

AGENDA

Monday, June 19, 2017

COUNCIL WORK SESSION

6:00pm

COUNCIL CHAMBERS

FINANCIAL ANALYSIS /CIRCUIT BREAKER

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 5, 2017

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their June 13, 2017 meeting.

A letter from the City Plan Commission regarding recommendations from their June 13, 2017 meeting.

A public hearing on Vacation 2017-01 as required by State Statute on behalf of Olivia Gonzales and Austin Armenta commonly known as the alley west of 131 E. Seventh Street

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2017-24 Rezone from C-1 Commercial to R-2 Two Family Residential 2030 N. Merrifield Ave.

P.O. NO. 2017-25 Rezone from C-1 Commercial to C-7 Commercial Auto Oriented Restaurant Vacant Land North of 4914 N Main Street

P.O. NO. 2017-26 Amend the PUD for Ridgemont Crossing East Dragoon Trail and Fir Rd 73 Residential Lots and 10.46 Acres Light Industrial

8. Resolutions

R2017-12 Declaratory Resolution for Lippert Components Manufacturing Inc. Real and Personal Tax Abatements - 400 S. Byrkit Avenue

R2017-13 Use Variance for Church Sign Variance for Roof Sign at 2331 Miracle Lane North side of Town and Country Shopping Center

R2017-14 Use Variance for Auto Body Repair Shop in I-2 - 430 S. Byrkit

R2017-15 Use Variance for Auto Repair in I-1 1927 N. Cedar St.

9. Ordinances on Second Reading

P.O. NO. 2017-21 Authorizing an Investment Policy of Public Funds(Assigned to Budget and Finance Committee)

P.O. NO. 2017-22 Investment of Funds Outside the Political Subdivision (Assigned to Budget and Finance Committee)

P.O. NO. 2017-23 Investment of Funds for more than 2 years but less than 5 years (Assigned to Budget and Finance Committee)

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

Change the July 3rd meeting to July 5th

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 5, 2017

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 May 15, 2017, at 7:00 p.m. The meeting was called to order by Vice President Matt Mammolenti all were asked to stand for the Pledge of Allegiance.



Roll Call.

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

Absent: Mr. Deal.

Others present; Chief Deputy Mary Ellen Hazen, Raven Boston Deputy.

The minutes from the June 5, 2017 meeting were approved as received from the City Clerk's Office.

Clerk Block read the following Appeal and Petitions to the Council, who referred them to the Board of Zoning Appeals and the Plan Commission, for their recommendation

APPEAL NO. 2017-20 Use Variance for Church Sign Variance for Roof Sign at
2331 Miracle Lane North side of Town and Country Shopping
Center

APPEAL NO. 2017-24 Use Variance for Auto Body Repair Shop I-2 430 S. Byrkit

PETITION NO. 2017-11 Vacation of Public Right of Way Alley West of 131 E. Seventh
Street

PETITION NO. 2017-12 Rezone from C-1 Commercial to R-2 Two Family Residential
2030 N. Merrifield Ave.

PETITION NO. 2017-13 Rezone from C-1 Commercial to C-7 Auto Oriented Restaurant
4914 N. Main St.

PETITION NO. 2017-14 Amend the PUD for Ridgemont Crossing East Dragoon Trail
and Fir Road 73 Residential Lots and 10.46 Acres Light Industrial

The following Proposed Ordinances were given first reading, assigned to committees, and set for public hearing at the next meeting.

PROPOSES ORDINANCE NO. 2017-21

**AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA
AUTHORIZING AN INVESTMENT POLICY
(Authorizing Investment Policy of Public Funds)
(Assigned to the Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2017-22
AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5 AND 5-13-9-5.3
(Investment of Funds Outside Political Subdivision)
(Assigned to the Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2017-23
AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5.7
(Investment of Funds for more than 2 years, less than 5 years)
(Assigned to the Budget and Finance Committee)

Clerk Block read the following Resolutions by title and were opened for public hearing.

RESOLUTION NO. 2017-09
A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND
CONFIRMING THE DESIGNATION OF THE AREAS WITHIN THE CITY OF
MISHAWAKA, INDIANA, COMMONLY KNOWN AS

VACANT LAND AT 100 BLOCK OF EAST MISHAWAKA AVENUE
EAST OF SARAH STREET

AS AN ECONOMIC REVITALIZATION AREA AND
ECONOMIC DEVELOPMENT TARGET AREA FOR
PURPOSES OF REAL PROPERTY TAX ABATEMENT FOR
RIVER WALK DEVELOPMENT GROUP, L.L.C. AND/OR ITS ASSIGNS

Scott Sivan 123 W. Grove Street described the proposed property to be an 8-story 50 to 60-unit apartment building. He said the building would also include community amenities such as a fitness room, winter garden, theater and a community room for special events. He also mentioned the lower level of the property would be the parking garage for the residents. He explained the complication of the site the construction would need a steal structure. Mr. Sivan believed that it would be another great asset for the city. He expressed he proved the doubters wrong when they built River Rock. Mr. Sivan said he kept his word and commitment for and would do the same for this project. He hoped to have the Council support.

Rich Deal, Partner of Barnes and Thornburg outlined the proposed abatement. He explained the area was an Economic Development Reutilization area and Economic Development Target Area. Mr. R. Deal said River Walk proposed construction would begin spring or summer of 2018 and proposed to invest between \$12.5 and \$13.5 million a year in construction. Mr. R. Deal said it was anticipated there would be \$80 thousand dollars in additional payroll from the jobs created for the multi-family building.

Mrs. Voelker expressed her interest in the project. She recalled the River Rock property on Mishawaka Avenue was no longer on the market. Mrs. Voelker asked how it would impact the financing ability to pay for the second project moving forward. Mr. Sivan said they had to prove to the City and Redevelopment Commission a financial plan. He explained the plan was to be long term in Mishawaka and they would give the financial plan when it was available.

Mr. Sivan added not many jobs would be created but economic impact would be great. He continued to say River Rock was already giving an economic impact in the downtown area. Mr. Sivan said if they continued to build on, this new property would generate more tax dollars.

Mr. Compton thanked Mr. Sivan for keeping their commitment from the first project. He expressed he did not always support abatements for residential properties. Mr. Compton went on to say he believed this was extremely important to downtown Mishawaka. He said it supplies housing to a segment of people and income that Mishawaka did not currently have. Mr. Compton said he was comfortable to support the abatement. He expressed he hoped they would get to a point when developers did not feel the need for an abatement.

Mr. Canarecci asked was the abatement on the improvement only, were there other properties in the area offering subsidies incentives to develop as well, and was it possible to move forward without the abatement. Mr. Sivan said they paid \$35 thousand the first year and yes other cities did offer incentives. He explained they could build without the abatement but it would make it difficult to pay bills too.

Mr. Tanner asked would there be more 3 bedroom units at this property, how long would construction last, and would there also be retail in the building. Mr. Sivan replied there would be 8 units or more of 3 bedroom units. He said the anticipation for construction was 17 months, plan was to break ground March or April and open June of 2019. Mr. Sivan informed there would be no bottom level retail. He explained retailers did not have the money to come into downtown area. Mr. Sivan suggested it was something the city could work on.

Mike Bellovich asked with the market being the busiest in March, how would they find skilled labor. Mr. Sivan replied he was not sure but they would find a way.

Mr. Banicki asked when the last abatement was approved for condos and apartment for River Rock, why did they change to apartments only. He also asked was there ever going to be a time when abatement was not needed. Mr. Sivan explained they scratched early on due to bank now willing to finance condos. He said he did not know if they would ever get to a point without abatements, it depended on the value of the project. Mr. Sivan added big cities offered investments for these kinds of projects.

Mr. Banicki stated he had never voted against abatement, but this was different. He suggested a 3-year at 100% abatement instead of 5. Mr. Banicki asked when the abatement took effect, if plan does not fall through would the abatement be automatic on the property, could someone else build and take over the abatement. Ken Prince City Planner explained the abatement was based off the percentage of completion as of January 1st. He continued to say changing the abatement to a 3 year at 100% was not equivalent to the 5 year abatement, he suggested not changing the abatement. Mr. Prince said they either honor they abatement or it would expire. He was unsure in legal terms for someone to pick up an abatement on a property.

Mr. Emmons stated he had no problem with the project. He believed abatements were for bringing in good paying jobs. Mr. Emmons expressed he would not support.

Mr. Mammolenti asked how many entrances, and was the big white pipe that released an odor still remained near the River Rock Property. Mr. Sivan said there would be one entrance. He informed the white pipe would still remain.

Mayor Wood spoke in support of the abatement and urged for the Council Support. He said Scott Sivan made a believer out of everyone by completing the River Rock Apartments, with just two or three units vacant out of 73. He continued to say the River Rock Apartments impacted downtown, he'd spoken to businesses and churches who have said they had felt the impact. Mayor Wood emphasized Mr. Sivan was offering to make use of a cramped vacant lot that would generate taxes that hadn't been collected in years.

Jody Emmons 573 Queensboro voiced his concerns on the new apartments, he asked would the residents pay the same percentage on school taxes. Mr. Prince said the tax rate would be the same after the first 5 years of the abatement. He mentioned single family would payed lower than apartments, they would pay 2.5 percent.

Mr. Canarecci said Mr. Sivan was a nice guy and he kept his word. He believed the vote should be based on the project itself and stands on its own merits. Mr. Canarecci went on to say the property that had been vacant for 17 or 18 years had now been purchased and would now generate more tax revenue. He said as members of the Council, they should act as stewards of tax payer's money and not take every opportunity to generate new tax revenue. Mr. Canarecci pointed out it was in the school district which could use more tax revenue. He said it was all a gamble and also believed abatements should generate jobs. Mr. Canarecci went on to say when new companies come they create new jobs across the income spectrum. He expressed he would be supporting the abatement.

Mr. Mammolenti thanked Mr. Sivan for his efforts on the River Rock. He said when he was on the Redevelopment Commission he loved the aspect of the project. Mr. Mammolenti went on to say as a Councilman he had never voted against an abatement. He continued to say he voted for the River Rock because he felt the city needed a catalyst there, to draw activity downtown and Mr. Sivan brought exactly that. Mr. Mammolenti recalled the skepticism on who could afford the apartments. He said he knew the project would bring in new bodies and new money, which was why they passed it. Mr. Mammolenti expressed they were starting to see the snowball effect and more development was coming. He said he agreed with his fellow council members who were in favor, but he also questioned if they needed to incentivize another project, and was the

demand there. Mr. Mammolenti believed the downtown was thriving with the River Rock and Flaherty and Collins that would be coming soon. He continued to say he hated to be against development but he was going to gamble and vote with his heart and for his constituents. Mr. Mammolenti expressed he was voting against the abatement.

Questioned was called for at 8:07 P.M. for **RESOLUTION NO. 2017-09**  **Vote: Motion passed (summary: Yes = 5, No = 3, Abstain = 0). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Bellovich, Mr. Canarecci. No: Mr. Mammolenti, Mr. Banicki, Mr. Emmons.**

RESOLUTION NO. 2017-11

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS AND RELATED MATTERS (Economic Development Revenue Bonds – 1128 W. Dragoon Trail)

Randy Rompola, Partner of Barnes and Thornburg spoke about the project for the proposed bond. He explained the Senior Assisted Living Facility would be constructed on the corner of Logan and Dragoon Trail. Mr. Rompola said it was for low income seniors that could no longer live independently that need help with daily living. He stated the developers were the same as Penelope Sixty. Mr. Rompola went on to discuss the Economic Development Bond. He explained the federal requirement to receive tax credits from the Indiana Development Housing Authority, the project had to be financed at least 50% with tax exempt bonds. Mr. Rompola said the developer filed an application with the IHCBA for approval for the tax credits. He continued to say they have come before the council to request the city to serve as the issuer for the tax exempt bonds. Mr. Rompola mentioned construction was expected to start later in the fall upon the closing of the bonds and tax credits. He continued to say with the anticipated construction schedule, they expected to be at occupancy in 17 months. Mr. Rompola said the Inducement Resolution was the first step of the process. He mentioned the Economic Development Commission met earlier in May and approved the resolution authorizing to proceed to the council and to also issue a report identifying the jobs that would be created and for the payroll to be paid by the developer. Mr. Rompola explained if the council proceeded with the resolution, the city would act as the conduit issuer. He informed the council the city would have no responsibility for the bonds. Mr. Rompola said the bonds were paid solely by the developer. He assured there would be no risk to the city even if the project were to fail, it would have no impact economically, or affect the city's ratings. Mr. Rompola concluded with the state approving the tax credits and the city approving the tax-exempt bonds issue as the issuer, the tax credits and bond issue would close and the city's role would be out of the project.

Mr. Compton asked would there be anything the city gains for being the conduit issuer. Mr. Rompola replied the city would generate more taxes.

Question was called for at 8:15 P.M. for **RESOLUTION NO. 2017-11**  **Vote:** Motion carried by unanimous roll call vote (**summary: Yes = 8**). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci.

PROPOSED ORDINANCE NO. 2017-18

**AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE
REDUCTION OF FUNDS FOR THE YEAR ENDING DECEMBER 31, 2017**
(Reduction of Funds – Park and Rec \$350,000)

Mr. Canarecci reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller requested to reduce the current park budget by \$350,000. She recalled last year when the park budget was affected by the circuit breaker. Ms. Miller said this year they were in a better situation and before they began the budget process for next year, it made sense to adjust the park budget now. She continued to say as the park budget was not large, but it did take a lot of property tax money to fund it. Ms. Miller explained before the budget process they would like to reduce the budget now to offset the circuit breaker losses.

Question was called for at 8:19 P.M. for **PROPOSED ORDINANCE NO. 2017-18**  **Vote:** Motion carried by unanimous roll call vote (**summary: Yes = 8**). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci.

PROPOSED ORDINANCE NO. 2017-19

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2017**
(Additional Funds – Rainy Day Fund \$350,000)

Mr. Compton reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller explained the reduced funds from the park budget would be additional funds for the Rainy-Day Fund and would specifically use the funds for the utility budget line.

Question was called for at 8:20 P.M. for **PROPOSED ORDINANCE NO. 2017-19**  **Vote:** Motion carried by unanimous roll call vote (**summary: Yes = 8**). **Yes:** Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci.

PROPOSED ORDINANCE NO. 2017-20

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2017
(Transfer Funds- LOIT Special Distribution Fund \$40,000)**

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said this request in transfer for \$40,000 from an equipment line to a consulting line. She explained it was determined Engineering would need an additional for the Community Crossings Project.

Question was called for at 8:22 P.M. for **PROPOSED ORDINANCE NO. 2017-20**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci.**

NEW BUSINESS

Mr. Emmons announced the First District Meeting would be on Thursday, June 15th at St. Bavos School starting at 7:00PM. The speaker would be Ryan Dvorak, State Representative.

Mr. Mammolenti announced there would be no Third District Meeting in June. The next meeting would be August 1st National Night Out.

ADJOURNMENT 8:24 P.M.

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

Matt Mammolenti s/
Matt Mammolenti, Vice President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 14, 2017

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
June 13, 2017, Public Hearing

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 #17-20 An appeal submitted by McKinley Town & Country LP requesting a Use Variance to permit a church in C-2 Shopping Center Commercial district and a Sign Variance for a roof sign at **2331 Miracle Lane**.

The Board, with a vote of 5-0, recommended approval.

APPEAL #17-24 An appeal submitted by JRC Corporation requesting a Use Variance for **430 South Byrkit Street** to permit an auto body repair shop in I-2 Heavy Industrial zoning.

The Board, with a vote of 5-0, recommended approval subject to the following conditions:

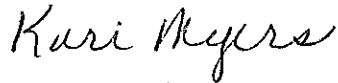
1. Use Variance shall be limited to automotive body shop without a paint booth and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of an oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. An operating fire hydrant shall be installed or repaired within 400 feet of the building.

APPEAL #17-25 An appeal submitted by James H. Allen, Jr. requesting a Use Variance for **1927 North Cedar Street** to permit automobile repair on I-1 Light Industrial zoned property.

The Board, with a vote of 3-2, forwarded an unfavorable recommendation. Staff would request that if the Appeal is approved that it would be subject to the following conditions:

1. Use Variance shall be limited to automotive repair without a paint booth, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. Wellhead Protection Permit issued.

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Rev. Brad Miller
Ron Johnson
James Allen

STAFF REPORT

Location: 2331 Miracle Lane / Town & Country Shopping Center

Date: June 13, 2017

Appeal: 17- 20

Prepared By: DJS

GENERAL INFORMATION

Applicant: McKinley Town & Country LP / Tree of Life Anglican Church c/o Rev. Heather Ghormley & Rev. Brad Miller

Status: Property Owner / Contingent Tenant

Request: Use Variance to allow a church in a multi-tenant commercial building and a Sign Variance to allow a roof sign

Zoning Classification: C-2 Shopping Center Commercial District

Lot Size: Approximately 37.4 acres

Applicable Regulations: Sec. 137-325 thru 137-327 / Commercial C-2 District; Sec. 129-36 / On-Premise Sign Standards – Board of Zoning Appeals; and Section 129-72 / Prohibited Signs in All Zoning Districts

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential (Apartment Complex / Pin Oak Manor & The Reserve at Pin Oak Manor)

South: C-1 General Commercial, C-4 Auto-Oriented Commercial & C-7 Auto-Oriented Restaurant Commercial (Various Commercial, Retail, and Restaurant Uses)

East: L-1 Light Industrial (Plastic Component Manufacturer / Nyloncraft, Inc.) and C-4 Auto-Oriented Commercial (Automobile Sales & Service / Gates Chevy World)

West: City of South Bend (Various Commercial and Restaurant Uses)

Thoroughfare: W. McKinley Avenue & Hickory Road

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 church in one of the two multi-tenant commercial buildings located in the Town & County Shopping Center. The approximate 112,000 sq. ft. building, being the east-west oriented building in the northern part of the property, was constructed in 1958 with an addition occurring in 1969. The tenant spaces facing south are currently occupied by Big Lots, Kid's Konsignment Etc., Body Art Gallery, Dental Center, Sally's Beauty Supply, IN-KY Org. Council, Dollar Tree,

Comfort Sleep, and Mishawaka Furniture. Tree of Life Anglican Church proposes to lease a vacant space at 2331 Miracle Lane on the north side of the building. No other tenant spaces have customer access to the north. A Use Variance is required because churches, synagogues, and similar places of worship are not permitted uses in the C-2 Shopping Center Commercial District.

McKinley Town & Country LP has offered to lease the space to the church at one-third of the normal market rate for commercial space within the center. The church is currently located at 836 Woodcliff Drive in South Bend less than a mile to the northwest. The ministry is very local and desires to maintain a presence in and around the McKinley Terrace neighborhood. Many of the church members live in the neighborhood and nearby apartment complexes with the member's children being actively involved in youth programs. The church also runs an immigration legal-aid clinic due to many of the area's refugees living in the vicinity.

Tree of Life has outgrown their current 1,500 sq. ft. building, which prior to 2000 was a single-family residence. The Town & Country site will offer a location where the ministry can grow until they can afford to build or buy their own building. With the larger space, new and additional programs will likely be offered including a student homework center and English language classes expanding upon their existing immigration services. Many of Tree of Life's members and clients regularly patronize businesses in Town & Country so the church's presence in the center will be mutually beneficial.

The parking area located to the north of 2331 Miracle Lane is currently striped with 27 parking spaces. If the Use Variance is approved, McKinley Town & Country LP will stripe an additional 12 spaces for a total of 39 spaces. Per the required parking ratio requirements, one space per four seats or 80 inches of seating length in the main sanctuary must be provided. To comply with the required number of parking spaces, the church indicated that no more than 156 chairs will be set up in the sanctuary at any given time. Initially, only 50 chairs will be set up.

In addition to the Use Variance, Tree of Life is requesting a Sign Variance to allow a cross to be placed on the northern building façade subject to approval by McKinley Town & Country LP (see sketch provided in the petition). The cross is proposed to extend no greater than 12' above the roof line, which by definition is considered to be a roof sign. Roof signs are prohibited in all zoning districts. Staff recommends approval of this variance as the cross will extend no higher than other structures within the shopping center.

All pertinent City departments have reviewed and approved the Use and Sign Variance request providing no additional comments.

RECOMMENDATION

Staff recommends **approval** of Appeal 17-20 for a Use Variance to allow a church in a multi-tenant commercial building located in the Town & Country Shopping Center at 2331 Miracle Lane, and a Sign Variance to allow a roof sign extending no greater than 12' above the roof line.

