



AGENDA

April 14, 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): 2346 678 2159
Meeting password: pXsF3GSCU37

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: 23466782159@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of March 24, 2025

5. Petitions, Communications, Remonstrance and Memorial

A letter from the Board of Zoning Appeals regarding their recommendations from their April 08, 2025 meeting.

A letter from the City Plan Commission regarding their recommendations from their April 08, 2025 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2025-05 Establishing Responsible Bidding Practices
& Submission Requirements for Public Work
Projects

P.O. No. 2025-06 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)

P.O. No. 2025-07 Rezone from R-1 Light Industrial to R-1
Single Family Residential for an Existing
House - 1113 Ann St.

P.O. No. 2025-08 Establishing Mishawaka Utilities Water and
Sewer Service Boundaries

P.O. No. 2025-09 **Transfer:**

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

2203-50-442-01 Street Repair \$1,271,670.0

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

2404-50-436-03 Street Repair \$1,271,670.00

Additional Appropriation:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

2404-50-436-03 Street Repair \$2,543,340.00

P.O. No. 2025-10 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.

8. Resolutions

R2025-06 Use Variance to allow for an Assembly
Hall/Event Center/Banquet Hall in C-2
Shopping Center Commercial District - 526 W.
McKinley

R2025-07 Use Variance to allow for Outside Storage
for Landscape Materials - 2019 & 2001
Lincolnway West

R2025-08 Adding properties to the City Acquisition
List

R2025-09 Affirming a Strong Local Government & the
Critical Role of Property Taxes in Funding
Core Services

9. Ordinances on Second Reading

- P.O. No. 2025-03 Rezone from C-1 General Commercial to R-1
Single Family - 505 Carlton St.
(Assigned to Land use Planning Committee)
- P.O No. 2025-04 Rezone from R-2 Two-Family Residential to
I-1 Light Industrial - 400 Block of E. 10th
St.
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

Mayor's State of the City Address

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 24, 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 24, 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 appeals and petitions by title.

- | | |
|-----------------------------|--|
| Appeal No. 2025-07 | Use Variance to allow for an 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 Buildings 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.

Clerk Block read a letter from the City Plan Commission regarding their recommendations from their March 11, 2025 meeting.

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

PROPOSED ORDINANCE NO. 2025-03

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

**Rezone from C-1 General Commercial to R-1 Single Family – 505 Carlton St.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2025-04

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

**Rezone from R-2 Two Family Residential to I-1 Light Industrial – 400 Block of E. 10th St.
(Assigned to Land Use Planning Committee)**

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

PROPOSED ORDINANCE NO. 2024-35AA

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

Mr. Hixenbaugh stated at that time, in order to afford the Council, the opportunity to hold a separate informational meeting on the proposed ordinance, the chair entertained a motion to postpone second reading and public hearing on **PROPOSED ORDINANCE NO. 2024-35AA** until their regularly scheduled meeting on Monday, April 28th 2025. Mr. Banicki moved the motion and with a second from Mrs. Voelker, a voice vote was held on the motion. The motion passed unanimously, and Mr. Hixenbaugh stated for the record, he was pleased to announce that the informational meeting would be conducted on Thursday, April 24th 2025 at 6PM in the

Council at which time, the public would hear more about the proposed ordinance and its impact on the community.

ADJOURNMENT 6:08PM

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

DAVID A. WOOD, MAYOR

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

April 9, 2025

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
April 8, 2025, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above date at which time the following Use Variances was considered:

APPEAL #25-07 An appeal submitted by M & A Property LLC requesting a Use Variance for 526 W McKinley Avenue, Mishawaka, IN, to allow for an Assembly Hall/Event Center/Banquet Hall in the C-2 Shopping Center Commercial District.

The Board, with a vote of 3-0, provided a favorable recommendation.

APPEAL #25-08 An appeal submitted by Jessica A Bauer requesting a Use Variance for 2019 & 2001 Lincolnway West, Mishawaka, IN, to allow for outside storage of Landscaping Materials.

The Board, with a vote of 3-0, provided a favorable recommendation.

Respectfully,

A handwritten signature in blue ink that reads "Donna M Whitt".

Donna M Whitt, Administrative Planner
Secretary, Board of Zoning Appeals



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

April 9, 2025

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
April 8, 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:

PET #25-03 A request submitted by Henry Carolyn A Living Trust/Robert Henry, Executor requesting to rezone 115 Virginia Street from C-1 General Commercial to R-1 Single Family Residential for an existing house.

The Commission tabled Petition #25-03 to the May 13, 2025 meeting.

PET #25-04 A request submitted by Freed Capital LLC requesting to rezone 2400 & 2406 Schumacher Drive from C-1 General Commercial to R-3 Multi-Family Residential to allow 7 Multi-Family Residential Buildings with 20 Dwelling Units.

The Commission, with a vote of 4-5, provide an unfavorable recommendation.

PET #25-05 A request submitted by Petkov and Sons LLC requesting to rezone 1023 & 1032 E Jefferson Blvd from I-1 Light Industrial and R-2 Two-Family Residential to C-4 Automobile Oriented Commercial.

The Commission, with a vote of 9-0, recommended approval.

PET #25-06 A request submitted by RDK Property Group LLC requesting to rezone 1113 Ann Street from I-1 Light Industrial to R-1 Single Family Residential for an existing house.

The Commission, with a vote of 9-0, recommended approval.

Respectfully,

Donna M Whitt

Donna M Whitt, Administrative Planner
Secretary, Plan Commission

APR 10 2025

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2025-05
ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL FOR THE CITY OF MISHAWAKA
ESTABLISHING RESPONSIBLE BIDDING PRACTICES AND SUBMISSION
REQUIREMENTS FOR PUBLIC WORKS PROJECTS**

WHEREAS, the City of Mishawaka, Indiana ("City") is subject to the requirements of I.C. 36-1-12 (*Public Work Projects*) with respect to all public work performed or contracted for, as defined by this statute; and

WHEREAS, I.C. 36-1-12-2 (*Definitions*) specifically defines the term "public work" to include: (a) the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or special assessment; (b) the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or special assessment; and (c) any public work leased by the City under a lease containing an option to purchase; and

WHEREAS, I.C. 36-1-12-4 (*Bidding Procedures for Projects Costing More Than a Certain Amount*) requires the City to award a contract for public works projects or improvements to the lowest responsible and responsive bidder as a general matter. However, this same statute also authorizes the City to instead award the contract to a bidder other than the lowest bidder following consideration of whether a low bidder is responsible based upon the following factors: (a) the ability and capacity of the bidder to perform the work; (b) the integrity, character, and reputation of the bidder; and (c) the competence and experience of the bidder; and

WHEREAS, it is in the best interests of the community to further define the term "responsible bidder" in the context of a public works project; and

WHEREAS, the adoption of an ordinance that further defines a responsible bidder will help to preserve administrative resources and better ensure that only qualified contractors and subcontractors are awarded contracts on public works projects; and

WHEREAS the adoption of an ordinance that further defines a responsible bidder will better ensure the efficient use of taxpayer dollars and promote quality workmanship, efficiency, safety, and the timely completion of said public works projects.

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

Section 1. This Ordinance shall apply when:

- A. The City intends to enter into a contract for a public works project, consistent with the definition of a public works project set out in I.C. 36-1-12; and
- B. The estimated cost of the project will be at least Three Hundred Thousand and 00/100 Dollars (\$300,00.00).

Section 2. Bid Submission Requirements. Contractors proposing to submit bids on any City public works project when the estimated cost of the project will be at least Three Hundred Thousand and 00/100 Dollars (\$300,000.00) shall, prior to the opening of bids, submit a statement made under oath which meets the requirements of this Ordinance and is subject to perjury, on a form designated by the City and must include as part of the bid the following:

- A. A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply.
- B. A list identifying all former business names.
- C. Any determinations by a court or governmental agency finding violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts.
- D. A statement on staffing capabilities, including labor sources.
- E. Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates are not required for apprentice-able crafts dedicated exclusively to the transportation of material and equipment to and from the public works project. The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. The City, at its discretion, may request additional evidence of participation and graduation requirements.
- F. A copy of a written plan for employee drug testing that: (1) covers all employees of the bidder who will perform work on the public works project; and (2) meets, or exceeds, the requirements set forth in I.C. 4-13-18 (*Drug Testing of Employees of Public Works Contractors*).
- G. The name and description of the management experience of each of the bidder's project managers and superintendents that the bidder intends to assign to work on the project.
- H. Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, office or manager employed by the bidder.
- I. Evidence that the bidder is utilizing a surety company on the United States Department

of Treasury's Listing of Approved Sureties.

- J. Disclosure of any federal, state, or local tax liens or tax delinquencies owed to any federal, state, or local taxing body in the last five years.
- K. A statement that individuals who will perform work on the public works project on behalf of the bidder will be properly classified as either (1) an employee or (2) an independent contractor, consistent with the requirements of all applicable state and federal laws and local ordinances.
- L. A list of projects of comparable size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due.
- M. Certification that the bidder and all subcontractors are qualified under the terms of I.C. 4-13.6-4 (*Qualification for State Public Works Projects*) or I.C. 8-23-10 (*Qualifications of Bidders for Contracts*).
- N. A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

The City reserves the right to demand supplemental information from the bidder, additional verification of any of the information provided by the bidder and may conduct random inquiries of the bidder's current and prior customers.

Section 3. Post-Bid Submissions from Subcontractors.

- A. Each subcontractor of any tier shall be required to adhere to the requirements of Section 2 of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the City prior to the subcontractor's first day of work on the public works project.
- B. Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute contractual default or breach on the part of the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the City. Additionally, the City may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.
- C. The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the City written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all the obligations of a subcontractor under this Ordinance.

Section 4. Validity of Pre-Qualification Classification.

- A. Upon designation by the City that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the City, the bidder or subcontractor may be pre-qualified for future City public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements

contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for the continuation of pre-qualified standing, on a form provided by the City, (i.e., a "short form") by December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of pre-qualified standing shall result in automatic removal of the designation effective January 1 of the upcoming year. However, the removed bidder or subcontractor shall still be permitted to bid on or perform work on City public works projects.

- B. Any material changes to a contractor's status, at any time, must be reported to the City in writing within ten (10) days of its occurrence. The pre-qualification designation is solely within the discretion of the City and the City specifically reserves the right to change or revoke the designation for a stated written reason(s).
- C. The City's denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor losing pre-qualification status may request reconsideration of the decision by submitting such a request in writing to the City within five (5) business days of receipt of notice of denial.

Section 5. Incomplete Submissions by Bidders. It is the sole responsibility of the bidder to comply with all submission requirements herein by no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the City shall result in the automatic disqualification of the bid.

Section 6. Responsible Bidder Determination. After its review of complete and timely submissions and after considering all of the information submitted by each bidder, including, but not limited to the information required by Section 2 of this Ordinance (with no single factor being deemed to be outcome determinative), the City shall, in its sole discretion, determine whether a bidder or subcontractor is responsible. The City reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by the City through its own independent verification of the information provided.

Section 7. Public Records. All information submitted by a bidder or a subcontractor pursuant to this Ordinance is a public record subject to review pursuant to the Indiana Access to Public Records Act (I.C. 5-14-3).

Section 8. Penalties for False, Deceptive, or Fraudulent Statements/Information. Any bidder or subcontractor that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the City shall be disqualified from bidding or working on all City projects for a period of three (3) years.

Section 9. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 10. Severability. If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination; such provisions shall remain in full force and effect.

Section 11. This Ordinance shall be in full force and effect from and after its passage,

attestation, and any required 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, 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

APR 09 2025

City Clerk
Mishawaka, IN

1st Reading

2nd Reading

Passed

Failed

Continued To

PETITION 25-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2025-06

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:

1023 & 1032 E Jefferson Boulevard, 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:

1032 E Jefferson Blvd, Mishawaka, Indiana

A said 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 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 the 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 of 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 of 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, Indiana

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

Proposed Ordinance No: 2025-06

Ordinance No: _____

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 the south right of way of Jefferson Boulevard; thence North 90°00'00" East along said North right of way line, 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.

which real estate is now classified as I-1 Light Industrial and R-2 Two-Family Residential shall hereafter be within and a part of that District known as C-4 Automobile Oriented Commercial 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 2000 Mishawaka Comprehensive Plan which identifies the area as Commercial and Industrial. However, the area has developed as automobile oriented uses in recent years.*
2. *Current conditions and the character of current structures and uses in each district – This section of East Jefferson Boulevard, is predominately automobile oriented uses, starting with Jordan at Cedar Road and including Victory Auto, Michiana Auto Glass, Top Gear Auto Sales, Fred's Body Shop, and Pilo's Body Shop. The character of the buildings along East Jefferson Boulevard are predominantly automobile oriented or contractor's offices.*
3. *The most desirable use for which the land in each district is adopted – Because the parcels are surrounded by automobile oriented uses, zoning to the C-4 Automobile Oriented Commercial District is a desirable use for this property;*
4. *The conservation of property values throughout the jurisdiction – The proposed rezoning should not be injurious to property values in the surrounding area as the majority of the property is currently zoned C-4 Automobile Oriented Commercial. A screening fence shall be required along the north property line (1032 E Jefferson Blvd) to buffer the adjacent residential property.*
5. *Responsible development and growth - The proposed change is desirable given the existing uses in the area.*

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 2025-04

Ordinance No: _____

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: 1023 & 1032 E Jefferson Boulevard

Date: April 8, 2025

Petition: 25 05

Prepared By: DMW

GENERAL INFORMATION

Applicant: Petkov & Sons LLC/Arkos

Status: Property Owners/Architect

Request: Rezone from I-1 Light Industrial and R-2 Two Family Residential to C-4 Automobile Oriented Commercial District

Zoning Classification: I-1 Light Industrial (1032 & 1023 E Jefferson Blvd) and R-2 Two Family Residential (1032 E Jefferson Blvd)

Lot Size: 1.64 acres

Applicable Regulations: Sec. 137-40 Plan Commission;
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map;
Sec. 137-379 thru 137-380 C-4 Automobile Oriented Commercial District;
Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: I-1 Light Industrial (Technical Repair Services & Wilco)
East: C-4 Auto Oriented Commercial (Greg's Automotive)
West: C-4 Auto Oriented Commercial (Quality Automotive) & C-1 General Commercial (Pilo's Body Shop)

Thoroughfare: East Jefferson Boulevard and North Merrifield Avenue

Council District: 5

School District: School City of Mishawaka

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

Comprehensive Plan: Commercial (1032 E Jefferson) & Industrial (1023 E Jefferson)

ANALYSIS

The Petitioner is requesting to rezone the above referenced properties from I-1 Light Industrial (1032 & 1023 E Jefferson Blvd) and R-2 Two Family Residential (1032 E Jefferson Blvd) to C-4 Automobile Oriented Commercial District. The property at 1032 E Jefferson Blvd is located at the northwest corner of East Jefferson Boulevard and North Merrifield Avenue and 1023 E Jefferson Blvd is located at the southwest corner of the same intersection.

The property located at 1032 E Jefferson Blvd is split zoned with the northern 100 feet being zoned R-2 Two Family Residential and the remaining southern portion of the lot being zoned I-1 Light Industrial. The request is to rezone the entire parcel to C-4 Automobile Oriented Commercial. The property on the

northwest corner was previously used as a house. The southwest corner historically was auto related (lost non-conforming status due to being vacant for six months).

The properties will need to meet the C-4 Automobile Oriented Commercial District standards. Property at 1032 E Jefferson will need screening/buffering on the north portion of the parcel that borders the R-1 Single Family Residential zoning.

The reason for the change to C-4 Automobile Oriented Commercial District is to allow the expansion of Greg's Autos to the east. With this petition the property owner is only seeking to establish the property zoning for the proposed automobile use. Preliminary drawings were submitted with the request. A detailed final site plan will address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development.

Other pertinent City Departments reviewed and approved the request.

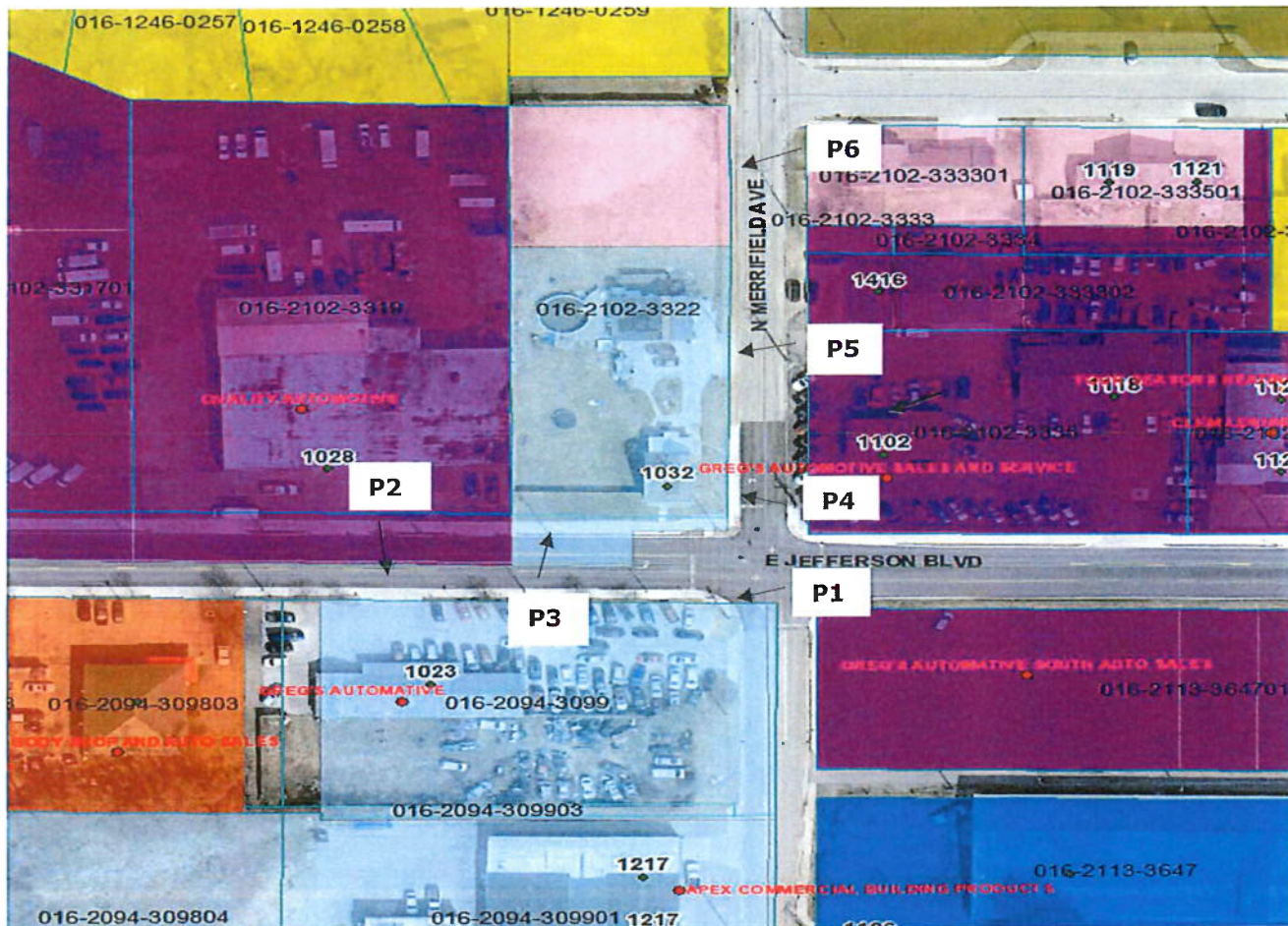
RECOMMENDATION

The Planning Department recommends **in favor** of Petition #25-05 to rezone the properties located at 1023 & 1032 E Jefferson Blvd to C-4 Automobile Oriented Commercial 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 2000 Mishawaka Comprehensive Plan which identifies the area as Commercial and Industrial. However, the area has developed as automobile oriented uses in recent years.
2. Current conditions and the character of current structures and uses in each district – This section of East Jefferson Boulevard, is predominately automobile oriented uses, starting with Jordan at Cedar Road and including Victory Auto, Michiana Auto Glass, Top Gear Auto Sales, Fred's Body Shop, and Pilo's Body Shop. The character of the buildings along East Jefferson Boulevard are predominantly automobile oriented or contractor's offices.
3. The most desirable use for which the land in each district is adopted – Because the parcels are surrounded by automobile oriented uses, zoning to the C-4 Automobile Oriented Commercial District is a desirable use for this property;
4. The conservation of property values throughout the jurisdiction – The proposed rezoning should not be injurious to property values in the surrounding area as the majority of the property is currently zoned C-4 Automobile Oriented Commercial. A screening fence shall be required along the north property line (1032 E Jefferson Blvd) to buffer the adjacent residential property.
5. Responsible development and growth - The proposed change is desirable given the existing uses in the area.

ATTACHMENTS

AERIAL, PHOTOS, PETITION, SITE PLAN, LOCATION MAP





P1. Looking southwest from intersection of E Jefferson & Merrifield toward 1023 E Jefferson



P2. Looking south from E Jefferson toward 1023 E Jefferson



P3. Looking north from E Jefferson to 1032 E Jefferson



P4. Looking northwest from N Merrifield toward 1032 E Jefferson



P5. Looking west from N Merrifield toward rear of 1032 E Jefferson



P6. Looking west from N Merrifield toward rear of 1032 E Jefferson

DATE: 03/19/2025

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

Pet 25-05
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:

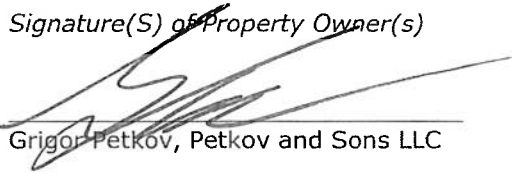
Commencing at the Southwest corner of Lot 6 Bryan's addition to the City of Mishawaka as shown on the recorded plat in the office of the recorder of St. Joseph County, Indiana; thence North 00°51'01" West along the East line of said lot 6, a distance of 4.49 feet to the point of beginning; thence continuing 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)

A handwritten signature in black ink, appearing to read 'Grigor Petkov', is written over a horizontal line.

Grigor Petkov, Petkov and Sons LLC

CONTACT PERSON:

Name: Grigor Petkov

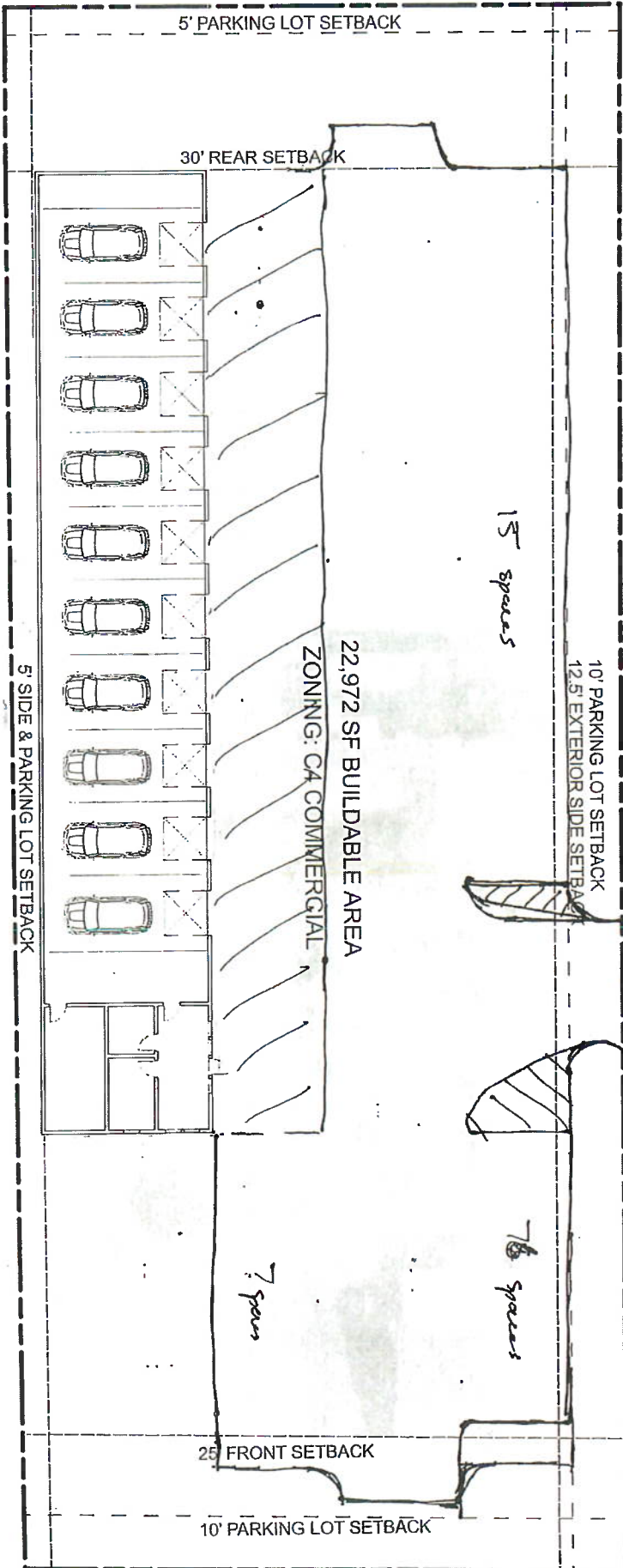
Address: 1102 E Jefferson Blvd.

