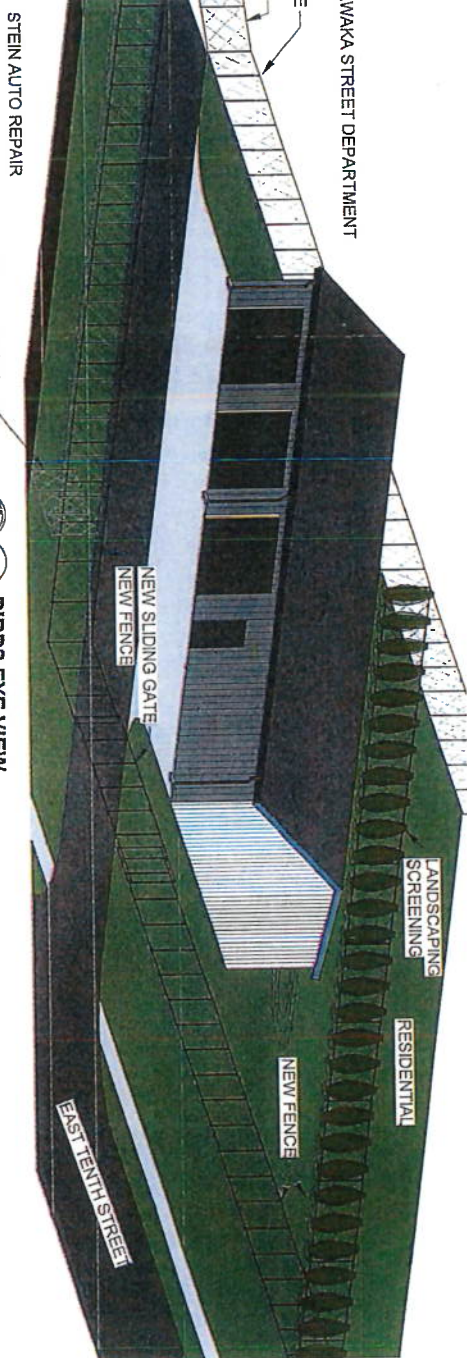
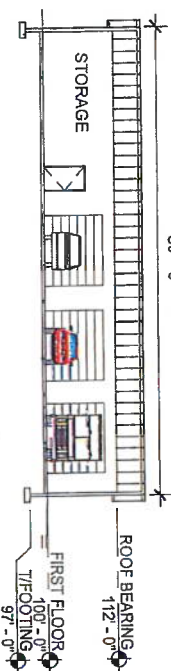
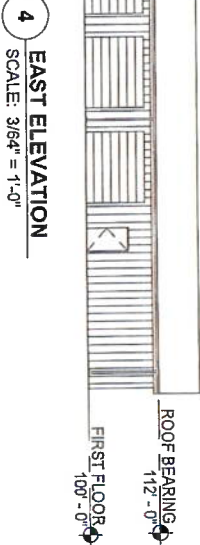
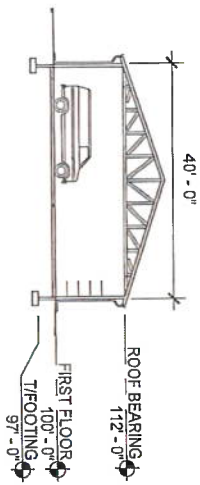
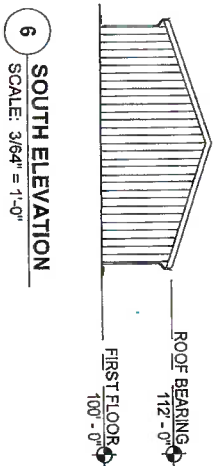
INDIANA	DATE	SKETCH NUMBER
	JANUARY 2024	0.3
	PROJECT NUMBER	
	2161-4766-30	

1 FIRST FLOOR PLAN
SCALE: 3/64" = 1'-0"
NORTH



- KEY PLAN**
- PROPERTY LINES
 - SET BACKS
 - LOT LINE





Date: February 19, 2025

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

Feb 25-02

Received

FEB 19 2025

Planning and
Community Development

RE: PETITION TO REZONE

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

Lots 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

R-1

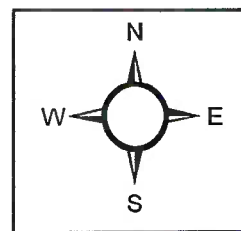
R-1

C-4

C-1

C-1

UNION ST



I-2

S-1

PET 25-02

C-4

C-4

C-4

C-4

I-1

R-2

R-2

R-2

R-2

R-2

R-2

E TENTH ST

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

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

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

R-2

E ELEVENTH ST

IOWA ST

1st Reading 3-10-25
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, AMC, MMC

MAR 05 2025

City Clerk
Mishawaka, IN

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-35

ORDINANCE NO. _____

AS AMENDED

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

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, 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

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~~ County is-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 bulk 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.