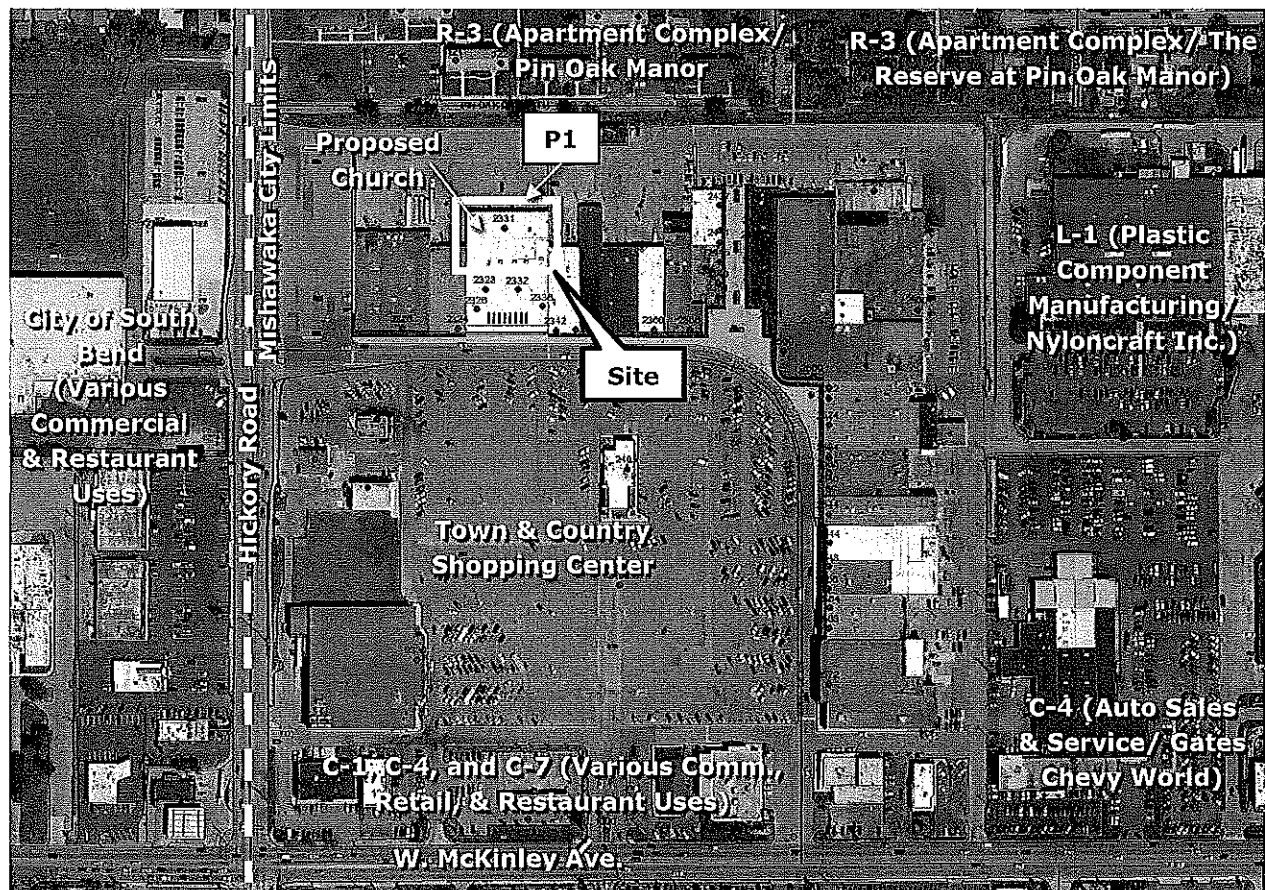
This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed church use is compatible with the existing commercial uses; the number of required parking spaces will be provided in a parking area not used by the current tenants or customers; and the sign/cross will not be greater in height than other structures on the property, will not obstruct views of the motoring public, and will adhere to all building codes during installation;
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 as the proposed church use is compatible with the existing land uses, and additional traffic from the church may result in increased business for the current tenants in the center. Furthermore, the proposed sign/cross will be similar in height and scale to other existing structures on the property;

3. The need for the use variance arises from some condition peculiar to the property involved because the current zoning allows for a various commercial uses, but prohibits a church. Rezoning to the appropriate zoning classification with the allowable uses would not be appropriate for this multi-tenant 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 church in the C-2 Shopping Center Commercial District though a church is compatible with many of the permitted uses in this district. Furthermore, the proposed cross will provide adequate signage to signify the religious use of the tenant space; and
5. The approval is consistent with the recommendations of the Comprehensive Plan for General Commercial development for this site.

ATTACHMENTS

Aerial, Photographs, Appeal, Location Map



Aerial Photograph
2331 Miracle Lane within the Town & Country Shopping Center



P1. Looking southwesterly toward the vacant tenant space and adjacent parking area to be used for the church.

STAFF REPORT

Location: 430 S. Byrkit Street

Date: June 13, 2017

Appeal: 17 24

Prepared By: CH

GENERAL INFORMATION

Applicant: JRC Corporation/Ron Johnson
Status: Property Owner/Contingent Purchaser
Request: Use Variance to allow automotive body shop and repair
Zoning Classification: I-2 Heavy Industrial District
Lot Size: 0.25 acres
Applicable Regulations: Section 137-609 I-2 Uses
Section 137-42 (4) Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern: North: I-2 Heavy Industrial
South: I-2 Heavy Industrial
East: I-2 Heavy Industrial
West: I-2 Heavy Industrial
Thoroughfare: South Byrkit Street
School District: Mishawaka School City
Township: Penn
Public Utilities: Available
Comprehensive Plan: Industrial

ANALYSIS

The appellants are requesting a use variance to allow automotive body shop on the property located at 430 S Byrkit Street. The property is currently zoned I-2 Heavy Industrial, which does not allow the proposed automobile uses.

A similar request was approved at the property to the west, 428 S Byrkit Street in 2015. While following up on that case, Staff became aware of additional cars expanding to the east, however, it was determined to be a new and separate use. The request for the proposed use variance, instead of a rezoning to C-4 Automobile Oriented Commercial, would keep the zoning intact for the future while still enabling them to use the property for automobile commercial use.

The property is located east of Byrkit Street off of Ken McIntee Ct. Heavy Industrial zoned properties are located to the north, south, east and west. The building is approximately 3,000 square feet with 6 garage door bays. Parking will need to be provided for the industrial zoning of (1) space per employee. The appellant will need to provide verification that these parking requirements will be met.

All pertinent City Departments have reviewed this request and approved it subject to the following comments:

Engineering: Install oil interceptor if just maintenance. If also performing body repair or detailing you will need to add grit separator just upstream of oil interceptor.

Building: Permits needed. The site was not reviewed for a paint booth so a paint booth will not be allowed.

Fire: There is no operating fire hydrant within 400 feet of the building.

RECOMMENDATION

The Staff recommends in favor of Appeal 17-24, a use variance for automotive body shop at 430 S. Byrkit Street, subject to the following conditions:

1. Use variance shall be limited to automotive body shop without a paint booth and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of an oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. An operating fire hydrant shall be installed or repaired within 400 feet of the building.

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 there are similar uses along Byrkit Street.
3. The need for a 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.
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-2 Heavy 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



Overall Site



Building



Car storage area



Existing business at 428 Byrkit (to the west).

STAFF REPORT

Location: 1927 N Cedar Street

Date: June 13, 2017

Appeal: 17 25

Prepared By: CH

GENERAL INFORMATION

Applicant: Budco, Inc represented by Jim Allen
Status: Property Owner
Request: Use Variance to allow automotive repair business
Zoning Classification: I-1 Light Industrial District
Lot Size: 0.48 acres
Applicable Regulations: Section 137-586 I-1 Uses
Section 137-42 (4) Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial
South: I-1 Light Industrial
East: R-1 Single Family Residential District
West: I-1 Light Industrial
Thoroughfare: North Cedar Street
School District: Mishawaka School City
Township: Penn
Public Utilities: Available
Comprehensive Plan: Industrial

ANALYSIS

The appellants are requesting a use variance to allow automotive repair use on the property located at 1927 North Cedar Street. The property is currently zoned I-1 Light Industrial, which does not allow the proposed automobile uses. The appellants states that the building has been vacant for a number of years, but has recently been approached by a tenant who finds this property best meets his needs for an automobile repair business.

A request for the proposed use variance, instead of a rezoning to C-4 Automobile Oriented Commercial, would keep the zoning intact while still enabling them to use the property for automobile commercial use.

The property is located along Cedar Street. Light Industrial zoned properties are located to the north, south, and west. Commercial and residential uses are present across Cedar Street. The property contains an existing 9,174 square foot industrial building, according to assessor records. There are two (2) overhead doors towards the rear of the building, and two (2) person door on the front half of the building.

Parking will need to be provided for the industrial zoning of (1) space per employee. The appellant will need to provide verification that these parking requirements will be met.

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

Building: Permits needed. The site was not reviewed for a paint booth so a paint booth would not be allowed.

Engineering: Install an oil interceptor if just maintenance. If also performing body repair or detailing, you will need to add grit separator just upstream of oil interceptor.

Water: A Wellhead Protection Permit is required, since the property is located within the Wellhead Protection area.

RECOMMENDATION

The Staff feels this is an appropriate use given its proximity to the railroad tracks and other automotive uses, therefore, the Staff recommends in favor of Appeal 17-25, a use variance for automotive repair at 1927 Cedar Street, subject to the following conditions:

1. Use variance shall be limited to automotive repair without a paint booth, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. Wellhead Protection Permit issued.

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 industrial nature of the area along Cedar Street.
3. The need for a 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 north and south.
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 given the existing auto commercial uses that are located to the south of this property along Cedar Street.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, VARIANCE REQUEST & LOCATION MAP



Spring 2015 Aerial



05 26 2017



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 14, 2017

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2017

Honorable Members of the Common Council
City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN

RE: Plan Commission Recommendation
June 13, 2017, 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 #17-12 A petition submitted by the Dow Family Real Estate L.L.C. to rezone **2030 North Merrifield Avenue** from C-1 General Commercial District to R-2 Two-Family Residential District.

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

PETITION #17-13 A petition submitted by Cressy Land Investments LLC to rezone vacant land located **north of 4914 North Main Street** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

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

PETITION #17-14 A request submitted by Dragoon Properties, LLC, to amend the Ridgemont Crossing Planned Unit Development to permit the undeveloped 44.82 acres to consist of seventy-three (73) residential lots and 10.46 acres of light industrial uses.

The Commission, with a vote of 9-0, recommended approval subject to the following conditions:

Proposed Uses:

1. The final planned unit development site plans and plats shall be consistent with the two use (Parcel) areas identified in Exhibit 'A' as prepared by staff. Although the width and depth of parcels may be modified, the area of the use, general layout, and concept shall follow Exhibit 'A'. Substantial changes to any proposed uses shall require both a rezoning and change of the preliminary planned unit development site plan, if proposed. Uses permitted within each parcel shall be as follows:

Parcel 1-	Area-	Approximately 44.82 Acres
	Uses-	Single-Family Residential use not to exceed 73 lots.
Parcel 2-	Area-	Approximately 11.43 Acres, including the outlot and right-of-way to be dedicated
	Uses-	I-1 Light Industrial permitted uses.

Property/Ownership Gap:

1. The developer is responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to this gap property shall be identified as part of or prior to any final plat or site plan approval for any of the two parcels identified herein.

Landscaping (Parcel 1):

1. A 35 foot wide green space buffer with a 4-foot high earthen berm and planting shall be provided between the proposed single family residential subdivision and the proposed industrial uses on Parcel #2. Planting on the berm shall include spruce and/or fir evergreen trees planted in a double-row triangular pattern 15' on-center for the entire length of the mound. At the time of planting, trees shall be a minimum of 6' in height. A 7' high opaque fence is not required.

Single Family Residential Development Standards:

1. The proposed platting of lots to complete the existing Ridgemont Crossing Subdivision shall provide for lot sizes, setbacks, and covenant restrictions to match the existing Ridgemont Crossing subdivision.

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: Cindy Carper
Michael Danch
Daryl Knip

STAFF REPORT

Location: 2030 N Merrifield

Date: June 13, 2017

Petition: 17 12

Prepared By: CH

GENERAL INFORMATION

Applicant: Dow Family Real Estate LLC

Status: Property Owners

Request: Rezone from C-1 General Commercial to R-2 Two-Family Residential District

Zoning Classification: C-1 General Commercial

Lot Size: 150' x 198'

Applicable Regulations: Sec. 137-186 Residential R-2 District;
Sec. 137-40 Plan Commission; &
Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial District
South: C-1 General Commercial District
East: I-1 Light Industrial District
West: I-1 Light Industrial District

Thoroughfare: Merrifield Avenue

School District: School City of Mishawaka

Public Utilities: Available and Existing

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioners are requesting to rezone 2030 N Merrifield from C-1 General Commercial District to R-2 Two-Family Residential District.

In 2014, the owners petitioned the Board of Zoning Appeals and City Council to allow two apartment units in the C-1 General Commercial District. At that time, the Appellants, both in their seventies, had difficulty with stairs, and wanted to occupy the main floor as their apartment. There was already a second floor apartment; used for guests to stay when visiting. The structure was previously used as Northside Tavern from the time it was built in 1974 through the 1990's.

Even though two apartments are allowed, the owners are asking for a change rezoning in an attempt to lower their taxes and make the property easier to sell.

In order to provide some green space to give the site a more residential feel, and provide drainage, the Petitioner plans to replace some of the pavement on the north and east with grass, rock or mulch and plant flower and trees along Merrifield. Two existing drains on the north side will be covered. Engineering suggests removing the drywells or installing a "beehive" open grate in the proposed grass. Covering with a solid lid, as proposed, can be dangerous long term as they have been known to create sink holes without warning. All other pertinent City Departments have reviewed and approved the rezoning request providing no additional comments.

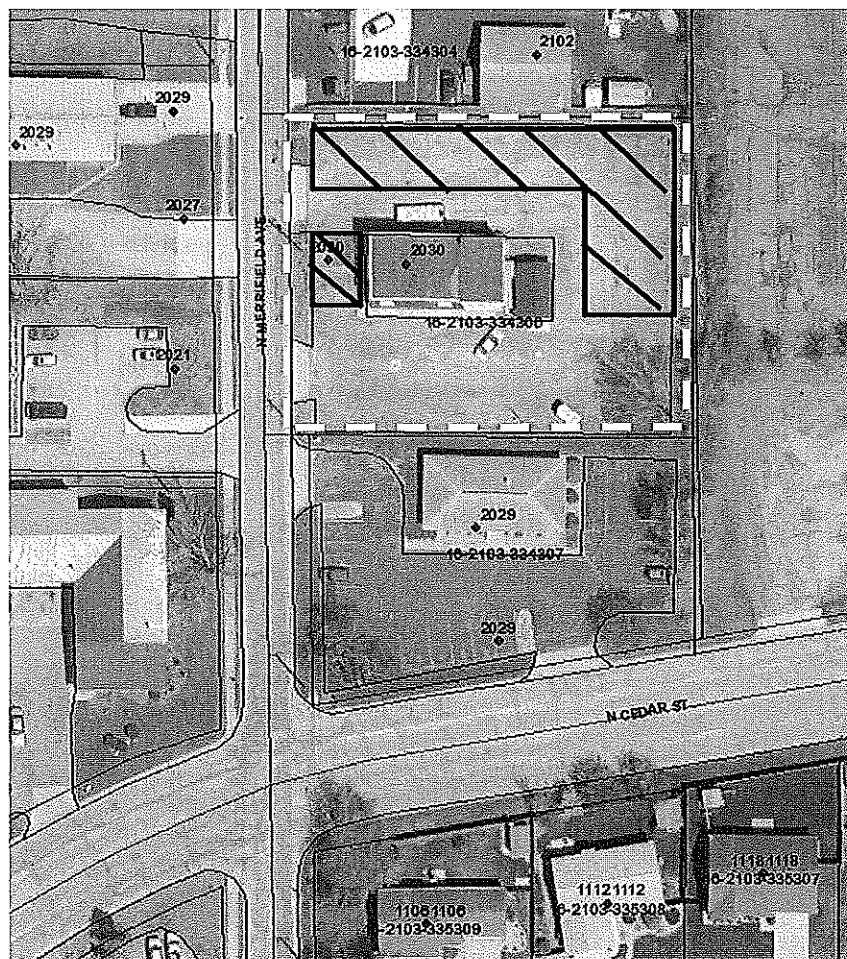
RECOMMENDATION

The Planning Department recommends **approval** of Petition #17-12 to rezone 2030 N Merrifield from C-1 General Commercial District to R-2 Two-Family Residential District. This recommendation is based upon the following findings of fact:

1. There are multiple zonings in the immediate vicinity and many of the structures south of Cedar are residential in use. The change in zoning 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, and its relationship to surrounding properties, staff feels that the most desirable use for this property is residential use;
3. Because the parcel is located in an area of transition between residential properties south of Cedar to the Commercial properties along McKinley, the rezoning to R-2 Two-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-2 Two Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will hopefully allow the property owner to maintain and sell the property easier; and,
5. The City's Comprehensive Plan calls for general commercial which is consistent with the area to the north along McKinley.

ATTACHMENTS

AERIAL, PHOTOGRAPHS, PETITION, SITE PLAN, LOCATION MAP

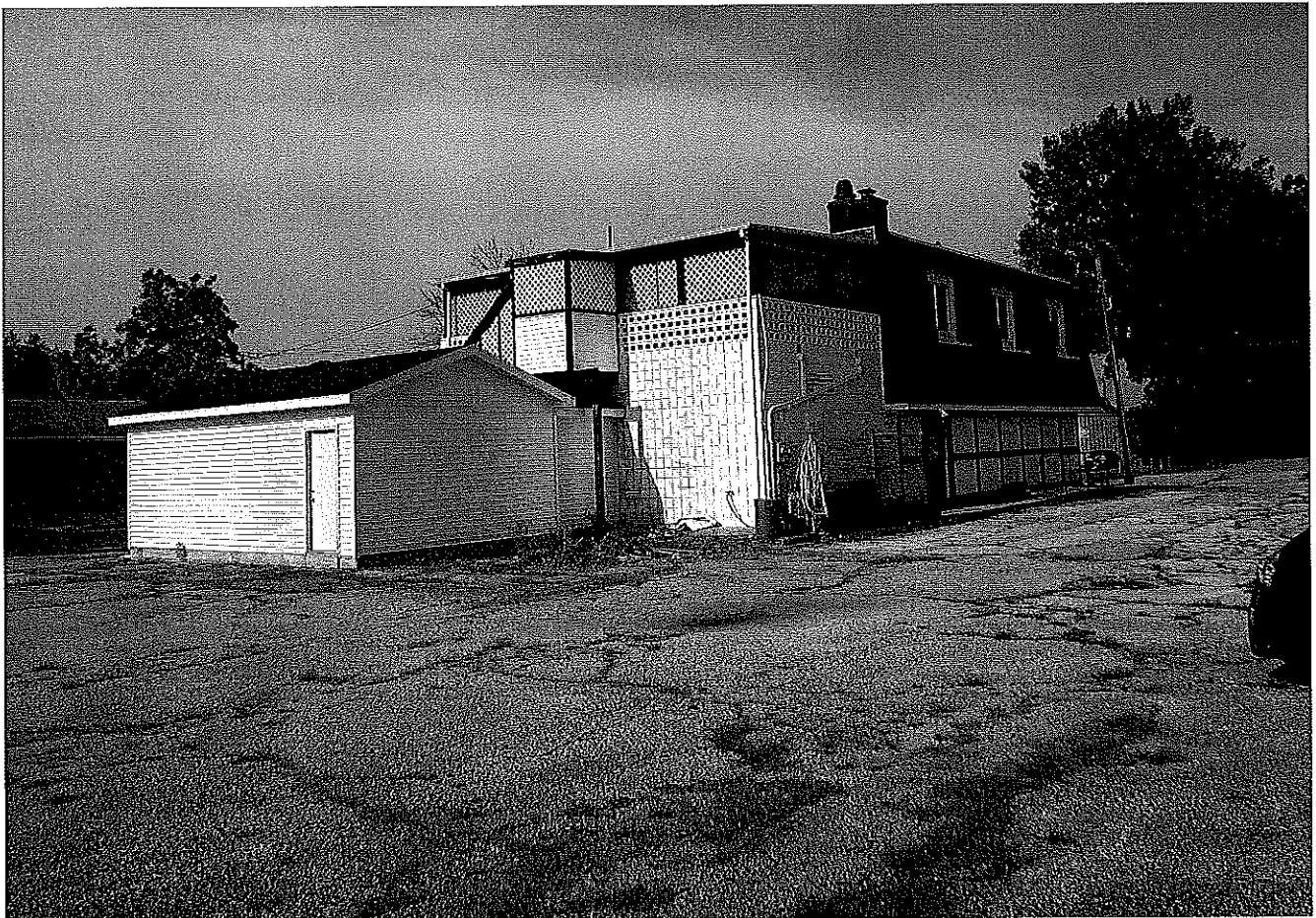


Dashed Line = Boundary
Hatched Area = Approximate Location of New Green Space

Hatched Area = Approximate Location of New Green Space



View from Merrifield



View from the rear of the property of area to be replaced with grass

STAFF REPORT

Location: Vacant Lot North of 4914 N. Main Street (Cheddar's Scratch Kitchen)

Date: June 13, 2017

Petition: 17- 13

Prepared By: DJS

GENERAL INFORMATION

Applicant: Cressy Land Investments LLC / Portillio's Hot Dog's LLC

Status: Property Owner / Contingent Purchaser

Request: To rezone from C-1 General Commercial District to C-7 Auto Oriented Restaurant Commercial District to allow for the construction of a new restaurant building with drive-thru facilities

Zoning Classification: C-1 General Commercial District

Lot Size: Approximately 3.33 acres

Applicable Regulations: Section 137-455 thru 137-457 / C-7 Auto Oriented Commercial District & Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial (Vacant)
South: C-1 General Commercial (Dine-in Restaurant/Cheddar's Scratch Kitchen & Vacant/Commercial Outlot with Access Drive)
East: S-2 Planning Unit Development with C-1 General Commercial and C-2 Shopping Center Commercial Permitted Uses (Vacant/Agricultural Land)
West: C-1 General Commercial (Multi-Tenant Commercial/Potbelly's, Ossip Optometry & Pie Five Pizza, Bank/Lake City Bank & Dine-In Restaurant/Papa Vinos)

Thoroughfare: N. Main Street

School District: South Bend Community School Corporation

Township: Clay Township

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

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identified a preferred or planned use for this property as medium density residential (apartment complexes and nursing facilities).