Day Phone Number: 574-323-7279

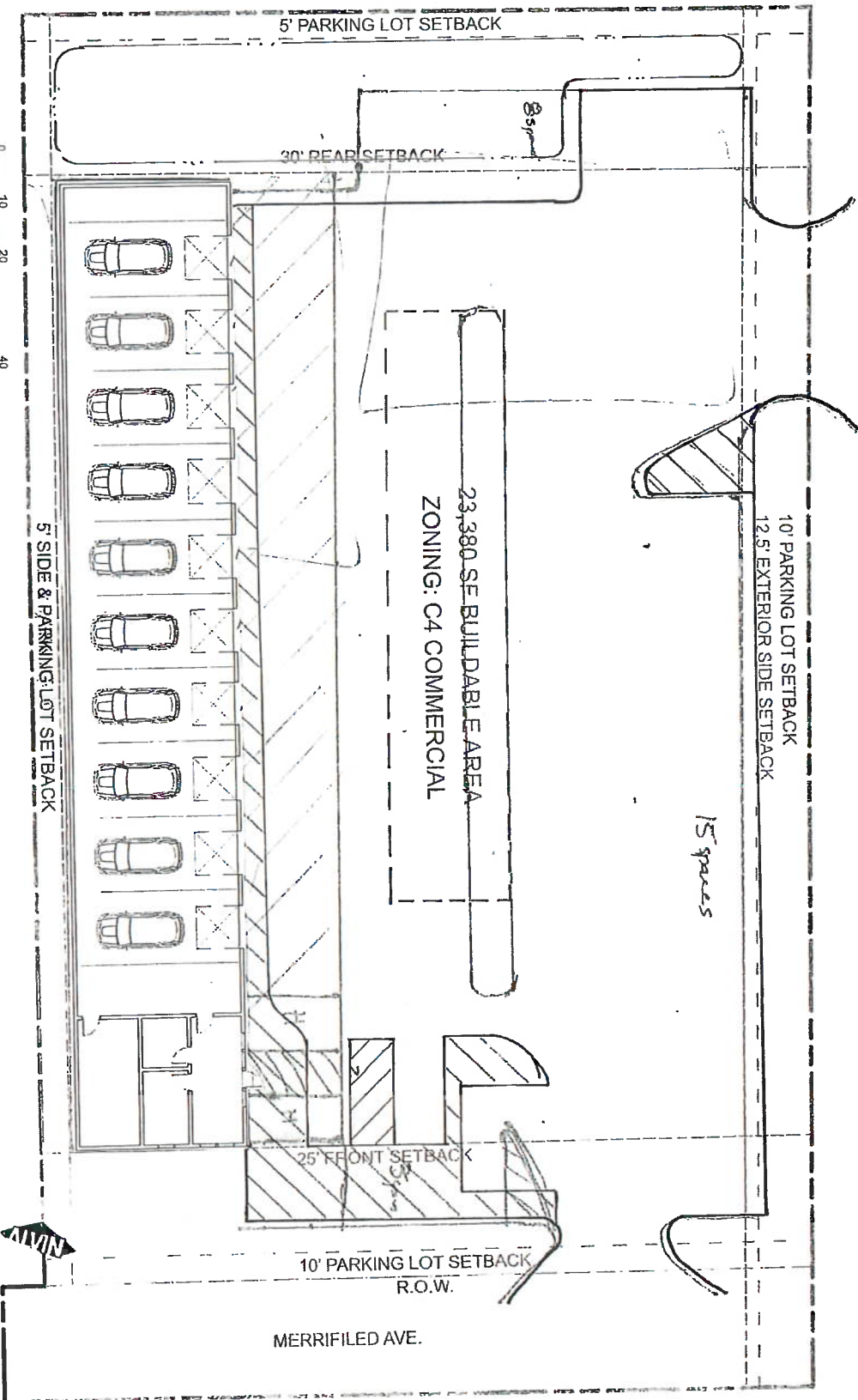
Fax Number: n/a

Email: grigormpetkov@yahoo.com

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



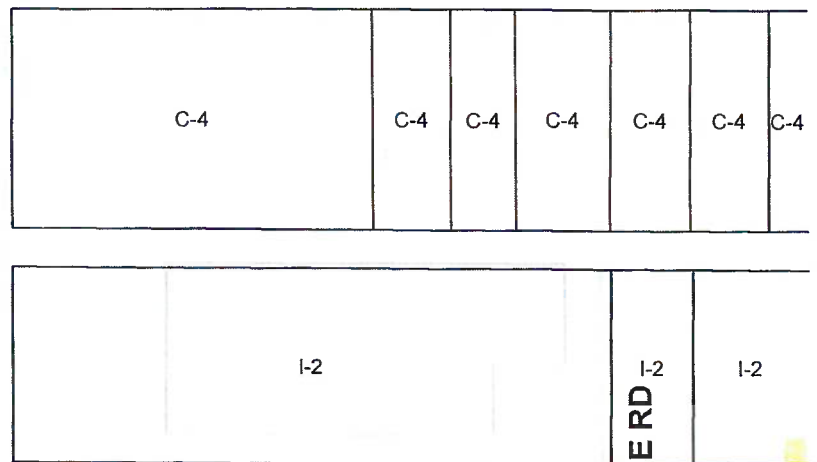
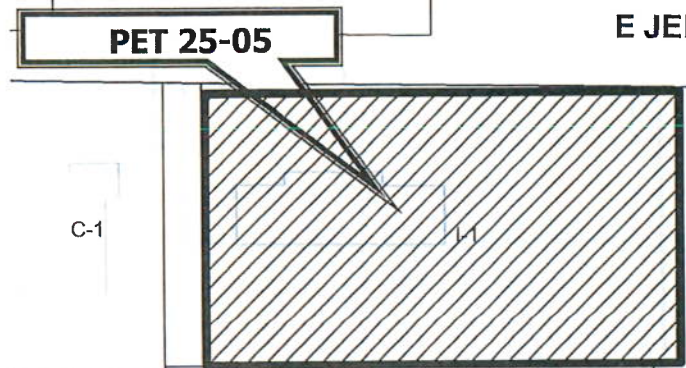
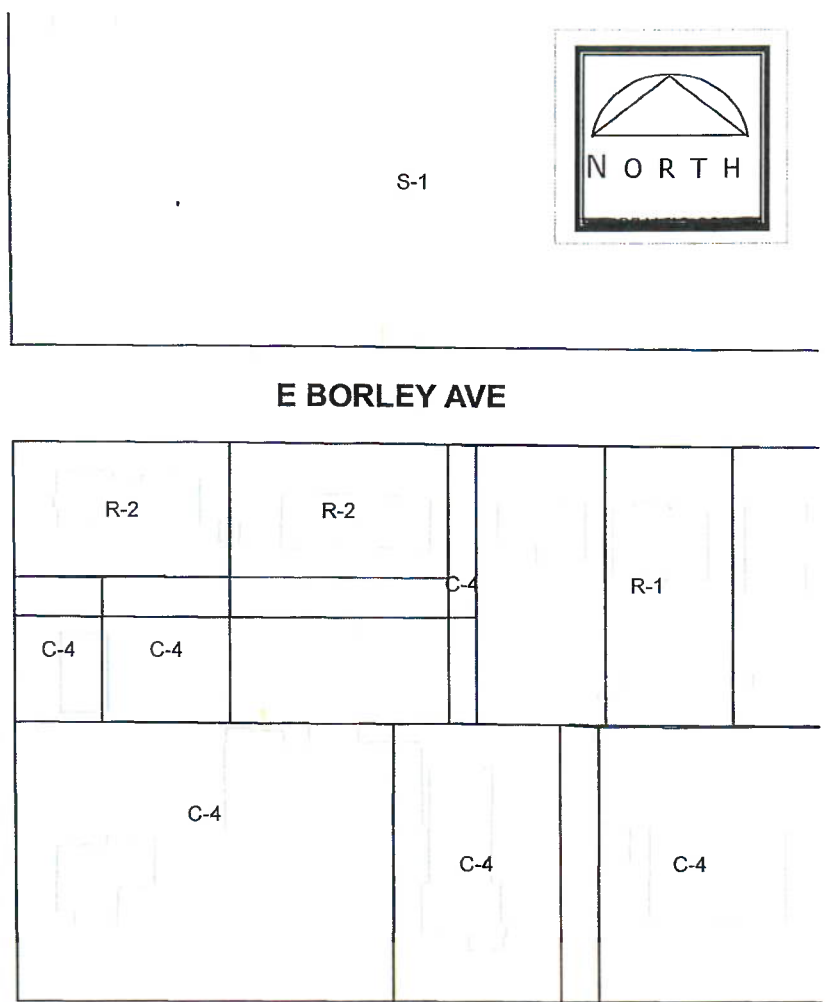
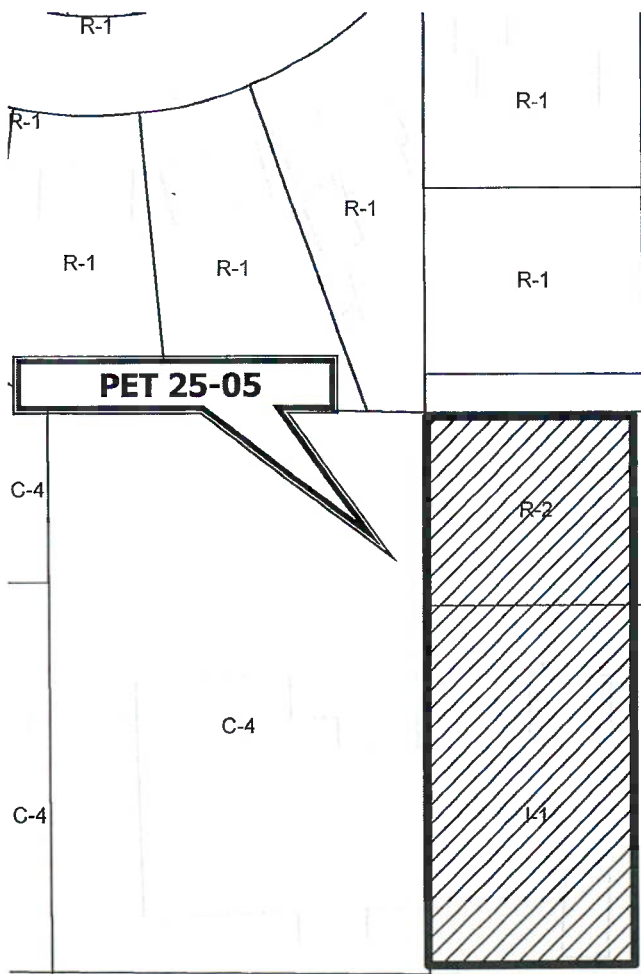
SW PROPERTY ZONING
 SCALE: 1" = 20'-0"



GREG'S AUTO - JEFFERSON EXPANSION

PRELIMINARY SITE PLANS

MARCH 19, 2025



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

APR 09 2025

City Clerk
Mishawaka, IN

1st Reading

PETITION 25-06

2nd Reading

Passed

CITY OF MISHAWAKA, INDIANA

Failed

Continued To

PROPOSED ORDINANCE NO. 2025-07

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:

1113 Ann 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 28 Guilfoyle & Houlihan

which real estate is now classified as I-1 Light Industrial 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 Industrial. Since that time, the proposed property and surrounding area is primarily residential along with a few industrial properties. The proposed request is consistent with the use in this area.*
- 2. Current conditions and the character of current structures and uses in each district – The proposed R-1 Single Family Residential is consistent with the properties in this area. Adjacent land uses include R-1 Single Family, I-1 Light Industrial (are single family homes) and I-2 Heavy Industrial.*
- 3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is Single Family Residential. The home was built in the early 1900's and has always been a single family residence.*
- 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.*

Proposed Ordinance No: 2025-07

Ordinance No: _____

5. Responsible development and growth - *The proposed change is desirable given the existing uses in the area.*

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 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: 1113 Ann Street

Date: April 8, 2025

Petition: 25 06

Prepared By: DMW

GENERAL INFORMATION

Applicant: RDK Property Group LLC

Status: Property Owner

Request: Rezone from I-1 Light Industrial District to R-1 Single Family Residential

Zoning Classification: I-1 Light Industrial District

Lot Size: 0.08 acres

Applicable Regulations: Sec. 137-164 thru 137-166 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)
South: I-1 Light Industrial (single family home)
East: I-2 Heavy Industrial (warehouse)
West: I-1 Light Industrial (single family home)

Thoroughfare: Ann Street North of W. Marion Street

Council District: 4

School District: School City of Mishawaka

Public Utilities: All public utilities are available and existing.

Comprehensive Plan: Industrial

ANALYSIS

The Petitioner is requesting to rezone 1113 Ann Street from I-1 Light Industrial District to R-1 Single Family Residential District. The property is located on Ann Street just north of W Marion Street. The area is predominantly R-1 Single Family Residential with pockets of I-1 Light Industrial and a few I-2 Heavy Industrial zoning.

With the exception of one property (1109 Ann Street), the block bound by Ann Street, W Marion Street and Howard Street is zoned I-1 Light Industrial however the properties are single family homes.

The property is being sold as a single family home and would like to have the zoning to match for financing purposes. The property has always been a single family home like neighboring properties.

The house at 1109 Ann Street was rezoned from I-1 Light Industrial to R-1 Single Family Residential in 2007.

Pertinent City Departments have reviewed and approved the request.

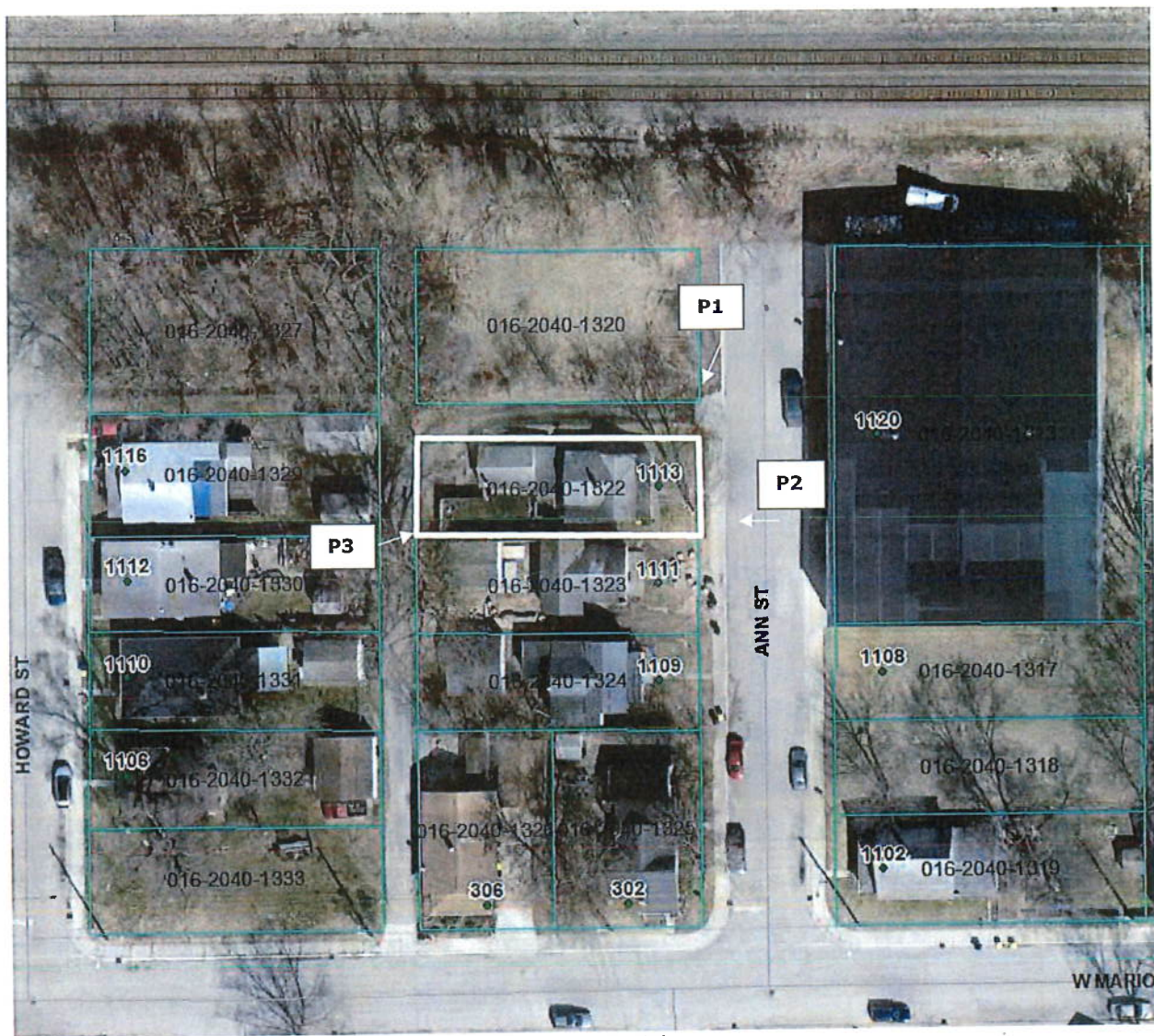
RECOMMENDATION

The Planning Department recommends **approval** of Petition #25-06 to rezone 1113 Ann Street from I-1 Light Industrial 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 Industrial. Since that time, the proposed property and surrounding area is primarily residential along with a few industrial properties. The proposed request is consistent with the use in this area.
2. Current conditions and the character of current structures and uses in each district – The proposed R-1 Single Family Residential is consistent with the properties in this area. Adjacent land uses include R-1 Single Family, I-1 Light Industrial (are single family homes) and I-2 Heavy Industrial.
3. The most desirable use for which the land in each district is adopted – The most desirable use for the property is Single Family Residential. The home was built in the early 1900's and has always been a single family residence.
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 existing uses in the area.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP



Aerial



P1. Facing southwest from Ann Street



P2. Facing west from Ann Street



P3. Rear of property from alley

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

DATE:

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

Received

MAR 19 2025

Planning and
Community Development

RE: PETITION TO REZONE

ROK 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 **E1** 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 Koleen**
ADDRESS **58192 Windsor Dr Elkhart IN 46517**
PHONE NUMBER **616 886 1047**
FAX
EMAIL **rkoleen@yahoo.com**

Identify from:  Parcels

 Parcels

016-20-40-1322



Location: 186,499.393 2,339,912.824 Feet

Field	Value
OBJECTID	459771
PARCELID	016-20-40-1322
TAXTYPE	R
PARCELSTAT	71-09-09-403-008,000-023
LEGALDESCR	Lot 28 Guilfoyle & Houlhan
PAYYEAR	2026
NAME_1	RDK PROPERTY GROUP LLC
MAILINGADD	58192 Windsor Dr
MAILINGCIT	Elkhart
MAILINGSTA	IN

Identified 1 feature



S-1

S-1



1113 Ann St
Mishawaka IN
JTB

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 I1 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]
Signature(s) of Property Owner(s)

Typewritten name also

[Signature]
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

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





1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAC, MMC

APR 10 2025

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2025- 08

ORDINANCE NO. _____

**AN ORDINANCE AFFIRMING, AUTHORIZING AND ESTABLISHING BOUNDARIES
FOR MISHAWAKA UTILITIES TO FURNISH WATER AND SEWER SERVICE TO
THE PUBLIC UP TO FOUR MILES OUTSIDE MISHAWAKA CITY LIMITS**

WHEREAS, the City of Mishawaka, Indiana ("Mishawaka" or "City") is a second-class city as defined by Indiana Code §36-4-1-1(a); and

WHEREAS, Mishawaka, through Mishawaka Utilities, furnishes water to the public pursuant to Indiana Code § 36-9-2-14 and Indiana Code § 8-1.5-2-3; and

WHEREAS, Mishawaka, through Mishawaka Utilities, furnishes sewer service to the public pursuant to Indiana Code § 36-9-2-16 and Indiana Code § 36-9-23; and

WHEREAS, Indiana Code § 36-9-2-18 provides: "A municipality may exercise powers granted by sections 2, 3, 14, 16, and 17 [IC 36-9-2-2, 36-9-2-3, 36-9-2-14, 36-9-2-16, and 36-9-2-17] of this chapter in areas within four (4) miles outside its corporate boundaries;" and

WHEREAS, pursuant to Indiana Code § 8-1.5-6, following adoption of a regulatory ordinance concerning authority to provide service outside of a municipalities' corporate boundaries, the municipality must petition the Indiana Utility Regulatory Commission ("Commission") for its approval of the regulatory ordinance; and

WHEREAS, pursuant to Mishawaka Ordinance No. 5437 enacted by the Common Council of the City of Mishawaka on February 17, 2014, the City established a Regulated Territory to regulate and exclusively furnish water and sewer services, through Mishawaka Utilities, within an area up to four miles outside the City of Mishawaka's corporate limits, excluding areas within the corporate limits of the City of South Bend and excluding customers then connected to and receiving service from other water or sewer utilities as of February 17, 2014; and

WHEREAS, the Mishawaka hereby affirms, ratifies, and updates Ordinance No. 5437 by providing Exhibit A, attached hereto, which updates, amends, and replaces the Regulated Territory map included in Mishawaka Ordinance No. 5437.

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

Section 1. The City of Mishawaka Regulated Territory is hereby defined and established as those areas within the corporate boundaries of Mishawaka, as well as certain areas outside the City's boundaries as identified and depicted in Exhibit A attached hereto and incorporated herein by reference (the "Regulated Territory"), which excludes areas within the corporate limits of the City of South Bend and customers connected to and receiving services from other existing water or sewer utilities as of February 17, 2014, a copy of which shall be available for public inspection in the offices of Mishawaka Utilities and the Mishawaka City Clerk.

Section 2. Upon adoption of this Ordinance and its approval by the Commission, Mishawaka Utilities shall have the exclusive authority and hold an exclusive license to furnish and regulate water and wastewater service in the Regulated Territory, and Mishawaka Utilities shall be the exclusive provider of water and wastewater utility service to the public within the Regulated Territory.

Section 3. Upon adoption of this Ordinance and its approval by the Commission, no other utilities are permitted to provide water and/or wastewater service within the Regulated Territory. This Ordinance does not: (i) mandate that Mishawaka Utilities extend or provide service; (ii) prevent the use of onsite wastewater disposal systems or water supply where Mishawaka Utilities does not have facilities available and such other onsite wastewater disposal or water supply is otherwise permitted. Rather, this Ordinance expressly prohibits other utilities from furnishing water and wastewater service to customers within the Regulated Territory.

Section 4. No end user of water or wastewater service within the Regulated Territory shall connect, and no water or wastewater producing structure within the Regulated Territory shall be connected to, collection or treatment facilities of any other water or wastewater service provider or utility.

Section 5. Any person, firm, or corporation that violates this Ordinance shall be subject to a civil penalty of two thousand dollars (\$2,000.00) per violation, with each day of violation and each separate connection being deemed a separate violation, and shall be responsible for reimbursing Mishawaka for its costs and attorneys' fees in any action brought to enforce this Ordinance.

