

AGENDA

Tuesday, July 5, 2016

**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 20, 2016

- 5. Petitions, Communications, Remonstrance and Memorials**

Presentation of the D.A.R.E. Essay City Champions

Delana Cates Twin Branch Kennedy Mills Mishawaka Catholic

Appeal No. 2016-24 Use & Developmental Variance 4601 N. Grape Rd JMS Plaza the Vineyard Church will be occupying a portion of the existing Charter Fitness Building.

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

P.O. NO. 2016-13 Mishawaka Electric I & M Adjustment Factor Ordinance

- 8. Resolutions**
- 9. Ordinances on 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 (Assigned to Land Use Planning Committee)

- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**

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

- 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 20, 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 20, 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, Linda Dotson Chief Deputy Clerk II.

The minutes from the June 6, 2016 meeting were approved as received from the City Clerk's Office.

A regular meeting of the Mishawaka Board of Zoning Appeals was held on June 14, 2016 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.

A regular meeting of the Mishawaka Plan Commission was held on June 14, 2016 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.

Clerk Block read a letter of approval for the Justice Assistance Grant (JAG) for 2016 regarding the Mishawaka Police Department who was designated a 2016 Department of Justice Assistance Grant in the amount of \$13,181.00, for Police equipment. She said they were advising the City part of the requirements were an administrative review, an advisory review, and advisory process prior to the awarding of the grant and it was a non-matching grant. She read the funds would be used for purchasing equipment and they determined the best uses of these funds were swat gas masks and filters, swat headsets, digital cameras, PBT's Stop Sticks, First Aid Kits and Print Kits.

President Banicki called for a motion to approve. Ms. Voelker made a motion, with a second by Mr. Mammolenti the motion carried.

Clerk Block read **PROPOSED ORDINANCE NO. 2016-10** opening it for public hearing.

PROPOSED ORDINANCE NO. 2016-10

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

(Internal Controls Regulation)

Petitioner Requesting Second Reading

President Banicki asked for a motion to hear second reading on **PROPOSED ORDINANCE NO. 2016-10**, Mr. Canarecci made a motion to hear second reading on this proposed ordinance with a second by Ms. Voelker the motion carried.

Mr. Roggeman said the General Assembly in their past session had passed for all local governmental units to adopt these standards which also requires quite a bit of training to make sure everyone was accountable and transparent. He said the City Controller Becky Miller would be conducting the training.

Ms. Voelker asked if these would be replacing policies and procedures we have now. Mr. Roggeman said yes our Controller's Office has done a fantastic job and has won rewards for the system they have in place.

Mr. Canarecci asked if this would affect the public in any outward way or would it just be internal. Mr. Roggeman said it was internal.

Question was called for at 7:11 p.m. on **PROPOSED ORDINANCE NO. 2016-10** **Vote:** Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker. **Thus it becomes ORDINANCE NO. 5532**

Clerk Block read **PROPOSED ORDINANCE NO. 2016-11** opening it for public hearing.

PROPOSED ORDINANCE NO. 2016-11

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
(Rezoning from I-1 to R-1 for and Existing Single Family House - 2111 East LaSalle Avenue)
(Petitioner Requesting Second Reading)

President Banicki asked for a motion to hear second reading on **PROPOSED ORDINANCE NO. 2016-11**, Mr. Tanner made a motion to hear second reading on this proposed ordinance with a second by Mr. Deal the motion carried.

Lisa Reynolds 2111 East La Salle Avenue said she has a buyer and they cannot get financing until the property has been rezoned.

Question was called for at 7:14 p.m. on **PROPOSED ORDINANCE NO. 2016-11** **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker. **THUS IT BECOMES ORDINANCE NO. 5533**

Clerk Block read **PROPOSED ORDINANCE NO. 2016-12** opening it for public hearing.

PROPOSED ORDINANCE NO. 2016-12

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**

(Rezoning from R-1 to C-7 for Enlarging and Reconstructing DQ – Vacant Lot South
of 3303 Lincolnway East)
Assigned to Land Use Planning Committee

Clerk Block read **RESOLUTION NO. 2016-20** opening it for public hearing.

