

AGENDA

June 18, 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 June 4, 2012 (Page 3)

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

Presentation of Historic Preservation Commission Awards (Page 7)

A letter from the Board of Zoning Appeals regarding recommendations from their June 12, 2012 meeting. (Page 8)

A letter from the City Plan Commission regarding recommendations from their June 12, 2012 meeting. (Page 17)

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

P.O. NO 2012-12 Rezone from R-1 to C-1 - 312 E.11th St and property East of 312 E. 11th St. (Page 35)

P.O. NO 2012-13 Rezone from C-1 to C-7 Auto Oriented Com - NE corner of Grape Rd & Edison Lakes Parkway (Panda Express) (Page 37)

P.O. NO 2012-14 Annex and Zone S-2 PUD - Mixed Use Commercial and Medical - SE corner of Main St. & Douglas Rd (Page 40)

- 8. Resolutions**

R2012-19 Fiscal Plan for NW Capital Ave and I 80/90 Toll Rd (Page 46)

R2012-20 Use Variance to allow bulk propane storage 1275/1301 Industrial Dr & 1220 S Merrifield (Page 49)

R2012-21 Use Variance to allow a used car sales event Sears at UP Mall 6501 Grape Rd (Page 53)

R2012-22 Approving an Anti-Nepotism Policy (Page 57)

R2012-23 Honoring the 40th Anniversary with our Sister City Shiojiri (Page 60)

9. Ordinances on Second Reading

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 (Assigned to Land Use Planning Committee) VOTE (Page 61)

P.O. NO. 2012-11 Additional Funds - CEDIT - \$200,000.00 (Assigned to Budget and Finance Committee) (Page 71)

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

June 4, 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 June 4, 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.

Clerk Block'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 – 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 21, 2012 meeting were approved as received from the Clerk's Office.

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

APPEAL NO. 2012-17	Use Variance to allow bulk propane storage 1275/1301 Industrial Dr. & 1220 S. Merrifield
APPEAL NO. 2012-18	Use Variance to allow a used car sales event Sears at UP Mall
PETITION NO. 2012-11	Rezone from R-1 to C-1 – 312 East 11 th Street and property East of 312 E 11 th Street
PETITION NO. 2012-12	Rezone from C-1 to C-7 Auto Oriented Com – NE Corner of Grape Rd & Edison Lakes Parkway
PETITION NO. 2012-13	Annex and Zone S-2 PUD – Mixed –use Commercial and medical – SE corner of Main St. & Douglas Rd.

A public hearing on Vacation 2012-02, as required by State Statute to Vacate Public Right of Way Madison St. west of Pine St. and Alley North of Madison (Hospice)

President Roggeman opened the public hearing on Vacation 2012-02.

Chris Chockley, Wightman Petrie 412 S. Lafayette Street South Bend, said they were representing Center for Hospice Palliative Care in seeking approval on the vacation of a portion of Madison Street as well as the allies just west of Pine Street just North of Madison Avenue. He said this would allow for building the Center for Mishawaka Hospice Campus, which they hope to start in July or August..

President Roggeman closed public hearing at 7:05 p.m.

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

Clerk Block read **PROPOSED ORDINANCE NO. 2012-11** opening it for public hearing.

PROPOSED ORDINANCE NO. 2012-11

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

(Additional Funds – CEDIT - \$200,000.00)

Assigned to Budget and Finance Committee

Clerk Block read **RESOLUTION NO. 2012-17** opening it for public hearing.

RESOLUTION NO. 2012-17

MISHAWAKA HIGH SCHOOL POM STATE CHAMPIONS

**Question was called for at 7:10 p.m. on RESOLUTION NO. 2012-17 Vote: Motion
carried by unanimous roll call vote (summary: Yes = 9).**

**Yes: Mr. Banicki, Mr. Belovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr.
Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.**

Clerk Block read **RESOLUTION NO. 2012-18** opening it for public hearing.

RESOLUTION NO. 2012-18

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

(Cliff Zenor)

Ken Prince stated Cliff Zenor was inadvertently left off the list of the Historic Preservation Commission and this resolution would correct that error.

Question was called for at 7:16 pm **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

Clerk Block read **PROPOSED ORDINANCE NO. 2012-09** opening it for public hearing.

PROPOSED ORDINANCE NO. 2012-09

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

(Vacation of the Public Right-of-Way Madison St. West of Pine St and Alley North of Madison (Hospice))

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

Chris Chockley Wightman Petrie 412 S. Lafayette Street, South Bend said they needed this street and alley vacation in order to move forward with their plan.

President Roggeman asked for an update in their status. Mr. Chockley stated there was one house remaining of the five that were scheduled to come down and that house was scheduled to come down this week. He said they were in the process of finalizing the boundaries and coming up with a development agreement and looking at site plans so they can begin construction by July or August.

Question was called for at 7:19 p.m. on **PROPOSED ORDINANCE NO. 2012-09. Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9).

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

Clerk Block read **PROPOSED ORDINANCE NO. 2012-10** opening it for public hearing.

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)

President Roggeman opened hearing for **PROPOSED ORDINANCE NO. 2012-10** and stated there would be no vote at this meeting.

Daryl Knep Abonmarche Consultants Inc., 750 Lincolnway East, South Bend said he was representing Memorial Health Systems who were requesting a S-2 PUD to allow a C-1 maximum height of 75 feet along the Indiana Toll Road. He stated they have no plans for this parcel.

President Roggeman closed public hearing at 7:22 p.m.

NEW BUSINESS

Mr. Emmons announced his monthly meeting would be on the 2nd Thursday this month, June 14, 2012 at 7:00 p.m. St. Bavo's School. He said he is expecting Congressman Donnelly to speak and if he was not available he would be represented by his assistant. Hodge Patel.

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

Debbie S. Block _____/s/
/s/ Debbie S. Block, IAMC, MMC
Officer City Clerk,

☐ ☐ John J. Roggeman _____
John J. Roggeman, Presiding

2012 Mishawaka Historic Preservation Awards



Award for Adaptive Reuse
Dr Glenn Wheel
900 Lincolnway West
Ellis Schindler House
Greek Revival c.1834
Outstanding #46005



Award for Preservation
Gregory Kuharic
417 Edgewater Dr.
Smith-Kuharic House
Mission/Colonial Revival c.1924
Outstanding #39064



Award for Restoration
Bruce and Pat Tassell
120 N. Main St
Italianate c.1873
Notable #49027 or #49028



Award for Service
Becky Emmons
Writer/Photographer
South Bend Tribune, Inc.



Heritage Home Award
Forrest Dale and Imogene Morris
554 West Seventh St.
Bungalow c.1930
Contributing #55150



Heritage Home Award
Mary Lou Morin
522 Calhoun St.
English Tudor Revival c.1925
Notable #41071



Cliff Zenor, Chairman
Judy Gray, Vice-chairman
Richard Barnette
Michael Bultinck
David Eisen

John Gleissner
Marsha McClure
Tony Obringer
David Vollrath



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 13, 2012

RECEIVED
DEBORAH S. BLOCK, MMC

Honorable Members of the Common Council
City of Mishawaka, Indiana

JUN 13 2012

RE: Board of Zoning Appeals Recommendation
June 12, 2012, Public Hearing

CITY CLERK
MISHAWAKA, IN

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above referenced date at which time the following Use Variances were considered.

APPEAL #12-17 An appeal submitted by McMahon LLC requesting a Use Variance for **1275 and 1301 Industrial Drive and 1220 South Merrifield Avenue** to allow bulk propane storage.

The Board, with a vote of 3-0, recommended approval subject to the following condition:

1. This approval shall be limited to one (1) 1,000 gallon fuel storage tank. Any expansion shall require the submission, review, and approval of an additional Use Variance.

APPEAL #12-18 An appeal submitted by R & B Car Company on behalf of Sears Roebuck & Company requesting a Use Variance for **6501 Grape Road** to permit three (3) separate off-site Used Car Sales as follows: ten (10) days in July, ten (10) days in August, and ten (10) days in September with temporary signage including banners and cold air balloons, mobile office facility for business transactions and securing of valuables.