Section 6. Mishawaka Utilities' existing rules and regulations for water and wastewater service, as may be amended from time to time, shall apply to and within the Regulated Territory.

Section 7. If any one or more of the terms, provisions, or sentences of this Ordinance, or portions of the Regulated Territory, shall be deemed by a court or a tribunal of competent jurisdiction to be contrary to law, then such term or provision shall be deemed severable from the remaining terms and shall in no way affect the validity of the other provisions of this Ordinance, and in lieu of each provision that is found to contrary to law, a provision will be added as a part of this Ordinance that is as similar to the invalid provision as may be possible and be legal, valid, and enforceable.

Section 8. The City of Mishawaka hereby authorizes the Mayor (or his designee) and legal counsel to pursue any and all necessary approvals for the implementation, effectiveness, and enforcement of this Ordinance, including but not limited to seeking approval of this Ordinance by the Commission.

Section 9. This Ordinance shall be in full force and effect from and after its adoption and any regulatory approval required by applicable law, and all other ordinances in conflict with

the provisions hereof, including but not limited to Ordinance No. 5437, are hereby amended and of no further force or effect to the extent of such conflict.

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

Presiding Officer

ATTEST:

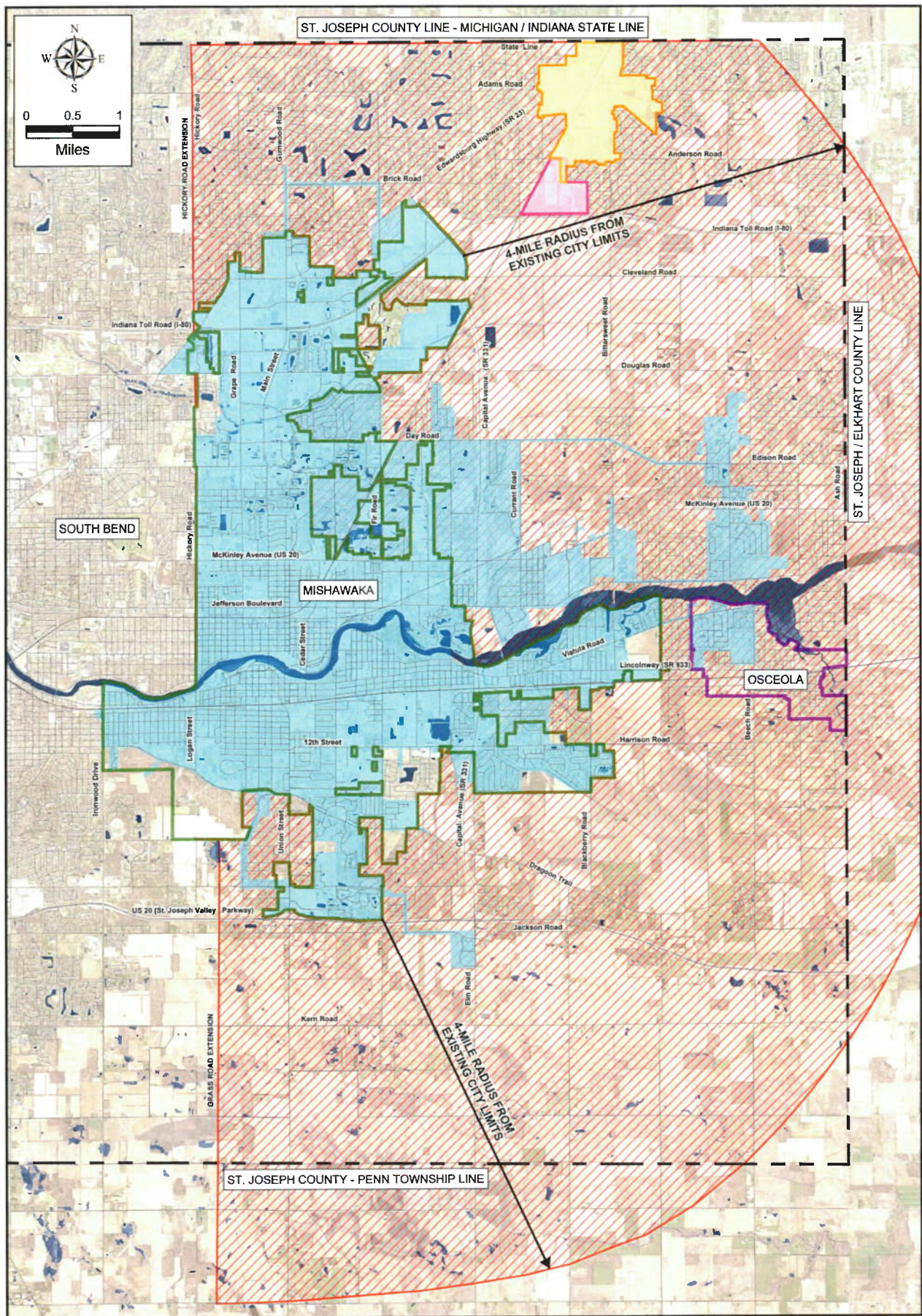
Deborah S. Block, IAMC, MMC, City Clerk

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





CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

OFFICE OF THE MAYOR

April 9, 2025

Mishawaka Common Council

600 East Third Street
Mishawaka, IN 46544

Dear Council President and Members of the Mishawaka Common Council,

I respectfully submit for your review and consideration a revised ordinance titled:

"ORDINANCE AFFIRMING, AUTHORIZING AND ESTABLISHING BOUNDARIES FOR MISHAWAKA UTILITIES TO FURNISH WATER AND SEWER SERVICE TO THE PUBLIC UP TO FOUR MILES OUTSIDE MISHAWAKA CITY LIMITS."

This ordinance updates and replaces one originally adopted by the Mishawaka Common Council over a decade ago. While the original ordinance reflected the City's goals and legal standing at that time, changes in state law and regulatory procedures now require us to modernize the language and structure to comply fully with **legal and regulatory standards in effect in 2025**.

The purpose of this revised ordinance is to:

- **Affirm** the City's longstanding role in providing reliable water and sewer services beyond our corporate limits;
- **Authorize** Mishawaka Utilities to serve properties up to four (4) miles outside the City limits, in alignment with current Indiana law;
- **Establish** formally recognized service boundaries to position us for appropriate approval by the **Indiana Utility Regulatory Commission (IURC)**.

To ensure timely compliance, I respectfully ask the Council to consider holding both the **first and second readings** of this ordinance during your **April 14th, 2025** meeting. Doing so would allow the Council to consider and, if appropriate, vote on the ordinance that evening.

This is expected to be the **first in a series of utility-related ordinances** we will bring forward in the coming months. These updates are part of our broader effort to review and refresh existing policy to reflect modern standards, reinforce our service commitments, and remain fully aligned with state regulatory expectations.

As always, I thank you for your careful attention to this matter and your continued leadership in helping position Mishawaka for a strong, compliant, and service-driven future.

Respectfully,
Matthew Leutsch, MPA

Executive Director of Development and Governmental Affairs

City Hall • 100 Lincolnway West • Mishawaka, IN 46544
Phone: (574) 258-1601 • Fax: (574) 258-1603 • www.mishawaka.in.gov

APR 10 2025

City Clerk
Mishawaka, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2025 - 09

ORDINANCE NO. _____

AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2025
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2025

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

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted
(MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of
the City of Mishawaka the sum of \$1,271,670.00 as required for the Community Crossing
Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:

Capital Outlays

2203-50-442-01

Street Repair

\$1,271,670.00

Local Bridge and Road Matching Grant Fund

To:

Other Services and Charges

2404-50-436-03

Street Repair

\$1,271,670.00

Section 2. Which requires the appropriation of additional funds for the fiscal year
ending December 31, 2025, in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road
Matching Grant Fund of the City of Mishawaka the sum of \$2,543,340.00 for assignment as
follows:

Local Road & Bridge Matching Grant Fund

<u>Other Services and Charges</u>		
2404-50-436-03	Street Repair	\$2,543,340.00

Section 4. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana
on this _____ day of _____, 2025 at _____
o'clock, _____. M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

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

DAVID A. WOOD, MAYOR

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

Date: April 10, 2025

To: Honorable Members of the Common Council

From: Rebecca Maguire

Re: Transfer from MVH Restricted and Additional Appropriation Local Road & Bridge Matching Fund

I am requesting first reading for the transfer of \$1,271,670.00 from the Motor Vehicle Highway Restricted Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds are budgeted for the purpose of the match and are funded from MVH funds received from the State.

This transfer along with the \$1,271,670.00 Community Crossing Grant funds awarded must be appropriated. Therefore, I also request a first reading for the additional appropriation of \$2,543,340.00.

This ordinance allows for both the transfer and additional appropriation and is required every year to show proper accounting of the grant and match.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor
Christine Jamrose, City Engineer/Director



City of Mishawaka

OFFICE OF THE CITY CLERK

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

NOTICE TO TAXPAYERS OF PROPOSED ADDITIONAL APPROPRIATION

Notice is hereby given the taxpayers of Mishawaka, St. Joseph County, Indiana, that the Common Council will hold a special meeting in City Hall, 100 Lincolnway West at 6:00 p.m. on the 28th day of April 2025 and will consider the following additional appropriations in excess of the budget for the current year.

PROPOSED ORDINANCE NO. 2025 -09

Local Road & Bridge Matching Grant Fund

Other Services and Charges

2404-50-436-03	Street Repair	\$2,543,340.00
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Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriations as finally made will be referred to the State Board of Tax Commissioners. The Board shall issue a written determination within 15 days of receipt of the proposal.

Deborah S. Block, IAMC, 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

Raven S. Boston, Chief Deputy Michael Hixenbaugh, Deputy
City Hall, 100 Lincolnway West Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

1st Reading
2nd Reading
Passed
~~Failed~~
Continued To

PETITION 25-04

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2025-10

ORDINANCE NO. _____

APR 09 2025

City Clerk
Mishawaka, IN

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

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

2400 & 2406 Schumacher Drive, 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:

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 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.0 feet to the place of beginning.

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-3 Multi 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. *Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 7.14 units per acre.*
2. *Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long-standing residential developments like Normain Heights and Town & Country Estates. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there are residential to the north and east;*
3. *The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family District is a desirable use for this property;*
4. *Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as this is a downzoning to match existing neighboring zoning; and*
5. *Responsible development and growth - The proposed change from C-1 General Commercial to R-3 Multi-Family Residential is desirable as a buffer between C-9 Automobile Sales Commercial & I-1 Light Industrial and residential.*

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 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: 2400 & 2406 Schumacher Drive

Date: April 8, 2025

Petition: 25 04

Prepared By: SA

GENERAL INFORMATION

Applicant: Freed Capital, LLC / Wightman

Status: Property Owners / Surveyor & Site Designer

Request: Rezone from C-1 General Commercial District & R-3 Multi-Family Residential to R-3 Multi-Family Residential

Zoning Classification: C-1 General Commercial District & R-3 Multi-Family Residential

Lot Size: 2.8 acres

Applicable Regulations: Sec. 137-40 Plan Commission;
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map;
Sec. 137-215 thru 137-217 R-3 Multi-Family Residential Developmental Regulations;
Indiana Code 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential (Town & Country Estates)
South: C-9 Automobile Sales (automobile sales, service & detailing)
East: R-1 Single Family Residential (Norman Heights)
West: I-1 Light Industrial (roofing wholesaler)

Thoroughfare: Schumacher Drive

Council District: 5

School District: Penn-Harris-Madison

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

Comprehensive Plan: Low to medium density residential

ANALYSIS

The Petitioners are requesting to rezone the above referenced property from C-1 General Commercial District & R-3 Multi-Family Residential to R-3 Multi-Family Residential. The property is located at 2406 Schumacher Drive and includes adjacent vacant property (2400 Schumacher Drive).

The property is 2.8 acres. There is an existing 1,200 square foot office building, which is proposed to be demolished. The remaining property is wooded. The northeast portion (where the retention pond is proposed) is currently zoned R-3 Multi-Family Residential.

The reason for the change is to allow the petitioner to build (3) four-unit and (4) two-unit residential buildings. Each one of the (20) units will have a driveway and garage. Although not required by the R-3 developmental regulations the end of the private drive is proposed to have (8) parking spaces. With this petition the property owner is **only** seeking to establish the proper zoning for the proposed multi-family use. If approved, a site plan laying out phases of development will be required prior to the beginning of any construction or issuance of any permits. A detailed final site

plan will address storm drainage, grading, utilities, landscaping, soil erosion control, and all other required improvements pertinent to the proposed development. A subdivision plat will also be required to establish all necessary easements.

This petition was originally heard by the Plan Commission on April 11, 2023 and was tabled to June 13th, 2023, due to significant remonstrative. It was subsequently approved by the Plan Commission (5-2) with a favorable recommendation. At the August 21, 2023 Common Council meeting, the motion failed.

Based on the proximity to single and two-family residential homes, Planning Staff is requesting a written commitment limiting the building height standard of the R-2 Two-Family District to be applied, which is 35' as opposed to 120'.

The Engineering Department had no concerns with the change in zoning, however, did have comments that will need to be addressed on the subdivision and site plan: 1. Sanitary sewer shall be privately maintained and will not qualify for sewer insurance; 2. With roadway private, all maintenance (paving, plowing, etc.) would be the developer's responsibility; 3. Storm sewer easement shall be 30', not 20'; 4. Existing 10" sanitary stub is only 6' deep, so may need to be raised to provide adequate cover over pipe; 5. All proposed runoff shall be directed to proposed retention basin and be sized to handle 100 year, 24 hour storm event. This may have constraints with groundwater depths, provide Geotech report to confirm; 6. Sidewalk along Schumacher Dr within project limits shall be replaced.

The Electric Department has commented that a 15' electric easement will be needed.

The Water Department has commented that they need to be contacted with any questions regarding water service, metering, or backflow needs. Property is within the Virgil Street 5-year time of travel wellhead protection area. Wellhead protection permit may be required from St. Joseph County Health Department.

Other pertinent City Departments reviewed and approved the request. All permits are required prior to construction.

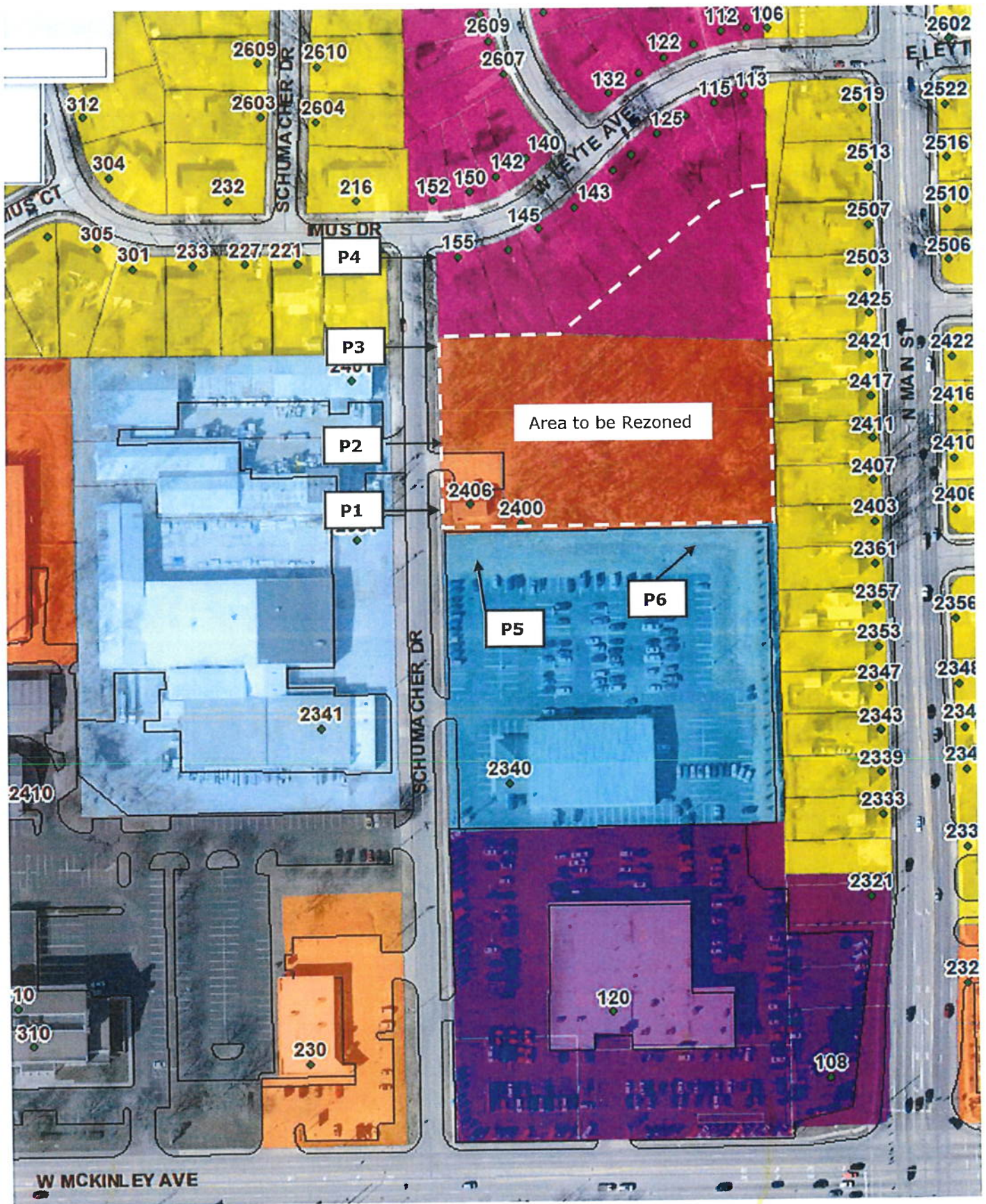
RECOMMENDATION

The Planning Department recommends **in favor** of Petition 25-04 to rezone the property at 2406 Schumacher Drive and the adjacent vacant property (2400 Schumacher Drive) to R-3 Multi-Family Residential District. This recommendation is based upon the following findings of fact per *Indiana Code Section 36-7-4-603*:

1. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan identifies the area as low to medium density residential, and the proposed development will be 7.14 units per acre.
2. Existing Conditions - This area is tucked away on Schumacher Drive, off of McKinley Avenue, but abuts long-standing residential developments like Normain Heights and Town & Country Estates. Character of Buildings - The character of the buildings accessed from Schumacher Drive are commercial and industrial in nature, however there are residential to the north and east;
3. The most desirable/highest and best use - Because the parcel is partially zoned R-3 Multi-Family District and located near other residential uses, downzoning to the R-3 Multi-Family District is a desirable use for this property;
4. Conservation of property values - The proposed rezoning should not be injurious to property values in the surrounding area as this is a downzoning to match existing neighboring zoning; and
5. Responsible development and growth - The proposed change from C-1 General Commercial to R-3 Multi-Family Residential is desirable as a buffer between C-9 Automobile Sales Commercial & I-1 Light Industrial and residential.

ATTACHMENTS

AERIAL WITH ZONING, PHOTOS, SITE PLAN, CONCEPTUAL DRAWINGS, PETITION, LOCATION MAP



Aerial with Zoning



P1. Existing building at 2406 Schumacher (to be demolished). East facing from Schumacher Dr.



P2. Parking lot and wooded area. East facing from Schumacher Dr.



P3: North end of the property. East facing from Schumacher Dr.



P4: East facing from Schumacher Dr near Imus Dr.



P5: North facing from a parking lot to the south.

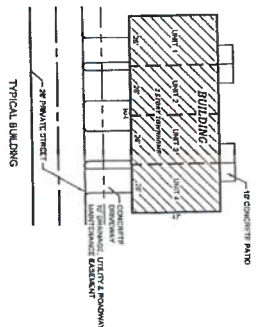
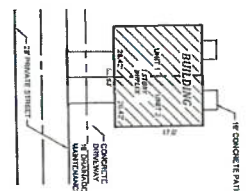


P6: Northeast facing from a parking lot to the south.



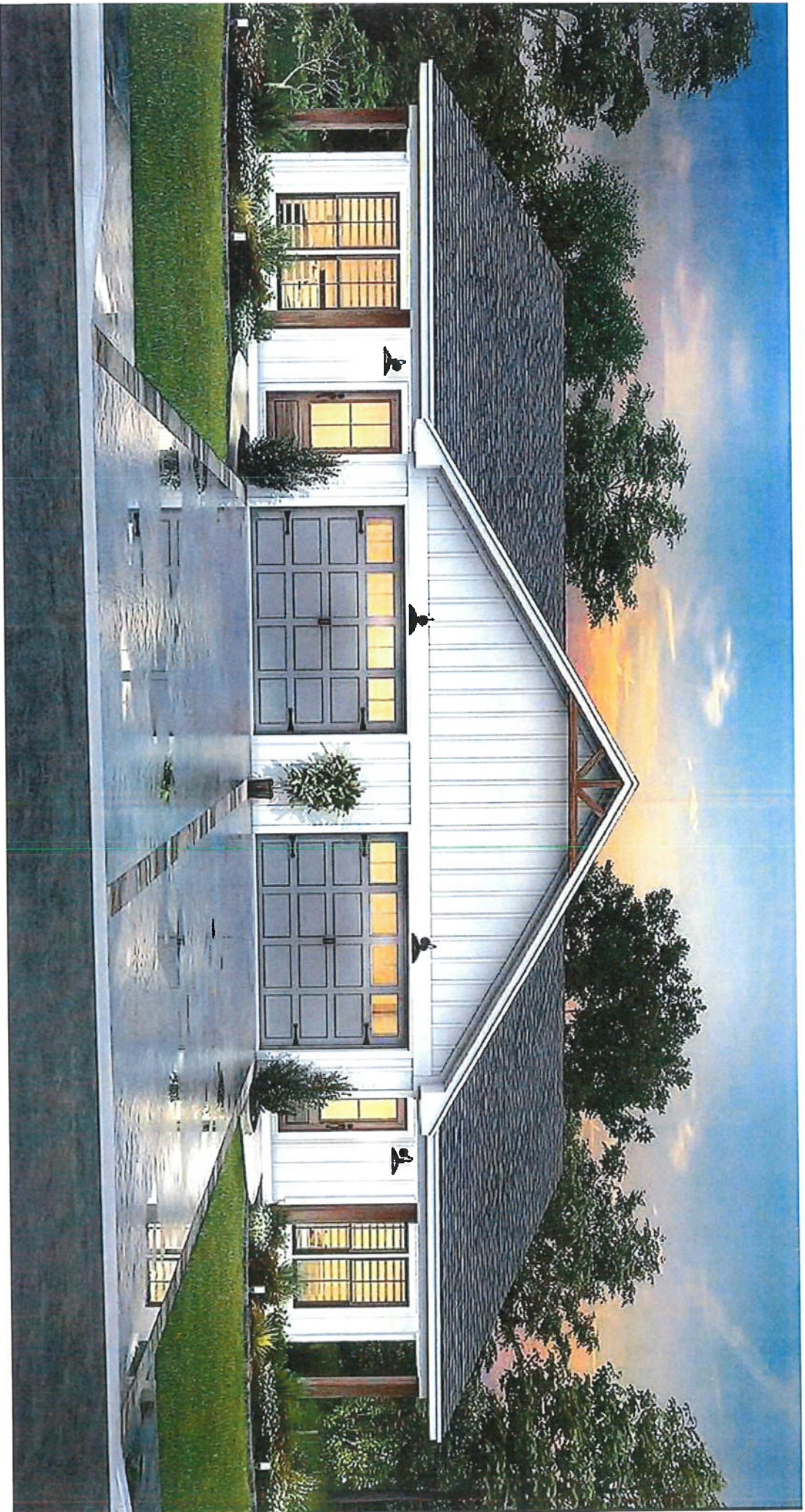
PRELIMINARY SITE PLAN

NOTES:
 1. PROPERTY ADDRESS: 2400 AND 2408 SCHUMACHER DRIVE
 2. PROPERTY OWNER: FREED CAPITAL, LLC CO SEIN FREED, MORGAN
 3. CURRENT ZONING: RESIDENTIAL R-1 DISTRICT
 4. PROPOSED ZONING: COMMERCIAL C-1 DISTRICT
 5. PROPOSED ZONING: RESIDENTIAL R-1 DISTRICT
 6. PROPOSED ZONING: RESIDENTIAL R-1 DISTRICT
 7. BUILDING SHALL BE SERVED BY MUNICIPAL WATER AND SANITARY SEWER
 8. SITE SHALL BE SERVED BY MUNICIPAL WATER AND SANITARY SEWER
 9. THE RESIDENTIAL R-1 DISTRICT'S ZONING ORDINANCE



- 1. LOT 1
- 2. LOT 2
- 3. LOT 3
- 4. LOT 4
- 5. LOT 5
- 6. LOT 6
- 7. LOT 7
- 8. LOT 8
- 9. LOT 9
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- 94. LOT 94
- 95. LOT 95
- 96. LOT 96
- 97. LOT 97
- 98. LOT 98
- 99. LOT 99
- 100. LOT 100





PES 25-04

Received

MAR 18 2025

Planning and
Community Development

December 18, 2024

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

RE: PETITION TO REZONE

The undersigned, 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.