ANALYSIS

The Petitioners, Cressy Land Investment LLC and Portillo's Hot Dogs LLC, are requesting to rezone an approximate 3.33 acre parcel of land located adjacent to and north of 4914 N. Main Street from C-1

General Commercial to C-7 Auto Oriented Restaurant Commercial to allow for the construction of a new restaurant with drive-thru facilities. Cressy Land Investment LLC is the current property owner while Portillo's Hot Dogs LLC, is the contingent purchaser.

The parcel is currently an undeveloped commercial property that was agricultural land prior to the extension of Main Street. The property is relatively flat sloping easterly from an elevation of +/-745 ft. along N. Main Street to an elevation +/-742 ft. along the east property line. An access drive and small 10 space parking area are located within the southwest corner of the property. This drive and parking area is used by patrons and employees of Cheddar's Scratch Kitchen restaurant and will provide access to any future development to the north of the subject property.

Per the conceptual site plan submitted with the rezoning petition, Portillo's Hot Dogs LLC is proposing to construct a one-story 9,049 sq. ft. restaurant with dual drive-thru lanes, a 156 space on-site parking lot with the potential of an additional 32 spaces in an off-site parking area to the south, and other required infrastructure (access drives, stormwater detention basin, etc.). Two access points are currently proposed with one being the existing access drive along N. Main Street and the other being the existing off-site access drive to south along Edison Lakes Parkway. Although not shown on the conceptual plan, staff has requested that an access drive be extended to either the eastern property line of the subject parcel or the eastern property line of the Applicant-owned parcel to the south. This drive will provide cross access through the site to the adjacent property to the east, which is expected to be developed for commercial, restaurant or retail uses. Cross access easements will be required on a future subdivision plat establishing the lot for the property being rezoned. The landscaping, conceptually shown, shall comply with the commercial landscaping requirements. The development is proposed to be constructed in one phase.

The conceptual site plan shows that the site will comply with the required height, area and developmental regulations for the C-7 Auto Oriented Commercial district. If any variances from these regulations are required, the Board of Zoning Appeals shall be petitioned when the final site plan is submitted.

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

Since the property is currently zoned for general commercial uses and located along the Main Street commercial corridor, the Staff supports the request for rezoning. The proposed restaurant with a drive-thru is not out of character and is compatible with the existing adjacent land uses and those along N. Main Street.

At the time of writing this staff report, the Building, Fire, Electric, and Water Departments have reviewed and approved the rezoning request providing no additional comments.

The Engineering Department has yet to complete their review so additional comments may be forthcoming.

RECOMMENDATION

Staff recommends in **favor** of Petition 17-13 to rezone approximately 3.33 acres located adjacent to and north of 4914 N. Main Street from C-1 General Commercial District to C-7 Auto Oriented Commercial District to allow for the construction a new restaurant with drive-thru facilities. This recommendation is based on the following findings of fact:

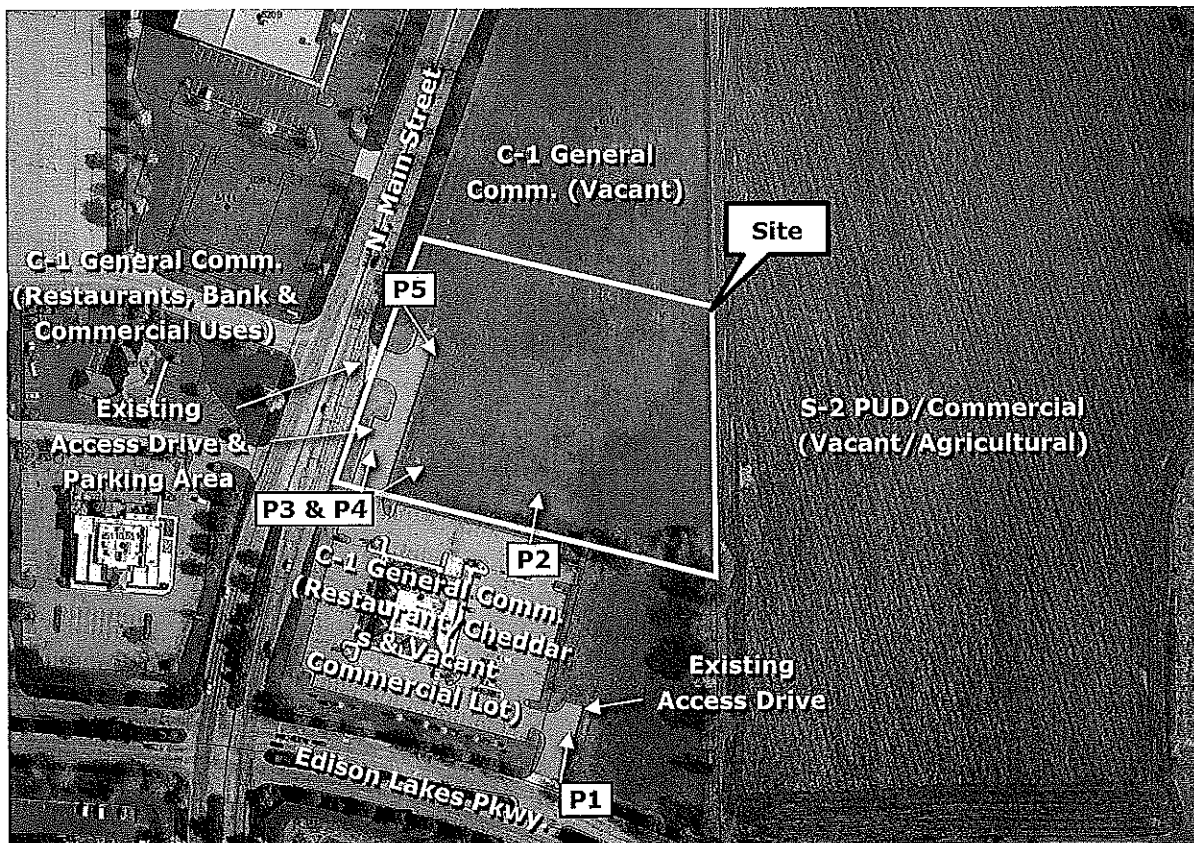
1. Existing Conditions – The subject property, located along N. Main Street to the north of Edison Lakes Parkway and Cheddar's Scratch Kitchen, is undeveloped land currently zoned for general commercial purposes. N. Main Street is a highly travelled corridor with an average annual daily traffic count of nearly 33,000 vehicles per counts taken in 2015. Adjacent land uses include Cheddar's Scratch Kitchen and a vacant commercial lot to the south, various commercial and restaurant uses to the west,

vacant commercial property to the north, and vacant agricultural land zoned for commercial uses to the east.

2. Character of Buildings – The adjacent properties include several multi- and single-tenant commercial buildings ranging from 5,500 sq. ft. to 9,500 sq. ft. The proposed approximate 9,000 sq. ft. building will be of similar character to these existing buildings.
3. The most desirable/highest and best use – Due to the property's location adjacent to various commercial and restaurant uses and being along one of most heavily travelled corridors in the City, the most desirable use of the property is a similar higher intensity commercial, retail, or restaurant use.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The proposed restaurant use with drive-thru facilities and other permitted C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided medium density resident development within this property as an extension of an existing apartment complex to the north on Douglas Road. However, due to changing market conditions and land development patterns along the N. Main Street corridor, medium density residential is not an ideal use for the property. The proposed restaurant with drive-thru facilities, being a higher intensity use more compatible with the adjacent land uses, does not conflict with the goals and objectives of the Comprehensive Plan.

ATTACHMENTS

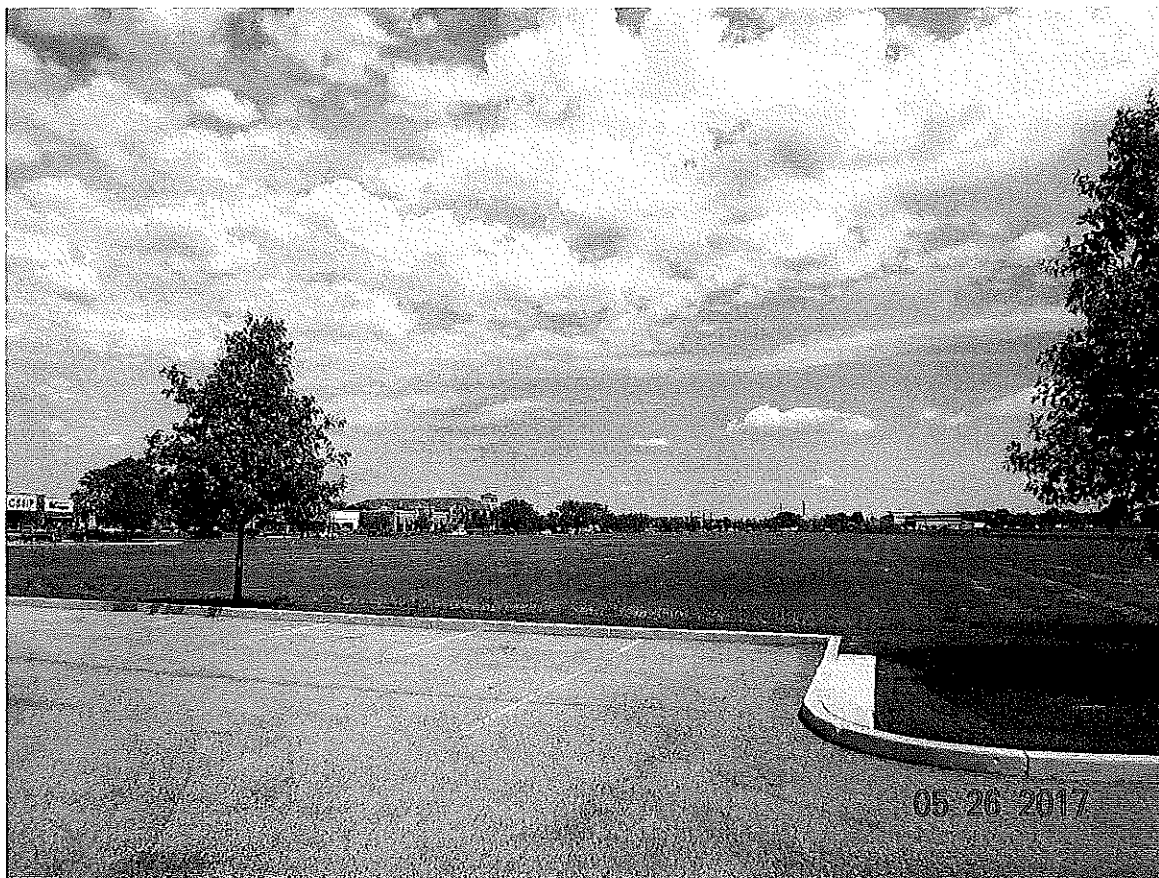
Aerial Photograph, Photographs, Petition, Location Map, Preliminary/Conceptual Site Plan



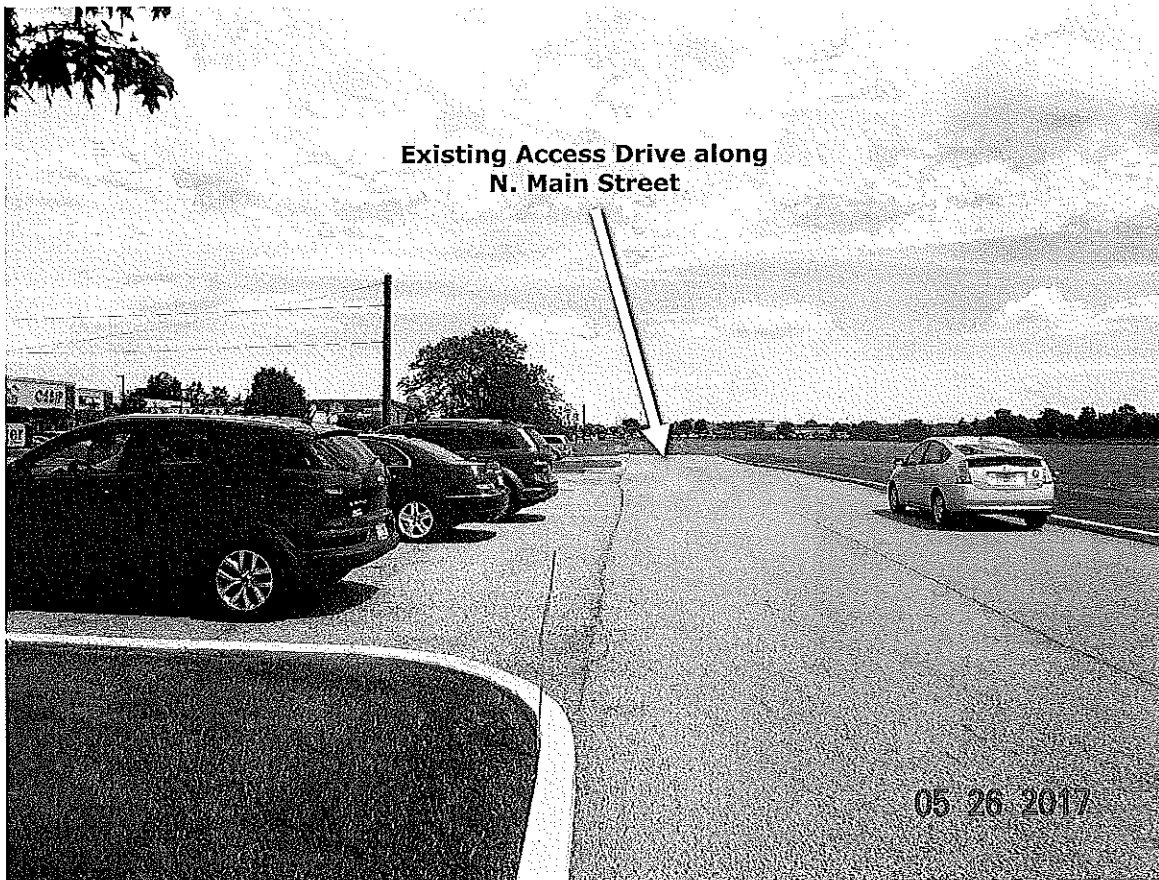
Aerial Photograph – Vacant Property north of 4914 N. Main Street
Proposed Restaurant with Drive-Thru Facilities



P1. Looking northerly from Edison Lakes Parking along the existing access drive to the south.



P2. Looking northerly toward the property to be rezoned from northeast corner of the Cheddar's parking lot.



P3. Looking northerly the existing access drive along N. Main Street toward the property to be rezoned.



P4. Looking northeasterly from the existing access drive toward the property to be rezoned.



P5. Looking from the northwest corner of the property to be rezoned.

STAFF REPORT

General Location: Northeast Corner of Dagoon Trail and Fir Road
Partially platted as part of the Ridgemont Crossing
Subdivision

Date: June 13, 2017

Petition: 17-14 Dagoon Properties, LLC request to establish Zoning,
and a Preliminary Planned Unit Development Site Plan
for single family residential and light industrial lots on
undeveloped property

Prepared By: DJS

GENERAL INFORMATION

Applicants: Dagoon Properties, LLC

Status: Property Owner

Request: To establish zoning, and approve a preliminary planned unit development site plan to allow 73 single-family residential lots, 3 light industrial lots, and one outlot on a 44.83 acre property

Existing Zoning: S-2 Planned Unit Development (Single-Family Residential)

Proposed Zoning: S-2 Planned Unit Development (Single-Family Residential & Light Industrial)

Lot Size: 1.66 lots per acre including both the single-family and light industrial portions of the PUD. Requesting to change 10.46 acres including a part of the Indiana Michigan Power Company easement and vacant land to the southeast to allow for light industrial

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District;
Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern:

North:	S-2 Planned Unit Development (Single-Family Residential / Ridgemont Crossing Subdivision) & R-4 Manufacturing Home Residential (Mobile Home Park / Village Green)
South:	S-1 Extensive open space (City Park/George Wilson Park) & Unincorporated St. Joseph County (Single Family Residential)
East:	Unincorporated St. Joseph County (Industrial Park-Executive Drive)
West:	Unincorporated St. Joseph County (Single Family Residential) & S-2 Planned Unit Development (Single-Family Residential / Rosewood Subdivision)

Thoroughfares: Fir Road and Dagoon Trail

School District: Penn-Harris-Madison

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

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies a preferred or planned use for this property as manufactured home residential.

ANALYSIS

The Applicant, Dragoon Properties LLC, is proposing to establish zoning and approve a preliminary planned unit development site plan to allow 73 single-family residential lots, 3 light industrial lots, and one outlot on a 44.83 parcel of property.

The site is bound to the north by the Ridgemont Crossing single-family residential subdivision and the Village Green mobile home park, to the west by single-family residential lots within unincorporated St. Joseph County and the Rosewood Subdivision in the City of Mishawaka, to south by George Wilson Park and single-family residential lots within incorporated St. Joseph County, and to the east by industrial uses within unincorporated St. Joseph County.

The entire property, which excludes the dedicated right-of-way of Fir Road and Dragoon Trail, was originally a part of the Ridgemont Crossing single family residential subdivision. With the PUD amendment, the site is proposed to primarily remain single family residential except for the approximate 10.46 acre area in the southeast corner of the site. This triangle area includes a part of the 250' wide Indiana Michigan Power Company easement and the area to southeast.

The original Ridgemont Crossing planned unit development was approved in 2005 as a 228 lot single family subdivision on 77 acres. In the mid 1990's, the property was identified in the Mishawaka 2000 Comprehensive Plan as being appropriate for manufactured housing. It was likely designed for and deemed as an appropriate extension of Village Green Mobile Home Park.

Since being rezoned in 2005 to the current planned unit development designation, three sections of Ridgemont Crossing have been subdivided with the last plat being approved in 2007. The original developer/sole homebuilder, Weiss Homes, has since declared bankruptcy and therefore did not complete the infrastructure as required in the subdivision. When the properties that remained in the subdivision came out of bankruptcy, the platted lots in sections one and three that had a significant amount of the infrastructure in place were sold to Bruce DeWulf. Mr. DeWulf, who is identified as the principal of Dragoon Properties LLC and applicant of this request, is currently constructing single family homes on many of these lots. The remaining 44.83 acres of the original Ridgemont Crossing subdivision included in this petition has also been sold to Dragoon Properties LLC. This vacant property has essentially no improvements on it and is limited in terms of its overall development potential because of the 250' wide electrical easement that cross the site.

As proposed, the amended planned unit development divides the current vacant 44.83 acres into two distinct development areas:

- 1) 30.40 acres of the property, primarily being the area between the existing platted lots in Ridgemont Crossing, Sections One and Three and the I&M Power Company easement, is proposed to be subdivided into 73 single-family residential lots. The streets within these previously platted subdivisions will be extended to serve the new residential lots. At this time, the right-of-way will not be dedicated with the Ridgemont Crossing Section 4 plat (Plat 17-15) that was submitted in conjunction with the amended PUD. It is anticipated these lots will be subdivided and right-of-way dedicated via multiple future plats. By phasing the development, it will allow the applicant the ability to incrementally provide the required bonding to the City of Mishawaka to cover infrastructure costs.
- 2) 11.43 acres, including a majority of the I&M electric easement and area to the southeast, is proposed for light industrial uses and right-of-way to serve the future lots. The preliminary PUD shows three industrial lots and an outlot in this area. Specific industrial uses have not been identified. However, per prior discussions with the applicant, the adjacent industrial properties to the east may potentially expand their properties into this area. If such an expansion does not occur, it will be developed independently as a separate industrial park. To buffer the industrial uses, a

landscape mound planted with a row of evergreen trees is shown in the rear yards of Lots 1-5, 8, and 70-73 in the residential section of the development. Two large retention basins are proposed to be located within the electric easement, which together with a smaller retention basin in the single-family residential area, will provide the required on-site stormwater drainage capacity to serve the entire development.

