

AGENDA

June 4, 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 May 21, 2012 (Page3)

5. Petitions, Communications, Remonstrance and Memorials

Appeal No. 2012-17 Use Variance to allow bulk propane storage - 1275/1301 Industrial Dr & 1220 S. Merrifield (Page 10)

Appeal No. 2012-18 Use Variance to allow a used car sales event - Sears at UP Mall (Page 13)

Petition No. 2012-11 Rezone from R-1 to C-1 - 312 E. 11th St and property East of 312 E. 11th St. (Page 17)

Petition No. 2012-12 Rezone from C-1 to C-7 Auto Oriented Com. - NE corner of Grape Rd & Edison Lakes Parkway (Page 21)

Petition No. 2012-13 Annex and Zone S-2 PUD - Mixed Use Commercial and Medical - SE corner of Main St & Douglas Rd (Page 24)

A public hearing on VR2012-02, as required by State Statute to Vacate Public Right of Way - Madison St west of Pine St and Alley North of Madison (Hospice)

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2012-11 Additional Funds - CEDIT - \$200,000.00 (Page 27)

8. Resolutions

R2012-17 Mishawaka High School Pom State Champions (Page 30)

R2012-18 Historic Preservation Commission - Cliff Zenor (Page 31)

9. Ordinances on Second Reading

PO NO 2012-09 Vacation of Public Right of Way madison St West of Pine St and alley North of Madison (Hospice) (Page 33)

PO NO 2012-10 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 40)

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
May 21, 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 May 21, 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 Clerk 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 – Absent

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 May 14, 2012 meeting were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals Recommendations from their May 9, 2012 public hearing.

APPEAL 2012-14

An appeal submitted by Zolman tire, Inc.,
Requesting a Use Variance for 2356 North
Home Street to allow commercial tire and
fleet service on an I-1 Light Industrial zoned
property. **RECOMMENDED APPROVAL**

With the following conditions:

1. An administrative Site Plan shall be submitted for review and approval consistent with the schematic drawings provided. Proposed Phase 1 improvements shall be completed by the end of 2012.
2. Proposed Phase 2 improvements shall be completed concurrent with the next significant planned capital improvement project, for the building/property.
3. Improvements to the site/within the building shall include an oil separator and any other improvements/modifications as may be directed by the Department of Engineering.

Chief Deputy Clerk Hazen read a letter from the Plan Commission Recommendations from their May 9, 2012 public hearing

PETITION NO.2012-07 A request submitted by the foundation for the Center for Hospice and Palliative Care, Inc. requesting to vacate a portion of Madison Street and north alleys. **RECOMMENDED APPROVAL**

PETITION NO. 2012-09 A request submitted by Memorial Health Systems To annex and zone approximately 28.29 acres located near the northwest corner of Capital Avenue and toll Road to S-2 Planned Unit Development to allow uses within the C-1 General Commercial district. **RECOMMENDED APPROVAL**

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

PROPOSED ORDINANCE NO. 2012-09

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

(Vacation of Public Right-of-Way Madison Street West of Pine Street and Alley North of Madison (Hospice)

Assigned to Land Use Planning Committee

PROPOSED ORDINANCE NO. 2012-10

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

(Annex S-2 PUD Mixed Use Medical and Commercial Development – NW Corner of Capital Avenue and the Indiana Toll Road approximately 28.9 acres)

Assigned to Land Use Planning Committee

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-13** opening it for public hearing.

RESOLUTION NO. 2012-13

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:
2356 North Home Street, Mishawaka, Indiana**

Nate Zolman, Zolman Tire 2356 North Home Street said the building was directly behind their headquarters has become vacant and, having outgrown their existing building they would like to convert it going from an 8,000 square foot area to a 26,000 square foot Commercial Tire And Fleet Service. He said they have congestion in their current parking lot with the semis and tractor trailers and moving over to a 2 1/2 acre property would take care of that congestion.

Mr. Banicki asked what was formerly in that building. Mr. Zolman said, it was one of their subsidiaries, for fifteen years they rethreaded Semi Tires, Zolman's sold their ownership in that facility 10 years ago and the retread store has now out grown that facility and have relocated in South Bend.

Mr. Compton said he would support this and that he appreciated the co-operation and working relationship with Zolman Tire, they have been a good neighbor.

Question was called for at 7:14 p.m. on **RESOLUTION NO. 2012-13** Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr.

Mammolenti, Mr. Reisdorf, Mr. Roggeman.

Mrs. McClure Absent

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-14** opening it for public hearing.

RESOLUTION NO. 2012-14

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTIES LOCATED AT Northeast of Douglas Road and Fir Road

Mr. Prince, City Planner, said he would be speaking on the next three resolutions Fiscal Plan and would like to condense all three presentations into one. He said the only reason this annexation was broken into pieces was because State law requires a minimal of 12 1/2% contiguity before annexation to the city, except for industrial property.

Mr. Prince explained **RESOLUTION NO. 2012-14** deals with the first 16 acre piece of property that was closest to Fir and Douglas Roads and achieved contiguity by the south east corner that was annexed in the past few years making it adjacent to the city and it remains currently vacant.

Mr. Prince went on to say subsequently they filed the next petition for the Fiscal Plan **RESOLUTION NO. 2012-15** include the next 77 acre piece and lastly **RESOLUTION NO. 2012-16** was the remaining 156 acres bringing the total property to just less than 250 acres. He said this property commonly known as the Penn Farm has been on the market for commercial development. Mr. Prince said they feel it was very advantages to annex this

property at this time locating it in the city for the planning and development of utilities and long range planning as they feel it is a logical growth area of the city. Mr. Prince stated they proposed a mix of residential and commercial use of the property but ultimately the market would determine that over time. He said if looking at 4 single family homes per acre, there would be an equivalent of 1,000 homes, or if looking at it as a mall property then the equivalent would be three times the size of the University Park Mall.

Mr. Prince went on to say looking at the Fiscal Plan the only expense to the city would be the maintenance of Douglas Road which the city would have to plow and maintain. He said it exists of ¼ mile of road at this point, the city already maintains the corner there and they do not lift the plows when they make their turn so they would be able to work it into their normal routes so there would be no additional expense to that budget. Mr. Prince said as far as the other services to the property those would be born by the developer. He explained the incremental expenses, police fire, etc would occur over a period of time and clearly any development that occurs on the property would be paying their share of property taxes to pay for those services.

Mr. Roggeman asked what the approximate footage would be on Douglas Road. Mr. Prince said about 2,000 feet, between ¼ and ½ mile. Mr. Roggeman said sidewalks come into question. Mr. Prince said what Mishawaka struggles with was crossing busy intersections, Grape Road and Main Street were developed at a time when there wasn't the same emphasis on sidewalks and what they were looking at evaluating now was the connections they can make. He said the problem was when a sidewalk was put in, people have the reasonable expectation that they and their children could walk on it and be safe, and they can not say that for Grape Road with the number of curb cuts and the moving of 20 to 30 thousand cars per day. Mr. Prince said what they are looking at in terms of sidewalks for this connection are internal localized connections within the development not regional.

Mr. Roggeman said the sidewalk along Capital goes all the way to Douglas but does not continue north of Douglas. Mr. Prince said he believed the States plan was to continue that north.

Called for the question at 7:17 p.m. on RESOLUTION NO. 2012-14, Vote Motion carried by unanimous roll call vote (summary: Yes = 8).

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

Marsha McClure Absent

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-15** opening it for public hearing.

RESOLUTION NO. 2012-15

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR
ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE
POLICY FOR ANNEXATION FOR THE PROPERTIES LOCATED AT**

North of Douglas Road and Fir Road (14669) Douglas Road

Called for the question 7:18 p.m. on RESOLUTION NO. 2012-15 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

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

Marsha McClure Absent

Chief Deputy Clerk Hazen read **RESOLUTION NO. 2012-16** opening it for public hearing.

RESOLUTION NO. 2012-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTIES LOCATED AT North of Douglas Road and West and adjacent to Capital Avenue

Question was called for at 7:19 p.m. on RESOLUTION NO. 2012-16 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

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

Marsha McClure absent

UNFINISHED BUSINESS

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2012-06** opening it for public hearing

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 Road, East of Fir Road Annexation #1)

Chief Deputy Clerk Hazen stated the petitioner was requesting an amendment due to the legal description.

Mr. Prince explained they noticed when preparing the Fiscal Plan for annexation there was a discrepancy in the legal. He said as he explained in the Fiscal Plan 12 ½% minimum was needed for contiguity and the original legal description only showed 12.44 so the amendment was merely to add a little property to the first and second petitions to reach that threshold of 12.5 so they needed to add 6 hundredths of an acre to **PROPOSED ORDINANCE NO. 2012-06**. therefore, modifying all subsequent ordinances to that effect,

in order to qualify for state law. Mr. Prince said it does not change the substance they are still talking about the same 250 acres.

Mr. Banicki made the motion to amend **PROPOSED ORDINANCE NO. 2012-06** with a second by Mr. Compton the motion carried.

