

AGENDA

May 14, 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**

Approval of the Minutes of the Regular Meeting of April 16, 2012 (Page 3)

5. Petitions, Communications, Remonstrance and Memorials

Appeal N. 2012-14 - Use Variance to allow Commercial Tire and Fleet Service on an I-1 Light Industrial Zoned Property - 2356 N. Home St - Zolman Tire (Page 12)

Petition No. 2012 -07 - Vacation of Public Right of Way Madison St West of Pine St and Alley North of Madison (Page 20)

Petition No. 2012-09 - Annex S-2 PUD Mixed Use Medical and Commercial Development - NW Corner of Capital Ave and the Indiana Toll Rd approximately 28.29 acres (Page 24)

Letter from Lang Feeney on Postponing the Vote on the 3 Annexations (Page 27)

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

R2012-11 - Re-establishing the St. Joseph County Housing Consortium (Page 28)

R2012-12 Approving Appointments to the Historic Preservation Commission (Page 31)

- 9. Ordinances on Second Reading**
- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**
- 12. New Business**
- 13. Adjournment**

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

Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
April 16, 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 April 16, 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.

Chief Deputy Mary Ellen Hazen's roll call showed the following:

Dale "Woody" Emmons 1st District Councilman – Present

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 – Absent

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 absent.

The minutes from the April 2, 2012 meeting were approved as received from the Clerk's Office.

Chief Deputy Clerk Hazen read a letter from the Board of Zoning Appeals regarding their Recommendations from their April 10, 2012 public hearing.

APPEAL 2012-09 An appeal submitted by South Bend Real Estate 4 LLC
Requesting a Use Variance for 201 and 203 Indiana
Avenue to allow a duplex on R-1 Single Family Residential
zoned property. **RECOMMENDED APPROVAL**

Clerk Hazen stated there was a presentation of certificates of appreciation for the Council.

George Lane 2405 North Division Street, Citizens For The Accountability of Government; presented to the Council a Certificate of Appreciation. He said these certificates are for the people who voted for and were in favor of access TV.

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-09** opening it for public hearing.

RESOLUTION NO. 2012-09

**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:**

201 And 203 Indiana Avenue, Mishawaka, Indiana
(Use Variance to allow a duplex – 201-203 Indiana Avenue)

Dan Estes 2917 Mishawaka Avenue, South Bend, said he was a member of the South Bend Real Estate 4 LLC and they purchased this property approximately 2 1/2 months ago. He said it was originally built and designed as a duplex mirrored on both sides with separate basements and prior to purchasing it he contacted Code Enforcement Department to see if there were any issues outstanding on the property. Mr. Estes said they now have the property back to its original state and shortly after he started working on the outside because it was such an eyesore. He said when he went to have the utilities turned on was the first time they were aware that there was an issue with the property's zoning so at that time he applied for a petition for a variance which they submitted to the Board of Zoning Appeals and it was unanimously approved.

He said if this property would not be approved to be rebuilt as it was originally built, a duplex, it would be a substantial financial hit to him personally, in the neighborhood of \$50,000.00, this was a major concern to him. He stopped the rehab on the inside of the house but continued the outside because he did not feel it would be fair to the neighbors since this was the third time the house has been under renovation. Mr. Estes said if he should receive approval on this Variance he would have his crew finish the work on this property in a timely manner.

Mr. Estes said he was aware that his neighbor to this residence had concerns regarding this property. He said he put together a letter addressing Mr. Johnson's concerns, which he passed out to the Council and Mr. Johnson, to attempt to address every concern, this letter can be found in the City Clerk's Office.

- Parking Concerns for a duplex would be no different then a home with children and perhaps teenagers living there.
- Section 8 Tenants – Public assistance renters represent a protected class that he would not discriminate against.
- Concerning Mr. Johnson's driveway he apologized for any inconvenience the construction may have caused him. Whether this house remains a duplex or is converted to a single family house has no bearing on this issue as the property will need to be remodeled in either scenario. He told Mr. Johnson if a contractor parks in his driveway for him to feel free to have the vehicle towed away. He said he was unaware of any problem here and has given Mr. Johnson his phone number so he could contact him personally.
- Owner Contact – he had never been informed that Mr. Johnson wanted to speak with him on any of these issues and has not asked either the Building Department or Code Enforcement for a contact number of where to reach him to discuss any of this.
- Dumpster problems have been solved after learning they were being dropped off during "quiet" hours. The dumpsters would be delivered during appropriate hours.
- Workers – there is always some interference with neighbors during construction and he has stressed to his contractor the importance of limiting any interference to a reasonable amount. He said Code Enforcement had visited the site regularly and had not mentioned any problems regarding the work site or unsightly debris left around so it was his feeling the workers were complying with the city regulations.
- Value this house was built as a duplex prior to the Johnson's moving in next door in 1987 and did not deter them from purchasing at that time. He said this house has been an eyesore for

several years and has been dragging down the value of the surrounding properties for years. It is now no longer an eyesore to the neighborhood.

Mr. Estes said he feels this addresses most of the issues Mr. Johnson had with him and again he wanted apologize to Johnson personally for any inconvenience and also to the Council. He said any work they continue to do at the property he would take into account Mr. Johnson's rights and concerns.

Ms McClure asked how many bedrooms each duplex would have. Mr. Estes said the original duplex was three bedrooms and two baths and that was what he would maintain in the remodel. Mrs. McClure said that would be each. Mr. Estes said that was correct. Mrs. McClure asked for an approximate square footage. Mrs. Estes said around 1,200. Mrs. McClure said her understanding was that Mr. Estes was remodeling this duplex to rent out and he would be the landlord was that correct. Mrs. Estes said that was correct. Mrs. McClure went on to say then he would be the one responsible if there were any issues. Mr. Estes said yes.

Mr. Emmons asked if Mr. Estes had any tenants lined up for this property. Mr. Estes stated he has not advertised this property as of yet. Mr. Emmons said once this property was rented who would be in charge of maintenance. Mr. Estes explained his organization with the exception that the tenant would maintain the lawn. He said he owns 150 properties between Mishawaka and South Bend and he was not a slum lord he would do what was right. Mr. Emmons asked about the landscaping. Mr. Estes said he would make the yard eye appealing with red bark and bushes etc.

Mr. Reisdorf asked how many out buildings were behind this house. Mr. Estes said one. Mr. Reisdorf asked if there were plans for more out buildings. Mr. Estes said not at this time, he said in the past he has had trouble with out buildings being a dumping ground for tenants so he usually removes them..