As required by the zoning ordinance, the applicants have submitted a preliminary Planned Unit Development site plan. The purpose of the preliminary site plan is to identify the basic requirements that will be followed in the preparation of final planned unit development site plans. These requirements include, but are not limited to, elements such as parking ratios, setbacks, curb cut/access locations, and proposed phasing.

The applicants have identified that the individual lots within the single-family residential section will comply with all the building setbacks per the R-1 Single Family Residential district. Since no other development standards were identified, the lots shall comply with all the other R-1 Single Family Residential height, area, and other development standards. Specific uses and development standards were not identified for the light industrial section of the development. Therefore, all the future industrial lots must comply with I-1 Light Industrial height, area, and other development regulations. No specific landscaping requirements are applicable to the single-family residential use. A 7' high opaque fence between any I-1 Light Industrial use and residentially zoned property is normally required. However, in this development, the landscape mound and row of evergreen trees, as previously mentioned, shall be adequate to provide sufficient screening.

Access to the development will be provided from the extension of the existing public rights-of-way within the Ridgemont Crossing subdivision, and one new access point along Dagoon Trail. Turning lanes at the new access point may be required and will be determined per review by the Engineering Department.

At the time of writing this staff report, the Building, Fire, Electric and Water Departments have reviewed and approved the preliminary Planned Unit Development site plan providing no additional comments.

The Planning Department requested some minor changes to the amended PUD site plan, which were forwarded to the applicant's engineering consultant. It is anticipated that a revised drawing will be submitted prior to or at the Plan Commission meeting.

The Engineering Department has yet to complete their review so additional comments may be forthcoming.

Key points in the conditions of approval include:

1. Property/Ownership Gap -The developer is responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to the gap property shall be identified as part of any final plat or site plan approval.

RECOMMENDATION

Staff recommends in favor of rezoning Petition 17-14 to establish zoning for property located at the northeast corner of Dagoon Trail and Fir Road, originally platted as part of the Ridgemont Crossing subdivision, to allow 73 single-family residential lots, 3 light industrial lots, and one outlot subject to the following conditions:

Proposed Uses:

1. The final planned unit development site plans and plats shall be consistent with the two use (Parcel) areas identified in Exhibit 'A' as prepared by staff. Although the width and depth of parcels may be modified, the area of the use, general layout, and concept shall follow Exhibit 'A'. Substantial

changes to any proposed uses shall require both a rezoning and change of the preliminary planned unit development site plan, if proposed. Uses permitted within each parcel shall be as follows:

Parcel 1-	Area-	Approximately 44.82 Acres
Uses-		Single-Family Residential use not to exceed 73 lots.
Parcel 2-	Area-	Approximately 11.43 Acres, including the outlot and right-of-way to be dedicated
Uses-		L-1 Light Industrial permitted uses.

Property/Ownership Gap:

1. The developer is responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to this gap property shall be identified as part of or prior to any final plat or site plan approval for any of the two parcels identified herein.

Landscaping (Parcel 1):

1. A 35 foot wide green space buffer with a 4-foot high earthen berm and planting shall be provided between the proposed single family residential subdivision and the proposed industrial uses on Parcel #2. Planting on the berm shall include spruce and/or fir evergreen trees planted in a double-row triangular pattern 15' on-center for the entire length of the mound. At the time of planting, trees shall be a minimum of 6' in height. A 7' high opaque fence is not required.

Single Family Residential Development Standards:

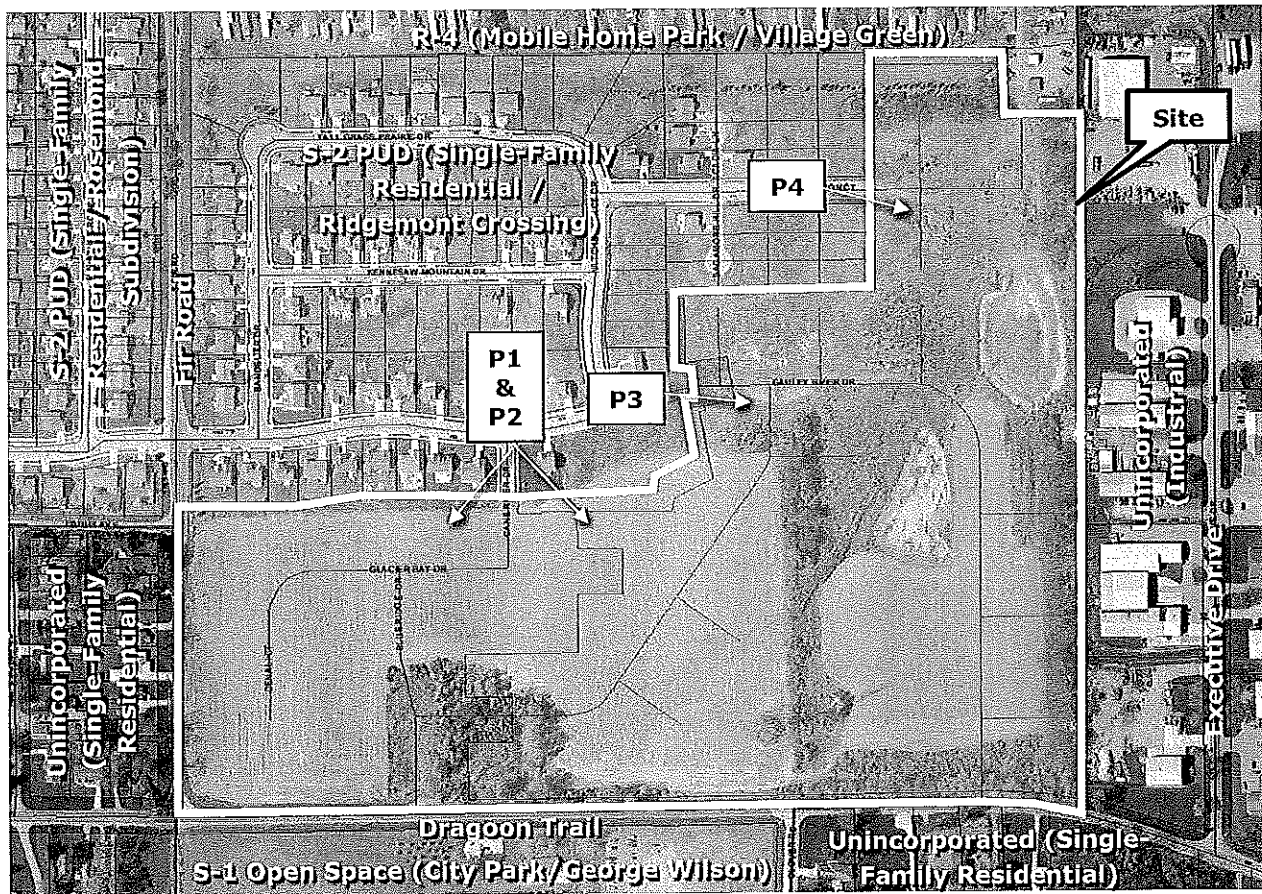
1. The proposed platting of lots to complete the existing Ridgemont Crossing Subdivision shall provide for lot sizes, setbacks, and covenant restrictions to match the existing Ridgemont Crossing subdivision.

This recommendation is based on the following findings of fact:

1. Existing Conditions - The subject parcel is located on Fir Road and Dragoon Trail adjacent to single-family residential uses to the north, west, and south; a mobile home park to the north; a city park to south; and industrial uses to the east. A 250' wide Indiana & Michigan Power Company easement traverses the site providing for a natural division between any proposed uses.
2. Character of Buildings in Area - The character of buildings and land uses located along the Fir Road and Dragoon Trail corridors vary. Along Fir Road, the site is primarily adjacent to two single Family residential subdivisions being Ridgemont Crossing and Rosewood. Beyond those subdivisions to the north, there is a very large mobile home park and scattered industrial and commercial properties. On Dragoon Trail, an industrial park is located to the east, and to the south of the site is George Wilson Park. The mix of residential, public, and industrial uses identifies a diversity of uses where single family and light industrial uses are both appropriate.
3. The most desirable/highest and best use - With the property's location adjacent to varying land uses including both single family and industrial uses, the proposed mix of single family residential and light industrial is a logical extension of the adjacent uses and is considered to be the highest and best use of the property.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed single-family residential and industrial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan - This property was identified with a preferred use as manufactured home residential in the Mishawaka 2000 Comprehensive Plan. Given that the manufactured housing demand has changed since the time of completion of the comprehensive plan, the proposed single family and light industrial use is reasonably consistent with multiple uses along the Fir Road and Dragoon Trail corridors.

ATTACHMENTS

Aerial Photograph, Photographs, Amended Planned Unit Development Petition, Preliminary Planned Unit Development Site Plan - Exhibit A, Drainage & Utility Plan, Location Map



Aerial Photograph

Area within the Amended PUD Site Plan -- NE Corner of Fir Road and Draught Trail



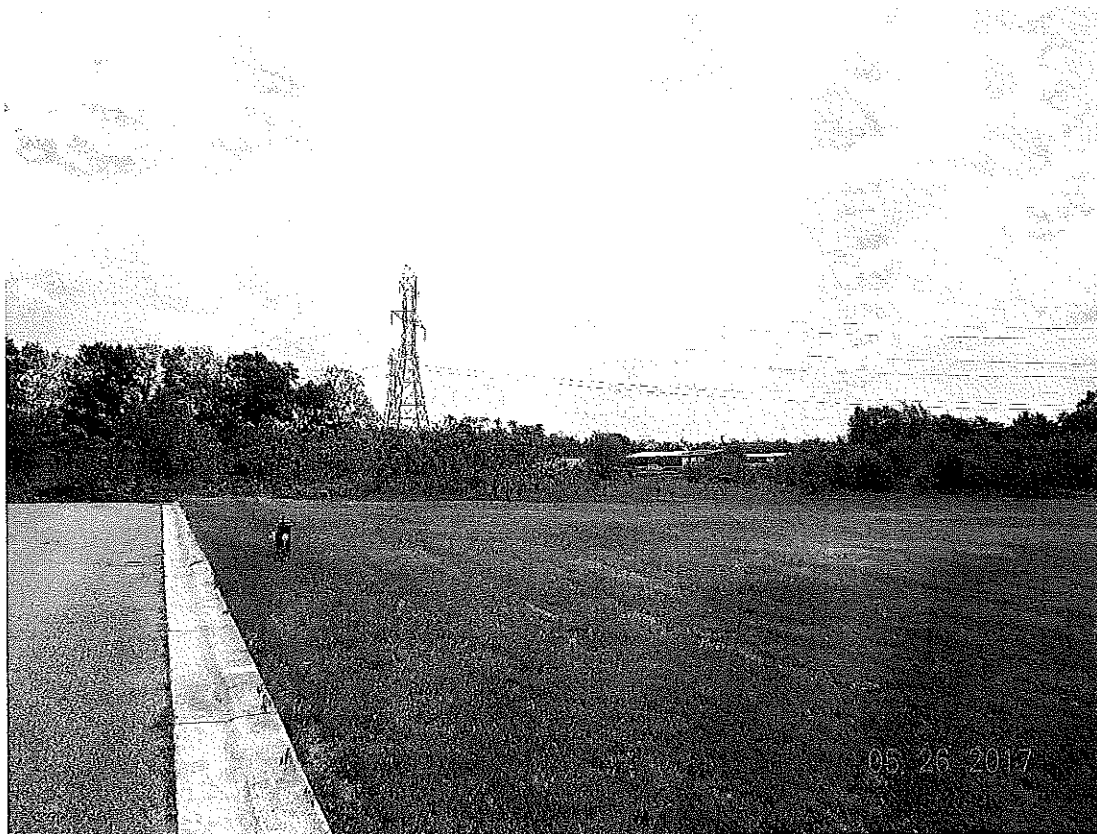
P1 - View from the Cain River Drive stub street in Ridgemont Crossing looking southwesterly toward the site.



P2 - View from the Cane River Drive stub street in Ridgemont Crossing looking southeasterly toward the site.



P3 - View from the Cane River Drive stub street in Ridgemont Crossing looking easterly toward the site.



P4 - View from the Walnut Canyon Court in Ridgemont Crossing looking southeasterly toward the site.



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

VACATION NO.	<u>2017-1</u>
PETITION NO.	<u>2017-11</u>
DATE of HEARING	<u>06-19-2017</u>
TIME of HEARING	<u>7:00PM</u>

A petition has been filed by Olivia Gonzales and Austin Armenta

The 16ft wide North-South alley from the south right of way line of E. 7th St to the North right of way line of the 16ft wide East-West alley to the south having originally been taken off of the west side of lot "R" of E.J. Perkins addition as recorded December 23, 1897 in plat Book 7, page 17 in the Office of Recorder of St. Joseph County

Subject to a Utility Easement, being maintained by the City of Mishawaka

COMMONLY KNOWN AS: Alley West of 131 E. Seventh St.

Subject to all legal highways, easements and restrictions of record. NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on June 19, 2017 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. A Public hearing will be conducted on a proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

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.

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

Mary Ellen Hazen, Chief Deputy Raven Boston, Deputy
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@mishawaka.in.gov Website: Mishawaka.in.gov

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 31 2017

CITY CLERK
MISHAWAKA, IN

Date: May 22nd, 2017

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

Petition for Vacation of Public Right of way

Olivia Gonzales and Agustin Armenta request the Mishawaka Common Council and the Mishawaka City Plan Commission to please vacate the public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

THE 16' WIDE NORTH-SOUTH ALLEY FROM THE SOUTH RIGHT-OF-WAY LINE OF E. 7TH STREET TO THE NORTH RIGHT-OF-WAY LINE OF THE 16' WIDE EAST-WEST ALLEY TO THE SOUTH HAVING
ORIGINALLY BEEN TAKEN OFF OF THE WEST SIDE OF LOT "R" OF E. J. PERKINS ADDITION AS
RECORDED DECEMBER 23, 1897 IN PLAT BOOK 7, PAGE 17 IN THE OFFICE OF RECORDER OF ST.
JOSEPH COUNTY.

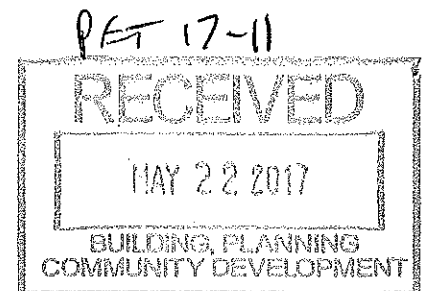
SUBJECT TO A UTILITY EASEMENT BEING MAINTAINED BY THE CITY OF MISHAWAKA.

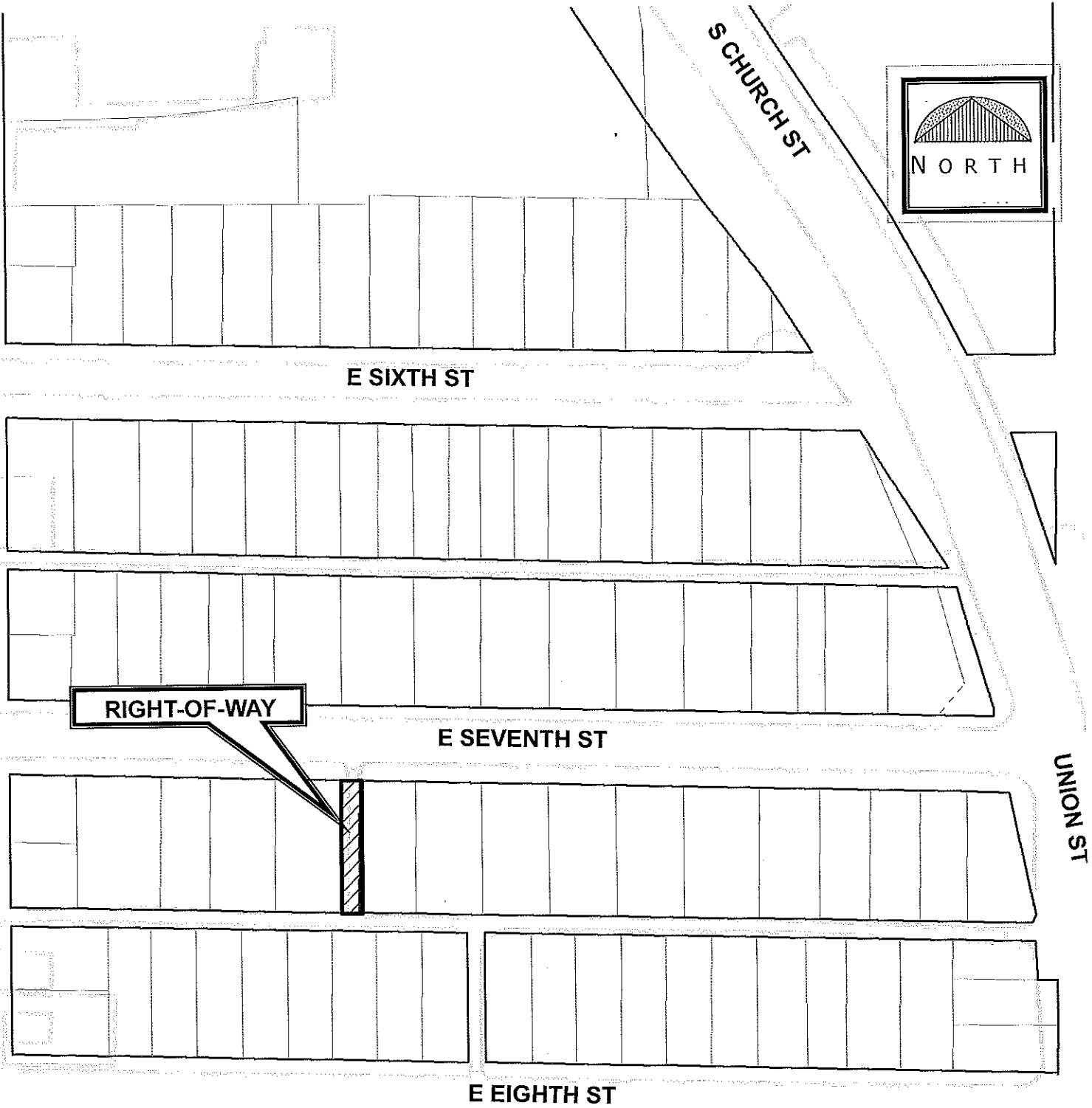
Olivia Gonzales and Agustin Armenta are the homeowners of the property located immediately adjacent to the above right of way located in the City of Mishawaka. We (Olivia Gonzales, Agustin Armenta) purchased the home in December of 2016 and were unaware (due to snow) of how close the right of way was to our home and now fear for our children's safety as well as our homes safety and security. We respectfully request that the Common Council of the City of Mishawaka refer this request to the Mishawaka City Plan Commission in hope that our request is granted and the right of way listed above can appropriately be vacated.

Olivia Gonzales
Olivia Gonzales
Agustin Armenta
Agustin Armenta

Contact Information:

Olivia Gonzales, 131 E. 7th St., MISHAWAKA, IN 46544
574-315-7660





Location Map

PET 17-11

OLIVIA GONZALES

ALLEY WEST OF
131 E SEVENTH

VACATE RIGHT-OF-WAY

ST

SUMMIT LN

JUN 15 2017

PETITION 17-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-24

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

1st Reading 6-19-17
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:

The parcel is legally described as: A lot of parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: Commencing at the Northwest Corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South 1°23'35" East, to the point of beginning; thence continuing South 1°23'35" East 150 feet; thence North 89°45'05" East 97.82 feet; thence North 1°19'03" West 150 feet; thence North 89°45'49.5" East 198.01 feet to the point of beginning.

COMMON ADDRESS: 2030 North Merrifield Avenue

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-2 Two-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 multiple zonings in the immediate vicinity and many of the structures south of Cedar are residential in use. The change in zoning would be compatible to the area;

Proposed Ordinance No: 17-24

Ordinance No: _____

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, and its relationship to surrounding properties, staff feels that the most desirable use for this property is residential use;
3. Because the parcel is located in an area of transition between residential properties south of Cedar to the Commercial properties along McKinley, the rezoning to R-2 Two-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-2 Two Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will hopefully allow the property owner to maintain and sell the property easier; and,
5. The City's Comprehensive Plan calls for general commercial which is consistent with the area to the north along McKinley.

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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____M.