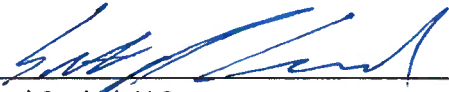
2400 + 2406 SCHUMACHER DR.
MISHAWAKA, IN 46545

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.

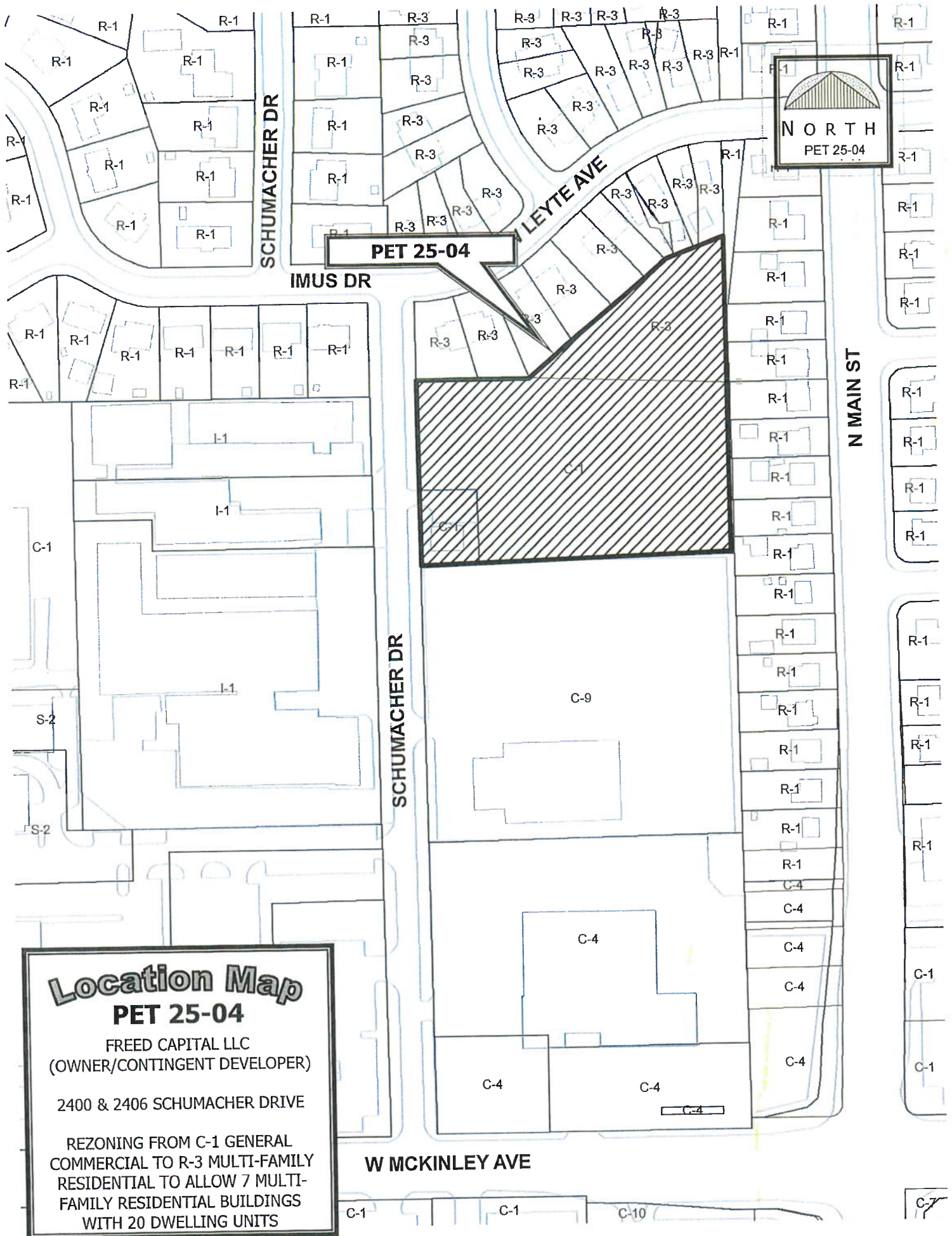
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.



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



APR 09 2025

City Clerk
Mishawaka, IN

APPEAL #25-07

RESOLUTION NO. 2025-06

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

526 W McKinley Avenue, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **526 W McKinley Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

A tract of land in the 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°55'29" west, 349.85 feet to the place of beginning.

The Use Variance will allow a 2,299 square foot event center within the C-2 Shopping Center Commercial District subject to the following conditions of approval:

1. All events shall end by 12:00 am midnight

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to

wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. *Approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed event center/assembly hall in the former Fun Tan in a multi-tenant building is consistent and compatible with the density and uses of the adjacent parcels;*
2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the proposed event center/assembly hall in an existing multi-tenant commercial building is adjacent to and within property currently zoned for commercial use with adequate parking for the proposed use;*
3. *The need for the variance arises from some condition peculiar to the property as the C-2 zoning district does not permit the use as an event center/assembly hall;*
4. *Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought as the Appellant will not be able to expand their business and make use of a current vacant space and enlarged parking facilities; and*
5. *The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed use is consistent with the Comprehensive Plan.*

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

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

Presiding Officer

ATTEST:

Deborah S. Block, 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

STAFF REPORT

Location: 526 West McKinley Avenue

Date: April 8, 2025

Appeal: 25 07

Prepared By: SA

GENERAL INFORMATION

Applicant: M & A Property LLC / Levis Lounge

Status: Property Owner / Contingent Tenant

Request: Use Variance to allow for an event center / assembly hall

Zoning Classification: C-2 Shopping Center Commercial

Acreage: 3.67 acres

Applicable Regulations: Section 137-42 Board of Zoning Appeals Use Variance, Section 137-326 C-2 Shopping Center Commercial Uses, Indiana Code 36-7-4-918.4

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial (Techniplas/Plastics Manufacturer)
South: C-7 Auto-Oriented Restaurant Commercial (Burger King, Taco Bell)
East: C-7 Auto-Oriented Restaurant Commercial (Planet Fitness, Big Lots, Home Outlet, Smoothie King)
West: C-4 Auto-Oriented Commercial (Gates)

Thoroughfare: W McKinley Ave & Grape Rd

Council District: 6

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The Appellants are requesting a Use Variance to allow a 2,299 square foot event center. The contingent tenant, LaTrenia Anderson, owner of The Levis Lounge, would like to open at 526 W. McKinley Ave. in the space identified on the aerial (former Fun Tan). There will be no food prep on site. All food/drinks would be provided by others if needed. Closing hours would conclude at midnight considering they will be providing service for wedding receptions, baby showers, high-end corporate meetings, community gatherings, etc. They would need to have time for the guests to end their event as well as clean up prior to leaving. A similar Use Variance at 502 W. McKinley Avenue (same shopping center) to allow an event center (assembly hall) with bingo was approved on April 12, 2022 with 67 parking spaces.

The number of parking spaces required for a shopping center in the C-2 district is 5 spaces per 1,000 sq. ft. of building space. Based on the total sq. ft. of the shopping center, a total of 151 parking spaces were determined to be required. In reviewing the existing parking spaces within the property, it appears that there are approximately 160 spaces in total. The total number of parking spaces exceeds the previously determined required number of spaces. The prior event center with bingo is no longer in business. Also, there are additional parking spaces often not used within the adjacent large commercial property to the east.

The Electric Department has commented they will need to discuss electrical needs with the contractor prior to construction. The Fire Department has requested the Construction Design Release (it has since been provided) and plan for fire alarm. All other pertinent City departments have reviewed and approved.

The tenant will be required to obtain all necessary permits from the City prior to work.

RECOMMENDATION

The Planning Staff recommends approval of Appeal #25-07 to allow an event center at 526 W McKinley Avenue. This recommendation is based on the **condition** that all events shall end by 12:00 am midnight and upon the following findings of fact *per Indiana Code 36-7-4-918.4*:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed event center/assembly hall in the former Fun Tan in a multi-tenant building is consistent and compatible with the density and uses of the adjacent parcels;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the proposed event center/assembly hall in an existing multi-tenant commercial building is adjacent to and within property currently zoned for commercial use with adequate parking for the proposed use;
3. The need for the variance arises from some condition peculiar to the property as the C-2 zoning district does not permit the use as an event center/assembly hall;
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought as the Appellant will not be able to expand their business and make use of a current vacant space and enlarged parking facilities; and
5. The approval will not substantially interfere with the Mishawaka 2000 Comprehensive Plan. The Plan, created in 1990, guided general commercial development within this property. The proposed use is consistent with the Comprehensive Plan.

ATTACHMENTS

Aerial, Photographs, Floor Plan, Appeal, Location Map



Aerial



Southwest facing from the parking lot.



South facing from the parking lot.



West facing from the parking lot.



Northwest facing from the parking lot.



526 W. McKinley Ave

City of Mishawaka, Indiana
Board of Zoning Appeals

AP25-07

Received

MAR 04 2025

Plan:
Commur:

DATE: 02/21/2025

TO: Board of Zoning Appeals

City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, Abdelrahman Farhan *IMA 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 W. 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 Disricts - 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

David Farhan

CONTACT PERSON:

Name: Latenia Anderson *-Tenant*

Address: 51287 Windy Willow Court

Day Phone Number: 2692083449

Fax Number: 2692083449

Email: afarhan483@sbcglobal.net

Second Property Owner/Title Holder

latenia Anderson

-Tenant

Latenia Anderson

LaTrenia Anderson

13681 wood haven drive

5743343290

0

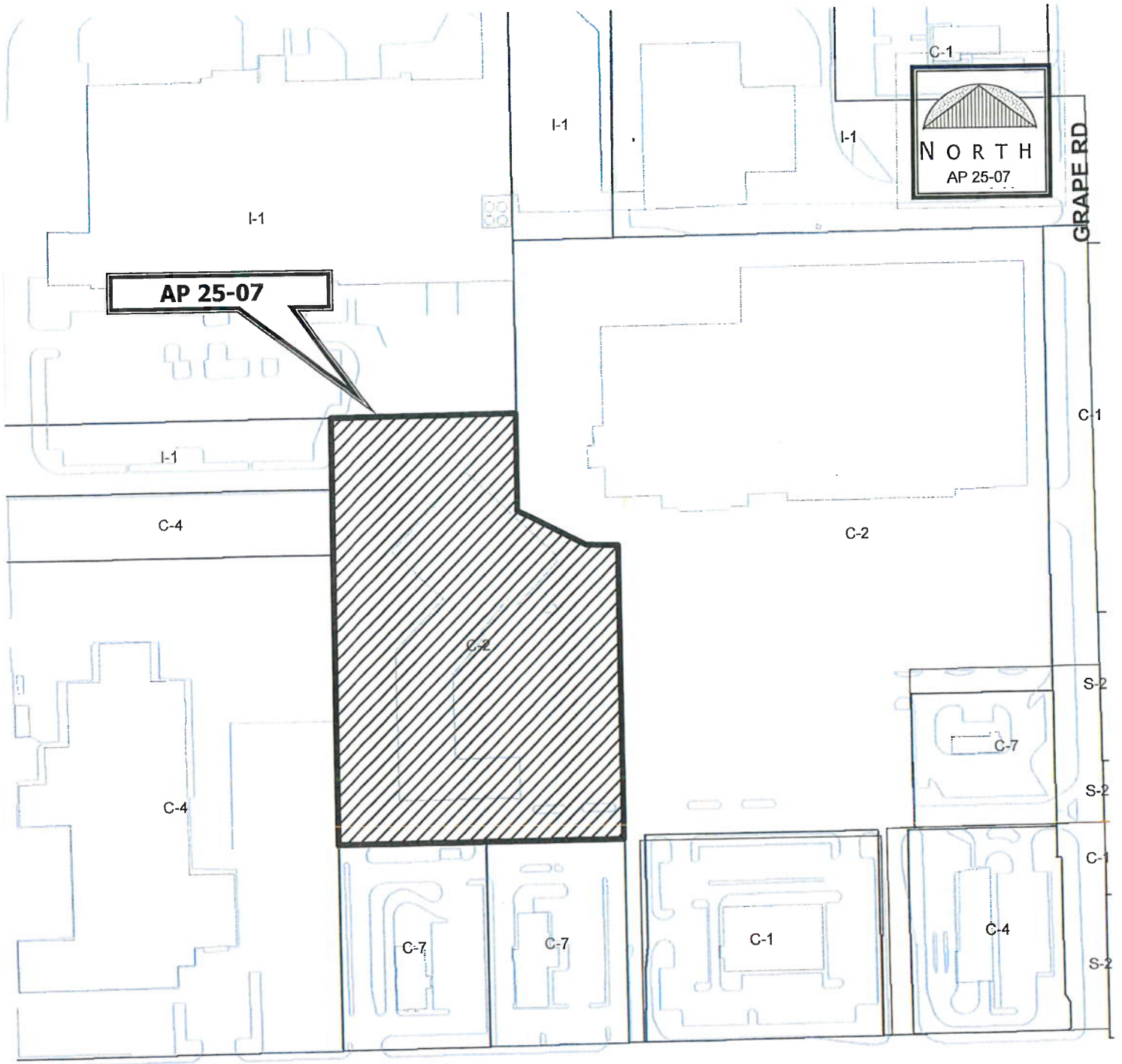
levistlounge23@gmail.com

Trenia 523@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)

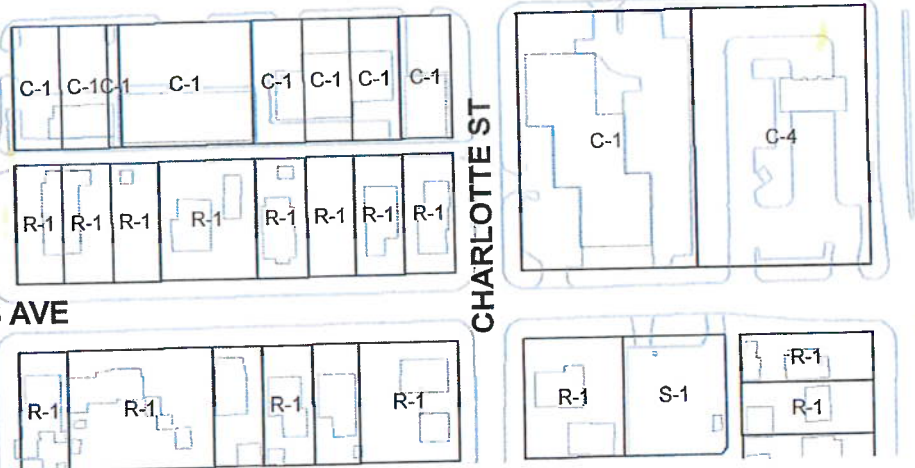
526 W. MCKINLEY AVENUE

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



APR 09 2025

City Clerk
Mishawaka, IN

APPEAL #25-08

RESOLUTION NO. 2025-07

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

2019 & 2001 Lincolnway West, Mishawaka, Indiana

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

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

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

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

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

Section I. The Common Council has provided notice of the hearing on the Petition
from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance
for property located at **2019 & 2001 Lincolnway West, Mishawaka, Indiana**, more
particularly known and described as follows:

*Lots numbered 29, 30 and 13 as shown the Williams Ernsperger's Plat of Arbor Park,
as recorded in the 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.*

The Use Variance will allow an outside storage area 32' wide by 48' deep at 2001 & 2019
Lincolnway West subject to the following conditions:

1. No storage shall occur between the north property line and the front façade of the
primary building; and
2. No known hazardous materials shall be stored on the site.

Section II. Following a presentation by the Petitioner, and after proper public
hearing, the Common Council hereby approves the Petition as recommended by the
Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to

wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community because, with the location being behind the front of the building, the view is minimized from the road.*
2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area set aside for the outside storage is small, covering only 5% of the lot, and defined by the existing buildings.*
3. *The need for the variance arises from the need for outside storage of loose material that would not typically be kept indoors.*
4. *The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use by allowing the more intense uses of that district.*
5. *The recommendation is consistent, and or, not in conflict with the Mishawaka 2000 Plan because the plan identifies this thoroughfare as General Commercial.*

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

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

Presiding Officer

ATTEST:

Deborah S. Block, 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

STAFF REPORT

Location: 2001 & 2019 Lincolnway West

Date: April 8, 2025

Appeal: 25-08

Prepared By: CH

GENERAL INFORMATION

Applicants: Jessica Bauer/New Generations Landscaping & Lawn LLC
Status: Property Owner/Tenant
Request: Use Variance for outside storage of materials
Zoning Classification: C-4 Automobile Oriented Commercial
Lot Size: 0.74 Acres
Applicable Regulations: Section 137-379 C-4 Uses
Section 137-42 (4) Board of Zoning Appeals Use Variance
Indiana Code 36-7-4-918.4

SPECIAL INFORMATION

Area Development North: C-4 Automobile Oriented Commercial (karate studio) and R-1
Single Family Residential (vacant riverside)
Pattern: South: I-1 Light Industrial (various industrial)
East: C-4 Automobile Oriented Commercial (car sales)
West: C-1 General Commercial (single family house)
Thoroughfare: Lincolnway West between Russell Ave & Carlton St
Council District: 1
School District: School City of Mishawaka
Public Utilities: All public utilities are available and existing.
Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies the area as General Commercial.

ANALYSIS

Jessica Bauer and her tenant, New Generations Landscaping & Lawn LLC, would like to add an area for the outside storage of materials. Last year, the tenant contacted our office about their plans for the property. We directed them to contact their councilperson and possibly hire a surveyor to help them through their plans. Some cinder blocks were put up last month, so we reached out to them regarding the outside storage.

Outside storage is only permitted as a conditional use in I-2 Heavy Industrial. In the past, we've approved outside storage for contractors like Milestone Fence on Home Street and Direct Line Communications on McKinley.

The Appellant is requesting to have a four open stalls, consisting of a total area of 48' x 32', to hold mulch, soil, and gravel. The storage area will be west of the existing building, approximately 70' back from the sidewalk. These materials are for their use as a landscaping contractor, not for public sales. This site has historically been used as a car sales lot.

Engineering wants more details/drawings showing proposed use. What materials will be stored?

Permits are required from the Planning and Building Departments.

Other pertinent City departments have reviewed and approved the request.

RECOMMENDATION

The Staff recommends in favor of Appeal 25-08, a Use Variance to allow an outside storage area 32' wide by 48' deep at 2001 & 2019 Lincolnway West subject to the following conditions:

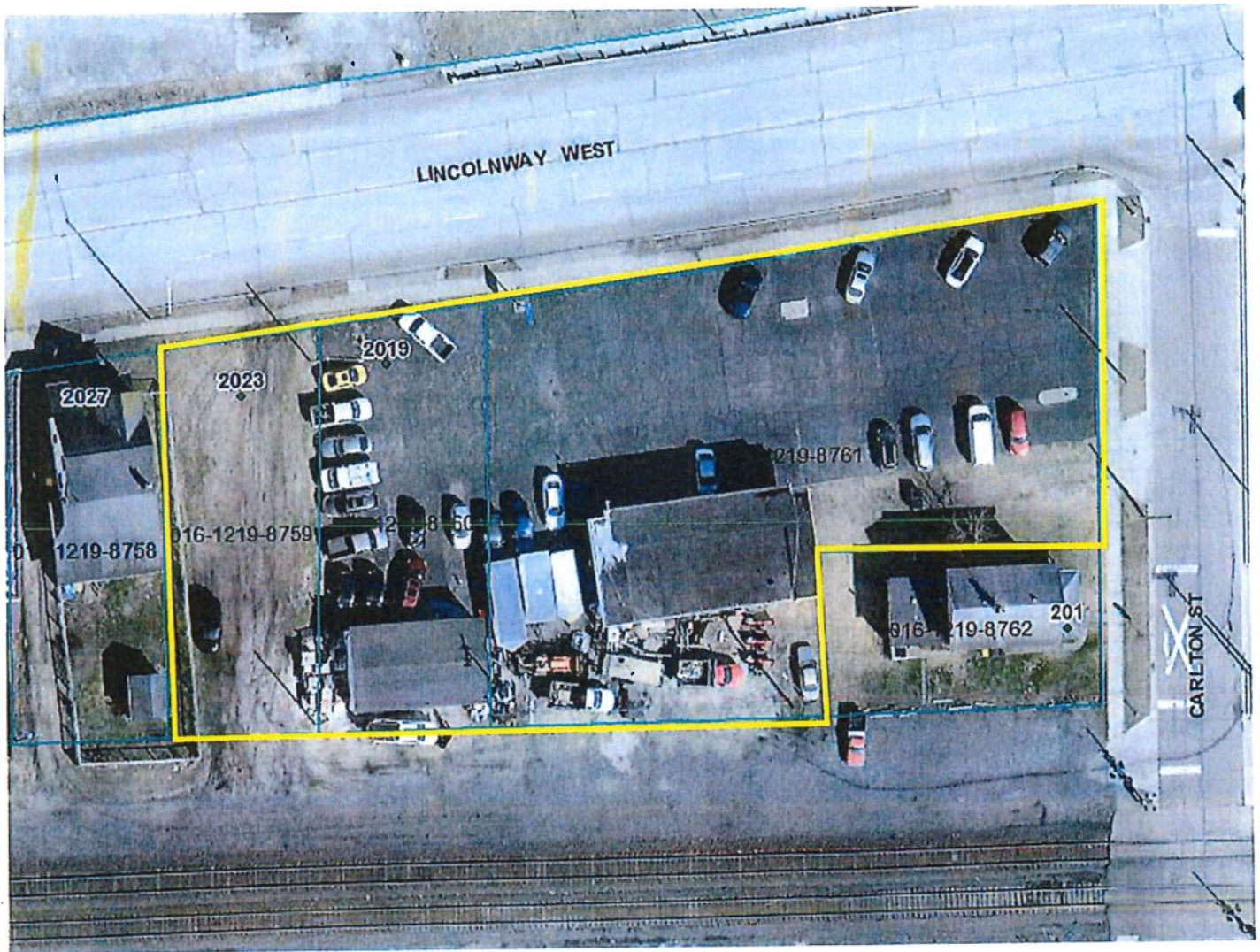
1. No storage shall occur between the north property line and the front façade of the primary building; and
2. No known hazardous materials shall be stored on the site.

This recommendation is based on the following findings of fact per Indiana Code 36-7-4-918.4:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because, with the location being behind the front of the building, the view is minimized from the road.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area set aside for the outside storage is small, covering only 5% of the lot, and defined by the existing buildings.
3. The need for the variance arises from the need for outside storage of loose material that would not typically be kept indoors.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because although the use is allowed in the I-2 Heavy Industrial District, rezoning the property would not be the highest and best use by allowing the more intense uses of that district.
5. The recommendation is consistent, and or, not in conflict with the Mishawaka 2000 Plan because the plan identifies this thoroughfare as General Commercial.

