

AGENDA

Monday, June 20, 2016

**Work Session with
Allied Waste/Republic
6:00PM**

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

June 06, 2016

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their June 14, 2016 meeting.

A letter from the City Plan Commission regarding recommendations from their June 14, 2016 meeting.

Approval of the Justice Assistance Grant (JAG) for 2016

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2016-10 Internal Controls Regulation (**Petitioner Requesting Second Reading**)

P.O. NO. 2016-11 Rezoning from I-2 to R-1 for an Existing Single Family House - 2111 E. LaSalle Ave. (**Petition Requesting Second Reading**)

P.O. NO. 2016-12 Rezoning from R-1 to C-7 for Enlarging and Reconstructing DQ - Vacant Lot South of 3303 LWE

8. Resolutions

R2016-20 Use Variance in I-1 District to allow Auto/Motorcycle Service & Auto Body Repair - 3916, 3926, 3904, 4002, 4014 Fir Rd.

R2016-21 Use Variance to allow Drive-thru for Caribou Coffee - 304 N. Ironwood Dr. Martin's Supermarket

9. Ordinances on Second Reading

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment

At this time I know of no other business to come before the Council.

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 Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 6, 2016

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday June 6, 2016, at 7:00 p.m. The meeting was called to order by President Ron Banicki all were asked to stand for the Pledge of Allegiance.

Roll Call.

Present: Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki.

Others present; Mike Triple Council Attorney Mary Ellen Hazen Chief Deputy I, Linda Dotson Chief Deputy Clerk II.

The minutes from the May 16, 2016 meeting were approved as received from the City Clerk's Office.

Chief Deputy Mary Ellen Hazen presented the following Appeal to the Council, who referred them to the Board of Zoning Appeals for their recommendation.

APPEAL #16-17 Use Variance in I-1 District to allow Auto/Motorcycle Service & Auto Body Repair - 3916, 3926, 3904, 4002, 4014, Fir Road

APPEAL 316-20 Use Variance to Allow Drive-thru for Caribou Coffee – 304 Ironwood Dr. Martin's Supermarket

PETITION NO. 2016-19 Rezoning from I-2 to R-1 for an Existing Single Family House – 2111 East LaSalle Avenue

PETITION NO. 2016-20 Rezoning from R-1 to C-7 for Enlarging and Reconstructing DQ Vacant Lot South of 3303 Lincolnway East.

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2016-08** opening it for public hearing.

PROPOSED ORDINANCE NO. 2016-08

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

(Rezone 3837 LWE from R-2 C-4 Auto Oriented Commercial Gerver's Auto Sales)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Deal the motion carried.

Karen Gerver 222 Roseland Avenue, Mishawaka, Indiana, Matt Gerver 246 County Road 24, Elkhart, Indiana said they were here to rezone this property to use for a car lot.

Ms. Voelker asked if this was across from Twin Branch School, Mr. Gerver said yes and they own the house next door, it is zoned residential and is a rental. He said there was a little building in the back 3837 Lincolnway East which was their shop for the car lot. He said they would have the cars for sale behind the work shop nothing in the front would change.

Mr. Emmons said if this was changed from an R2 to a C4 they still could not park cars there because it has to be a hard surface. Mr. Gerver said they needed to get it rezoned and then figure out what kind of hard surface they have to put down. Mr. Emmons said there were only two kinds and that would be asphalt or cement. Mr. Gerver said he was at a catch twenty-two right now being honest he does have cars parked there, they are a small business and do not have the money to put those types of parking lot in there. He said they have improved the property a lot and are trying to do the proper steps. Mr. Emmons said they still have to have hard surface or they cannot park cars there.

Mr. Compton said what he hears now was, they have cars parked there and that was in violation of zoning due to the fact there was not a hard surface. Mr. Compton stated the hard surface needs to come before the rezoning he feels he cannot vote for this until requirements have been met.

Mr. Gerver said in reference to ½ mile down at Twin Branch Automotive they do not have concrete or asphalt and they have cars parked there. Mr. Compton said he would look into that.

Mr. Gerver asked what they could do if they leave the zoning residential, are they allowed to build back there? Mr. Compton said his recommendation was they could bring it to a vote tonight or ask for a continuance, to give Mr. Gerver an opportunity to sit down with Mr. Prince for guidance.

Mr. Tanner said he wanted to forewarn him that if he continues to leave the cars parked there he was subject to fines. Mr. Gerver said he would do his best to try and get that resolved.

Mr. Gerver asked for this to be continued indefinitely while they work it out, they have three acres they cannot do anything with. He said they would have to put in a retention pond and cut down trees to the total sum of \$200,000.00 for asphalt and that was impossible for him.

Mr. Prince stated the zoning portion can be separated from the parking situation, he said there are two parcels here one zoned C4 and one R2 so literally you have to drive through the parking lot which is the only access the R2 property because that zoning already exists on the property. He said so in order for them to expand they have to correct the parking situation, the only thing the zoning gives them was the opportunity to expand. Mr. Prince stated there are some parcels that have been grandfathered. He said the goal for hard surface was for good drainage gravel moves. Mr. Prince said the hard surface does not have to be a commercial grade hard surface paving like at the mall they have the ability to do something brines that surface together to prevent the gravel

from moving and should be able to do that at a reasonable cost. He said they do need to dig a basin for storm water, and a fence on the side of the property.

Mr. Deal asked if there was anything to gain to continue this. Mr. Prince said he did not think so.

Question was called for at was called for at 7:32 on **PROPOSED ORDINANCE NO. 2016-08** the **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki. Thus it becomes **ORDINANCE NO. 5530.**

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2016-09** opening it for public hearing.

PROPOSED ORDINANCE NO. 2016-09

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROMN TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA (Rezone 2419 LWW from C-7 to add a drive thru for King Gyros)

Ms. Voelker reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Mammolenti the motion carried.

Nick Scarlatis 5405 West 127th Street, Crestwood, IL 60445 said he was requesting a C7 zoning for the property at 2419 Lincolnway West so he may add a drive through to his business located there. He said they would be renovating the building inside and out, with new paving, fence, landscaping, and a patio for outside eating, which would be enclosed with flower boxes, and landscaping all around.

Ms. Voelker asked if he had a diagram of their plans. Mr. Scarlatis displayed one for the Council.

Mr. Scarlatis said they would renovate the inside completely, pave the parking lot and add an outdoor patio in front and a drive through around the back and side.

Ms. Voelker asked if they would be putting up a fence alongside the parking lot and he said he would be putting up a five foot fence between the house and parking lot as well as along the back it would be a decorative rot iron see through so traffic would be visible when pulling out onto Lincolnway, and would also be enclosing the garbage bin. Ms. Voelker asked if there would be a right and left exit from the parking lot when turning onto Lincolnway. Mr. Scarlatis said yes it has never been a problem. He said the parking on that side of the building would all be marked angle parking.

Mr. Mammolenti said there was a Low Bobs across the street with a drive thru and patrons also

make right and left turns onto Lincolnway.

Mr. Deal complimented Mr. Lambridis on the food at the Hot Dog House and he was looking forward to the renovation inside and out it would be a good improvement to the area, his concern was the patio being so close to Lincolnway and what kind of protection guests would have.

Mr. Bellovich suggested they think about making the planters around the patio out of cement to provide some protection and maybe some strong railings. Mr. Scarlatis said he thought that would be possible.

Mr. Tanner asked how long would they be closed. Mr. Lambridis, the owner, said he would be shutting down July and opening again at the end of August, or 1st of September.

Mr. Emmons expressed concern about entering on the west and exiting on the east, and with the drive thru it is his feeling it would be a traffic jam . He said he would like to see them make it a oneway.

Mr. Deal asked if they would be resurfacing the parking lot. Mr. Lambridis said yes everything would be remodeled and fixed.

Mr. Banicki said his concern was visibility in front when exiting because of the flower boxes. Mr. Scarlatis said they would alleviate that problem.

Mr. Tanner said he feels there should be plenty of visibility due to sidewalk and tree lawn.

Mr. Banicki said the tree lawn and side walk are in control of the State and they could change that anytime they felt necessary to do so. Mr. Scarlatis said they understand and would make the concrete flower boxes lower for protection as well as visibility.

Mr. Banicki clarified with Mr. Prince that this petition was only for the drive through. Mr. Prince said yes. He said the site plan would be presented at a different date. Mr. Emmons stated his concern about the traffic pattern. Mr. Prince said turning movement was viable at present time although the drive thru would create more traffic, a sign could be posted giving you notice that you can make a left turn if you feel you have time to do so.

Mr. Emmons clarified that the vote would be only on the Drive thru. Mr. Prince stated that was correct.

Question 8:13  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).
Yes: Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Deal, Mr. Tanner, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Banicki.

PRIVILEGE OF THE FLOOR

Fire Chief Dale Freeman read a heartfelt letter regarding his retirement of June 14th thanking the Council, the City, and fellow Fire Fighters for his years on the department and as Chief and said it has been a privilege to serve the Citizens of Mishawaka.

The entire Council thanked Chief Freeman for his commitment, service, and dedication. They commended him for the respect he shows for others, the sacrifice he has made being away from family on special occasions, and holidays, his commitment of representation during negotiations and his ability of showing how much he cares for his fellow man.

Mr. Prince, City Planner thanked him for always having a good word and a smile for everyone and for all of his hard work and dedication in serving the City.

NEW BUSINESS

Mr. Deal said there would be a Neighborhood Watch Meeting at Central Services Building, June 15, at 7:00 p.m. with the speaker being Street Commissioner Ryan from Central Services.

Mr. Emmons said his meeting would be on June 16, St. Bavo School at 7:00 p.m. with Mayor Wood as his speaker.

Mr. Tanner said the meeting in the Oaks would be at 7:00 p.m. at Albright United Methodist Church on Mishawaka Avenue.

ADJOURNMENT 8:28 p.m.

Chief Deputy Clerk Hazen
Chief Deputy Clerk Hazen

Ronald S. Banicki
Ronald S. Banicki, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 15, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

Honorable Members of the Common Council
City of Mishawaka, Indiana

JUN 15 2016

RE: Board of Zoning Appeals Recommendation
June 14, 2016, Public Hearing

CITY CLERK
MISHAWAKA, IN

Honorable Members:

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

APPEAL #16-17 An appeal submitted by All Secure Fir Road Storage, LLC, requesting a Use Variance for **3904 thru 4012 Fir Road** to permit automotive/motorcycle service and auto body repair in an I-1 Light Industrial District.

The Board, with a vote of 4-0, recommended approval subject to the following conditions:

1. The Use Variance shall be limited to automotive and motorcycle maintenance and automobile body shop, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted.
2. Temporary signage shall be limited to being flush mounted to wall.
3. A sanitary sewer plan for the site what will incorporate oil interceptor and grit/sand interceptor requirements for vehicle automotive maintenance business.
4. Inspections by the Building Department and Fire Department prior to occupancy.

APPEAL #16-20 An appeal submitted by Martin's Super Markets, LLC, requesting a Use Variance for **304 North Ironwood Drive** to permit a drive-thru for coffee shop in the C-1 General Commercial District.

The Board, with a vote of 4-0, recommended approval subject to the following conditions:

1. The drive-thru shall be limited to the coffee shop.
2. An Administrative Site Plan shall be submitted for review and approval prior to obtaining any requirement Improvement Location and/or Building Permits.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Kevin Paczkowski
Jeff Ballard

STAFF REPORT

Location: 3904, 3916, 3926, 4002, and 4014 Fir Road

Date: June 14, 2016

Appeal: 16 17

Prepared By: CH

GENERAL INFORMATION

Applicant: Todd Veldman, All Secure Fir Road Storage, LLC

Status: Business/Property Owner

Request: Use Variance to allow automobile and motorcycle maintenance and auto body repair in the southern 2 buildings, 3904 and 3916 Fir Road

Zoning Classification: I-1 Light Industrial

Lot Size: 6.64 acres

Applicable Regulations: Section 137-42 Board of Zoning Appeals Use Variance

SPECIAL INFORMATION

Area Development Pattern: North: C-4 Automobile Oriented Commercial and I-1 Light Industrial
South: I-1 Light Industrial
East: R Single Family, St. Joseph County
West: R1 Single Family Residential and I-1 Light Industrial

Thoroughfare: Fir Road

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The Appellant is requesting a use variance to allow automobile and motorcycle maintenance and auto body repair for the buildings located at 3904 and 3916 Fir Road. The property consists of 5 storage buildings, each with a separate address.

The Staff first noticed a motorcycle repair use in the southern most building (3904) in the beginning of April. A couple weeks later, a sign advertising "complete auto repair" services was spotted on one of the other buildings. That sign has since been removed. A letter was sent to the property owner informing them that automobile uses are not permitted in I-1 Light Industrial. The request for the proposed use variance, instead of a rezoning to C-4 Automobile Oriented Commercial, would keep the zoning intact to allow the storage to continue in the northern buildings, while still enabling them to use a portion of the property for automobile uses.