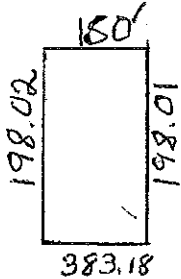
David A. Wood, Mayor

MAY 31 2017

DATE: May 23, 2017
FROM: Dow Family Real Estate LLC
RE: Petition to Rezone to R-2

CITY CLERK
MISHAWAKA, IN

The undersigned appellant respectfully shows the Board: We, the Dow Family Real Estate L.L.C. (John and Carole Dow), are the owners of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:



A lot of parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: commencing at the Northwest Corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South $1^{\circ}23'35''$ East, to the point of beginning; thence continuing South $1^{\circ}23'35''$ East 150 feet; thence North $89^{\circ}45'05''$ East 97.82 feet; thence North $1^{\circ}19'03''$ West 150 feet; thence North $89^{\circ}45'49.5''$ East 198.01 feet to the point of beginning.

The common address is: 2030 North Merrifield, Mishawaka, IN 46545.

The above described real estate presently has a zoning classification of C-1 General Commercial District with a variance under the Zoning Ordinance of the City of Mishawaka. We presently occupy the above described property in the following manner: use the apartment on the second floor rent free to an individual who helps us maintain as well as watch for problems when we are not in town. We occupy the first floor when we are in town, which is typically in the spring for approximately two months and in the fall for three-four months.

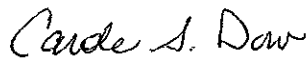
We wish to rezone our property to Residential-2 as we now have a two apartment building. We do not feel that approval for this change would be injurious to the public health, safety, morals or general welfare of the community. Nor do we believe that the use and value of the area adjacent to the property included in the variance would be affected in a substantially adverse manner. Currently there is a State Farm business on the South side of the property which was at one time a home that fronts Cedar. On the North side of our property there is now a garage door business. On the corner of N. Merrifield and McKinley is a pawn shop. Across the street and South there is an automobile parts store which faces Cedar. Then directly across the street on N. Merrifield there is currently a vacant building, a tool & die operation, an automobile repair shop as well as a plumber shop. There is a sign shop on the Northeast corner of N. Merrifield and McKinley. The residential area is across Cedar and so we believe the street serves as a buffer between our property and this area.

The enclosed diagram (which is not to scale) indicates that we would have grass on the North side of the building with approximately 5 feet of mulch from fence to grass area running along the fence line. Only the two drains that are located on the North side would be covered so that no dirt would fall into the drains. This would mean that the entire area with grass should be enough area for water (when it rains) to soak into the ground. There would be a pathway on the Northwest corner of the building so that there would be easy access to the

outside basement steps. The grass would continue along the back of the property and end approximately even with the entrance to the garage. There would be rock (approximately 5 feet wide) running along the back of the property. The asphalt would remain where the grass stops and continue on the South side to Merrifield. Cars would have enough room to turn around and there would be space for at least three-four cars to park on the South side. In the front (West side) of the property there would be approximately 26 feet of mulch. A little to the North but in front of the building would be a raised garden box (approximately 4 feet x 4 feet). A short distance from the street we would plant 8 (eight) Boxwoods probably spaced 2 (two) in a grouping four times.

We also do not believe that approval of our rezone request to Residential-2 would substantially interfere with the Mishawaka 2000 Comprehensive plan. We further believe that by our property being rezoned to Residential-2 we will have a better chance of selling the property when the time comes that we cannot spend time in Indiana due to our age and health.

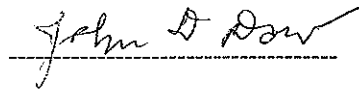
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested rezone to Residential-2.



Carole S. Dow

Signature of Property Owner

President, Dow Family Real Estate LLC



John D. Dow

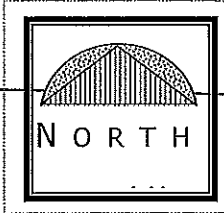
Signature of Property Owner

Dow Family Real Estate LLC

Contact Person:

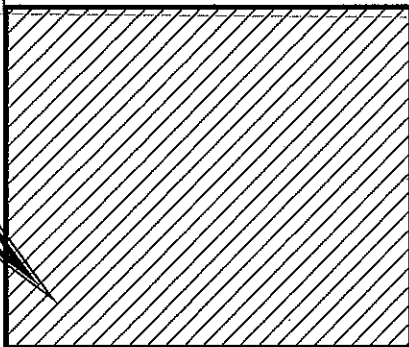
Name: Cyndi Carper
Address: 14008 Day Road
Day Phone No.: 574-532-7515
Email: cyn68@comcast.net

E MC KINLEY AVE



N MERRIFIELD AVE

2030 N MERRIFIELD



Location Map

PET 17-12

DOW FAMILY REAL ESTATE LLC

2030 N MERRIFIELD

REZONE FROM
C-1 GENERAL COMMERCIAL
TO R-2 TWO-FAMILY RESIDENTIAL

N CEDAR ST

ALEX WAY

JUN 15 2017

1st Reading 6-19-17
2nd Reading
Passed
Failed
Continued To

PETITION 17-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-25

ORDINANCE NO. _____

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, Clay Township, St. Joseph County, State of Indiana, to-wit:

A PARCEL LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING A PART OF LOT #2 OF THE PLAT OF "QDOBA MINOR SUBDIVISION" AS RECORDED BY DOCUMENT #1708358 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT #1 OF THE RECORDED PLAT OF "CHEDDAR'S MAIN STREET MINOR SUBDIVISION" AS RECORDED BY DOCUMENT #1204594 IN SAID RECORDER'S OFFICE; THENCE NORTH 19°59'39" EAST ALONG THE EASTERLY RIGHT-OF-WAY OF MAIN STREET A DISTANCE OF 328.08 FEET MORE OR LESS; THENCE SOUTH 71°34'19" EAST A DISTANCE OF 409.05 FEET MORE OR LESS TO THE EAST LINE OF SAID LOT#2; THENCE SOUTH 00°14'05" EAST ALONG SAID EAST LINE A DISTANCE OF 312.05 FEET MORE OR LESS; THENCE NORTH 75°08'33" WEST A DISTANCE OF 518.88 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 3.33 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant land north of 4914 North Main Street

which real estate is now classified as C-1 General Commercial 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.

Proposed Ordinance No: 17-25

Ordinance No: _____

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

1. Existing Conditions – The subject property, located along N. Main Street to the north of Edison Lakes Parkway and Cheddar's Scratch Kitchen, is undeveloped land currently zoned for general commercial purposes. N. Main Street is a highly travelled corridor with an average annual daily traffic count of nearly 33,000 vehicles per counts taken in 2015. Adjacent land uses include Cheddar's Scratch Kitchen and a vacant commercial lot to the south, various commercial and restaurant uses to the west, vacant commercial property to the north, and vacant agricultural land zoned for commercial uses to the east.
2. Character of Buildings – The adjacent properties include several multi- and single-tenant commercial buildings ranging from 5,500 sq. ft. to 9,500 sq. ft. The proposed approximate 9,000 sq. ft. building will be of similar character to these existing buildings.
3. The most desirable/highest and best use – Due to the property's location adjacent to various commercial and restaurant uses and being along one of most heavily travelled corridors in the City, the most desirable use of the property is a similar higher intensity commercial, retail, or restaurant use.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The proposed restaurant use with drive-thru facilities and other permitted C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided medium density resident development within this property as an extension of an existing apartment complex to the north on Douglas Road. However, due to changing market conditions and land development patterns along the N. Main Street corridor, medium density residential is not an ideal use for the property. The proposed restaurant with drive-thru facilities, being a higher intensity use more compatible with the adjacent land uses, does not conflict with the goals and objectives of the Comprehensive Plan.

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 _____, 2017, at _____ o'clock ____ M.

Presiding Officer

Proposed Ordinance No: 17-25

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2017, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

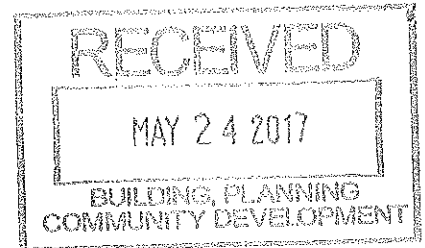
APPROVED by me this _____ day of _____, 2017, at
_____ o'clock _____.M.

David A. Wood, Mayor

Date: May 23, 2017

To The: Honorable Members of the Common Council of the
City of Mishawaka, Indiana

RE: Cressy Land Investments LLC Petition for Rezoning in the
4950 Block of North Main Street, Mishawaka, Indiana:



PT 17-13

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

A PARCEL LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING A PART OF LOT # 2 OF THE PLAT OF "QDOBA MINOR SUBDIVISION" AS RECORDED BY DOCUMENT # 1708358 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT #1 OF THE RECORDED PLAT OF "CHEDDAR'S MAIN STREET MINOR SUBDIVISION" AS RECORDED BY DOCUMENT # 1204594 IN SAID RECORDER'S OFFICE; THENCE NORTH 19°59'39" EAST ALONG THE EASTERLY RIGHT-OF-WAY OF MAIN STREET A DISTANCE OF 328.08 FEET MORE OR LESS; THENCE SOUTH 71°34'19" EAST A DISTANCE OF 409.05 FEET MORE OR LESS TO THE EAST LINE OF SAID LOT # 2; THENCE SOUTH 00°14'05" EAST ALONG SAID EAST LINE A DISTANCE OF 312.05 FEET MORE OR LESS; THENCE NORTH 75°08'33" WEST A DISTANCE OF 518.88 FEET MORE OR LESS TO THE POINT OF BEGINNING.

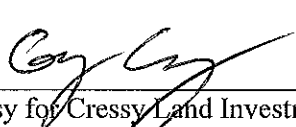
CONTAINING 3.33 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

Also commonly known as the 4950 Block of North Main Street, Mishawaka, Indiana 46545.
The above described parcel of land is presently zoned "C-1" Commercial District.

The Petitioners desire said real estate, to be Rezoned to the "C-7" Commercial District classification. The purpose for the Rezoning is to allow for the real estate to be purchased by an interested party who desires to build a new restaurant building with drive-thru facilities on the site.

Wherefore, the Petitioners 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 real estate located in the City of Mishawaka.


Corey Cressy for Cressy Land Investments LLC
4100 Edison Lakes Parkway, Suite 350
Mishawaka, Indiana 46545
574-271-4060

Contact person: Michael Danch
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
(574) 234-4003.

RECEIVED
DEBORAH S. BLOCK MMC

MAY 30 2017

CITY CLERK
MISHAWAKA, IN

To The: Honorable Members of the
Common Council of the
City of Mishawaka, Indiana

May 23, 2017

To The: Honorable Members of the
Plan Commission of the City of Mishawaka, Indiana,

RE: Cressy Land Investments LLC Petition for Rezoning in the
4950 Block of North Main Street, Mishawaka, Indiana:

Dear Council & Plan Commission Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request will be heard.

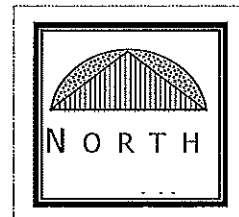
If you have any questions concerning this matter, please feel free to give me (us) a call at 574-271-4060.

Sincerely,



Corey Cressy for Cressy Land Investments LLC
4100 Edison Lakes Parkway, Suite 350
Mishawaka, Indiana 46545
574-271-4060

File No. 170161 "C" MD



N MAIN ST

LOCATION OF
REZONING PETITION

EDISON LAKES PKY

Location Map

PET 17-13

CRESSY LAND INVESTMENTS LLC
PROPERTY NORTH OF
4914 N MAIN

REZONE FROM
C-1 GENERAL COMMERCIAL
TO C-7 AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL

JUN 15 2017

CITY CLERK
MISHAWAKA, IN

PETITION 17-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2017-26**

ORDINANCE NO. _____

1st Reading *p-19-17*
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:

A PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 74 IN RIDGEMONT CROSSING SECTION THREE FINAL P.U.D., RECORDED UNDER INSTRUMENT NUMBER 0721398 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE THE NEXT EIGHTEEN (18) COURSES ALONG THE SAID BOUNDARY OF RIDGEMONT CROSSING SECTION THREE; (1) SOUTH 00°16'24" EAST, 280.21 FEET; (2) THENCE NORTH 89°42'29" EAST, 5.00 FEET; (3) THENCE SOUTH 00°17'31" EAST, 60.00; (4) THENCE SOUTH 89°42'29" WEST, 5.00 FEET; (5) THENCE SOUTH 00°18'37" EAST, 185.00 FEET; (6) THENCE SOUTH 89°42'29" WEST, 452.00 FEET; (7) THENCE SOUTH 00°16'23" EAST, 196.46 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 530.00 FEET AND A CHORD OF 37.53 FEET, BEARING NORTH 79°15'44" EAST; (8) THENCE NORTHEASTERLY ALONG SAID CURVE, 37.54 FEET; (9) THENCE SOUTH 08°42'32" EAST, 60.00 FEET TO A POINT OF CURVE TO THE LEFT, HAVING A RADIUS OF 470.00 FEET AND A CHORD OF 12.96 FEET BEARING SOUTH 80°30'04" WEST; (10) THENCE SOUTHWESTERLY ALONG SAID CURVE, 12.96 FEET; (11) THENCE SOUTH 13°47'01" EAST, 123.31 FEET; (12) THENCE SOUTH 61°17'10" WEST, 109.70 FEET; (13) THENCE SOUTH 13°49'54" WEST, 29.87 FEET; (14) THENCE NORTH 89°02'39" WEST, 290.39 FEET; (15) THENCE SOUTH 00°16'24" EAST, 7.33 FEET; (16) THENCE SOUTH 89°25'04" WEST, 50.00 FEET; (17) THENCE NORTH 00°16'24" WEST, 5.23 FEET; (18) THENCE SOUTH 89°49'29" WEST, 157.50 FEET TO THE SOUTHEAST CORNER OF LOT 29 IN RIDGEMONT CROSSING SECTION ONE, RECORDED UNDER INSTRUMENT NUMBER 0540313 IN SAID RECORDERS OFFICE; THENCE THE NEXT THREE (3) COURSES ALONG SAID BOUNDARY OF RIDGEMONT CROSSING SECTION ONE;

Proposed Ordinance No: 17-26

Ordinance No: _____

(1) SOUTH 89°43'36" WEST, 162.50 FEET; (2) THENCE SOUTH 84°27'36" WEST, 144.61 FEET; (3) THENCE SOUTH 89°43'36" WEST, 216.11 FEET TO THE EASTERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 00°05'01" WEST ALONG SAID EASTERLY RIGHT OF WAY, 644.45 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 4859.29 FEET AND A CHORD OF 75.73 FEET, BEARING NORTH 89°48'49" EAST, SAID POINT ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY OF DRAGOON TRAIL; THENCE NORTHEASTERLY ALONG SAID CURVE AND NORTHERLY RIGHT OF WAY, 75.73 FEET; THENCE NORTH 89°22'01" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 853.54 FEET; THENCE SOUTH 00°37'59" EAST, 40.00 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE NORTH 89°22'01" EAST ALONG SAID CENTERLINE, 795.45 FEET TO A POINT OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1134.22 FEET AND A CHORD OF 251.91 FEET, BEARING SOUTH 84°15'29" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE AND CENTERLINE, 252.43 FEET TO THE SOUTHWEST CORNER OF TRADES PARK SUBDIVISION, RECORDED UNDER PLAT BOOK 28 PAGE "T" IN SAID RECORDERS OFFICE; THENCE NORTH 00°01'20" WEST ALONG THE WESTERLY LINE OF SAID TRADES PARK AND THE WESTERLY LINE OF TRADES PARK 1ST REPLAT, RECORDED UNDER INSTRUMENT NUMBER 0046917 IN SAID RECORDERS OFFICE, 1569.93 FEET; THENCE SOUTH 89°43'36" WEST, 236.91 FEET; THENCE NORTH 00°13'55" EAST, 127.07 FEET; THENCE SOUTH 89°43'36" WEST, 228.14 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 44.83 ACRES, MORE OR LESS, AND SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAYS OF RECORD.

COMMON ADDRESS: Ridgmont Crossing Planned Unit Development

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to permit the undeveloped 44.82 acres to consist of seventy-three (73) residential lots and 10.46 acres of light industrial uses subject to the following conditions:

Proposed Uses:

1. The final planned unit development site plans and plats shall be consistent with the two use (Parcel) areas identified in Exhibit 'A' as prepared by staff. Although the width and depth of parcels may be modified, the area of the use, general layout, and concept shall follow Exhibit 'A'. Substantial changes to any proposed uses shall require both a rezoning and change of the preliminary planned unit development site plan, if proposed. Uses permitted within each parcel shall be as follows:

Parcel 1-	Area-	Approximately 44.82 Acres
	Uses-	Single-Family Residential use not to exceed 73 lots.
Parcel 2-	Area-	Approximately 11.43 Acres, including the outlot and right-of-way to be dedicated
	Uses-	I-1 Light Industrial permitted uses.

Property/Ownership Gap:

1. The developer is responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to this gap property shall be

Proposed Ordinance No: 17-26

Ordinance No: _____

identified as part of or prior to any final plat or site plan approval for any of the two parcels identified herein.

Landscaping (Parcel 1):

1. A 35 foot wide green space buffer with a 4-foot high earthen berm and planting shall be provided between the proposed single family residential subdivision and the proposed industrial uses on Parcel #2. Planting on the berm shall include spruce and/or fir evergreen trees planted in a double-row triangular pattern 15' on-center for the entire length of the mound. At the time of planting, trees shall be a minimum of 6' in height. A 7' high opaque fence is not required.

Single Family Residential Development Standards:

1. The proposed platting of lots to complete the existing Ridgemont Crossing Subdivision shall provide for lot sizes, setbacks, and covenant restrictions to match the existing Ridgemont Crossing subdivision.

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

1. Existing Conditions - The subject parcel is located on Fir Road and Dragoon Trail adjacent to single-family residential uses to the north, west, and south; a mobile home park to the north; a city park to south; and industrial uses to the east. A 250' wide Indiana & Michigan Power Company easement traverses the site providing for a natural division between any proposed uses.
2. Character of Buildings in Area - The character of buildings and land uses located along the Fir Road and Dragoon Trail corridors vary. Along Fir Road, the site is primarily adjacent to two single Family residential subdivisions being Ridgemont Crossing and Rosewood. Beyond those subdivisions to the north, there is a very large mobile home park and scattered industrial and commercial properties. On Dragoon Trail, an industrial park is located to the east, and to the south of the site is George Wilson Park. The mix of residential, public, and industrial uses identifies a diversity of uses where single family and light industrial uses are both appropriate.
3. The most desirable/highest and best use - With the property's location adjacent to varying land uses including both single family and industrial uses, the proposed mix of single family residential and light industrial is a logical extension of the adjacent uses and is considered to be the highest and best use of the property.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed single-family residential and industrial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan - This property was identified with a preferred use as manufactured home residential in the Mishawaka 2000 Comprehensive Plan. Given that the manufactured housing demand has changed since the time of completion of the comprehensive plan, the proposed single family and light

Proposed Ordinance No: 17-26

Ordinance No: _____

industrial use is reasonably consistent with multiple uses along the Fir Road and Dragoon Trail corridors.

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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____M.