ATTACHMENTS

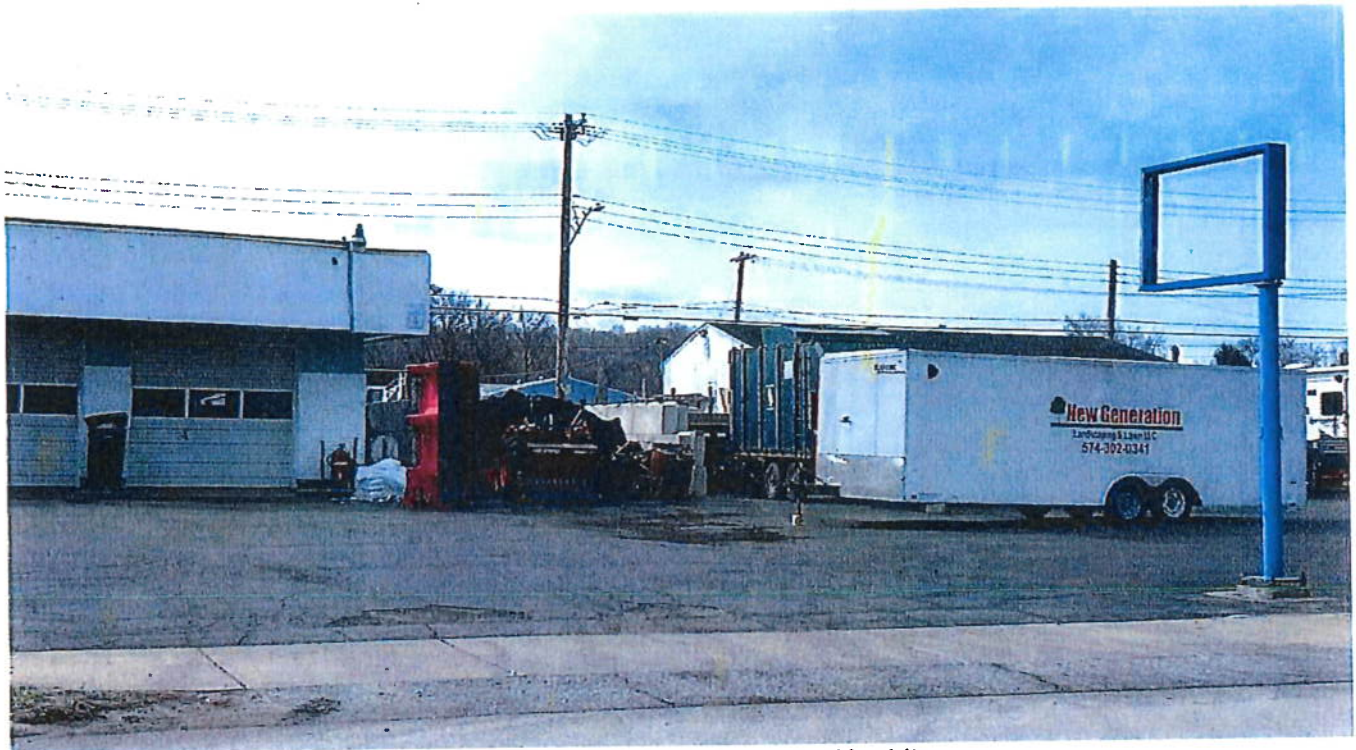
Aerial Photograph, Photographs of Site, Petition, Location Map



Aerial



Site looking south from Lincolnway West



Close up of storage area west of building



View of the containers from the alley

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.

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

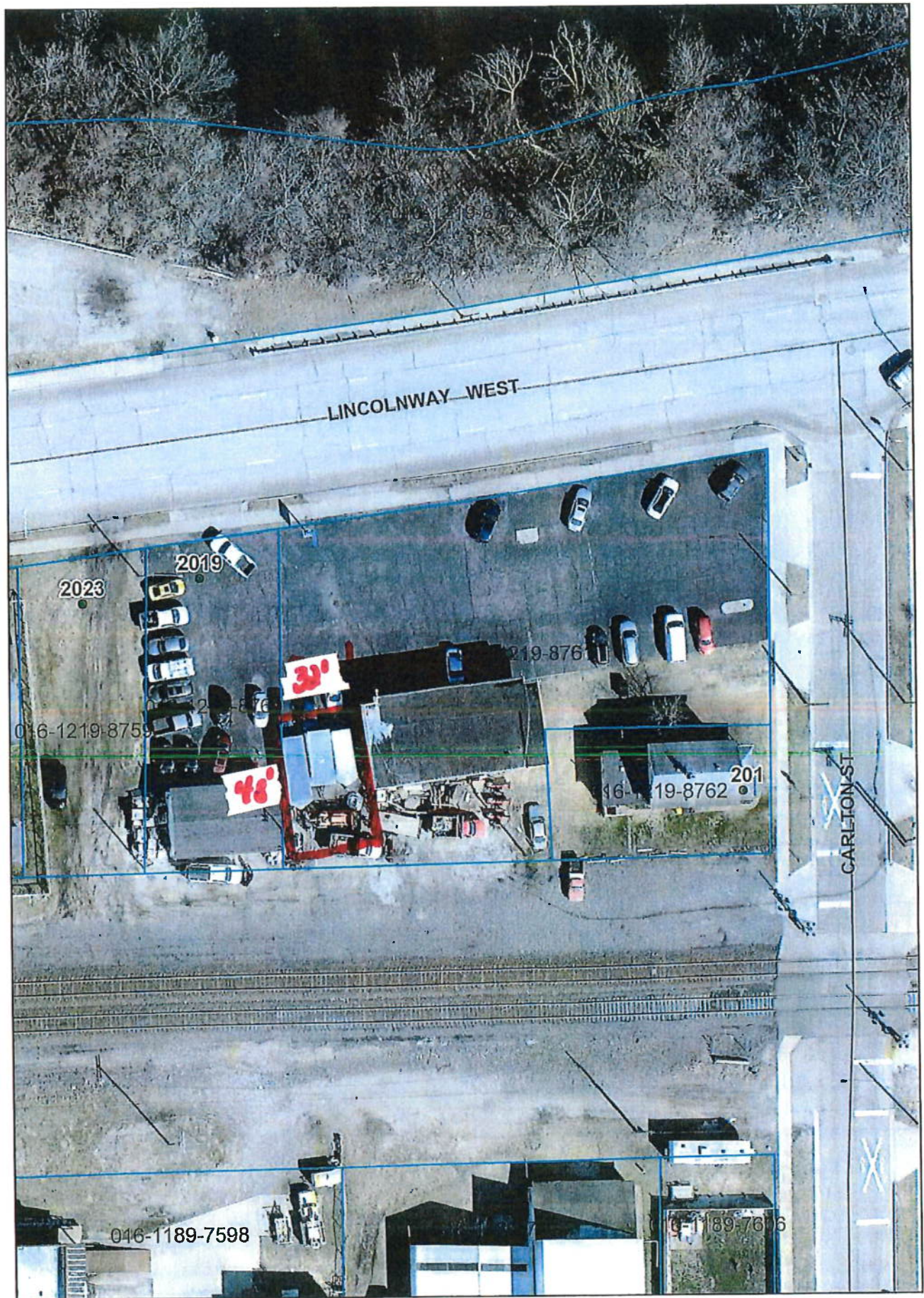
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.) No outside storage of materials

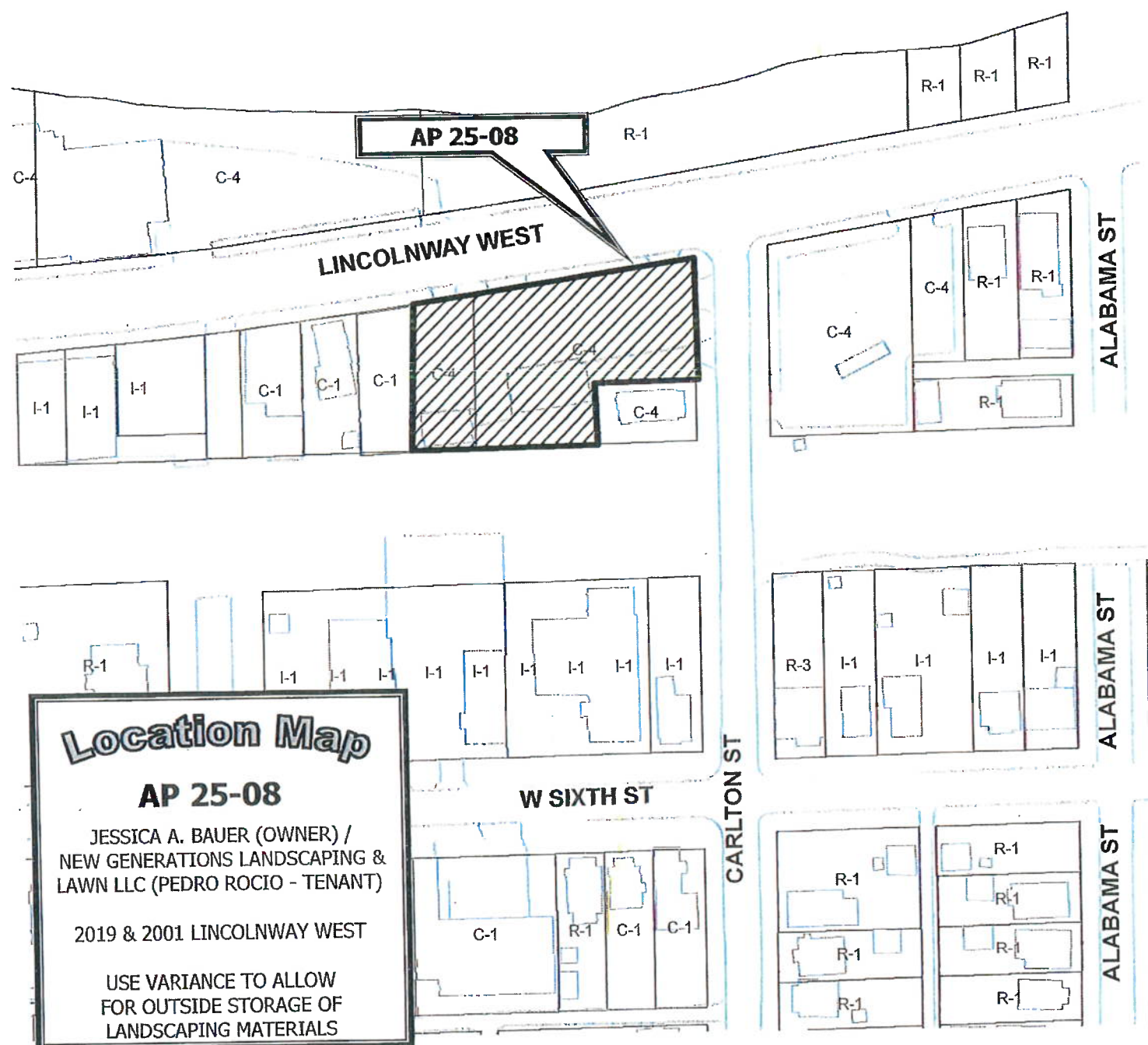
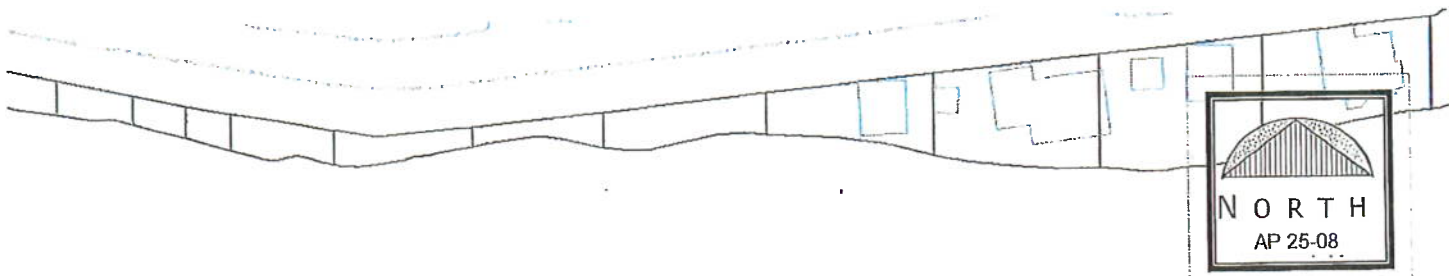
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. 48' x 32' / 4 boxes

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.





APR 08 2025

City Clerk
Mishawaka, IN

**RESOLUTION NO. 2025-08
Miscellaneous Property Acquisitions
1216 South Union Street**

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

WHEREAS, on February 24, 2014, the City of Mishawaka Redevelopment Commission (the "Commission") approved and adopted its Resolution No. 2014-03 entitled "Resolution of the City of Mishawaka Redevelopment Commission Designating and Declaring Certain Areas as Economic Development Areas, Amending the Boundaries of the Northwest Area Improvement Project, Consolidating the Southside Economic Development Area and the Northwest Area Improvement Project Into One Area, And Amending the Economic Development Plan for the Consolidated Area Improvement Project" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution (i) designated and declared certain areas within the City of Mishawaka, Indiana (the "City") to be economic development areas (the "Expansion Areas") for purposes of tax increment financing pursuant to Section 39 of Indiana Code 36-7-14 (the "Act") to expand the existing Northwest Area Improvement Project (the "Northwest Area"); (ii) removed certain parcels from the Northwest Area; (iii) consolidated the Southside Economic Development Area (the "Southside Area") and the Northwest Area into one area (to be known as the Consolidated Area Improvement Project) (the "Consolidated Area"); and (iv) approved an amendment (the "Plan Amendment") to the Economic Development Plan for the Northwest Area (the "Economic Development Plan") to provide for such Economic Development as amended to serve as the economic development plan for the Consolidated Area Improvement Project (as amended by the Plan Amendment shall hereinafter be referred to as the "Economic Development Plan"); and

WHEREAS, on March 11, 2014, the City of Mishawaka Plan Commission (the "Plan Commission") adopted and approved its resolution 2014-01, determining that the Declaratory Resolution and the Economic Development Plan, as amended by the Plan

Amendment, conform to the plan of development for the City and approving, ratifying and confirming the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, and designated such resolution as the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan, as amended by the Plan Amendment, as required by Section 16 of the Act (the “Plan Commission Order”); and

WHEREAS, Section 16 of the Act prohibits the Commission from proceeding until the Plan Commission Order is approved by the legislative body of the City; and

WHEREAS, the Common Council of the City (the “Common Council”) previously approved the Plan Commission Order by Common Council Resolution 2014-07; and

WHEREAS, as part of the previous approval various public improvement projects were listed as part of the Economic Development Plan; and

WHEREAS, a number of those projects including the acquisition of blighted properties and improvements widening Union Street in the area improvement project were included in the economic development plan; and

WHEREAS, the Administration is asking the legislative body for its review and approval of adding certain properties to the City’s acquisition list to implement a portion of these projects; and

WHEREAS, the description of the property that is proposed to be added is as follows:

- 1216 South Union Street, Lot 4 Ex 3.5' N Side Also N 7' Vac Alley S & Adj Towles 2nd, Tax Parcel #016-1132-516501

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Mishawaka, Indiana, as follows:

1. The referenced parcels are hereby added to the City’s acquisition list as part of the consolidated area improvement projects
2. This Resolution shall be in full force and effect from and after its passage by the Common Council.

Passed and adopted at a meeting of the Common Council of the City of Mishawaka, Indiana, held on April 14, 2025.

COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

Gregg Hixenbaugh, President

ATTEST:

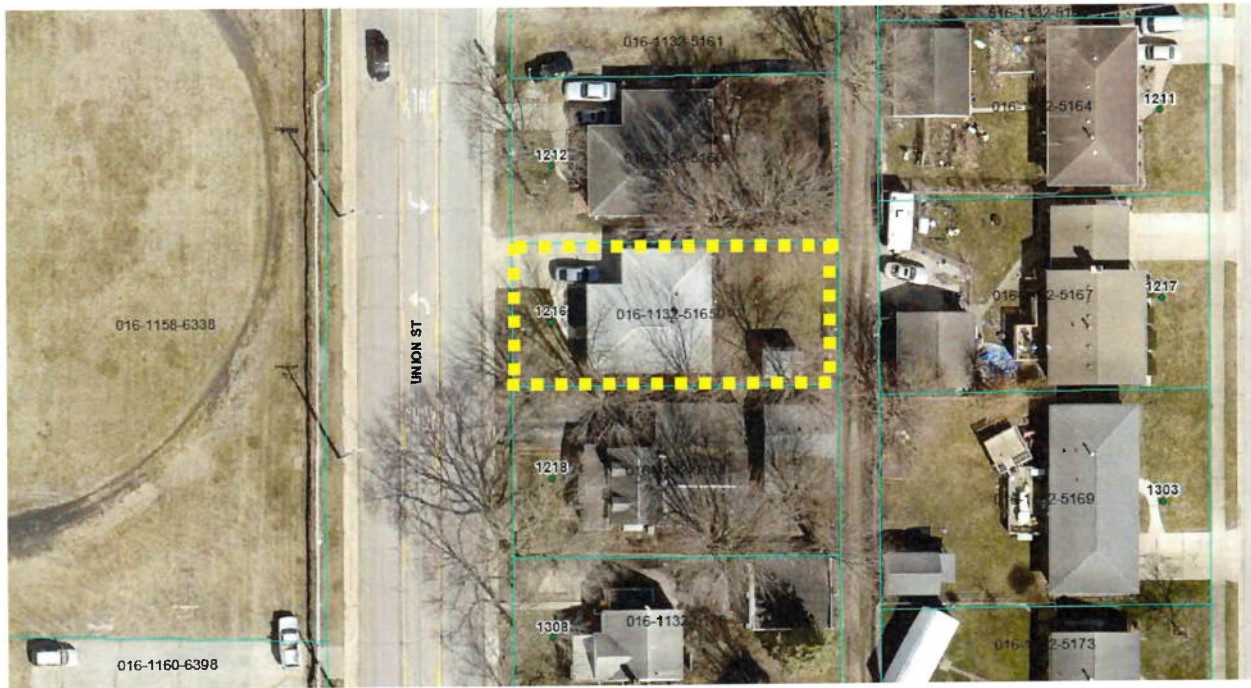
Deborah S. Block
Clerk of the City of Mishawaka, Indiana

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the _____
day of April _____, 2025, at the hour of _____ .m.

Deborah S. Block
Clerk of the City of Mishawaka, Indiana

This Resolution approved and signed by me on the ____ day of April, 2025, at the
hour of _____ .m.

David A. Wood
Mayor of the City of Mishawaka, Indiana



Location Map- 1216 South Union Street

Proposed Resolution 2025-08 Acquisition of 1216 South Union Street

From Ken Prince <kprince@mishawaka.in.gov>

Date Tue 4/8/2025 3:02 PM

To Deb Block <dblock@mishawaka.in.gov>; Raven S. Boston <rboston@mishawaka.in.gov>; Michael Hixenbaugh <mhixenbaugh@mishawaka.in.gov>

Cc DL-Council <DL-Council@mishawaka.in.gov>; Rebecca Maguire <rmaguire@mishawaka.in.gov>

 2 attachments (3 MB)

union sellers addendum contract.pdf; Resolution 2025-08 Common Council Acquisition 1216 South Union Street.doc;

Good afternoon Deb,

Attached is proposed Resolution 2025-08 concerning adding two Union Street properties to the property acquisition list. We are requesting that this item be placed on the April 14th Council Agenda.

As the Council knows, for the City to acquire property using TIF funds, per the Indiana Code, it must first be placed on an acquisition list that is approved by the City Council. In 2014 when the consolidated TIF underwent major modifications to include many of the main transportation routes in the City, the City made the decision to evaluate acquisitions as they are needed, rather than blindly add what would have amounted to hundreds of properties to a generic acquisition list along corridors that were anticipated to be widened or improved over time. Union Street is one of those corridors.

The property included in the resolution is a single family residential home located at 1216 South Union Street. Although this section of Union Street will likely not be needed for widening in the next 5 years, the administration is pursuing acquisition at this time because it is a bank sale of the property that was brought to us by a realtor, Lance Roush, who was involved in another Union Street acquisition. Bank sale meaning it was likely foreclosed on and the bank is now pursuing the sale to cover the debt and taxes on the home. It is currently empty.

In this case and others as we move forward, as properties come for sale, we would like to acquire them before another landlord or family purchases it and makes further investment. This is in an area where we know Union Street will be widened over time.

Unlike other sales that are usually initiated by a buy-sell agreement through the Redevelopment Commission, we needed to execute the attached agreement and sign the out of state bank paperwork/sales agreement if we were going to pursue the acquisition. There is no ability for us to modify the language. Rather than a contingency, we have a due diligence period that expires at the end of the month. If the Council decides not to move forward we will inform the bank and request refunding the \$1,000 earnest money we have deposited. The property is in the process of being appraised and we anticipate that appraisals will be very close to the \$159,900 agreed to price.

We also continue to work on other willing buyer seller agreements along this corridor. We have had preliminary discussions with Jackel who owns the Industrial building at the northeast corner of 12th and Union, and anticipate we will be asking for the Council's approval for that acquisition in the coming months.

Our consolidated TIF is the source of funds that would be used if the purchases are ultimately approved. Given the time urgency, please let me know as soon as you can if you have any questions regarding the potential acquisition. We appreciate your consideration. If approved by the Council, the proposed sale will be presented to the Redevelopment Commission at the end of the month.

Ken



Kenneth B. Prince, FASLA
Executive Director

City of Mishawaka
Planning and Community Development
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Mishawaka, IN 46544
Phone- (574) 258-1625
Email- kprince@mishawaka.in.gov
Website- www.mishawaka.in.gov



REAL ESTATE PURCHASE ADDENDUM

This Real Estate Purchase Addendum ("Addendum") is to be made part of and incorporated into, the Real Estate Purchase Contract (the "Contract"), between Hudson Homes Management LLC as servicer for the owner of record ("Seller") and City of Mishawaka ("Purchaser") for the property and improvements located at the following address: 1216 Union St. ("Property"). As used in this Addendum, the Contract, Addendum and any riders thereto shall be collectively referred to as the "Agreement." The Seller and the Purchaser agree as follows:

1. Offer:

- (a) Acknowledgement of Sufficient Offer: The Purchaser has offered to purchase the property for a purchase price in the amount of \$ 159,900 in accordance with the terms set forth in the Agreement ("Offer"). The Seller has reviewed the offer and deemed it materially sufficient on , 20 ("Acknowledgement Date").
- (b) Acceptance of Offer: Notwithstanding Seller's acknowledgement that the Offer is sufficient for acceptance, the Purchaser agrees that the Agreement remains subject to acceptance by the Seller and must be signed by all parties in order to be binding. The Agreement shall be effective as of the date of execution by Seller ("Effective Date"). The Purchaser's earnest money deposit of \$ 1000 is to be placed in a trust account acceptable to the Seller within two (2) calendar days following the effective Date. The Agreement, signed by the Purchaser and reflecting the terms as acknowledged by the Seller, must be received by the Seller within five (5) calendar days of the Acknowledgement Date. If the Seller does not receive the signed Agreement by such date, the Purchaser's offer shall be deemed null and void. As used in this paragraph, the term "received by the Seller" means actual receipt of the Agreement by the Seller's listing agent.

The Purchaser shall present proof, satisfactory to the Seller, of the Purchaser's funds or prequalification for a mortgage loan in an amount and under terms sufficient for the Purchaser to perform its obligations under this Agreement. The prequalification shall include but is not limited to, a certification of prequalification or a mortgage loan commitment from a mortgage lender, a satisfactory credit report and/or proof of funds sufficient to meet the Purchaser's obligations under the Agreement. The Purchaser's submission of proof of prequalification is a condition precedent to the Seller's acceptance. The Seller may require the Purchaser to obtain, at no cost to the Purchaser, loan prequalification from a Seller approved third party lender. Notwithstanding any Seller-required prequalification, the Purchaser acknowledges that Purchaser is free to obtain financing from any source.

2. Time is of the Essence: Settlement Date:

- (a) It is agreed that time is of the essence with respect to all dates specified in the Agreement. This means that all deadlines are intended to be strict and absolute.
- (b) The closing shall take place on a date ("Settlement Date") on/or before April 30, 2025 ("Expiration Date"), unless extended in writing signed by the Seller and the Purchaser or extended by the Seller under the terms of the Agreement. The closing shall be held at a place so designated and approved by the Seller, unless otherwise required by applicable law. The date the closing takes place shall be referred to as the Settlement Date for purposes of the Agreement. If the closing does not occur by the Expiration Date, or in any extension, the Agreement is automatically terminated and the Seller may retain any earnest money deposit as liquidated damages. If Seller agrees to a request from Purchaser to extend the Settlement Date, then Purchaser agrees to pay Seller a per-diem extension fee of \$ from the original Settlement Date through and including the extended Settlement Date.