Mr. Banicki asked if it was mandatory to accept sec 8 applications. Mr. Estes said before he started buying properties he got his brokers license in the state of Illinois and Indiana not to buy property himself but to make sure he understands the law. He rents to applicants that have the highest score or he would be discriminating so as a licensed broker he has to follow the law, he can not and would not discriminate against anyone in Section 8. Mr. Banicki asked if all landlords have to follow this law. Mr. Estes said yes if they do not they are in violation of the Civil Rights Amendment

Mr. Bellovich stated this structure is in better condition then it was last summer, although there was some lumber a broken pallet, two by fours and some other things. Tim Johnson, General Contractor said there was concrete on that pallet and Lowes was supposed to pick it up the next morning and it was vandalized, it has been cleaned up since then.

Mr. Bilancio said there is quite an improvement in this property and was wondering what the completion date was. Mr. Estes said they would like to have it available to rent on or before the first of June.

Mr. Compton thanked Mr. Estes for his patience as this duplex in a residential neighborhood of single family homes was concerning to all of them. He said he felt the disruption to the neighborhood could be held to a relative minimum, construction can be loud and messy but as the owner of the property it

was his responsibility to have all work material cleaned up at the end of every day as well as having the dumpsters delivered at a reasonable hour out of consideration for the residents

OPPOSITION

Greg Johnson 205 Indiana Avenue said he was opposed to this duplex, according to his neighbors there was only one door to that house up until 1992 or 93 and the second door was put in at that time and the address of 203 was added. He said he was concerned of the number of people that would be living there that would add to the to the high school traffic, with four adults and children there could be up to 10 people living there. He apologized to Mr. Estes and said he was not upset with him; he was upset with the situation, four adults' four cars.

Mr. Johnson said he has had trouble with the construction workers infringing on his property and the communication with them was impossible because they all disappeared when ever he came around to talk to them. He said dropping the dumpsters off at 4:15 a.m. sounding like a war zone was more then frustrating.

Mr. Johnson said this house has sat empty for five years and have had three different contractors in that time and each one worked on it for a month or two and quit, but he was still opposed to a duplex, but will abide by whatever the Council decides.

Mr. Reisdorf thanked him for his input and understands his frustration, he spends a lot of time at the high school and was familiar with the traffic situation. He said in looking at it outside of school dismissal he was very surprised at how few parking spots on the east side of the road were being used.

Mr. Johnson said he believes the population of the high school has dropped because the parking situation has improved. Mr. Reisdorf thanked him for agreeing to go with what ever was decided and wanted him to know the Council was as passionate about it as he was.

Mrs. McClure said she was familiar with the house and asked if Mr. Johnson felt this was the farthest any of the contractors have gone on this property. Mr. Johnson said yes. Mrs. McClure said having the outside of the house done first sent a message to her that they were concerned about the neighborhood. Mrs. McClure asked Mr. Prince, City Planner to explain the Use Variance. Mr. Prince said in 1931 this house was permitted at as a two family dwelling and now it is a non conforming property so to keep this house from sitting vacant a Use Variance could allow for the duplex, the city would rather see the property in use then sitting empty like it has for the last 5 years.

Mr. Johnson said there was nothing that he would approve of here.

Mr. Compton appreciates his comments and concerns as do all of the Council members but in conversation he heard Mr. Johnson say had he talked earlier with Mr. Estes things may have been worked out and he was hoping this was what would happen.

He went on to say Mr. Johnson made a comment that if he and Mr. Estes could have discussed things earlier on that a lot of things could have been resolved, does he at this point think that could still happen. Mr. Johnson said he was going to shake his hand.

Mr. Winterrowd 218 Indiana Ave said he was not so much in opposition but has a home next door to him that was renovated by School City of Mishawaka and they have been a great neighbor, over the last 20 to 30 years 19 homes have been torn down in the hood for Mishawaka High School parking so the duplex dose not bother him. He said to address their frustrations this duplex is just one more thing to be added to their residential neighborhood, and sees his neighborhood less residential, and asked how many of the Council would like to live around all of that.

Question was called for at 7:58 p.m. on **RESOLUTION NO. 2012-09. Vote:** Motion passed (summary: Yes = 6, No = 2, Abstain = 0).

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

No: Mr. Emmons, Mrs. McClure, **Absent:** Mr. Mammolenti.

President Roggeman said they would be keeping an eye on this and hopes that all differences can be worked out.

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-10** opening it for public hearing.

PROPOSED ORDINANCE NO. 2012-10

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS (2011 Tax Abatement Compliance Reports)

Ken Prince, City Planner stated it was his pleasure to report on the Statements of Compliance for 2011 Tax Abatements, currently there were four Tax Abatements that were required to report. He said the four have shown progress or have complied with the Tax Abatements that were granted to them. Mr. Prince said with the economic downturn that began in 2008 there have been some substantial lay offs and since that time there has been a recovery. He said the summary for each business was as follows:

- Nylon Craft received their abatement in 2007 their current employment was listed at 315 which was 75 below their 390 jobs they had envisioned to be created and retained, with the positive side to this being it was 12 more jobs then the 303 reported in 2011, and much better then the 200 jobs listed in 2009 when they were at their lowest point for employment..
- BD SJRMC Mishawaka Development, LLC, which is the private medical office component of the St. Joseph Regional Medical Center has built up slower then expected the total number of employees they envisioned were 370 with an estimated payroll of \$10 million 555 thousand dollars, to date they are at 327 employees with a total payroll of \$17 and a half million dollars. In 2011 there were 243 employees on the payroll of a little over \$13 million dollars. Over the last year there has been an increase of 85 employees and \$4.6 million dollars in payroll.
- Long Term Care Investments, LLC 120 jobs were estimated originally last year showing 67 jobs and this year they indicated 137 jobs showing 17 more jobs then originally committed although payroll was slightly below what they originally estimated.

- Jamil Packaging Corporation was approved just last year and they indicated seven more jobs would be created as a result of the abatement on the million dollar specialty folder gluer and they have indicated a total of 80 jobs, which is 7 jobs more than last year and 1 over the projected total of 79 putting them 1 over last year..

Mr. Prince said that concludes his report.

Question was called for at 8:03 p.m. on Proposed Ordinance 2012-10 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

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

Absent: Mr. Mammolenti.

Chief Deputy Clerk Hazen read a letter from Ken Prince City Planner asking to postpone the following three **PROPOSED ORDINANCES** until the next regularly scheduled meeting of the Common Council.