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
- 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~~ 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

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.

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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.

Gregg Hixenbaugh - President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

STAFF REPORT

Location: 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.

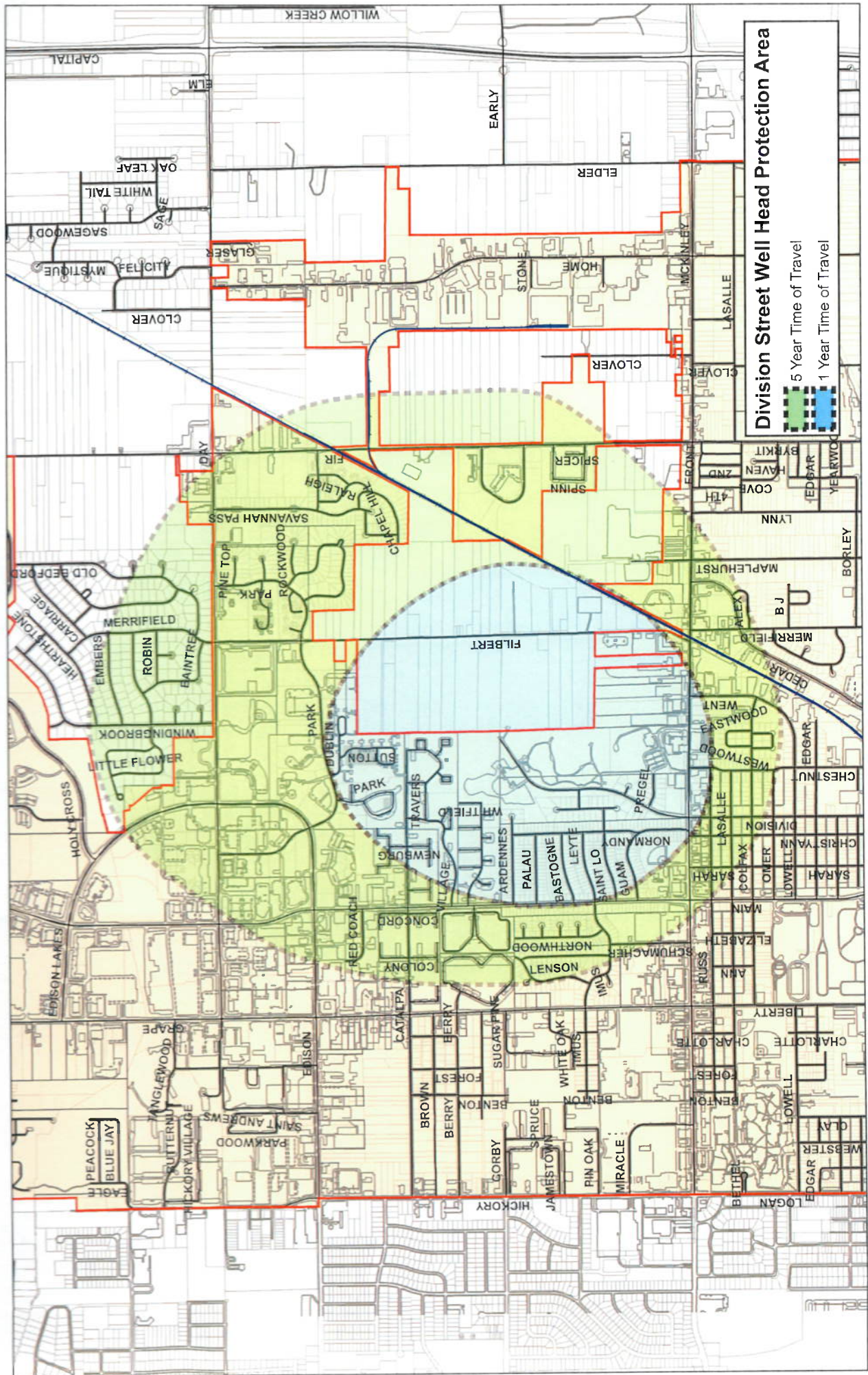
Area Calculations for all Wellhead Protection Areas

	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.



Division Street Well Head Protection Area

5 Year Time of Travel
1 Year Time of Travel