David A. Wood, Mayor

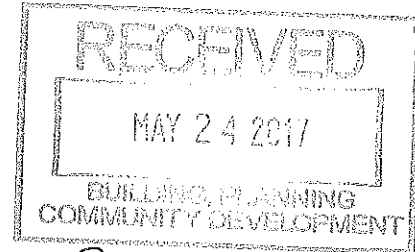
RECEIVED
DEBORAH S. BLOCK, MMC

MAY 31 2017

DATE: May 24, 2017

CITY CLERK
MISHAWAKA, IN

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



PET 17-14

**RE: PETITION TO AMEND
RIDGEMONT CROSSING P.U.D.**

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

A PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 74 IN RIDGEMONT CROSSING SECTION THREE FINAL P.U.D., RECORDED UNDER INSTRUMENT NUMBER 0721398 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE THE NEXT EIGHTEEN (18) COURSES ALONG THE SAID BOUNDARY OF RIDGEMONT CROSSING SECTION THREE; (1) SOUTH 00°16'24" EAST, 280.21 FEET; (2) THENCE NORTH 89°42'29" EAST, 5.00 FEET; (3) THENCE SOUTH 00°17'31" EAST, 60.00; (4) THENCE SOUTH 89°42'29" WEST, 5.00 FEET; (5) THENCE SOUTH 00°18'37" EAST, 185.00 FEET; (6) THENCE SOUTH 89°42'29" WEST, 452.00 FEET; (7) THENCE SOUTH 00°16'23" EAST, 196.46 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 530.00 FEET AND A CHORD OF 37.53 FEET, BEARING NORTH 79°15'44" EAST; (8) THENCE NORTHEASTERLY ALONG SAID CURVE, 37.54 FEET; (9) THENCE SOUTH 08°42'32" EAST, 60.00 FEET TO A POINT OF CURVE TO THE LEFT, HAVING A RADIUS OF 470.00 FEET AND A CHORD OF 12.96 FEET BEARING SOUTH 80°30'04" WEST; (10) THENCE SOUTHWESTERLY ALONG SAID CURVE, 12.96 FEET; (11) THENCE SOUTH 13°47'01" EAST, 123.31 FEET; (12) THENCE SOUTH 61°17'10" WEST, 109.70 FEET; (13) THENCE SOUTH 13°49'54" WEST, 29.87 FEET; (14) THENCE NORTH 89°02'39" WEST, 290.39 FEET; (15) THENCE SOUTH 00°16'24" EAST, 7.33 FEET; (16) THENCE SOUTH 89°25'04" WEST, 50.00 FEET; (17) THENCE NORTH 00°16'24" WEST, 5.23 FEET; (18) THENCE SOUTH 89°49'29" WEST, 157.50 FEET TO THE SOUTHEAST CORNER OF LOT 29 IN RIDGEMONT CROSSING SECTION ONE, RECORDED UNDER INSTRUMENT NUMBER 0540313 IN SAID RECORDERS OFFICE; THENCE THE NEXT THREE (3) COURSES ALONG SAID BOUNDARY OF RIDGEMONT CROSSING SECTION ONE; (1) SOUTH 89°43'36" WEST, 162.50 FEET; (2) THENCE SOUTH 84°27'36" WEST, 144.61 FEET; (3) THENCE SOUTH 89°43'36" WEST, 216.11 FEET TO THE EASTERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 00°05'01" WEST ALONG SAID EASTERLY

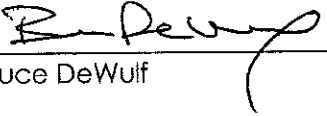
RIGHT OF WAY, 644.45 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 4859.29 FEET AND A CHORD OF 75.73 FEET, BEARING NORTH 89°48'49" EAST, SAID POINT ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY OF DRAGOON TRAIL; THENCE NORTHEASTERLY ALONG SAID CURVE AND NORTHERLY RIGHT OF WAY, 75.73 FEET; THENCE NORTH 89°22'01" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 853.54 FEET; THENCE SOUTH 00°37'59" EAST, 40.00 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE NORTH 89°22'01" EAST ALONG SAID CENTERLINE, 795.45 FEET TO A POINT OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1134.22 FEET AND A CHORD OF 251.91 FEET, BEARING SOUTH 84°15'29" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE AND CENTERLINE, 252.43 FEET TO THE SOUTHWEST CORNER OF TRADES PARK SUBDIVISION, RECORDED UNDER PLAT BOOK 28 PAGE "T" IN SAID RECORDERS OFFICE; THENCE NORTH 00°01'20" WEST ALONG THE WESTERLY LINE OF SAID TRADES PARK AND THE WESTERLY LINE OF TRADES PARK 1ST REPLAT, RECORDED UNDER INSTRUMENT NUMBER 0046917 IN SAID RECORDERS OFFICE, 1569.93 FEET; THENCE SOUTH 89°43'36" WEST, 236.91 FEET; THENCE NORTH 00°13'55" EAST, 127.07 FEET; THENCE SOUTH 89°43'36" WEST, 228.14 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 44.83 ACRES, MORE OR LESS, AND SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAYS OF RECORD.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for detached single-family residential.

Petitioner(s) desire said real estate to be amended to revise layout for single family residential and allow light industrial use on the southeast portion of the parcel. The original Planned Unit Development contained 228 lots. The amended Planned Unit Development includes 73 additional single family lots and 10.46 acres of light industrial use.

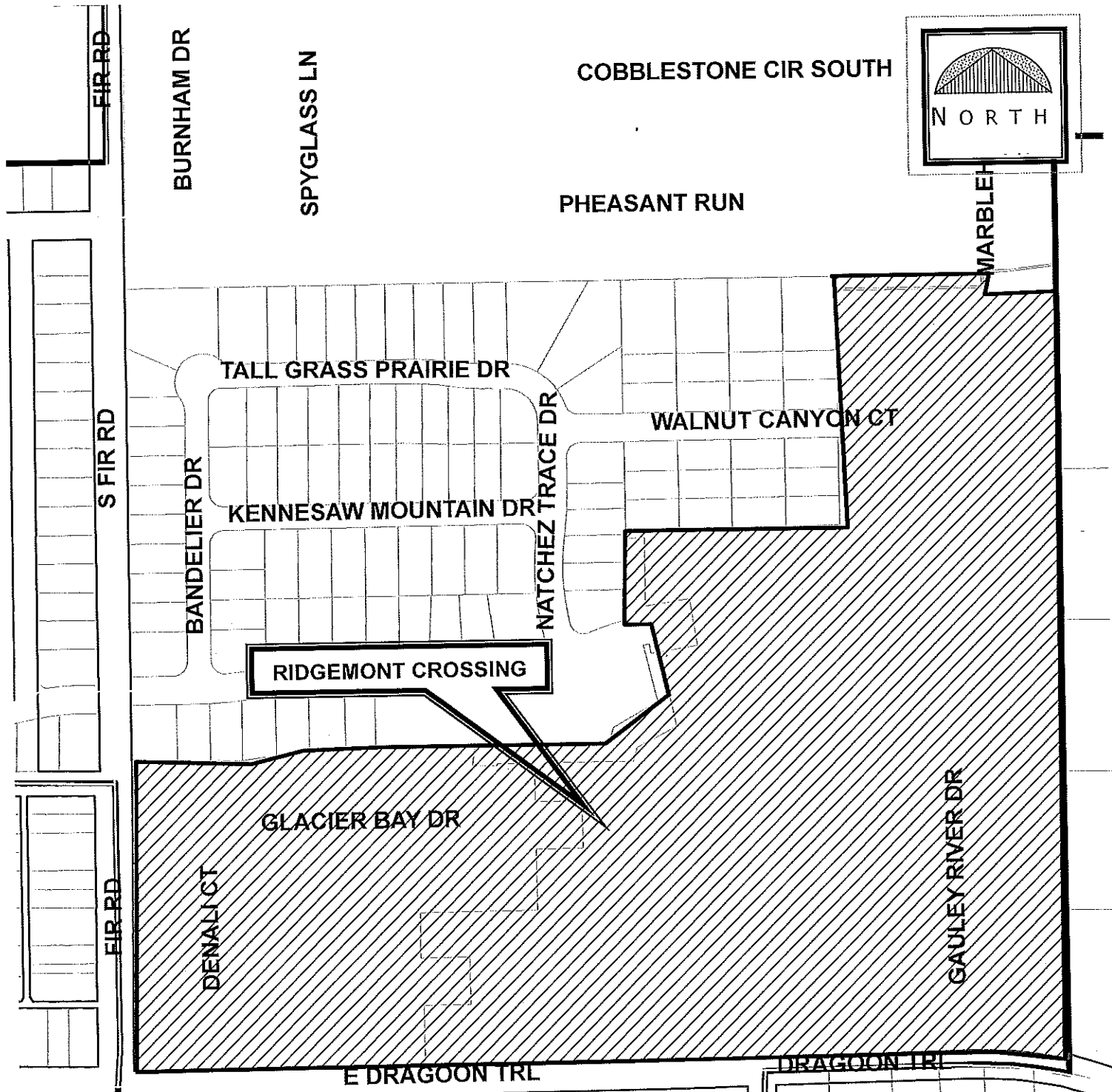
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of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

Dragoon Properties, LLC


Bruce DeWulf

CONTACT PERSON:

Daryl S. Knip, PE.
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
Phone: 574.232-8700



Location Map

PET 17-14

DRAGON PROPERTIES LLC
RIDGEMONT CROSSING
PUD AMENDMENT

THE UNDEVELOPED 44.82 ACRES
TO CONSIST OF
73 RESIDENTIAL LOTS
AND 10.46 ACRES OF
LIGHT INDUSTRIAL



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

BUILDING - COMMUNITY DEVELOPMENT - PLANNING

June 15th, 2017

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Ross Deal, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Joe Canarecci, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Bryan Tanner, At-Large City Council
Mrs. Deborah Block, City Clerk

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 15 2017

CITY CLERK
MISHAWAKA, IN

**RE: Declaratory Resolution 2017-12
Tax Abatement- Lippert Components Manufacturing Inc.
Real and Personal Tax Abatements- 400 South Byrkit Avenue**

Dear Council Members and Clerk:

Please find attached Declaratory Resolution 2017-12 pertaining to petitions for tax abatement that have been filed for consideration at the Monday, June 19th meeting. The requests have been submitted by Lippert Components Manufacturing Inc. with corporate offices located in Elkhart IN.

Lippert Components is proposing to renovate and improve the former AM General Warehousing facility (former Wheelabrator Factory) located at 400 South Byrkit Avenue which has been vacant since AM General moved what was left of their parts business to the north side of South Bend in 2016. The proposed improvements would allow the building to be used as a distribution facility, a service center for RV's, and a call center.

In addition to the former AM General Facility, Lippert Components also acquired the former Independent Concrete Pipe Facility immediately to the east and are combining the two larger properties together (roughly 50 acres), with most of the truck traffic now intended to use Beiger Street. In total, this is close to a 9 million dollar investment being proposed, with potential room to grow. Specifically, two abatements have been filed, one for the real property improvements and one for the personal property improvements (equipment). The real property improvements include an estimated 3 million dollar renovation of the existing building, a 3.2 million dollar expansion adding 79,200 square foot addition to the east side of the building, and 1.2 million dollar site improvements including additional employ parking and semi-truck spaces. The personal property request includes a half million dollars of racking for the new distribution facility, 800 thousand dollars in general equipment, and a half million dollars in furniture and fixtures.

Our understanding is that Lippert is consolidating some operations in South Bend and Elkhart County to this facility which is why they listed 247 of the jobs, even though they are new to this location, as retained. We understand from discussions that part of the decision making process was that they would rather own than lease. Although they originally purchased the building because of their rapid growth and

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Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

its availability, they have been internally evaluating how it might best be used. Our understanding is that the requested phase in of taxes is a key consideration in the investment now being proposed. Although headquartered in our region, Lippert Components does business worldwide and owns 50 manufacturing and distribution facilities in the US, Canada, and Italy. Consequently, they have the ability to place these proposed operations in any number of their existing locations, or find a new location.

In addition to the saved jobs to the region, Lippert has also identified creating 200 new jobs in conjunction with the proposed abatements. In a few years, this would make the estimated employment at close to 450 jobs as employment ramps up. In comparison, AM General's developer in 2001 received a 10 year abatement for 285 retained jobs and 15 new ones (300 total) on a 2.7 million dollar investment. Although the actual numbers for AM General varied based on the economy, this proposal could amount to considerably more jobs and investment in the City over time. As such the Administration is recommending a 10 year standard abatement for both the real and personal property tax abatement requests. This is identical to what was provided for AM General in 2001. We are genuinely excited about the request and what the potential investment will mean to the City and the surrounding neighborhood to the north which is in walking distance to the facility.

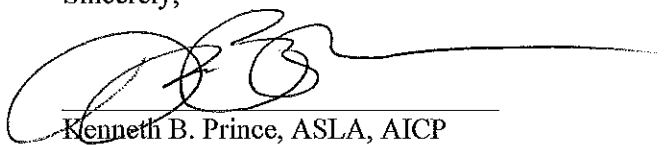
A copy of the tax abatement applications and the staff prepared resolutions are attached for your review and information. The property is not located within the City's tax increment finance district.

As you are aware, tax abatement requests before the Common Council are considered in two steps. The first step is the Declaratory Resolution where the abatement is essentially accepted for consideration.

Once the Declaratory Resolutions are approved, the Clerk's Office has specific advertising requirements to notify other taxing entities within the jurisdiction that could be impacted by the abatement. This allows for input from those other taxing units prior to the Council's consideration and vote on the requests. The second step is the hearing and consideration of confirming resolutions where the merits of the requests are considered. The only items being considered at the June 19th meeting are the Declaratory Resolutions, which staff is recommending approval of to allow the appropriate advertising to take place. If approved, staff will prepare a more detailed financial analysis of the requests as part of your consideration of the confirming resolutions which would tentatively be reviewed at your first meeting in July (Wednesday July 5th).

Please do not hesitate to contact me with any questions.

Sincerely,



Kenneth B. Prince, ASLA, AICP
City Planner

cc: David A. Wood, Mayor
Derek Spier, Senior Planner

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RESOLUTION NO. R 2017- 12

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, DECLARING A CERTAIN AREA IN
THE CITY OF MISHAWAKA, INDIANA, TO BE AN
ECONOMIC REVITALIZATION AREA

Lippert Components Manufacturing Inc.
400 South Byrkit Avenue

DECLARATORY RESOLUTION

WHEREAS, the Common Council of the City of Mishawaka, Indiana, has pursuant to the “Deduction for Rehabilitation or Redevelopment of Real Property in Economic Revitalization Area Act” (Indiana Code 6-1.1-12.1-1 et. seq.) as amended hereinafter referred to as the “Act”, determined and declared that the following described area in the City of Mishawaka, County of St. Joseph, State of Indiana, is an “Economic Revitalization Area”:

A lot or parcels of land described as follows:

Tax Parcel ID Numbers:

71-09-14-301-002.000-023
71-09-14-301-001.000-023
71-09-14-301-003.000-023
71-09-14-301-013.000-023
71-09-14-301-021.000-023
71-09-15-285-005.000-023
71-09-15-428-006.000-023
71-09-15-428-007.000-023
71-09-15-428-008.000-023
71-09-15-428-009.000-023
71-09-15-428-010.000-023
71-09-15-428-011.000-023
71-09-14-184-001.000-023
71-09-14-326-002.000-023
71-09-14-326-001.000-023
71-09-14-326-003.000-023

A parcel of land in the West Half ($\frac{1}{2}$) of the West Half ($\frac{1}{2}$) of Section Fourteen (14), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, more particularly described as follows: The “Point of Beginning” of said parcel of land herein described being the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds West, along the West line of Section 14 and the centerline of Byrkit Avenue, a distance of 332.38 feet to the Southerly right of way line of Conrail Corporation; thence along a curve, concave Southerly, whose elements are: central angle of 04 degrees 33 minutes 30 seconds, radius of 9536.76 feet, arc length of 757.34 feet, and a chord that bears North 85 degrees 33 minutes 33 seconds East, 757.14 feet; thence North 87 degrees 43 minutes 30 seconds East, along the Southerly right of way line of Conrail Corporation, a distance of 549.65 feet to the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 12 minutes 30 seconds East, along the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14, a distance of 406.39 feet to the Northeast corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 02 minutes 30 seconds East along the East line of the West Half ($\frac{1}{2}$)

of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; a distance of 229.93 feet; thence North 89 degrees 59 minutes 44 seconds West a distance of 393.74 feet; times South 00 degrees 10 minutes 42 seconds West a distance of 302.57 feet; thence South 89 degrees 51 minutes 00 seconds West a distance of 871.05 feet to the East right of way line of Byrkit Avenue and to a point which is South 00 degrees 00 minutes 00 seconds West 528.42 feet and North 89 degrees 51 minutes 00 seconds East 40.00 feet from the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds East, along the East right of way of Byrkit Avenue; a distance of 272.89 feet; thence South 89 degrees 43 minutes 00 seconds West a distance of 40.00 feet to the West line of said Section 14 and the centerline of Byrkit Avenue; thence North 00 degrees 00 minutes 00 seconds West, along the West line of said Section 14 and the centerline of Byrkit Avenue, a distance of 255.62 feet to the "Point of Beginning".

Together with:

Part of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Southeast corner of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section 15, Township 37 North, Range 3 East; thence North 89 degrees 28 minutes 00 seconds West, a distance of 20.00 feet to the point of beginning; thence continue North 89 degrees 28 minutes 00 seconds West on the North line of Fifth Street, a distance of 267.50 feet; thence North 00 degrees 00 minutes 00 seconds East parallel with the East line of Section 15, a distance of 310.27 feet to the Southerly right of way Line of the Conrail Corporation; thence North 84 degrees 01 minutes 48 seconds East on the Southerly right of way line of the Conrail Corporation, a distance of 268.945 feet; thence South 00 degrees 00 minutes 00 seconds West, a distance of 340.73 feet to the point of beginning.

Together with:

Part of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Northeast corner of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East; thence South 00 degrees 00 minute 00 seconds East on the East line of Section 15, a distance of 66.00 feet; thence North 89 degrees 28 minutes 00 seconds West, a distance of 40.00 feet to the West line of Byrkit Avenue and the point of beginning; thence South 00 degrees 00 minutes 00 seconds West parallel with the East line of Section 15 and on the West right of way line of Byrkit Avenue, a distance of 120.00 feet; thence North 89 degrees 28 minutes 00 seconds West parallel with the South right of way line of Fifth Street, a distance of 118.98 feet; thence North 00 degrees 05 minutes 44 seconds East, a distance of 120.00 feet to the South right of way line of Fifth Street, a distance of 118.78 feet to the point of beginning and being known as Lots 18 through 23 in the Broadmoor Proposed Subdivision.

Together with:

A lot or parcel of land in the Northwest Quarter of Section 14, Township 37 North, Range 3 East, bounded by a line running as follows: Beginning at a point 684 $\frac{1}{2}$ feet West of the center of said Section, which point is in the West line of Beiger Street, as platted in Beiger Farm Addition to the City of Mishawaka; thence North along the West line of said Beiger Street 438.6 feet to the South line of the New York Central Railroad Company's right of way; thence Westerly with said Railroad Company's right of way 624.74 feet; thence South 416.9 feet; thence East 624 $\frac{1}{2}$ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the West Half of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 195 feet South of the Northwest Corner of the West Half of the East Half of the Southwest Quarter of said Section 14; thence South along the West line of the West Half of the East Half of the Southwest Quarter of said Section 14, Township 37 North, Range 3 east, 332.8 feet; thence

East parallel with the North line of the West Half of the East Half of the Southwest Quarter of said Section 14, 654.41 feet to the centerline of Beiger Street in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 332.8 feet to a point 195 feet South of the North line of said West Half of the East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.43 feet to the place of beginning.

Together with:

A lot or parcel of land in the Southwest Quarter of Section 14, Township 37 North Range 3 East bounded as follows: Beginning at a point on the centerline of said Section 654 ½ feet West of the center of said Section 14, which beginning point is in the middle of Beiger Street; thence South along the middle of said Beiger Street 161 ½ feet; thence West 269.72 feet; thence North 161 ½ feet; thence East 269.72 feet, to the place of beginning.

Together with:

A tract or parcel of land in Section 14, Township 37 North, Range 3 East, described as follows: Beginning at a point 924.22 feet West of the center of said Section 14, which is the Northwest corner of a tract heretofore conveyed to Charles Haney and wife on October 13, 1915 by deed recorded in Deed Record 153 at pages 245 and 246 in the Recorder's Office of St. Joseph county, Indiana; thence West along the East and West centerline 390.28 feet to the North and South centerline of the Southwest Quarter of said Section 14; thence South along said line 195 feet; thence East 630 feet to the West line of Beiger Street; thence North 33 ½ feet to the South line of the tract heretofore conveyed to Charles Haney and wife, as above described; thence West along said South line to the Southwest Corner of said tract conveyed to said Charles Haney and wife; thence North 161 ½ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 527.8 feet South of the Northwest Corner of the East Half of the Southwest Quarter of said Section 14; thence continuing South of the Northwest corner of the East Half of said Southwest Quarter of said Section 462.2 feet; thence East parallel to the North line of the East Half of the Southwest Quarter of said Section 14, 654.36 feet to the centerline of Beiger Street, in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 462.2 feet to a point 527.8 feet South of the North line of said East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said East Half of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.41 feet to the place of beginning.

More commonly having addresses at 420 South Byrkit Avenue, with other addresses including 408, 418, 424, and 440 South Brykit Avenue and 401 South Beiger Street.

All of the above described property being located within the municipal corporation limits of the City of Mishawaka, Indiana, and

WHEREAS, this declaration of the above described area as an "Economic Revitalization Area" shall expire one (1) year from the effective date of the declaration unless officially extended by the Common Council of the City of Mishawaka, Indiana, and

WHEREAS, the area so described above, shall be eligible for a deduction from an increase in assessed valuation resulting from the redevelopment or rehabilitation of said property, and

WHEREAS, an owner or occupant of the area described above shall be eligible for a deduction from assessed valuation resulting from the improvement of real property used within that area so described, and

WHEREAS, an owner or occupant of the area described above shall be eligible for a deduction from assessed valuation resulting from the acquisition of tangible personal property used within that area so described.