PROPOSED ORDINANCE NO. 2012-06

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 #1)

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)

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)

Ron Banicki said per the petitioner's request to continue this until the first meeting in May he would like to make that motion, with a second by Mr. Compton the motion carried.

UNFINISHED BUSINESS

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2012-03** opening it for public hearing.

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 St.)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be presented to the Council as a whole and moved for acceptance of same, upon a second by Mr. Compton, the motion carried.

Mike Danch, Danch Harner and Associates 1643 Commerce Drive, South Bend said he was requesting on the behalf of the City Of Mishawaka Redevelopment Commission a rezoning for the south east corner of Main Street and Jefferson Boulevard, with Stanley Street on the East side. He said this was part of a remnant parcel left over from the underpass for the railroad, the re-alignment of Stanley Street left a portion of property between Main and Stanley Street. He said what they were asking to do was to take it from its residential zoning classification to the C-6 Category which was a very restrictive commercial classification in the City Of Mishawaka that would allow for a professional office development.

Mr. Danch said there presently wasn't anyone who was interested in this property but they were trying to be ahead of the curve by going through this process and coming up with a preliminary site plan. He said their site plan shows approximately 27,000 square foot building with the frontage of the office building being on Jefferson Boulevard, and 11 space parking lot in the rear on Stanley Street.

OPOSITION

Brian Gordon 116 East Stanley Street said he lives directly to the east of this property. He said he wanted to purchase this property to increase the size of his. Mr. Gordon said the underpass was picturesque, they did a great job and he couldn't be happier until now hearing they want to put a commercial business right on the corner of Jefferson and Stanley. He said he does not want a commercial building or residence on that property and he was told from the beginning it would remain a green space. Mr. Gordon went on to say he would even be willing to purchase this property and maintain it himself.

Mr. Banicki asked Mr. Gordon how close he lived to this property. Mr. Gordon said about the length of the Council chambers. Mr. Banicki said therefore maintenance to this property would not be a problem for him. Mr. Gordon said it would not, there was a property south of his that has a Jefferson Street address but he maintains it so that it does not look bad, it was about maintaining the integrity of the neighborhood. Mr. Compton said this property was already zoned for residential use so if it goes to the bid process and someone purchases it they could put a home on it. He said a business, in his, opinion would be less objectionable then a home there. Mr. Gordon said he really does not want to see a business put there.

Ann Weaver 217 Stanley Street said she has lived in this neighborhood for several years, and she feels the access road they put in to extend Stanley out to Jefferson was way to close to the corner of Main Street it was way to close to make a left hand turn onto Jefferson safely, as Main Street traffic is also

turning onto Jefferson. She said this was an old neighborhood and feels a business and traffic from a business on this property would be disruptive, and dangerous.

Mr. Reisdorf asked if there was an increase in traffic in the neighborhood. Ms. Weaver said they use Sarah or Christyann to get on to Jefferson the new Stanley access to Jefferson is hardly ever used.

Richard Compton 230 Stanley Street said he was not totally connected to the situation but feels that City Planning made a terrible decision by moving Stanley Street out a half block from a main intersection where John Young Middle School students cross the street. He went on to say he has nearly been rear-ended turning onto Stanley Street when coming from the west because it was so close the Main Street intersection. Mr. Compton said Jefferson was a Main artery from South Bend to Elkhart and traffic congestion backs up all the way down Jefferson.

Daniel Sexton 125 Stanley Street reiterated what Mr. Compton said as to how dangerous it was to get on to Jefferson from Stanley Street. He said they were promised this parcel would be kept a green space and that should be honored as a neighbor he would help Mr. Gordon maintain that property if it was necessary.

Mr. Banicki asked Mr. Prince in his opinion if the proposal should fail at this meeting would it have to wait a year to be brought before the Council again. Mr. Prince stated it could come back in a month but the city would not want to bring it back they do not want to be property owners. Mr. Banicki said it was difficult because it was speculative at this time. Mr. Prince said their attempt was the highest and best use for this property next to the wall and felt a low impact business there would be the best use for this property. Mr. Prince said it also could be brought back as a Use Variance, or go up for sale or bid.

Mr. Compton said this being in his neighborhood he would like to thank his neighbors for coming out. He said he agrees with Mr. Prince and Mr. West that this property was not laid out the best for a residential resident as far as safety issues with Main Street being right there, but his neighbors as has been expressed are not in favor of a business being there. He said the other issue was traffic with Main and Jefferson being one of the busy intersections in the city and adding something to that corner he did not feel was a positive choice, knowing there were things there in the past, liquor store, pizza shop, and beauty shop but they are gone and it was now strictly residential and personally living in that neighborhood he would like to see it stay that way. Mr. Compton said being a steward of the city's money he understands the tax rolls and has discussed all those things with the neighbors partially trying to convince them there may be something they could possibly live with but all said and done he would be voting against this.

Vote: Motion passed (**summary:** Yes = 0, No = 8, Abstain = 0).

No: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Absent: Mr. Mammolenti.

NEW BUSINESS

President Roggeman stated there was a need to change the next Council Meeting date due to a conflict of schedule with the Primary Election voting stations being in the Council Chambers for the 2012 Election. He asked for a motion from the Council.

Mr. Banicki said due to the elections on May 8th it would be necessary to set up the Council Chambers on Monday May 7th so he was making a motion to reschedule the Mishawaka Common Council Meeting from May 7th to May 14th with a second by Mr. Compton the motion carried.

Mr. Emmons said he wanted to remind everyone of his Neighborhood Watch Meeting on April 19th at St. Bavo School at 7:00 pm with the speaker being State Senator John Broden discussing what was happening in the State Legislature and some of the new laws that would be going into effect.

Mr. Reisdorf said just a reminder that Twin Branch Neighborhood Watch Meeting would be Wednesday Night April 18th at 7:00 pm, Mr. Bilancio would be speaking. He said in May on the 3rd Wednesday at the Twin Branch Neighborhood Watch meeting they would have the new city ambo for the public to see.

Mayor Wood introduced the new Staff Attorney Geoff Speciss and announced the new Redevelopment Director was Dave Thomas.

There being no further business to come before the Council, President Roggeman adjourned the meeting at 8:37 p.m.