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

Vote called for on **PROPOSED ORDINANCE NO. 2012-06AA** at 7:23 p.m. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5340AA** Marsha McClure Absent.

Mr. Banicki made the motion to amend **PROPOSED ORDINANCE NO. 2012-07** with a second by Mr. Emmons the motion carried.

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2012-07AA** opening it for public hearing

PROPOSED ORDINANCE NO. 2012-07AA

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 #2)

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

Question called for at 7:25p.m.on **PROPOSED ORDINANCE NO. 2012-07AA** **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5341AA** Marsha McClure absent

Chief Deputy Clerk Hazen read **PROPOSED ORDINANCE NO. 2012-08** opening it for public hearing

Mr. Banicki made the motion to amend **PROPOSED ORDINANCE NO. 2012-08** with a second by Mr. Compton the motion carried.

PROPOSED ORDINANCE NO. 2012-08 AA

**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 #3)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance as amended should be adopted and moved for acceptance of same, upon a second by Mr. Roggeman, the motion carried.

Question called for at 7:27 p.m. on **PROPOSED ORDINANCENO. 2012-08AAVote:**

Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5342AA**
Mrs. McClure Absent

There being no further business to come before the Council, President Roggeman adjourned the meeting at 7:29 p.m.

Mary Ellen Hazen, _____/s/
/s/

Mary Ellen Hazen, Chief Deputy Clerk

☐ ☐ John J. Roggeman _____

John J. Roggeman, Presiding Officer

May 23, 2012

Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

I, Paul A. McMahon, 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:
1275 and 1301 Industrial Drive and 1220 South Merrifield Avenue, Mishawaka, Indiana 46544
with a legal description of:

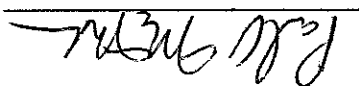
SEE ATTACHED

The above described real estate presently has a zoning classification of Industrial I-1 District under the Zoning Ordinance of the City of Mishawaka. Appellant presently occupies the above described property as Maron Products, a metal stamping plant. Appellant desires to install an above ground tank for the bulk storage of propane. The Zoning Ordinance of the City of Mishawaka Section 137-609(b)(40) lists "Toxic and Flammable chemical bulk storage as a potential "conditional use" in the Industrial I-2 District. Strict adherence to the Ordinance requirements would create an unusual hardship as it would prohibit the cost savings and increased production approval of this Use Variance would provide.

Approval of this request for Use Variance will not be injurious to the public health, safety, morals or general welfare. The plant is in an industrial subdivision with strict factory safety standards already in place, while the continued upgrading of the production facility will ensure current and future employment for the citizens of Mishawaka. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner as it is zoned for industrial use. The need for this Use Variance arises due to costs of providing bi-weekly replacement of propane tanks on fork lifts by a supplier. The Use Variance will allow on-site bulk storage of propane at significant cost savings and convenience. The strict application of the Zoning Ordinance constitutes an unnecessary hardship if applied to the property for which the variance is being sought in that it will inhibit necessary cost savings and convenience.

Approval of this Use Variance will not interfere substantially with the Mishawaka 2000 Comprehensive Plan.

WHEREFOR, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board approve the requested variance and send it to the City Council with a favorable recommendation.



Paul A. McMahon
McMahon LLC
President
Maron Products

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 30 2012

CITY CLERK
MISHAWAKA, IN

CONTACT PERSON
Edward M. Fisher
Fisher Land Surveying Services Inc.
303 East Third Street
Mishawaka, Indiana 46544
Phone: (574) 255-8377
Facsimile: (574) 257-8557

DESCRIPTION

Part of the North Half (N1/2) of the Northeast Quarter (NE1/4) of Section Twenty-two (22), Township Thirty-seven (37) North, Range Three (3) East, situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter (NE1/4) of said Section 22; thence North Eighty-nine (89) degrees Fifty-seven (57) minutes seven (7) seconds East along the North line of the Northeast Quarter (NE1/4) of said Section 22 a distance of Six Hundred Sixty and Forty-five Hundredths (660.45) feet to a point; thence South Zero (0) Degrees One (1) minute Thirty-five seconds East a distance of Five Hundred Three and Six Hundredths (503.06) feet to a point, said point being the true place of beginning of this description; thence continuing South Zero (0) Degrees One (1) minute Thirty-five seconds East a distance of One Hundred Seventy-seven (177) feet to a point; thence South Eighty-nine (89) Degrees Fifty-seven (57) minutes seven (7) seconds West a distance of Three Hundred Thirty (330) feet to a point; thence North Zero (0) Degrees One (1) minute Thirty-five (35) seconds West a distance of One Hundred Seventy-seven (177) feet to a point; thence North Eighty-nine (89) Degrees Fifty-seven (57) minutes seven (7) seconds East a distance of Three Hundred Thirty (330) feet to the place of beginning of this description, being known as Lot Numbered Five (5) on the proposed plat of Penz Industrial Park. Subject to an easement for roadway and utility purposes in, on and over the East Forty-five (45) feet thereof to be used in common with the remainder of the properties located in Penz Industrial Park, it being the intent of the Grantor, the Grantee and the owners of the remainder of the properties located in Penz Industrial Park to join in an effort to dedicate the same to the public. Subject also to an easement for utility purposes in, on and over the North Fifteen (15) feet thereof to be used in common with the remainder of the properties located in Penz Industrial Park.

Part of the North Half (N1/2) of the Northeast Quarter (NE1/4) of Section Twenty-two (22), Township Thirty-seven (37) North, Range Three (3) East, situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter (NE1/4) of said Section 22; thence North Eighty-nine (89) degrees Fifty-seven (57) minutes seven (7) seconds East along the North line of the Northeast Quarter (NE1/4) of said Section 22 a distance of Six Hundred Sixty and Forty-five Hundredths (660.45) feet to a point; thence South Zero (0) Degrees One (1) minute Thirty-five seconds East a distance of Six Hundred Eighty and Six Hundredths (680.06) feet to a point, said point being the true place of beginning of this description; thence continuing South Zero (0) Degrees One (1) minute Thirty-five seconds East a distance of Three Hundred Ten (310) feet to a point; thence South Eighty-nine (89) Degrees Fifty-seven (57) minutes seven (7) seconds West a distance of Three Hundred Thirty (330) feet to a point; thence North Zero (0) Degrees One (1) minute Thirty-five (35) seconds West a distance of Three Hundred Ten (310) feet to a point; thence North Eighty-nine (89) Degrees Fifty-seven (57) minutes seven (7) seconds East a distance of Three Hundred Thirty (330) feet to the place of beginning of this description, being known as Lot Numbered Six (6) on the proposed plat of Penz Industrial Park. Subject to an easement for roadway and utility purposes in, on and over the East Forty-five (45) feet thereof to be used in common with the remainder of the properties located in Penz Industrial Park to join in an effort to dedicate the same to the public. Subject also to an easement for utility purposes in, on and over the West Fifteen (15) feet thereof to be used in common with the remainder of the parties located in Penz Industrial Park. Subject also to an easement for utility purposes, in, on and over the South Twenty-five (25) feet thereof to be used in common with the remainder of the properties located in Penz Industrial Park.