RESOLUTION NO. 2016-20

**A RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE
BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:
3916, 3926, 3904, 4002, AND 4014 Fir Road, Mishawaka, Indiana**

Clerk Block read a letter from the petitioner requesting a continuance for their variance request allowing auto and motorcycle repair at their Fir Road Facility currently zoned I-1 Light Industrial. Mr. Prince said after speaking with Abonmarche Engineering it may be cost prohibitive to continue to pursue this variance in order to meet the conditions set forth by the Planning Commission. He said therefore, they are asking for additional time to weigh other possibilities of meeting the conditions and thanked them in advance for their consideration in this matter, signed by Kevin Paczkowski.

Mr. Banicki asked for a motion to move **RESOLUTION NO. 2016-20** to the July 5th meeting.

Ms. Voelker made the motion to move **RESOLUTION NO. 2016-20** to the July 5th meeting, with a second by Mr. Tanner motion carried.

Clerk Block read **RESOLUTION NO. 2016-21** opening it for public hearing.

RESOLUTION NO. 2016-21

**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**

Greg Shearon, Danch, Harner & Associates, Inc., 1643 Commerce Drive, South Bend, Indiana said he was representing the petitioner Martin’s Super Market for their request of a Use Variance for a Drive Thru at their facility on Ironwood Drive. He said there was currently a Caribou Coffee inside so they would just be adding a drive-thru. Mr. Shearon said there would be an order phone at the far north corner of Martin’s drive and the customer would then proceed to the window to pick up their order.

Mr. Canarecci asked if there were concerns of the drive-thru traffic passing through where everyone would be crossing to enter and exiting the main Grocery Store entrance. Mr. Shearon said no it would be clearly marked and there would be stop signs.

Mr. Mammolenti said that was also a question of his, and asked if that was not how the Meijer Store presently handles their pharmacy traffic. Mr. Shearon said yes that was correct.

Mr. Emmons said he drives past this Martin store every morning between 8 and 9 a.m. and there is a lot of traffic congestion in that area. He said adding a drive-thru to the mix would only make exiting onto River Avenue in a short span with congestion and trucks parking all along there, would be very difficult.

Mr. Shearon said he was unaware of trucks parking along River Avenue and asked if they were Martin's Trucks. Mr. Emmons said they were School City of South Bend trucks five to six of them every morning. Mr. Shearon said they would check with Martins to see if those trucks were customers and maybe relocate their parking.

Mr. Tanner said the traffic was mainly internal to the Martins parking lot and ultimately Martins Supper Market was responsible for the safety of their clientele whether they are driving or walking to and from the store, so it would behoove them to reconcile that themselves.

Mr. Bellovich said looking at the pickup point at Caribou Coffee it is possible for the customer to turn to the right driving through the parking lot to exit onto Ironwood merging with traffic. Mr. Shearon said yes they could do that.

Question was called for at 7:27 p.m. on **RESOLUTION R2016-21** at 7:14 p.m. Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Banicki, Mr. Bellovich, Mr. Canarecci, Mr. Compton, Mr. Deal, Mr. Emmons, Mr. Mammolenti, Mr. Tanner, Mrs. Voelker.

Privilege of the floor

Dixie Mason 629 Imus Court, Mishawaka, said she wanted to compliment the city on how well they do things here the parks are beautiful and she finds it disturbing how people walk through the flowers and shrubs while so much money was being spent to beautify the city. She said last week she witnessed this happening firsthand and said something, the lady responded there are no signs saying not to walk through them. Ms. Mason asked if the people monitoring the parks in golf carts could do something or if signs could be put up because she wants to see people take care of it.

Mr. Banicki said the Parks Department would definitely be a good place to turn, and give the Mayor's Office a call. He said he too was down at the park and with all the trash cans around people still just leave their trash laying around. Mr. Banicki said he knows there were cameras to be installed soon but unfortunately you just cannot control everyone.

Ms. Mason stated she understood that but struggles with the fact that some people just do not care about the beauty we have here.