The Board, with a vote of 3-0, recommended approval subject to the following conditions:

TRANSIENT MERCHANTS LICENSE:

- A Transient Merchant's License shall be obtained from the Board of Public Works and Safety prior to the first sales event in July.

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in July, August, and September of 2012 as presented.

SITE PLAN:

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

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

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

SETBACKS:

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

SIGNAGE/ATTENTION DEVICES:

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

Respectfully,



Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Ed Fisher
Brandon Cretacci

STAFF REPORT

Location: 1275 & 1301 Industrial Drive & 1220 S. Merrifield Avenue

Date: June 12, 2012

Appeal: 12- 17

Prepared By: PS

GENERAL INFORMATION

Applicant: Paul A. McMahon/ Edward M. Fisher

Status: Property Owner/ Agent

Request: Use Variance to Install an Above Ground Propane Tank

Zoning Classification: I-1 Light Industrial District

Lot Size: 4.17 ACRES

Applicable Regulations:

SPECIAL INFORMATION

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

Thoroughfare: Merrifield Avenue

School District: P-H-M Schools

Township: Penn

Public Utilities: Available

Comprehensive Plan: Industrial

ANALYSIS

The Appellant, Maron Products, a metal forming company, is requesting a use variance to allow a 1,000-gallon above ground fuel storage (AST) tank. Maron Products is zoned I-1 Light Industrial. Above ground fuel storage tanks, as proposed by the Appellant, are only allowed as a conditional use within I-2 Heavy Industrial Districts. In order to allow such a tank in the I-1 zoning district, a use variance is required.

The Appellant states that the 1,000-gallon above ground storage (ASAT) will be used to provide fuel storage to fuel their forklifts. The tank has a diameter of 41" (3'4"), length of 16'6" and height of 62" (5'1"). Propane is stored as liquid and if exposed to air it vaporizes. The tank is only 80%/800 gallons when full. This is to allow for expansion in hot temperatures.

The Maron industrial complex carries three addresses: 1275 & 1301 Industrial Drive & 1220 S. Merrifield Avenue. The ASAT will be installed on the east side of the complex in the rear yard area of 1220 S. Merrifield. The brochure provided by Praxair states the tank must be set at least 25 feet from any property line or building.

An eight (8) foot tall fence set three (3) feet outside the tank will surround the tank. There will be an access gate at both ends of the fencing.

Praxair will be the owner and will maintain responsibility of the ASAT.

All pertinent City Departments (Fire, Electric, Water, Building and Engineering) have reviewed and approved the proposed variance.

RECOMMENDATION

The Staff recommends in favor of Appeal 12-17 for a Use Variance to allow a 1,000 gallon above ground fuel storage tank at Maron Products 1220 S. Merrifield location, subject to the following conditions:

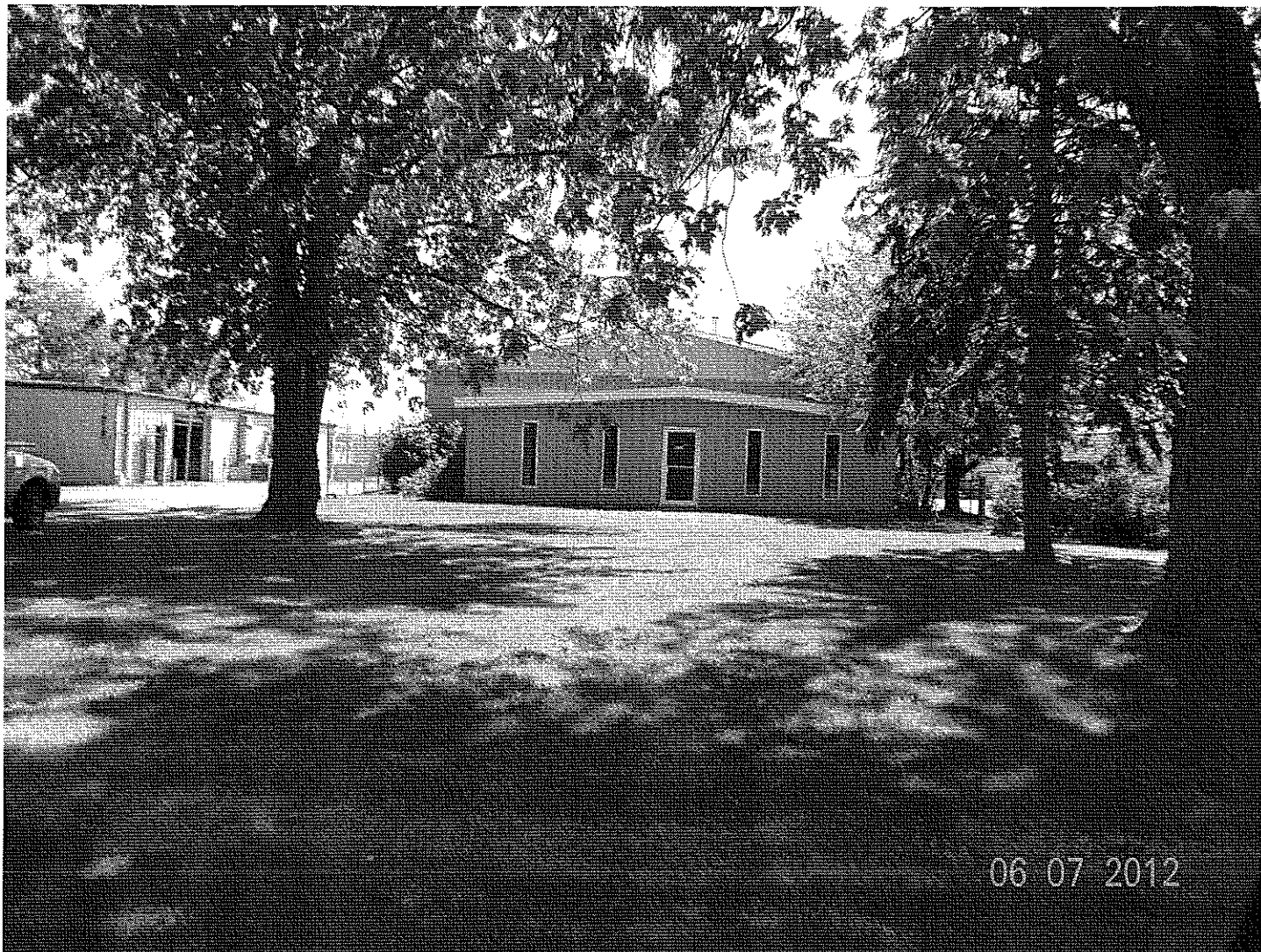
- 1) This approval shall be limited to one 1,000 gallon fuel storage tank. Any expansion shall require the submission, review, and approval of an additional Use Variance.

The recommendation is based on the following reasons:

1. With the stipulated condition, the approval will not be injurious to the public health, safety, morals, and general welfare of the community because the installation of the tank will conform to all applicable safety requirements as determined/interpreted by the City of Mishawaka Fire Department;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the 1,000 gallon tank will only contain 800 gallons of propane as a safety measure to permit liquid expansion, and the tank will be set at least 25 feet from property lines and buildings;
3. The need for the variance does arise from a condition peculiar to the property involved because an above ground storage tank is not a permitted use in the I-1 Light Industrial District;
4. The strict application of the terms of this chapter constitutes an unnecessary hardship if applied to this property in that without the availability of onsite propane fuel the company would not be able to fuel their forklifts; and
5. Granting of this variance will not compromise the integrity of the *Mishawaka 2000 Comprehensive Plan* which indicates Industrial.

ATTACHMENTS

PHOTOGRAPHS, VARIANCE REQUEST, SITE PLAN, BROCHURE, AERIAL, LOCATION MAP



1220 SOUTH MERRIFIELD
The Propane Tank will be placed in back of this building

STAFF REPORT

Location: 6501 Grape Road

Date: June 12, 2012

Appeal: 12 18

Prepared By: KBP/KM

GENERAL INFORMATION

Applicant: Sears Roebuck & Company/R & B Car Company

Status: Property Owner/Applicant

Request: Use Variance to allow for the temporary use of mall parking lot for three used car sales events. The event proposes utilizing two inflated cold air balloons, two tents, temporary signage, and a mobile office facility.