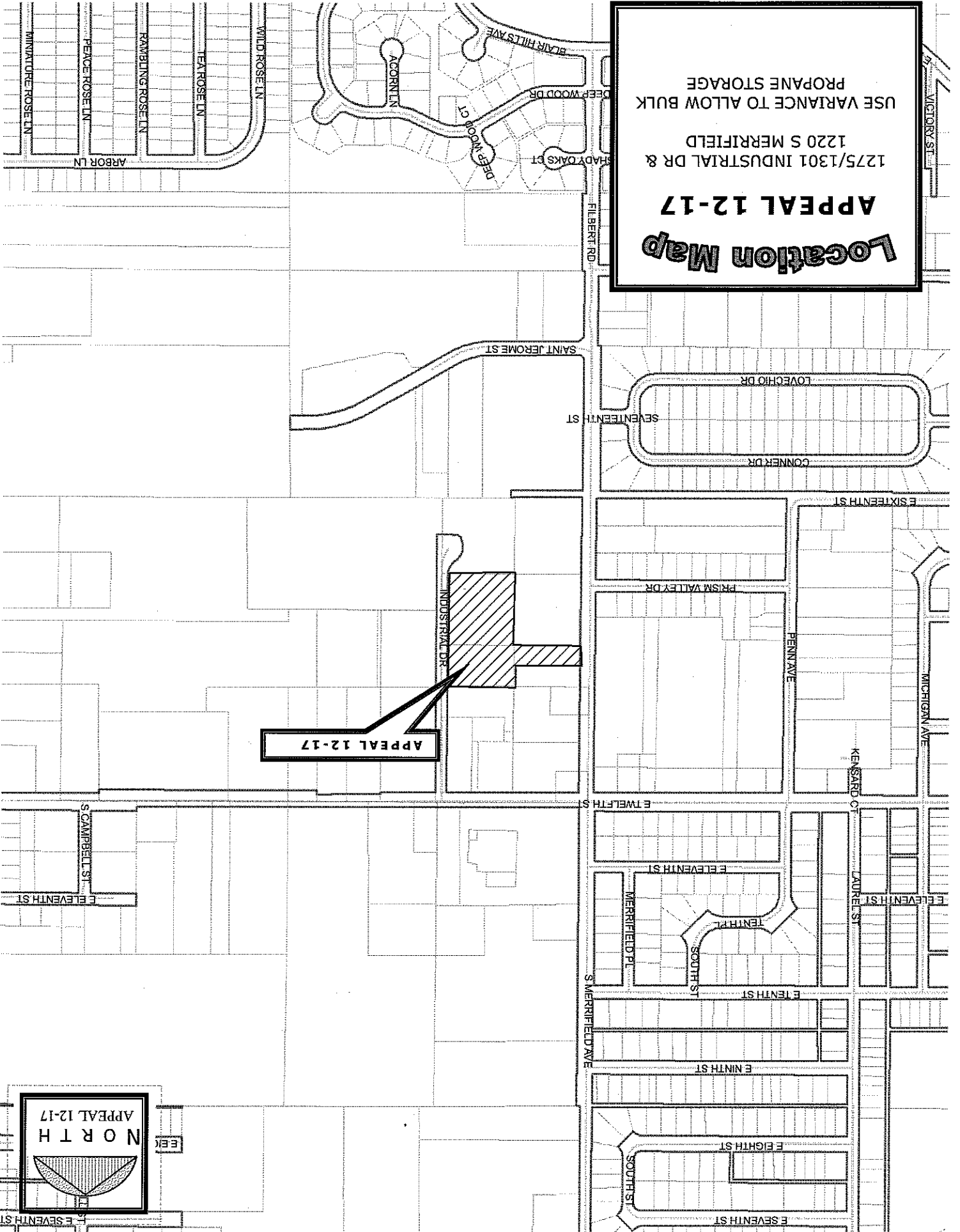
Part of the North Half (N1/2) of the Northeast Quarter (NE1/4) of Section Twenty-two (22), Township Thirty-seven (37) North, Range Three (3) East, situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter (NE1/4) of said Section 22; thence South Zero (0) degrees Zero (0) minutes Zero (0) seconds East along the West line of the Northeast Quarter (NE1/4) of said Section 22 a distance of Five Hundred Eighty-nine and Six Hundredths (589.06) feet to a point; thence North Eighty-nine (89) degrees Fifty-seven (57) minutes seven (7) seconds East Section 22 a distance of Forty (40) feet to a point; said point being the true place of beginning of this description; thence continuing North Eighty-nine (89) degrees Fifty-seven (57) minutes seven (7) seconds East a distance of Two Hundred Ninety and Seventy-two Hundredths (290.72) feet to a point; thence South Zero (0) Degrees One (1) minute Thirty-five (35) seconds East a distance of Ninety-one (91) feet to a point; thence South Eighty-nine (89) degrees Fifty-seven (57) seconds West a distance of Two Hundred Ninety and Seventy-six Hundredths (290.76) feet to a point, said point being North (0) degrees Zero (0) minutes Zero (0) seconds East along the West line of the Northeast Quarter (NE1/4) of said Section 22; thence (measured at right angles) of the West line of the Northeast Quarter (NE1/4) of said Section 22 a distance of Ninety-one (91) feet to the place of beginning of this description, being known as Lot 10A on the proposed plat of Penz Industrial Park. Subject to an easement for utility purposes in, on and over the East Fifteen (15) feet thereof to be used in common with the remainder of the properties located in Penz Industrial Park. Subject to an easement for ingress to and egress from the Janther Building, as presently located, located on Lot 10B lying immediately North of, and contiguous to, the property immediately above described, across the existing driveway.

USE VARIANCE TO ALLOW BULK
PROPANE STORAGE

1275/1301 INDUSTRIAL DR &
1220 S MERRIFIELD

Location Map APPEAL 12-17



NORTH
APPEAL 12-17

RECEIVED
DEBORAH S. BLOCK, MMC

Date: 5/21/2012

MAY 23 2012
MAY 30 2012

To: Board of Zoning Appeals
City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN

The undersigned appellant, R & B Car Company, Brandon Cretacci President, respectfully shows the Board:

1. Brandon Cretacci, (appellant) on behalf of Sears, (owner) am petitioner of the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to wit:

Sears Roebuck & Company
6501 Grape Road
Mishawaka, Indiana 46545

A tract of land situated in the Southwest Quarter of Section 28, Township 38 North, Range 3 East, St. Joseph County, Indiana, and more particularly described as follows: Commencing at an Indiana Toll Road right of way monument at the intersection of the North right -of-way line of said Toll Road with the proposed West right of way line of Grape Road, said point lying in and on the South line and 80,000 feet West of the East line of said Northwest Quarter of Section 28;

thence South 89°37'13" West on and along the North right of way line of the Indiana State Toll Road (said line also being the South line of the Northwest Quarter of Section 28) a distance of 723.71 feet to a point, said point also being the principal point and true place of beginning;

thence continuing along said North right of way line South 89°37'13" West a distance of 1147.33 feet to a point;

thence North 36°00'22.7" West a distance of 218.08 feet to a point on the Easterly right of way line North 29°46'15" East a distance of 56.11 feet to a point;

thence continuing along said Easterly right of way line a distance of 185.292 feet along an arc to the left having a radius of 2854.79 feet and a chord of 185.261 feet bearing North 31°37'35" East to a point;

thence continuing along said Easterly right of way line North 29°46'15" East a distance of 400.00 feet to a point;

thence continuing along said Easterly right of way line a distance of 244.07 feet along an arc to the right having a radius of 2821.79 feet and a chord of 243.98 feet bearing North 32°14'55.3" East to a point;

thence South 60°00'00" East a distance of 430.30 feet to a point;

AP 12-18

thence South 35°00'00" East a distance of 459.50 feet to a point;

thence South 55°00'00" West a distance of 41.50 feet to a point;

thence South 35°00'00" East a distance of 382.67 feet to a point on the North line of the Indiana State Toll Road, said point also being the principal point and true place of beginning.

2. The above described real estate presently has a zoning classification of C-2, Shopping Center Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant, on behalf of University Park Mall, presently occupies or proposes to occupy the Southwest parking lot portion, North of Sears Roebuck & Company, and East to the SR 23 boundary of University Park Mall and West to the University Park Mall Boundary at Grape Road of the above described property in the following manner:
4. R & B Car Company desires to occupy the property for a 10 day period in July, August and September for an offsite Used Car Sale.
The hours of operation shall be from 10am until dusk. Additionally, R & B Car Company, within the current Zoning Constraints of the City of Mishawaka, would request signage, three portable tents to provide shelter for staff and customers not to exceed 20' X 40'. One 12 X 44 mobile office facility for business transactions and securing of valuables. Adequate restroom facilities will also be provided including handicap accessible facilities and hand washing stations. A minimum of eight trash receptacles emptied twice daily will be provided at the site. Additionally, appropriate measures will be taken using safety cones, barricades, and safety banners to control traffic patterns and parking .
5. Zoning Constraints of the City of Mishawaka, would request permission for temporary signage, three portable tents to provide shelter for staff and customers not to exceed 20' X 40'. One 12 X 44 mobile office facility for business transactions and securing of valuables. Adequate restroom facilities will also be provided including handicap accessible facilities and hand washing stations. A minimum of eight trash receptacles emptied twice daily will be provided at the site. Additionally, appropriate measures will be taken using safety cones, barricades, and safety banners to control traffic patterns and parking.
5. The Zoning Ordinance of the City of Mishawaka requires (1) per section 157.14 Prohibits signage in all zoning Districts states it shall be unlawful to erect or maintain temporary signs, except as permitted under 157.16 Temporary Freestanding Sign Permits. (2) The parking area of the University Park Mall in question is Zoned C-2, Shopping Center Commercial.
6. Strict adherence to the Ordinance requirements enforced would prohibit us from (1) selling used vehicles from that location, and (2) Using banners, cold air balloons, tents and other miscellaneous materials to promote our Used Car Event.
- 7-1. Approval of this request will not be injurious to the public health, safety, morals or general welfare of the community as, R & B Car Company is a very community involved company and is committed to the well being of the City of Mishawaka. The use and value of the area adjacent properties included in the variance will not adversely be affected. This event will stimulate revenues for the local community, tax revenues, local media outlets, employees of

surrounding businesses, subcontractors and vendors involved in staging this event.

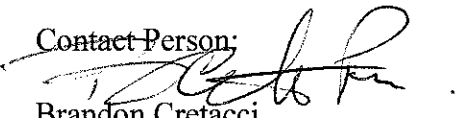
- 7-2. The need for the variance arises due to the fact that the property is located in the City of Mishawaka and is currently not being used for the same purpose as the request that is being made. The property is also located in a very high visibility area with easy access, adequate customer and employee parking.
- 7-3. Strict application to the terms of this chapter constitutes an unnecessary hardship if applied to this property due to the fact that R & B Car Company's sales are successful in part because of the safe and festive atmosphere created by our marketing and implemented by our employees.
8. Approval will in no manner interfere with the Mishawaka 2000 Comprehensive Plan as the property is already defined as commercial.