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

1. That the area described hereinabove is hereby declared to be an "Economic Revitalization Area" within the meaning of the Act; and
2. That the City Clerk shall cause notice of the adoption of this Resolution to be published pursuant to I.C. 5-3-1, and shall file a copy of this Resolution with the St. Joseph County Assessor; and
3. That the City Clerk shall include in such notice the substance of this Resolution, a description of the affected area, that this Resolution may be inspected in the County Assessor's office or the office of the Mishawaka City Clerk, the date when the Common Council will receive and hear all remonstrance and objections from interested persons, and any other information required by Section 6-1.1-12.1-2.5 of the Act; and
4. That the City Clerk shall file a copy of the aforesaid public notice along with a copy of this Resolution and the Statement of Benefits (Form SB-1) with the officers of each taxing unit that has the authority to levy property taxes in the geographic area where the aforesaid economic revitalization area is located; and
5. That following the legal publication and on the date published in the public notice, a public hearing shall be held by the Common Council, at which time the Common Council shall receive and hear all remonstrance and objections from interested persons and shall then take final action determining whether the qualifications for an Economic Revitalization Area have been met and confirming, modifying and confirming, or rescinding this Resolution; and
6. That the determination of the Common Council shall be final except that an appeal may be taken and heard as provided by I.C. 6-1.1-12.1-2.5 (d) and (e).

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 19th day of June, 2017.

Ross Deal, President

ATTEST:

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of June, 2017.

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of _____, 2017, at _____
o'clock _____.M.

David A. Wood, Mayor

JUN 15 2017

APPEAL #17-20

RESOLUTION NO. 2017- 13

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:

2331 Miracle Lane, 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 **2331 Miracle Lane, Mishawaka, Indiana**, more particularly known and described as follows:

Part of the West Half of the Southwest Quarter of Section 4, Township 37 North, Range 3 East, Mishawaka, Indiana, described as follows:

Commencing at the Southwest corner of Section 4; thence North on the West line of Section 4, a distance of 210.00 feet; thence right (Easterly) 89°28'21", parallel with the South line of Section 4, a distance of 40.00 feet to the East line of Hickory Road and the point of beginning; thence left (Northerly) 89°28'21", parallel with the West line of Section 4 and on the East line of Hickory Road, a distance of 1110.87 feet; thence right (Easterly) 89°28'36", a distance of 1279.31 feet to the Southwest corner of Imus Addition in Penn Township, St. Joseph County, Indiana; thence right (Southerly) 90°11'20" on the East line of the West Half of the Southwest Quarter of Section 4, a distance of 1280.76 feet to the North line of McKinley Avenue; thence right (Westerly) 89°48'25" on the North line of McKinley Avenue, a distance of 526.50 feet; thence right (Northerly) 90°11'35", parallel with the East line of the West Half of the Southwest Quarter of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°11'35", parallel with the North line of McKinley Avenue, a distance of 129.60 feet; thence left (Southerly) 89°12'29", a distance of 170.02 feet to the North line of McKinley Avenue; thence right (Westerly) 89°12'29" on the North line

of McKinley Avenue, being 40.00 feet North of and parallel with the South line of Section 4, a distance of 402.84 feet; thence right (Northerly) 90°31'39", parallel with the West line of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°31'39", parallel with the South line of Section 4, a distance of 225.70 feet to the point of beginning.

The Use Variance, if approved, will permit a church in C-2 Shopping Center Commercial District.

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 church use is compatible with the existing commercial uses; the number of required parking spaces will be provided in a parking area not used by the current tenants or customers; and the sign/cross will not be greater in height than other structures on the property, will not obstruct views of the motoring public, and will adhere to all building codes during installation;
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 as the proposed church use is compatible with the existing land uses, and additional traffic from the church may result in increased business for the current tenants in the center. Furthermore, the proposed sign/cross will be similar in height and scale to other existing structures on the property;
3. The need for the use variance arises from some condition peculiar to the property involved because the current zoning allows for a various commercial uses, but prohibits a church. Rezoning to the appropriate zoning classification with the allowable uses would not be appropriate for this multi-tenant 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 church in the C-2 Shopping Center Commercial District though a church is compatible with many of the permitted uses in this district. Furthermore, the proposed cross will provide adequate signage to signify the religious use of the tenant space; 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 _____, 2017, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2017,
at _____ o'clock _____ .m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at
_____ o'clock _____ .m.

David A. Wood, Mayor

APPLICATION FOR USE AND SIGN VARIANCE FOR TREE OF LIFE ANGLICAN CHURCH
AT TOWN AND COUNTRY SHOPPING CENTER

DATE: May 22, 2017

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, **McKinley Town & Country LP**, 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:

The following described real estate located in St. Joseph County, Indiana:

Part of the West Half of the Southwest Quarter of Section 4, Township 37 North, Range 3 East, Mishawaka, Indiana, described as follows: Commencing at the Southwest corner of Section 4; thence North on the West line of Section 4, a distance of 210.00 feet; thence right (Easterly) 89°28'21", parallel with the South line of Section 4, a distance of 40.00 feet to the East line of Hickory Road and the point of beginning; thence left (Northerly) 89°28'21", parallel with the West line of Section 4 and on the East line of Hickory Road, a distance of 1110.87 feet; thence right (Easterly) 89°28'36", a distance of 1279.31 feet to the Southwest corner of Imus Addition in Penn Township, St. Joseph County, Indiana; thence right (Southerly) 90°11'20" on the East line of the West Half of the Southwest Quarter of Section 4, a distance of 1280.76 feet to the North line of McKinley Avenue; thence right (Westerly) 89°48'25" on the North line of McKinley Avenue, a distance of 526.50 feet; thence right (Northerly) 90°11'35", parallel with the East line of the West Half of the Southwest Quarter of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°11'35", parallel with the North line of McKinley Avenue, a distance of 129.60 feet; thence left (Southerly) 89°12'29", a distance of 170.02 feet to the North line of McKinley Avenue; thence right (Westerly) 89°12'29" on the North line of McKinley Avenue, being 40.00 feet North of and parallel with the South line of Section 4, a distance of 402.84 feet; thence right (Northerly) 90°31'39", parallel with the West line of Section 4, a distance of 170.00 feet; thence left (Westerly) 90°31'39", parallel with the South line of Section 4, a distance of 225.70 feet to the point of beginning.

Edit Payable 2018 Real Property	
Tax ID Num: 016-2058-193902	Parcel Number: 71-09-04-351-001.000-023
Tax Unit: 16 - Mishawaka-Penn	Tax Rates Have Not Yet
Owner of Record: McKinley Town and Country LP	Been Determined For
Tax Yr / Pay Yr: 2017 / 2018	Tax Yr 2017 / Pay Yr 2018
Prop Info Assess/Exempt/Ded Transfer Hist Alert Legal Desc Misc Names Billing Contract Appeals/Bank Adjacent Props Ass	
Legal Description	
S1/2 W1/2 SW1/4 Ex Parcels Sold & Ex 98' X 7.5' Approx along McKinley Sec 4-37-3E	
10/11 split to City of Mish for Street 3388WD 5-28-09	

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 31 2017

CITY CLERK
MISHAWAKA, IN

AP 17-20

2. The above-described real estate presently has a zoning classification of Shopping Center, Commercial/ C2 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner: Church/religious organization to be located at 2331 Miracle Lane on the north side of the Town & Country Shopping Center.
4. Appellant desires to have use variance that would allow the property to be used for a church.
5. The Zoning Ordinance of the City of Mishawaka requires that only business entities occupy buildings zoned as C2, see 137-326.
6. **Explain why strict adherence to the Ordinance requirements would create an unusual hardship:** McKinley Town & Country LP has graciously offered to Tree of Life Anglican Church rent their **2331 Miracle Lane** unit for 1/3 the market rent. Tree of Life is a very localized ministry in and around the McKinley Terrace Neighborhood, on the border of South Bend and Mishawaka. They have many youth from the neighborhood in their youth programs and many residence of the various apartment complexes nearby are members of their church. They also run an immigration legal-aid clinic. Many of the area's refugees live in this neighborhood and vicinity. Tree of Life has outgrown it's current building but cannot yet afford to build something else in the neighborhood. Town & Country's offer will allow Tree of Life to continue their ministry within walking distance of our members' homes, and allow our ministry to grow until such time as Tree of Life may afford to build or buy their own building. In the Town and Country location, Tree of Life hopes to develop a homework center for their youth and to expand their immigration services to include regular English Language classes. Many of Tree of Life's members and clients already come to the Town & Country Shopping Center on a regular basis, so both parties expect this arrangement will be beneficial.

The 2331 unit currently has 27 parking spaces. Should this variance request be approved, Town & Country, LP will paint an additional 12 spots for a total of 39 parking spaces (please see attached sketch). Tree of Life will comply to the Mishawaka City ordinances that limit sanctuary chairs to 4 chair per 1 parking space by setting up no more than 156 chairs in the sanctuary at any given time. Initially Tree of Life plans to set up 50 chairs.

7. Answer the following necessary questions for a **USE VARIANCE**:
 - (1) **Will approval be injurious to the public health, safety, morals or general welfare of the community?**
No, if anything the presence of Tree of Life will improve public safety, morals and the general welfare of the area. The 2331 Miracle Lane unit Tree of Life hopes to rent is also on the back side of the the Town and Country Shopping Center and has its own parking lot. Thus, the church use will not propose any traffic difficulties or other distractions for the rest of the shopping center.
 - (2) **Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?**
No. McKinley Town & Country LP hopes that Tree of Life will actually attract costumers to the center. Tree of Life has a good reputation in our neighborhood and suspects that will be true.
 - (3) **Does the need for the variance arise from some condition peculiar to the property involved?** Not really, although, the location of this unit within the shopping center is not ideal for commercial use, as it is not in line with other stores or the main line of sight from the road.
 - (4) **Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?** Yes, since Tree of Life Anglican Church benefits the immediate community around Town &

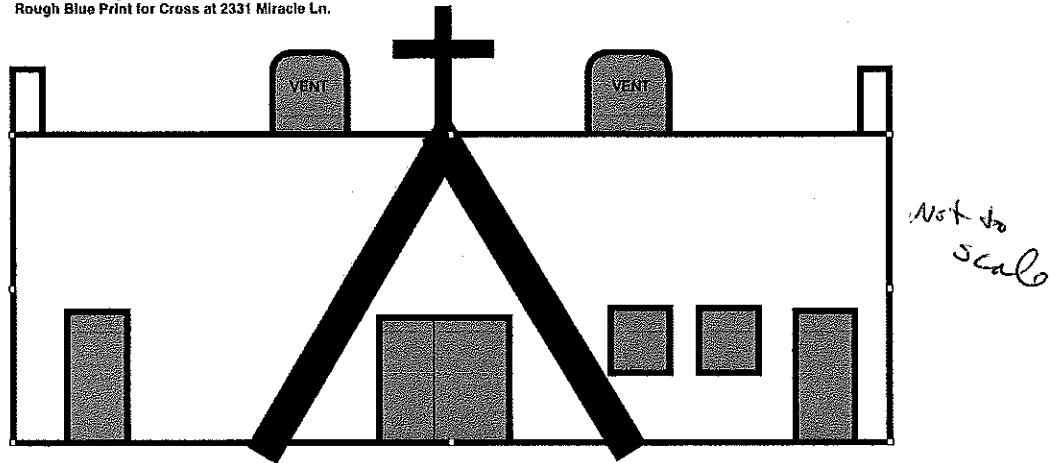
Country Shopping Center and will attract customers to the other stores, and because there are very few location options for this ministry that stay within walking distance of the ministry target area, it would cause an unnecessary hardship not to grant this variance.

(5) **Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?**

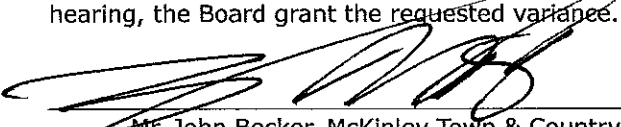
No, Tree of Life is committed to improving our community. Their focus on local neighborhoods draws people together, helps stop crime and increases positive ambulatory patterns.

8. **SIGN VARIANCE:** Tree of Life Anglican Church is also applying for a sign variance. We would like to place a cross on the top of our location, in keeping with our religious beliefs and so that visitors will recognize us as a church. We request that this cross could be 12' above the roofline, pending the approval of the landlord, Town & Country, LP. See rough blue print below.

Tree of Life Anglican Church
Rough Blue Print for Cross at 2331 Miracle Ln.



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


Mr. John Becker, McKinley Town & Country LP

CONTACT PERSON:

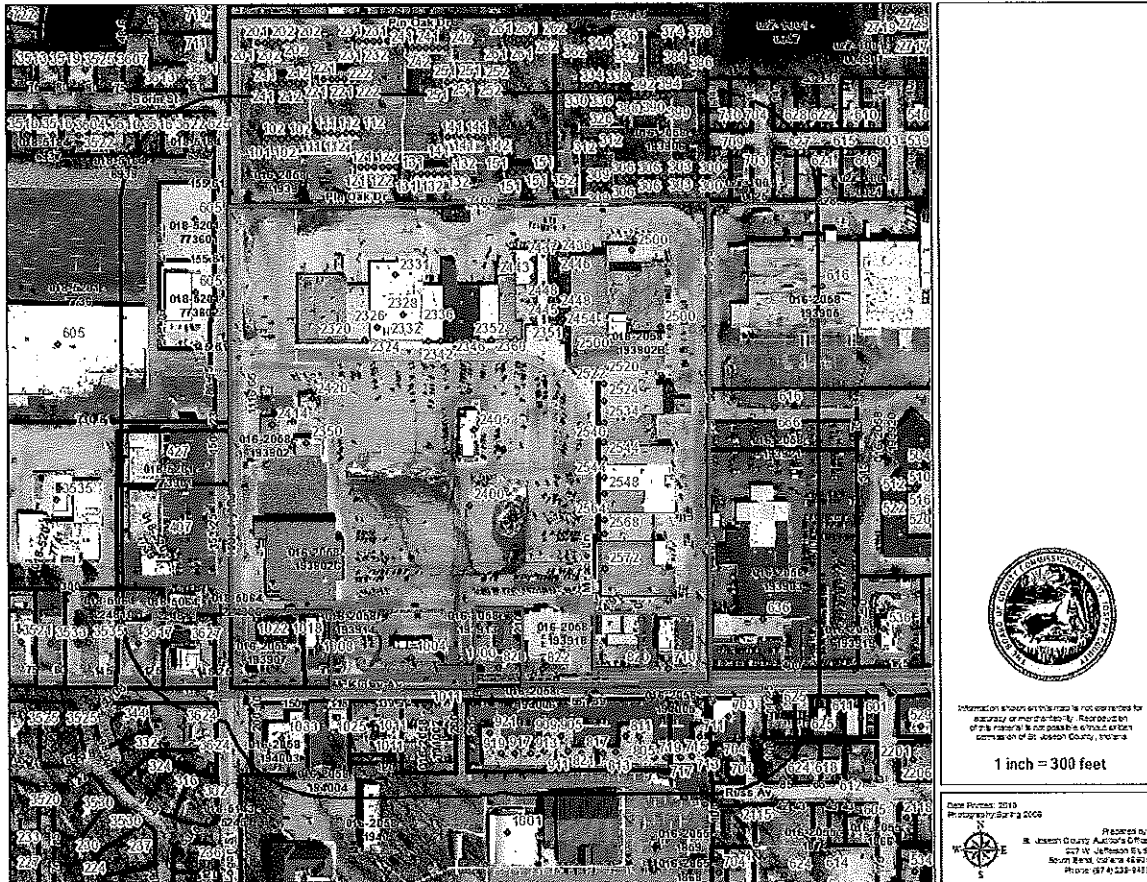
Name: Rev. Heather Ghormley (contact before June 4)
and Rev. Brad Miller (contact after June 4)

Address: 839 Woodcliff Dr., South Bend, IN 46615

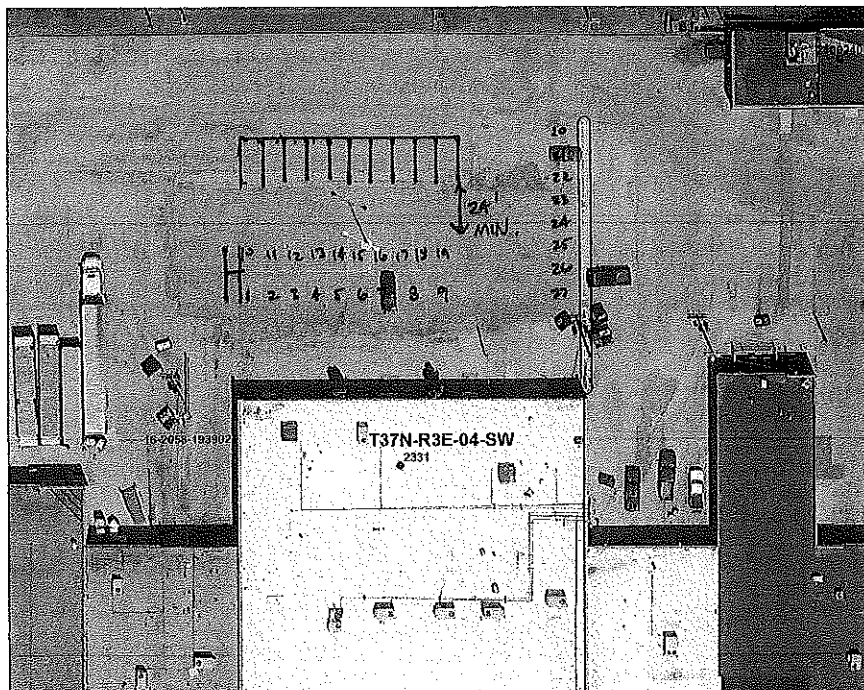
Day Phone Number: Heather- (217) 224-3898 ; Brad- (260) 452-4070

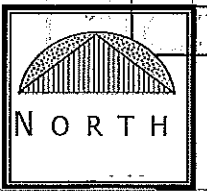
Email: heather.ghormley@gmail.com, brad.miller91@gmail.com

Ariel Photo of Town & Country Shopping Center, LP



Proposed Parking Lot

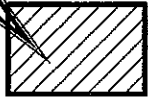




PIN OAK CIR

PIN OAK SOUTH

2331 MIRACLE



MIRACLE LN

**TOWN AND COUNTRY
SHOPPING CENTER**

HICKORY RD

W MC KINLEY AVE

Location Map

APPEAL 17-20

MCKINLEY TOWN
AND COUNTRY LP

USE VARIANCE FOR CHURCH
SIGN VARIANCE FOR ROOF SIGN
AT 2331 MIRACLE LN

JUN 15 2017

APPEAL #17-24

RESOLUTION NO. 2017-14

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:

430 South Byrkit Street, 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 **430 South Byrkit Street, Mishawaka, Indiana**, more particularly known and described as follows:

Lot 5, JRC Corporation Sub, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

The Use Variance, if approved, will permit an auto body repair shop in I-2 Heavy Industrial District subject to the following conditions:

1. Use Variance shall be limited to automotive body shop without a paint booth and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of an oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. An operating fire hydrant shall be installed or repaired within 400 feet of the building.

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 there are similar uses along Byrkit Street.
3. The need for a 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.
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-2 Heavy 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 _____, 2017, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2017,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at
_____ o'clock ____m.

David A. Wood, Mayor

Date: May 21st, 2017

To: Board of Zoning Appeals City of Mishawaka, Indiana

From: Ron Johnson

Subject: Use Variance Change



A-P 17-24

The undersigned appellant respectfully shows the Board:

1. JRC Corporation is the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit:

The property commonly known as: ~~430~~ 430 S. Byrkit St. Mishawaka, Indiana and the legal description is ~~430~~ Byrkit St. City of Mishawaka, District Penn. Property Class 340. Industrial Lt mfg. & assembly. **Parcel Number 71-09-14-301-019.000-023. Lot 5 of JRC Corporation. Instrument No. 0232551.**

2. The above described real estate presently has a zoning classification of I-2 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the described property in the following manner: Establish and Auto Body and Repair Shop (No Paint Booth).
4. Appellant desired to propose ~~to use property for an auto body and repair shop business~~ *to use property for an auto body and repair shop business*.
5. The Zoning Ordinance of the City of Mishawaka requires that a change of USE VARIANCE be proposed in order to establish a business of auto shop and repair that I want to establish.
6. The adherence of the Ordinance requirements will create a hardship because the zoning
 - (i) Will the approval be injurious to the public health, safety, morals or general welfare of the community?

No, because safe and proper equipment will be in place at the shop to avoid any problems for the community.
 - (ii) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

No, because there are other industrial type businesses in the surrounding areas already established. It could help appreciate more the value of the properties for the type of demand.
 - (iii) Does the need of the variance arise from some condition peculiar to the property involved?