Mr. Tanner told Ms. Mason she was already doing what she could by advocating for the city. He said he has a problem with people smoking in public parks so he feels that we should empower our friends and neighbors to speak up when they can about things that are not right.

Mr. Mammolenti said for future reference the Park Board does hold public meetings on the 2nd and 4th Monday of every month and held here in the Council Chambers at 4:30.

Mr. Emmons suggested that she stop by the Police station and talk to whoever is in charge of the CAP Program and ask that Central Park be patrolled more often and spend more time down there.

Mr. Canarecci said there is a non-emergency number as well so to avoid conflict with someone call that number.

Clerk Block said she saw a posting on face book of a parent who had to leave the park because of the teenagers and foul language used in front of their children, so maybe more police visibility would be beneficial down there.

Staff Attorney John Roggeman said they have had meetings with Parks and Police and they are looking at hiring some seasonal staff. He said they are looking at the skateboarding and bicycle riding that is not supposed to be done there. Mr. Roggeman said the new Park Superintendent Phil Blasko starts on the 30th of June.

New Business

Mr. Banicki said the next regular meeting of the Mishawaka Common Council would be Tuesday July 5th due to the 4th of July Holiday. He said the Council was getting ready to start Wage Negotiation Meetings with Police and Fire; the Negotiating Team would be Mr. Emmons, Mr. Compton, Mr. Mammolenti and Mr. Bellovich.

Mr. Tanner said just a reminder Summerfest is this weekend and the Lion's Club would be having a Pancake Breakfast on Saturday Morning from 7:00 a.m. to 10:00 a.m. in Merrifield Park.

ADJOURNMENT 7:39 p.m.

Deborah S. Block
Deborah S. Block, IAMC, MMC, City Clerk

Ronald S. Banicki
Ronald S. Banicki, President

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 29 2016

DATE: 6/22/2016

CITY CLERK
MISHAWAKA, IN

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

RE: USE & DEVELOPEMENT VARIANCE

AP 16-24

The undersigned appellant respectfully shows the Board:

1. I John Piraccini am representing Tony Rucano, owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

♦ ADDRESS: 4601 N. Grape Road, Mishawaka, Indiana 46545

♦ LEGAL DESCRIPTION: A tract of land containing Five (5) acres, described as follows; Beginning at the Southeast corner of the Northwest Quarter of Section Number 33, Township Number 38 North, Range Number 3 East; thence running North 16 rods; thence West 50 rods; thence South 16 rods; thence East 50 rods to the place of beginning → ADD 5 ACRES TO NORTH COR

2. The above-described real estate presently has a zoning classification of Commercial C-2 District under the zoning Ordinance of the City of Mishawaka. LEW
3. Currently Carter Fitness occupies (leases) 22,000 square feet of the above-described property and from the above described owner, while the remaining 13,067 square feet of space is vacant. Appellant proposes to lease additional space to the Vineyard Church.
4. Appellant desires to lease approximately 7,300 square feet of building space to the Vineyard Church of Mishawaka, install a road sign up to 120 sf, and utilize existing 469 parking spaces currently provided for the plaza.
5. The Zoning Ordinance of the City of Mishawaka does not permit the use of a C-2 zoned property per Section 137-326 for church use, does not allow road signage greater than 99 sf per section 129-73(6), and requires a total of 588 parking spaces for the plaza as a whole per section 137-327 per the following calculations.

A. Retail Uses per "C-2" Commercial District

*5 spaces per 1,000 sq. ft. of gross floor area:

*Number of spaces required for existing 72,248 sq. ft. = 362 spaces

B. Restaurants per "C-2" Commercial District

*10 spaces per 1,000 sq. ft. of gross:

*Number of spaces required for existing 16,357 sq. ft. = 164 spaces

C. Churches per "C-2" Commercial District

*1 space per every 4 seats in the main sanctuary or auditorium

*Number of spaces required for proposed church use with 245 seats = 62 spaces

D. Total spaces required for entire JMS Plaza = 588 spaces

Total spaces provided for entire JMS Plaza = 469 spaces

6. Strict adherence to the Ordinance requirements would not allow for a church to occupy the above reference building all though its use is equal or less intensive than other C-2 permitted uses. It would only allow one (1) free standing sign up to 99 sf. for a building with multiple tenant spaces. And it would require an additional 119 parking spaces for the plaza as a whole. With the current variety of uses within in the plaza – retail, restaurant, and proposed church, parking spaces will not all be utilized at the same time. Retail will have heavier parking during the day. Restaurants will have heavier parking during evening hours, and the church will have heavier parking Sunday mornings.

