

AGENDA

April 2, 2012

**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**

Minutes from March 19, 2012 (Page 3)

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

Appeal No. 2012-09 - Use Variance to allow a duplex - 201 & 203 Indiana (Page 13)

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**
- 8. Resolutions**
- 9. Ordinances on Second Reading**

P.O. No. 2012-02 - Mishawaka ADA Self Evaluation and Transition Plan American with Disabilities Act (Assigned to Public Health and Safety Committee) (Page 16)

P. O. No. 2012-03 - Rezone from R-1 to C-6 for a Commercial Office Building – SE corner of Jefferson Blvd. and Main St. (Assigned to Land Use Planning Committee) **Petitioner Requesting Postponement until April 16th** (Page 18)

P. O. No. 2012-04 - Vacate Right of Ways in the area of E. Jefferson and N. Main St. The first east/west alley south of Jefferson Blvd and a portion of Stanley Street. (Assigned to Land Use Planning Committee) (Page 29)

P. O. No. 2012-05 - Rezone from C-1 Commercial to R-1 Residential - 2321 N Main Street (Assigned to Land Use Planning Committee) (Page 36)

P. O. No. 2012-06 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #1 (No Vote) (Page 43)

P. O. No. 2012-07 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #2 (No Vote) (Page 53)

P. O. No. 2012-08 - Annex and Zone PUD - North side of Douglas Rd., East of Fir Rd. - Annexation #3 NO VOTE (Page 63)

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

13. Adjournment

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
March 19, 2012

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 March 19, 2012 at 7:00 p.m. The meeting was called to order by President John Roggeman, and all were asked to stand for the Pledge of Allegiance.

City Clerk Debbie Block's roll call showed the following:

Dale "Woody" Emmons 1st District Councilman – Absent

Mike Bellovich 2nd District Councilman – Present

John Reisdorf 3rd District Councilman – Present

Marsha McClure 4th District Councilman – Present

Michael Compton 5th District Councilman – Present

Ronald Banicki 6th District Councilman – Present

John Roggeman Councilman At Large – Present

Matt Mammolenti, Councilman At Large – Present

Dan Bilancio, Councilman at Large – Present

A quorum was obtained.

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

The minutes from the March 5, 2012 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals regarding their Recommendations from their March 13, 2012 public hearing.

APPEAL NO. 2012-05 An appeal submitted by Gates Automotive Group on behalf of University Park Mall LLC requesting a Use Variance for 6501 Grape Road, to permit three (3) separate off-site Used Car Sales as follows: ten (10) days in May, ten (10) days in June, and ten (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 May, June, and August of 2012 as presented.

SITE PLAN: A site plan/layout shall be submitted identifying the location of display areas, visitor parking, tents portable toilets 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.

SETBACKS: 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 foot by 8 foot shall be permitted on Grape Road. A maximum of two temporary signs shall be permitted along State Road 23. ***NO INFLATABLE AIR BALLOONS SHALL BE PERMITTED.*** 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. 2012-06 An appeal submitted by CCC Real Estate Holdings Co. LLC and Barbara Van Damme, contingent purchaser, requesting a Use Variance for 429 West Eighth Street to permit a bakery and residential unit in a C-1 General Commercial District.

RECOMMENDED APPROVAL with the following conditions.

1. Temporary signs and banners are prohibited from being displayed on the outside, interior window signage shall be limited to one sign, taking up no more the 25% of the window pane, per street-side façade.
2. Occupants of the upstairs apartment shall park in the two stall garage.
3. Closing hour for the bakery shall be 5: 00 p.m.
4. Any change of use in the future for this site would require approval of a Use Variance.

Clerk Block read a letter from the Plan Commission regarding their Recommendations from their March 13, 2012 public hearing.

PETITION NO. 2011-28 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 16.23 acres on the north side of Douglas Road, east of Fir Road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts.

RECOMMENDED APPROVAL

PETITION NO. 2011-29 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 77.11 acres on the north side of Douglas Road, east of Fir Road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses

identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented, C-8 High Density Suburban Commercial, and C-6 Linear Office commercial districts.

RECOMMENDED APPROVAL

PETITION NO. 2011-30 A petition submitted by Larry J. and Becky L. Penn requesting to annex and zone 156.28 acres on the north side of Douglas Road, east of Fir road to S-2 Planned Unit Development to allow for the construction of a mixed use commercial and residential development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office commercial, and R-1 single Family Residential districts. **RECOMMENDED APPROVAL** Petition 2011-28-29- and 30 were all subject to the following conditions.

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall

be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:

- a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.

6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

PETITION NO. 2012-04 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to rezone the southeast corner of Jefferson Boulevard and Main Street from R-1 Single Family Residential to C-6 Linear Office Commercial District.
RECOMMENDED APPROVAL

PETITION NO. 2012-05 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to vacate the first east/west alley south of Jefferson Boulevard and a 55 feet deep by 50 feet wide portion of Stanley Street.
RECOMMENDED APPROVAL

PETITION NO. 2012-06 A petition submitted by the City of Mishawaka Redevelopment Commission requesting to rezone 2321 North Main Street from C-1 General Commercial District to R-1 Single Family Residential District.
RECOMMENDED APPROVAL

Clerk Block read **Vacation 2012-01** opening it for public hearing, as required by State Statute. Vacation of the City of Mishawaka Redevelopment Commission Vacate Right of Way's in the area of East Jefferson and North Main Street – The first east/west alley south of Jefferson Boulevard and a portion of Jefferson Stanley Street.

President Roggeman said this would be a public hearing on the vacation of these rights of way, and there would be no vote at this time.

Ken Prince City Planner said this vacation both for the alley and the street are residual right of way left when they put in the Main Street Underpass. He said when requiring property for the underpass they tried to acquire enough property to alleviate any dead end roads, which is why Stanley Street has a curve that angles back out to Jefferson.

Mr. Compton said he was asked from the neighbors what was going to happen here, and would it be possible for them to purchase the property for green space. Mr. Prince said yes but the administration would prefer a long term appropriate use of the property, the zoning would be a C-6, which would allow for a residential or office use.

Mr. Compton said he understands and he too would like to see it put back on the tax rolls. Mr. Prince said they could walk the property and get a better prospective. Mr. Compton agreed

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

PROPOSED ORDINANCE NO. 2012-03

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

(Rezone from R-1 to C-6 for a Commercial Office Building –
SE corner of Jefferson Blvd and Main Street)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-04

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

(Vacate Right Of Way in the area of E. Jefferson and N. Main Street. The first east/west alley south of
Jefferson Blvd and portion of Stanley Street)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-05

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

(Rezone from C-1 Commercial to R-1 Residential 2321 N Main Street)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-06

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CALSSIFICATION THEREFORE**

(Annex and Zone PUD – north side of Douglas Rd, East of Fir Road Annexation #1)
Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-07

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION THEREFORE

(Annex and Zone PUD – north side of Douglas Rd, East of Fir Road Annexation #2)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-08

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION THEREFORE

(Annex and Zone PUD – north side of Douglas Rd, East of Fir Road Annexation #3)

Assigned to Land Use Planning Committee

Clerk Block read **RESOLUTION NO. R2012-07** opening it for public hearing.

RESOLUTION NO. 2012-07

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

6501 Grape Road, Mishawaka, Indiana

(Use Variance to allow off-site car sells events – 6501 Grape Rd UP Mall Gates Automotive Group)

Clint Emberton 714 Dice Court South Bend, General Sales Manager for Gates Automotive Group said he submits this resolution on behalf of Simon Properties which was also known as Simon Mall and University Park Mall. He said they were requesting a Use Variance for the parking lot at the furthest north point of University Park Mall due north of what was currently known as JC Penny to the outmost boundaries to the West, which was roughly State Road 23 and East to Grape Road. Mr. Emberton stated they have sought and received written consent from Simon Properties to use this site. He went on to say similar requests were granted to them in 2010 and 2011, and realize they have to satisfy five specific findings of fact for this Variance request and they were willing to comply with that.

Mr. Banicki complemented them on the last couple of years they have run a very professional event and also do a great job at their location on McKinley Avenue. He said he would be supporting this request because of the way they conduct business.

Mr. Roggeman said there were several conditions attached to the variance and asked if they were agreeable to all of those. Mr. Emberton said they were.

Call for the question at 7:29 p.m. on **RESOLUTION NO. R2012-07** **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Clerk Block read **RESOLUTION NO. 2012-08** opening it for public hearing.

RESOLUTION NO. 2012-08

**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:**

429 West Eighth Street, Mishawaka, Indiana

(Use Variance to allow a Bakery and Residential Unit in a C-1 Zoning District)

Barbara Van Damme 829 East 3rd Street along with her husband Steven and son Elliot were asking for consideration of the Council, to approve this Use Variance. She said the purchase of this property was contingent on their approval. Ms. Van Damme said there were some concerns in the neighborhood with the West end bakery only a block away. She said they would not be carrying any products the west end bakery would be offering, their cakes would be liquor cakes ordered on line and shipped out. Ms. Van Damme said they also had a line of products using local and seasonal fruits that would all be on line ordering with local delivery, there would be little to no traffic coming and going from their location. She said as far as the apartment upstairs there was a two stall garage with a very short driveway so they would put in the lease the person leasing the apartment would have to park in the garage.

Mr. Banicki asked if the old Case Printing bldg. was vacant presently and has been used as a commercial business on the first floor with an apartment up. Ms. Van Damme said yes. Mr. Banicki asked if they would be making improvements to the outside of the building. Ms. Van Damme said yes definitely.

Mr. Roggeman said on of the conditions were closing time at 5 p.m. would that be workable. Ms. Van Damme yes she said they really don't anticipate traffic coming and going, maybe an appointment regarding an event which they could schedule during the day.

Mr. Roggeman asked how soon they would be opening for business. Ms. Van Damme said their target day was 1st of July.

Call or the question at 7:37 p.m. on **RESOLUTION NO. 2012-08** Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

NEW BUSINESS

Mr. Banicki said he and Mr. Compton would be having a neighborhood meeting on Wednesday March 21, at 7:00 p.m. He said they would be speaking on the improvements to Main Street in the up coming months. He said also a reminder that on Saturday March 31st at 11:00 A.M. at Battell Park Mishawaka Kiwanis would be having their annual Easter Egg Hunt for Pre School and Kindergarten age children.

Mr. Mammolenti said as a reminder a Public Health and Safety meeting would be held on Tuesday March 27th, at 6:00 p.m. to discuss the Americans with Disabilities Act.

President Roggeman asked the three students in the audience to introduce themselves and what class they were from. They stated they were from Bethel College assigned to attend a government meeting.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:40 p.m.

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

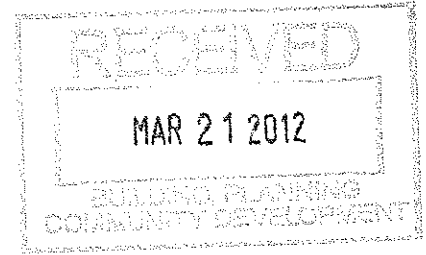
☐ ☐ John J. Roggeman _____/s/
John J. Roggeman
Presiding Officer

To: Board of Zoning Appeals
Department of City Planning
City Hall, 600 East Third Street
Room 201
Mishawaka, IN

From: South Bend Real Estate 4 LLC
Dan Estes, member
2917 Mishawaka Avenue
South Bend, IN 46615
1-574-232-2313 (office)
1-866-748-5005 (fax)
apamichiana@gmail.com (email)

Date: 21 March 2012

Subject: Use Variance for 201 and 203 Indiana



AP 12-09



MAR 28 2012

CITY CLERK
MISHAWAKA, IN

To Whom It May Concern:

The property commonly known as 201 and 203 Indiana was originally designed and built as a duplex. The rooms in both addresses are a mirror copy of each other and the basement is split. Sometime between the time the property was built and now, there has been a zoning modification and this built duplex does not meet the current R-1 zoning. And, since the property has been vacant for over six (6) months it is no longer grand fathered making the current duplex in violation of Section 137-165 (permitted usage).

South Bend Real Estate 4 LLC purchased this property on 24 February 2012. Prior to purchasing this property, we had talked with the City of Mishawaka Code Enforcement group on multiple occasions to discuss with them issues associated with this property and to discuss our plan to remedy. Additionally, prior to purchasing this property we obtained a building permit from the Building Department to re-hab this property.

If during any of these conversations or prior to obtaining our building permit, had Code Enforcement or the Building Department informed us there were any issues with zoning we would not have purchased the property or required the seller to obtain a use variance prior to our purchase.