All pertinent City Departments have reviewed this request and offer the following comments:

The Engineering Department asked the Appellant provide a sanitary sewer plan for the site that will incorporate oil interceptor and grit/sand interceptor requirements for vehicle automotive maintenance business.

The Building Department recommended approval with the condition that all units be inspected by Building and Fire Dept. before any occupancy.

RECOMMENDATION

The Staff recommends in favor of Appeal 16-17, a use variance for automotive and motorcycle maintenance and automobile body shop uses at 3904 and 3916 Fir Road, subject to the following conditions:

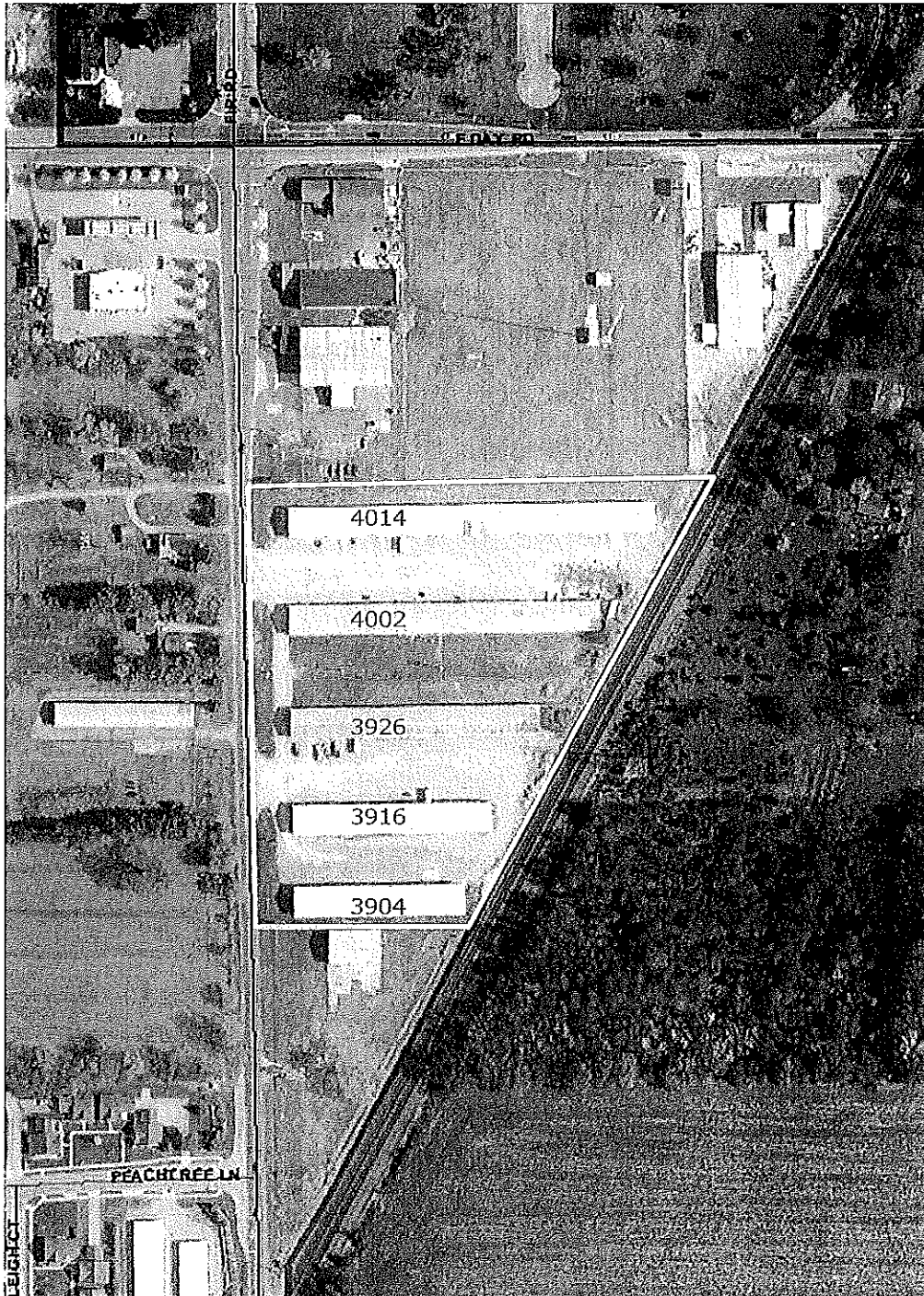
1. The use variance shall be limited to automotive and motorcycle maintenance and automobile body shop, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. Temporary signage shall be limited to being flush mounted to wall.
3. A sanitary sewer plan for the site that will incorporate oil interceptor and grit/sand interceptor requirements for vehicle automotive maintenance business.
4. Inspections by the Building Department and Fire Department prior to occupancy.

This recommendation is based on the following reasons:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have no impact on the adjacent industrial uses that currently operate there. The proposed use is consistent with the existing industrial properties within the area.
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 of the other industrial and commercial uses along Fir Road and Day Road and the barrier of the railroad tracks to the east.
3. The need for a use variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A use variance would allow the proposed automobile commercial use, while still protecting the industrial zoning for future use and also protecting the residential users to the east and west.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial zoning would not allow for the proposed automobile oriented commercial uses.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

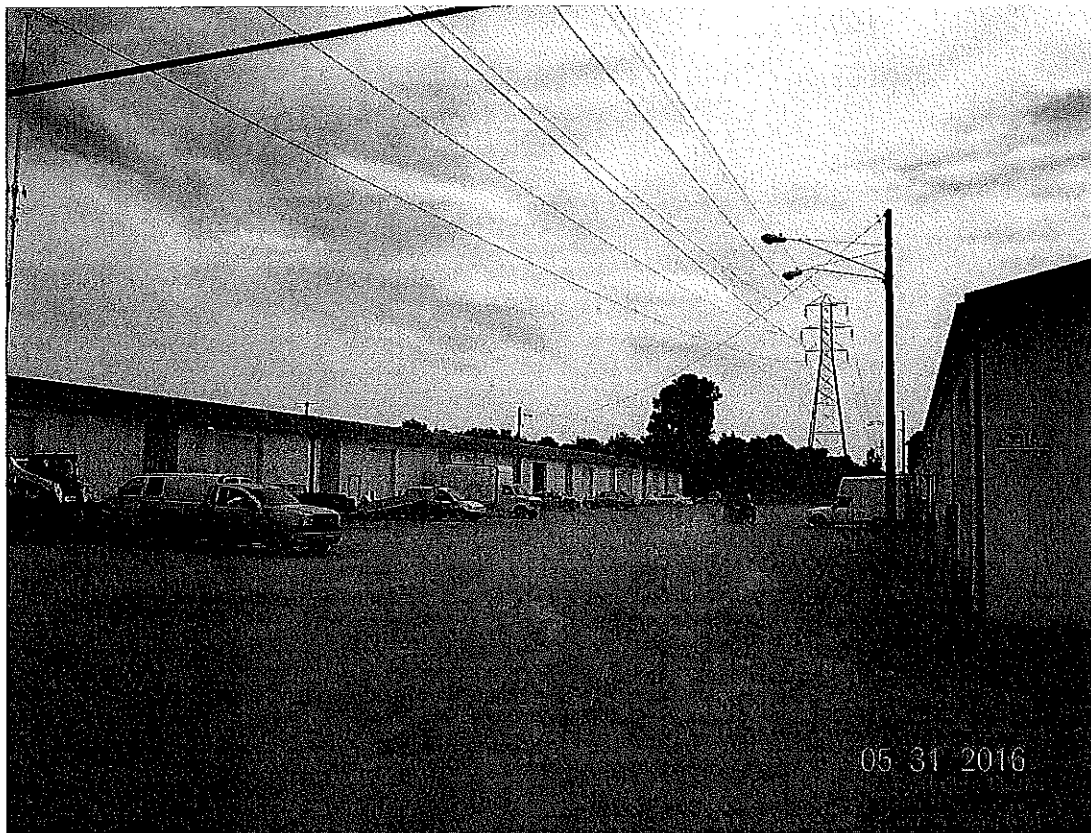
ATTACHMENTS

AERIAL, PHOTOGRAPHS, VARIANCE REQUEST & LOCATION MAP





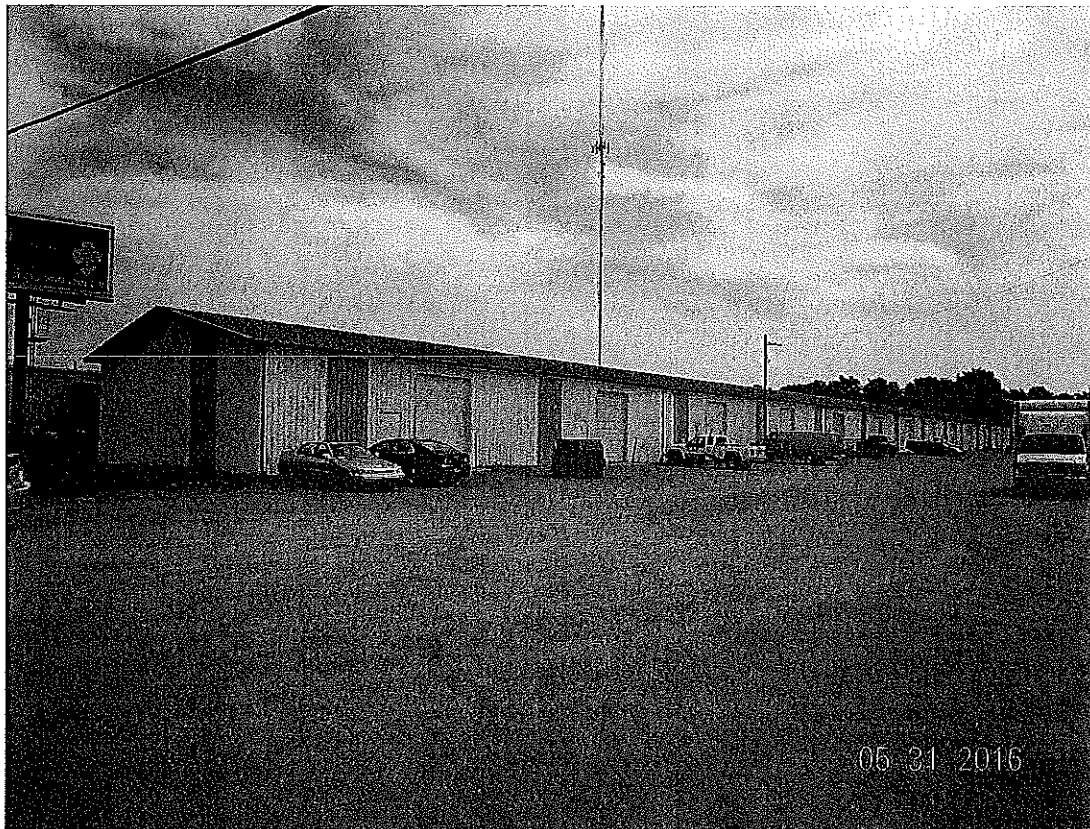
Motorcycle Repair at 3904



Area between Buildings 3916 and 3926



Building 4002



Building 4014

STAFF REPORT

Location: 304 & 314 N. Ironwood Drive / Martin's Supermarkets &
Caribou Coffee
Appeal: 16- 20

Date: June 14, 2016

Prepared By: DJS

GENERAL INFORMATION

Applicant: Martin's Super Markets, Inc. / Danch, Harner & Associates, Inc.
Status: Property Owner / Consultant
Request: Use Variance to allow a drive-thru window to serve an existing coffee shop in a supermarket
Zoning Classification: C-1 General Commercial
Lot Size: 4.53 acres
Applicable Regulations: Sec. 137-300 thru 137-303 / Commercial C-1 District & Section 137-42 / Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern: North: St. Joseph River & City of South Bend (North of River)
South: R-1 Single Family Residential (Residential) & C-1 General Commercial (Vacant)
East: R-1 Single Family Residential (Residential)
West: C-1 General Commercial (Multi-Family Residential/IUSB River Crossing Apartment Complex)
Thoroughfare: N. Ironwood Drive & River Avenue
School District: School City of Mishawaka
Township: Penn
Public Utilities: All utilities are available to the site
Comprehensive Plan: General Commercial (Downtown Retail Sales & Shopping Centers)

ANALYSIS

The Appellant is requesting a use variance to allow a drive-thru window on property located at 304 & 314 N. Ironwood Road. The site, which is zoned C-1 General Commercial, is presently occupied by Martin's supermarket, a regional grocery store chain. A supermarket (grocery store), including a restaurant without a drive thru, is permitted within the C-1 zoning district. A use variance will allow for the addition of a drive-thru while maintaining all other C-1 permitted uses on site.

The proposed drive-thru will serve the Caribou Coffee located within the supermarket. The coffee shop consists only of a preparation area, display area, and order counter. There is no separate indoor seating area for the coffee shop other than what is present for the supermarket deli.