3. Financing: This Agreement (check one): () is, (X) is not, contingent on the Purchaser obtaining financing for the purchase of the Property. If this Agreement is contingent on financing, the type of financing shall be the following (check one):

 Conventional
 FHA
 VA
X Cash
 Other (specify:)

All Financing. If this Agreement is contingent on financing, the Purchaser shall apply for a loan in the amount of \$ NA with a term of years, at prevailing rates, terms and conditions. The Purchaser shall complete and submit to a mortgage lender, of the Purchaser's choice, an application for a mortgage loan containing the terms set forth in this paragraph within five (5) calendar days of the Acknowledgement Date, and shall use diligent efforts to obtain a mortgage loan commitment by , 20 . **THE PURCHASER IS NOT REQUIRED TO USE A SPECIFIC MORTGAGE LENDER TO OBTAIN FINANCING.** If, despite the Purchaser's diligent efforts, the Purchaser cannot obtain a mortgage loan commitment by the specified date, then either the Purchaser or the Seller may terminate the Agreement by giving written notice to the other party. The Purchaser's notice must include a copy of the loan application, proof of the application date, and a copy of the denial letter from the prospective lender. In the event of a proper termination of the Agreement under this paragraph, the earnest money deposit shall be returned to the Purchaser. The Purchaser agrees to cooperate and comply with all requests for documents and information from the Purchaser's chosen lender during the loan application process. Failure of the Purchaser to comply with such requests from the lender that results in the denial of the mortgage loan will be a breach of the Agreement and the Seller shall be entitled to retain any earnest money deposited by the Purchaser.

Initial
KBP

Purchaser

Seller

- (a) Any change as to the terms of the Purchaser's financing, including but not limited to any change in the Purchaser's lender, after negotiations have been completed may, at Seller's discretion, require renegotiation of all terms of the Agreement. Seller shall have the right to terminate the Agreement in the event there is a change in Purchaser's financing or choice of lender.
- (b) The Purchaser shall ensure that the lender selected by the Purchaser to finance the sale shall fund the settlement agent as of the Settlement Date in accordance with paragraph 12 below. The Purchaser shall further ensure that the selected lender shall provide all lender prepared closing documentation to the settlement agent no later than 48 hours prior to the Settlement Date. Any delays in closing as a result of the Purchaser's selected lender shall be the responsibility of the Purchaser.

Notwithstanding any provision of the Contract to the contrary, in no event will the Contract be contingent on the ability of Purchaser to sell or close on other real estate owned by the Purchaser.

4. Use of Property: The Purchaser (check one): () does, (X) does not, intend to use and occupy the Property as Purchaser's primary residence.

5. Inspections:

- (a) On or before NA calendar days from the Acknowledgement Date, the Purchaser shall inspect the Property or obtain for its own use, benefit and reliance, inspections and/or reports on the condition of the Property, or be deemed to have waived such inspection and any objections to the condition of the Property and to have accepted the Property. The Purchaser shall keep the Property free and clear of liens arising from any such inspections and indemnify and hold the Seller harmless from all liability claims, demands, damages, and costs related to the Purchaser's inspection and the Purchaser shall repair all damages arising from or caused by the inspections. The Purchaser shall not directly or indirectly cause any inspections to be made by any government building or zoning inspectors or government employees without the prior written consent of the Seller, unless required by law, in which case, the Purchaser shall provide reasonable notice to the Seller prior to any such inspection. If the Seller has winterized this Property and the Purchaser desires to have the Property inspected, the Seller's listing agent will have the Property de-winterized prior to inspection and re-winterized after inspection.

Within five (5) calendar days of receipt of any inspection report prepared by or for the Purchaser, but not later than ten (10) calendar days from the Acknowledgment Date, whichever first occurs, the Purchaser will provide written notice to the Seller of any items disapproved. The Purchaser's silence shall be deemed as acceptance of the condition of the Property. The Purchaser shall provide to the Seller, at no cost, upon request by the Seller, complete copies of all inspection reports upon which the Purchaser's disapproval of the condition of the property is based. In no event shall the Seller be obligated to make any repairs or replacements that may be indicated in the Purchaser's inspection reports or disapproved by Seller. The Seller may, in its sole discretion, make such repairs to the Property under the terms described in Section 6 of this Addendum. **THE PARTIES AGREE AND ACKNOWLEDGE THAT IN NO EVENT WILL SELLER BE OBLIGATED TO MAKE REPAIRS IN EXCESS OF \$**

If the Seller elects not to repair the Property as requested by Purchaser, the Purchaser may cancel this Agreement and receive all earnest money deposited. If the Seller elects to make any such repairs to the Property, the Seller shall notify the Purchaser after completion of the repairs and the Purchaser shall have five (5) calendar days from the date of notice, to inspect the repairs and notify the Seller of any items disapproved. If after inspection the Purchaser is not satisfied with repairs or treatments, Purchaser may terminate the Agreement at any time prior to closing.

In situations that are applicable, a structural, electrical, mechanical, environmental or termite inspection report may have been prepared for the benefit of the Seller. Upon request, the Purchaser will be allowed to review the report to obtain the same information and knowledge the Seller has about the condition of the Property but the Purchaser acknowledges that the inspection reports were prepared for the sole use and benefit of the Seller. The Purchaser will not rely upon any such inspection reports obtained by the Seller in making a decision to purchase the Property.

- (b) If the Property is a condominium or planned unit development or co-operative, unless otherwise required by law, the Purchaser, at the Purchaser's own expense, is responsible for obtaining and reviewing the covenants, conditions and restrictions and bylaws of the condominium, or planned unit development or cooperative ("Governing Documents") within ten (10) calendar days of the Effective Date. The Seller agrees to use reasonable efforts, as determined in the Seller's sole discretion, to assist the Purchaser in obtaining a copy of the Governing Documents. The Purchaser will be deemed to have accepted the Governing Documents if the Purchaser does not provide the Seller notice in writing, within fifteen (15) calendar days of the Effective Date, of the Purchaser's disapproval of the Governing Documents. In the event P u r c h a s e r disapproves of the Governing Documents, Purchaser has the right to terminate the Agreement provided the Purchaser notifies Seller in writing of Purchaser's disapproval within fifteen (15) calendar days of the Effective Date.

6. Repairs: All repairs and treatments will be completed by a vendor approved by the Seller and engaged by the Seller or Seller's agent, and will be subject to the Seller's satisfaction only. IF THE SELLER HAS AGREED TO PAY FOR TREATMENT OF WOOD-INFESTING ORGANISMS, THE SELLER SHALL TREAT ONLY ACTIVE INFESTATION, AND IN NO EVENT WILL BE OBLIGATED TO PAY FOR SUCH TREATMENT IN EXCESS OF \$NA. Neither the Purchaser, nor its representatives, shall enter upon the Property to make any repairs and/or treatments prior to closing. The Purchaser shall inspect the repairs and/or treatments as set forth in paragraph 5(a) or is deemed to have waived such inspection and any objections to the repairs

Purchaser Initial
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Seller _____

and/or treatments. The Purchaser acknowledges that all repairs and treatments are done for the benefit of the Seller and not for the benefit of the Purchaser and that the Purchaser has inspected or has been given the opportunity to inspect repairs and treatments. Any repairs or treatments made or caused to be made by the Seller shall be completed prior to closing. Under no circumstance s shall the Seller be required to make any repairs or treatments after the Settlement Date. The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that the Purchaser is satisfied with the condition of the Property and with all repairs and treatments to the Property and waives all claims relate d to such condition and to the quality of the repairs or treatments to the Property. Any repairs or treatments shall be performed for functional purposes only and exact restoration of appearance or cosmetic items following any repairs or treatments shall not be require d. The Seller shall not be obligated to obtain or provide to the Purchaser any receipts for repairs, or treatments, written statements indicating dates or types of repairs and or treatments or copies of such receipts or statements nor any other documentation regarding any repairs or treatments to the Property. THE SELLER DOES NOT WARRANT OR GUARANTEE ANY WORK, REPAIRS OR TREATMENTS TO THE PROPERTY.

7. **CONDITION OF PROPERTY: THE PURCHASER UNDERSTANDS THAT THE SELLER ACQUIRED THE PROPERTY BY FORECLOSURE, DEED-IN-LIEU OF FORECLOSURE, FORFEITURE, TAX SALE, OR SIM ILAR PROCESS AND THAT THE SELLER DID NOT OCCUPY THE PROPERTY. CONSEQUENTLY, THE SELLER MAY HAVE LITTLE OR NO DIRECT KNOWLEDGE CONCERNING THE CONDITION OF THE PROPERTY. AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, AND DESPITE ANY STATEMENT TO THE CONTRARY IN THE CONTRACT, THE PURCHASER ACKNOWLEDGES AND AGREES TO ACCEPT THE PROPERTY IN "AS-IS" CONDITION AT THE TIME OF CLOSING, INCLUDING, WITHOUT LIMITATION, ANY DEFECTS OR ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY, WHETHER KNOWN OR UNKNOWN, WHETHER SUCH DEFECTS OR CONDITIONS WERE DISCOVERABLE THROUGH INSPECTION OR NOT. THE PURCHASER ACKNOWLEDGES THAT THE SELLER, ITS AGENTS AND REPRESENTATIVES HAVE NOT MADE AND THE SELLER SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, A G R E E M E N T S OR GUARANTEES, IMPLIED OR EXPRESS, ORAL OR WRITTEN WITH RESPECT TO THE FOLLOWING:**

- (A) **THE PHYSICAL CONDITION OR ANY OTHER ASPECT OF THE PROPERTY INCLUDING THE STRUCTURAL INTEGRITY OR THE QUALITY OR CHARACTER OF MATERIALS USED IN CONSTRUCTION OF ANY IM PROVE MENTS (E.G., DRYWALL, ASBESTOS, LEAD PAINT, UREA FORM ALDEHYDE FOAM INSULATION), AVAILABILITY AND QUANTITY OR QUALITY OF WATER, CONNECTION TO A PUBLIC SEWER OR WATER SUPPLY, STABILITY OF THE SOIL, SUSCEPTIBILITY TO LANDSLIDE OR FLOODING, SUFFICIENCY OF DRAINAGE, WATER LEAKS, WATER DAMAGE, MOLD OR ANY OTHER MATTER AFFECTING THE STABILITY, INTEGRITY, OR CONDITION OF THE PROPERTY OR ANY IMPROVEMENTS;**
- (B) **THE CONFORM ITY OF THE PROPERTY, OR THE IMPROVE MENTS, TO ANY ZONING, LAND USE OR BUILDING CODE REQUIRE MENTS OR COMPLIANCE WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY FEDERAL, STATE OR LOCAL GOVERN MENTAL AUTHORITY, OR THE GRANTING OF ANY REQUIRED PERM ITS OR APPROVALS, IF ANY, OF ANY GOVERNMENTAL BODIES WHICH HAD JURISDICTION OVER THE CONSTRUCTION OF THE ORIGINAL STRUCTURE, ANY IMPROVEMENTS AND OR ANY REMODELING OF THE STRUCTURE; AND**
- (C) **THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR IMPROVEMENTS INCLUDING REDHIBITORY VICES AND DEFECTS, APPARENT, NON APPARENT OR LATENT, WHICH NOW EXIST OR WHICH MAY HEREAFTER EXIST AND WHICH, IF KNOWN TO THE PURCHASER, WOULD CAUSE THE PURCHASER TO REFUSE TO PURCHASE THE PROPERTY.**

IT IS THE EXPRESS INTENTION OF SELLER AND PURCHAER THAT THE ONLY WARRANTIES, REPRESENTATIONS OR STATEMENTS (IF ANY) MADE BY SELLER AND RELIED UPON BY PURCHASER ARE THOSE THAT MAY BE CONTAINED IN THIS ADDENDUM.

Mold, mildew, spores and/or other microscopic organisms and/or allergens (collectively referred to in this Agreement as "Mold") are environmental conditions that are common in residential properties and may affect the Property. Mold, in some forms, has been reported to be toxic and to cause serious physical injuries, including but not limited to, allergic and/or respiratory reactions or other problems, particularly in persons with immune system problems, young children an d/or elderly persons. Mold has also been reported to cause extensive damage to personal and real property. Mold may have been removed or covered in the course of any cleaning or repairing of the Property. The Purchaser acknowledges that, if Seller, or any of Seller's employees, contractors, or agents cleaned or repaired the Property or remediated Mold contamination, that Seller does not in any way warrant the cleaning, repairs or remediation. Purchaser accepts full responsibility for all hazards that may result from the presence of Mold in or around the Property. The Purchaser is satisfied with the condition of the Property notwithstanding the past or present existence of Mold in or around the Property and Purchaser has not, in any way, relied upon any representations of Seller, Seller's employees, officers, directors, contractors, or agents concerning the past or present existence of Mold in or around the Property.

Purchaser Initial

 Seller _____

If at any time the Property conditions result in violations of building code or other laws or regulations, either party shall have the right to terminate the Agreement at any time prior to closing. If there is an enforcement proceeding arising from allegations of such violations before an enforcement board, special master, court or similar enforcement body, and neither the Purchaser nor the Seller terminate this Agreement, the Purchaser agrees (a) to accept the Property subject to the violations, (b) to be responsible for compliance with the applicable code and with orders issued in any code enforcement proceeding and (c) to resolve the deficiencies as soon as possible after the closing. The Purchaser agrees to execute any and all documents necessary or required for closing by any agency with jurisdiction over the Property. The Purchaser further agrees to indemnify the Seller from any and all claims or liability arising from the Purchaser's breach of this Section 7 of this Addendum.

Purchaser acknowledges that Seller or Seller's agent has furnished Purchaser with a Lead Paint Pamphlet in accordance with guidelines of the U.S. Department of Housing and Urban Development and the U.S. Environmental Protection Agency for the implementation of the Residential Lead-Based Paint Hazard Reduction Act.

The closing of this sale shall constitute acknowledgement by the Purchaser that Purchaser had the opportunity to retain an independent, qualified professional to inspect the Property and that the condition of the Property is acceptable to the Purchaser. The Purchaser agrees that the Seller shall have no liability for any claims or losses the Purchaser or the Purchaser's successors or assigns may incur as a result of construction or other defects which may now or hereafter exist with respect to the Property.

8. Occupancy Status of Property: The Purchaser acknowledges that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise noted in Section 38 of this Addendum. Seller represents that the Property may have tenants occupying same under an active lease but expressly disclaims any warranties regarding the validity, enforceability, performance under or continuation of said lease. The Purchaser acknowledges that closing on this transaction shall be deemed the Purchaser's reaffirmation that neither the Seller, nor its representatives, agents or assigns, has made any warranties or representations, implied or expressed, relating to the existence of any tenants or occupants at the Property unless otherwise noted in Section 38 of this Addendum. The Seller, its representatives, agents or assigns, shall not be responsible for evicting or relocating any tenants, occupants or personal property at the Property prior to or subsequent to closing unless otherwise noted in Section 38 of this Addendum. All leases shall be deemed assigned to Purchaser upon closing to the extent permitted under applicable laws.

The Purchaser further acknowledges that, to the best of the Purchaser's knowledge, the Seller is not holding any security deposits from former or current tenants and has no information as to such security deposits as may have been paid by the former or current tenants to anyone. Purchaser agrees that no sums representing such tenant security deposits shall be transferred to the Purchaser as part of this transaction. The Purchaser further agrees to assume all responsibility and liability for the refund of such security deposits to the tenants pursuant to the provisions of applicable laws and regulations. All rents due and payable and collected from tenants for the month in which closing occurs will be prorated according to the provisions of Section 10 of this Addendum.

The Purchaser acknowledges that this Property may be subject to the provisions of local rent control ordinances and regulations. The Purchaser agrees that upon the closing, all eviction proceedings and other duties and responsibilities of a property owner and landlord, including but not limited to those proceedings required for compliance with such local rent control ordinances and regulations, will be the Purchaser's sole responsibility.

9. Personal Property: Items of personal property, including but not limited to window coverings, appliances, manufactured homes, mobile homes, vehicles, spas, antennas, satellite dishes and garage door openers, now or hereafter located on the Property are not included in this sale or the Purchase Price unless the personal property is specifically described and referenced in Section 38 of this Addendum. Any personal property at or on the Property may be subject to claims by third parties and, therefore, may be removed from the Property prior to or after the closing. The Seller makes no representation or warranty as to the condition of any personal property, title thereto, or whether any personal property is encumbered by any liens. The Seller assumes no responsibility for any personal property remaining on the Property at the time of closing.

10. Taxes and Prorations:

- (a) The Purchaser and the Seller agree to prorate the following expenses as of the Settlement Date: utility, water and sewer charges, real estate taxes and assessments, common area charges, condominium or planned unit development or similar community assessments, cooperative fees, maintenance fees and rents, if any. In determining prorations, the Settlement Date shall be allocated to the Purchaser. Payment of special assessment district bonds and assessments, and payment of homeowner's association or special assessments shall be paid current and prorated between the Purchaser and the Seller as of Settlement Date with payments not yet due and owing to be assumed by the Purchaser without credit toward Purchase Price. The Property taxes shall be prorated based on an estimate or actual taxes from the previous year on the Property. All prorations shall be based upon a 30-day month and all such prorations shall be final. The Seller shall not be responsible for any amounts due, paid or to be paid after closing, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property. In the event the Seller has paid any taxes, special assessments or other fees and there is a refund of any such taxes, assessments or fees after closing, and the Purchaser as current owner of the Property receives the payment, the Purchaser will immediately submit the refund to the Seller. Notwithstanding the foregoing, Seller will not be responsible for homeowners' association assessments on the Property that accrued prior to the date that Seller acquired the Property.

Purchaser Initial

 Seller _____

- (b) The Seller will pay state taxes, tax stamps on deeds, and other transfer taxes required to be paid or customarily paid by a property seller.
- (c) The Seller shall pay the real estate commission per the listing agreement between the Seller and the Seller's listing broker.
- (d) Purchaser shall release Seller from any and all claims arising from the adjustments or prorations or errors in calculating the adjustment or prorations that are or may be discovered after closing.

11. Closing Costs and Concessions:

- (a) REGARDLESS OF LOCAL CUSTOM, REQUIREMENTS OR PRACTICE, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT OF SALE OR ANY OTHER ADDENDA, SELLER WILL NOT PAY ANY FEES, COSTS OR EXPENSES NOT EXPRESSLY PROVIDED FOR IN THIS ADDENDUM.
- (b) Purchaser shall pay all of a Purchaser's customary closing costs (which shall include lender charges, survey and any FHA/VA non-allowables), except for Seller's contribution toward such closing costs. The amount to be contributed by Seller toward closing costs shall not exceed \$ NA. Seller's contribution may be applied to any or all of the following actual expenses: FHA or VA non-allowables, non-recurring closing costs, discount points, loan origination fees, other customary and reasonable lender fees and pre-paid expenses, survey, and appraisal. In the event the total of closing costs are less than the amount of Seller's contribution toward closing costs, then Seller's contribution shall be limited to the total of such actual closing costs. In any event, Seller will not be obligated to make a contribution toward any closing costs if Purchaser does not pursue and obtain the financing specified in Section 3 of this Addendum.
- (c) The parties agree to the following with respect to the selection of a Closing Agent and title insurance agent:
 - i. Seller hereby notifies Purchaser that Purchaser has the right to make an independent selection of the Closing Agent and title insurance agent used in connection with the sale of the Property.
 - ii. If Purchaser agrees to use the Closing Agent recommended by Seller, then Seller agrees to pay for the actual premium amount of an owner's policy of title insurance from a title insurance agent of Seller's choosing. Seller will not be obligated to pay any portion of the cost of an owner's policy of title insurance if the Purchaser does not select the Closing Agent recommended by Seller or if prohibited by applicable local, state, or federal law.
 - iii. Purchaser acknowledges that Purchaser is not required by Seller to purchase either an owner's or lender's policy of title insurance. However, the lender, if any, from which Purchaser obtains a mortgage may impose a requirement to purchase a lender's policy of title insurance upon Purchaser. Purchaser agrees it will contact its lender, if any, for more information if Purchaser has any questions regarding the obligation to purchase a lender's policy of title insurance.
 - iv. Purchaser acknowledges the notice and information provided in this section 11.(c)iii. and makes the following selection (Purchaser must choose one):
 - ☐ Selection of a Closing Agent not recommended by Seller. Purchaser selects the following company to act as Closing Agent: _____ The Purchaser will be responsible for payment of the owner's policy of title insurance, if any.
 - ☒ Selection of a company recommended by Seller. Purchaser selects the following company, which has been recommended by Seller, to be the Closing Agent in connection with Purchaser's purchase of the Property (Name of Seller's Closing Company): _____ The Seller will pay for the owner's policy of title insurance. Purchaser shall be responsible to purchase and pay for a lender's policy of title insurance if Purchaser so chooses or is required to purchase one.

12. Delivery of Funds: Regardless of local custom, requirements, or practice, upon delivery of the deed by the Seller to the Purchaser, the Purchaser shall deliver, or cause to be delivered, all funds due the Seller via wire transfer.

13. Certificate of Occupancy: If the Property is located in a jurisdiction that requires a certificate of occupancy, smoke detector certification, septic certification or any similar certification or permit ("Certificate of Occupancy") or any form of improvement or repair to the Property to obtain such Certificate of Occupancy necessary for the Property to be occupied, the Purchaser understands that the Seller requires the Certificate of Occupancy to be obtained by the Purchaser

Purchaser Initial
KBP
Seller _____

at the Purchaser's sole expense. The Purchaser shall make application for all Certificates of Occupancy within ten (10) calendar days of the Acknowledgement Date. The Purchaser shall not have the right to delay the closing due to the Purchaser's failure or inability to obtain any required Certificate of Occupancy. Failure of the Purchaser to obtain and furnish the Certificate of Occupancy shall be a material breach of the Agreement.

14. Delivery of Possession of Property: The Seller shall deliver possession of the Property to the Purchaser at closing and funding. The delivery of possession shall be subject to the rights of any tenants or parties in possession per Section 8 of this Addendum. If the Purchaser alters the Property or causes the Property to be altered in any way and/or occupies the Property or allows any other person to occupy the Property prior to closing without the prior written consent of the Seller, such event shall constitute a breach by the Purchaser under the Agreement and the Seller may terminate the Agreement and the Purchaser shall be liable to the Seller for damages caused by any such alteration or occupation of the Property prior to closing and waives any and all claims for damages or compensations for alterations made by the Purchaser to the Property including, but not limited to, any claims for unjust enrichment.

15. Deed: Regardless of local practice, the deed to be delivered by Seller at closing shall be a deed that covenants that grantor grants only that title which grantor may have and that grantor will only defend title against persons claiming by, through, or under the grantor, but not otherwise. Any reference to the term "Deed" or "Special Warranty Deed" herein shall be construed to refer to such form of deed. Under no circumstances shall Seller be required to deliver any form of deed which grants a general warranty of title.

____ (check if applicable) Seller's deed shall include the following deed restriction:

16. Defects in Title: If the Purchaser raises an objection to the Seller's title to the Property, which, if valid, would make title to the Property uninsurable, as determined by Seller in its sole discretion, the Seller shall have the right unilaterally to terminate the Agreement by giving written notice of the termination to the Purchaser. However, if the Seller is able to correct the problem through reasonable efforts, as the Seller determines, at its sole and absolute discretion, prior to the Expiration Date, including any written extensions, or if title insurance is available from a reputable title insurance company at regular rates containing affirmative coverage for the title objections, then the Agreement shall remain in full force and the Purchaser shall perform pursuant to the terms set in the Agreement. The Seller is not obligated to remove any exception or to bring any action or proceeding or bear any expense in order to convey title to the Property or to make the title marketable and/or insurable, but any attempt by the Seller to remove such title exceptions shall not impose an obligation upon the Seller to remove those exceptions. The Purchaser acknowledges that the Seller's title to the Property may be subject to court approval of foreclosure or to mortgagor's right of redemption. In the event the Seller is not able to (a) make the title insurable or correct any problem or (b) obtain title insurance from a reputable title insurance company, all as provided herein, the Purchaser may terminate this Agreement and any earnest money deposit will be returned to the Purchaser as the Purchaser's sole remedy at law or equity. The Purchaser elects to take title subject to the title objections, the Purchaser shall so notify the Seller. The Purchaser's silence as to any title objections shall be deemed as acceptance.