7(1): *QUESTION: Will approval be injurious to the public health, safety, morals or general welfare of the community?*

ANSWER: The approval will not be injurious to the public health, safety, morals or general welfare of the community. The approvals will allow an existing Mishawaka church to extend the community outreach and benefit from its current base on Jackson Road to further north into Mishawaka and allow for an extended reach to support the mission of the organization. We believe that there are substantial benefits of the approval to enhance business for the organizations directly adjacent due to the increase traffic to this particular location.

7(2): *QUESTION: Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manor?*

The use and value of the area advance will be enhanced due to the nature of the activity within the facility and the increased traffic and exposure of the location and the business directly surround the facility. Parking will not be affected due to different uses operating at different times of day. Historically there has never been a parking problem and do not anticipate parking issues with the churches operations. The church's heaviest use will be Sunday morning when other uses are low. The added square footage of signage will not add to the height of the sign but will be located under the existing sign. Total size of added signage is 3' tall and 10' wide per attached drawing.

7(3): *QUESTION: Does the need for the variance arise from some condition peculiar to the property involved?*

ANSWER: Yes. This is an older large retail commercial space. The variance is needed to allow for the Vineyard Church to occupy the space and be part of the center which is a very compatible use. Because the existing building use to be occupied by one organization (Barnes and Noble), space for one sign only was provided. Also, when the building was original constructed adequate parking was provided but with use changes in other areas of the plaza, parking requirements have increase.

7(4): *QUESTION: Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?*

ANSWER: Yes. This older retail center is competing with numerous newer ones and the variance is needed to allow additional uses for the space, such as the Vineyard Church, to attract additional businesses and organizations. This building was once occupied by Barnes and Nobles who relocated with the national Simon Mall Company. As mentioned in 7(3), one sign was provided for Barnes and Nobles originally but now there are multiple tenants needing signage.

7(5): *QUESTION: Will approval interfere substantially with the Mishawaka 200 Comprehensive Plan?*

ANSWER: No. This center is one of the original retail commercial centers on Grape road and would have no effect on the Comprehensive Plan.

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



Tony Rucano

CONTACT PERSON:

John Piraccini
1539 N. Ironwood Dr.
South Bend, IN 46635
Phone: (574) 243-9522
Fax: (574) 273-0024
Johnp@cbrwg.com

Tony Rucano
4609 Grape Rd., Suite D7
Mishawaka, IN 46545

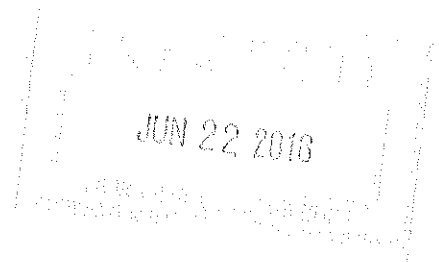
June 22, 2016

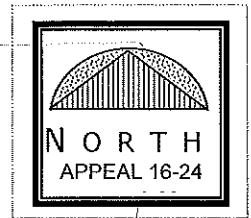
Board of Zoning Appeals
City of Mishawaka, IN

John Piraccini is authorized to represent Tony Rucano, owner of the property on 4601 N. Grape Rd. Mishawaka, for the Use and Development Variance.

Sincerely,

Tony Rucano

A handwritten signature in black ink, appearing to read "Tony Rucano", written in a cursive style.