The Appellant proposes to renovate the existing coffee shop space inside the supermarket in order to add the drive-thru service window. The new window will be located along the southwest portion of the building, just south of the main entrance and north of the deli entrance, in an approximate 13' x 6' addition constructed under the overhang. Additional improvements will be made to the existing pedestrian walkway to accommodate a three (3) car queuing lane for the pick-up window. New pavement markings/stripping and signage will be added throughout the site to ensure the safety of vehicles and pedestrians. The menu board and order point for the drive-thru will be located at the east end the northernmost row of parking spaces. Since the improvements only involve the addition of a drive thru and there is no separate seating area dedicated for the use of the coffee shop, an increase in the number of off-street parking spaces is not required. The site currently includes 222 parking spaces exceeding the 204 parking spaces required (4 per 1,000 sq. ft. of gross floor area) per the zoning ordinance.

If the use variance is approved, a site plan will have to be submitted for administrative review and approval by the Planning Department staff. The site plan must be approved prior to obtaining the required Improvement Location Permit.

All pertinent City departments have reviewed and approved the use variance request. The Building Department commented that the necessary permits must be obtained prior to beginning construction.

RECOMMENDATION

Staff recommends approval of Appeal 16-20 to allow a drive-thru window to serve an existing coffee shop in a supermarket located at 304 and 314 N. Ironwood Drive with the following conditions:

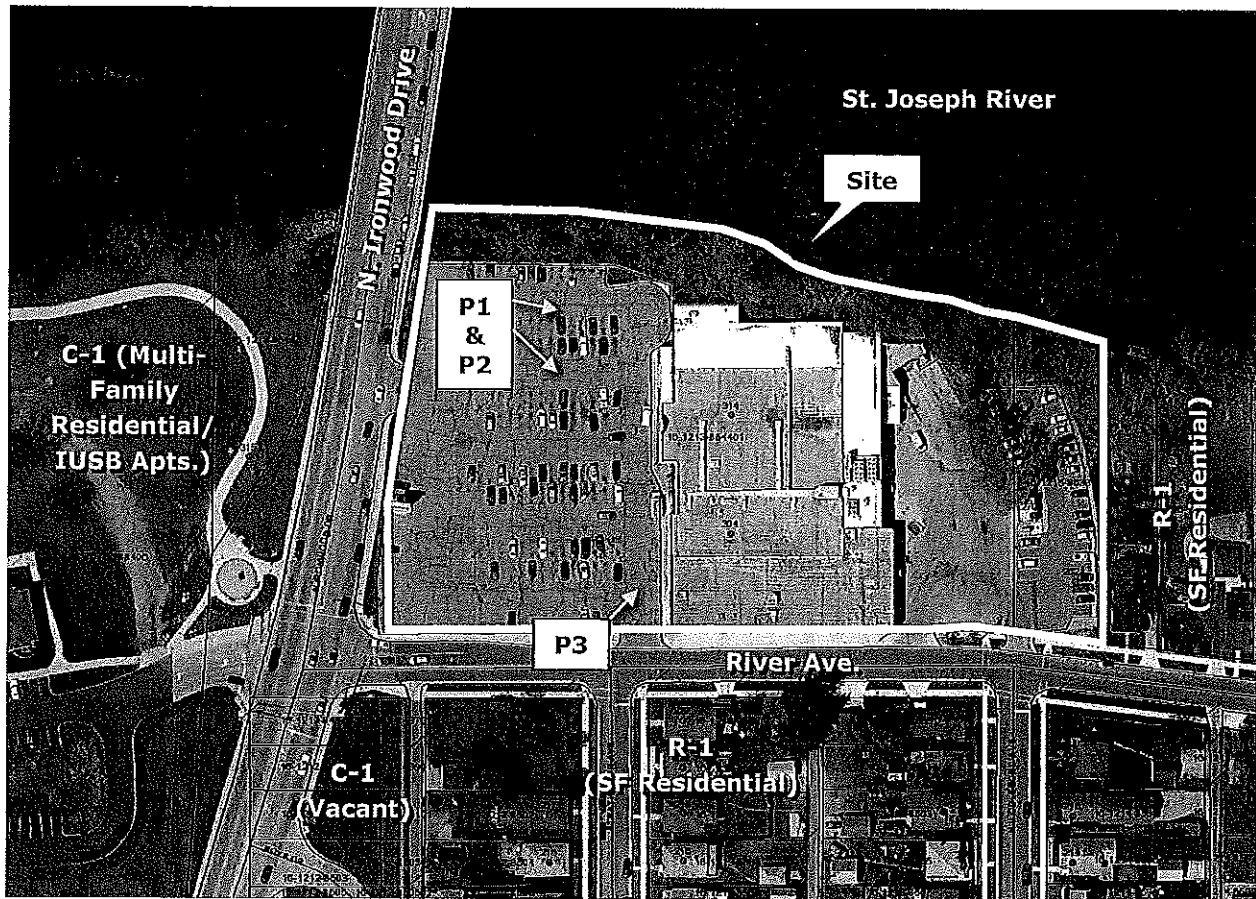
- 1) The drive-thru use shall be limited to the coffee shop.
- 2) An administrative site shall be submitted for review and approval prior to obtaining any required improvement location and/or building permits.

This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed use will adhere to all local and state building codes and appropriate pavement markings and signage will be installed on site where necessary to facilitate safe vehicular and pedestrian circulation throughout the property;
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 existing primary use of the property as a supermarket with coffee shop will not be altered and no significant improvements to the existing building and site are proposed.
3. The need for the variance arises from some condition peculiar to the property involved because the current zoning allows for a supermarket (grocery store) and restaurant, but prohibits a drive-thru use. Rezoning to the appropriate zoning classification with the allowable uses would not be appropriate for this location;
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. The zoning ordinance does not allow a restaurant with a drive-thru in the C-1 General Commercial District. Recent development trends in supermarkets are to provide additional services and retail items, such as banks, pharmacies, and small sandwich type restaurants and coffee shops, many of which provide a drive-thru for the convenience of the customers. Approval of this use variance will allow the appellant to remain competitive and consistent with the development patterns of other supermarkets in the area that have been granted similar variances to allow drive-thru uses; and
5. The approval is consistent with the recommendations of the Comprehensive Plan for General Commercial development for this site.

ATTACHMENTS

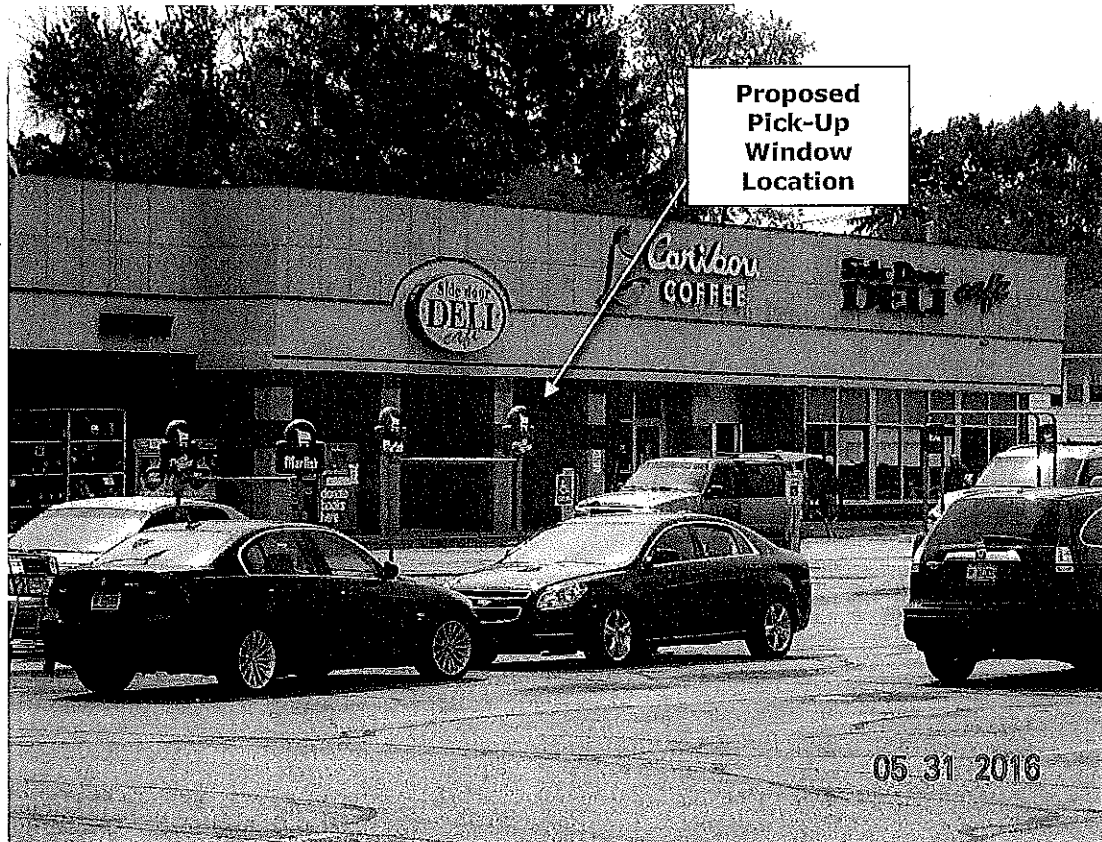
Aerial, Photographs, Appeal, Site Plan



Aerial Photograph
304 & 314 N. Ironwood Drive – Martin's Supermarket & Caribou Coffee



P1. Looking easterly into site and along the access drive for the proposed drive-thru.



P2. Looking southeasterly toward the proposed location for the drive-thru pick-up window.



P3. Looking northeasterly from the access along River Avenue toward the proposed location for the drive-thru pick-up window.



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 15, 2016

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2016

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
June 14, 2016, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #16-19 A petition submitted by Lisa Reynolds requesting to rezone **2111 East LaSalle Avenue** from I-2 Heavy Industrial District to R-1 Single Family Residential District.

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

PETITION #16-20 A petition submitted by William and Deborah Russo requesting to rezone the **vacant lot south of 3303 Lincolnway East** from R-1 Single Family Residential District to C-7 Automobile Oriented Restaurant Commercial District.

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

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed Ordinances regarding the above matters.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Lisa Reynolds
William Russo

STAFF REPORT

Location: 2111 E. LaSalle Ave.

Date: June 14, 2016

Petition: 16 19

Prepared By: KM

GENERAL INFORMATION

Applicant: Lisa Reynolds

Status: Property Owner

Request: Rezone from I-2 Heavy Industrial District to R-1 Single Family Residential

Zoning Classification: I-2 Heavy Industrial District

Lot Size: 81' X 260'

Applicable Regulations: Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential District
South: I-2 Heavy Industrial District
East: I-2 Heavy Industrial District
West: I-2 Heavy Industrial District

Thoroughfare: LaSalle Avenue between Home and Elder

School District: Penn-Harris-Madison School District

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The Petitioner is requesting to rezone 2111 E. LaSalle Avenue from I-2 Heavy Industrial District. The property is located between Home Street and Elder Road. Homes located across the street are zoned R-1 Single Family Residential and homes on the south side of LaSalle Avenue are zoned I-2 Heavy Industrial. There are industrial uses located behind the home.

The Petitioner states she is selling the home and it needs proper R-1 zoning for the buyer to obtain financing. Prior to the 1980's residential uses were permitted in industrial zoned districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts. Originally constructed as a private residence, the home historically has remained residential in its use.

Pertinent City Departments have reviewed and approved the request.

