

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 17, 2010

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 17, 2010 at 7:00 p.m. The meeting was called to order by President Emmons, and all were asked to stand for the Pledge of Allegiance.

Clerk Block's roll call showed the following;

Dale "Woody" Emmons 1st District Councilman – (President) Present

Dave Wood 2nd District Councilman – Present

Ross Deal 3rd District Councilman - Present

Marsha McClure 4th District Councilman - Absent

Michael Compton 5th District Councilman - Present

Ronald Banicki 6th District Councilman – Present

John Gleissner, Councilman At Large – (Vice President) Present

Gregg Hixenbaugh, Councilman At Large – Present

John J. Roggeman, Councilman at Large – Present

A quorum was obtained.

Others present; Deborah S. Block, City Clerk; Mary Ellen Hazen Chief Deputy I and Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel.

Clerk Block read a letter from the Board of Zoning Appeals regarding recommendations from their May 11, 2010 meeting.

APPEAL NO. 2010-15 An appeal submitted by Ironwood Enterprises, LLC requesting a Use Variance for 301 East Day Road to permit temporary TOMO an PET imaging trailers to be located on the property.
RECOMMENDED APPROVAL

APPEAL NO. 2010-16 An appeal submitted by Gates Automotive Group on behalf of University Park Mall LLD requesting a Use Variance for 6501 Grape Road, to permit off-site Used Car Sales for ten (10) days in June and ten (10) days in June and (10) days in August, with temporary signage including banners and cold air balloons, and a mobile office facility for business transactions and securing of valuables. **RECOMMENDED APPROVAL** with the following conditions:

USES:

The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in August, 2010.

SITE PLAN:

A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets, balloons, temporary lighting, and other related temporary improvements subject to staff review and approval. Written approval of the site plan/layout shall be required from University Park Mall, LLC.

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

Access to the event use shall be through existing mall entrances. Additional restrictions may be requested by the City of Mishawaka the Director of Engineering as deemed appropriate as part of the review of a site plan/layout. The City of Mishawaka Police Department may also request any modifications to layout, parking, access, or attention devices during the event if it is deemed problematic to through traffic, or any safety issue is identified.

SETBACK

All tents, display/parking areas, portable toilets and large inflatable balloons shall be setback a minimum of 25 feet from any road right-of-way and 10 feet from any internal access drive.

SIGNAGE/ATTENTION DEVICES:

A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of two (2) temporary signs no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. A maximum of one (1) inflatable air balloon may be located on the site provided it is secured to the ground. All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also be permitted as necessary provided they are not visible from surrounding major roadways.

APPEAL NO. 10-17 An appeal submitted by Gates Automotive Group requesting a Use Variance for 636 West McKinley Avenue, to permit three (3) temporary trailers for office use during the renovation of the Gates dealership building. **RECOMMENDED APPROVAL.**

Clerk Block read a letter from the Board of Zoning Appeals regarding recommendations from their May 11, 2010 meeting.

PETITION NO. 2010-07 A petition submitted by David Talos requesting to rezone 514 West Marion Street, from I-1 Light Industrial District to R-1 single Family Residential District .**RECOMMENDED APPROVAL**

PETITION NO. 2010-08

A petition submitted by David Talos and Douglas and Gail McDonald requesting to vacate the north/south alley located between 514 West Marion Street and 512 West Marion Street
RECOMMENDED APPROVAL

The following proposed ordinances were given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2010-15

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

(Rezone from I-1 Light Industrial to R-1 Single Family – 514 W. Marion Street)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2010-16

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’

(Vacation of Public Right of Way – Alley East of 514 W. Marion Street)

Assigned to Land Use Planning Committee

erk Block read **RESOLUTION NO. R2010-13** opening it for public hearing.

RESOLUTION NO. R2010-13

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

301 East Day Road, Mishawaka, Indiana

(Use Variance for temporary TOMO/PET Imaging Trailers 301 E. Day Road)

Mark Reinhard Engineering Resources, Inc. 9835 Auburn Road, Fort Wayne, said he was representing Ryan Rans in his request for 3 variances for temporary trailers housing the Cancer Care Partners TOMO/PET imagining while they renovate the building at 301 East Day Road. He said the mobile units would be located on the east side of the building and not seen from the road and none of the property line neighbors have a problem with this temporary set up.

Mr. Compton asked if there would be two trailers. Mr. Reinhard said, yes. Mr. Compton asked if there would be a walkway/pathway built for patients coming in and out during the construction process. Mr. Reinhard said there would be a walkway with an awning.

Question was called for at 7:07 p.m. on **RESOLUTION NO. R2010-13** with the vote being 8 to 0 in favor.

Clerk Block read **RESOLUTION NO. R2010-14** opening it for public hearing.

RESOLUTION NO. R2010-14

**A RESOLLUTON OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOATED AT:**

6501 Grape Road, Mishawaka, Indiana

(Use Variance to allow off-site vehicle sales 6501 Grape Road (UP Mall))

Client Emberton, GSM, Gates Automotive Group 636 W. McKinley Avenue, said they were requesting a Use Variance for the parking lot at the farthest north point at University Park Mall. He said they have sought and received approval to use this property and have worked out the traffic flow pattern with JC Penny. Mr. Emberton passed out the site plan of the parking lot to the Council and Clerk; he went on to explain the temporary sales for 10 days in June and 10 days in August.

Question was called for at 7:13 p.m. on **RESOLUTION NO. R2010-14** with the vote being 8 to 0 in favor.

Clerk Block read **RESOLUTION NO. R2010-15** opening it for public hearing.

RESOLUTION NO. R2010-15

**A RESOLLUTON OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOATED AT:**

636 West McKinley Avenue, Mishawaka, Indiana

(Use Variance to allow temporary Sale Trailers at 636 W. McKinley Avenue)

Client Emberton, GSM, Gates Automotive Group 636 W. McKinley Avenue, said they were requesting a Use Variance for 3 temporary office facilities to be used at the McKinley location while the car dealership building was being remodeled. He said they would be using Majority Builders a local contractor. Mr. Emberton stated this project would take approximately four months.

Mr. Banicki asked where exactly these trailers would be placed, would it be behind where the used cars are located now. Mr. Emberton said it would be at the far end of that lot where the chain link fence divides the property from the secured service parking and they would sit against that rear fence. Mr. Banicki expressed his concern about the traffic problems of getting in and out onto McKinley. Mr. Emberton said this would have no impact on the entrance or exit to McKinley Avenue.

Mr. Compton stated he would not be voting in favor of this resolution because of their choice of contractors, who has a long tradition of not paying the standard wages and benefits that have been established in this community for construction workers. He said with Majority Builders being the contractor no one working on that site would be making the established rate, although he does commend them for using a local contractor he would not be able to support this because of Majority Builder's practices.

Question was called for at 7:20 p.m. on **RESOLUTION NO. R2010-15** with the vote being 7 to 1 in favor with Mr. Compton voting No.

Mr. Deal wanted to remind everyone of his neighborhood meeting at Twin Branch pavilion May 19th at 7:00 p.m.

Mr. Emmons said his meeting was on May 20th at St. Bavo School at 7:00 p.m.

There being no further business to come before the Council, President Emmons adjourned the meeting at 7:25 p.m.

Deborah S. Block /s/

Deborah S. Block, City Clerk

Dale "Woody" Emmons /s/

Dale "Woody" Emmons, President Presiding Officer