Wherefore, R & B Car Company prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grants the requested variance.

Property Owner Signature: See Attached Authorization

Print Property Owners Name: Sears Roebuck & Company

Contact Person:


Brandon Cretacci

President, R & B Car Company

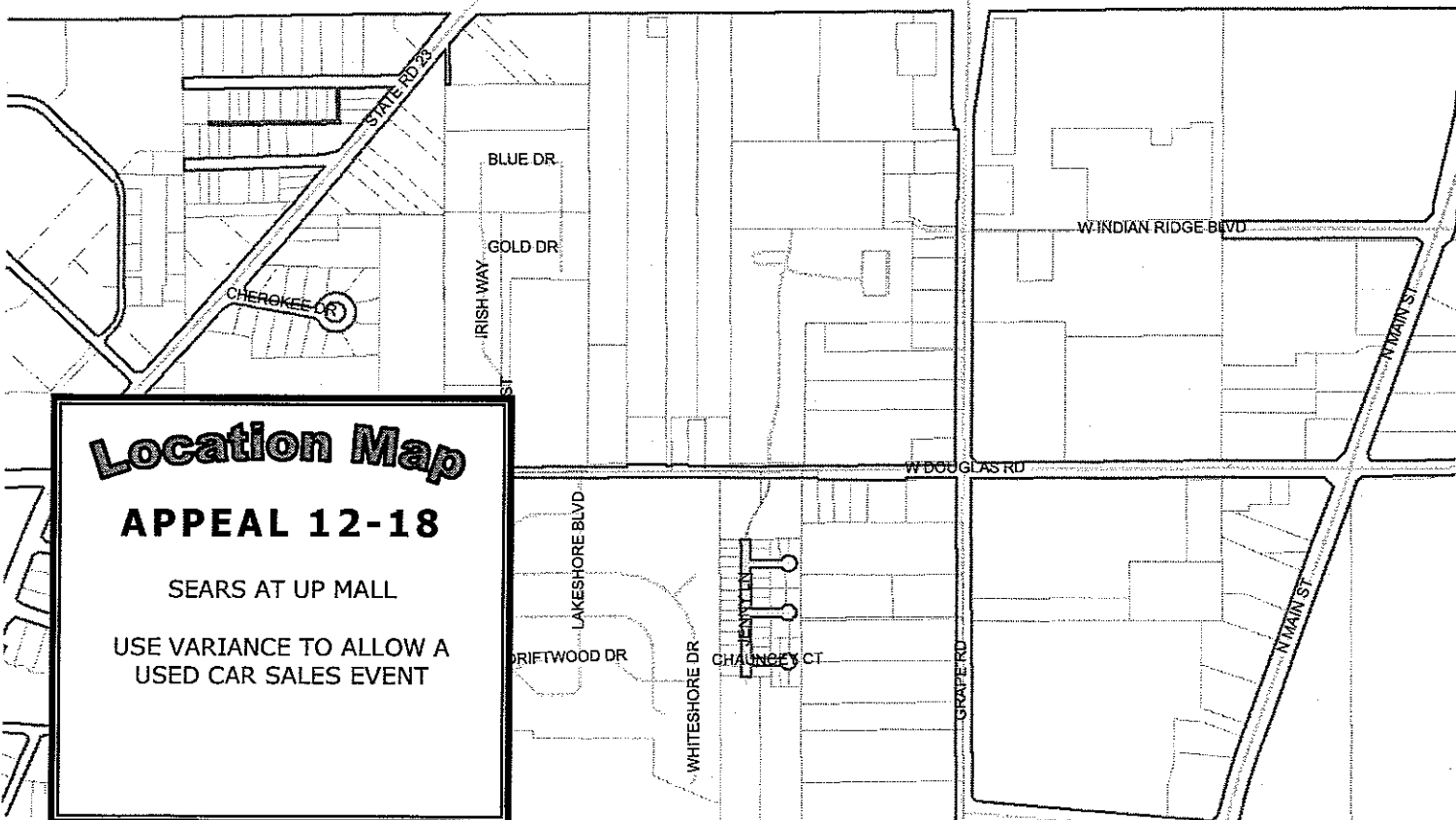
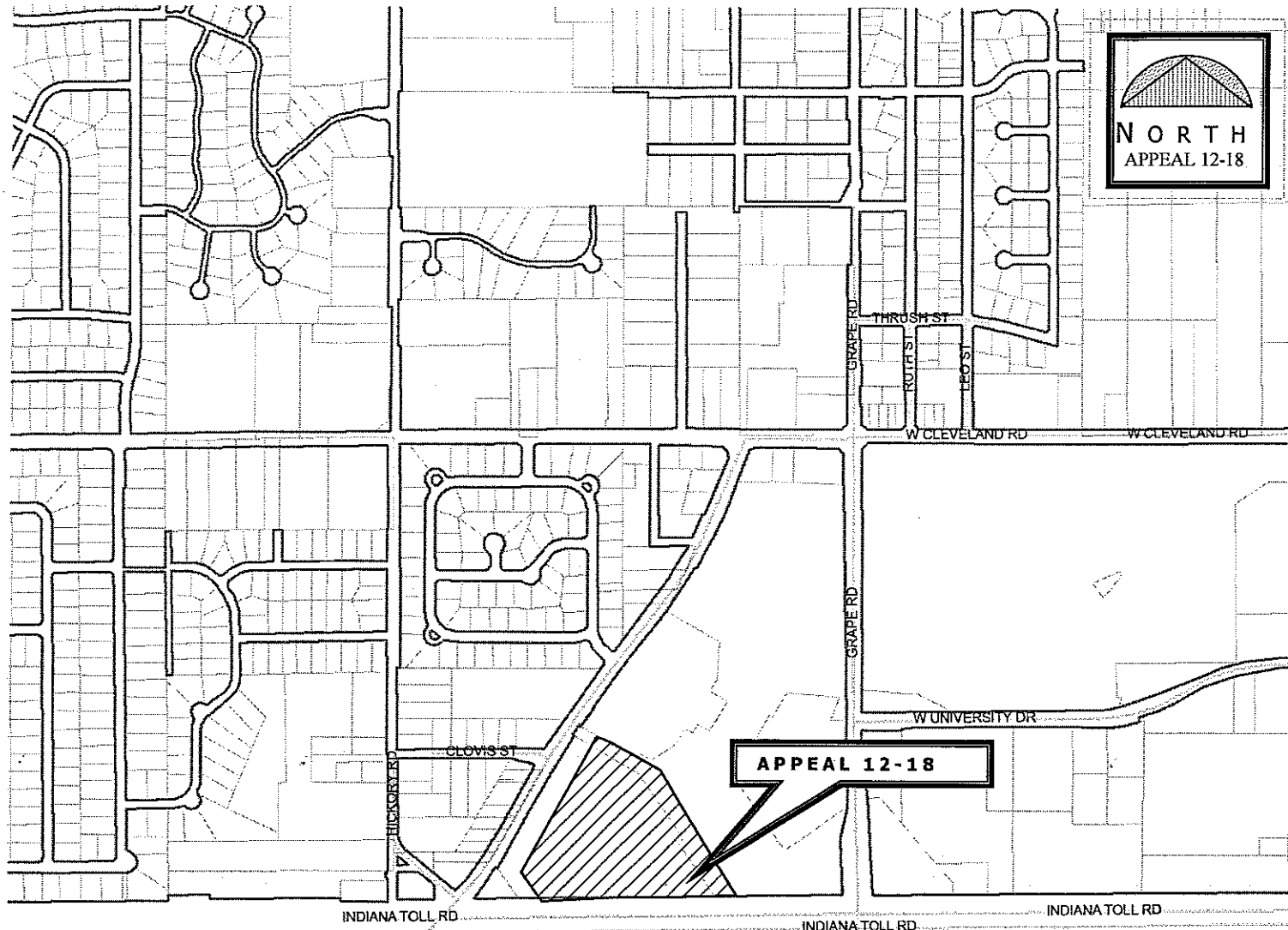
3811 South Michigan Street

South Bend, Indiana 46614

Phone: 574-231-9601

Fax: 574-231-9498

Email: brandoncretacci@rbcarcompany.com



Location Map

APPEAL 12-18

SEARS AT UP MALL

USE VARIANCE TO ALLOW A
USED CAR SALES EVENT



550 Union St. Mishawaka, IN 46544
 Phone: (574) 259-9976 Fax: (574) 259-9982

RECEIVED
 DEBORAH S. BLOCK, MMC
 MAY 30 2012
 CITY CLERK
 MISHAWAKA, IN

Petition To Rezone

April 24, 2012

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

Re: Petition To Rezone

Direct Line Communications respectfully shows that they are the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PARCEL 1: Lot# 110 of the Gaylor's 3rd Plat, Mishawaka, Indiana

PARCEL 2: Lot # 109 of the Gaylor's 3rd Plat, Mishawaka, Indiana

Parcel 1 is a vacant lot located on East 11th Street (directly adjacent to parcel 2) and parcel 2 is located at the common address of 312 East 11th Street, Mishawaka, Indiana 46544.