Zoning Classification: C-2 Shopping Center Commercial

Lot Size: Approximately 16+ acres, more or less

Applicable Regulations: 137.42 Board of Zoning Appeals (4) Variance of Use

SPECIAL INFORMATION

Area Development Pattern: North: C-1 General Commercial
South: C-2 Shopping Center Commercial
East: S-1 Extensive Open Space and Public Use
West: St. Joseph County

Thoroughfare: Grape Road, State Road 23

School District: South Bend Community School Corporation

Public Utilities: All utilities are available or can be extended

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, R & B Car Company, is seeking a Use Variance to allow for the temporary use of a portion of the Sears parking lot at University Park Mall for three (3) used car sales events for ten (10) days each, thirty (30) days total. One event is proposed in July, August, and September.

In 2010, 2011, and 2012 the City approved used car sales events for Gates Chevy World at the J. C. Penney parking lot. This request is nearly identical to Gates' with the exception that these sales will be held in the Sears parking lot at the opposite end of the mall property. University Park Mall was chosen for the site of this event due to its high visibility location and the availability of space. The property is located in a very high visibility area with easy access, adequate customer and employee parking.

The Appellant states traffic would access the site from existing mall entrances and vehicles for sale, as well as parking areas, would be staged in the parking area south of Sears, west of Grape Road and east of State Road 23. Drive aisles will be blocked to through traffic and customer and employee parking will be clearly marked. Tents and portable toilets would be provided during the event. A mobile office facility for business transactions and securing of valuables will also be provided. The applicant is also proposing to utilize up to two inflated cold air balloons and temporary signage to promote the event.

The primary access points to the Mall occur at existing traffic signals for added safety and convenience. The site is also located a considerable distance away from residential uses.

When the approvals were first granted in 2010, Staff suggested that as a City we would evaluate the initial sale to determine if there were problems and then evaluate further requests based on past experiences. After the events, other than the concern of other dealers, no other problems or issues were brought to staff's attention. Specifically, no traffic, public parking, or even nuisance issues were brought to the City's attention. Staff has written into the draft conditions of approval that no cold air inflatables be allowed. Although the applicant had requested two, staff feels that this type of advertising, not currently allowed by the City for other sites, is different than other aspects of the request and should not be allowed.

The Engineering Department advises no signage in City right-of-way. Other pertinent City departments have reviewed and approved of the request.

RECOMMENDATION (S)

Staff recommends in **favor** of Appeal 12-18, Use Variance, to allow for the temporary use of a portion of the Sears Roebuck & Company parking lot for three (3) off-site car sales events. The event proposes utilizing two inflated cold air balloons, two (2) tents, mobile office facility, and temporary signage. The Use Variance is subject to the following conditions:

TRANSIENT MERCHANTS LICENSE:

- A Transient Merchant's License shall be obtained from the Board of Public Works and Safety prior to the first sales event in July.

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in July, August, and September of 2012 as presented.

SITE PLAN:

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

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

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

SETBACKS:

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

SIGNAGE/ATTENTION DEVICES:

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

This recommendation is based upon the following findings of fact:

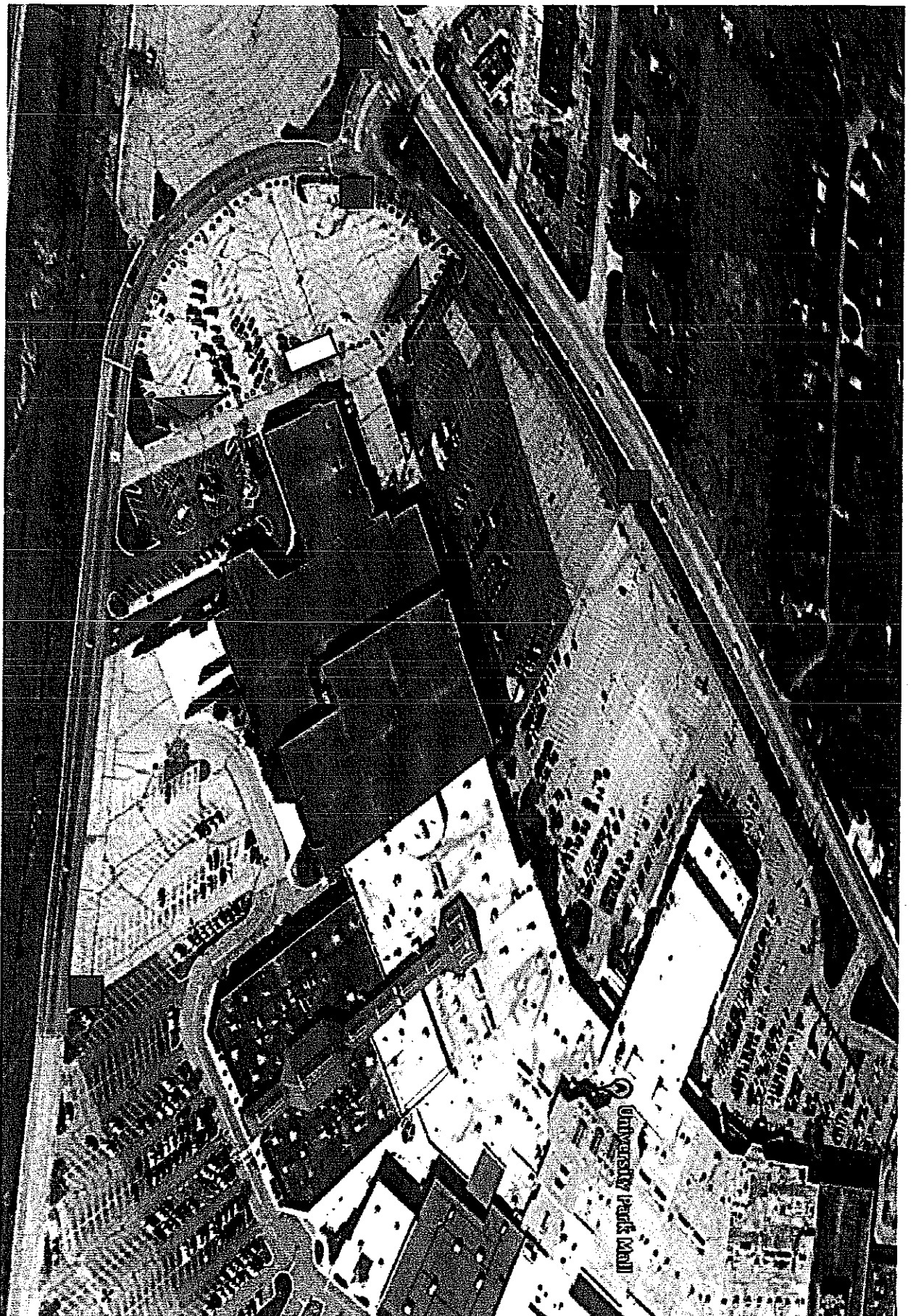
1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the development is temporary and will maintain certain minimum developmental standards as outlined herein;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

ATTACHMENTS

Photographs, Appeal, Site Plan, Aerial, Location Map



View of car sales area



**R&B CAR COMPANY / SEARS JULY, 2012
USED CAR SALES EVENT KEY**

This map displays locations for the Executive Trailer, Tents, Signage, and Border Tape/Marker Barrels. Please refer to key on the right.

-  EXECUTIVE TRAILER
 -  BIG TOP TENT
 -  EVENT SIGN
 -  TAPE & BARRELS
- MAY 23 2012



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

June 13, 2012

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
June 12, 2012, Public Hearing
Certification of Proposed Ordinances

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 13 2012

CITY CLERK
MISHAWAKA, IN

Honorable Members:

A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed ordinances were considered:

PETITION #12-11 A petition submitted by Direct Line Communications to rezone **312 East Eleventh Street and property east of 312 East Eleventh Street** from R-1 Single Family Residential District to C-1 General Commercial District.

The Commission, with a vote of 5-1, recommended approval.