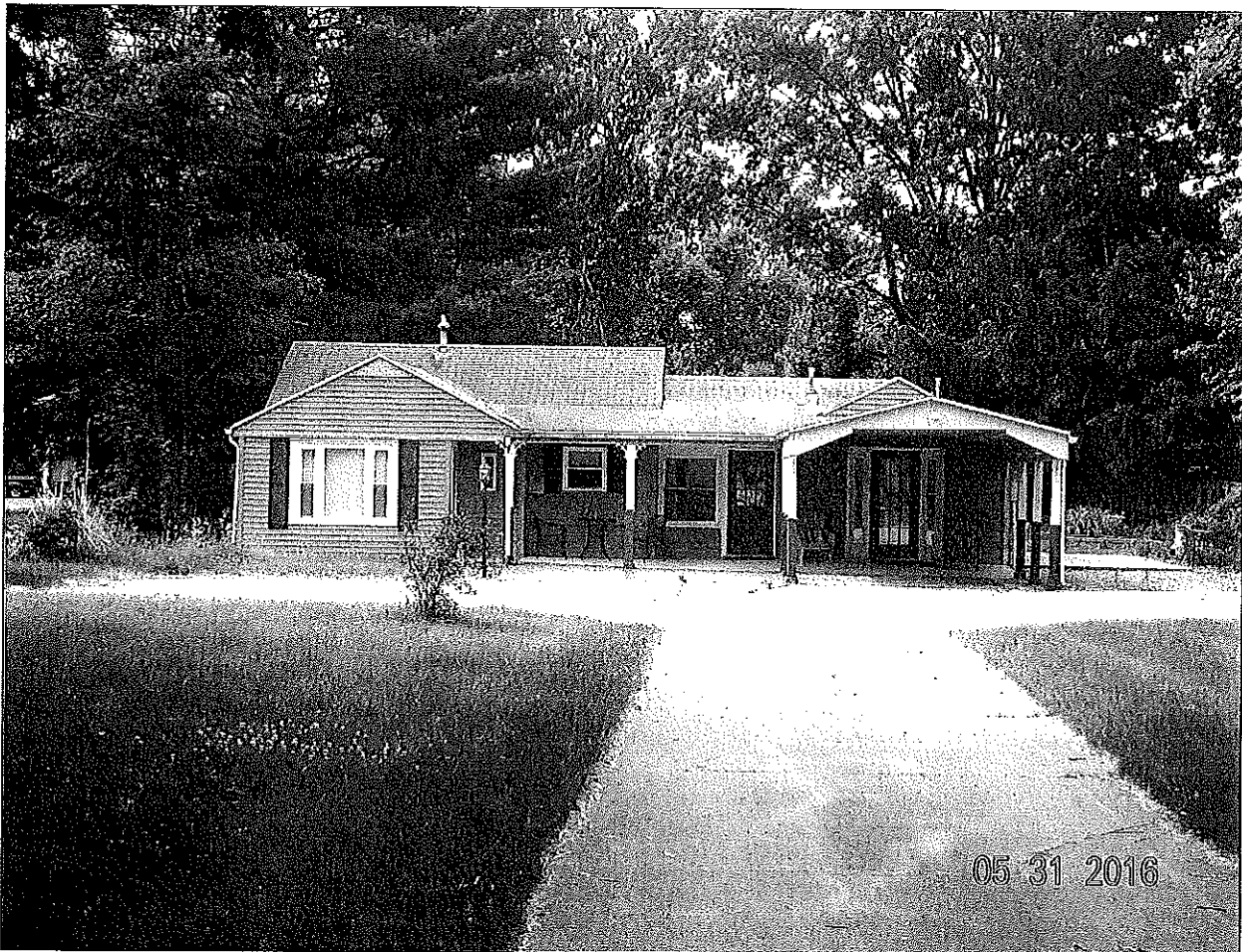
RECOMMENDATION

The Planning Department recommends **approval** of Petition 16-19 to rezone 2111 E. LaSalle Avenue from I-2 Heavy Industrial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. There are industrial uses south of the property, but the neighborhood surrounding the property to the north, west, and east are used as single family dwellings, and its historic use as a single family dwelling would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is its historical single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential industrial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for industrial use, however, its historic use as a single family home is compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP



2111 E. LaSalle Avenue

STAFF REPORT

Location: Vacant Lot south of 3303 Lincoln Way East (Dairy Queen)

Date: June 14, 2016

Petition: 16- 20

Prepared By: DJS

GENERAL INFORMATION

Applicant: William & Deborah Russo

Status: Property Owner

Request: Rezone from the R-1 Single Family Residential District to the C-7 Auto-Oriented Restaurant Commercial District to allow for the expansion and rebuilding of the adjacent drive-thru restaurant

Zoning Classification: R-1 Single Family Residential District

Lot Size: Approximately 0.19 acres

Applicable Regulations: Sec. 137-455 thru 137-457 / Commercial C-7 District;
Sec. 137-40 / Plan Commission; & Sec. 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-7 Auto-Oriented Restaurant Commercial (Drive-Thru Restaurant/Dairy Queen)
South: R-1 Single Family Residential (Residential)
East: R-1 Single Family Residential & R-2 Two Family Residential (Single Family Residential)
West: R-1 Single Family Residential & R-2 Two Family Residential (Single Family Residential)

Thoroughfare: Lincoln Way East & Lawndale Avenue

School District: School City of Mishawaka

Township: Penn

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

Comprehensive Plan: Low Density Residential (Single Family Homes)

ANALYSIS

The Petitioners, William & Deborah Russo, are requesting to rezone a vacant lot located south of the 3303 Lincoln Way East from the R-1 Single Family Residential District to the C-7 Automobile Oriented Restaurant Commercial District to allow for the expansion and rebuilding of the adjacent drive-thru restaurant. Dairy Queen is currently located north of the property to be rezoned.

The Petitioners desire to rezone the 0.19 acre parcel included within this petition to expand and redevelop the Dairy Queen restaurant. The preliminary site plan shows that the current building will be demolished. The entire 0.91 acre site, including four (4) separate parcels owned by the Petitioner, will be redeveloped.

The proposed new building is approximately 1,880 sq. ft., and will include an outdoor patio on the north side of the building and a drive thru window on the east side. All required minimum building setbacks per the C-7 development regulations will be met. Access to the site is proposed to be maintained via the two (2) existing curb cuts along Lincoln Way East, and a new curb cut along Lawndale Avenue. *The existing access along Maplewood Avenue is proposed to be removed; however, Staff will require that an access drive to this street be maintained and be included on the final site plan.*

Per the preliminary site plan, a total of 29 parking spaces, including two handicapped spaces, will be provided exceeding the required 28 parking spaces per ordinance (15 per 1,000 of gross floor area). *If the number of parking spaces are reduced due to maintaining an access drive along Maplewood Avenue, a variance may be needed for a reduction in the number of parking spaces.* The required pavement (parking lot and access drive) setbacks are ten (10) feet along Lawndale Avenue (west property line), Lincoln Way East (north property line), and Maplewood Avenue (east property line); and five (5) feet along all other property lines. As indicated on the preliminary site plan, variances will be sought for the proposed pavement setbacks along Lawndale Avenue (0') and along the east property line (3.67') adjacent to the drive-thru lane.

The site must adhere to the landscaping requirements for new commercial structures. As such, if overstory deciduous trees are used, they must be planted at rate of one per 40' along Lawndale Avenue, Lincoln Way East, and Maplewood Avenue. If understory deciduous trees are used, they must be planted at a rate of one per 25' along these property frontages. Parking lot screening consisting of a compact hedgerow (minimum 36" in height) is also required along these frontages. Additional side and rear yard landscaping shall meet the required one overstory deciduous tree per 60', or one understory deciduous tree per 40', along all other property lines. The preliminary site plan indicates that variances will be sought from some of the landscaping requirements due to the site constraints. In addition to the landscaping, a seven (7) foot high opaque fence is required along all property lines to the south adjacent to the residentially zoned land.

If the rezoning is approved, the Petitioner is required to submit a final site plan for review and approval by the Plan Commission. The final site plan will need to address all the zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), grading/erosion control, and landscaping requirements.

Building elevations must be submitted with the final site plan to ensure compliance with the permitted construction materials and colors.

All pertinent City Departments have reviewed the rezoning request. The only comments received were from the Engineering Department that questioned how the neighborhood will be screened from car noise, headlights, etc. from the site.

RECOMMENDATION

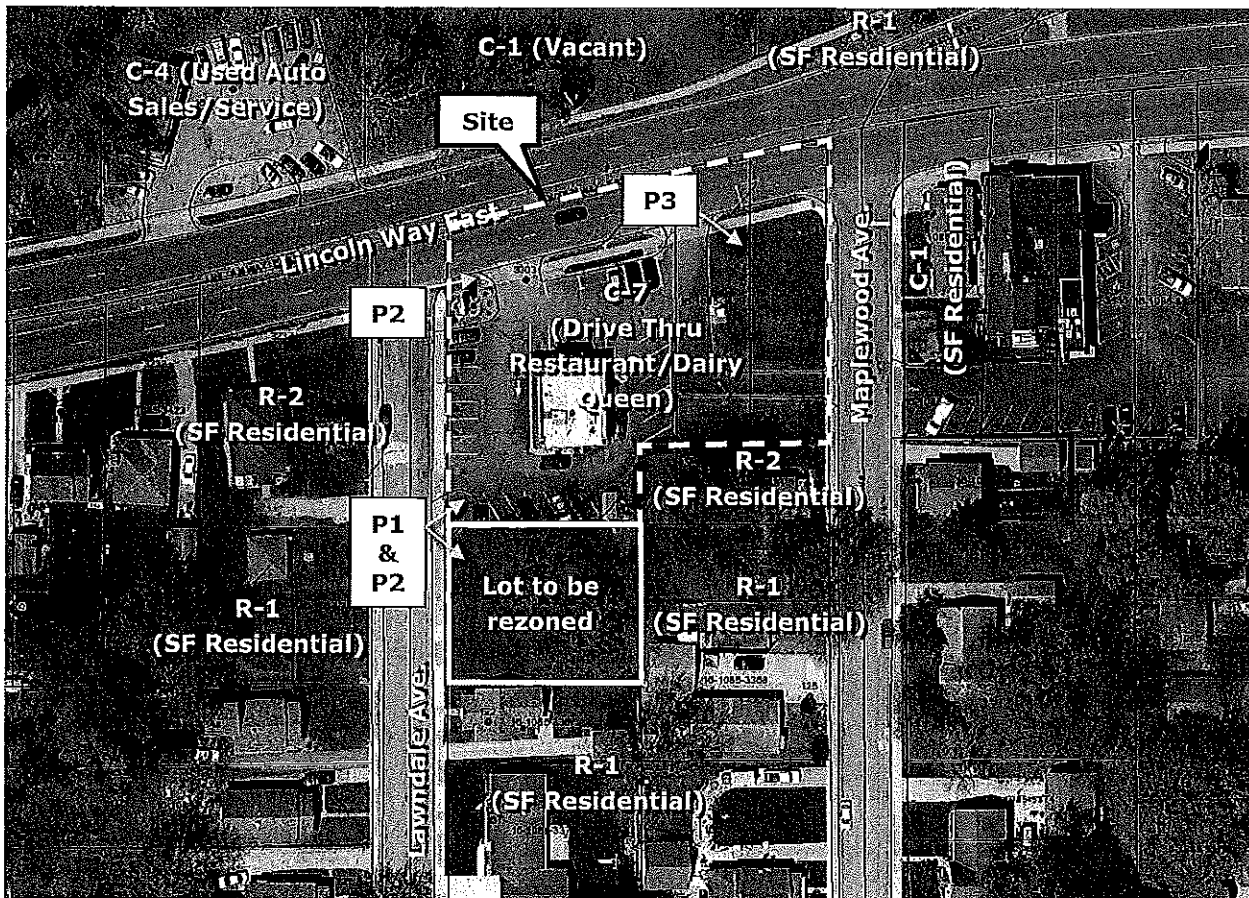
Staff recommends **in favor** of Petition 16-20 to rezone property located south of 3303 Lincoln Way East from the R-1 Single Family Residential District to the C-7 Automobile Oriented Restaurant Commercial District to allow for the expansion and rebuilding of the adjacent drive-thru restaurant. This recommendation is based on the following findings of fact:

1. Existing Conditions – The property to be rezoned is an undeveloped residentially zoned lot located immediately south of a drive thru restaurant within the Lincoln Way East mixed-used/commercial corridor. Adjacent and nearby properties along Lincoln Way East are zoned and/or used for single-family residential, multi-family residential, drive thru restaurant, used automobile sales/service, and general commercial purposes.
2. Character of Buildings in Area – The character of the adjacent buildings vary greatly including single-family residential homes, a drive thru restaurant, and a used automobile sales/service business.

3. The most desirable/highest and best use – Due to the property's close proximity to Lincoln Way East, which is primarily a commercial corridor with limited single-family uses, the most desirable use for the property is the expansion of the adjacent commercial (restaurant) use. The rezoning will allow for the expansion and rebuilding of the adjacent drive thru restaurant.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area with the proper landscaping and screen to buffer the adjacent residential properties to the south. All proposed site improvements, including the new building, parking lot, landscaping, and fencing (screening) will further conserve, or potentially increase, the adjacent property values.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, approved in 1990, guided general commercial uses along this portion of the Lincoln Way East corridor.

ATTACHMENTS

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



Aerial Photograph
Vacant Lot south of 3303 Lincoln Way East (Dairy Queen)



P1. Looking southeasterly into vacant lot to be rezoned.



P2. Looking northeasterly into the current Dairy Queen site proposed to be redeveloped.



P3. Looking northeasterly along the Dairy Queen Lincoln Way East frontage.



P4. Looking southeasterly into the area to be developed for additional parking.



CITY OF MISHAWAKA



200 N. Church St.
Mishawaka, IN 46544

Police Department

Kenneth L. Witkowski, Chief

David A. Wood, Mayor

June 20, 2016

Mayor David Wood
Honorable Council Members
Rebecca Miller, Controller
Budget/Finance Committee

Re: US Department of Justice, Justice Assistance Grant (JAG) 2016 Application 2016-H3513-IN-DJ
Non-matching Grant

Dear Mayor Wood and Honorable Council Members:

The Mishawaka Police Department was designated a 2016 Department of Justice Grant, Justice Assistance Grant (hereby referred to as JAG) award of \$13,181 for police equipment. As part of the grant requirements, an administrative review/advisory process was required prior to the awarding of this grant.