However, we have purchased the property and are respectfully requesting a R-1 use variance to match the property's as built duplex design so that the work in our approved building permit may be completed.

1. Property Information:

Property Address	Legal Descripton	Township
201 and 203 Indiana Mishawaka, IN 46544	Lot 5 J J Engeldrums 1st	Penn Township

Tax ID
016-1037-1586

2. The strict adherence to the Ordinance will create an unusual hardship in that it will cost my company about \$50,000. I have an agreement with South Bend Real Estate 4 LLC that any monies that my company may earn are directly tied to rent income, overall costs and time.

This property as a duplex will rent for \$1500 - \$1600 per month. However as a single family residence it will likely rent for under \$1,000. This difference in rent along with the other performance measures will cost my company about \$50,000 in losses and unrealized potential income used to keep my company solvent.

3. This property was originally designed and built as a duplex and as such its restoration to this type of property will not be injurious to the public health, safety, morals or general welfare of the community? In fact restoration to its original design, will add back to the original character of the neighborhood.

4. Since the variance is to restore the property back to its original design, the value of the surrounding properties will not be negatively effected. In fact, the property values will be increased because this property will no longer be an eye sore or a safety concern.

5. As to whether granting this variance will substantially interfere with the Mishawaka 2000 Comprehensive Plan I don't think so. What I can say is that I live in an area where many properties have been tore down and rebuilt. The term for these new properties are McMansions.

The Village Council has admitted that when they created their vision that they underestimated the amount of neighborhood character that would be lost by not maintaining designs consistent with the original property usage.

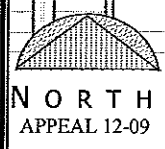
Again, I'm unsure if restoring this property to its original as built design will interfere with the Comprehensive Plan but I do know that it will restore part of the original character of the neighborhood. I hope this positive neighborhood contribution more then outweighs any potential plan interference.

Thank you in advance for your considering this variance to restore 201 and 203 Indiana to its originally designed and as built usage.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Estes", followed by the word "member" written in a cursive script.

Dan Estes, member
South Bend Real Estate 4 LLC



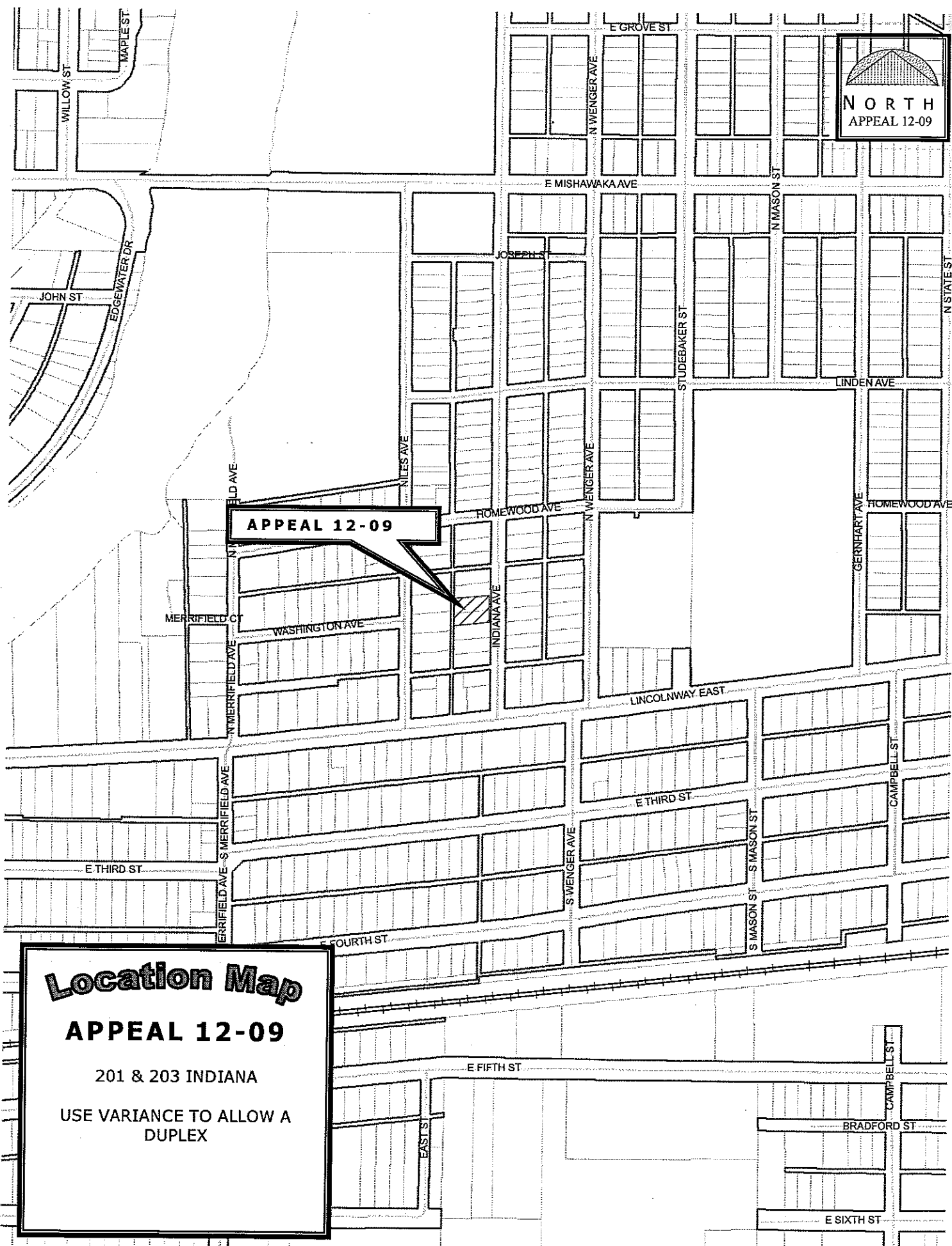
APPEAL 12-09

Location Map

APPEAL 12-09

201 & 203 INDIANA

USE VARIANCE TO ALLOW A
DUPLEX



PROPOSED ORDINANCE NO. 2012 - 02

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA ADOPTING THE AMERICANS WITH
DISABILITIES ACT SELF-EVALUATION AND TRANSITION PLAN**

WHEREAS, The Americans with Disabilities Act of 1990 (ADA), enacted on July 26, 1990, is a Federal civil rights statute, under the jurisdiction of the United States Department of Justice (DOJ), which provides civil rights protection to qualified individuals with disabilities in the areas of employment, public accommodations, state and local government services, transportation, and telecommunications. The law states its purpose is “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities”, and

WHEREAS, the City of Mishawaka has completed a self-evaluation of all City facilities outside of the public right-of-way (ROW) and has prepared a Self-Evaluation and Transition Plan outlining the necessary steps to be fully compliant with the requirements of Title II of the ADA. A separate self-evaluation and transition plan will be developed in 2012 for City facilities within the public ROW, and

WHEREAS, in addition to City facilities, the self-evaluation reviewed existing City policies and procedures within each department, followed by interviews to better understand the responses and operation of each department including ADA specific training of employees, past interaction and accommodation of persons with disabilities, review of publications produced by each department, and staff suggestions to help them accommodate persons with disabilities, and

WHEREAS, it is the goal of the City to make facilities for all services, programs and activities fully accessible within 30 years, though this will be largely dependent on a number of economic factors and future changes to the ADA Accessibility Guidelines (ADAAG) or other unforeseen requirements that would necessitate additional improvements to City facilities. The City has committed to provide training for staff on the requirements of the ADA and make accommodations for employees with disabilities, many of which can be done without costly architectural renovations.

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

Section 1. The City will strive to ensure that all residents and visitors are able to access all services, programs and activities and will promptly investigate any formal grievance filed according to the grievance procedures outlined, and the City will strive to include annual budgetary allotments to make required improvements eventually making the various facilities fully accessible, with emphasis given to the improvements that most impact the ability of persons with disabilities to access facilities or programs. Where access cannot be provided, alternate means to provide the same opportunities to persons with disabilities will be provided.

Section 2. The entire text of the City of Mishawaka, Indiana Americans with Disabilities Act Self-Evaluation and Transition Plan shall be adopted as Exhibit "A" to this ordinance and a complete copy of the Plan shall be made available for inspection in the Office of City Clerk."

Section 3. This ordinance shall be in full force and effect from and after its passage and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this ____ day of _____, 2012, at ____ o' clock, ____ .M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2012, at ____ o'clock, ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2012, at ____ o'clock, ____ .M.

David A. Wood, Mayor

PETITION 12-04

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-03

ORDINANCE NO. _____

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

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

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:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTERLINE INTERSECTION OF MAIN STREET AND JEFFERSON BOULEVARD; THENCE EAST ALONG THE CENTERLINE OF JEFFERSON BLVD. A DISTANCE OF 76.55 FEET MORE OR LESS; THENCE S 00°00'34" E A DISTANCE OF 41.58 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE S. 44°45'20" W. A DISTANCE OF 23.89 FEET MORE OR LESS; THENCE S. 00°01'34" E. A DISTANCE OF 269.00 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 55.17 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 26.02 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 4.35 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 103.00 FEET MORE OR LESS; THENCE N. 08°52'10" E. A DISTANCE OF 56.52 FEET MORE OR LESS; THENCE N. 06°22'54" E. A DISTANCE OF 45.15 FEET MORE OR LESS; THENCE NORTH 44.18 FEET MORE OR LESS; THENCE N. 46°51'36" W. A DISTANCE OF 17.63 FEET MORE OR LESS; THENCE WEST 34.99 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 0.37 ACRES MORE OR LESS.

COMMON ADDRESS: Southeast Corner of Jefferson Boulevard and Main Street

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as C-6 Linear Office Commercial District and designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: _____

Ordinance No: _____

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

1. Given the property's close proximity R-1 zoned property, the C-6 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development or light office uses.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-6 Linear Office use.
3. Because the parcel is located adjacent to residential properties and along a heavily traveled corridor, the C-6 zoning classification would be compatible or desirable. The rezoning to C-6 Linear Office is a desirable use for this property;
4. C-6 Linear Office classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by providing a sensible buffer between the heavily traveled Main Street and the residential properties to the east.
5. The proposed C-6 Linear Office Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Main Street, and the existing residential uses located within the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

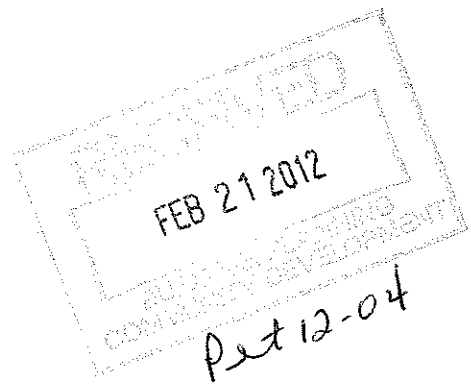
APPROVED by me this _____ day of _____, 2012, at _____
_____o'clock _____.M.

David A. Wood, Mayor

Date: February 8, 2012

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

RE: Mishawaka Redevelopment Commission
Petition for Rezoning:



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:

LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST QUARTER OF SECTION

Also commonly known as the southeast corner of Jefferson Blvd. & Main Street, Mishawaka, Indiana 46544.

The above described parcel of land is presently Zoned: "R-1" Single Family Residential District.

Petitioners' desire said real estate to be Rezoned to the "C-6" Commercial District Classification. The purpose of the Rezoning is to allow for a commercial office building to be developed for 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.

Ken Prince
City Planner
Mishawaka, Indiana 46545
(574) 258-1625

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

PETITIONERS:

MISHAWAKA COMMUNITY DEVELOPMENT
600 EAST THIRD STREET
MISHAWAKA, INDIANA 46544

LAND SURVEYOR:

DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.

REZONING REQUEST:

THE PURPOSE OF THE REZONING IS TO REZONE THE PROPERTY FROM THE "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT CLASSIFICATION TO THE "C-6" COMMERCIAL DISTRICT CLASSIFICATION. THIS REZONING WILL ALLOW FOR A COMMERCIAL OFFICE BUILDING TO BE DEVELOPED FOR THE SITE.