The Purchaser represents and warrants to the Seller the following:

- (a) The Purchaser is purchasing the Property solely in reliance on its own investigation and inspection of the Property and not on any information, representation or warranty provided or to be provided by the Seller, its servicers, representatives, brokers, employees, agents or assigns;
- (b) Neither the Seller, nor its servicers, employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or expressed, relating to the condition of the Property or the contents thereof, except as expressly set forth in Section 38 of this Addendum;
- (c) The Purchaser has not relied on any representation or warranty from the Seller regarding the nature, quality or workmanship of any repairs made by the Seller;
- (d) The Purchaser will not occupy or cause or permit others to occupy the Property prior to closing and, unless and until any necessary Certificate of Occupancy has been obtained from the appropriate governmental entity, will not occupy or cause or permit others to occupy the Property after closing; and
- (e) The undersigned, if executing the Agreement on behalf of the Purchaser that is a corporation, partnership, trust or other entity, represents and warrants that he/she is authorized by that entity to enter into the Agreement and bind the entity to perform all duties and obligations stated in the Agreement.

Purchaser Initial

 Seller _____

17. WAIVERS:

AS A MATERIAL PART OF THE CONSIDERATION TO BE RECEIVED BY THE SELLER UNDER THIS AGREEMENT AS NEGOTIATED AND AGREED TO BY THE PURCHASER AND THE SELLER, AND DESPITE ANY STATEMENTS TO THE CONTRARY IN THE CONTRACT OR ANY ADDENDA THERETO, THE PURCHASER WAIVES THE FOLLOWING:

- (A) ALL RIGHTS TO FILE AND MAINTAIN AN ACTION AGAINST THE SELLER FOR SPECIFIC PERFORMANCE;**
- (B) RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY OR TO RECORD THIS AGREEMENT OR A MEMORANDUM THEREOF IN THE REAL PROPERTY RECORDS;**
- (C) RIGHT TO INVOKE ANY OTHER EQUITABLE REMEDY THAT MAY BE AVAILABLE, THAT IF INVOKED, WOULD PREVENT THE SELLER FROM CONVEYING THE PROPERTY TO A THIRD PARTY PURCHASER;**
- (D) ANY AND ALL CLAIMS ARISING FROM THE ADJUSTMENTS OR PRORATIONS OR ERRORS IN CALCULATING THE ADJUSTMENTS OR PRORATIONS THAT ARE OR MAY BE DISCOVERED AFTER CLOSING;**
- (E) ANY CLAIMS FOR FAILURE OF CONSIDERATION AND/OR MISTAKE OF FACT AS SUCH CLAIMS RELATE TO THE PURCHASE OF THE PROPERTY OR ENTERING INTO OR EXECUTION OF OR CLOSING UNDER THIS AGREEMENT;**
- (F) ANY REMEDY OF ANY KIND, INCLUDING BUT NOT LIMITED TO RESCISSION OF THIS AGREEMENT, OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 19 OF THIS ADDENDUM, TO WHICH THE PURCHASER MIGHT OTHERWISE BE ENTITLED AT LAW OR EQUITY WHETHER BASED ON MUTUAL MISTAKE OF FACT OR LAW OR OTHERWISE;**
- (G) TRIAL BY JURY, EXCEPT AS PROHIBITED BY LAW, IN ANY LITIGATION ARISING FROM OR CONNECTED WITH OR RELATED TO THIS AGREEMENT;**
- (H) ANY CLAIMS OR LOSSES THE PURCHASER MAY INCUR AS A RESULT OF CONSTRUCTION ON, REPAIR TO, OR TREATMENT OF THE PROPERTY, OR OTHER DEFECTS, WHICH MAY NOW OR HEREAFTER EXIST WITH RESPECT TO THE PROPERTY;**
- (I) ANY CLAIMS OR LOSSES RELATED TO ENVIRONMENTAL CONDITIONS AFFECTING THE PROPERTY INCLUDING, BUT NOT LIMITED TO, MOLD, DRYWALL, LEAD PAINT, FUEL OIL, ALLERGENS, OR TOXIC SUBSTANCES OF ANY KIND;**
- (J) ANY RIGHT TO AVOID THIS SALE OR REDUCE THE PRICE OR HOLD THE SELLER RESPONSIBLE FOR DAMAGES ON ACCOUNT OF THE CONDITION OF THE PROPERTY, LACK OF SUITABILITY AND FITNESS, OR REDHIBITORY VICES AND DEFECTS, APPARENT, NONAPPARENT OR LATENT, DISCOVERABLE OR NONDISCOVERABLE; AND**
- (K) ANY CLAIM ARISING FROM ENCROACHMENTS, EASEMENTS, SHORTAGES IN AREA OR ANY OTHER MATTER WHICH WOULD BE DISCLOSED OR REVEALED BY A SURVEY OR INSPECTION OF THE PROPERTY OR SEARCH OF PUBLIC RECORDS.**

References to the "Seller" in this Section 17 of this Addendum shall include the Seller and the Seller's servicers, representatives, agents, brokers, employees, and/or assigns.

In the event that the Purchaser breaches any of the terms described or contemplated under this Section 17 of this Addendum, the Purchaser shall pay all reasonable attorney fees and costs incurred by the Seller in defending such action, and the Purchaser shall pay Five Thousand Dollars (\$5,000) as liquidated damages for breach of this Section 17 of the Addendum, which amount shall be in addition to any liquidated damages held or covered by the Seller pursuant to Section 19 of this Addendum.

Initial
Purchaser KBP
Seller _____

18. Conditions to the Seller's Performance: The Seller shall have the right, at the Seller's sole discretion, to extend the Expiration Date or to terminate this Agreement if:

- (a) Full payment of any mortgage insurance claim related to the loan previously secured by the Property is not confirmed prior to the closing or the mortgage insurance company exercises its right to acquire title to the Property;
- (b) The Seller determines that it is unable to convey title to the Property insurable by a reputable title insurance company at regular rates;
- (c) The Seller at any time has requested that the servicing lender, or any other party, repurchase the loan previously secured by the Property and/or such lender or other party has elected to repurchase the property;
- (d) A third party with rights related to the sale of the property does not approve the sale terms;
- (e) Full payment of any property, fire or hazard insurance claim is not confirmed prior to the closing;
- (f) Any third party, whether tenant, homeowner's association, or otherwise, exercises rights under a right of first refusal to purchase the Property;
- (g) The Purchaser is the former mortgagor of the Property, or is related to or affiliated in any way with the former mortgagor, and the Purchaser has not disclosed this fact to the Seller prior to the Seller's acceptance of this Agreement. Such failure to disclose shall constitute default under this Agreement, entitling the Seller to exercise any of its rights and remedies, including, without limitation, retaining the earnest money deposit;
- (h) The Seller, at the Seller's sole discretion, determines that the sale of the Property to the Purchaser or any related transactions are in any way associated with illegal activity of any kind;
- (i) The Seller determines in its sole discretion that the sale of the Property will subject Seller to liability and/or have an impact on pending, threatened or potential litigation;
- (j) In the event Seller will not receive net positive proceeds from the sale; or
- (k) Material misrepresentation by the Purchaser.

In the event the Seller elects to terminate this Agreement as a result of (a), (b), (c), (d), (e), (f), (i) or (j) above, the Seller shall return the Purchaser's earnest money deposit. In the event Seller chooses to exercise to terminate this Agreement, Buyer waives any right to sue Seller for specific performance and/or damages and fully releases Seller and holds Seller harmless.

19. Remedies for Default:

- (a) In the event of the Purchaser's default, material breach or material misrepresentation of any fact under the terms of this Agreement, the Seller, at its option, may retain the earnest money deposit and any other funds then paid by the Purchaser as liquidated damages and/or invoke any other remedy available to Seller at law and/or equity and the Seller is automatically released from the obligation to sell the Property to the Purchaser and neither the Seller nor its representatives, agents, attorneys, successors, or assigns shall be liable to the Purchaser for any damages of any kind as a result of the Seller's failure to sell and convey the Property.
- (b) In the event of the Seller's default or material breach under the terms of the Agreement or if the Seller terminates the Agreement as provided under the provisions of Paragraph 18 (a), (b), (c), (d), (e), (f), (i) or (j) of this Addendum, the Purchaser shall be entitled to the return of the earnest money deposit as Purchaser's sole and exclusive remedy at law and/or equity. The Purchaser waives any rights to file and maintain an action against the Seller for specific performance and the Purchaser acknowledges that a return of its earnest money deposit can adequately and fairly compensate the Purchaser. Upon return of the earnest money deposit to the Purchaser, this Agreement shall be terminated, and the Purchaser and the Seller shall have no further liability or obligation, each to the other in connection with this Agreement.
- (c) The Purchaser agrees that the Seller shall not be liable to the Purchaser for any special, consequential or punitive damages whatsoever, whether in contract, tort (including negligence and strict liability) or any other legal or equitable principle, including but not limited to any cost or expense incurred by the Purchaser in selling or surrendering a lease on a prior residence, obtaining other living accommodations, moving, storage or relocation expenses or any other such expense or cost arising from or related to this Agreement or a breach of this Agreement.
- (d) Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.
- (e) In the event either party elects to exercise its remedies as described in this Section 19 of this Addendum and this Agreement is terminated, the parties shall have no further obligation under this Agreement except as to any provision that survives the termination of this Agreement pursuant to Section 24 of this Addendum.

Purchaser Initial

 Seller _____

20. **Indemnification:** The Purchaser agrees to indemnify and fully protect, defend, and hold the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns harmless from and against any and all claims, costs, liens, loss, damages, attorney's fees and expenses of every kind and nature that may be sustained by or made against the Seller, its officers, directors, employees, shareholders, servicers, representatives, agents, attorneys, tenants, brokers, successors or assigns, resulting from or arising out of:
 - (a) Inspections or repairs made by the Purchaser or its agents, employees, contractors, successors or assigns;
 - (b) Claims, liabilities, fines or penalties resulting from the Purchaser's failure to timely obtain any Certificate of Occupancy or to comply with equivalent laws and regulations;
 - (c) Claims for amounts due and owed by the Seller for taxes, homeowner association dues or assessment or any other items prorated under Section 10 of this Addendum, including any penalty or interest and other charges, arising from the proration of such amounts for which the Purchaser received a credit at closing under Section 10 of this Addendum; and
 - (d) The Purchaser's or the Purchaser's tenants, agents or representatives use and/or occupancy of the Property prior to closing and/or issuance of required certificates of occupancy.
21. **Risk of Loss:** In the event of fire, destruction or other casualty loss to the Property after the Seller's acceptance of this Agreement and prior to closing, the Seller may, at its sole discretion, repair or restore the Property, or the Seller may terminate the Agreement. If the Seller elects to repair or restore the Property, then the Seller may, at its sole discretion, limit the amount to be expended. Whether or not Seller elects to repair or restore the Property, the Purchaser's sole and exclusive remedy shall be either to acquire the Property in its then condition at the Purchase Price with no reduction thereof by reason of such loss or terminate this Agreement and receive a refund of any earnest money deposit.
22. **Eminent Domain:** In the event that the Seller's interest in the Property, or any part thereof, shall have been taken by eminent domain or shall be in the process of being taken on or before the closing, either party may terminate the Agreement and the earnest money deposit shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder except as provided in Section 24 of this Addendum.
23. **Keys:** The Purchaser understands that the Seller may not be in possession of keys, including but not limited to, mailbox keys, recreation area keys, gate cards, or automatic garage remote controls, and any cost of obtaining the same will be the responsibility of the Purchaser. The Purchaser also understands that if the Property includes an alarm system, the Seller cannot provide the access code and/or key and that the Purchaser is responsible for any costs associated with the alarm and/or changing the access code or obtaining keys. If the Property is presently on a Master Key System, the Seller will re-key the exterior doors to the Property prior to closing at the Purchaser's expense. The Purchaser authorizes and instructs escrow holder to charge the account of the Purchaser at closing for the rekey.
24. **Survival:** Delivery of the deed to the Property to the Purchaser by the Seller shall be deemed to be full performance and discharge of all of the Seller's obligations under this Agreement. Notwithstanding anything to the contrary in the Agreement, any provision which contemplates performance or observance subsequent to any termination or expiration of the Agreement, shall survive the closing and/or termination of the Agreement by any party and continue in full force and effect.
25. **Further Assurances:** The Purchaser agrees to take such other action as reasonably may be necessary or requested by Purchaser to further the purpose of this Agreement. Copies of referenced documents are available from the Seller's listing agent upon request by the Purchaser.
26. **Severability:** The lack of enforceability of any provision of this Agreement shall not affect the enforceability of any other provision of this Agreement, all of which shall remain in full force and effect.
27. **Assignment of Agreement:** The Purchaser shall not assign this Agreement without the express written consent of the Seller. The Seller may assign this Agreement at its sole discretion without prior notice to, or consent of, the Purchaser.
28. **EFFECT OF ADDENDUM:** THIS ADDENDUM AMENDS AND SUPPLEMENTS THE CONTRACT AND, IF APPLICABLE, ESCROW INSTRUCTIONS. IN THE EVENT THERE IS ANY CONFLICT BETWEEN THIS ADDENDUM AND THE CONTRACT OR ESCROW INSTRUCTIONS OR NOTICE OR OTHER DOCUMENTS ATTACHED AND MADE A PART OF THE AGREEMENT, THE TERMS OF THIS ADDENDUM TAKE PRECEDENCE AND SHALL PREVAIL, EXCEPT AS OTHERWISE PROVIDED OR REQUIRED BY APPLICABLE LAWS, RULES OR REGULATIONS.
29. **Entire Agreement:** The Agreement constitutes the entire agreement between the Purchaser and the Seller concerning the subject matter hereof and supersedes all previous communications, understandings, representations, warranties, covenants or agreements, either written or oral and there are no oral or other written agreements between the Purchaser and the Seller. All negotiations are merged into the Agreement. The Seller is not obligated by any other written or oral statements made by the Seller, the Seller's representatives, or any real estate licensee.

Purchaser Initial
 Seller KBP

- 30. Modification: No provision, term or clause of the Agreement shall be revised, modified, amended or waived except by an instrument in writing signed by the Purchaser and the Seller.
- 31. Rights of Others: This Agreement does not create any rights, claims or benefits inuring to any person or entity, other than Seller's successors and/or assigns, that is not a party to the Agreement, nor does it create or establish any third party beneficiary to this Agreement.
- 32. Counterparts: This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original, but all of which, when taken together, shall constitute one agreement.
- 33. Headings: The titles to the sections and headings of various paragraphs of this Agreement are placed for convenience of reference only and in case of conflict, the text of this Agreement, rather than such titles or headings shall control.
- 34. Electronic Signature: An electronic signature by the Seller or its Attorney in Fact shall be given the same effect as a written signature.
- 35. Force Majeure: Except as provided in Section 21 to this Addendum, no party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war and terrorism, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such party through use of alternate sources, workaround plans or other means.
- 36. Attorney Review: The Purchaser acknowledges that Purchaser has had the opportunity to consult with its legal counsel regarding the Agreement and that accordingly the terms of the Agreement are not to be construed against any party because that party drafted the Agreement or construed in favor of any Party because that Party failed to understand the legal effect of the provisions of the Agreement.
- 37. Notices: Any notices required to be given under the Agreement shall be deemed to have been delivered when actually received in the case of hand or overnight delivery, or five (5) calendar days after mailing by first class mail, postage paid, or by fax with confirmation of transmission to the numbers below. All notices to the Seller will be deemed sent or delivered to the Seller when sent or delivered to Seller's listing broker or agent or Seller's attorney, at the address or fax number shown below. All notices to the Purchaser shall be deemed sent or delivered when sent or delivered to the Purchaser or the Purchaser's attorney or agent at the address or fax number shown below.
- 38. Additional Terms or Conditions:

The purchaser shall not assign this agreement without the express written consent of the seller. HHM does not allow striking and/or omission of any written terms within the HHM REPA

NOTE: Seller may complete the closing through mail. Accordingly, wire transfer on the settlement date will only acceptable means of delivery for the balance of the contract price or any remaining funds pursuant to paragraphs 3(b) and 12.

Initial

EBP

Purchaser

Seller

IN WITNESS WHEREOF, the Purchaser and the Seller have entered into this Addendum as of the date first set forth above.

SELLER: Hudson Homes Management LLC

By: _____
Its: _____
Date: _____
Address: 4849 Greenville Ave
Dallas, TX 75206

SELLER'S AGENT:

Agent Name: _____
Brokerage Firm: _____
Address: _____
Telephone: _____
Fax: _____
E-Mail Address: _____

SELLER'S ATTORNEY:

Name: _____
Address: _____
Telephone: _____
Fax: _____
E-Mail Address: _____

PURCHASER(S):

Signed by:
Signature 1: *Kenneth B. Prince, City of Mishawaka*
Print Name: City of Mishawaka, IN Ken Prince, Authorized
Date: 3-28-25
Address: 100 Lincolnway W. Mishawaka, IN 46544

Telephone: _____
Fax: _____

Signature 2: _____
Print Name: _____
Date: _____
Address: _____

Telephone: _____
Fax: _____

PURCHASER'S AGENT:

Agent Name: Lance Roush
Brokerage Firm: Remax 100
Address: 3010 N. Hickory Mishawaka, IN 46545
Telephone: _____
Fax: _____
E-Mail Address: _____

PURCHASER'S ATTORNEY:

Name: _____
Address: _____
Telephone: _____
Fax: _____
E-Mail Address: _____

Initial
Purchaser *KBP*
Seller _____

The following page,
**Residential Property Disclosures –
Notice to Seller and Purchaser,**
is only for use on properties located in the
state of Virginia.

RESIDENTIAL PROPERTY DISCLOSURES

NOTICE TO SELLER AND PURCHASER

The Virginia Residential Property Disclosure Act (§ 55-517 et seq. of the *Code of Virginia*) governs the information owners must disclose to prospective purchasers of real property. Certain transfers of residential property are excluded from the requirements (see § 55-518).

Property Address/

Legal Description: _____

1. **CONDITION:** The owner(s) of the real property described above makes no representations or warranties as to the condition of the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary including obtaining a certified home inspection, as defined in § 54.1-500, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
2. **ADJACENT PARCELS:** The owner(s) makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
3. **HISTORIC DISTRICT ORDINANCES(S):** The owner(s) makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to §15.2-2306, including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
4. **RESOURCE PROTECTION AREAS:** The owner(s) makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.

5. **SEXUAL OFFENDERS:** The owner(s) makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
6. **DAM BREAK INUNDATION ZONE(S):** The owner(s) makes no representations with respect to whether the property is within a dam break inundation zone and purchasers are advised to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones.
7. **STORMWATER DETENTION:** The owner(s) makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
8. **WASTEWATER SYSTEM:** The owner(s) makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
9. **SOLAR ENERGY COLLECTION DEVICE(S):** The owner(s) makes no representations with respect to any right to install or use solar energy collection devices on the property.
10. **SPECIAL FLOOD HAZARD AREAS:** The owner(s) makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.

Additional Written Disclosure Requirements

FIRST SALE OF A DWELLING: Section 55-518.B. contains other disclosure requirements for transfers involving the first sale of a dwelling because the first sale of a dwelling is exempt from the disclosure requirements listed above. The builder of a new dwelling shall disclose in writing to the purchaser thereof all known material defects which would constitute a violation of any applicable building code.

PLANNING DISTRICT 15: In addition, for property that is located wholly or partially in any locality comprising Planning District 15, the builder or owner, if the builder is not the owner of the property, shall disclose in writing whether the builder or owner has any knowledge of (i) whether mining operations have previously been conducted on the property or (ii) the presence of abandoned mines, shafts, or pits, if any.

The disclosures required by this subsection shall be made by a builder or owner (i) when selling a completed dwelling, before acceptance of the purchase contract or (ii) when selling a dwelling before or during its construction, after issuance of a certificate of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder or owner may have to the purchaser. The disclosure required by this subsection may be made on this disclosure form. If no defects are known by the builder to exist, no written disclosure is required by this subsection.

Section 55-519.1 contains a disclosure requirement for properties located in any locality in which there is a military air installation.

Section 32.1-164.1:1 contains a disclosure requirement regarding the validity of septic system operating permits.

See also the *Virginia Condominium Act* (§ 55-79.39 et seq.), the *Virginia Real Estate Cooperative Act* (§ 55-424 et seq.) and the *Virginia Property Owners' Association Act* (§ 55-508 et seq.).

DPOR 7/15

SELLER: Hudson Homes Management LLC

By: _____

Its: _____

Date: _____

PURCHASER(S):

By: _____

Date: _____

By: _____

Date: _____

APR 10 2025

City Clerk
Mishawaka, IN

RESOLUTION NO. 2025-09

**A RESOLUTION OF THE MISHAWAKA COMMON COUNCIL AFFIRMING
SUPPORT FOR STRONG LOCAL GOVERNMENT AND THE CRITICAL ROLE OF
PROPERTY TAXES IN FUNDING CORE SERVICES**

WHEREAS, the City of Mishawaka is committed to providing high-quality, responsive services to its residents, including public safety, infrastructure maintenance, economic development, and neighborhood quality of life initiatives; and

WHEREAS, local government is the most immediate and accessible level of government, responsible for approximately 85% of all direct government services and interactions with the public; and

WHEREAS, the City of Mishawaka relies heavily on property tax revenue—including real property and related levies—as a stable, fair, and predictable source of funding to support essential operations; and

WHEREAS, the delivery of core services—such as police and fire protection, road maintenance, sanitation, parks, and planning—requires consistent and adequate funding to meet growing community needs and expectations; and

WHEREAS, the Mishawaka Common Council affirms that preserving a strong and sustainable property tax base is essential for the long-term health and vitality of our community; and

WHEREAS, policy decisions at the State level that affect the local tax base must be made in full collaboration with municipalities, with a focus on preserving local control, fiscal responsibility, and the ability to meet constitutional and statutory service obligations; and

WHEREAS, the City of Mishawaka supports tax policy that is balanced, equitable, and designed to promote economic development *without compromising the essential funding needed to protect public safety, maintain infrastructure, and foster quality of life for all residents.*

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

1. The City of Mishawaka **affirms its strong support for local government** and the essential services it provides to residents and businesses on a daily basis.
2. The Council **recognizes the central role that property taxes play** in ensuring the City can continue to invest in public safety, infrastructure, and economic development.
3. The Council **calls upon the Indiana General Assembly and the Governor** to collaborate closely with local leaders when crafting legislation that may impact municipal revenues or service delivery.

4. The Council **supports responsible tax policy** that strengthens local communities, protects essential services, and ensures that municipalities like Mishawaka have the financial stability to grow, thrive, and serve their citizens effectively.
5. The City Clerk is hereby directed to forward a certified copy of this Resolution to the **Governor of the State of Indiana, the Indiana House and Senate Leadership, Senator Ryan Mishler, Senator Linda Rogers, Senator David Niezgodski, Representative Dale DeVon, Representative Jake Teshka, Representative Bauer and Accelerate Indiana Municipalities (AIM).**

This Resolution shall be in full force and effect from and after its passage by the Common Council.

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

DAVID A. WOOD, MAYOR

OFFICE OF THE MAYOR

April 10, 2025

Mishawaka Common Council
100 Lincoln Way West

Mishawaka, IN 46544

Dear Council President and Members of the Common Council,

I respectfully submit for your consideration the attached **Resolution Supporting Strong Local Communities** and affirming the critical role that **property taxes play in funding essential services provided by the City of Mishawaka.**

As you know, property taxes are the most stable, predictable, and equitable source of revenue for local governments. These funds allow us to meet our most fundamental obligations—**police and fire protection, road and infrastructure maintenance, sanitation, stormwater management, utility services, and neighborhood quality of life investments.**

Without a strong property tax base, cities like Mishawaka would face difficult decisions that could compromise the very services our residents depend on daily.