We are required to advise the Governing Body of the City of Mishawaka along with the Mayor of this application process. The JAG is a non-matching grant. We are planning on using the funds to purchase equipment. We have determined the best uses of these funds are: SWAT Gas Masks and filters, SWAT headsets, digital cameras, PBT's, Stop Sticks, First Aid Kits and Print Kits.

If you have any questions, please feel free to contact me. Thank you for your time and consideration.

Respectfully,


Kenneth L. Witkowski
Chief of Police

KLW:dcw

EMERGENCY 911
FRONT DESK (574) 258-1678
DETECTIVE BUREAU (574) 258-1684
RECORDS (574) 258-1681

CHIEF (574) 258-1683
UNIFORM CHIEF (574) 258-1688
TRAFFIC DIVISION (574) 259-2966
FAX (574) 258-1690

1st Reading 6-20-16
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2016

Proposed Ordinance NO. 2016-10

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA,
INDIANA, ESTABLISHING INTERNAL CONTROL STANDARDS AND ESTABLISHING A
MATERIALITY THRESHOLD

WHEREAS, Ind. Code 5-11-1-27 requires all Indiana political subdivisions to adopt minimum levels of internal control standards developed by the State Board of Accounts as published in the Uniform Internal Control Standards for Indiana Political Subdivisions prior to June 30, 2016; and

WHEREAS, the Controller has reviewed and recommendations adoption of the proposed internal control standards and materiality threshold.

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

Section 1. The City of Mishawaka, Indiana hereby adopts the Internal Control Policy attached hereto and incorporated herein as Exhibit A.

Section 2. The Controller is directed to ensure that all personnel receive training concerning the internal control procedures adopted and approved herein prior to December 31, 2016.

Section 3. The City of Mishawaka, Indiana hereby adopts a materiality threshold of \$2,500 for purposes of the internal control procedures adopted and approved herein.

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

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

On this _____ day of _____, 2016 at _____ o'clock, _____.M.

Ronald Banicki, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

on this _____ day of _____, 2016 at _____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2016 at

_____ o'clock, _____.M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Misti D. Horvath, Deputy Controller

Date: June 14, 2016
To: Honorable Members of the Common Council
From: Rebecca Miller
Re: Internal Control Ordinance

IC 5-1-1-27 requires all Indiana political subdivisions to adopt the minimum level of internal control standards developed by the State Board of Accounts. Each political subdivision must adopt these standards, train appropriate personnel, and implement policies and procedures consistent with the standards.

The State Board of Accounts has defined the acceptable minimum level of internal control standards for internal control systems of political subdivisions, including the following: (1) Control Environment. (2) Risk Assessment. (3) Control Activities. (4) Information and Communication. (5) Monitoring.

Attached you'll find Internal Control information highlighting the basics and the COSO Internal Control framework that is the model along with the ordinance.

The City has good internal controls that are adjusted and updated as necessary. This ordinance summarizes them in a format required by statute. Also new, is training that all employees will need to participate in by December 31st.

The ordinance is required to be approved by June 30, 2016 so I am requesting the council to suspend rules, to have first and second readings of the ordinance, and put to a vote at the June 20th meeting. John Roggeman will be presenting as I am out of town.

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

c: David A. Wood, Mayor

EXHIBIT A

CITY OF MISHAWAKA, INDIANA

Internal Controls Policy Pursuant to Ind. Code §5-11-1-27

I. Policy

The purpose of this policy is to communicate the Mishawaka Common Council's internal controls objectives to all employees ("Employees") and elected and appointed officials ("Management") of the City of Mishawaka ("City") and to firmly commit the City to the seventeen (17) key principals of internal controls as established by the Indiana State Board of Accounts.

COMPONENT ONE: CONTROL ENVIRONMENT

Principle 1. The Oversight Body and Management demonstrate a commitment to integrity and ethical values.

- A. The City has the responsibility to establish and maintain an adequate system of internal control and to furnish to the Mishawaka Common Council, various boards and commissions, governmental agencies, creditors and others reliable financial information on a timely basis. An adequate system of internal control is necessary for the City to discharge these responsibilities.
- B. External organizations and stakeholders of the City rely on financial information to make decisions toward appropriations, loans and other debt, grants, and other contractual relationships. City resources are dependent upon the system of internal control.
- C. As the fiscal body, Common Council expects the City administration to effect an internal control environment with policies and procedures necessary to provide reasonable assurance that practices cause effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations.
- D. Any person who knows or has any information regarding a suspected violation of a policy set forth herein, may report the violation to a member of the Common Council (the "Oversight Body"), which report shall be kept in the strictest of confidence as to the identity of the reporting person.
- E. The Oversight Body shall investigate all reports of violations of any policy or procedure. Should a majority of the Oversight Body find probable cause exists as to the violation, the Oversight Body shall determine if it will internally sanction the person so accused for minor violations or initiate litigation, either criminal, civil or both, for more serious violations.
- F. The Finance Department shall be charged with:
 - a. Conveying periodic messages of the City's internal control philosophy and expectations to all employees;
 - b. Evaluating the City's internal control system for weaknesses on a periodic (but no less frequently than annual) basis, providing solutions to any discovered weaknesses, and inform employees of necessary changes in procedures;

- c. Working with the Human Resources Department to establish a confidential reporting system for individuals to report suspected fraud and abuse of internal control policies; and
- d. Working with the Human Resources Department to institute procedures to address violations of policies and consequences for violations.

Principle 2. The Oversight Body oversees the entity's internal control system.

- A. As the fiscal body for the City, the Common Council is responsible for setting the institutional expectations for internal control, ensuring management is aware of those expectations, requiring the upward communications channels are open through all levels of management, and evaluating management's effectiveness toward monitoring the control environment and implementing sound control policies and procedures.
- B. As the City's Chief Fiscal Officer, the Controller will be the Common Council's chief agent in implementing and managing the internal control policies and procedures.
- C. When necessary, an oversight committee comprised of people with the highest ethical values, excellent communications skill and superior problem solving skill will be appointed by the Oversight Body.

Principle 3. Management establishes an organizational structure, assigns responsibility, and delegates authority to achieve the entity's objectives.

- A. Individuals with delegated approval authority, e.g. Elected Officials and Department Heads are responsible for establishing, maintaining, and supporting a system of internal controls within their areas of responsibility and for creating the control environment that encourages compliance with City policies and procedures.
- B. The Finance Department has the primary responsibility for internal control over financial reporting and compliance with applicable laws, rules, and regulations. The Controller is the City's chief source for information and assistance to staff and Department Heads on this topic and will make resources available to assist in administering this policy.
- C. The Human Resources Department is responsible for internal controls over employee recruitment, hiring, separation, promotion, job classification, employee rights, and salary administration. The Corporation Counsel and Assistant Human Resource Director are the City sources for information and assistance on this topic and will make resources available to assist in administering this policy.
- D. Department Heads are responsible for prompt corrective action on all internal control findings and recommendations made by internal and external auditors. The audit process is completed only after Department Heads receive the audit results and take action to correct internal control weaknesses, improve systems, or demonstrate that management action is not warranted. Department Heads have the responsibility to ensure that those who report to them have adequate knowledge, skills, and abilities to function within, and contribute to, an effective internal control environment. This includes providing access to appropriate training on topics relevant to their job responsibilities.

Principle 4. Management demonstrates a commitment to recruit, develop, and retain competent individuals.

- A. The City Employee Handbook provides a roadmap for recruiting and maintaining quality employees. Prior to employment individuals may be subject to pre-employment background screening. While employed City Employees are entitled to a benefits package including Health and Disability Insurance and certain other Post-Employment Benefits. The City will continue to assess the best recruitment pools and tools for the different skill sets of skills necessary to adequately implement and maintain quality internal controls.
- B. Job descriptions will be updated where necessary to reflect internal control responsibilities and duties. Employees will be regularly trained in internal control methods and all training will be documented in employees' personnel files. Employees will be regularly evaluated by their supervisors on internal control duties and receive feedback on possible improvements.

Principle 5. Management evaluates performance and holds individuals accountable for their internal control responsibilities.

- A. Management must, in each department, establish communications to help ascertain weaknesses in the internal controls and any non-compliance with internal control procedures.
- B. If Management has knowledge of any non-compliance with internal controls or procedures, Management will immediately address the problem with the person violating the internal control or procedure and determine how the violation can be eliminated, avoided or otherwise complied with by the person.
- C. Management and the Oversight Body shall address all acts of noncompliance with the internal control or procedure and take appropriate action to correct the noncompliance.

COMPONENT TWO: RISK ASSESSMENT

Principle 6. Management defines objectives clearly to enable the identification of risks and risk tolerances.

- A. An objective is for all collections to be deposited timely and intact and receipts to be properly issued. There is zero tolerance for theft. There is minimal tolerance for error. The financial ledgers, including the revenue ledger, must be up to date and accurate to provide Management and the Oversight Body correct information. Laws regarding deposits must be followed and funds must be posted correctly to allow for proper use of the funds in compliance with statute or ordinance.
- B. An objective is that all revenues collected will be immediately and accurately entered by the person accepting the funds on behalf of the City. The person to deposit the funds shall reconcile that the funds given to that person are equal to the amount of funds to be deposited. The reconciliation shall occur before either the receiving employee or the depositing employee may leave their work area.
- C. Each person in all processes shall be certain that the others involved in the process are complying with all law and regulation and especially these policies.

Principle 7. Management identifies, analyzes, and responds to risks related to achieving the defined objectives.

- A. There is a risk that errors in receipting or posting might occur and not be detected and corrected or prevented from occurring. There is a risk that the funds ledger could be incorrect and fund balances not accurate. If receipts are not posted to the correct fund, revenue or cash balances would be inaccurate and the provision of services may be impaired.
- B. There is a risk that the reconciled amount of revenues at the City do not equal the actual deposits made. There is a risk that two or more people in the process are working in unison and falsifying the revenue actually taken in.
- C. Every person handling City revenue or other funds shall be trained regarding IC 5-11-1-27(j) Report of Material Variances, Losses, Shortages, or Thefts to the State Board of Accounts.

Principle 8. Management considers the potential for fraud when identifying, analyzing, and responding to risks.

- A. There is always a risk, especially with cash collections, that the collections may be misappropriated prior to deposit. The records could be manipulated to cover the theft of collections. Job duties, segregation of duties and review processes will be implemented to ensure that an employee is not able to steal collections and cover up the theft.
- B. Every person handling City revenue or other funds shall be trained regarding IC 5-11-1-27(l) Report of Misappropriation of Funds to State Board of Accounts and Prosecuting Attorney.

Principle 9. Management identifies, analyzes, and responds to significant changes that could impact the internal control system.

- A. City internal control procedures will require evaluation and adjustment on a regular basis to accommodate the impact of future change, including but not limited to, personnel changes, newly elected and appointed officials, new programs, new technology, new laws, and financial fluctuations.

COMPONENT THREE: CONTROL ACTIVITIES

Principle 10. Management designs control activities to achieve objectives and respond to risks.

A. Payroll Activities

- 1. Salaries and wage rates are verified by someone outside of the payroll process.
- 2. The responsibilities for hiring, terminating, and approving promotions are segregated from those preparing payroll transactions or inputting data.
- 3. The responsibilities for approving time sheets are segregated from those for preparing payroll transactions or inputting data.
- 4. Employees' time and attendance records are approved by their supervisors.
- 5. Corrections to recorded time and attendance records are approved by the employee's supervisor and authorized by Management.

6. Procedures are in place to ensure that changes in employment status are promptly reported to the payroll processing unit.
7. Payroll disbursements are reviewed and approved by an authorized individual prior to payment.
8. Access to payroll applications is appropriately controlled by user logins and passwords.
9. Changes to a payroll disbursement are approved by an individual other than the ones authorized to make the changes.
10. Payroll checks are accounted for in numerical order and reconciled to the payroll check register.
11. Employees are cross-trained on the payroll process; those assigned to payroll take mandatory vacations.

B. Disbursement Activities

1. The responsibility for approving claims is segregated from those preparing the claims.
2. Checks are written by an individual other than the one approving the claim.
3. Checks are signed by an individual other than the one preparing them.
4. Claims for payment are reviewed and approved by the Board of Public Works prior to payment.
5. A reconciliation is completed between the claims for payment approved by the Board and the actual disbursements posted to the ledger.
6. The responsibility for acknowledging the receipt of goods or services is segregated from those preparing claims and writing checks.
7. Vendor checks are accounted for in numerical order and reconciled to the disbursement ledger.
8. Invoices or other receipts are attached to each claim to support the disbursement.
9. A review is completed by an individual outside the disbursement process in which the claim amount is compared to the supporting documentation attached to the claim and the amount of the check.
10. Access to disbursement applications is appropriately controlled by user logins and passwords.