Yes, because when I started doing the legal paperwork for the business, I came across the variance type of the zone, in which my line of work was not included.
 - (iv) Does the strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 31 2017

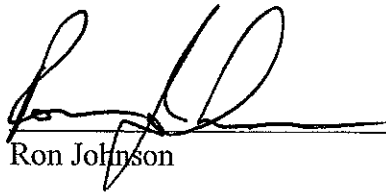
CITY CLERK
MISHAWAKA, IN

No. The requirements for the zoning Use Variance in the City of Mishawaka are to be followed.

(v) Will the approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No, it will not interfere with the Comprehensive Plan because it is not to affect the surrounding area, instead it is to support the economy of the City of Mishawaka.

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



Ron Johnson

CONTACT PERSON:

Name: Ron Johnson

Address: 16305 Southern Meadows Blvd. Mishawaka, IN 46544

Phone Number: 574-315-5580

email: R5JHN@yahoo.com

JRC Corporation
127 E Battell St
Mishawaka, IN 46545-6478
May 21, 2017

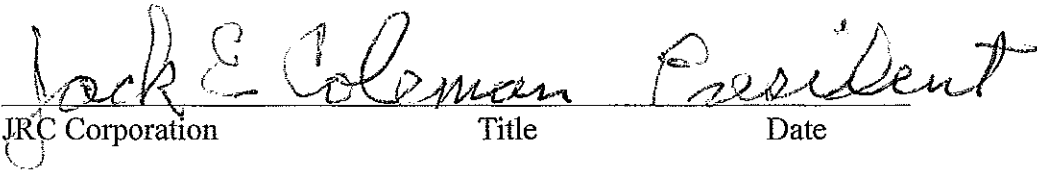
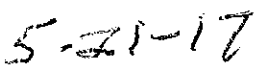
City of Mishawaka
Board of Zoning Appeals
Department of City Planning, City Hall
600 East Third Street
Mishawaka, IN 46545

City of Mishawaka:

This letter is to inform you that I give permission to Ron Johnson to authorize decisions done in my name for the change of Use Variance, and anything related to that purpose, for the building located at 432 S. Byrkit St. Mishawaka, IN 46545.

Please contact me directly at 574-360-4592 if I can be of further assistance.

Sincerely,

		
JRC Corporation	Title	Date



red line = fence

le pays
2 cars per pay



430 S BYRKIT

KEN MCINTEE

S BYRKIT AVE

Location Map

APPEAL 17-24

JRC CORPORATION (current)
RON JOHNSON (contingent)

430 S BYRKIT

USE VARIANCE FOR
AUTO BODY REPAIR SHOP

June 14, 2017

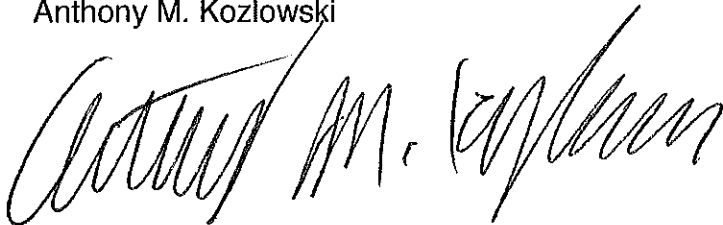
Dear Kari Myers,

My name is Anthony M. Kozlowski, and I am the owner of T. Productions, Inc., located at 504 South Byrkit. Earlier this month, I received a hearing notice (appeal no. 17-24) from the Board of Zoning Appeals. The hearing was a petition by JRC Corporation requesting a Use Variance for a neighbor, located at 430 South Byrkit Street.

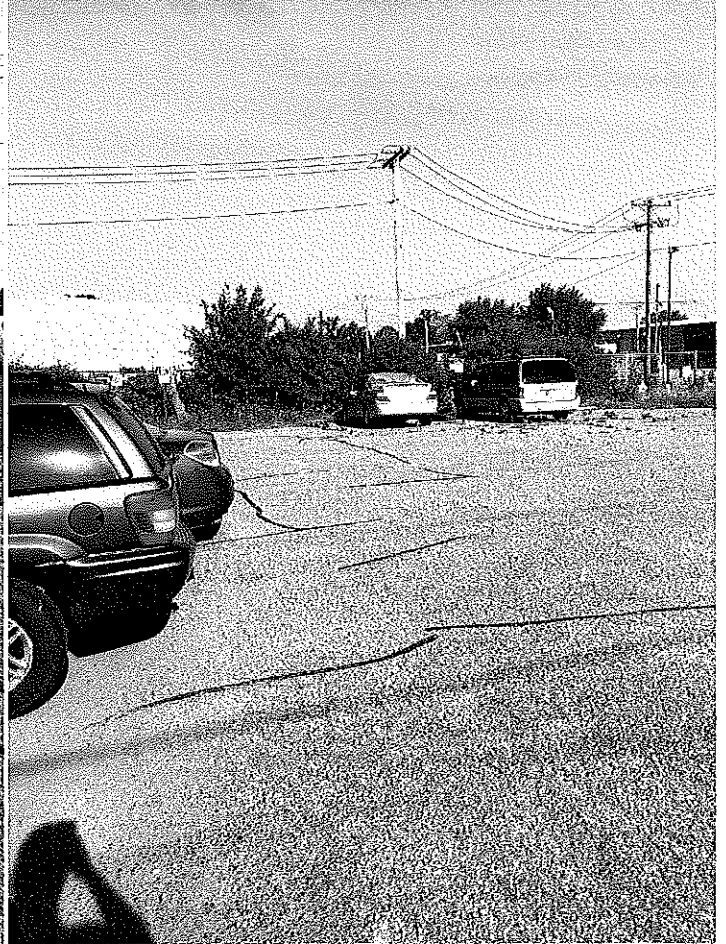
Unfortunately, I was unable to make the meeting last night. I would still like to express my concerns. I wanted to mention that T. Productions is a manufacturing company, and one of the only businesses back in this section of Byrkit, which is not an auto body repair shop. Since buying the building last year, I have had several issues with junk cars in our parking. After unanswered verbal requests to various businesses back here to move the cars, I posted signs to no avail. My opinion for the hearing is that my neighbors can expand as much as they'd like, as we are very much pro-local business, so long as my parking lot does not fill up with more junk cars. Having a business outside of the auto industry, I have a different image to maintain. These broken down cars in my parking lot reflect badly on our property.

I appreciate your time, and to recap, we don't wish to protest the zoning change, but simply to voice our concerns.

Thanks again,
Anthony M. Kozlowski

A handwritten signature in black ink, appearing to read "Anthony M. Kozlowski". The signature is fluid and cursive, with the first name "Anthony" being more prominent and the last name "Kozlowski" written in a more compact, stylized manner.







BOARD OF ZONING APPEALS CITY OF MISHAWAKA

NOTICE OF HEARING

APPEAL NO. 17-24
DATE OF HEARING Tuesday, June 13, 2017
TIME OF HEARING 6:00 P.M.

Date Notice Mailed: May 31, 2017

PLEASE TAKE NOTICE:

An appeal submitted by JRC Corporation requesting a Use Variance for **430 South Byrkit Street** to permit an auto body repair shop in I-2 Heavy Industrial zoning.
Please see back of notice for location map.

This Notice of Hearing is sent to all property owners within a 300 foot radius of the subject property. A hearing upon this petition will be held in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana, at which time you may appear in person, present in writing, be represented by agent or attorney, and present any reasons which you may have to the granting or denying of this request.

You are invited, if you wish, to prepare your case in detail, and present all evidence regarding this request at the time of the scheduled hearing.

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers
Planning Department

Please Refer Inquiries to: Mishawaka City Plan Department (574) 258-1625

Send Comments of Support or Remonstrance to:
Mishawaka City Plan Department
600 E. Third Street
Mishawaka, IN 46544
kmyers@mishawaka.in.gov
PHONE (574) 258-1625
FAX (574) 968-6999

JUN 15 2017

APPEAL #17-25

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2017- 15

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:

1927 North Cedar Street, 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 an unfavorable 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 **1927 North Cedar Street, Mishawaka, Indiana**, more particularly known and described as follows:

A PARCEL OF LAND IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 3 EAST IN THE CITY OF MISHAWAKA, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10; THENCE SOUTH 1°23'35" EAST (SAID BEARING ASSUMED AND ALL SUBSEQUENT BEARINGS RELATED THERETO) 670.38 FEET ALONG THE CENTER LINE OF MERRIFIELD STREET; THENCE SOUTH 88°36'25" WEST 20 FEET TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MERRIFIELD STREET AND THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET; THENCE ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET 234.08 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 512.46 FEET AND SUBTENDED BY A LONG CHORD 232.05 FEET IN LENGTH AND HAVING A BEARING OF SOUTH 58°00'36" WEST TO THE POINT OF BEGINNING; THENCE ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET 73.95 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 512.46 FEET AND SUBTENDED BY A LONG CHORD 73.885 FEET IN LENGTH AND HAVING A BEARING OF SOUTH 40°47'24" WEST, THENCE NORTH 52°02'36" WEST 221.15 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE GRAND TRUNK AND WESTERN RAILROAD; THENCE NORTH 27°20'41" EAST 105.445 FEET ALONG SAID EASTERLY

RIGHT-OF-WAY LINE; THENCE SOUTH 45°04'33" EAST 246.04 FEET TO THE POINT OF BEGINNING.

The Use Variance, if approved, will permit automobile repair on I-1 Light Industrial zoned property subject to the following conditions:

1. Use Variance shall be limited to automotive repair without a paint booth, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. Wellhead Protection Permit issued.

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 industrial nature of the area along Cedar Street.
3. The need for a 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 north and south.
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 given the existing auto commercial uses that are located to the south of this property along Cedar Street.

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 _____, 2017, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____ .m.

David A. Wood, Mayor

5/19/17

To: Board of Zoning Appeals, City of Mishawaka, Indiana



AP 17-25

1. I, Jim Allen, am the owner of the real estate located at 1927 North Cedar Street, in the city of Mishawaka, Penn Township, St. Joseph County, State of Indiana.
2. The above real estate presently has a zoning classification of I-1 Light Industrial District under the Zoning Ordinance of the City of Mishawaka.
3. Tenant proposes to occupy the property for an automotive repair business.
4. Tenant desires to repair vehicles on the property.
5. Automotive repair is not currently an approved business use on the I-1 Light Industrial District list, Section 137-586.
6. This ordinance would cause hardship for the owner and tenant; the owner would lose rental income on a building that has been for sale for several years with no buyer, thus leaving the building empty. The tenant has looked elsewhere for suitable property for his business, and has found the above property to be the best available for his needs.
7. (1) Approval would not be injurious to the public health, safety, morals, or general welfare of the community. The tenant is an established and reputable business that operates professionally, and business would be conducted between 8:00 am and 5:00 pm Monday through Friday. Thus, there would be no problems with off-hour noise or traffic disrupting the surrounding neighborhood.

(2) Surrounding property would not be affected in an adverse manner, the above property has sufficient room for the tenant to conduct business without encroaching on neighboring property.

(3) No, the need for the variance is not due to a condition peculiar to the property. The proposed use is not approved for the district this property is zoned, but the use should fall into the category of light industrial.

RECEIVED
DEBORAH S. BLOCK, MMC

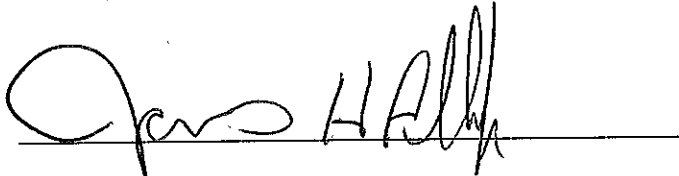
MAY 31 2017

CITY CLERK
MISHAWAKA, IN

(4) Yes, the terms of this chapter constitute and unnecessary hardship if applied to the property. Please see item 6 above.

(5) Approval would not interfere with the Mishawaka 2000 Comprehensive Plan. There are currently other automotive businesses operating in the vicinity of this property.

Wherefore, the owner respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

A handwritten signature in black ink, appearing to read "James H. Allen Jr.", is written over a horizontal line.

James H. Allen Jr., Property Owner

Contact: Jim Allen

Address: 56935 Elk Court, Elkhart, IN 46516

Phone: 574-850-2336

Fax: 574-522-6006

Email: jhallen95@gmail.com

E MC KINLEY AVE



1927 N CEDAR

N CEDAR ST

ALEX WAY

N MERRIFIELD AVE

MARGARET AVE

Location Map

APPEAL 17-25

JIM ALLEN

1927 N CEDAR

USE VARIANCE FOR
AUTOMOBILE REPAIR IN I-1



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

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

Date: May 26, 2017

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Investment of Public Funds

For the June 5th meeting I am requesting first reading of three ordinances that involve the investing of City funds. The maturity ordinance and investment policy were adopted in 2013 with four-year renewal terms. The maturity ordinance allows investments longer than two years but less than five years and the related investment policy sets forth investment objectives and parameters for the management of public funds to provide a competitive return. The third ordinance has a two-year renewal and authorizes the City of Mishawaka to invest outside of its political subdivision.

Please contact me with any questions.

c: David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK MMC

MAY 26 2017

CITY CLERK
MISHAWAKA, IN

MAY 26 2017

CITY CLERK
MISHAWAKA, IN

1st Reading 6-5-17
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2017-21

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA,
AUTHORIZING AN INVESTMENT POLICY

INVESTMENT POLICY
CITY OF MISHAWAKA

Section 1.

I. Purpose

The purpose of this investment policy (the "Policy") is to set forth the investment objectives and parameters for the management of public funds of the City of Mishawaka (the "City"). This investment policy is designed to safeguard funds on behalf of the City, to assure the availability of funds when needed, and provide a competitive investment return.

II. Scope

This policy applies to the investment of all funds of the City including but not limited to, the general fund, special revenue funds, debt service funds, project funds and trust and agency funds.

The City may consolidate fund balances to increase investment earnings and to increase efficiencies with regard to investment pricing, banking fees and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

III. General Objectives

The primary objectives, in priority order, of investment activities shall be safety, liquidity, and return:

1. Safety

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital. The objective will be to minimize credit risk and interest rate risk.

a. Credit Risk - The City will minimize credit risk, which is the risk of loss due to the failure of the security issuer or backer, by limiting investments to the types of securities listed in Section VI of this Investment Policy.

b. Interest Rate Risk - The City will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities prior to maturity.

2. Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands. Furthermore, since all possible cash demands cannot be anticipated, a portion of the portfolio may be placed in money market mutual funds or government investment pools which offer same day liquidity for short-term funds.

3. Yield

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

IV. Standards of Care

1. Delegation of Authority

The City Controller, hereinafter referred to as the Investment Officer, shall be responsible to oversee the day-to-day management of the City's investments pursuant to Indiana Code 36-4-10-4.5. Should the City elect to select an outside investment advisor, such advisor or firm must be registered under the Investment Advisor's Act of 1940.

2. Prudence

The standard of prudence to be used by the Investment Officer shall be the "prudent person" standard and shall be applied in the context of managing all funds of the City. The "prudent person" standard states that, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

3. Ethics and Conflicts of Interest

The Investment Officer and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. The Investment Officer and employees shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio.

V. Authorized Financial Institutions and Broker/Dealers

1. Authorized Financial Institutions and Broker/Dealers

A list will be maintained of local financial institutions that are approved depositories for the receipt of public funds according to the State Board for Depositories. The City may pass a resolution pursuant to IC 5-13-9-5 expanding the list of approved financial institutions to include all Indiana depositories approved for the receipt of public funds according to the Indiana State Board for Depositories.

In addition, the City will only use broker/dealers that meet the following requirements:

- Primary dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule);
- Capital of no less than \$10,000,000;
- Registered as a dealer under the Securities Exchange Act of 1934;

- A member of the National Association of Securities Dealers (NASD);
- Proof of state registration

VI. Suitable and Authorized Investments

Consistent with Indiana Code 5-13-9, the following investments will be permitted by this Policy:

- (1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:
 - (A) The United States Treasury.
 - (B) A federal agency.
 - (C) A federal instrumentality.
 - (D) A federal government sponsored enterprise.
- (2) Securities fully guaranteed and issued by any of the following:
 - (A) A federal agency.
 - (B) A federal instrumentality.
 - (C) A federal government sponsored enterprise.
- (3) Municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the twenty (20) years preceding the date of the purchase in accordance with IC 5-13-9.2.
- (4) Money market mutual funds rated AAAm, or its equivalent, by Standard and Poor's Corporation or Aaa, or its equivalent, by Moody's Investors Service, Inc. in accordance with IC 5-13-9-2.5.
- (5) Repurchase agreements in accordance with IC 5-13-9-3
- (6) Transaction accounts, certificates of deposit and deposit accounts issued or offered by a designated depository of the City's political subdivision. The investing officer making a deposit in a certificate of deposit shall obtain quotes from each designated depository in accordance with IC 5-13-9-4.
- (7) Certificates of deposit authorized by a resolution of the City in accordance with IC 5-13-9-5 and 5-13-9-5.3.
- (8) Local government investment pools in accordance with IC 5-13-9-11.

Consistent with Indiana Code 36-1-7, the City may pass a resolution to enter into interlocal cooperation agreements for the joint exercise of powers, including the investment of public funds.

VII. Investment Parameters

1. Maximum Maturities

The City's investments must have a stated final maturity of not more than two years pursuant to IC 5-13-9-5.6. Because of inherent difficulties in accurately forecasting cash flow requirements, a portion of the portfolio should be continuously invested in readily available funds such as local government investment

pools, money market funds, or overnight repurchase agreements to ensure that appropriate liquidity is maintained to meet ongoing obligations.

The City may adopt an ordinance, pursuant to IC 5-13-9-5.7, authorizing its Investment Officer to make investments having a stated final maturity that is more than two (2) years but not more than five (5) years after the date of purchase. The total investments of the City with maturities of two (2) to five (5) years outstanding at the time of purchase may not exceed twenty-five percent (25%) of its total portfolio of public funds invested, including balances in transaction accounts. Such ordinance expires on the date on which this Policy expires, which may not exceed four (4) years.

2. Competitive Bids

The Investment Officer or its designee shall obtain competitive bids for investment with financial institutions in accordance with IC 5-13-9-4. The Investment Officer or its designee shall obtain bids from at least two brokers or financial institutions on all purchases of investment instruments on the secondary market. Overnight sweep investment instruments shall not be subject to this section.

VIII. Policy Considerations

1. Adoption and Expiration

This Policy shall be adopted by the City at a public meeting and shall expire four (4) years from the date of adoption in accordance with IC 5-13-9-5.7.

2. Exemption

Any investment currently held that does not meet the guidelines of this policy shall be exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

3. Amendments

This policy shall be reviewed periodically. Any changes must be approved by the Investment Officer and any other appropriate authority.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2017 at _____ o'clock, _____.M.

Ross Deal, 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 _____, 2017 at _____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2017 at

_____ o'clock, _____.M.

David A. Wood, Mayor

1st Reading 6-5-17
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 26 2017

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2017-22

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5 AND 5-13-9-5.3**

Whereas, the City of Mishawaka (the "City") desires pursuant to IC 5-13-9-5 to allow banks outside the political subdivision to submit quotes on public funds certificates of deposit for the purpose of investing its operating and utility funds;

Section 1. Now, therefore, pursuant to IC 5-13-9-5, the Common Council of the City of Mishawaka hereby authorizes the investing officer of the City to invest in certificates of deposit of depositories that have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. This authorization expires two (2) years after the adoption date.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2017 at _____ o'clock, _____.M.

Ross Deal, 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 _____, 2017 at _____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2017 at

o'clock, _____.M.

David A. Wood, Mayor

1st Reading 6-5-17
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 26 2017

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2017-23

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS
PURSUANT TO IC 5-13-9-5.7**

Whereas, the City of Mishawaka (the "City") desires to allow the investment of public funds of the City for more than two (2) years and not more than five (5) years;

Section 1. Now, therefore, pursuant to IC 5-13-9-5.7, the Common Council of the City of Mishawaka hereby authorizes the investing officer to make investments having a stated final maturity that is more than two (2) years, but not more than five (5) years after the date of purchase under the following circumstances:

- (a) The fiscal body of the City shall first adopt an investment policy authorizing the investment of public funds of the City for more than two (2) years and not more than five (5) years in accordance with IC 5-13-9-5.7(a) and (b).
- (b) This ordinance and the power to make an investment having a stated final maturity that is more than two (2) years, but not more than five (5) years after the date of purchase expire on the date on which the investment policy expires, which may not exceed four (4) years.
- (c) At the time an investment of public funds of the City is made having a stated final maturity that is more than two (2) years, but not more than five (5) years, the total of such investments of the City may not exceed twenty-five percent (25%) of the total portfolio of public funds invested by the City, including balances in transaction accounts.
- (d) An investing officer may contract with a federally regulated investment advisor or other institutional money manager to make such investments.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

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

On this _____ day of _____, 2017 at _____ o'clock, _____.M.

Ross Deal, 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 _____, 2017 at _____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2017 at
_____ o'clock, _____.M.

David A. Wood, Mayor