PETITION #12-12 A petition submitted by Meijer Distribution, Inc., to rezone the **northeast corner of Grape Road and Edison Lakes Parkway** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

The Commission, with a vote of 6-0, recommended approval.

PETITION #12-13 A petition submitted by John Joseph Coussens requesting to annex and zone the **southeast corner of Main Street and Douglas Road** to S-2 Planned Unit Development.

The Commission, with a vote of 6-0, recommended approval subject to the attached conditions.

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed ordinances regarding the above matters.

Respectfully,

Kari Myers, Administrative Planner
Secretary, City of Mishawaka Plan Commission

cc: Nathan Bosch
Jason Stucker
Daryl Knip

PETITION #12-13
Southeast Corner of Main Street and Douglas Road

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. Phasing of improvements, including the proposed internal collector drive (proposed street) shall be as determined by the City Director of Engineering.
2. The number and or type of curb cuts on any City Street and the internal access drive/street shall be as determined appropriate by the City Director of Engineering. Improvements shall take place consistent with an approved master plan as required herein.

Internal Road connections:

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

Stormwater Run-off/Utilities/Infrastructure:

1. The applicant/developer shall prepare a master plan to identify and provide for appropriate access and utility extensions. All improvements shall be subject to the review and approval of the City Director of Engineering.
2. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering. The 75' Drainage Easement on the east side of the property shall remain vegetated. Any proposed encroachment into this easement shall require compensatory improvements to the vegetation and or ditch as may be directed by the City Director of Engineering, subject to the review and approval of the St. Joseph County Drainage Board.

3. All costs associated with the extension of utilities, road improvements, or other infrastructure 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:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large site) and to otherwise further the intent of this chapter as follows. No more than three freestanding site signs shall be located along Douglas Road, regardless of the number of lots proposed. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Each outlot/development parcel may 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 150 lineal feet.
 - b. One multi-tenant sign shall be permitted along Douglas Road (separate from the two outlots shown with Douglas Road Frontage). This sign shall be exclusively for properties that do not have a freestanding sign on Douglas Road. If constructed, this sign shall be constructed in a center landscape median within the proposed entry drive, or otherwise separated and made to be distinctly separate from the outlot signage located along Douglas Road. This sign shall be limited to 12' in height and contain a display area of no more than 60 square feet. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. The sign shall include a masonry base no less than 5' in height. All freestanding signs shall be separated from each other by a minimum of 150 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 105.76 of the City of Mishawaka Municipal code as amended, except that hardi-board maybe used as an accent material, not to exceed 1/3 of the area of any single building face. 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 48', except for hotel uses that shall be permitted to construct a maximum of four stories not to exceed 70' in height.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between internal lots/development parcels. A minimum 20' pavement setback shall be provided along all public right-of-way 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. Earth mounding shall be provided along public road right-of-way, between parking areas and public streets. 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. All side property lines within 100' of Main Street right-of-way shall comply with the front yard landscaping standards identified within 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 public right-of-way and 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.

STAFF REPORTLocation: 300 Block E 11th Street

Date: June 12, 2012

PET: 12 11

Prepared By: GGS

GENERAL INFORMATION

Applicant: Direct Line Communications

Status: Property Owners

Request: To rezone property from R-1 Single Family Residential to C-1 General Commercial

Zoning Classification: R-1 Single Family Residential -Existing

Lot Size: Approximately 0.22 acres

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

SPECIAL INFORMATION

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

Thoroughfare: East 11th Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial/Low Density Residential

ANALYSIS

The petitioner, Direct Line Communication, is requesting to rezone property from R-1 Single-Family Residential to C-1 General Commercial. The property to be rezoned is located along the 300 block of East 11th Street just west of their office building and parking lot at the corner of Union Street and 11th Street. The rezoning consists of (2) properties. The first property is located at 312 E 11th Street with the second lot being located east of 312 E 11th. Property at 312 E 11th Street used to consist of a residential home. This home was recently demolished and the lot is currently vacant. The second lot consists of an outbuilding. This building is currently being utilized as a craft workshop for an individual whom is not the owner of the property. Direct Line Communication is allowing the individual to utilize the outbuilding for his workshop. When the workshop is no longer utilized, the petitioner states that they intend to remove the outbuilding and utilize these two lots for additional parking for their business.

The petitioner approached the City because they desired a separate electrical service for the existing workshop outbuilding. The City does not allow accessory structures on a City lot without a corresponding primary building. With the intended plan to expand parking at a future date, the Planning staff

recommended to the petitioner that they rezone the properties to C-1, consistent with the existing business zoning. The rezoning would allow for the separate electrical hook-up of the outbuilding workshop and the future expansion of parking.

RECOMMENDATION

The Planning Department recommends approval of Petition 12-11 to rezone property located along the 300 block of East 11th Street from R-1 Single Family Residential to C-1 General Commercial. This recommendation is based upon the following findings of fact:

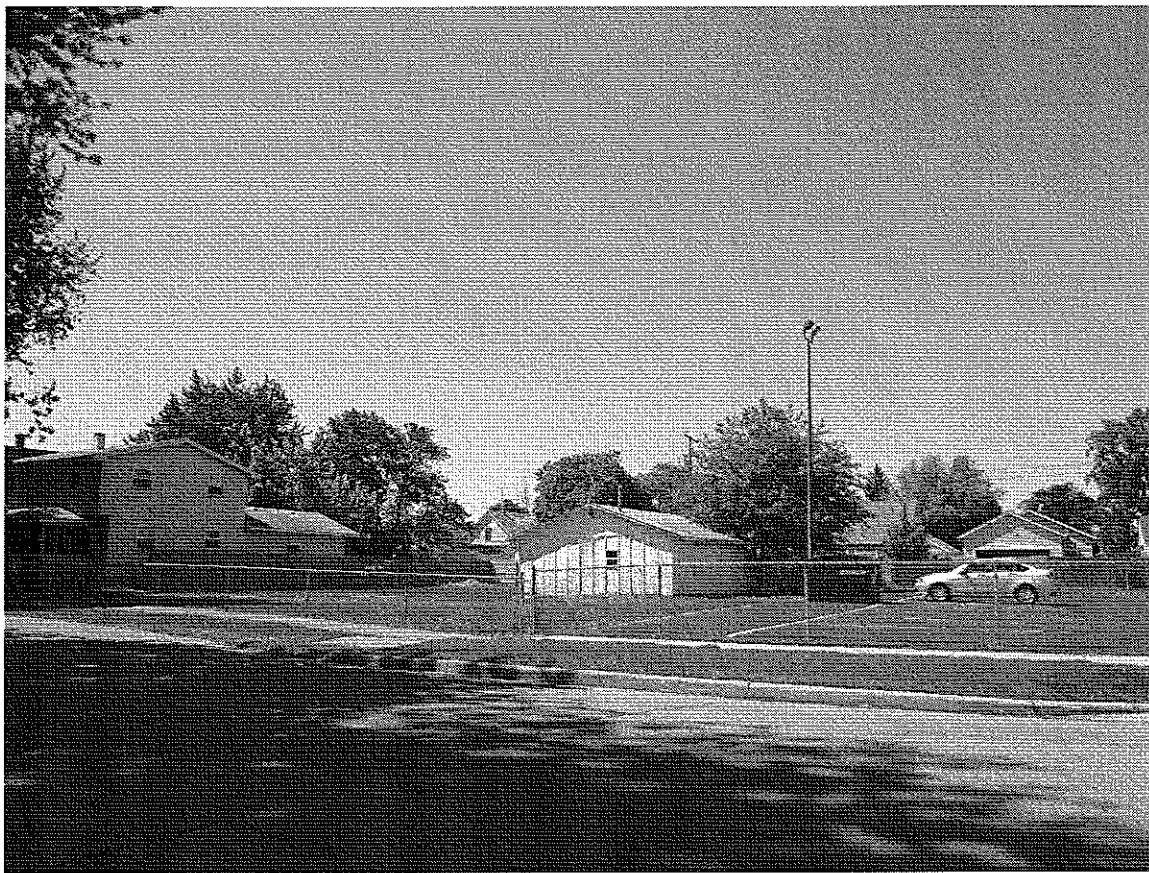
1. Given the property's close proximity to the existing commercial property located at the corner of 11th Street and Union Street, the C-1 zoning would be compatible with this commercial property.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the presence of the existing commercial property, staff feels that the most desirable use for this property is the C-1 General Commercial use. Furthermore, appropriate screening measure will be implemented between adjacent residential property when the property is developed.
3. Because the parcel is located adjacent to commercial property, the C-1 zoning classification would be compatible or desirable. The rezoning to C-1 zoning is a desirable use for this property;
4. C-1 General Commercial classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding neighborhood by continuing an existing use within the area. Furthermore, rezoning will allow the development of additional off-street parking for the adjacent commercial property and reduce and/or eliminate parking on 11th Street.
5. The proposed C-1 General Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along this stretch of Union Street and at the intersection of Union Street and East 11th Street. The proposed use is consistent with the adjacent commercial property owned by the petitioner.