C. Receipting Activities

1. The responsibility for collecting money and issuing receipts is done on a rotating basis so no one person prepares the bank deposits or receipts in money.
2. The responsibility for making bank deposits is done on a rotating basis so no one person prepares the deposits.
3. Pre-numbered receipts are issued for all money collected and the duplicate receipt is retained.
4. Posting of receipts to the ledger is completed by an individual other than the one who collects money and makes the deposit.
5. Receipts indicate the type of payment received (cash, check, etc.) and this is reconciled to the make-up of the bank deposit.

6. A periodic review is completed of all adjustments made to customer accounts by an individual independent of the billing and accounts receivable processes to ensure that all adjustments made have proper approval.

D. Cash Activities

1. A reconciliation between the recorded cash balance and the bank balance is completed monthly by an individual, then approved by an individual separate from the receipting and disbursing processes.
2. A reconciliation between the receipts ledger and the credits to the bank account is completed daily.
3. A reconciliation between the disbursement ledger and the debits to the bank account is completed daily.
4. The monthly reconciliation between the cash balance and the bank balance is thoroughly reviewed and submitted the governing body.
5. Disbursements from and reimbursements to petty cash funds are periodically reviewed by an individual other than the one responsible for maintaining the petty cash fund.

E. Credit Cards Transactions and Purchasing Cards

1. A designated official or employee oversees the issuance and use of the credit cards and purchasing cards.
2. An ordinance or resolution specifically states the purposes for which the credit card/purchasing card may be used.
3. The designated official or employee collects the credit card when the purpose for which the credit card has been issued has been accomplished. Disbursement of purchasing cards are set in Ordinance 5518.
4. A designated person separate from disbursement process reviews transactions listed on the credit card statements for sufficient documentation and inclusion in claim to the Board.

Principle 11. Management designs the entity's information system and related control activities to achieve objectives and respond to risks.

- A. Each employee will have a user id and password, these will not be shared.
- B. Only the Controller and Deputy will have access to user ids and passwords.
- C. Only the Controller and Deputy set permissions so that each employee is restricted in access within the software system to those areas needed to complete assigned duties only.
- D. All transactions will carry the unique user id of the employee that completed the transaction.

Principle 12. Management implements control activities through policies.

- A. The City has an employee handbook that is regularly updated to communicate policies to employees.
- B. The Finance Department regularly works with departments and employees who handle financial transactions to recommend and ensure best practices.

- C. The City's cash handling policy is communicated to all necessary employees.

COMPONENT FOUR: INFORMATION AND COMMUNICATIONS

Principle 13. Management uses quality information to achieve the entity's objectives.

- A. Information must be relevant and of high quality. The appropriate statutes, regulations, grant requirements, local ordinances, and internal reports must be the most current information available. Management determines the information needed to evaluate the internal controls established. Those needs for information are communicated to the employees so that only the most relevant and reliable information is used in the internal control procedure evaluations.
- B. Reconciliation of receipts to bank is completed and any corrections noted are posted to the revenue ledger and funds ledger prior to month end reports being prepared.
- C. All variances are researched and resolved and proper documentation is maintained.
- D. Reports are checked for accuracy and that corrections have been made for any errors detected.

Principle 14. Management internally communicates the necessary quality information to achieve the entity's objectives.

- A. In establishing a process of internal communication, Management may consider the following:
 - 1. The form of communication and documentation of internal communications between offices, departments and the Oversight Body is established and communicated to employees.
 - 2. Procedures are established to ensure that the communication requirements are being followed and necessary information is being communicated properly.
 - 3. Procedures are established for feedback on and clarification of the information provided.
- B. Internal memos and reports are maintained to document communication.
- C. Management and the Oversight Body reviewed the controls over receipting and month end reports for reasonableness.
- D. Management and Oversight Body respond to any complaints from Employees or citizens on the receipting process.
- E. Any modifications to the receipting procedures are immediately communicated to the staff.
- F. A change in job duties may be implemented for any part of the receipting process that has been determined to have a problem.

Principle 15. Management externally communicates the necessary quality information to achieve the entity's objectives.

- A. In establishing a process of external communication, Management may consider the following:

1. Communications with State Board of Accounts, other State agencies, grantor agencies, regulatory agencies are documented by email, memos, letters and other correspondence.
2. Procedures are established to retain public documents.
3. Reports are cross checked for accuracy, relevancy and timelines of information
- B. All control deficiencies identified in an external audit are immediately addressed, evaluated and a corrective action plan is written. Management and the Oversight Body will follow up on the correction plan to ensure that it has been implemented and has correctly addressed the weaknesses.

COMPONENT FIVE: MONITORING ACTIVITIES

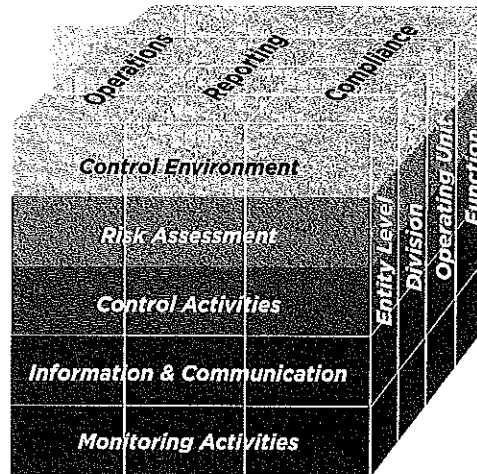
Principle 16. Management establishes and operates monitoring activities to monitor the internal control system and evaluate the results.

- A. When establishing a monitoring system, Management may consider the following procedures:
 1. Periodic checks are performed to determine if controls are in place and working effectively.
 2. Control activities are reviewed to determine if the actual activities are in compliance with established procedures.
 3. Deficiencies in the internal control process are documented and remediation is quickly completed to address any deficiencies.
 4. Many of the control activities can also be used as monitoring activities

Principle 17. Management remediates identified internal control deficiencies on a timely basis.

- A. Internal control deficiencies may be identified internally through monitoring or externally through audit reports, communication from grantor agencies, etc. Once identified, Management addresses deficiencies immediately through the development of formal or informal corrective action plans. Management and the Oversight Body work together to ensure the corrective action plan is implemented and the resulting changes are effective in correcting internal control weaknesses.
- B. Any violations of policies and procedures will be noted and evaluated. Internal Controls may be reevaluated to correct the problems discovered.

COSO Internal Control — Integrated Framework Principles



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Control Environment

- 1 The organization demonstrates a commitment to integrity and ethical values.
- 2 The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control.
- 3 Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives.
- 4 The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.
- 5 The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.

Risk Assessment

- 6 The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives.
- 7 The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed.
- 8 The organization considers the potential for fraud in assessing risks to the achievement of objectives.
- 9 The organization identifies and assesses changes that could significantly affect the system of internal control.

Control Activities

- 10 The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- 11 The organization selects and develops general control activities over technology to support the achievement of objectives.
- 12 The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.

Information & Communication

- 13 The organization obtains or generates and uses relevant, quality information to support the functioning of internal control.
- 14 The organization internally communicates information, including objectives and responsibilities for internal control, necessary to support the functioning of internal control.
- 15 The organization communicates with external parties regarding matters affecting the functioning of internal control.

Monitoring Activities

- 16 The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.
- 17 The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.



For more information
about COSO,
visit coso.org.

Indiana State Board of Accounts

Internal Control Standards

Standards

Indiana Code 5-11-1-27(e) provides that through the compliance guidelines authorized under IC 5-11-1-24 the state board of accounts shall define the acceptable minimum level of internal control standards for internal control systems of political subdivisions, including the following: (1) Control Environment. (2) Risk Assessment. (3) Control Activities. (4) Information and Communication. (5) Monitoring.

In response, the SBOA developed the *Uniform Internal Control Standards for Indiana Political Subdivisions* manual, which contains the acceptable minimum level of internal control standards.

Generally Accepted Government Auditing Standards (the "Yellow Book") prohibits the SBOA from prescribing the actual internal control procedures to be used by a political subdivision. However, the manual provides examples and case studies to demonstrate implementation strategies.

Internal Control Policy and Required Certifications

After June 30, 2016 IC 5-11-1-27(g) provides that the legislative body of each political subdivision must adopt the minimum internal control standards as defined by SBOA. Additionally, the legislative body must ensure that personnel receive training concerning the internal control standards and procedures adopted by the political subdivision.

At the time of submission of the annual report through gateway, the fiscal officer must certify that the minimum internal control standards have been adopted and that personnel who are not otherwise on leave status have received training regarding these standards and procedures. Instructions for filing will be found as part of the annual report submission.

Apart from the required certification to be filed by the fiscal officer, a certification for elected officials, appointees, and employees to sign as evidence for their individual training may be found under the Appendix found in the Uniform Internal Control Standards for Indiana Political Subdivisions manual. These certifications are to be maintained by the political subdivision on-site.

Training

Indiana Code 5-11-1-27(f) provides that the SBOA develop or designate approved personnel training materials concerning internal controls.

The SBOA has developed and will provide the following training materials on internal controls:

- *Uniform Internal Control Standards for Indiana Political Subdivisions* manual by the SBOA
- *Internal Control Webinar* - [after clicking on the link, click on 'please click here to register' or 'Event Registration.' Input the required information and the select view.] **If you are experiencing issues with this webinar, we are currently working on a solution and will get a fix available as soon as possible.**
- Live presentations by the SBOA at the annual called meetings and conference around the state.

The SBOA has designated the following training materials on internal controls:

- *Internal Control - Integrated Framework* (2013) by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- Guidance papers, principals, or frameworks on Governance and Operational Performance, Internal Controls, Enterprise Risk Management, or Fraud Deterrence by COSO.

- Standards for Internal Control in the Federal Government (the "Green Book") set forth by the Comptroller General of the United States.

In addition, the SBOA recognizes that political subdivisions may find appropriate internal control training materials on their own initiative. So, the following training materials may be designated:

- Materials identified and submitted by political subdivisions, which are approved by the SBOA and/or posted on the SBOA's website. Please contact Debbie Gibson  at (317) 232-2512 for further information.

Internal Control Timeline

IC 5-11-1-27 requires all Indiana political subdivisions to adopt the minimum level of internal control standards developed by the state board of accounts as published in the *Uniform Internal Control Standards for Indiana Political Subdivisions*. Each political subdivision must adopt these standards, train appropriate personnel, and implement policies and procedures consistent with the standards. The following is a guide to fulfilling these requirements and deadlines for action.

Statutory Requirements - *Uniform Internal Control Standards for Indiana Political Subdivisions* (Statutory Deadline: After June 30, 2016)

Legislative Body – Uniform Internal Control Standards

1. Adopt Standards. The legislative body shall ensure that the *Uniform Internal Control Standards for Indiana Political Subdivisions* are adopted. We recommend adoption by ordinance or resolution.

The *Uniform Internal Control Standards for Indiana Political Subdivisions* are available on our website at www.in.gov/sboa.

2. Train Personnel. The legislative body shall ensure that personnel, as defined in statute, receive training concerning the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

Approved training materials are located in Part Two of the *Uniform Internal Control Standards for Indiana Political Subdivisions*; the Video Presentation materials in Section One accompany the Internal Control Webinar located on our website at www.in.gov/sboa.

Training by each employee should be documented on the Internal Control Training Certification Form located in the Appendix to the *Uniform Internal Control Standards for Indiana Political Subdivisions*. Retain this documentation for audit.

Please note that training is an ongoing process as new employees are hired.

Fiscal Officer – Uniform Internal Control Standards

1. Certify Adoption of Standards. The fiscal officer shall certify in writing that the *Uniform Internal Control Standards for Indiana Political Subdivisions* have been adopted.

2. Certify Training of Personnel. The fiscal officer shall certify in writing that the personnel, as defined in statute, have received the required training.

3. Submit Two Certifications with Annual Financial Report in 2017. Both the Adoption of Standards Certification and the Training of Personnel Certification shall be filed electronically with the state board of accounts at the same time as the annual financial report is filed.

Ongoing Requirements - Implementation of Internal Control Policies and Procedures

Management - Responsibility to Implement Internal Control Policies and Procedures

The term "management" is defined for each unit of government in the Introduction section of the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

After June 30, 2016, management should document in writing the specific internal control policies and procedures required for use in each department of the unit. Examples of such policies and procedures are contained in Part Two Section 2 of the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

The implementation of internal control policies and procedures is an ongoing process. We recommend that management start by documenting procedures already in place and evaluating those policies and procedures in light of the five components of internal control. If any of the five components is missing, true internal control is not achieved. An effective implementation of Internal Control is a process and requires regular evaluation and adaptation for changes affecting your office. Over time controls may be added, deleted, or adjusted as necessary.