This resolution, if adopted by the Council, will serve as an **important message to the Indiana General Assembly**: that local government must remain financially empowered to meet the growing and evolving needs of our communities, and that any proposed changes to Indiana's tax structure must be made **in partnership with local leaders** and with an understanding of the critical services property taxes support.

Therefore, I ask that the Council formally consider and approve this resolution at your upcoming meeting. Your support will send a clear and united signal to state policymakers that Mishawaka stands for **strong, self-sustaining, and service-oriented local government.**

As always, I thank you for your thoughtful leadership and commitment to serving our citizens with excellence.

Sincerely,
Matthew Lentsch

Executive Director of Development and Governmental Services

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

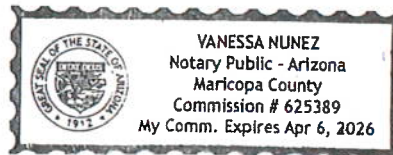
On this 18th day of February, 2025, before me, the undersigned Notary Public, personally appeared Scott Bischoff, Manager of Savant Investments LLC, and acknowledged the execution of the foregoing instrument as his/her/their voluntary act and deed.

Witness my hand and official seal.

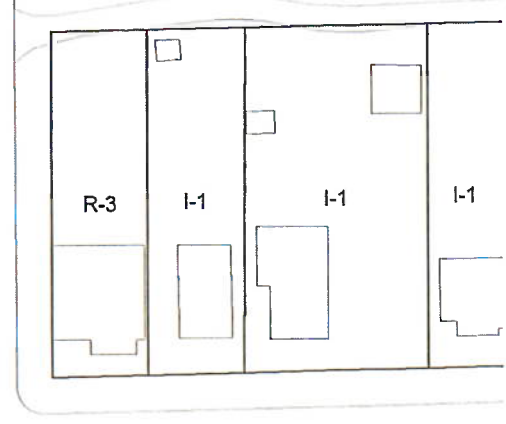
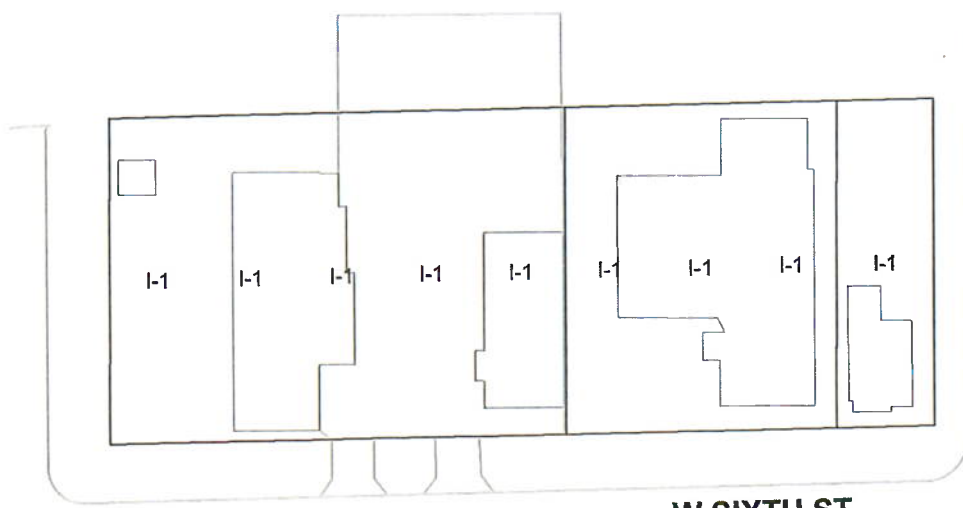
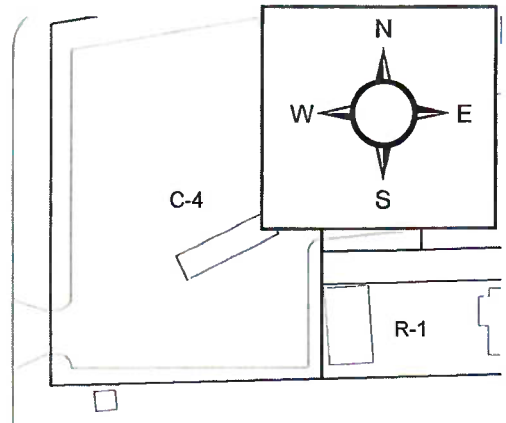
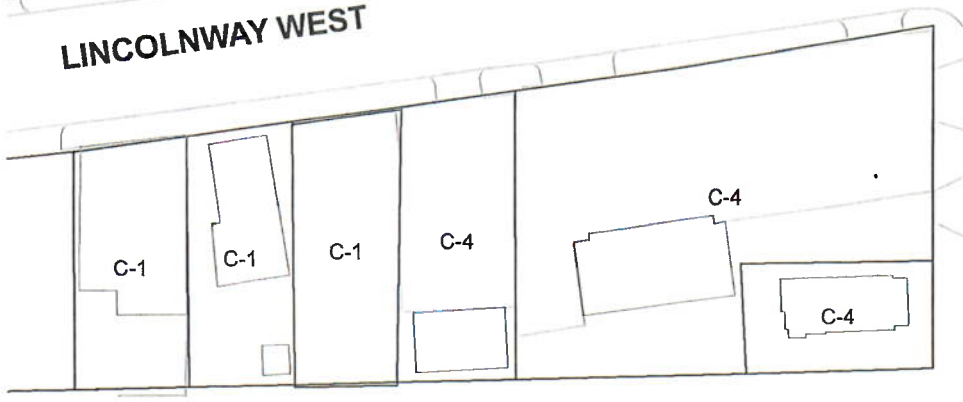


Notary Public

My commission expires: 04/06/2026

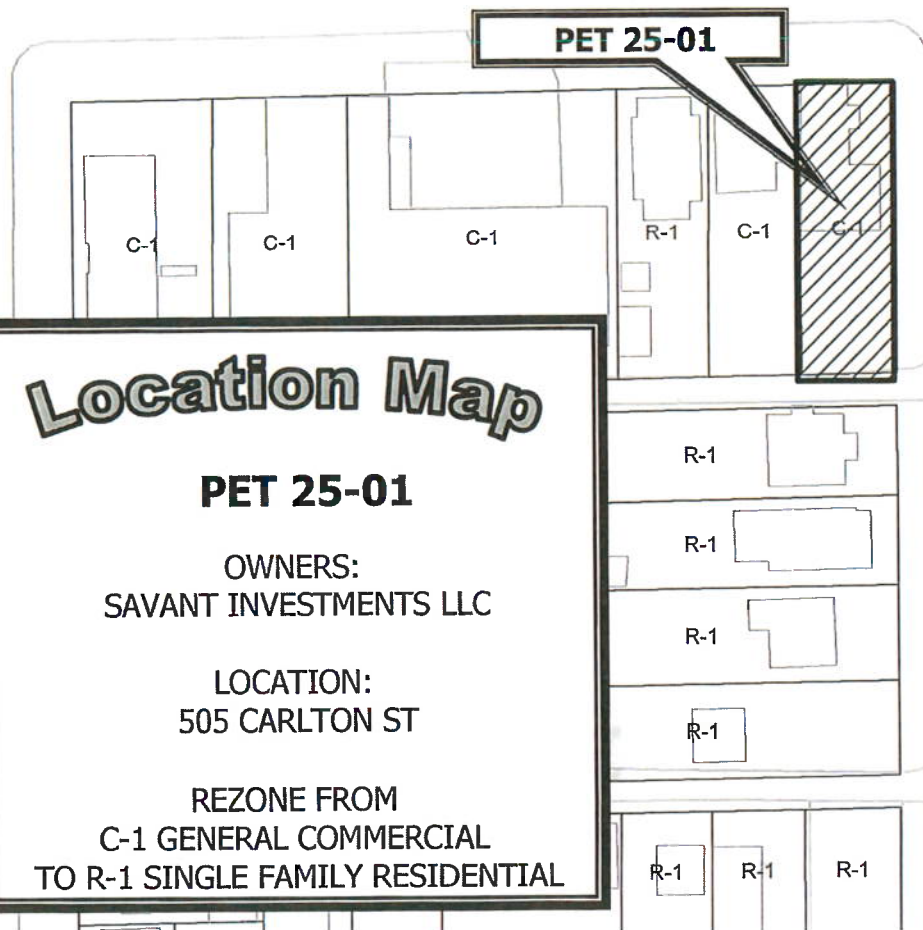


LINCOLNWAY WEST

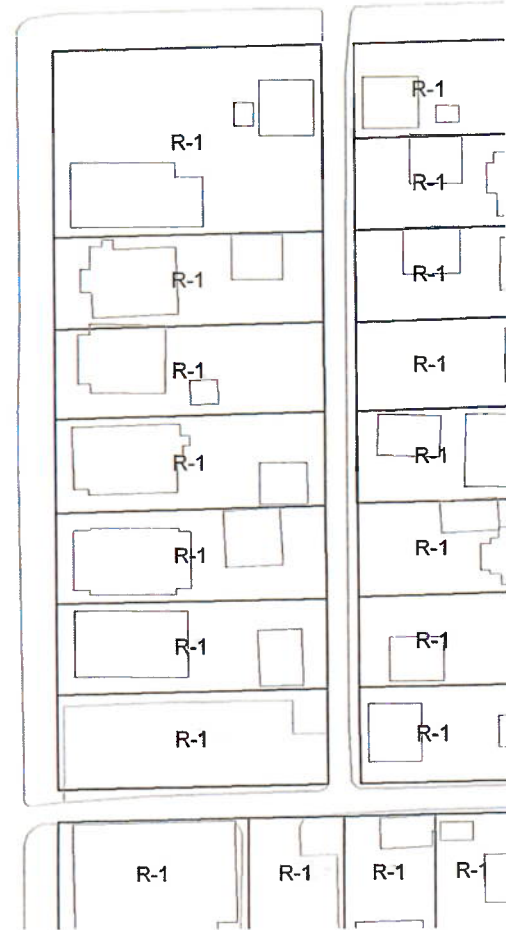


W SIXTH ST

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.

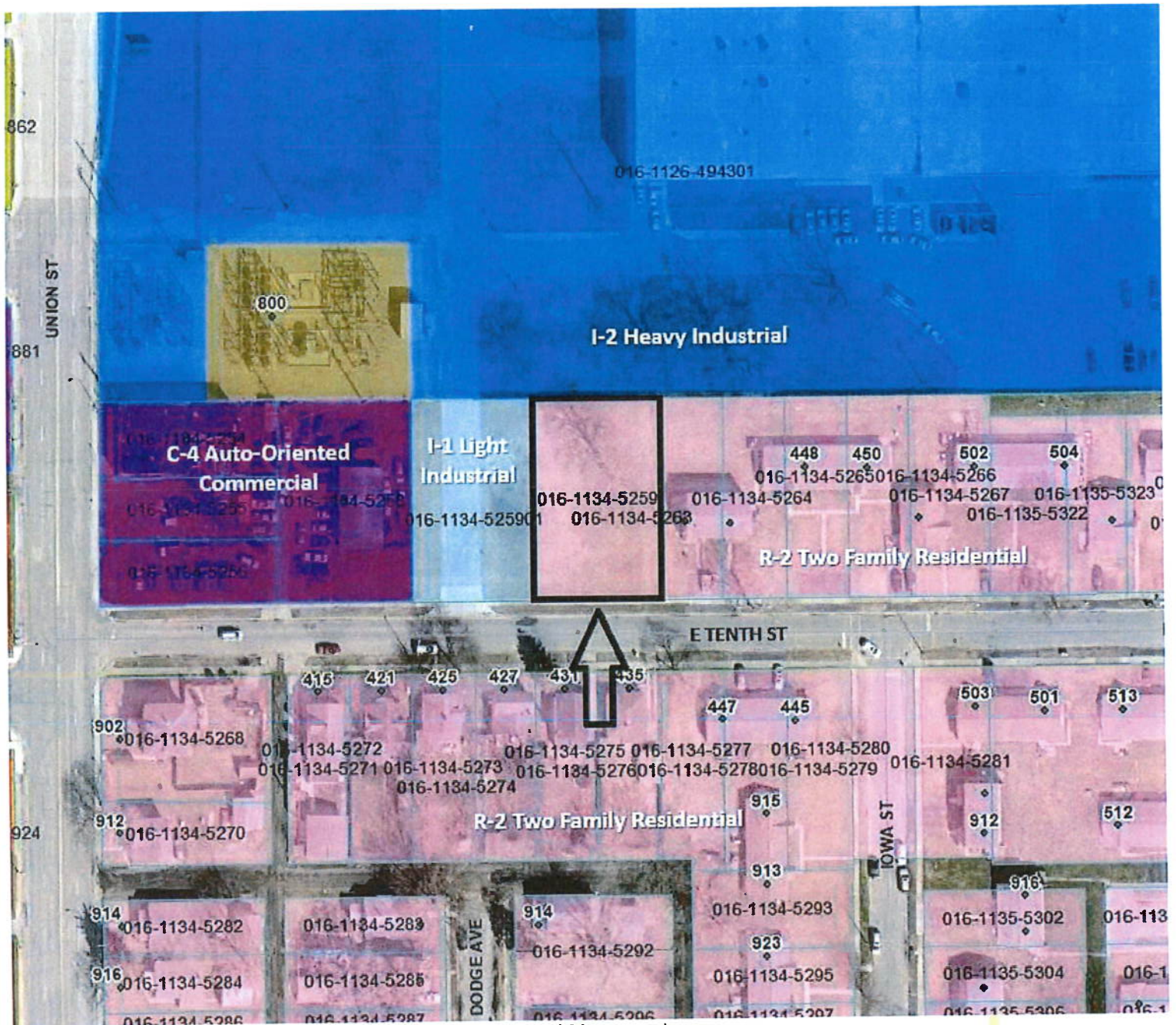
RECOMMENDATION

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



2/24/25 10:37 AM

North facing from East Tenth Street



2/24/25 10:38 AM

East facing from the access drive



West facing from the access drive



North facing from East Tenth Street

MISHAWAKA

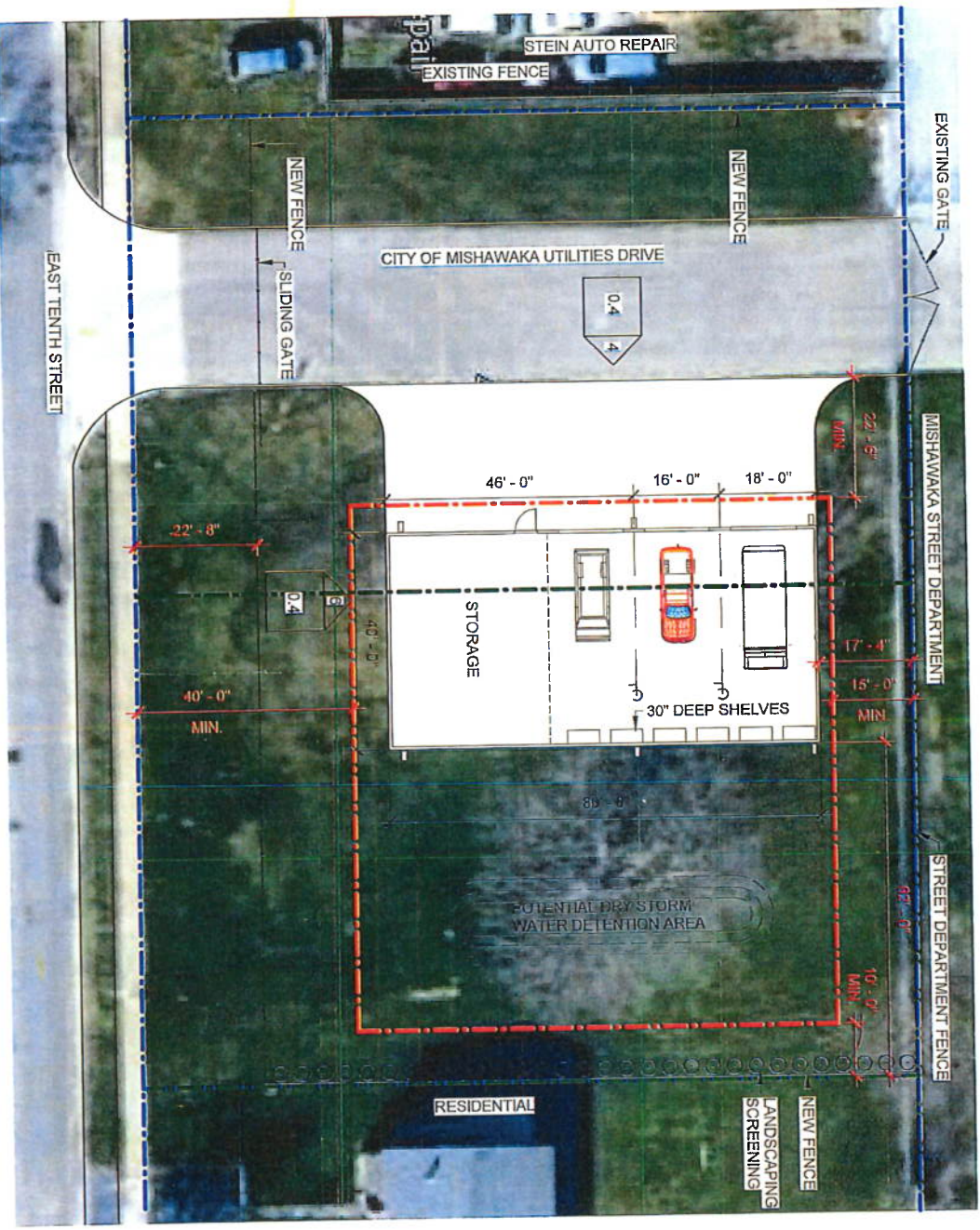
MISHAWAKA-PENN-HARRIS PUBLIC LIBRARY
CAPITAL IMPROVEMENTS - 2020 GENERAL OBLIGATION BOND
NEW VEHICLE STORAGE OPTION 2 - FLOOR PLAN

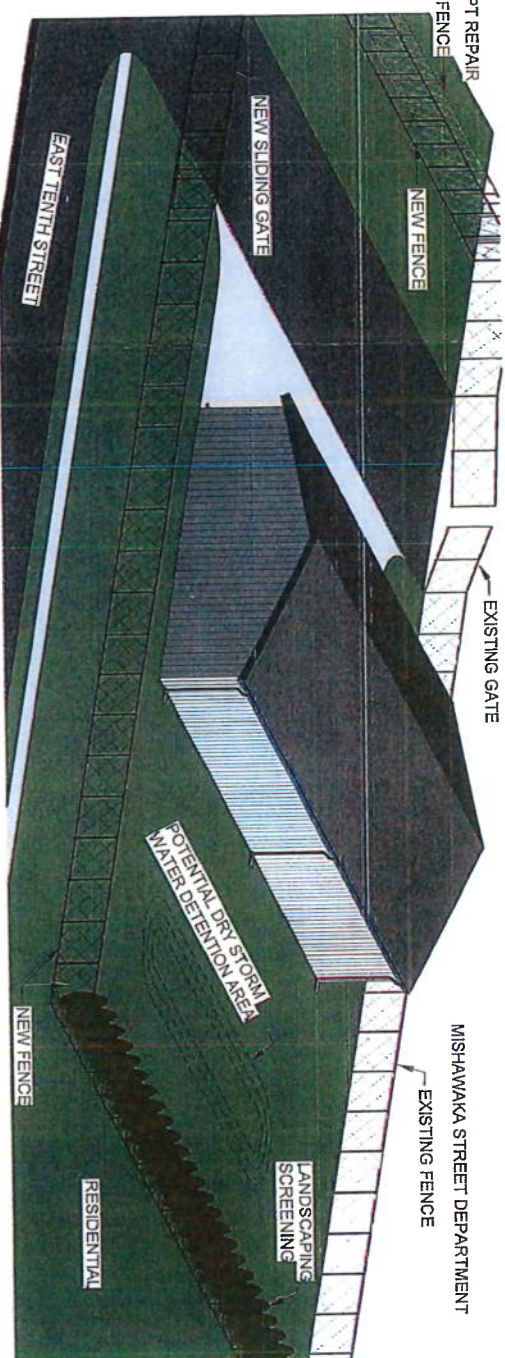
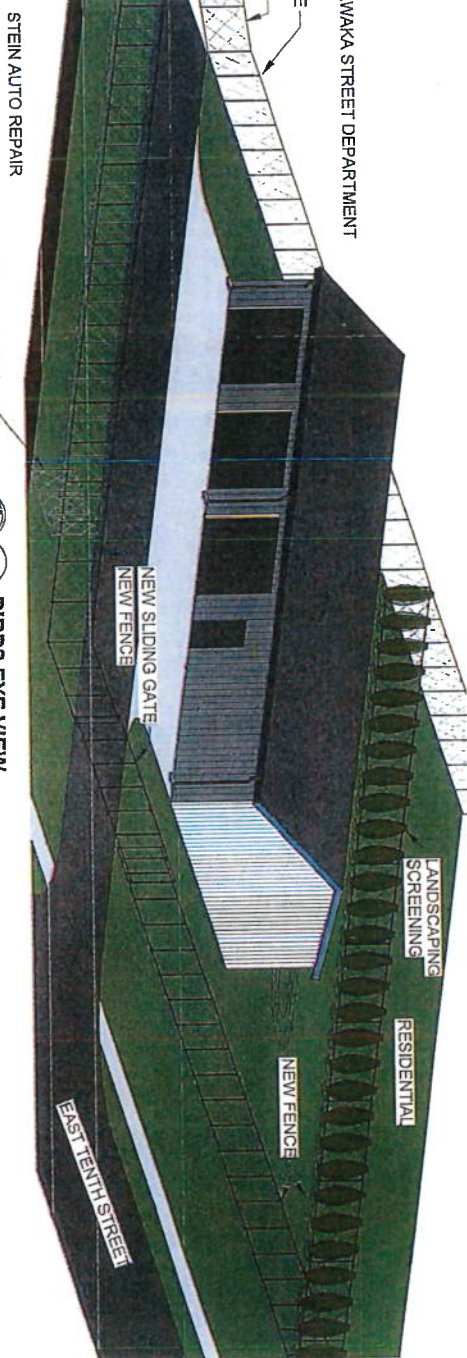
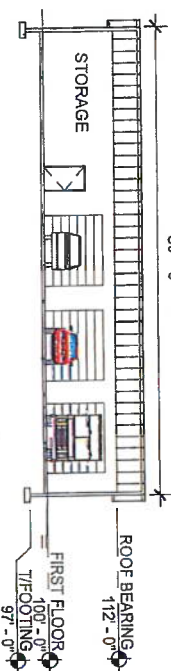
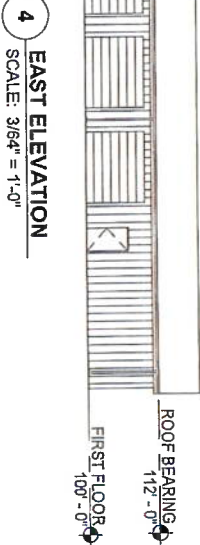
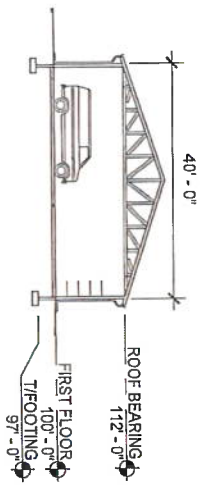
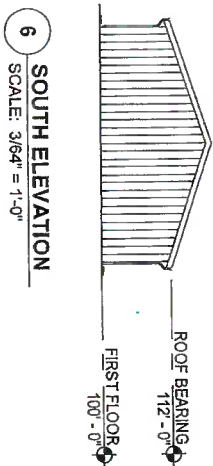
INDIANA	DATE	SKETCH NUMBER
	JANUARY 2024	0.3
	PROJECT NUMBER	
	2161-4766-30	

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.



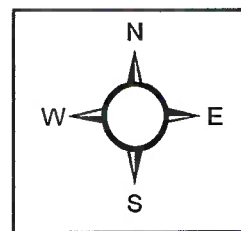
Derek J. Spier, AICP
City Planner

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



I-2

UNION ST

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

C-1

E TENTH ST

C-1

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