ATTACHMENTS

Photographs, Petition



View looking onto existing commercial building and parking at Union & 11th



Views looking onto property to be rezoned and existing outbuilding
(craft workshop)

STAFF REPORT

Location: Northeast corner of Grape Road and Edison Lakes Parkway

Date: June 12, 2012

PET 12 12

Prepared By: GGS

GENERAL INFORMATION

Applicant: Meijer Corp/Panda Restaurant Group, Inc.

Status: Property Owners/Contingent Owner

Request: To rezone from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial

Zoning Classification: C-1 General Commercial

Lot Size: 1.090 acres

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

SPECIAL INFORMATION

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

Thoroughfare: Grape Road & Edison Lakes Parkway

School District: South Bend Community School

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner, Meijer Corp. & Panda Restaurant Group LLC, is requesting to rezone property from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial to allow for a Panda Express Gourmet Chinese Food Restaurant. The petitioner is also requesting final site plan approval for the restaurant. The property to be rezoned and the proposed restaurant will be located on a parcel of land at the northeast corner of Grape Road and Edison Lakes Parkway. Currently, this parcel is apart of the Meijer parking lot.

The proposed development will consist of a one-story 2,448 sf building with a drive-thru and an outdoor seating area. The restaurant will be constructed utilizing masonry and stone consistent with the Design Review Ordinance. 37 parking spaces will be provided. A total of 37 spaces are required to be provided at a ratio of 15 spaces per 1000 gross square-feet. The property will be accessed by two drives via access easements off of the Meijer parking lot. The existing earth mounding and landscaping along Grape Rd and Edison Lake Parkway will remain. This mounding and landscaping will be utilized for the required parking screening and landscape requirement. However, a recent inspection by staff noticed that most trees on the berm were dead. New trees will need to be planted and additional trees may need to be installed to comply with the front-yard tree planting requirements.

RECOMMENDATION

The Planning Department recommends approval of Petition 12-12 to rezone property located at the northeast corner of Grape Road and Edison Lakes Parkway from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial. This recommendation is based upon the following findings of fact:

1. Given the property's close proximity to commercially zoned property, the C-7 zoning would be compatible with the surrounding commercial properties and the existing restaurant uses in the area.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-7 Automobile Oriented Restaurant Commercial
3. Because the parcel is located adjacent to commercial properties and along heavily traveled corridors, the C-7 zoning classification would be compatible and is a desirable use for this property;
4. C-7 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding commercial development in the area.
5. The proposed C-7 Automobile Oriented Restaurant Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Grape Road.

ATTACHMENTS

Photograph, Petition, Site Plan



STAFF REPORT

General Location: SE corner of Douglas Road and Main Street

Date: June 12, 2012

Petition #12-13 SEC Douglas and Main Annexation

Prepared By: KBP

GENERAL INFORMATION

Applicants: John Joseph Coussens

Status: Property Owner

Request: To annex, establish zoning, and approve a preliminary planned unit development site plan to allow for the construction of a mixed use commercial and medical development

Existing Zoning: Unincorporated St. Joseph County

Proposed Zoning: S-2 Planned Unit Development

Lot Size: 29.5 Acres +/-

Applicable Regulations: Section 137-671 to 137-679 S-2 Planned Unit Development District
Section 137-41 Amendments to the Zoning Map
Indiana Code 36-4-3 2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development, Drive n.Shine Car Wash
South: C-1 Undeveloped portions of Edison Lakes. Property falls just short of both Edison Lakes Boulevard and Holy Cross Parkway
East: C-1 General Commercial and S-2 Planned Unit Development City of Mishawaka Douglas Road Fire Station and the St. Joseph Regional Medical Center
West: C-1 General Commercial, currently undeveloped adjacent to the annexation. This land includes Cheddars restaurant currently under construction

Thoroughfare: Douglas Road

School District: Penn-Harris-Madison

Public Utilities: Public Utility capacity is available. Utilities can be extended at the developers expense.

Comprehensive Plan: Medium Density Residential

ANALYSIS

Proposal:

The applicant is proposing to annex, establish zoning, and approve a preliminary planned unit development site plan for a 29.5 Acre property to allow for the construction of mixed use commercial development including all C-1 General Commercial uses. It is our understanding that the property owner has a restaurant that is interested in locating at the corner property at the intersection of Douglas Road and Main Street (proposed Lot #1), but they are not at a point in the process where information can be released.

This property has been consistently farmed by the owner for decades despite having the area change dramatically around it, including the development of Main Street, and the construction of the St. Joseph Regional Medical Center. Currently this property is an island of unincorporated County property that is completely surrounded by the City. If ultimately approved, this annexation is consistent with the City's annexation policies to remove islands or pockets that require county and City services to overlap.

The challenge of this property is that its only viable road frontage is on Douglas Road. Thus, without the involvement and integration with other properties, the property will be limited to a single curb cut along Douglas Road. At staff's request, the preliminary PUD site plan shows how the proposed internal access drive could connect to the parcel the east and connect to Edison Lakes Parkway. This connection is logical, but it requires the cooperation of both property owners, and will ultimately be determined by future development requests on both properties.

The property to be annexed also has a legal drain that runs north/south along the east property line. This drain is a critical drainage way that services a significant amount of property located north of the site. As such, the City has identified in the recommended conditions of approval that the 75' easement from the top of bank remain. If a reduction is sought after in the future, improvements to insure the integrity of the ditch should be made that are commensurate to the proposed reduction.

Similar to other recent annexation requests, if approved, the development of this parcel will likely take place over a long period of time based on recent development patterns and sluggish economy.

At this time, the applicants are only proposing to establish the range of permitted uses and basic development requirements of the planned unit development. If approved, a much more detailed planned unit development site plan would be submitted at a later date for each lot proposed to be developed within the overall parcel.

The applicant has requested a number of exceptions from the City's normal developmental standards which include:

- providing the ability to have one multi-tenant freestanding site sign on Douglas Road, in addition to having one freestanding sign per lot.
- To allow hardi-board exterior finish on buildings.
- To allow hotels with four stories (greater height than the standard 48' permitted within the C-1 General Commercial zoning district.

Given the deep depth of the property its size being close to 30 acres, staff feels that allowing one multi-tenant freestanding sign to identify lots other than #1 and #7 (those with frontage on Douglas Road) is appropriate. Staff has included a recommended standard for this sign that is consistent with the Multi-tenant sign that was approved for Princess City Plaza located along Main Street (Kohl's, Pet Smart, Dick's Sporting goods), except to provide a hierarchy between signs, we are recommending a height of 12' rather than 8' for the multitenant sign. One difference is that unlike the shopping center, this development is proposed to have outlots front Douglas that will have their own freestanding signage. If constructed, staff has recommended a condition that the sign be placed in a center landscape median within the proposed entry drive, or is otherwise separated from the other signs.

Given the high profile location of the property, staff does not feel that a wholesale reduction of the City's approved architectural materials be approved, and that hardi-board would not be considered appropriate as any more than an accent material.

Given that the site is well removed from single family residential uses, a higher permitted height for hotels is consistent with other recent approvals. Staff is recommending in the conditions of approval to increase the permitted height of the hotel to a maximum of seventy feet.

All applicable City departments have reviewed the request. The City Engineering Department has requested that the applicant prepare a master utility and access plan for the site and notes that the cost of all infrastructure improvements will be the developer's responsibility. These items have been included in Staff's recommended conditions of approval.