The Petitioners own One Hundred (100) percent of the above described parcels of land carrying a zoning classification of "R-1" residential district. The residential home residing on parcel 1 (lot #110) has been demolished and the site is currently vacant. Topsoil and turf grass seed has been applied to parcel 1. Parcel 2 (lot# 109) has a garage structure remaining from the previous homeowner. The structure is currently being used as a craft workshop by Marsh Vervynck, who has an agreement with Direct Line Communications to continue use of the garage as a woodshop until his passing.

The Petitioners desire said real estate to be rezoned to "C-1" commercial district. In order to provide electrical service to the craft workshop, the said property must be rezoned to the aforementioned zoning designation to conform to regulations stated within the City Zoning Ordinances. Upon expiration of the agreement between Direct Line Communications and Mr. Vervynck, the craft workshop will be removed. The Petitioners further state that after the craft workshop is removed, they intend to utilize said land for potential future expansion of parking facilities. The Petitioners have shifted Pemberton Davis Electric from the Union Street building to their new McKinley Avenue facility, remediate much of the current parking deficiencies that have occurred along 11th street. However, the expected future growth of Direct Line Communications may require expanded parking facilities for both their employees and customers.

Accompanying this petition is a scaled drawing showing the above described parcels of real estate, their relation to the existing "C-1" commercial parcels, existing garage structure location, and potential future expansion of the parking.

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 parcels of land in the City of Mishawaka.



Property Owner Signature

William Pemberton

Printed Property Owner Name

Contact Person:
Nathan Bosch
550 Union St
Phone: 574-259-9976
Fax: 574-254-4048
ntb@troycergroup.com

15

116° R. 115.94' M

SUMMIT LANE 32' R/W

114

113

112

111

110

109

108

107

106

105

104

103

102

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N 89°00'00" E (BEARING ASSIGNED) 213.85' M

ALLEY 16' (DIRT/GRAVEL)

UNION STREET 60' R/W

PROPOSED AREA FOR FUTURE PARKING EXPANSION

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114° R

113° R

112° R

111° R

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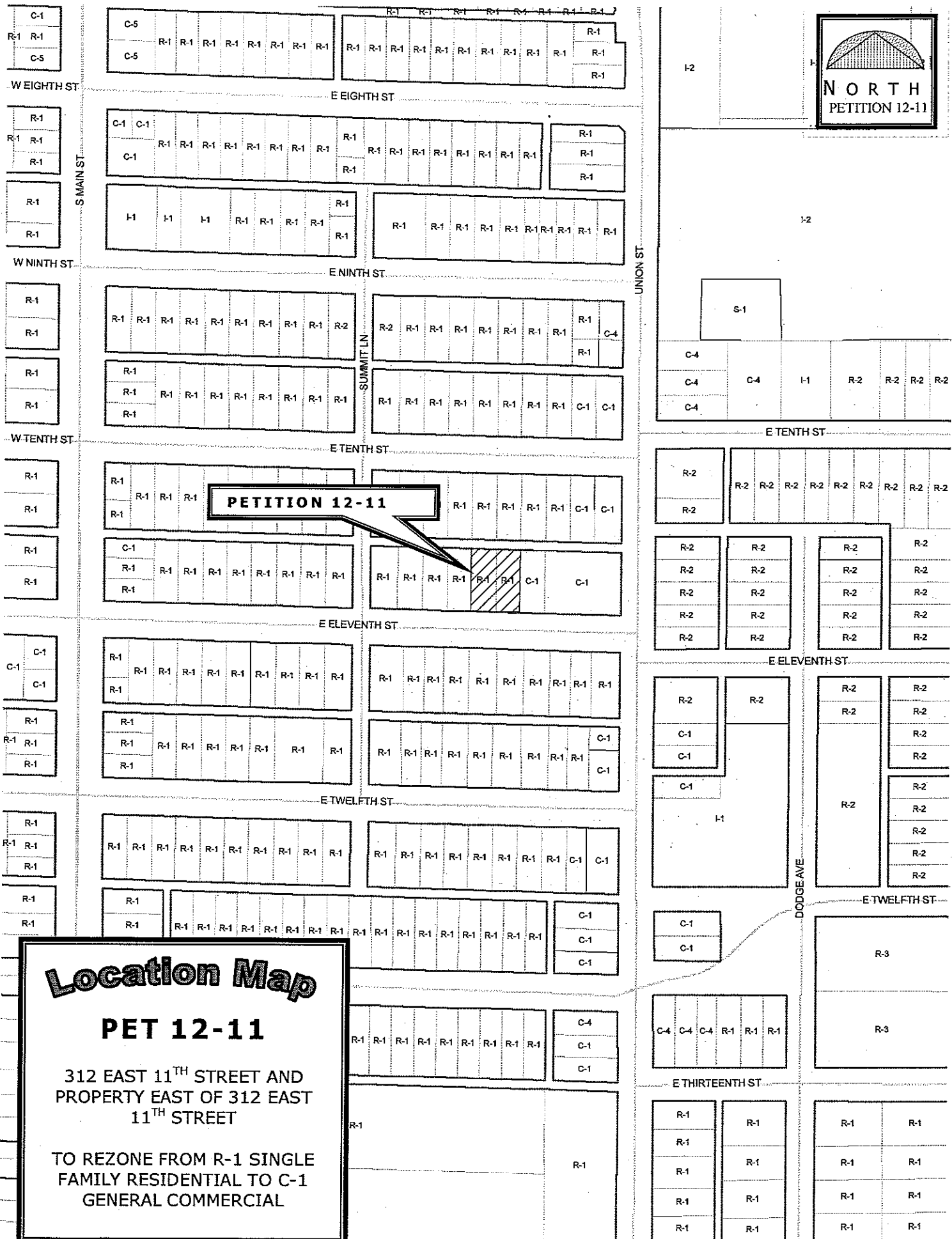
70° R

69° R

68°


**THE
TROYE
GROUP**

550 Union Street
Mishawaka, Indiana 46544
Phone Number (574) 259-9376
Fax Number (574) 259-9682
www.bryergroup.com





RECEIVED
DEBORAH S. BLOCK, MMC

MAY 30 2012

CITY CLERK
MISHAWAKA, IN

Meijer Real Estate

Roger DeHoek
Real Estate Manager
Telephone: (616) 791-3909
FAX: (616) 735-8887
Roger.DeHoek@meijer.com

May 7, 2012

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

MAY 21 2012

pet 12-12

RE: PETITION TO REZONE

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

LEGAL DESCRIPTION
Partner Job # 12-87738.1

A part of the Northeast Quarter of Section 33, Township 38 North, Range 3 East, Clay Township, Mishawaka, St. Joseph County, Indiana, being part of the lands described in Meijer Distribution, Inc. (Instrument #0053504), described as follows:

Commencing at a 3/4" Iron Pin at the Northwest corner of said Northeast Quarter of Section 33;

Thence South 00°00'05" West (bearing assumed), along the west line of said Northeast Quarter of Section 33 and the centerline of Grape Road for a distance of 777.00 feet;

Thence North 89°59'55" East, for a distance of 40.00 feet to the East right-of-way line of Grape Road;

Thence South 00°00'05" West, along said East right-of-way line and parallel with the west line of said Northeast Quarter for a distance of 738.22 feet to the Point of Beginning;

Thence South 89°52'31" East, for a distance of 242.40 feet;

Thence South 44°53'13" East, for a distance of 32.99 feet;

Thence South 05°26'00" West, for a distance of 173.50 feet to the north right-of-way line of Edison Lakes Parkway;

Thence North 85°02'33" West, along said north right-of-way line for a distance of 225.20 feet;

Thence North 42°31'14" West, along said north right-of-way line for a distance of 36.85 feet to the east right-of-way line of Grape Road;

Thence North 00°00'05" East, along said east right-of-way line for a distance of 150.00 feet to the Point of Beginning.

Containing 1.090 acres.

Petitioner(s) own one hundred (100%) of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. Said property is currently used as parking for the Meijer retail store.

Petitioner(s) desire said real estate to be rezoned to C-7 Automobile-Oriented Commercial District. Petitioner(s) further state that they intend to utilize said land for the development of a drive-thru fast food restaurant.

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

Sincerely,

MEIJER

A handwritten signature in black ink, appearing to read 'R. DeHoek', is written over the printed name.