Mary Ellen Hazen, _____/s/
Mary Ellen Hazen Chief Deputy Clerk

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

Date: April 18, 2012

To: Board of Zoning Appeals
City of Mishawaka, Indiana

APR 18 2012

The undersigned appellant respectfully shows the Board:

1. I, Zolman Tire, Inc., am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

A lot or parcel of land bounded by a line running as follows: Beginning 2641.1 feet East and 346.21 feet North of the Southwest corner of Section 2, Township 37 North, Range 3 East which point is on the East line of Home Street; thence North 450 feet along said East line of Home Street; thence East 301 feet; thence South 450 feet to a point 343.2 feet North of the South line of said Section 2; thence West 301 feet to the place of beginning; EXCEPTING THEREFROM a strip of land 1 foot wide taken off of the entire East side of said tract.

Parcel Key Number: 27-1001-022305

Property Address: 2356 North Home Street, Mishawaka, IN 46545

2. The above described real estate presently has a zoning classification of I-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant proposes to occupy the above described property in the following manner:

Zolman Tire, Inc. located at 2014 E. McKinley Avenue, Mishawaka, IN which is directly south and adjacent to the above described property wishes to remodel the building for use as its commercial tire and fleet service department. This department has outgrown the 10,000 sq. ft. currently occupied at the company's McKinley Avenue location. This new facility is approximately 26,000 sq. ft. and will allow for the future continued growth of our commercial tire and fleet service department. It will also allow for a more efficient operation of our heavy duty truck and trailer service business.

The property was formerly used by Premier Bandag III for its tire retreading operations. We desire to remodel the facility to make it suitable for the purpose described above.

4. Appellant desires to move its existing commercial tire and fleet service department into this location which is zoned I-1. That zoning classification allows for our warehousing of commercial truck tires but it does not specifically lists heavy vehicle repair services as a permitted use.
5. The Zoning Ordinance of the City of Mishawaka under Sec. 137-586(a) allows for our warehousing of commercial truck tires but it does not specifically lists commercial tire service and heavy vehicle repair services as a permitted use. It does allow for automobile parts warehousing, electric machinery servicing, light fabricating, machine shops, garages, sheet metal fabricating, steel product fabricating, van conversions, and welding shops. These permitted uses have characteristics similar to those conducted in our fleet service department in servicing and/or repairing heavy vehicle trucks and trailers. We are requesting a variance to allow our proposed use as a permitted use for this property.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship by not permitting our intended use of this property. The two departments mentioned have outgrown their existing facilities and must relocate into a larger facility to allow for future business growth. Our McKinley Avenue location does not have available land to erect another building so the property at 2356 N. Home Street was purchased. We require a new location to expand our existing business.
7. Answer the following necessary questions for a Use Variance:

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

NO – the property is located within an industrial park area along N. Home Street with similar other properties with a variety of commercial and industrial uses.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

NO – the current property and adjacent properties in the surrounding area are located in a mixed used industrial park area.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

YES – currently zoned I-1 which does not permit the intended use as a commercial truck tire and heavy truck and trailers service centers.

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

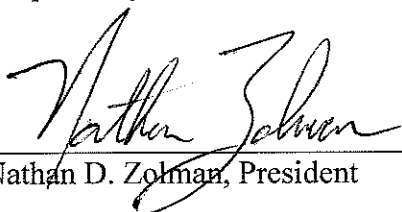
YES – without the requested variance in use Zolman Tire, Inc. will be unable to expand its growing commercial tire and fleet service business into this property which is adjacent to its current location.

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

NO – the variance if approved will allow Zolman Tire, Inc. to expand its existing commercial business currently operating at 2014 E. McKinley Avenue into a much larger facility. This planned project will allow the company to increase its business, hire additional employees and increase the tax base of the City of Mishawaka. I believe the goals of the Mishawaka 2000 Comprehensive Plan was to foster community and business development in a planned structured manner. The approval of our use variance request will allow us to expand our existing business in a manner consistent with the goals of the Mishawaka 2000 Comprehensive Plan.

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

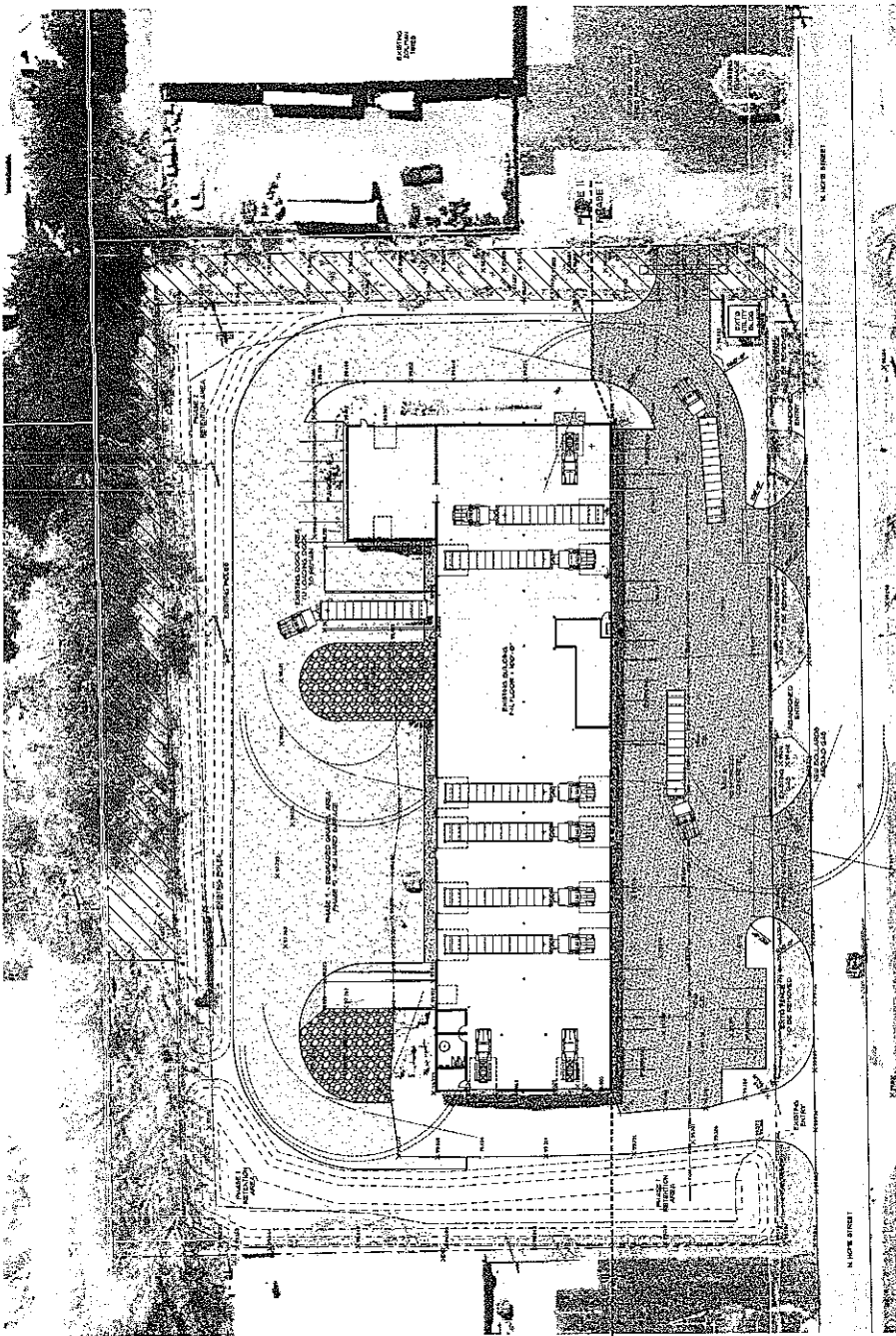
Respectfully submitted by:


Nathan D. Zolman, President

4-18-12
Date

CONTACT PERSON:

Name: Nathan D. Zolman, President
Address: 2014 E. McKinley Avenue
Mishawaka, IN 46545
Telephone: (574) 259-7871
Fax #: (574) 259-7904
Email: NateZ@zolmantire.com



SITE PLAN

LEGAL DESCRIPTION
PROPERTY ADDRESS: 2504 NORTH HOME STREET

[illegible][illegible]

Base Bid (Phase 1 site, restrooms, fees, permits, General Conditions)
Alternate 1 new OHD, raising gas and FS)
Alternate 1.a (Same as Alt 1. except New FS)
Alternate 1.b (Same as Alt 1. except OHD Co.)
Alternate 2 - Have 3rd door on South Elev.
Alternate 3 - Aluminum roof and gutters/downspouts
Alternate 3.a - TPO roof and gutters/downspouts
Alternate 4 - (38) Bollards at exterior only - Painted
Alternate 4.a - (76) Bollards at interior and exterior - Painted
Alternate 5 - Demo wall in waiting area, patch and paint.
Alternate 6 - Paint offices on west side of building
Alternate 7 - Paint Exterior of building (one coat spray applied, one color throughout)
Alternate 8 - Replace ceiling tile in northeast restrooms/office (420 sf)
Alternate 9 - 6" down spout piping to storm system on west side of building only. Consider this alternate along with Alt. 3 and 3.a above
Alternate 10 - Install 48" reinforced concrete pipe to join to properties
Alternate 11 - Regrade east area to drain to county ditch to the east using salvaged gravel from west side and stockpiling gravel on-site for future use. Note this does not include retention ponds or storm sewers for Phase 2 pavement.
Alternate 12 - Install five (5) 52" ceiling fans
Alternate 13 - Install six (6) 20 amp, 120V weatherproof truck heater receptacles.
Alternate 14 - Install thirty two (32) 20 amp, duplex receptacles - surface mounted.
Alternate 15 - Install forty eight (48) 6 lamp industrial high bay fixtures (time clock control)
Alternate 16 - Install two 15,000 cfm, 2hp exhaust fans, roof curb
Alternate 17 - Add south loading dock
Alternate 18 - Demo and relocate compressor room
Alternate 19 - Air loop (price reduced)
Alternate 20 - Sliding gates
Alternate 21 - Slab grinding at OHD
Alternate 22 - Replace 50lf of 5 ft R-13 insulation
Alternate 23 - Infill two OH door openings
Alternate 24 - Demo north and south west storage areas
Alternate 25 - Emergency and exit lighting at man doors

Base Bid (Phase 1 site, restrooms, fees, permits, General Conditions)
Alternate 1.b (Same as Alt 1. except OHD Co.)
Alternate 4 - (38) Bollards at exterior only - Painted
Alternate 5 - Demo wall in waiting area, patch and paint.
Alternate 6 - Paint offices on west side of building
Alternate 8 - Replace ceiling tile in northeast restrooms/office (420 sf)
Alternate 10 - Install 48" reinforced concrete pipe to join to properties
Alternate 11 - Regrade east area to drain to county ditch to the east using salvaged gravel from west side and stockpiling gravel on-site for future use. Note this does not include retention ponds or storm sewers for Phase 2 pavement.
Alternate 17 - Add south loading dock
Alternate 24 - Demo north and south west storage areas
Alternate 25 - Emergency and exit lighting at man doors

Zolman Tire, Inc.
2356 N. Home Street, Mishawaka, IN 46545
Tentative Schedule for Project Completion

PHASE 1 – project completion expected by late 2012

PHASE 2 – project completion expected in 5 to 7 years (2017 – 2019)



STONE CT

MICK CT

APPEAL 12-14

CLOVER RD

CLOVER RD

CLOVER RD

CLOVER RD

NICK KNIGHT ST

N HOME ST

E MC KINLEY AVE

MCKINLEY HWY

E LA SALLE AVE

ESTHER AVE

FERRIS AVE

ELLEN AVE

HAYNES AVE

Location Map

APPEAL 12-14

2356 N HOME STREET

USE VARIANCE TO ALLOW
COMMERCIAL TIRE AND FLEET
SERVICE ON A I-1 LIGHT
INDUSTRIAL ZONED PROPERTY

April 4, 2012

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

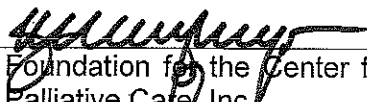
RE: PETITION FOR VACATION OF PUBLIC RIGHT OF WAY

The undersigned, Foundation for the Center for Hospice and Palliative Care, Inc., respectfully requests the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

(Please see the attached sheet for legal description.)

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

Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacated the above described right of way located in the City of Mishawaka.