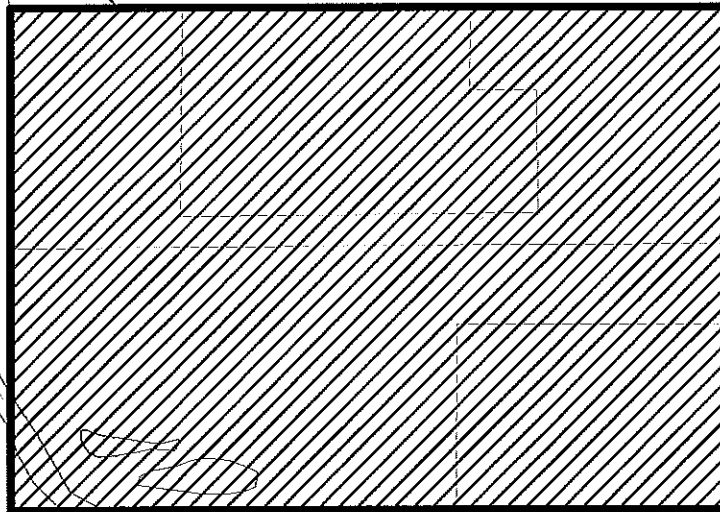


EDISON LAKES PKY

GRAPE RD

GRAPE RD

APPEAL 16-24



JUDAY CREEK

Location Map

APPEAL 16-24

4601 N. Grape Road / JMS Plaza
Existing Charter Fitness Bldg. &
Adjacent Vacant Retail Space

USE VARIANCE FOR CHURCH IN
C-2 DISTRICT & DEVELOPMENTAL
VARIANCES FOR NUMBER OF
PARKING SPACES & SIZE OF SIGN

JUN 30 2016

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2016-13

ORDINANCE NO. _____

1st Reading 7-5-16
2nd Reading
Passed
Failed
Continued To

AN ORDINANCE ACKNOWLEDGING THE CHANGE TO THE I&M ADJUSTMENT FACTOR ESTABLISHED BY RATE ORDINANCE NO. 5426 TO RECOGNIZE THE CHANGE IN COST OF PURCHASING WHOLESALE POWER FROM INDIANA MICHIGAN POWER.

WHEREAS, the City of Mishawaka, Indiana, has previously adopted Rate Ordinance No. 5426 which established an Appendix A, the I&M Adjustment Factor, and

WHEREAS, the cost of purchased power has increased since Rate Ordinance No. 5426 was adopted, and

WHEREAS, the Mishawaka Municipal Electric Utility does not have the financial capacity to absorb the increases in power costs from Indiana Michigan Power, and

WHEREAS, the Utility Board has been advised and supports adjusting Appendix A to recognize the current cost of purchased power from Indiana Michigan Power, and

WHEREAS, the Common Council of Mishawaka has been advised that it is necessary to adjust Mishawaka electric rates solely by the change in the cost of purchased power.

WHEREAS, Ordinance No. 5426 established that the I&M Adjustment Factor calculated in the manner reflected in Appendix A of Ordinance No. 5426 shall become effective upon presentation to the Common Council, unless otherwise directed by the Common Council, and

WHEREAS, the Common Council has directed that, at this time, the I&M Adjustment Factor be presented at a public hearing conducted by the Common Council, and

WHEREAS, a public hearing regarding the I&M Adjustment Factor has been properly advertised and held by the Common Council,

NOW, THEREFORE, BE IT ORDAINED by the Mishawaka Common Council that:

Section 1. Appendix A of Rate Ordinance No. 5426 has been replaced by Appendix A attached to this Ordinance.

Section 2. This Ordinance shall be in full force and effect from and after its passage.

PASSED and adopted by the Common Council of the City of Mishawaka, Indiana, this ____ day of July, 2016.

Presiding Officer, Ronald S. Banicki

ATTEST:

Deborah S. Block, 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, City Clerk

APPROVED BY ME this ____ day of _____, 2016, at ____ o'clock ____ .m.