LEGAL DESCRIPTION

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTERLINE INTERSECTION OF MAIN STREET & JEFFERSON BLVD.; THENCE EAST ALONG THE CENTERLINE OF JEFFERSON BLVD. A DISTANCE OF 76.55 FEET MORE OR LESS; THENCE S. 00°-00'-34" E. A DISTANCE OF 41.58 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE S. 44°-45'-20" W. A DISTANCE OF 23.89 FEET MORE OR LESS; THENCE S. 00°- 01'-34" E. A DISTANCE OF 269.00 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 55.17 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 26.02 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 4.35 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 103.00 FEET MORE OR LESS; THENCE N. 08°-52'-10" E. A DISTANCE OF 56.52 FEET MORE OR LESS; THENCE N. 06°-22'-54" E. A DISTANCE OF 45.15 FEET MORE OR LESS; THENCE NORTH 44.18 FEET MORE OR LESS; THENCE N. 46°-51'-36" W. A DISTANCE OF 17.63 FEET MORE OR LESS; THENCE WEST 34.99 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.37 ACRES MORE OR LESS.

ALSO COMMONLY KNOWN AS THE SOUTHEAST CORNER OF JEFFERSON BLVD. & MAIN STREET,
MISHAWAKA, INDIANA 46544.

TABULATED SITE DATA

1). ACREAGE OF SITE: .37 AC.

2). PROPOSED LAND USE:

A. 2,715 SQUARE FOOT OFFICE BUILDING

3). PARKING RATIO REQUIRED BY ORDINANCE FOR "C-6" COMMERCIAL

A. 4 SPACES PER 1,000 SQ. FT. OF GROSS FLOOR AREA

PARKING SPACES REQUIRED FOR A 2,715 SQ. FT. OFFICE BUILDING = 11

PARKING SPACES PROVIDED.....= 16

4). PROPOSED LAND COVERAGE:

	<u>SQUARE FOOTAGE</u>	<u>% OF SITE</u>
A. BUILDINGS.....	2,715.00	17.00
B. PARKING, SIDEWALK, AND DRIVES.....	7,582.88	48.00
C. OPEN SPACE.....	5,665.52	35.00
	15,963.40	100.00

5). SURFACE RUN-OFF AND DRAINAGE TO BE HANDLED THROUGH THE USE OF
A COMBINATION OF DRYWELLS AND FRENCH DRAIN SYSTEM LOCATED ON SITE.

6). OFFICE BUILDING IS 1 (ONE) STORY.

7). OFFICE BUILDING WILL BE CONNECTED TO MISHAWAKA UTILITIES.

8). DRAINAGE CAPACITY WILL BE BASED ON AMOUNT REQUIRED TO BE HELD ON-SITE BY THE CITY
OF MISHAWAKA ENGINEERING DEPARTMENT.

9). ALL PARKING SPACES ARE TO BE 9'x 20', EXCEPT HANDICAP WHICH WILL MEET THE LATEST
A.D.A. STANDARDS. BUILDING ENTRANCES WILL HAVE A RAMPED SIDEWALK FROM PARKING
AREA FOR HANDICAP ACCESSIBILITY.

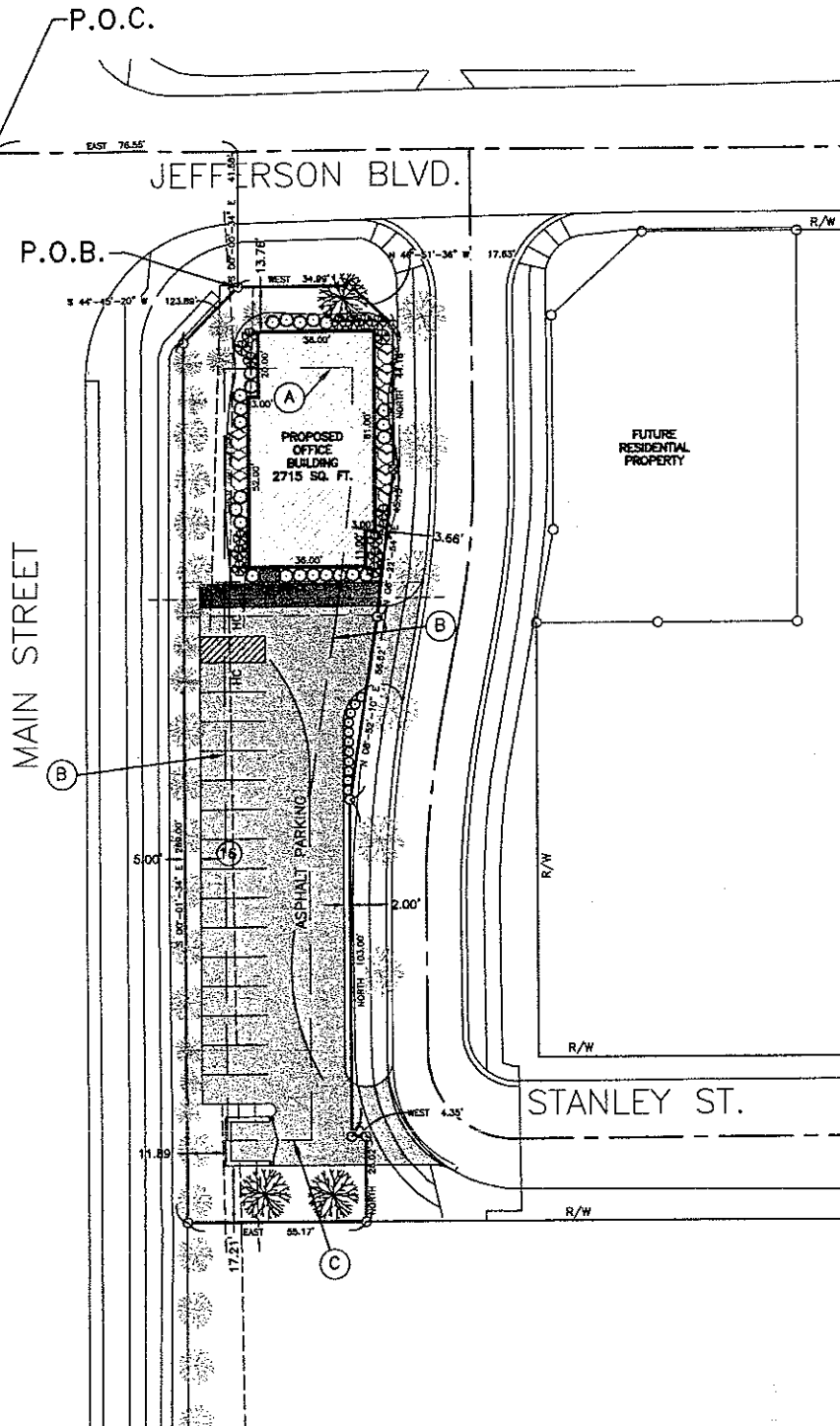
10). DRIVEWAY OPENINGS SHALL BE REQUIRED TO MEET THE LATEST CITY OF MISHAWAKA
STANDARDS.

11). ALL SIGNS SHALL CONFORM TO THE LATEST CITY OF MISHAWAKA ZONING STANDARDS.

12). ALL EXTERIOR LIGHTING SHALL MEET THE LATEST CITY OF MISHAWAKA STANDARDS.

PRELIMINARY SITE PLAN
PART OF THE SOUTHEAST QUARTER OF SECTION 9, T. 37 N., R. 3 E.
CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

PART OF THE SOUTHEAST QUARTER OF SECTION 9, T. 37 N., R. 3 E.
CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



(A) 25' FRONT-YARD SETBACK
(B) 12.50' EXTERIOR SIDE-YARD SETBACK
(C) 25' REAR-YARD SETBACK

EXISTING LANDSCAPE MATERIAL

MICHAEL J.
REGISTER

STAFF REPORT

Location: Vacant land southeast corner of Jefferson Blvd and Main Street

Date: March 13, 2012

PET: 12 04

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka Redevelopment Commission

Status: Property Owners

Request: To rezone property from R-1 Single Family Residential to C-6 Linear Office Commercial

Zoning Classification: R-1 Single Family Residential -Existing

Lot Size: Approximately 0.37 acres

Applicable Regulations: Sec. 137-40 Plan Commission
Section 137-41 Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: S-1 Open Space

Thoroughfare: N Main Street, East Jefferson Blvd, and Stanley Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, City of Mishawaka Redevelopment Commission, is requesting to rezone property from R-1 Single-Family Residential to C-6 Linear Office Commercial. The property to be rezoned is approximately 0.37 acres of vacant land located between Main Street, East Jefferson Blvd, and Stanley Street. This property was created as a result of the Main Street underpass improvements and the realignment of Stanley Street.

The property is currently owned by the City and zoned R-1 Single Family Residential. The City is requesting this property to be rezoned to C-6 Linear Office Commercial in order to market the property for potential buyers. The C-6 zoning classification would limit commercial development to only office use. The office use would create a sensible buffer between Main Street and the existing residential uses to the east. The C-6 zoning classification would also allow the property to be utilized for single-family residential development, should the City and/or a non-profit entity such as Habitat for Humanity desire to construct new homes on the property as part of established homebuyer programs.

Given the narrow width of the lot, the City has also requested several variances from the Board of Zoning Appeals to allow for the development of potential office use. Although there is no current proposal to construct an office building on the lot, the City developed a 'hypothetical' site plan to determine how an office building would be developed on the site and what developmental variances would be needed. Performing this rezoning and obtaining these variances now will allow the City the ability to market the property for future development, while saving the potential buyer/developer 3-4 months in time to make the property buildable for a non-residential development.

The requested variances are as follows:

1. A Variance from the required 25 feet front building setback along Jefferson Blvd. (north property line), to a minimum of 10 feet for a proposed building.
2. A Variance from the required 5 feet side building setback along Stanley Street (east property line), to a minimum of 2 feet for a proposed building.
3. A Variance from the required 10 feet off street parking setback along a public road right-of-way (east property line), to a minimum of 2 feet for a proposed parking lot.
4. A Variance from the required 10 feet off-street parking setback along a public road right-of-way (west property line-Main Street ROW), to a minimum of 5 feet for a proposed parking lot.
5. A Variance from the required parking lot landscape screen of a minimum height of 36 inches along an minimum of 75 percent of the linear distance of the parking area, to a parking lot landscape screen of a minimum height of 36 inches along a minimum of 26 percent of the linear distance of the parking area

RECOMMENDATION

The Planning Department recommends approval of Petition 12-4 to rezone 0.37 acres located at the southeast corner of Main Street and East Jefferson Blvd from R-1 Single Family Residential District to C-6 Linear Office Commercial. This recommendation is based upon the following findings of fact:

1. Given the property's close proximity R-1 zoned property, the C-6 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development or light office uses.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-6 Linear Office use.
3. Because the parcel is located adjacent to residential properties and along a heavily traveled corridor, the C-6 zoning classification would be compatible or desirable. The rezoning to C-6 Linear Office is a desirable use for this property;
4. C-6 Linear Office classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by providing a sensible buffer between the heavily traveled Main Street and the residential properties to the east.
5. The proposed C-6 Linear Office Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Main Street, and the existing residential uses located within the area.

ATTACHMENTS

Photographs, Petition, Preliminary Site Plan



Looking south onto property between Jefferson, Main Street, and Stanley

From: Ken Prince
Sent: Friday, March 23, 2012 3:50 PM
To: Deb Block; Mary Ellen Hazen; DL-COUNCIL
Cc: David A. Wood; Gary West; Mike Danch; Jeff Ballard
Subject: Rezoning Petition 2012-03 SE Corner Jefferson Blvd. and Main Street

Good afternoon,

Please consider this e-mail as a written request for a continuance for the second reading of the above referenced ordinance. Currently, it is scheduled to be heard on Monday April 2nd. We would like it to be heard at the next regularly scheduled Common Council meeting on Monday April 16th.

Our understanding is that Councilman Compton is meeting with some of the most impacted neighbors to discuss what limitations or standards might be addressed as part of the approval process that would still allow the property to be marketed for office uses which we believe to be one of the most suitable uses for the property.

This request has been made understanding that it may take some time for Councilman Compton to receive feedback. We also understand that this is an item of interest and there are likely only going to be five Council members at the first meeting in April. The proposed rezoning is part of a lengthy disposal process with no imminent construction plans, and will not be adversely impacted by a short delay.

That being said, we do desire to move along the other ordinances involving City properties at the first meeting in April assuming there are no objections.

Thank you for your consideration. Have a good weekend.