Roger DeHoek
Real Estate Manager



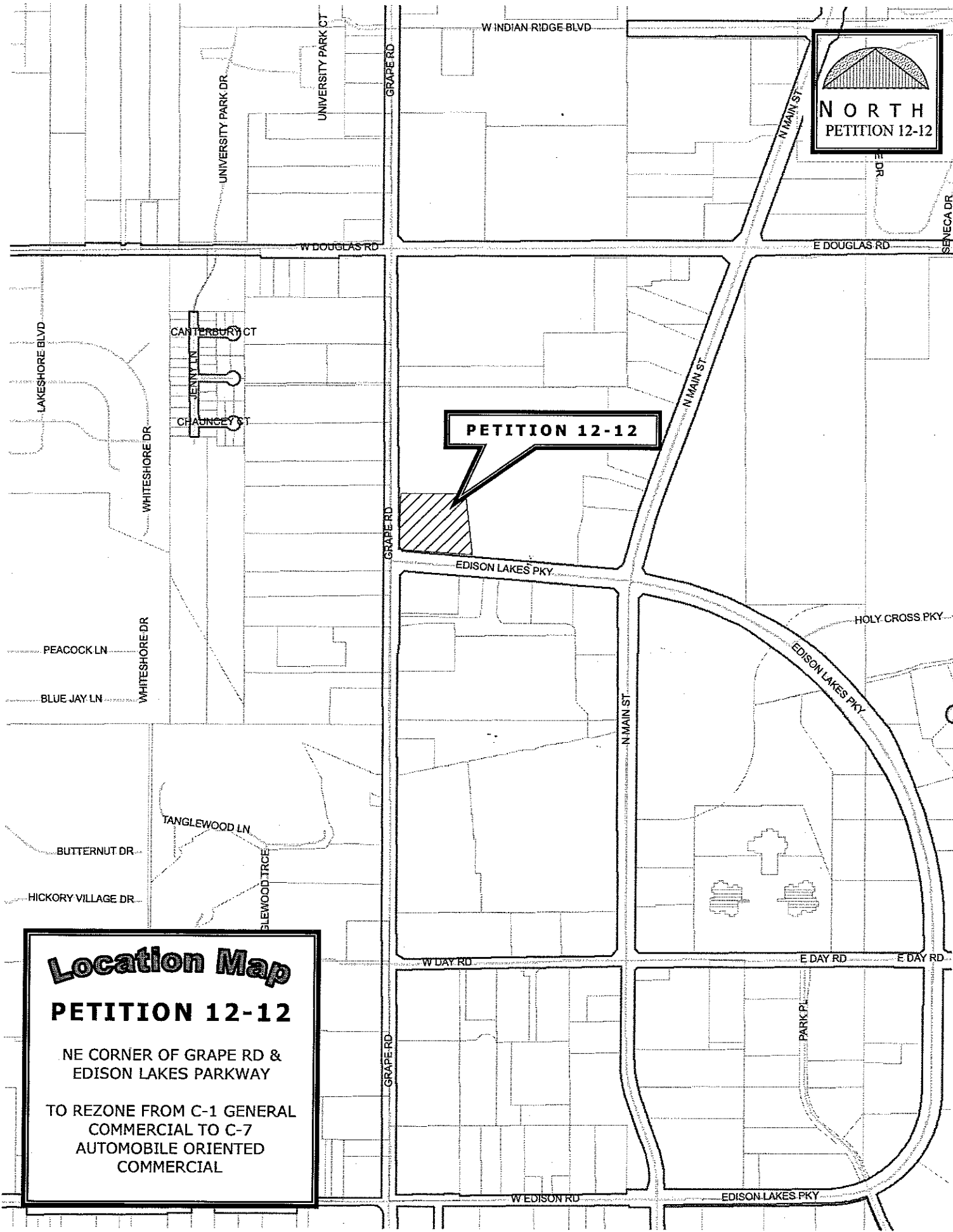
PETITION 12-12

Location Map

PETITION 12-12

NE CORNER OF GRAPE RD &
EDISON LAKES PARKWAY

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



RECEIVED
DEBORAH S. BLOCK, MMC

DATE: May 23, 2012

MAY 30 2012

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

CITY CLERK
MISHAWAKA, IN

RE: **PETITION FOR ANNEXATION AND ZONING CLASSIFICATION
COUSSENS PROPERTY, ±30 ACRES**

The undersigned John Joseph Coussens respectfully shows that he is the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

THE EAST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION NUMBERED THIRTY-THREE (33), TOWNSHIP NUMBERED THIRTY-EIGHT (38) NORTH, RANGE NUMBERED THREE (3) EAST, CONTAINING THIRTY (30) ACRES, MORE OR LESS.

ALSO:

BEING A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 37 MINUTES 27 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER, A DISTANCE OF 660.40 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 35 MINUTES 56 SECONDS WEST ALONG THE WEST LINE OF SAID EAST HALF, A DISTANCE OF 40.00 FEET; THENCE NORTH 89 DEGREES 37 MINUTES 27 SECONDS EAST, A DISTANCE OF 82.27 FEET TO A POINT ON THE NORTH RIGHT OF WAY OF DOUGLAS ROAD; THENCE CONTINUING NORTH 89 DEGREES 37 MINUTES 27 SECONDS EAST ALONG THE NORTH RIGHT OF WAY OF DOUGLAS ROAD, A DISTANCE OF 578.08 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00 DEGREES 40 MINUTES 39 SECONDS EAST ALONG THE SAID EAST LINE, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 0.61 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

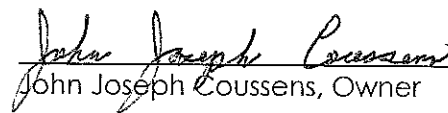
Petitioner owns One Hundred (100%) percent of the above described parcel of land, excluding the right-of-way of Douglas Road, and is located within Section 33, Township 38 North, Range 3 East, Clay Township, St. Joseph County, and that the Petitioner desires the same to be annexed to the City of Mishawaka, Indiana, with a "S-2" Planned Unit Development District zoning classification. Petitioner further states they intend to utilize said land for a mixed-use commercial and medical development.

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

Pet 12-13

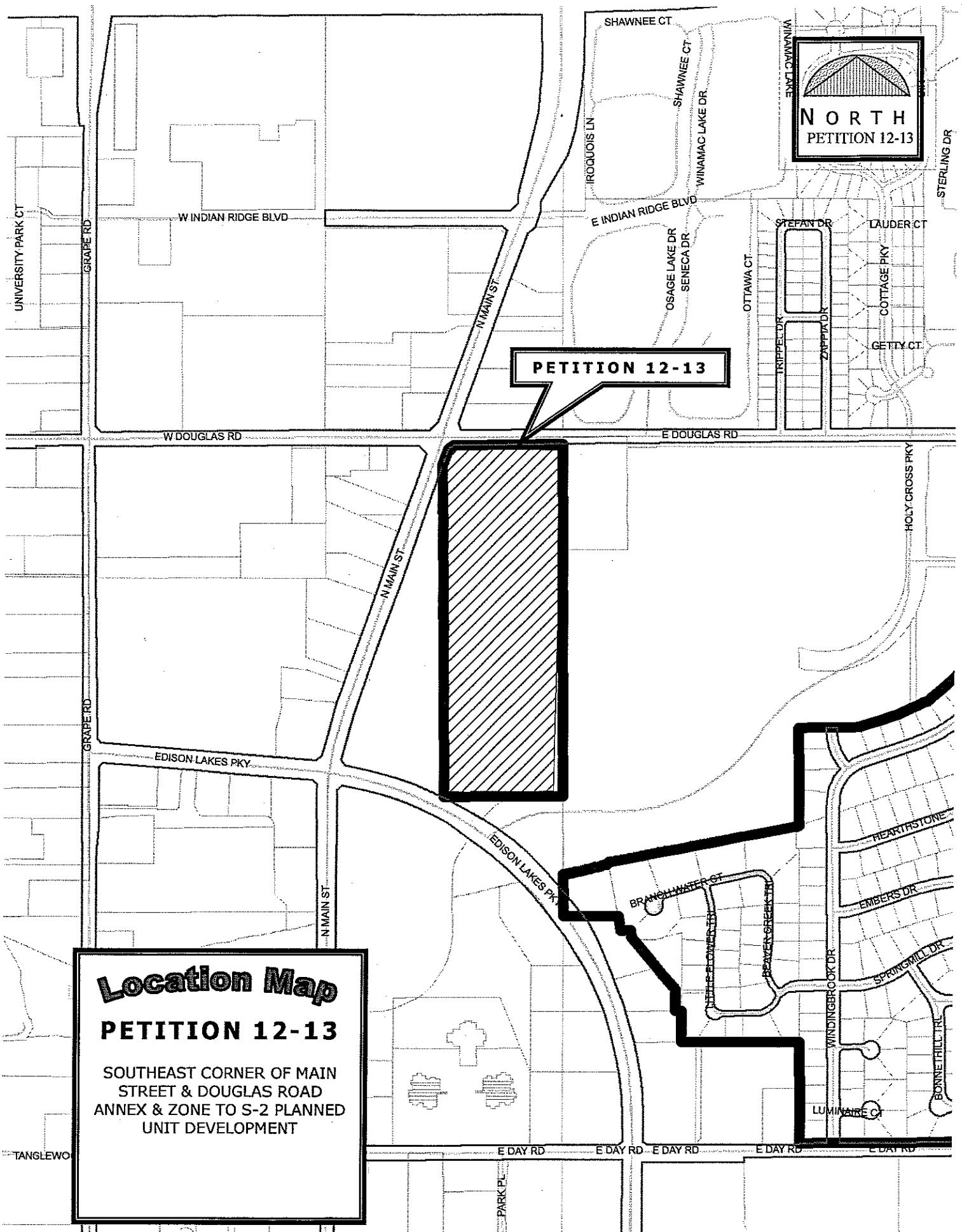
Petitioner further shows this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

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.