David A. Wood, Mayor
City of Mishawaka

MISHAWAKA (INDIANA) MUNICIPAL ELECTRIC UTILITY

APPENDIX A

RATE ADJUSTMENT

The rate adjustment shall be on the basis of an I&M Adjustment Factor, occasioned solely by changes in the cost of purchased power applicable to Rates R, C, P, I, MS, EH, and S.

Rate Adjustment applicable to the above-listed Rate Schedules:

\$0.008277 per KWH used per month as computed following the method, or a method closely approximating the method, illustrated below.

Annual Cost of Purchased Power at the new wholesale rates and charges	\$47,328,523.42
Annual Cost of Purchased Power priced at rates and charges effective July 1, 2013	<u>42,972,820.00</u>
Annual change in Purchased Power Cost	4,355,703.417
Annual KWH Sales	÷ <u>565,882,876.00</u> KWH
Annual Increase per KWH Sold	0.007697
Adjusted for Utility Receipts Tax	÷ <u>0.93</u>
I&M Adjustment Factor	<u><u>\$0.008277 /KWH</u></u>

2015 I&M Adjusttment Factor	\$ 0.002576
2016 I&M Adjstmetn Factor	<u>0.008277</u>
Increase from 2015	<u><u>\$ 0.005701</u></u>

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

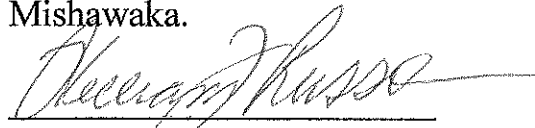
The undersigned William and Deborah Russo respectfully show they are the owners of the following described real estate locate in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

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



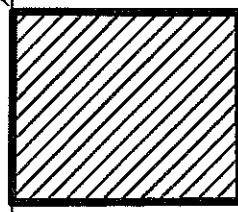
VISTULA

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.

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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.

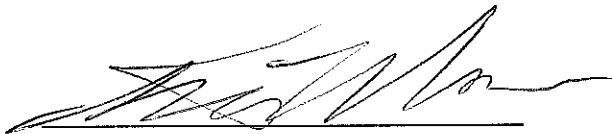
(2) Allowing the appealed use will not adversely affect property values in the adjacent areas in large part due to the contained nature of the facility which is screened in back by an elevated railroad.

(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

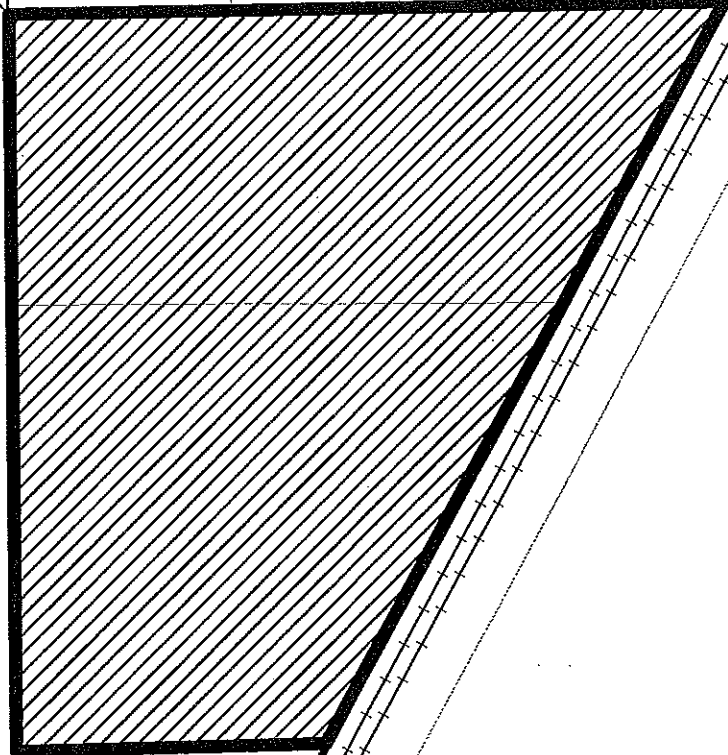
Work: 574-287-7236 Cell: 574-344-9150 Fax: 574-968-1738

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