Zoning Change:

Staff feels that the evaluation of the zoning of this property for mixed use commercial is both appropriate and obvious given the dramatic commercial growth of the north side of the City in recent years. The demand for commercial growth on the north side of the City continues to be self-evident, despite vacancies from the recent recession. The City of Mishawaka continues to be a regional hub for commercial, office, and professional service developments that serve a much larger region.

Given the location and larger size of the property, staff feels that there are numerous topics that are important to consider, and that conditions be placed as part of the proposed annexation and establishment of zoning for this project. Once established, these requirements will provide readily discernable standards to which both the Planning Commission and staff will review in the future as part of subsequent final planned unit development site plan submissions. Please note, unlike a typical rezoning request, Planned Unit Development Districts allow "reasonable conditions" to be placed as part of the approval. The attached conditions are consistent with other recently approved speculative planned unit development requests.

RECOMMENDATION

Staff recommends in favor of Petition # 12-13 to annex and establish zoning for a 29.5 Acre property at the south east corner of Douglas Road and Main Street 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 hotel buildings to be a maximum of 70', and one additional freestanding multi-tenant sign:

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. Phasing of improvements, including the proposed internal collector drive (proposed street) shall be as determined by the City Director of Engineering.
2. The number and or type of curb cuts on any City Street and the internal access drive/street shall be as determined appropriate by the City Director of Engineering. Improvements shall take place consistent with an approved master plan as required herein.

Internal Road connections:

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

Stormwater Run-off/Utilities/Infrastructure:

1. The applicant/developer shall prepare a master plan to identify and provide for appropriate access and utility extensions. All improvements shall be subject to the review and approval of the City Director of Engineering.
2. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering. The 75' Drainage Easement on the east side of the property shall remain vegetated. Any proposed encroachment into this easement shall require compensatory improvements to the vegetation and or ditch as may be directed by the City Director of Engineering, subject to the review and approval of the St. Joseph County Drainage Board.
3. All costs associated with the extension of utilities, road improvements, or other infrastructure 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:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large site) and to otherwise further the intent of this chapter as follows. No more than three freestanding site signs shall be located along Douglas Road, regardless of the number of lots proposed. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Each outlot/development parcel may 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 150 lineal feet.
 - b. One multi-tenant sign shall be permitted along Douglas Road (separate from the two outlots shown with Douglas Road Frontage). This sign shall be exclusively for properties that do not have a freestanding sign on Douglas Road. If constructed, this sign shall be constructed in a center landscape median

within the proposed entry drive, or otherwise separated and made to be distinctly separate from the outlot signage located along Douglas Road. This sign shall be limited to 12' in height and contain a display area of no more than 60 square feet. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. The sign shall include a masonry base no less than 5' in height. All freestanding signs shall be separated from each other by a minimum of 150 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 105.76 of the City of Mishawaka Municipal code as amended, except that hardi-board maybe used as an accent material, not to exceed 1/3 of the area of any single building face. 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 48', except for hotel uses that shall be permitted to construct a maximum of four stories not to exceed 70' in height.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between internal lots/development parcels. A minimum 25' pavement setback shall be provided along all public right-of-way 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. Earth mounding shall be provided along public road right-of-way, between parking areas and public streets. 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. All side property lines within 100' of Main Street right-of-way shall comply with the front yard landscaping standards identified within 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 public right-of-way and 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.

This recommendation is based on the following findings of fact:

1. Existing Conditions- The subject parcel is located adjacent to Douglas Road, an arterial roadway. 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 guided by the City's investment in infrastructure to commercial oriented development for many years.
2. Character of Buildings in Area- The area is predominantly commercial. The character of many of the buildings in vicinity of this site are high quality 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 Main Street, 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 is commercial. The proposed extension of City infrastructure as planned by the developer will increase property values.
5. Comprehensive Plan- This property has been guided as medium density residential as part of the City's 2000 Comprehensive Plan. This plan was developed in the early 1990's and doesn't reflect the major commercial construction that has taken place including the 350 million dollar St. Joseph Regional Medical Center.

ATTACHMENTS

Photographs of Site Area, Site Location Map, Aerial, Preliminary Planned Unit Development Petition,
Preliminary Planned Unit Development Site Plan



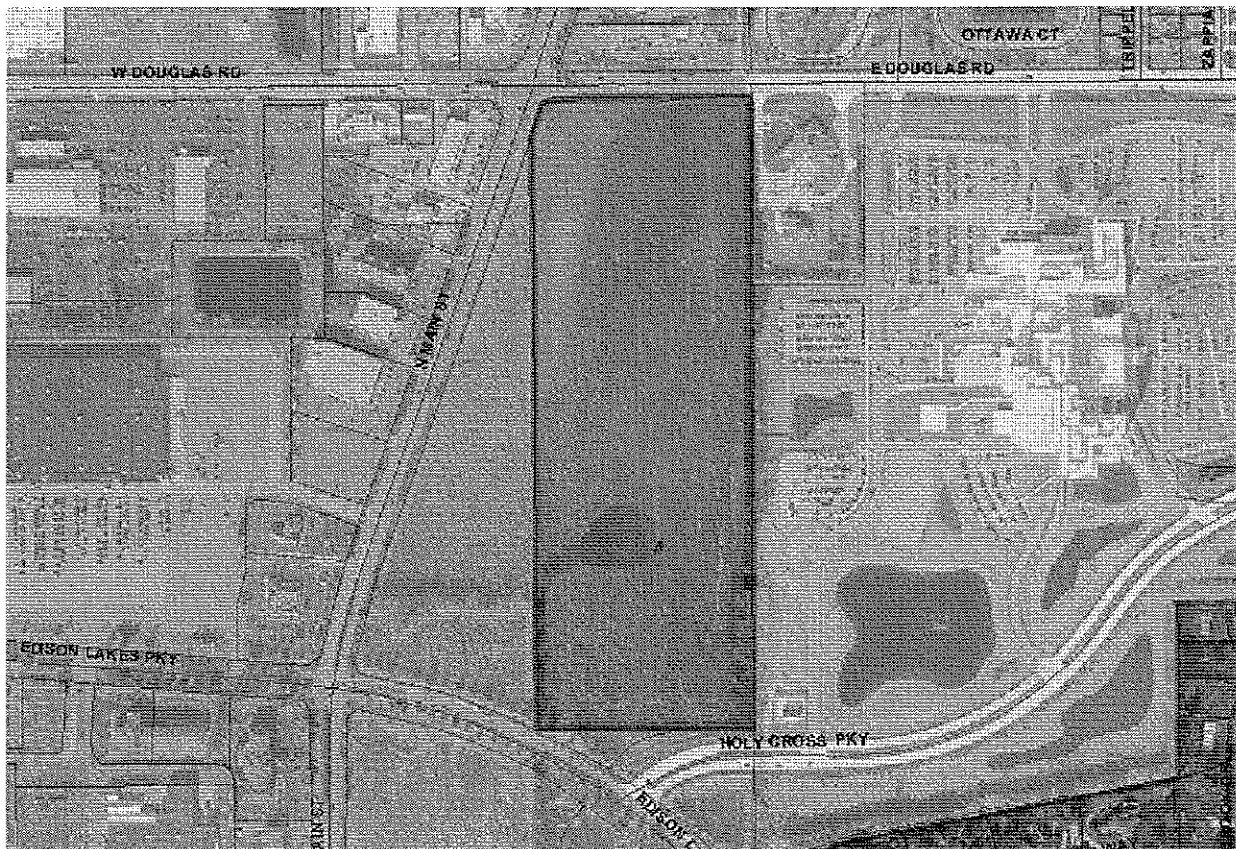
View from Douglas Road looking southwest across the site toward the Cheddar's Restaurant currently under construction.