Ken

Kenneth B. Prince, ASLA, AICP
City Planner

CITY OF MISHAWAKA
BUILDING -COMMUNITY DEVELOPMENT - PLANNING
600 EAST THIRD STREET
MISHAWAKA, IN 46544

PHONE- (574) 258-1625
FAX- (574) 968-6999
E-MAIL- kprince@mishawaka.in.gov

PETITION #12-05

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-04

ORDINANCE NO. _____

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

WHEREAS, City of Mishawaka Redevelopment Commission has filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioner is the adjacent owner of all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as 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:

Alley Vacation: The first east/west alley south of Jefferson Boulevard, measuring approximately 60 feet deep by 14 feet wide; adjacent to Lot 4, and a portion of Lot 5 on the north, Lot 11 and a portion of Lot 10 on the south, all in the Original Plat of E. A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

Street Vacation: That portion of Stanley Street, measuring approximately 55 feet deep by 50 feet wide, adjacent to Lot 11, and a portion of Lot 10 in the Original Plat of E. A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana; and adjacent to a portion of Farm Lot 10 in the Original Plat of Mishawaka Farm Lots, Plat Book 1, Page 70, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

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

1. The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
2. The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
3. The public right-of-way does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
4. The proposed vacation will not hinder the use of any public way, utility or place.
5. This petition is not in specific conflict with the goals, objectives, and policies 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 _____, 2012. at _____ o'clock _____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PROPOSED ORDINANCE NO. _____

ORDINANCE NO. __

PRESENTED by me to the Mayor this _____ day of _____, 2012, at
_____ o'clock __.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at _____
o'clock _____.M.

David A. Wood, Mayor



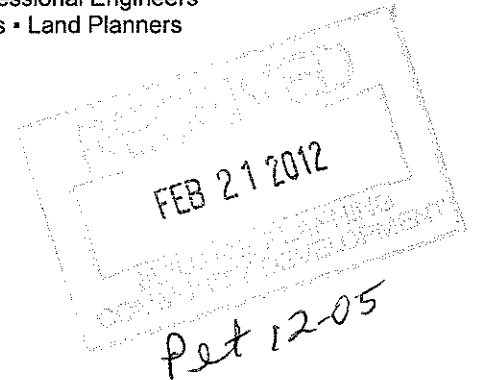
Danch, Harner & Associates, Inc.

Michael J. Danch, L.A.
Ron Harner, P.S.

Land Surveyors • Professional Engineers
Landscape Architects • Land Planners

February 6, 2012

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



Re: Petition for Vacation of Public Right-of-Ways

The undersigned City of Mishawaka Redevelopment Commission respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right-of-ways located in the City of Mishawaka, St. Joseph County, Indiana:

Alley Vacation:

The first east/west alley south of Jefferson Blvd., measuring approximately 60 feet deep by 14 feet wide; adjacent to Lot 4, and a portion of lot 5 on the north; Lot 11 and a portion of lot 10 on the south, all in the Original Plat of E.A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Street Vacation:

That portion of Stanley Street, measuring approximately 55 feet deep by 50 feet wide, adjacent to Lot 11, and a portion of Lot 10 in the Original Plat of E.A. Smith's Addition, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana; and adjacent to a portion of Farm Lot 10 in the Original Plat of Mishawaka Farm Lots, Plat Book 1, Page 70, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

Petitioners further state they are the owners of the property immediately to the above-described right-of-way.

Where-for, 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 vacating the above described right-of-way located in the City of Mishawaka.

Ken Prince
Community Development

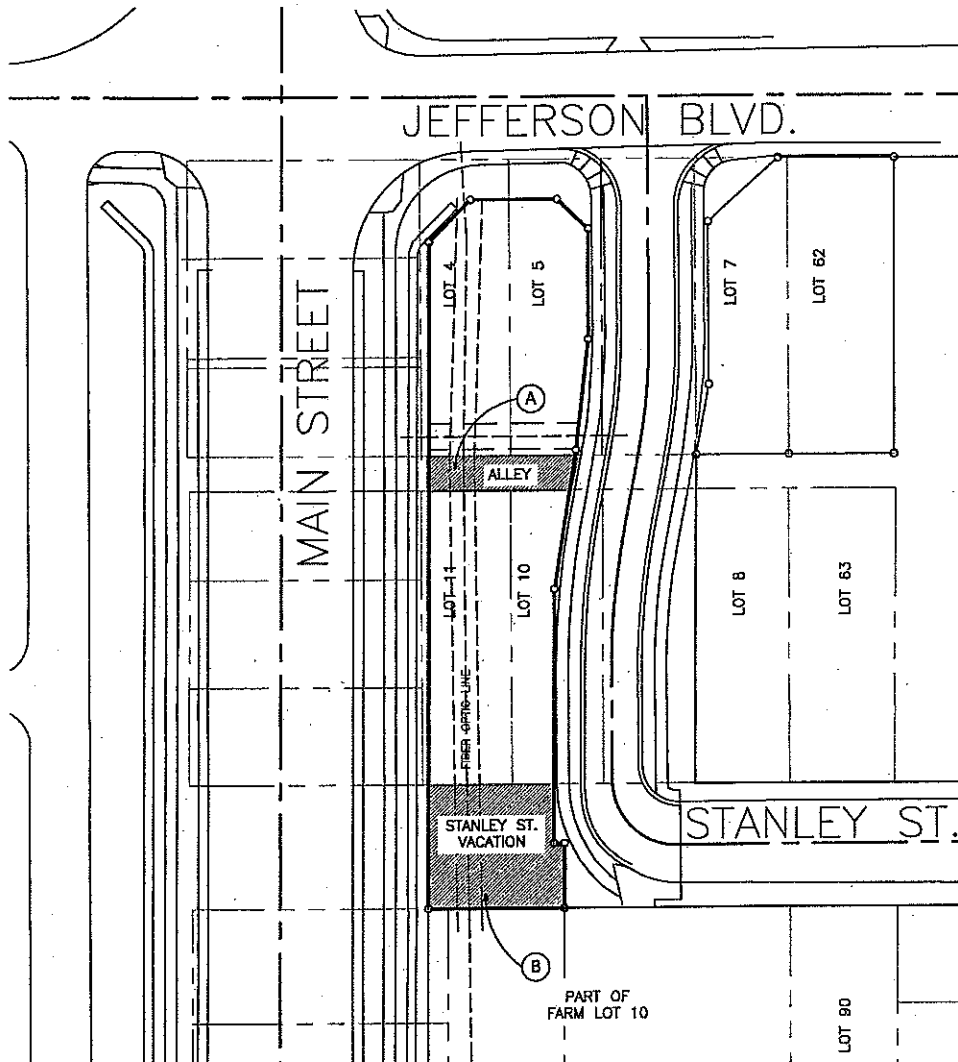
Contact Person:

Jeffrey T. Ballard
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, IN 46628
Office: 574-234-4003
Fax: 574-234-4119

FEB 21 2012

Per 12-05

STREET & ALLEY RIGHT-OF-WAY VACATION EXHIBIT



(A) ALLEY VACATION:
THE FIRST EAST/WEST ALLEY SOUTH OF JEFFERSON BLVD., MEASURING APPROXIMATELY 60 FEET DEEP BY 14 FEET WIDE; ADJACENT TO LOT 4, AND A PORTION OF LOT 5 ON THE NORTH; LOT 11 AND A PORTION OF LOT 10 ON THE SOUTH, ALL IN THE ORIGINAL PLAT OF E.A. SMITH'S ADDITION, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA.

(B) STREET VACATION:
THAT PORTION OF STANLEY STREET, MEASURING APPROXIMATELY 55 FEET DEEP BY 50 FEET WIDE, ADJACENT TO LOT 11, AND A PORTION OF LOT 10 ON THE NORTH, ALL IN THE ORIGINAL PLAT OF E.A. SMITH'S ADDITION, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA; AND ADJACENT TO A PORTION OF FARM LOT 10 ON THE SOUTH, ALL IN THE ORIGINAL PLAT OF MISHAWAKA FARM LOTS, PLAT BOOK 1, PAGE 70, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA.

LEGEND:



HATCHED AREA TO BE VACATED

0 50 100 150

SCALE 1" = 50'



Danch, Harner & Associates, Inc.

DHA

Land Surveyors • Professional Engineers
Landscape Architects • Land Planners

Office: (574)234-4003 / (800)594-4003 • Fax: (574)234-4119
1643 COMMERCE DRIVE • South Bend, IN 46828

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STAFF REPORT

Location: Southeast of Main Street & Jefferson Blvd

Date: March 13, 2012

PET: 12 05

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka Redevelopment Commission

Status: Right-of-way owner

Request: To vacate portion of public right-of-way

Zoning Classification: Public right-of-way

Lot Size: 0.08 acres

Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: S-1 Open Space

Thoroughfare: Main Street and Stanley Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: Public right-of-way

ANALYSIS

The petitioner, City of Mishawaka Redevelopment Commission, is requesting to vacate a portion of Stanley Street and a portion of east/west alleyway located just southeast of Main Street and Jefferson Blvd. The portion of right-of-way and alley to be vacated is between Main Street and the newly realigned Stanley Street.

When the City constructed the Main Street underpass, Stanley Street was re-routed to be access off of Jefferson Street. Originally it was accessed off of Main Street. The purpose of the vacation is to vacate that portion of right-of-way and alley between Main Street and Stanley Street that has been physically removed.

RECOMMENDATION

The Staff recommends in favor of Petition 12-05 to allow for the vacation of a portion of Stanley Street and east/west alley between Main Street and Stanley Street.

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The public right-of-way does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Photographs, Right-of-Way Vacation Petition, Vacation Site Plan



Looking south onto property between Jefferson, Main Street, and Stanley

PETITION 12-06

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-05

ORDINANCE NO. _____

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

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

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 SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: THE NORTH 40 FT. OF LOT "D" OF AS SHOWN ON THE RECORDED PLAT OF "NORMAIN HEIGHTS" SUBDIVISION AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 0.11 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

COMMON ADDRESS: 2321 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 R-1 Single Family Residential District and designated in "The Zoning Ordinance of 1966" as amended.

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

1. The property's proximity to R-1 Single Family Residential District zoned properties would be compatible to the area and provide a strong sense of single family residential;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the

Proposed Ordinance No: _____

Ordinance No: _____

potential of commercial development, staff feels that the most desirable use for this property is single-family use;

3. Because the parcel is located south of a residential neighborhood and consists of a small lot size that is not sufficient for commercial development, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood;
5. The 2000 Comprehensive Plan identifies the area for general commercial use. However, the property is located with residential development to the north and west. Therefore, the residential rezoning would be consistent with the existing residential uses in the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at _____ o'clock _____.M.

David A. Wood, Mayor

DATE: FEBRUARY 21, 2012

TO THE: HONORABLE MEMBERS OF THE
COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA

RE: CITY OF MISHAWAKA PETITION FOR REZONING:

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 PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: THE NORTH 40 FT. OF LOT "D" OF AS SHOWN ON THE RECORDED PLAT OF "NORMAIN HEIGHTS" SUBDIVISION AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 0.11 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

ALSO COMMONLY KNOWN AS 2321 NORTH MAIN STREET, MISHAWAKA, INDIANA 46545.

THE ABOVE DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "C-1" COMMERCIAL DISTRICT.

PETITIONERS DESIRE SAID REAL ESTATE, TO BE REZONED TO THE "R-1" RESIDENTIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE REZONING IS TO ALLOW FOR THE REAL ESTATE TO BE PURCHASED BY AN ADJACENT OWNER TO INCREASE THE SIZE OF THEIR YARD AREA.

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.