Foundation for the Center for Hospice and
Palliative Care, Inc.
Lot 2 Riverside Addition



City of Mishawaka
Redevelopment Commission
Lot 1 Riverside Addition

Contact Person:

Wightman Petrie – Chris Chockley
412 S. Lafayette Blvd.
574-232-4388
574-232-4333

Pet 12-07

(Madison Street Description)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana , the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, said Plat being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the southeast corner of Lot 5 in said subdivision; thence South 0 degrees 00 minutes 00 seconds East 60.05 feet along the projected east line of Lot 5 to the south right-of-way line of East Madison Street; thence North 77 degrees 41 minutes 06 seconds West 134.01 feet along said south right-of-way line to the west boundary of said subdivision; thence North 0 degrees 00 minutes 00 seconds West 59.73 feet along said west boundary of said subdivision to the southwest corner of Lot 3 of said subdivision, said corner being on the north right-of-way line of East Madison Street; thence South 77 degrees 49 minutes 04 seconds East 133.94 feet along said north right-of-way line to the point of beginning and containing 7,842 square feet, more or less.

ALSO:

(North Alleyways Description)

A part of the recorded plat of Riverside Addition to the City of Mishawaka, Indiana , the plat of which recorded in Plat Book 8, page 178 in the Office of the Recorder of St. Joseph County, Indiana, said Plat being located in the Northwest Quarter of Section 15, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows: Beginning at the northeast corner of Lot 5 in said subdivision; thence North 77 degrees 49 minutes 04 seconds West 133.94 feet along the north line of Lot 5, Lot 4 and Lot 3 to the northwest corner of Lot 3 and being the west boundary line of said subdivision; thence North 0 degrees 00 minutes 00 seconds West 79.54 feet along said west boundary to the northwest corner of said subdivision; thence easterly 134.74 feet along a non-tangent curve to the right having a radius of 2,115.59 feet

Project: Mishawaka Hospice
Parcel: Vacation Legal Descriptions

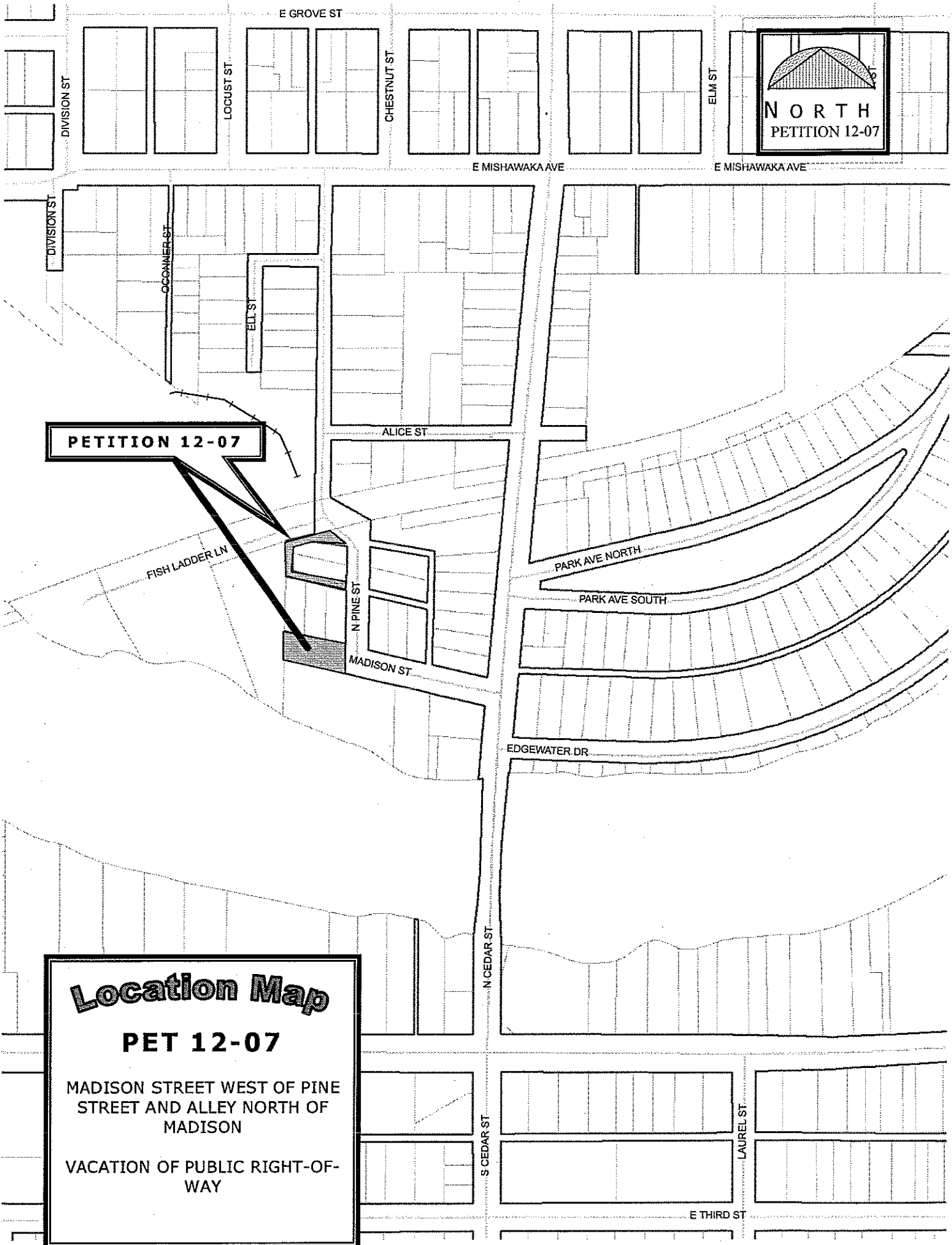
Sheet 2 of 2

and subtended by a long chord having a bearing of North 76 degrees 22 minutes 35 seconds East and a length of 134.72 feet to the intersection of the north boundary of said subdivision with projected the west right-of-way line of Pine Street (Short Street per plat); thence South 0 degrees 00 minutes 00 seconds East 45.44 feet along the said projected west right-of-way line to the northeast corner of Lot 1 in said subdivision; thence North 77 degrees 40 minutes 58 seconds West 75.10 feet along the north line of said Lot; thence South 74 degrees 54 minutes 01 second West 45.11 feet along the northwest line of said Lot; thence South 0 degrees 00 minutes 00 seconds East 58.79 feet along the west line of Lot 1 and Lot 2 of said subdivision to the southwest corner of Lot 2; thence South 77 degrees 49 minutes 04 seconds East 119.62 feet along the south line of Lot 2 to the southeast corner of said Lot; thence South 0 degrees 00 minutes 00 seconds East 14.32 feet to the point of beginning and containing 5,557 square feet, more or less.

Note: Basis of bearing for both descriptions is based upon an ALTA Land Title Survey Prepare by Wightman Petrie on August 9, 2011 (Job No. 2011-5069, Drawing No. SBC-139).