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2016

CITY CLERK
MISHAWAKA, IN

PETITION 16-19

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-11

ORDINANCE NO. _____

1st Reading 6-20-16
2nd Reading
Passed
Failed
Continued To

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

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

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

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

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

Lot 113, Citizens Home Company's McKinley Highway Plat

COMMON ADDRESS: 2111 East LaSalle Avenue

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

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

1. There are industrial uses south of the property, but the neighborhood surrounding the property to the north, west, and east are used as single family dwellings, and its historic use as a single family dwelling would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an industrial project, staff feels that the most desirable use for this property is its historical single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2016-11

Ordinance No: _____

4. As opposed to the range of potential industrial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for industrial use, however, its historic use as a single family home is compatible and consistent with the historic residential 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 _____, 2016, at _____ o'clock ____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2016, at _____ o'clock ____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2016, at _____ o'clock ____ M.

David A. Wood, Mayor

JUN 01 2016

CITY CLERK
MISHAWAKA, IN

DATE: 05/12/2016

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 Lisa Reynolds respectfully
shows she is the owner of the following
described real estate located in the City of
Mishawaka, County of St. Joseph, State of
Indiana, to-wit:

2111E. La Salle Avenue Mishawaka, IN 46545

Lot 113 Citizens Home Company's McKinley Highway Plat

Parcel # 71-09-11-202-009.000-022 Tax ID# 027-1001-0439

Petitioner(s) own one hundred (100%)
percent of the above described parcel of land
which carries a zoning classification of I-2
heavy industrial District. Said property is
improved with an existing single family
house.

Petitioner(s) desire said real estate to be
rezoned to R-1 single family residential.
District. Petitioner(s) further state that they

Pet 16-19

intend to utilize said land for residential.

Reason for re zoning, owner has sold property, lender will not approve new buyer because it is not zoned residential. It is a residential area.

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.

Lisa Reynolds



CONTACT PERSON:

Name Lisa Reynolds
Address 52200 Evergreen Rd Granger, IN 46530
Email Lisa5k@aol.com
Phone 574-286-4433



PETITION 16-19

E LA SALLE AVE

ELDER RD

Location Map

PETITION 16-19

2111 E. LaSalle Ave.

REZONING FROM I-2
TO R-1 FOR AN EXISTING
SINGLE-FAMILY HOUSE

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 01 2016

CITY CLERK
MISHAWAKA, IN

May 16, 2016

Regarding rezoning of property located at:

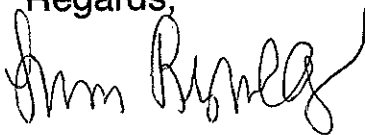
2111 E. LA Salle Ave
Mishawaka, IN 46545

To Whom it may concern:

My name is Lisa Reynolds, owner of property located at 2111 E. La Salle Ave. Mishawaka, In. I am requesting first and second reading for the proposed rezoning of the above listed property, at the June 20th City Council Meeting. The reason for this request, I have recently pended this property. The lender will not close this transaction with the prospective buyer until it is zoned residential. This has just recently came to seller/ buyers attention. We were scheduled to close this May 31, 2016. I have a willing and able buyer that is very anxious to buy this property, and the delay is creating a stress on this transaction.

Your consideration is appreciated in this matter.

Regards,



Lisa Reynolds

Pet 16-19

1st Reading 6-20-16
2nd Reading
Passed
Failed
Continued To

PETITION 16-20

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2016-12

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2016

CITY CLERK
MISHAWAKA, IN

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

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

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

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

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

Lot 48, Geyers 1st Sub

COMMON ADDRESS: Vacant lot south of 3303 Lincolnway East

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as C-7 Automobile Oriented Restaurant Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The property to be rezoned is an undeveloped residentially zoned lot located immediately south of a drive thru restaurant within the Lincoln Way East mixed-used/commercial corridor. Adjacent and nearby properties along Lincoln Way East are zoned and/or used for single-family residential, multi-family residential, drive thru restaurant, used automobile sales/service, and general commercial purposes.
2. Character of Buildings in Area – The character of the adjacent buildings vary greatly including single-family residential homes, a drive thru restaurant, and a used automobile sales/service business.

Proposed Ordinance No: 2016-12

Ordinance No: _____

3. The most desirable/highest and best use – Due to the property's close proximity to Lincoln Way East, which is primarily a commercial corridor with limited single-family uses, the most desirable use for the property is the expansion of the adjacent commercial (restaurant) use. The rezoning will allow for the expansion and rebuilding of the adjacent drive thru restaurant.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the surrounding area with the proper landscaping and screen to buffer the adjacent residential properties to the south. All proposed site improvements, including the new building, parking lot, landscaping, and fencing (screening) will further conserve, or potentially increase, the adjacent property values.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, approved in 1990, guided general commercial uses along this portion of the Lincoln Way East corridor.

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 _____, 2016, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2016, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2016, at _____ o'clock ____M.

David A. Wood, Mayor

JUN 01 2016

May 17, 2016

CITY CLERK
MISHAWAKA, IN

MAY 24 2016

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

Ret 16-20

RE: PETITION TO REZONE

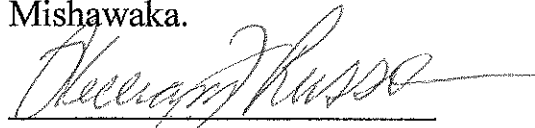
The undersigned William and Deborah Russo respectfully show they are the owners of the following described real estate locate in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Lot 48 Geyers 1st Sub
V/L On Lawndale 13 37 3e
Mishawaka, IN 46544
Parcel Number: 71-09-13-253-003-000-023
Tax ID Number: 016-1085-3359

Petitioner's own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of ***Residential*** District. Said Property is a ***Vacant Lot***.

Petitioner's desire said real estate to be rezoned to ***Commercial*** District. Petitioner's further state that they intend to utilize said land for ***Enlarging and Rebuilding the Dairy Queen***.

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.


William F. Russo
574-361-1290
Royaltreat98@aol.com
3303 Lincolnway East
Mishawaka, IN 46544


Deborah A. Russo
574-612-0624
Royaltreat98@aol.com
3303 Lincolnway East
Mishawaka, IN 46544



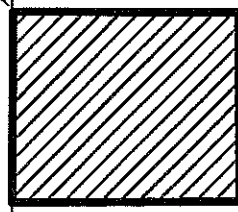
VISTULA

LINCOLNWAY EAST

LINCOLNWAY EAST

PETITION 16-20

3303 LINCOLN WAY
EAST - EXISTING
DAIRY QUEEN



LAWNDALE AVE

MAPLEWOOD AVE

Location Map

PETITION 16-20

Vacant Lot South of
3303 Lincoln Way East

REZONING FROM R-1 TO
C-7 FOR ENLARGING AND
RECONSTRUCTING DQ

JUN 15 2016

APPEAL #16-17

RESOLUTION NO. 2016- 20

CITY CLERK
MISHAWAKA, IN

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

3904 and 3916 Fir Road, 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 **3904 and 3916 Fir Road, Mishawaka, Indiana**, more particularly known and described as follows:

Parcel I: A part of the Southwest Quarter of Section 35, Township 38 North, Range 3 East, St. Joseph County, Indiana, and described as follows: Beginning on the East line of Fir Road, South 00°00'00" East 630.71 feet to the Westerly right-of-way line of the Grand Trunk and Western Railroad; thence South 29°45'25" West 295.63 feet along said Westerly right-of-way; thence South 90°00'00" West 483.98 feet to the east line of Fir Road; thence North 00°00'00" East 256.65 feet along said East line to the point of beginning.

Parcel II: A part of the Southwest Quarter of Section 35, Township 38 North, Range 3 East, St. Joseph County, Indiana and described as follows: Beginning on the East line of Fir Road, South 00°00'00" West 696.17 feet from the intersection of said East line with the South line of Day Road; thence 90°00'00" East 483.98 feet to the Westerly right-of-way line of the Grand Trunk and Western Railroad, thence South 29°45'25" West 439.50 feet; thence South 90°00'00" West 265.84 feet to the East line of Fir Road; thence North 00°00'00" East 381.55 feet along said East line to the point of beginning, EXCEPTING THEREFROM THE FOLLOWING; Beginning on the East right-of-way line of Fir Road at the point that is South 00°00'00" West 1067.72 feet from the South right-of-way line of Day Road; thence North 90°00'00" East 271.56 feet to the Westerly right-of-way of Grand Trunk and Western Railroad; thence

South 29°45'25" West along said Westerly right-of-way line 11.52 feet; thence South 90°00'00" West 265.84 feet to the East right-of-way line of Fir Road; thence North 00°00'00" East along said East right-of-way line, 10.00 feet to the point of beginning.

The Use Variance will permit automobile and motorcycle maintenance and auto body repair at 3904 and 3916 Fir Road, subject to the following conditions of approval:

1. The Use Variance shall be limited to automotive and motorcycle maintenance and automobile body shop, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted.
2. Temporary signage shall be limited to being flush mounted to wall.
3. A sanitary sewer plan for the site what will incorporate oil interceptor and grit/sand interceptor requirements for vehicle automotive maintenance business.
4. Inspections by the Building Department and Fire Department prior to occupancy.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have no impact on the adjacent industrial uses that currently operate there. The proposed use is consistent with the existing industrial properties within the area.
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 of the other industrial and commercial uses along Fir Road and Day Road and the barrier of the railroad tracks to the east.
3. The need for a use variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A use variance would allow the proposed automobile commercial use, while still protecting the industrial zoning for future use and also protecting the residential users to the east and west.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial

zoning would not allow for the proposed automobile oriented commercial uses.

5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2016, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2016,
at _____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2016, at
_____ o'clock ____ .m.

David A. Wood, Mayor

JUN 01 2016

CITY CLERK
MISHAWAKA, IN

Date: May 18, 2016

MAY 23 2016

To: Board of Zoning Appeals
City of Mishawaka, Indiana

AP 16-17

The undersigned appellant respectfully shows the Board:

1. I, Todd Veldman, as a member of All Secure Fir Road Storage, LLC am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana to wit:

Parcel I: A part of the Southwest Quarter of Section 35, Township 38 North, Range 3 East, St. Joseph County, Indiana, and described as follows: Beginning on the East line of Fir Road, South 00°00'00" East 630.71 feet to the Westerly right-of-way line of the Grand Trunk and Western Railroad; thence South 29°45'25" West 295.63 feet along said Westerly right-of-way; thence South 90°00'00" West 483.98 feet to the east line of Fir Road; thence North 00°00'00" East 256.65 feet along said East line to the point of beginning.

Parcel II: A part of the Southwest Quarter of Section 35, Township 38 North, Range 3 East, St. Joseph County, Indiana and described as follows: Beginning on the East line of Fir Road, South 00°00'00" West 696.17 feet from the intersection of said East line with the South line of Day Road; thence 90°00'00" East 483.98 feet to the Westerly right-of-way line of the Grand Trunk and Western Railroad, thence South 29°45'25" West 439.50 feet ; thence South 90°00'00" West 265.84 feet to the East line of Fir Road; thence North 00°00'00" East 381.55 feet along said East line to the point of beginning, EXCEPTING THEREFROM THE FOLLOWING; Beginning on the East right-of-way line of Fir Road at the point that is South 00°00'00" West 1067.72 feet from the South right-of-way line of Day Road; thence North 90°00'00" East 271.56 feet to the Westerly right-of-way line of Grand Trunk and Western Railroad; thence South 29°45'25" West along said Westerly right-of-way line 11.52 feet; thence South 90°00'00" West 265.84 feet to the East right-of-way line of Fir Road; thence North 00°00'00" East along said East right-of-way line, 10.00 feet to the point of beginning.

The property is commonly known as 3916, 3926, 2904, 4002 and 4012 Fir Road, Mishawaka, Indiana.

2. The above-described real estate has a zoning classification of "I-1" Light Industrial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Owner-operator of commercial flex use storage space leasing to small businesses and large storage need customers.
4. Appellant desires to apply for a Use Variance that would allow for the buildings located at 3904 & 3916 Fir Road to include usage pertaining to auto & motorcycle maintenance and auto body repair.

5. The Zoning Ordinance of the City Of Mishawaka Division 4 Subdivision II. Sec 137-586 (a) (1)-(71) outlines specific allowable business uses for "I-1" Light Industrial zoned property. Auto and motorcycle maintenance and auto body repair are not among the listed allowable uses.
6. This facility creates an alternative outlet for small auto maintenance and repair persons to operate in a comparably low cost facility while eliminating these fledgling entrepreneurial businesses to be run out of residential properties which would certainly be in strict violation of numerous ordinances.
7. (1) Approval will not be injurious to the public health, safety, morals or general welfare of the community by allowing the appealed uses. The other allowable business uses, many of which are similar in nature to the appeal, operate regularly within the facility.

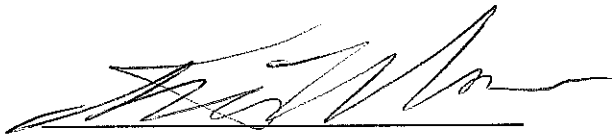
(2) Allowing the appealed use will not adversely affect property values in the adjacent areas in large part due to the contained nature of the facility which is screened in back by an elevated railroad.