John Joseph Coussens, Owner

CONTACT PERSON:

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



PROPOSED ORDINANCE NO. 2012-11

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2012 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the CEDIT Fund of the City of Mishawaka the sum of \$200,000.00 for assignment as follows:

CEDIT

CEDIT

Capital Outlay

430-50-431-06 ADA Compliance Study

\$200,000.00

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

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

On this _____ day of _____, 2012 at _____ o'clock, _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF ENGINEERING

GARY E. WEST
Director of Engineering
CHRISTINE M. JAMROSE, P.E.
Assistant Director of Engineering
TERRY R. HOGMAN
Construction Manager
DEBORAH L. WHEELER
Project Manager
R. TODD SCHEETS
Traffic Manager
MELISSA A. MCGUIRE
MS4 Coordinator

May 31, 2012

Mishawaka Common Council
600 East Third Street
Mishawaka, IN 46544

Re: Appropriation of Additional Funds
Proposed Ordinance No. 2012- 11
ADA Self Evaluation and Transition Plan Public Right of Way

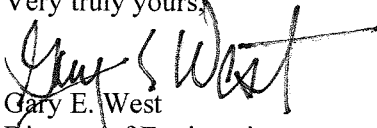
Honorable Council Members:

Last year, to comply with the Americans with Disabilities Act, the Council adopted a Self Evaluation and Transition Plan for the City's Public Buildings and Facilities. The Federal Highway Administration requires a similar Self Evaluation and Transition Plan of all sidewalks and curb ramps located within the public right of way.

This inventory of sidewalks and curb ramps has a preliminary completion date of June 30, 2012, with the requirement that the Self Evaluation and Transition Plan be finalized and adopted by the end of this year. To accomplish this task inspection of approximately 300 miles of sidewalks and the inspection of curb ramps at 1,300 intersections will be required. This Additional Appropriation will be used to retain a consulting engineering firm to assist with this work.

If you have any questions regarding this work please contact my office.

Very truly yours,


Gary E. West
Director of Engineering

Cc: Mayor Wood
Yvonne Milligan, Controller

City of Mishawaka

RESOLUTION 2012-17

WHEREAS the Mishawaka High School Varsity Dance Team one again claimed the Indiana High School Dance Team Association State Championship in the Novice Pom category on March 10, 2012. The State Championship competition was held at New Castle High School in New Castle, Indiana, and **WHEREAS** the team, under fourth-year director Christa Chavez, assisted by third-year Director Beth Sikora and second-year Director Heather McClain, competed in the Marion High School Dance Invitational, Rossville High School Dance Invitational and lake Central High School Dance Invitational and took 1st place in all three, and **WHEREAS** the team went on to take 1st place in the IHSDTA North Regional Competition. On March 10, 2012 the Varsity Dance Team competed against 10 other teams from Indiana and won the division, and **WHEREAS** ,this is Mishawaka High School Varsity Dance Team’s second State Championship and North Regional win having won both titles in 2011 making the team back-to-back North Regional and State **WHEREAS** the dance team also won two very coveted “sportsmanship” awards at the Marion High School Dance Invitational, and the Rossville High School Dance Invitational. The sportsmanship awards are awarded to one very special team who exhibits strong sportsmanship and positive encouragement to other competing teams, and **WHEREAS**, the 2011-2012 Mishawaka High School Varsity Dance Team includes: Taylor Calderone, Machi Yoneyama, Cheyenne Tjaden, Sarah Schmitt, Allyson Gates, Lauren Means, Alyssa Lewis, Mikaela Vellucci, Jessica Bonk, Abbey Schidler, Shayla Smith, Rachel Young, and Lexi Schmidt, and **WHEREAS**, the 2011-2012 Mishawaka High School Junior Varsity team includes: Anna Hunter, Megann DeMeester, Cherokee DeLeon, Bailie Hines, Jordyn Kauffman, Alivia Lucas, Meressa Gleva, Brooke Jones, Dakota Hartz and Lauren Watkins and **Whereas**, such efforts and achievements deserve recognition and commendation from the City;

NOW THEREFORE, Let it be known and BE RESOLVED BY THE City of Mishawaka Common Council, Mayor and Clerk, that June 4, 2012 is here by proclaimed:

MISHAWAKA HIGH SCHOOL VARSITY DANCE TEAM DAY

and in our community we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable group of young women and thanking them for their efforts on behalf of their school, the community and the citizens of Mishawaka.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Marsha McClure

John Roggeman, President

S Michael Compton

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

RESOLUTION NO. R 2012-18

**A RESOLUTION APPROVING APPOINTMENT
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:

Cliff Zenor

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

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

John J. Roggeman, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

_____r

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 17 2012

PETITION #12-07

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2012-09

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 Foundation for the Center for Hospice and Palliative Care, Inc. and City of Mishawaka Redevelopment Commission has filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners are the adjacent owners 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:

(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

PROPOSED ORDINANCE NO. 2012-09

ORDINANCE NO. __

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 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 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 00 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.

COMMONLY KNOWN AS: A portion of Madison Street and alleys north of Madison Street

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.

PROPOSED ORDINANCE NO. 2012-09

ORDINANCE NO. __

- 3) The alley 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.

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

April 4, 2012

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

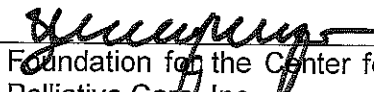
RE: PETITION FOR VACATION OF PUBLIC RIGHT OF WAY

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:

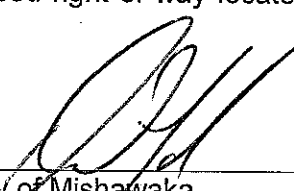
(Please see the attached sheet for legal description.)

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

Dave Thomas

Contact Person:

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

RECEIVED
DEBORAH S. BLOCK MMC

MAY 02 2012

CITY CLERK
MISHAWAKA, IN

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

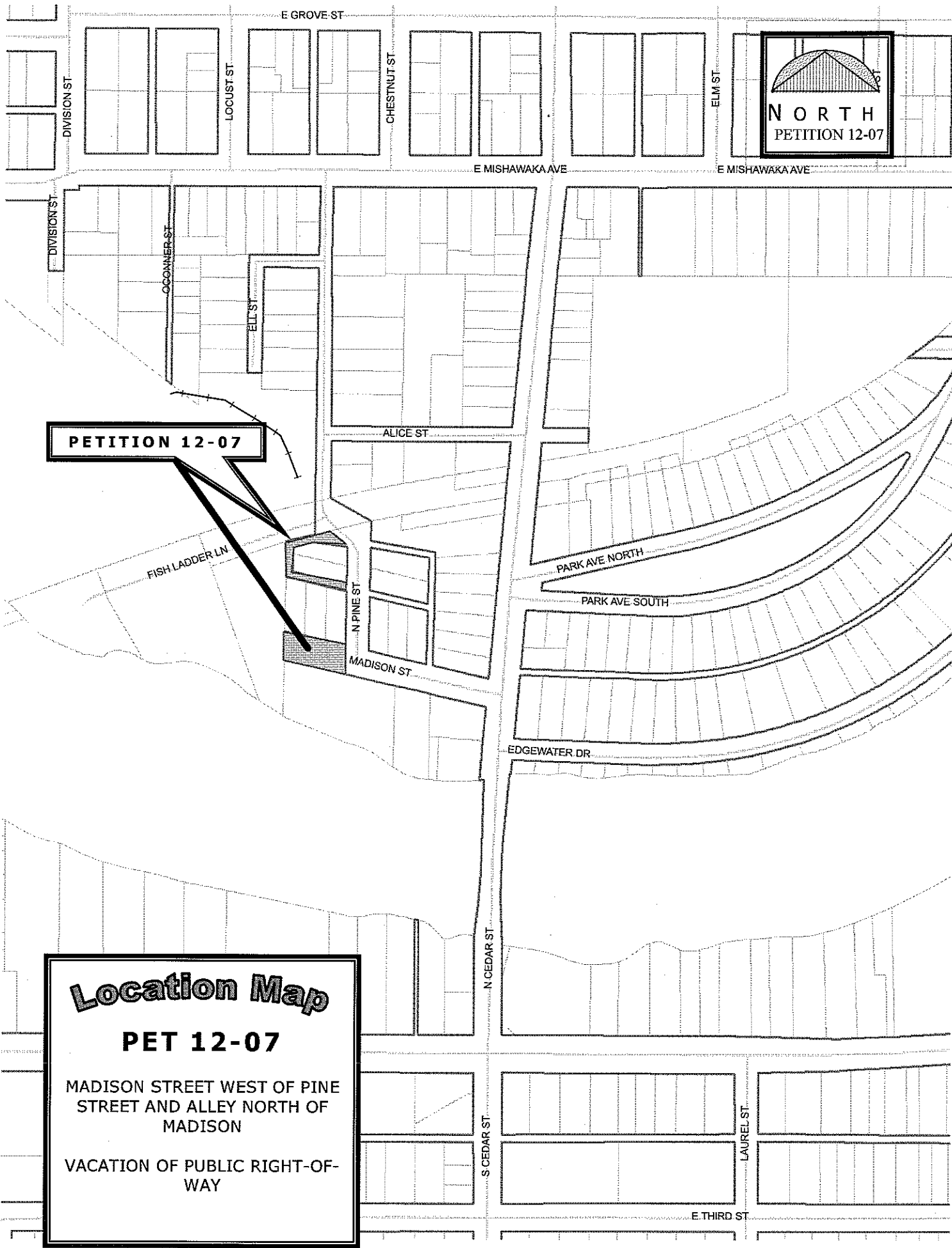
Sheet 2 of 2

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



1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #12-09

MAY 17 2012

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2012-10

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 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.

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

Proposed Ordinance No. 2012-10

Ordinance No. _____

Planned Unit Development to allow for the construction of a mixed use commercial development including all C-1 General Commercial uses and permitting developmental standards that allow for hotels to be a maximum of 70' within 500' of the Indiana Toll Road, subject to the following conditions:

Uses:

1. Permitted uses shall be limited to those uses identified in the C-1 (General Commercial) and C-2 (Shopping Center Commercial) zoning districts based on City of Mishawaka Zoning classification defined and in effect on the date of approval by the Mishawaka Common Council.
2. 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.
3. 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 proposed roadway connecting The Indiana Toll Road interchange at Capital Avenue and Fir Road shall be designed and constructed to an Edison Lakes Boulevard standard. This shall require the commitment from the developer to create an association responsible for the perpetual maintenance of the median. This requirement for an Edison Lakes standard may be phased, modified, and/or reduced by the Planning Commission as part of any final planned unit development site plan submission should the use of Tax Increment Financing be restricted for the site.
2. Phasing of improvements, including internal collector drives associated with this project shall be as determined by the City Director of Engineering in coordination with other applicable jurisdictions.
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, as may be determined necessary as part of future submissions, 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

Proposed Ordinance No. 2012-10

Ordinance No. _____

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 properties. 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 by the State along Capital Avenue and SR 23. A sidewalk connection shall also be made to Fir 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, including those previously developed at the south west corner of the intersection of State Road 23 and Capital Avenue.

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.

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:

Proposed Ordinance No. 2012-10

Ordinance No. _____

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 30+ 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 Fir Road, SR 23, and Capital Avenue. If agreed to in writing by all affected landowners, development signage shall be allowed at these three intersections 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 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 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. A minimum 25' building setback from the Indiana Toll Road right-of-way shall be provided.
3. The maximum building height for the site shall be 70' within 500' of the right-of-way of the Indiana Toll Road. The remainder of the site shall be limited to a maximum of 48'

Parking/Landscaping:

Proposed Ordinance No. 2012-10

Ordinance No. _____

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.
2. For large shopping areas where shopping carts are utilized, Cart corral's shall be provided. Corral's shall be identified and removed from total number of parking spaces provided. Curbed landscape islands shall be provided to break up large pavement areas as determined by the Planning Commission as part of the review of any planned unit development site plan.
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 the Indiana Toll Road, two limited access highways. Significant retail shopping areas have been proposed and developed on the north side of the City in reasonable proximity to the site. The site has been marketed and directed by multiple government entities to commercial oriented development for many years.

Proposed Ordinance No. 2012-10

Ordinance No. _____

2. Character of Buildings in Area- The area is predominantly undeveloped. A scattering of commercial development has occurred in the area with a few remnant single family homes. The single family homes 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 is commercial.
3. The most desirable/highest and best use - Because of the parcels' location and the significant commercial development on the north side of the City, serving as a regional area of commerce, combined with the proximity of the Indiana Toll Road, Capital Avenue, and SR 23, makes the most desirable use for the property a heavy mix of intensive commercial and professional office and service 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 proposed extension of City infrastructure will actually add value to adjacent properties.
5. Comprehensive Plan - This specific property was guided as Commercial in the joint Comprehensive Plan Amendment prepared jointly by both St. Joseph County and the City of Mishawaka, 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.

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.

Proposed Ordinance No. 2012-10

Ordinance No. _____

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

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

P27 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.

RECEIVED
DEBORAH S. BLOCK MMC

MAY 02 2012

CITY CLERK
MISHAWAKA, IN

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.

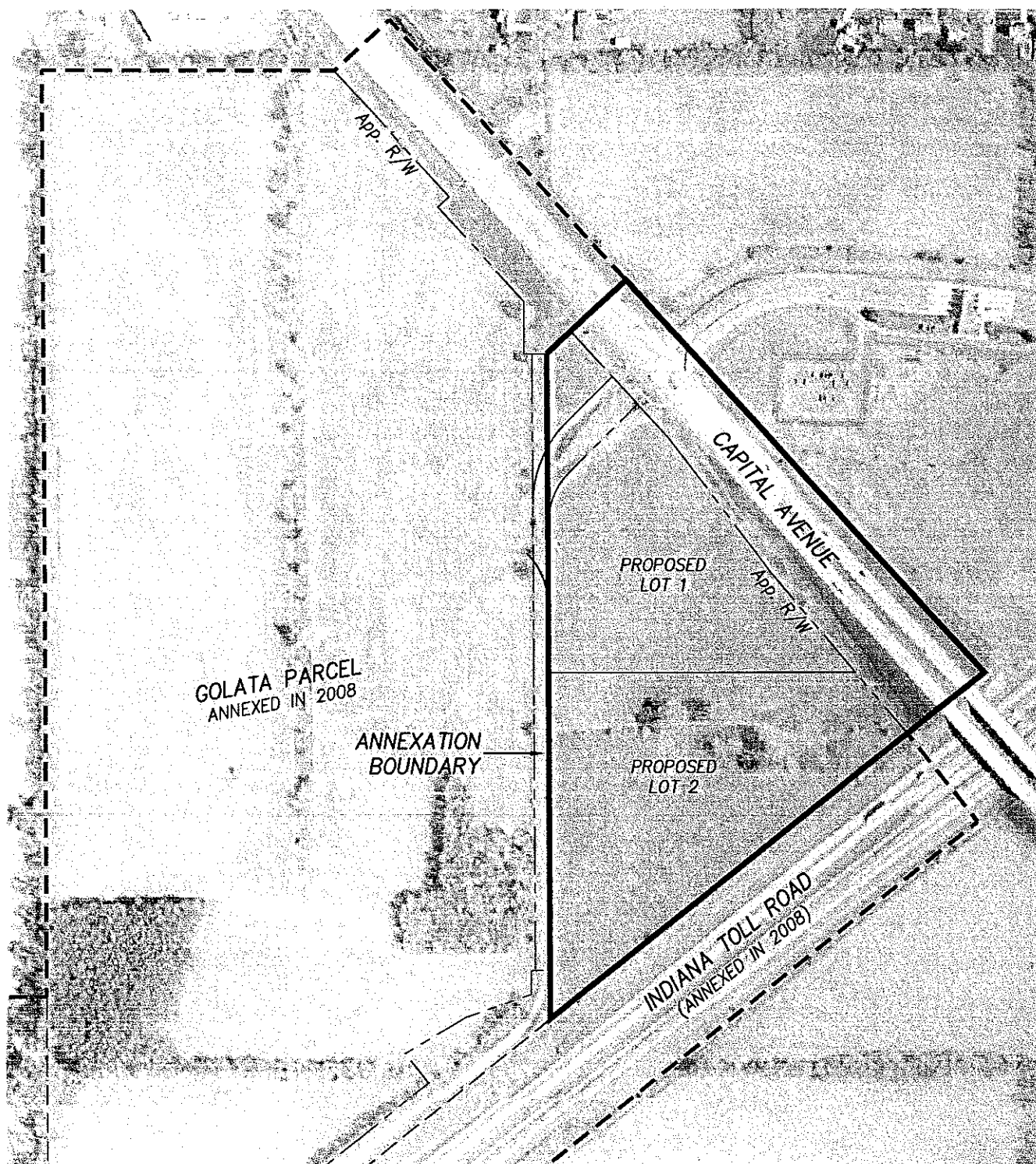


Jeff Costello, Vice President & CFO

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



0 200 400
SCALE: 1" = 400'

WALKER PARCEL ANNEXATION

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

ABONMARCHÉ
Confidence By Design

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