View from Holy Cross Parkway, looking north over the existing farm field



View from the east side of the intersection of Douglas Road and Main Street looking south



PETITION 12-11

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-12

ORDINANCE NO. _____

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

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

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 109 and Lot 110, Gaylor's 3rd Plat

COMMON ADDRESS: 312 East Eleventh Street and property east of 312 East Eleventh Street

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

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

1. Given the property's close proximity to the existing commercial property located at the corner of 11th Street and Union Street, the C-1 zoning would be compatible with this commercial property.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the presence of the existing commercial property, staff feels that the most desirable use for this property is the C-1 General Commercial use. Furthermore, appropriate screening measure will be implemented between adjacent residential property when the property is developed.

Proposed Ordinance No: _____

Ordinance No: _____

3. Because the parcel is located adjacent to commercial property, the C-1 zoning classification would be compatible or desirable. The rezoning to C-1 zoning is a desirable use for this property.
4. C-1 General Commercial classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding neighborhood by continuing an existing use within the area. Furthermore, rezoning will allow the development of additional off-street parking for the adjacent commercial property and reduce and/or eliminate parking on 11th Street
5. The proposed C-1 General Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along this stretch of Union Street and at the intersection of Union Street and East 11th Street. The proposed use is consistent with the adjacent commercial property owned by the petitioner.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

PETITION 12-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-13

ORDINANCE NO. _____

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

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

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to-wit:

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 692.14 feet to the Point of Beginning; Thence South 89°04'29" East, for a distance of 276.73 feet; Thence South 06°24'26" West, for a distance of 229.82 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 227.00 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 186.08 feet to the Point of Beginning. Containing 1.328 acres.

COMMON ADDRESS: Northeast corner of Grape Road and Edison Lakes Parkway

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-7 Automobile Oriented Restaurant Commercial District and designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: _____

Ordinance No: _____

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

1. Given the property's close proximity to commercially zoned property, the C-7 zoning would be compatible with the surrounding commercial properties and the existing restaurant uses in the area.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-7 Automobile Oriented Restaurant Commercial.
3. Because the parcel is located adjacent to commercial properties and along heavily traveled corridors, the C-7 zoning classification would be compatible and is a desirable use for this property.
4. C-7 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding commercial development in the area.
5. The proposed C-7 Automobile Oriented Restaurant Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along Grape Road.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

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

David A. Wood, Mayor

PETITION #12-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2012-14

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:

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 WEAT 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

Proposed Ordinance No. _____

Ordinance No. _____

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.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use commercial development including all C-1 General Commercial uses and permitting developmental standards that allow for hotel buildings to be a maximum of 70', and one additional freestanding multi-tenant sign:

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. Phasing of improvements, including the proposed internal collector drive (proposed street) shall be as determined by the City Director of Engineering.
2. The number and or type of curb cuts on any City Street and the internal access drive/street shall be as determined appropriate by the City Director of Engineering. Improvements shall take place consistent with an approved master plan as required herein.

Internal Road connections:

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

Proposed Ordinance No. _____

Ordinance No. _____

Stormwater Run-off/Utilities/Infrastructure:

1. The applicant/developer shall prepare a master plan to identify and provide for appropriate access and utility extensions. All improvements shall be subject to the review and approval of the City Director of Engineering.
2. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering. The 75' Drainage Easement on the east side of the property shall remain vegetated. Any proposed encroachment into this easement shall require compensatory improvements to the vegetation and or ditch as may be directed by the City Director of Engineering, subject to the review and approval of the St. Joseph County Drainage Board.
3. All costs associated with the extension of utilities, road improvements, or other infrastructure 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:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large site) and to otherwise further the intent of this chapter as follows. No more than three freestanding site signs shall be located along Douglas Road, regardless of the number of lots proposed. All freestanding signs shall otherwise be designed as per the applicable City requirements:
 - a. Each outlot/development parcel may 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 150 lineal feet.
 - b. One multi-tenant sign shall be permitted along Douglas Road (separate from the two outlots shown with Douglas Road Frontage). This sign shall be exclusively for properties that do not have a freestanding sign on Douglas Road. If constructed, this sign shall be constructed in a center landscape median within the proposed entry drive, or otherwise separated and made to

Proposed Ordinance No. _____

Ordinance No. _____

- be distinctly separate from the outlot signage located along Douglas Road. This sign shall be limited to 12' in height and contain a display area of no more than 60 square feet. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board. The sign shall include a masonry base no less than 5' in height. All freestanding signs shall be separated from each other by a minimum of 150 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 105.76 of the City of Mishawaka Municipal code as amended, except that hardi-board maybe used as an accent material, not to exceed 1/3 of the area of any single building face. 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 48', except for hotel uses that shall be permitted to construct a maximum of four stories not to exceed 70' in height.

Parking/Landscaping:

1. A minimum pavement setback of 5' in width shall be provided between internal lots/development parcels. A minimum 20' pavement setback shall be provided along all public right-of-way 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. Earth mounding shall be provided along public road right-of-way, between parking areas and public streets. A minimum 25-foot green buffer area shall be required along all public road right-of-way and internal collector drives.

Proposed Ordinance No. _____

Ordinance No. _____

Each individual outlot within all development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district. All side property lines within 100' of Main Street right-of-way shall comply with the front yard landscaping standards identified within 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 public right-of-way and 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 Douglas Road, an arterial roadway. 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 guided by the City's investment in infrastructure to commercial oriented development for many years.
2. Character of Buildings in Area - The area is predominantly commercial. The character of many of the buildings in the vicinity of this site are high quality 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 Main Street, 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

Proposed Ordinance No. _____

Ordinance No. _____

- adjacent property is commercial. The proposed extension of City infrastructure as planned by the developer will increase property values.
5. Comprehensive Plan - This property has been guided as medium density residential as part of the City's 2000 Comprehensive Plan. This plan was developed in the early 1990's and doesn't reflect the major commercial construction that has taken place including the 350 million dollar St. Joseph Regional Medical Center

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

RESOLUTION NO. 2012-19

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:

Northwest Capital Avenue and I-80/90 Toll Road

WHEREAS, the Common Council of the City of Mishawaka desires to consider the annexation of territory adjacent to the City in accordance with a definite policy and all applicable laws and restrictions.

WHEREAS, the entire area proposed for annexation has either petitioned for annexation or signed a consent regarding annexation.

WHEREAS, Indiana Code Section 36-4-3-3.1 requires a municipality to develop and adopt a written fiscal plan and establish a definite policy by resolution.

WHEREAS, the said fiscal plan has been reviewed and is otherwise consistent with the requirements of Indiana Code 36-4-3-13.

WHEREAS, the Department of City Planning has prepared said fiscal plan with the input of each applicable City department. Furthermore, based on the review of each City department, a comparable level of City services can be provided to the proposed annexation area when compared to similar geographic areas of the City.

WHEREAS, the Department of City Planning has prepared a written policy on annexation that has been incorporated within the fiscal plan.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of this resolution as required by law, and is initiating an ordinance to annex the following property, legally described as:

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

Section II. Following the review of documents prepared by the Department of City Planning and presentation, the Common Council hereby adopts the Fiscal Plan and Annexation Policy as it relates to the aforementioned properties.

Section III. This Resolution shall be in full force and effect after its adoption by the Common Council and approval by the Mayor, as required by law.

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

APPEAL #12-17

RESOLUTION NO. 2012-20

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:

**1275 & 1301 Industrial Drive and 1220 S. Merrifield Avenue,
Mishawaka, Indiana**

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Conditional Use Permit for property located at **1275 & 1301 Industrial Drive and 1220 S. Merrifield Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

The parcel is legally described as: 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) 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 parcels 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, it being the intent of the Grantor, the Grantee and the owners of the remainder of the parcels 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, I, 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) 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) minutes Seven (7) seconds West a distance of Two Hundred Ninety and Seventy-six Hundredths (290.76) feet to a point, said point being Forty (40) feet East (measured at right angles) of the West line of the Northeast Quarter (NE1/4) of said Section 22; thence North Zero (0) degrees Zero (0) minutes Zero (0) seconds West parallel with 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.