(3) The requested need for the variance does in part arise from the nature of the facility which is represented by numerous 40' x 40' commercial units which lend themselves to small business utilization at substantially lower costs than other leasing options for those who cannot afford a higher priced facility.

(4) Strict application of the ordinance would create a substantial financial hardship to those tenants who may not be able to continue their self-employment aspirations with higher rents.

(5) The approval of the requested appeal will have no impact on the Mishawaka 2000 Comprehensive plan.

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



Todd Veldman



Kristine Costello

CONTACT PERSON:

Kevin Paczkowski

5222 West Western Avenue, South Bend, IN 46619

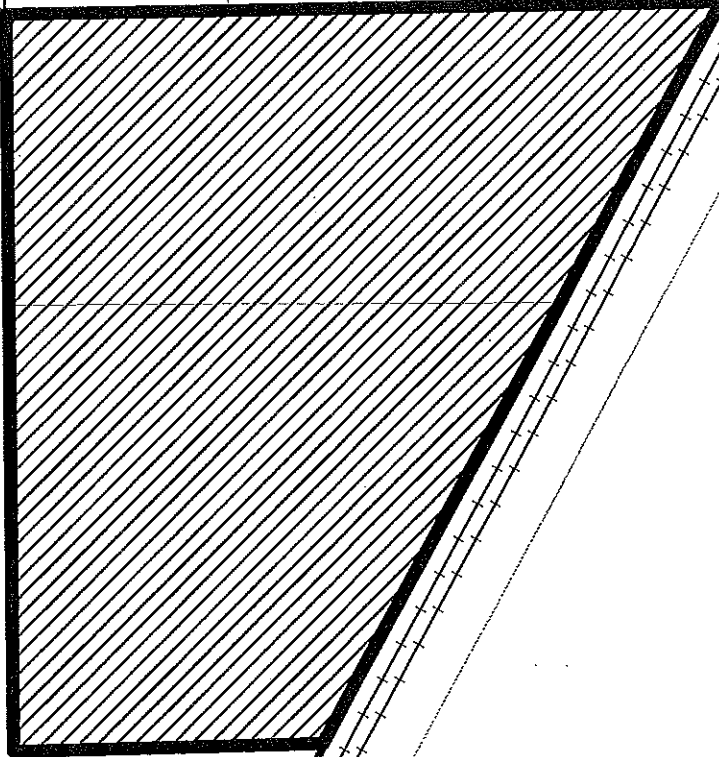
Work: 574-287-7236 Cell: 574-344-9150 Fax: 574-968-1738

Email: kpaczkowski@veldmans.net

E DAY RD



APPEAL 16-17



Location Map

APPEAL 16-17

3916, 3926, 3904,
4002 & 4014 FIR ROAD

USE VARIANCE IN I-1 DISTRICT
TO ALLOW AUTO / MOTORCYCLE
SERVICE & AUTO BODY REPAIR

FIR RD

RALE

JUN 15 2016

APPEAL #16-20

RESOLUTION NO. 2016-21

CITY CLERK
MISHAWAKA, IN

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

304 and 314 North Ironwood Drive, 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 **304 and 314 North Ironwood Drive, Mishawaka, Indiana**, more particularly known and described as follows:

A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE AND THE EAST RIGHT-OF-WAY LINE OF IRONWOOD DRIVE, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT #168 OF THE PLAT OF "MIDDLEBORO ADDITION" AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 00°00'00" EAST (ALL BEARINGS ASSUMED) ALONG THE EAST RIGHT-OF-WAY LINE OF IRONWOOD DRIVE AND THE WEST LOT LINE OF SAID LOT #168, A DISTANCE OF 120 FEET MORE OR LESS; THENCE CONTINUING NORTH 08°35'05" EAST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE 220.83 FEET MORE OR LESS TO THE SOUTH BANK OF THE ST. JOSEPH RIVER; THENCE MEANDERING EAST AND THE SOUTHEASTERLY ALONG SAID EAST BANK A DISTANCE OF 838.26 MORE OR LESS TO THE NORTHWEST CORNER OF #154 IN SAID PLAT; THENCE SOUTH 00°00'00" EAST ALONG THE WEST LINE OF SAID LOT A DISTANCE OF 250.83 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE; THENCE NORTH 82°55'35" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF A DISTANCE OF 108 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF LOT #156 IN SAID PLAT; THENCE CONTINUING NORTH 90°00'00" WEST

ALONG THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE A DISTANCE OF 520 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 4.53 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

The Use Variance will allow a drive-thru window to serve existing coffee shop subject to the following conditions of approval:

1. The drive-thru shall be limited to the coffee shop.
2. An Administrative Site Plan shall be submitted for review and approval prior to obtaining any requirement Improvement Location and/or Building Permits.

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 use will adhere to all local and state building codes and appropriate pavement markings and signage will be installed on site where necessary to facilitate safe vehicular and pedestrian circulation throughout the property;
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 existing primary use of the property as a supermarket with coffee shop will not be altered and no significant improvements to the existing building and site are proposed.
3. The need for the variance arises from some condition peculiar to the property involved because the current zoning allows for a supermarket (grocery store) and restaurant, but prohibits a drive-thru use. Rezoning to the appropriate zoning classification with the allowable uses would not be appropriate for this location;
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. The zoning ordinance does not allow a restaurant with a drive-thru in the C-1 General Commercial District. Recent development trends in supermarkets are to provide additional services and retail items, such as banks, pharmacies, and small sandwich type restaurants and coffee shops, many of which provide a drive-thru for the convenience of the customers. Approval of this use variance will allow the appellant to remain competitive and consistent with the development patterns of other supermarkets in the area that have been granted similar variances to allow drive-thru uses; and

5. The approval is consistent with the recommendations of the Comprehensive Plan for General Commercial development for this site.

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 _____, 2016, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2016,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2016, at
_____ o'clock ____m.

David A. Wood, Mayor

JUN 01 2016

CITY CLERK
MISHAWAKA, IN

DATE: May 20, 2016

BOARD OF ZONING APPEALS
CITY OF MISHAWAKA, INDIANA

RE: USE VARIANCE REQUEST

APPEAL ADDRESS: 304 N. IRONWOOD DRIVE
MISHAWAKA, IN 46544

MAY 25 2016

The undersigned appellants respectfully show the Board:

AP 16-20

1. Martin's Super Markets, LLC, am the owner of the described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE AND THE EAST RIGHT-OF-WAY LINE OF IRONWOOD DRIVE, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT # 168 OF THE PLAT OF "MIDDLEBORO ADDITION" AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 00°00'00" EAST (ALL BEARINGS ASSUMED) ALONG THE EAST RIGHT-OF-WAY LINE OF IRONWOOD DRIVE AND THE WEST LOT LINE OF SAID LOT # 168, A DISTANCE OF 120 FEET MORE OR LESS; THENCE CONTINUING NORTH 08°35'05" EAST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE 220.83 FEET MORE OR LESS TO THE SOUTH BANK OF THE ST. JOSEPH RIVER; THENCE MEANDERING EAST AND SOUTHEASTERLY ALONG SAID EAST BANK A DISTANCE OF 838.26 MORE OR LESS TO THE NORTHWEST CORNER OF LOT # 154 IN SAID PLAT; THENCE SOUTH 00°00'00" EAST ALONG THE WEST LINE OF SAID LOT A DISTANCE OF 250.83 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE; THENCE NORTH 82°55'35" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 108 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF LOT # 156 IN SAID PLAT; THENCE CONTINUING NORTH 90°00'00" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF RIVER AVENUE A DISTANCE OF 520 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 4.53 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

Also commonly known as 304 N. Ironwood Drive, Mishawaka, Indiana 46544

2. The above described real estate presently has a Zoning classification of "C-1 General Commercial" District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above described property in the following manner: The property is currently utilized as a super market. Within the super market is a small Caribou Coffee shop. The existing coffee shop consists only of a preparation area, display area, and order counter. There is no separate indoor seating area for the coffee shop other than what currently exists for the super market deli.

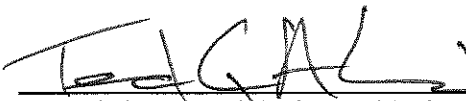
The property is located at the northeast corner of Ironwood Drive and River Avenue and bounded by the St. Joseph River to the north and consists of an approximate 51,000 square foot super market. A total of 222 parking spaces are provided on the property. This exceeds the 204 parking spaces that are required per the City of Mishawaka Zoning Ordinance at a ratio of 4 spaces per 1,000 sf of gross retail floor area.

4. The Appellant desires to renovate the existing Caribou Coffee space within the super market to allow for drive-thru window service. The proposed drive-thru will be located along the southwest portion of the super market building just south of the main entry and north of the deli entrance. The menu board and order point for the drive-thru window will be located at the east end of the furthest north parking bay. Since the improvements involve only a drive-thru window and there is no separate seating area for the coffee shop, an increase of off-street parking in accordance with a drive-thru restaurant per the City of Mishawaka Zoning Ordinance is not applicable.
5. The property is zoned "C-1 General Commercial". According to Section 137-301(a) in the Zoning Ordinance of the City of Mishawaka, Indiana, drive-thru restaurant uses are not a permitted use within the "C-1 General Commercial" zoning district. After discussions with the Planning Staff, it was determined that the best approach to allow for the proposed drive-thru use for the coffee shop is to request approval of a Land Use Variance within the "C-1 General Commercial" District. This Land Use Variance process would maintain the existing "C-1 General Commercial" zoning of the existing super market while allowing the proposed drive-thru use.
6. The Appellant would state that if the proposed Land Use variance were approved, it would not adversely affect the adjacent properties or the surrounding neighborhood. Furthermore, the Appellant would contend the following:
 - A. That the approval of the Land Use Variance will not be injurious to the public health, safety, moral and general welfare of the community because the proposed will adhere to all local building codes and appropriate pavement markings and signage will be installed on site where necessary to facilitate safe vehicular and pedestrian circulation throughout the property.
 - B. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the existing primary use of the

property as a super market with a coffee shop will not be altered and no significant improvements to the existing building and site are proposed.

- C. The need for the variance arises from some condition peculiar to the property involved because the property is zoned "C-1 General Commercial" District. Drive-thru restaurant uses are not allowed in the "C-1 General Commercial" District. Rezoning the property to the correct zoning classification of "C-7 Automobile-Oriented Restaurant Commercial" would not be appropriate for this property. The only means by which to maintain the "C-1 General Commercial" District zoning classification and allow the proposed drive-thru use for the coffee shop is through the Land Use Variance process.
- D. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property which the variance is sought. The Zoning Ordinance does not allow a restaurant drive-thru use within a "C-1 General Commercial" District. There has been a recent development trend in super markets providing additional services and retail items other than the typical grocery supplies within their stores. These additions services include banks, pharmacies, and small sandwich type restaurants and coffee shops, many of which provide a drive-thru for the convenience of the customers. Approval of the proposed Land Use Variance will allow the Appellant to be competitive and consistent with development patterns of other super markets in the area that have been granted similar variances to allow drive-thru uses as a part of the super market.
- E. The approval does not interfere substantially with Comprehensive Plan because the Comprehensive Plan indicates the use of property to be General Commercial. The proposed drive-thru use for the existing coffee shop is consistent in keeping with the recommended General Commercial use.

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



Ted Alwine, Martin's Super Markets, LLC

PETITION PREPARED BY & CONTACT PERSON:
GREG SHEARON
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628, (574) 234-4003

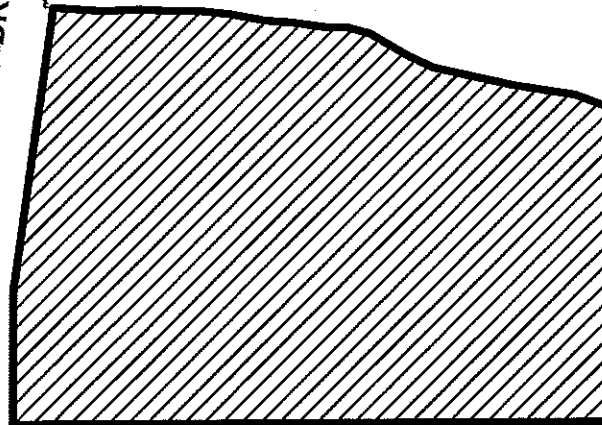


ST. JOSEPH RIVER

CITY OF SOUTH BEND
CITY OF MISHAWAKA

APPEAL 16-20

N IRONWOOD DR



RIVER AVE

Location Map

APPEAL 16-20

304 IRONWOOD DRIVE
MARTIN'S SUPERMARKET

USE VARIANCE TO ALLOW
DRIVE-THRU FOR CARIBOU COFFEE

STRATHMOOR AVE

N MIDDLEBORO AVE

LINCOLNWAY WEST