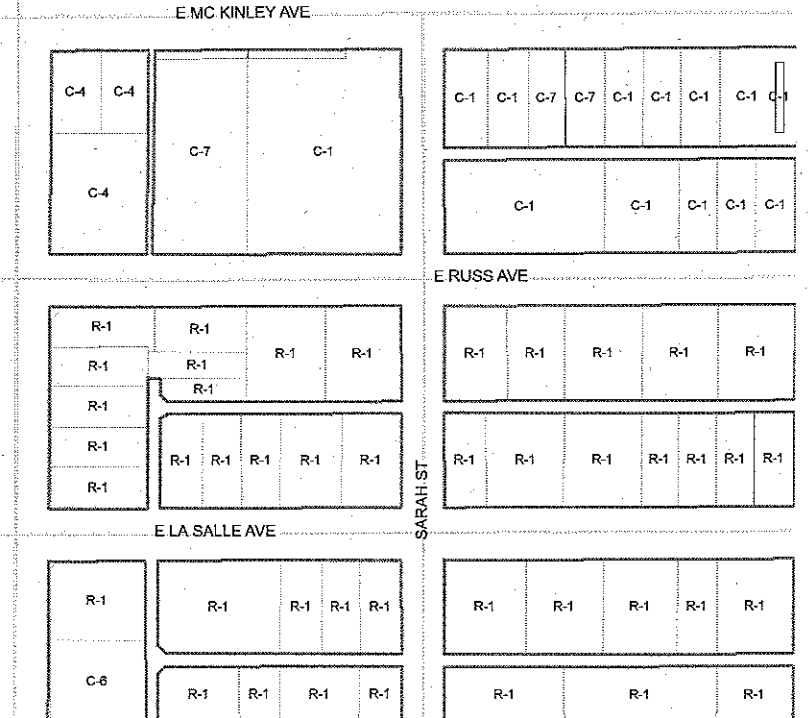
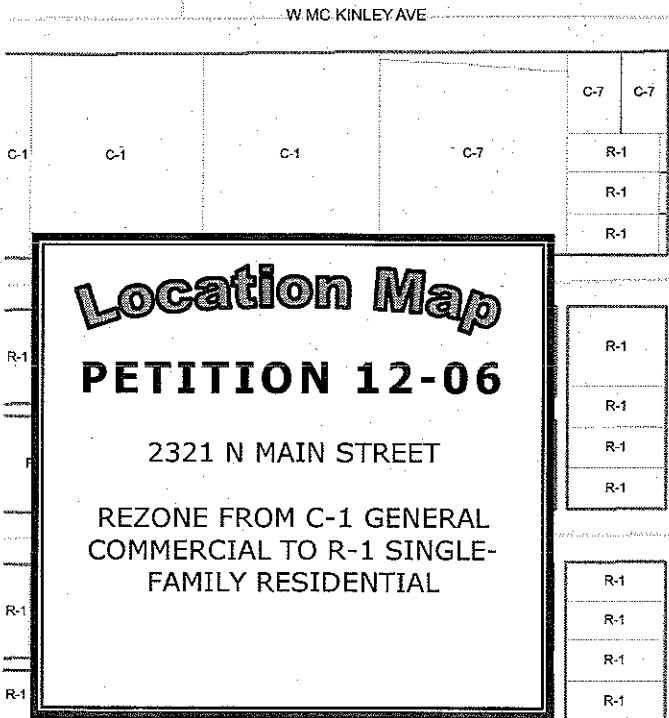
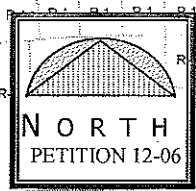
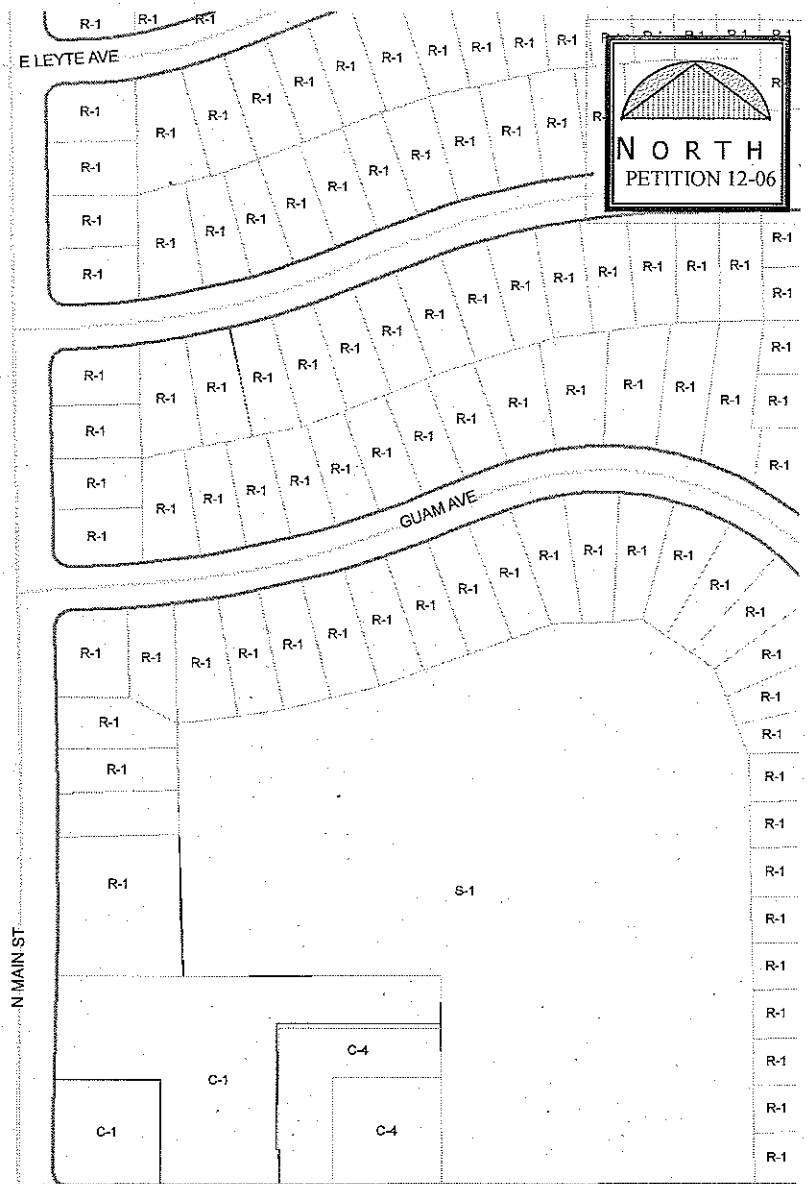
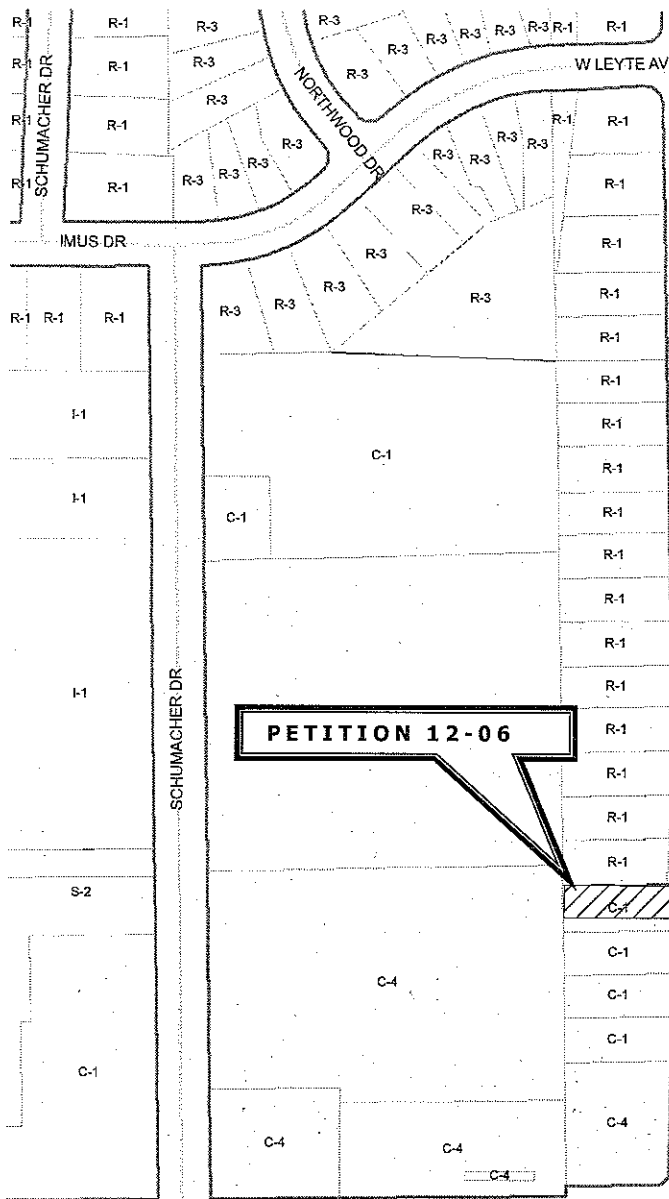
KEN PRINCE FOR THE CITY OF MISHAWAKA,
600 EAST THIRD STREET
MISHAWAKA, INDIANA 46545
(574) 258-1625

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

Pet 12-06

LEGAL DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 37 NORTH RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING DESCRIBED AS: THE NORTH 40 FT. OF LOT "D" OF AS SHOWN ON THE RECORDED PLAT OF "NORMAIN HEIGHTS" SUBDIVISION AS RECORDED IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE. CONTAINING 0.11 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS AND EASEMENTS OF RECORD.



Location Map

PETITION 12-06

2321 N MAIN STREET

REZONE FROM C-1 GENERAL
COMMERCIAL TO R-1 SINGLE-
FAMILY RESIDENTIAL

STAFF REPORT

Location: Vacant land south of 2333 N Main Street

Date: March 13, 2012

PET: 12 06

Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka

Status: Property Owners

Request: To rezone property from C-1 General Commercial to R-1 single Family residential

Zoning Classification: C-1 General Commercial-Existing

Lot Size: Approximately 0.11 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: C-1 General Commercial
East: R-1 Single Family Residential
West: C-4 Automobile Oriented Commercial

Thoroughfare: N Main Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, City of Mishawaka, is requesting to rezone property from C-1 General Commercial to R-1 Single-Family Residential. The property to be rezoned is vacant land located just south of 2333 N Main Street and was previously apart of 2321 N Main Street. This property consisted of a church building before it was removed to make way for Main Street and McKinley Avenue intersection improvements.

The current owner at 2333 N Main Street approached the City desiring to purchase a portion of the vacant land south of their property. The City and the property owner agreed on the transfer of the north 40-ft of this vacant land. The portion of property to be transferred is currently zoned C-1 General Commercial. The City is requesting this portion of land to be rezoned to R-1 Single Family Residential in order to be consistent with the proposed residential use of property expansion of 2333 N Main Street.

RECOMMENDATION

The Planning Department recommends approval of Petition 12-06 the north 40-ft of lot south of 2333 N Main Street from C-1 General Commercial to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. The property's proximity to R-1 Single Family Residential District zoned properties would be compatible to the area and provide a strong sense of single family residential;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of commercial development, staff feels that the most desirable use for this property is single-family use;
3. Because the parcel is located south of a residential neighborhood and consists of a small lot size that is not sufficient for commercial development, the rezoning to R-1 Single-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood;
5. The 2000 Comprehensive Plan identifies the area for general commercial use. However, the property is located with residential development to the north and west. Therefore, the residential rezoning would be consistent with the existing residential uses in the area.

ATTACHMENTS

Photographs, Petition, Location Map



View looking onto property to be rezoned

MAR 15 2012

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-28

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-06

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of the Southeast Quarter of Section 27 and a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road and the place of beginning for this description; thence West along said South right-of-way line, a distance of 260.19 feet more or less to a point on an East line of a parcel of land annexed into the City of Mishawaka, Indiana, by Ordinance Number 5286 adopted by said City on December 7, 2010; thence for the next four courses along said City boundary line, the first course being North 98.61 feet to a point on a North right-of-way line of Douglas Road; thence West, along said North right-of-way line, a distance of 78.96 feet; thence North a distance of 63.67 feet to a point on said North right-of-way line; thence West, along said North right-of-way line, a distance of 198.96 feet to said North right-of-way line's intersection with the centerline of Juday Creek; thence Northwesterly, along said Juday Creek centerline, a distance of 715.21 feet to an angle point; thence Northeasterly a distance of 697.43 feet to a point; thence South 1002.34 feet more or less to a point on said South right-of-way line of Douglas Road; thence West, along said South right-of-way line, a distance of 428.43 feet to the place of beginning containing 16.23 acres more or less. Subject to the legal rights of public highways.

Proposed Ordinance No. 12-06

Ordinance No. _____

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

Proposed Ordinance No. 12-06

Ordinance No. _____

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area

Proposed Ordinance No. 12-06

Ordinance No. _____

shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green

Proposed Ordinance No. 12-06

Ordinance No. _____

area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.
3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are

Proposed Ordinance No. 12-06

Ordinance No. _____

commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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 _____, 2012, at ____ o'clock ____ .M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2012, at ____ o'clock ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2012, at ____ o'clock ____ .M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

see attached

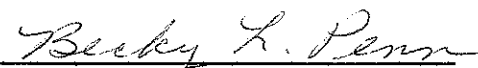
Petitioners own One Hundred (100%) percent of the above described parcel of land which is located on the North side of Douglas Road, East of Fir Road in Harris Township, St. Joseph County, City of Mishawaka, State of Indiana and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a zoning classification of P. U. D. Planned Urban Development classification desired. Petitioners further state they intend to utilize said land for business/commercial and residential.

Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

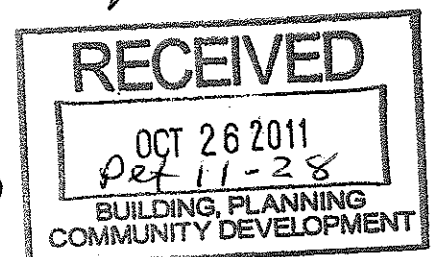
Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, 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 annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.


Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841



Annexation No. 1

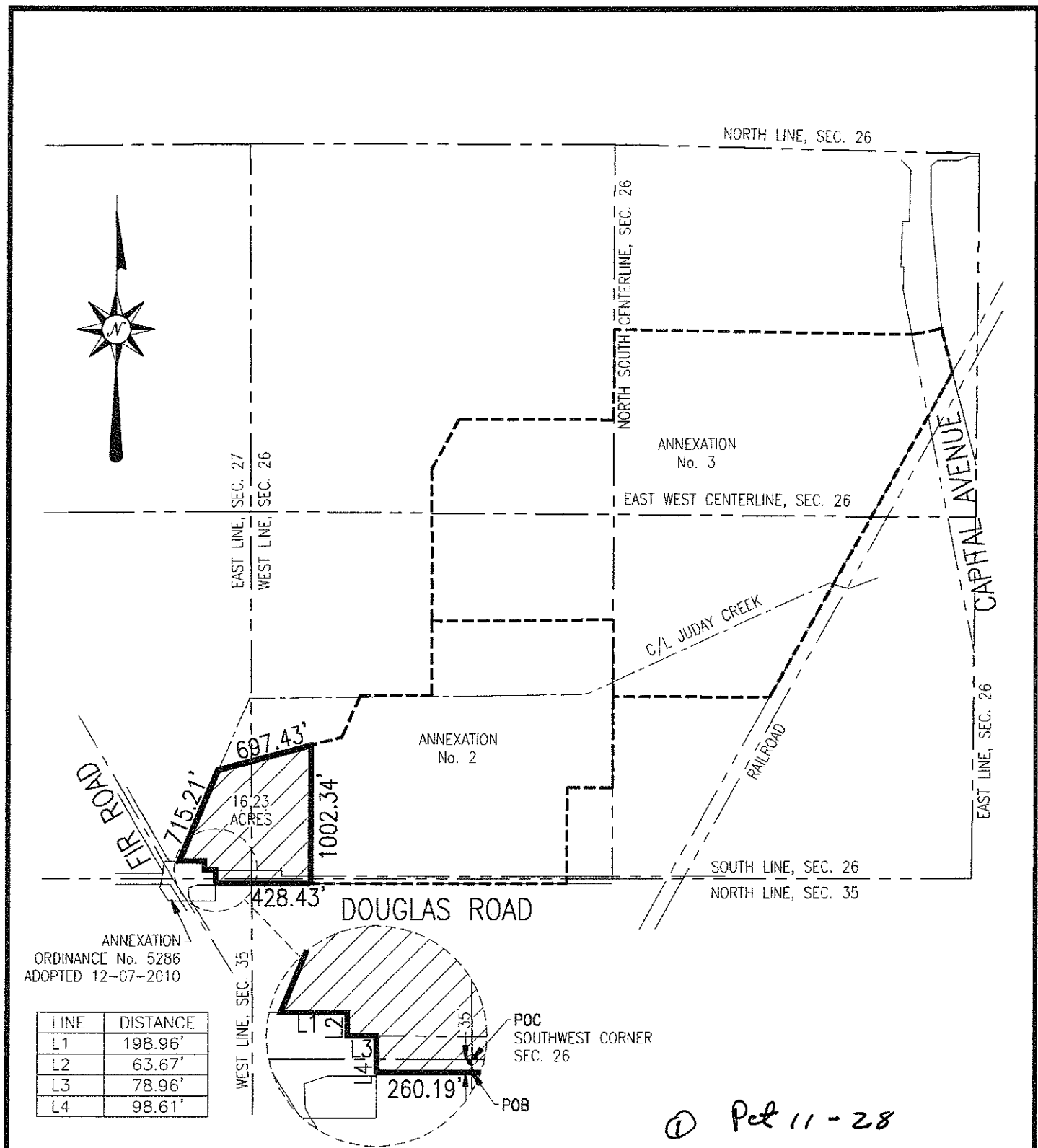
Legal Description:

A parcel of land being a part of the Southeast Quarter of Section 27 and a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road and the place of beginning for this description; thence West along said South right-of-way line, a distance of 260.19 feet more or less to a point on an East line of a parcel of land annexed into the City of Mishawaka, Indiana by Ordinance Number 5286 adopted by said City on December 7, 2010; thence for the next four courses along said City boundary line, the first course being North 98.61 feet to a point on a North right-of-way line of Douglas Road; thence West, along said North right-of-way line, a distance of 78.96 feet; thence North a distance of 63.67 feet to a point on said North right-of-way line; thence West, along said North right-of-way line, a distance of 198.96 feet to said North right-of-way line's intersection with the centerline of Juday Creek; thence Northwesterly, along said Juday Creek centerline, a distance of 715.21 feet to an angle point; thence Northeasterly a distance of 697.43 feet to a point; thence South 1002.34 feet more or less to a point on said South right-of-way line of Douglas Road; thence West, along said South right-of-way line, a distance of 428.43 feet to the place of beginning containing 16.23 acres more or less.

Subject to the legal rights of public highways.

Ret 11-28 #1



ANNEXATION 1

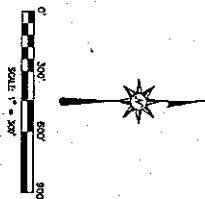
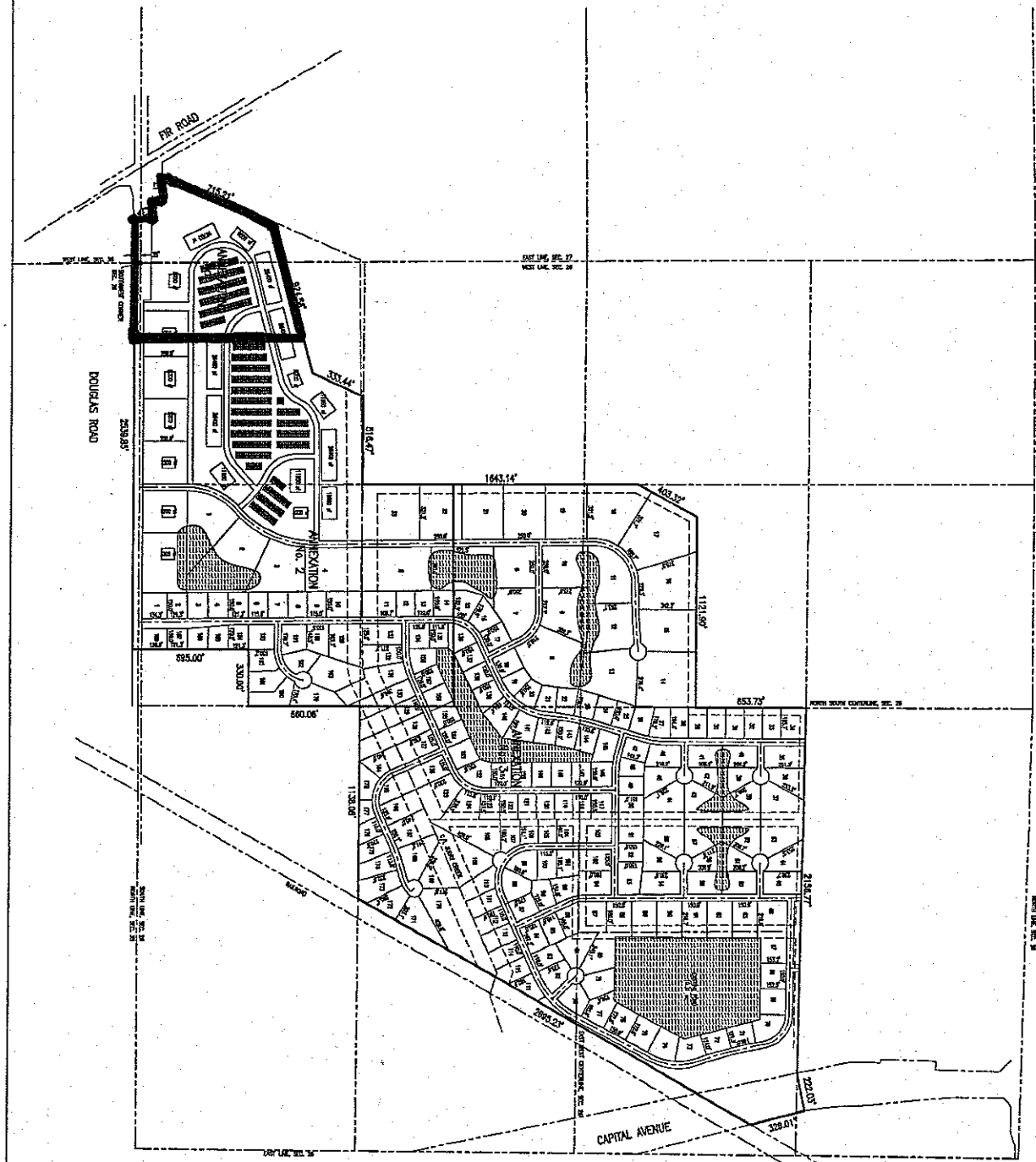
SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN

Lang, Feeney & Associates, Inc.

Land Surveyors, Construction Engineers & Soil Scientists
 715 South Michigan Street
 South Bend, Indiana 46601
 Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
PennAnnexation	BKG	1" = 1000'
Date	Rev. Date	Drawing No.
10-26-11	—	25091

SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN



100'	200'	300'	400'	500'	600'	700'	800'	900'	1000'
0	100	200	300	400	500	600	700	800	900

LFA	
Lung, Feary & Associates, Inc.	
715 S. Michigan Street	
South Bend, Indiana 46601	
Phone (317) 223-1541	
Project No.	11-05-11
Client	Larry & Becky Penn
Site No.	122-31

Plot 11-28

MAR 15 2012

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-29

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-07

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows: Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the south right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet to the place of beginning for this description; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to a point; thence East, a distance of 1301.9 feet more or less to a point on the North-South centerline of said Section 26; thence South, along said North-South centerline, a distance of 555.23 feet, more or less to the Northeast corner of the Southeast Quarter of said Southwest Quarter of Section 26; thence continuing South, along said North-South centerline, a distance of 660.06 feet; thence West 330 feet; thence South 695 feet more or less to a point on said South right-of-way line of said Douglas Road; thence West, along said South right-of-way line of Douglas Road a distance of 1851.23 feet to the place of beginning containing 77.11 acres more or less. Subject to the legal rights of public highways.

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The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-7 Restaurant Oriented Commercial, and C-8 High Density Suburban Commercial Districts, and C-6 Linear Office Commercial districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

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2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area

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shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.

- b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

Building Limitations/Architecture:

1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
2. For all commercial development parcels- there shall be a minimum building setback of 75' from all public right-of-way and private collector drives. A minimum side building setback of 10' shall be provided along lot/property lines. A minimum 25' building setback shall be provided from internal non-public access drives. A minimum 25' rear yard building setback shall be provided.
3. The maximum building height for any commercial building within the development shall be 60'

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green

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area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.

5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.
3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are

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commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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 _____, 2012, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____, 2012, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ____ day of _____, 2012, at _____ o'clock ____M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

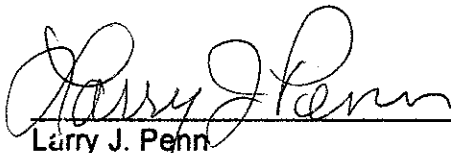
see attached

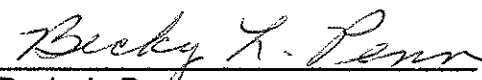
Petitioners own One Hundred (100%) percent of the above described parcel of land which is located on the North side of Douglas Road, East of Fir Road in Harris Township, St. Joseph County, City of Mishawaka, State of Indiana and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a zoning classification of P. U. D. Planned Urban Development classification desired. Petitioners further state they intend to utilize said land for business/commercial and residential.

Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, 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 annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.

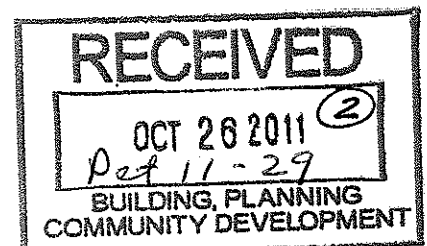

Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841

postponed

RECEIVED



Annexation No. 2

Legal Description:

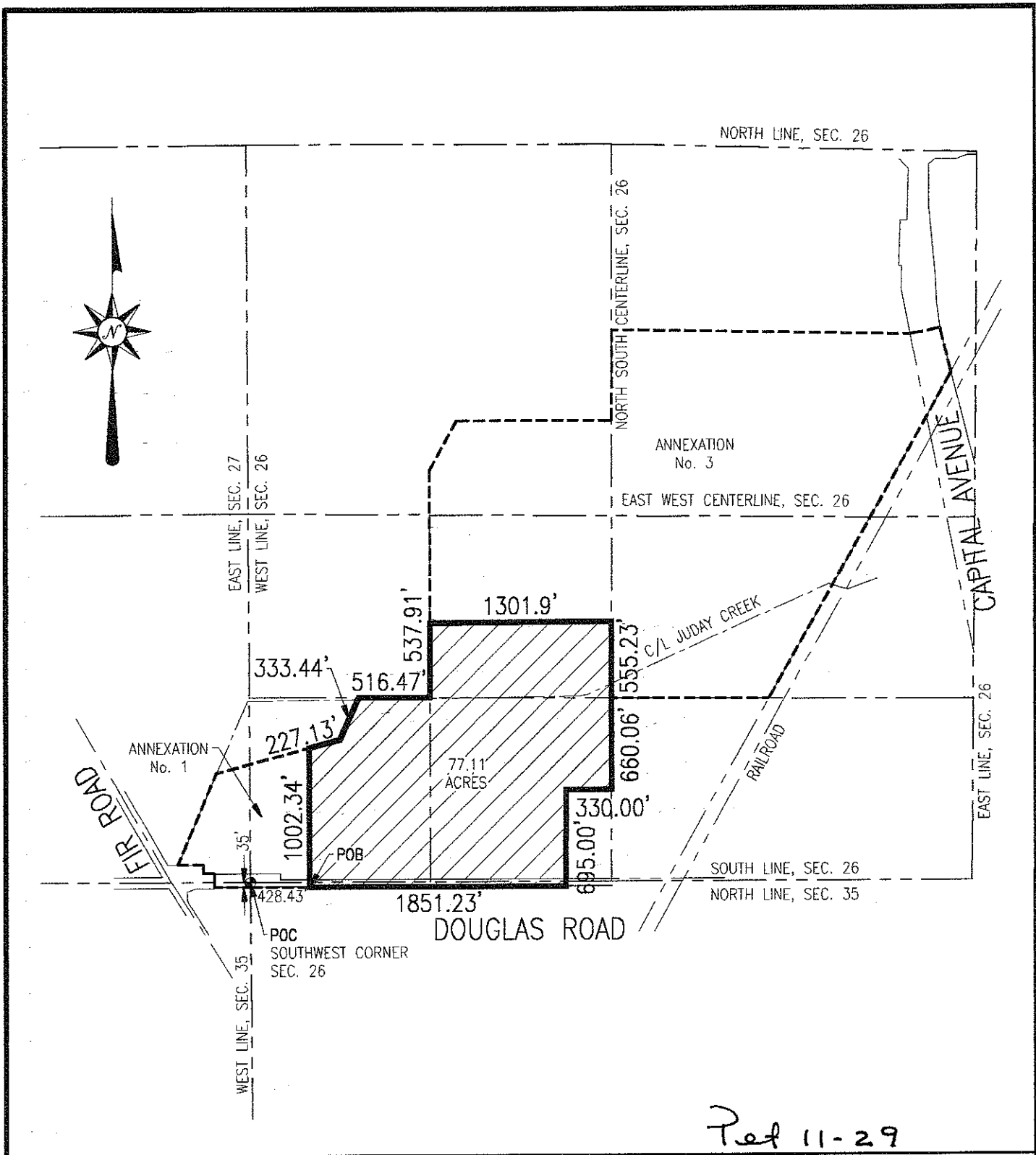
A parcel of land being a part of the Southwest Quarter of Section 26, all in Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet to the place of beginning for this description; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to a point; thence East, a distance of 1301.9 feet more or less to a point on the North-South centerline of said Section 26; thence South, along said North-South centerline, a distance of 555.23 feet, more or less to the Northeast corner of the Southeast Quarter of said Southwest Quarter of Section 26; thence continuing South, along said North-South centerline, a distance of 660.06 feet; thence West 330 feet; thence South 695 feet more or less to a point on said South right-of-way line of said Douglas Road; thence West, along said South right-of-way line of Douglas Road a distance of 1851.23 feet to the place of beginning containing 77.11 acres more or less.

Subject to the legal rights of public highways.

(2)

Pet 11-29



Ref 11-29

ANNEXATION 2

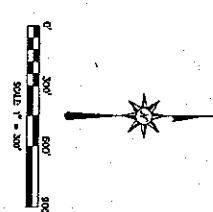
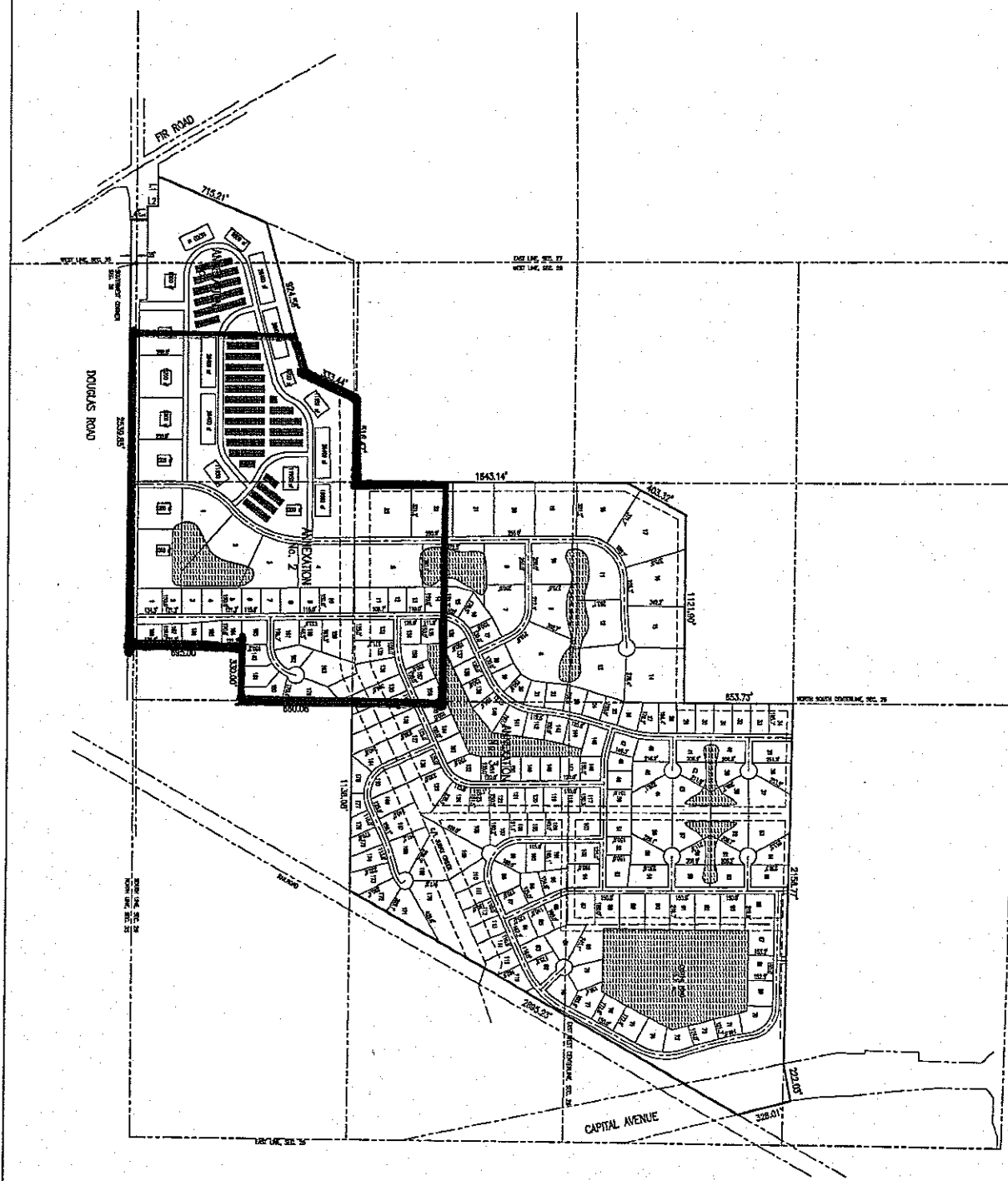
SITE PLAN FOR VOLUNTARY ANNEXATION
INTO THE CITY OF MISHAWAKA
FOR
LARRY & BECKY PENN

Lang, Feeney & Associates, Inc.

Land Surveyors, Construction Engineers & Soil Scientists
715 South Michigan Street
South Bend, Indiana 46601
Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
PennAnnexation	BKG	1" = 1000'
Date	Rev. Date	Drawing No.
10-26-11	—	25091

SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN



1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
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71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100

LFA Land Surveyors & Associates, Inc.
 1200 S. Main Street
 Suite 100
 South Bend, Indiana 46601
 Phone (574) 233-1941
 Fax (574) 233-1942
 Email: info@lfa-surveyors.com
 Website: www.lfa-surveyors.com
 License No. 122-51

Plot 11-29

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #11-30
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2012-08
ORDINANCE NO. _____

MAR 15 2012
CITY CLERK
MISHAWAKA, IN

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

A parcel of land being a part of Section 26, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to the point of beginning for this description; thence continuing North along said West line and the West line of the Southwest Quarter of the Northwest Quarter of said Section 26, a distance of 1105.23 feet to an angle point; thence Northeasterly a distance of 403.32 feet; thence East 1121.90 feet more or less to a point on the North-South centerline of said Section 26; thence North along said centerline a distance of 653.73 feet more or less to the North line of the Southwest Quarter of the Northeast Quarter of said Section 26; thence East along said North line and the North line of the Southeast Quarter of said Northeast Quarter of Section 26, a distance of 2156.77 feet to a point on the Westerly right-of-way line of Capital Avenue; thence Northeasterly a distance of 222.03 feet more or

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less to the Easterly right-of-way line of said Capital Avenue; thence Southeasterly along said Easterly right-of-way line a distance of 328.01 feet more or less to the Northwesterly right-of-way line of the Grand Trunk Railroad; thence Southwesterly along said Northwesterly right-of-way line, a distance of 2695.23 feet more or less to the South line of the Northwest Quarter of the Southeast Quarter of said Section 26; thence West along said South line a distance of 1138.08 feet more or less to said North-South centerline of said Section 26; thence North along said North-South centerline, a distance of 555.23 feet; thence West, a distance of 1301.90 feet more or less to a point on the West line of the Northeast Quarter of said Southwest Quarter that is 537.91 feet more or less North of the Southwest corner of said Northeast Quarter of the Southwest Quarter, said point being the place of beginning for this description and containing 156.28 acres more or less. Subject to the legal rights of public highways.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including uses identified in the C-1 General Commercial, C-5 Neighborhood Commercial, C-6 Linear Office Commercial, and R-1 Single Family Residential districts, subject to the following conditions:

Uses:

1. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
2. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each planned unit development plan submission following the completion of a Traffic Impact Study. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering. Improvements shall be based on but not limited to a Traffic Impact Study provided by the applicant and reviewed/approved by the City Director of Engineering. The City Director of Engineering reserves the right to review and comment upon PUD or Site Plan submittal regarding access-drive, right-of-way improvements, and donation of right-of-way for these improvements.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering.
3. The number and or type of curb cuts on all proposed drives shall limited based on Traffic Impact Study and as determined appropriate by the City Director of Engineering.