Prepared for: The City of Mishawaka
By: Jeffrey S. Barnes, PLS
Firm: Wightman Petrie, Inc.
Date: March 26, 2012
Job Number: 2011-5069

H:\2011 Projects\2011-5069\SUR\Vacation\Madison St-Alleys Vacation Lgl 03-26-2012.doc



Location Map

PET 12-07

MADISON STREET WEST OF PINE
STREET AND ALLEY NORTH OF
MADISON

VACATION OF PUBLIC RIGHT-OF-
WAY

DATE: April 18, 2012

APR 18 2012

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

Pet 12-09

RE: **PETITION FOR ANNEXATION AND ZONING CLASSIFICATION**

The undersigned Memorial Health Systems respectfully show that they are the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A PART OF THE EAST HALF OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 32 MINUTES 57 SECONDS EAST ALONG THE CENTERLINE OF SAID SECTION 23, 2072.35 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 03 SECONDS EAST, 20.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF EVERGREEN ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 47 DEGREES 25 MINUTES 23 SECONDS EAST, 289.03 FEET; THENCE SOUTH 42 DEGREES 34 MINUTES 37 SECONDS EAST, 1415.96 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE INDIANA TOLL ROAD; THENCE SOUTH 51 DEGREES 30 MINUTES 12 SECONDS WEST ALONG SAID NORTHERLY RIGHT-OF-WAY, 1477.74 FEET TO THE EASTERLY RIGHT-OF-WAY OF EVERGREEN ROAD; THENCE NORTH 00 DEGREES 25 MINUTES 24 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY, 1202.29 FEET; THENCE NORTH 00 DEGREES 32 MINUTES 57 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY, 564.73 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED TRACT CONTAINING 28.29 ACRES, MORE OR LESS, AND SUBJECT TO ANY COVENANTS RESTRICTIONS, EASEMENTS, AND RIGHT-OF-WAY OF RECORD.

Petitioner owns One Hundred (100%) percent of the above described parcel of land, excluding the right-of-way of Capital Avenue, and is located within a part of the east half of Section 23, Township 38 North, Range 3 East, Harris Township, St. Joseph County, and that the Petitioner desires the same to be annexed to the City of Mishawaka, Indiana, with an "S-2" Planned Unit Development District zoning classification desired. Petitioner further states they intend to utilize said land for a mixed-use medical and commercial development.

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

Petitioner further shows 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, Petitioner prays and respectfully requests 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 an "S-2" Planned Unit Development District zoning classification.

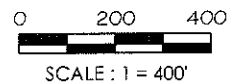
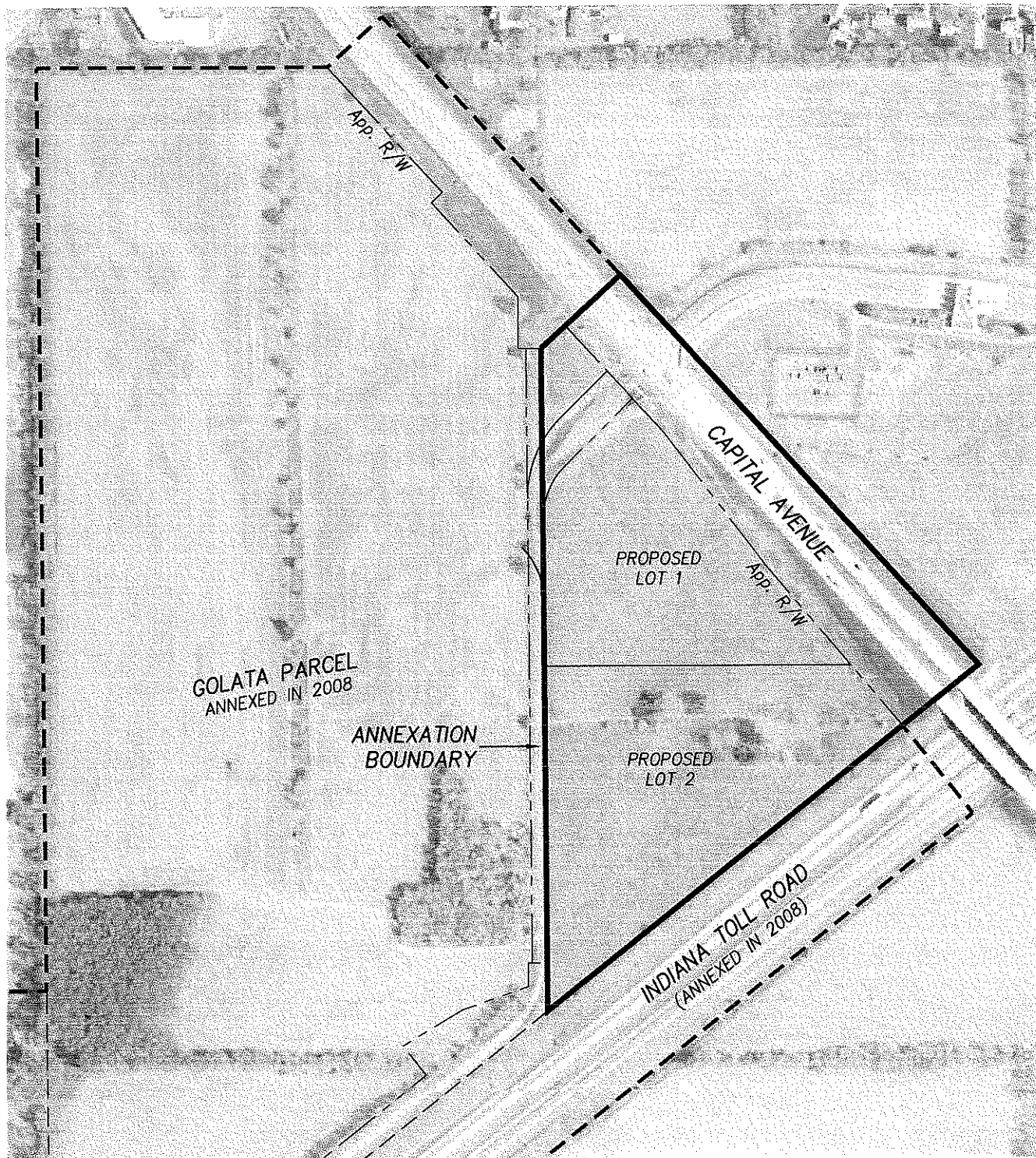


Jeff Costello, Vice President & CFO

CONTACT PERSON:

Bradley E. Mosness, PE
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
bmosness@abonmarche.com

E:\CIVIL 3D\ENG PROJ\12-0249 Walker Parcel\dwg\120249 Base.dwg, ANNEX CONCEPT, 4/18/2012 3:21:55 PM, 1:1



WALKER PARCEL ANNEXATION

EAST HALF OF SECTION 23, TOWNSHIP 38 NORTH,
RANGE 3 EAST, HARRIS TOWNSHIP,
ST. JOSEPH COUNTY, INDIANA



DATE: 04-18-12 ACI JOB #12-0249 SHT: 1 of 1
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Ret 12-09

Greg Shearon

From: JBF715@aol.com
Sent: Friday, May 11, 2012 12:44 PM
To: Greg Shearon
Cc: Greg Shearon
Subject: Penn Annexation and Rezoning

Good Afternoon Greg,
We would ask that the Mishawaka City Council postpone their vote on the Penn Annexation and Rezoning petitions for property at the Northeast corner of Douglas and Fir Roads until the next regularly scheduled meeting of the Council on May 21st, 2012.
If there are any questions or problems, please call me.
Thanks and enjoy your weekend,
Bernie

J. Bernard Feeney
Lang, Feeney & Associates, Inc.
Phone (574) 233-1841
Fax (574) 674-0374
e-mail jbf715@aol.com
e-mail bernie@langfeeney.com

RESOLUTION NO. 2012- 11

A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF MISHAWAKA, INDIANA
APPROVING AN AGREEMENT RE-ESTABLISHING
THE ST. JOSEPH COUNTY HOUSING CONSORTIUM
AND AUTHORIZING THE EXECUTION THEREOF

WHEREAS, ON November 28, 1990, the National Affordable Housing Act (NAHA) of 1990, also known as the Cranston-Gonzales Act, became law, to implement its stated goal that every American family be able to afford a decent home; and

WHEREAS, NAHA requires any governmental unit to formulate and submit appropriate plans in order to be eligible to receive funds from several existing federal programs, including Community Development Block Grants (CDBG), the HOME Investment Partnership Program (HOME), Emergency Shelter Grants (ESG), as well as to be eligible to receive funds from new housing assistance programs created by NAHA; and

WHEREAS, NAHA provides for the designation of geographically contiguous units of general local government to participate as consortia in, and thereby be considered a single unit of general local government, for purposes of HOME; and

WHEREAS, I. C. 36-1-7, the Interlocal Cooperation Act, authorizes one or more governmental entities to exercise, jointly or by one entity on behalf of the others, powers that may be exercised by such units severally; and

WHEREAS, pursuant to the Interlocal Cooperation Act, the Cities of South Bend and Mishawaka, and the County of St. Joseph, being contiguous units of general local government have formed the St. Joseph Housing Consortium, which, by agreement of the member entities, is to terminate on **December 31, 2012**; and

WHEREAS, the Cities of South Bend, Mishawaka, and St. Joseph County are desirous of re-establishing the Consortium for the purposes of receiving an allocation and participating in the HOME, CDBG, ESG, and all other housing programs administered by HUD for which they may be eligible, and for the purpose of cooperating to undertake or to assist in the undertaking of housing assistance activities for HOME and other HUD programs, including using a January 1 start date for each program year; and

WHEREAS, substantially similar resolutions will be approved by the St. Joseph County Council and the City of South Bend Common Council.

NOW, THEREFORE, AND PURSUANT TO THE AUTHORITY GRANTED THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA UNDER I.C. 36-1-7, THE INDIANA INTERLOCAL COOPERATION ACT, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AS FOLLOWS:

Section I. THAT The Common Council of the City of Mishawaka, Indiana has considered and hereby approves the re-establishment of and participation in the St. Joseph County Housing Consortium for purposes of the formulation, update, submission and implementation of applicable plans and programs and the implementation of the HOME Investment Partnerships Program (HOME), Emergency Shelter Grants Programs (ESG) and other housing assistance programs funded by the Department of Housing and Urban Development (HUD) under the National Affordable Housing Act of 1990 (NAHA).

Section II. THAT The Common Council of the City of Mishawaka, Indiana hereby authorizes the Mayor to enter into an Agreement Re-Establishing the St. Joseph County Housing Consortium, in form and substance the same as or similar to that the Agreement attached hereto.

Section III. THAT The Common Council of the City of Mishawaka, Indiana hereby confirms its commitment to the goals and the reality of fair housing within the City of Mishawaka.

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

Passed by the Common Council of the City of Mishawaka, Indiana, on this _____ day of May, 2012, at _____ o'clock, p.m.

John Roggeman, President

ATTEST:

Deborah S. Block, IAMC,MMC City Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on this ____ day of May, 2012, at _____ o'clock, ____m.

Deborah S. Block, IAMC,MMC City Clerk

Approved by me this _____ day of May, 2012, at _____ o'clock, ____m.

David A. Wood, Mayor

RESOLUTION NO. R 2012-12

**A RESOLUTION APPROVING APPOINTMENTS
TO THE HISTORIC PRESERVATION COMMISSION
OF THE CITY OF MISHAWAKA, INDIANA**

WHEREAS, Indiana statute permits the Common Council of a city to establish an Historic Preservation Commission; and

WHEREAS, the Mishawaka Common Council adopted Ordinance No. 3444 on November 19, 1990 creating a nine-member Historic Preservation Commission with a five-member Advisory Board; and

WHEREAS, Ordinance No. 3444 provides that eight voting members of the Historic Preservation Commission shall be appointed by the mayor subject to Common Council approval; and

WHEREAS, subject to Council approval, the mayor has appointed as voting members of the Mishawaka Historic Preservation Commission through December 31, 2013:

Dave Vollrath
Judy Gray
Michael Bultinck
Tony Obringer
Richard Barnette

Commission through 2014
David Eisen

Commission Through 2015
John Gleissner

Also to the Advisory Board through December 31, 2013:
Cynthia Harington

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka that it hereby approves the mayoral appointments of above member of the Mishawaka Historic Preservation Commission and Advisory Board.

John J. Roggeman, Presiding Officer

ATTEST:

Deborah S. Block, City Clerk IAMC, MMC

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on the
_____ day of _____ at _____ o'clock __. m.

Deborah S. Block, City Clerk IAMC, MMC

APPROVED AND SIGNED by me on the _____ day of _____ at
_____ o'clock __. m.

David A. Wood, Mayor