Internal Road connections:

1. Private collector road connections shall be provided through the site and connected to adjacent properties as conceptually depicted on the planned unit

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development site plan. Applicable private road connections shall be dedicated within easements as part of the each subsequent final planned unit development site plan. Actual construction shall occur concurrent with the development of the adjacent property or as directed by the City, whichever comes first. Modifications to the location of the easement /drive may be approved by the Planning Commission as part of any final planned unit development site plan approval. The applicant shall meet with the adjacent property owners to coordinate the exact connection locations between property. The exact location of these connection points shall be subject to review and approval by the City and shall generally be based on the information received from the required traffic impact study.

2. A hierarchy of the internal vehicular road network shall be provided. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected accordingly. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
3. At a minimum, internal sidewalks shall be provided throughout the development connecting parcels and adjacent roadways. This walk shall connect to any sidewalk that may be provided along Douglas Road. Installation of sidewalks shall occur as part of adjacent road construction as may be directed by the City.
4. Internal access connections shall be provided to all adjacent parcels of land.

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1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with proposed public and private road improvements.
3. All costs associated with the extension of utilities shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by the City Director of Engineering.
4. A master improvement plan shall be provided for all proposed improvements and impacts to the existing floodplain and Juday Creek drainage corridor. This plan shall be submitted to all applicable entities including but not limited to the St. Joseph County Surveyor and the St. Joseph County River Basin Commission. This plan shall be submitted and approved by the City prior to completing any work in the regulatory floodplain, or within 100' of the bank of Juday Creek.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent planned unit development plan submission.

Proposed Ordinance No. 2012-08

Ordinance No. _____

3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 250 acre site) and to otherwise further the intent of this chapter as follows. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. The applicant shall coordinate with the other undeveloped properties so that the entire area contains development signage on Douglas Road. If agreed to in writing by all affected landowners, development signage shall be allowed as follows. Two development signs per entry with a maximum sign display area shall be limited to 150 square feet per sign. Each sign may not exceed 15' in height and shall include a masonry base. Animated/Electronic Reader boards shall be prohibited for these signs.
 - b. Each outlot/development parcel may also be permitted one freestanding sign. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. All freestanding signs shall be separated from each other by a minimum of 100 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.
3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.

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1. All proposed commercial buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal code as amended. Materials and colors shall be varied to provide architectural interest.
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3. The maximum building height for any commercial building within the development shall be 60'

Proposed Ordinance No. 2012-08

Ordinance No. _____

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between development parcels. A minimum 25' pavement setback shall be provided along all public and private internal collector roadways. A minimum 10' pavement setback/green area shall be provided from internal non-public access drives and proposed parking/building areas.
3. A 3-foot high earth mounding shall be provided along public road right-of-way and internal collector drives. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives. Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. Sidewalks and utilities may be provided within required 25' green landscaped areas. If sidewalks and utilities are located within the required 25-foot green area, a minimum utility/sidewalk free area of 10 feet in width shall be required for planting.
5. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
6. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Phasing:

1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

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

1. Existing Conditions – The subject parcel is located adjacent to Capital Avenue and Douglas Road, two highly traveled corridors. Douglas Road is a major through road off of Capital Avenue to significant commercial development. Commercial projects have been approved for the area around the Fir Road and Douglas Road intersection.
2. Character of Buildings in Area – The area is predominantly undeveloped. The single family homes in the area will likely be redeveloped as commercial over time given the character and development potential of the property. The character of many of the buildings on the north side of the City are commercial.

Proposed Ordinance No. 2012-08

Ordinance No. _____

3. The Most Desirable/Highest and Best Use – Because of the parcel's location and the significant commercial development on the north side of the City and along Douglas Road combined with the proximity of Capital Avenue makes the most desirable use for the majority of property a heavy mix of intensive commercial and professional office uses.
4. Conservation of Property Values – The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property remains undeveloped. The extension of City infrastructure to service this development along Douglas Road will actually add value to adjacent properties.
5. Comprehensive Plan – This specific property was not a part in the City of Mishawaka Comprehensive Plan. However, the petition is reasonably consistent with the goals, objectives, and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services that are proposed in this development.

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 _____, 2012, at _____ o'clock ____ .M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ____ day of _____,
2012, at _____ o'clock ____ .M.

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No. 2012-08

Ordinance No. _____

APPROVED by me this _____ day of _____, 2012, at
_____ o'clock _____ M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 03 2011

CITY CLERK
MISHAWAKA, IN

October 26, 2011

TO THE:

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

Re: Petition for Annexation and Zoning Classification

The undersigned, Larry & Becky Penn, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

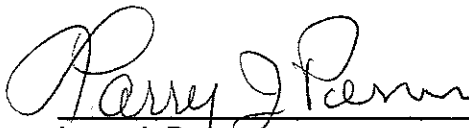
see attached

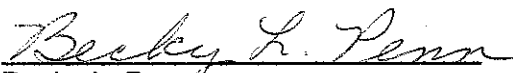
Petitioners own One Hundred (100%) percent of the above described parcel of land which is located on the North side of Douglas Road, East of Fir Road in Harris Township, St. Joseph County, City of Mishawaka, State of Indiana and that the Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a zoning classification of P. U. D. Planned Urban Development classification desired. Petitioners further state they intend to utilize said land for business/commercial and residential.

Accompanying this petition is a drawing, to scale, showing the above described vacant parcel of real estate.

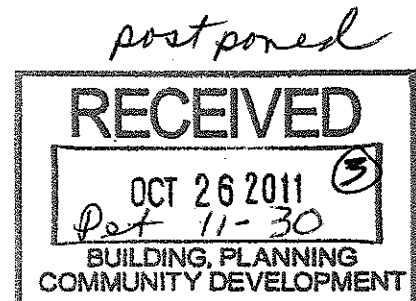
Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, 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 annexing the above described parcel of real estate to the City of Mishawaka with a zoning classification of P. U. D. Planned Urban Development.


Larry J. Penn


Becky L. Penn

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841



Annexation No. 3

Legal Description:

A parcel of land being a part of Section 26, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of said Section 26 (the same being also the Northwest corner of Section 35, in said Township and Range); thence South along the West line of said Section 35, a distance of 35 feet to the South right of way line of Douglas Road; thence East along said South right-of-way line, a distance of 428.43 feet; thence North 1002.34 feet to a point; thence Northeasterly a distance of 227.13 feet to an angle point; thence Northeasterly a distance of 333.44 feet more or less to the North line of the Southwest Quarter of said Southwest Quarter of said Section 26; thence East, along said North line of said Quarter, Quarter Section, a distance of 516.47 feet to the Northeast corner of said Quarter, Quarter Section; thence North along the West line of the Northeast Quarter of said Southwest Quarter, a distance of 537.91 feet to the point of beginning for this description; thence continuing North along said West line and the West line of the Southwest Quarter of the Northwest Quarter of said Section 26, a distance of 1105.23 feet to an angle point; thence Northeasterly a distance of 403.32 feet; thence East 1121.90 feet more or less to a point on the North-South centerline of said Section 26; thence North along said centerline a distance of 653.73 feet more or less to the North line of the Southwest Quarter of the Northeast Quarter of said Section 26; thence East along said North line and the North line of the Southeast Quarter of said Northeast Quarter of Section 26, a distance of 2156.77 feet to a point on the Westerly right-of-fway line of Capital Avenue; thence Northeasterly a distance of 222.03 feet more or less to the Easterly right-of-way line of said Capital Avenue; thence Southeasterly along said Easterly right-of-way line a distance of 328.01 feet more or less to the Northwesterly right-of-way line of the Grand Trunk Railroad; thence Southwesterly along said Northwesterly right-of-way line, a distance of 2695.23 feet more or less to the South line of the Northwest Quarter of the Southeast Quarter of said Section 26; thence West along said South line a distance of 1138.08 feet more or less to said North-South centerline of said Section 26; thence North along said North-South centerline, a distance of 555.23 feet; thence West, a distance of 1301.90 feet more or less to a point on the West line of the Northeast Quarter of said Southwest Quarter that is 537.91 feet more or less North of the Southwest corner of said Northeast Quarter of the Southwest Quarter, said point being the place of beginning for this decription and containing 156.28 acres more or less.

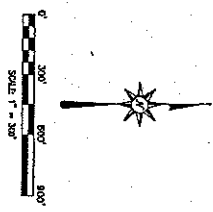
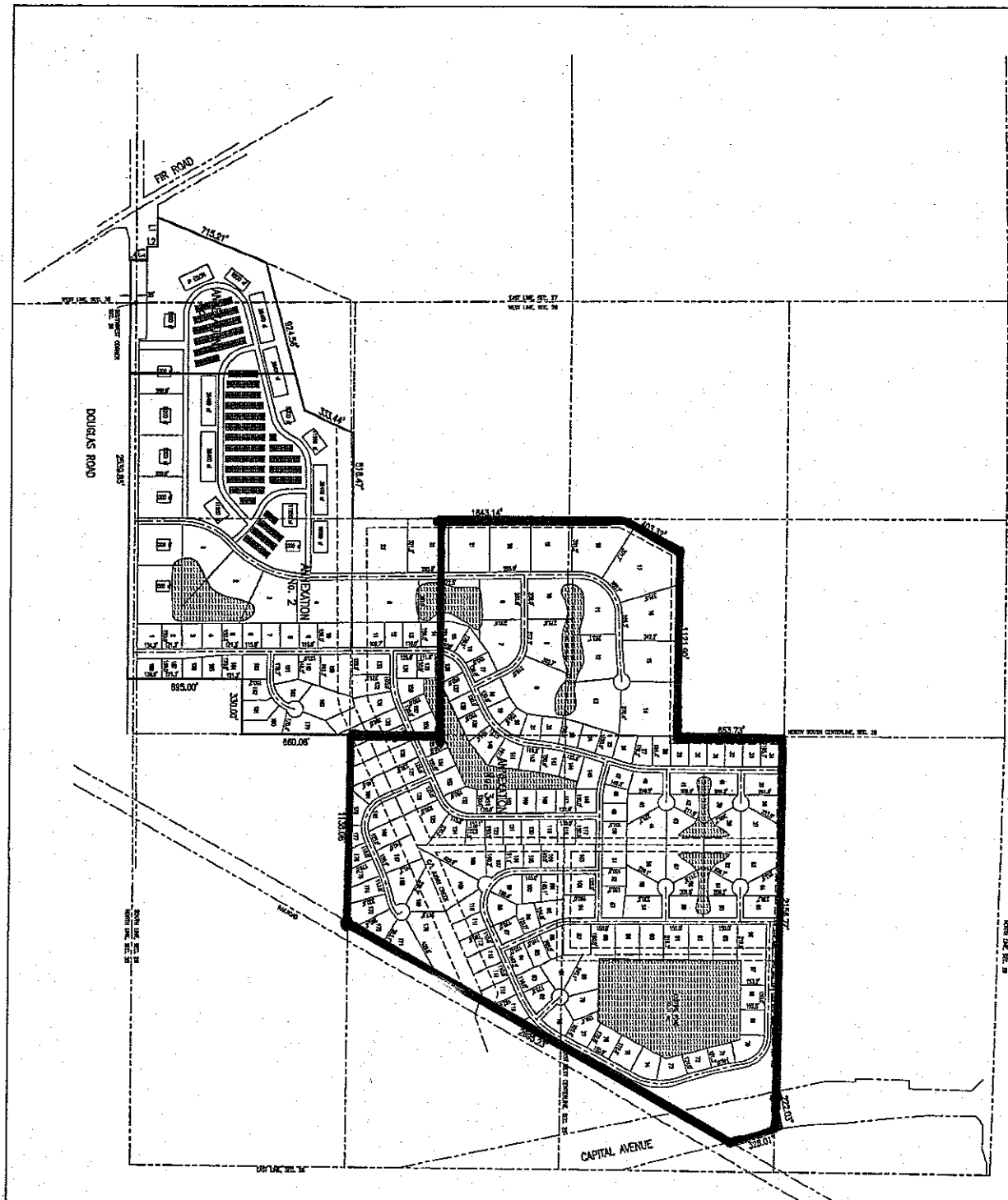
Subject to the legal rights of public highways.

Pet. 11-30

(3)

Post 11-30

SITE PLAN FOR VOLUNTARY ANNEXATION
 INTO THE CITY OF MISHAWAKA
 FOR
 LARRY & BECKY PENN



1"	300'
1"	100'
1"	30'
1"	10'

LFA
 Larry Farnley & Associates, Inc.
 715 S. Madison Street
 South Bend, Indiana 46601
 Phone (317) 333-1841

Project	Voluntary Annexation
Client	Larry & Becky Penn
Drawn By	John Schmitt
Check By	John Schmitt
Date	11-28-11
Sheet No.	122-5