The Use Variance will allow one (1) 1,000 gallon above ground fuel storage tank on I-1 Light Industrial zoned property subject to the following condition:

1. This approval shall be limited to one (1) 1,000 gallon fuel storage tank. Any expansion shall require the submission, review, and approval of an additional Use Variance.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. With the stipulated condition, the approval will not be injurious to the public health, safety, morals, and general welfare of the community because the installation of the tank will conform to all applicable safety requirements as determined/interpreted by the City of Mishawaka Fire Department;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the 1,000 gallon tank will only contain 800 gallons of propane as a safety measure to permit liquid expansion, and the tank will be set at least 25 feet from property lines and buildings;

3. The need for the variance does arise from a condition peculiar to the property involved because an above ground storage tank is not a permitted use in the I-1 Light Industrial District;
4. The strict application of the terms of this chapter constitutes an unnecessary hardship if applied to this property in that without the availability of onsite propane fuel the company would not be able to fuel their forklifts; and
5. Granting of this variance will not compromise the integrity of the *Mishawaka 2000 Comprehensive Plan* which indicates Industrial.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

APPEAL #12-18

RESOLUTION NO. 2012-21

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

6501 Grape Road, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Conditional Use Permit for property located at **6501 Grape Road, Mishawaka, Indiana**, more particularly known and described as follows:

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 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; thence South 35°00'00" East a distance of 459.50 feet to a point; thence South 55°00'00" West a distance of 41.5 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.

The Use Variance will allow for the temporary use of a portion of the Sears parking lot at University Park Mall for three (3) used car sales events for ten (10) days each, thirty (30) days total on C-2 Shopping Center Commercial zoned property subject to the following conditions:

TRANSIENT MERCHANTS LICENSE:

- A Transient Merchant's License shall be obtained from the Board of Public Works and Safety prior to the first sales event in July.

USES:

- The event shall be limited to the display and sales of automobiles and light trucks for ten (10) days in July, August, and September of 2012 as presented.

SITE PLAN:

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

ACCESS/TRAFFIC CONTROL REQUIREMENTS:

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

SETBACKS:

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

SIGNAGE/ATTENTION DEVICES:

- A plan identifying the location and type of all signage/attention devices shall be submitted subject to staff review and approval. A maximum of one (1) temporary sign no larger than 4' X 8' shall be permitted on Grape Road. A maximum of two (2) temporary signs shall be permitted along State Road 23. **No inflatable air balloons shall be permitted.** All signs and attention getting devices shall not flash or be animated where they are overtly distracting to the motoring public. Internal directional signs shall also

be permitted as necessary provided they are not visible from surrounding major roadways.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the development is temporary and will maintain certain minimum developmental standards as outlined herein;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the area is surrounded by commercial development;
3. The need for the variance arises from some condition peculiar to the property involved in that the C-2 zoning does not permit vehicle sales, even on a very limited basis, thus requiring the Use Variance for the proposed use;
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the ordinance as drafted, would not permit the Appellant to hold their regional event at this site, specifically, the University Park Mall is one of the few regional facilities that has been inherently constructed to handle this type of event by having the appropriate access, lighting, and parking;
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the plan identifies this area for general commercial and the surrounding area is one of the largest consolidated retail areas in the State of Indiana.

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

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

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

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

Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

RESOLUTION NO. R 2012- 22

**A RESOLUTION OF THE MISHAWAKA COMMON COUNCIL
ADOPTING AND APPROVING AN ANTI-NEPOTISM POLICY
FOR THE CITY OF MISHAWAKA, INDIANA**

Whereas, in 2012 the Indiana Legislature passed, and the Governor signed, HEA 1005 entitled Nepotism; Conflict of Interest;

WHEREAS, IC 36-1-20.2, as added by P.L. 135-2012, SECTION 7, requires the City of Mishawaka to establish a policy concerning nepotism;

WHEREAS, IC 36-1-21, as added by P.L. 135-2012, SECTION 8, requires the City of Mishawaka to establish a policy concerning contracting with relatives of elected officials;

Whereas, these two new chapters, IC 36-1-20.2 Nepotism and IC 36-1-21 Contracting with a Unit, respectively, are effective July 1, 2012;

Whereas, in both of the new Indiana Code chapters, the municipal legislative bodies are mandated to adopt a policy that includes, as a minimum, the requirements set forth in those new chapters;

Whereas, in both of the new Indiana Code chapters “relative” is defined as a spouse, parent, stepparent, child (natural or adopted), stepchild, brother, half- brother, sister, half-sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law or son-in-law;

Whereas, after thoughtful consideration and in order to comply with the two new chapters of the Indiana Code mentioned above, the City of Mishawaka believes it is in the best interests of its citizens to adopt as its policies the minimum requirements of IC 36- 1-20.2 Nepotism and IC 36-1-21 Contracting with a Unit as stated in the said new chapters of the Indiana Code; and

Now, therefore, the Common Council of Mishawaka states as follows:

1. The City of Mishawaka finds that it is necessary and desirous to adopt a policy of conduct with regard to nepotism in the employment with the City of Mishawaka and in contracting with the City of Mishawaka in order to continue to be able to provide local government services to its residents and to comply with the new laws effective July 1, 2012 known as IC 36-1-20.2 and IC 36-1-21, respectively.
2. On July 1, 2012 the City of Mishawaka shall have a Nepotism and a Contracting with a Unit policy that complies with the minimum requirements of IC 36-1-20.2 (hereinafter “Nepotism

Policy”) and IC 36-1-21 (hereinafter “Contracting with a Unit by a Relative Policy”) and implementation will begin.

3. The City of Mishawaka Nepotism Policy is hereby revised effective July 1, 2012 by adopting the minimum requirements provisions of IC 36-1-20.2, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

4. The City of Mishawaka Contracting with a Unit by a Relative Policy is hereby established effective July 1, 2012 by adopting the minimum requirements provisions of IC 36-1-21, and including all future supplements and amendments thereto which become law from time to time, and making them a part hereof as if fully set out herein.

5. The City of Mishawaka finds that both IC 36-1-20.2 and IC 36-1-21 specifically allow a unit to adopt requirements that are “more stringent or detailed” and that more detailed are necessary.

6. The City of Mishawaka further finds that a single member of the legislative body cannot act for the body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body and therefore without such authority by the majority he/she will not be in the direct line of supervision. See IC 36-4-6-11, IC 36-5-2-9.4.

7. The City of Mishawaka finds that a single member of governing bodies with authority over employees in the City of Mishawaka cannot act for the governing body to make work assignments, compensation, grievances, advancement or a performance evaluation without prior authority of a majority of the body, when a statute provides that a majority is needed to act, and therefore, without such authority by the majority the single member will not be in the direct line of supervision.

8. All elected and appointed officials and employees of the City of Mishawaka are hereby directed to cooperate fully in the implementation of the policies created by this Resolution and demonstrating compliance with these same policies.

9. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Nepotism Policy is a violation and may result in the discipline, including termination, of an employee or a transfer from the direct line of supervision or other curative action. An elected or appointed official of the City of Mishawaka who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy may be subject to action allowed by law.

10. Failure to abide by or cooperate with the implementation, compliance and certifications connected with the Contracting with Unit by a Relative Policy is a violation and may result in the discipline, including termination, of an employee or a curative action. An elected or appointed

official of the City of Mishawaka who fails to abide by or cooperate with the implementation, with the compliance and with mandated certifications of either the Nepotism Policy or the Contracting with Unit by a Relative Policy may be subject to action allowed by law.

11. The polices created by this Resolution are hereby directed to be implemented by any of the following actions: a) posting a copy of this Resolution in its entirety in at least one of the locations in the City of Mishawaka where it posts employer posters or other notices to its employees; b) providing a copy of this Resolution to its employees and elected and appointed officials; c) providing or posting a notice of the adoption of this Resolution; or d) any such other action or actions that would communicate the polices established by this Resolution to its employees and elected and appointed officials. Upon any of taking these actions these policies are deemed implemented by the City of Mishawaka.

12. Two (2) copies of IC 36-1-20.2 and IC 36-1-21, and as supplemented or amended, are on file in the office of the Clerk for the City of Mishawaka for public inspection as maybe required by IC 36-1-5-4.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka that it hereby adopts and approved this Anti-Nepotism Policy.

PASSED by the Common Council of the City of Mishawaka, Indiana on this _____

Day of _____ 2012 at _____ o' clock p.m.

John 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

City of Mishawaka

RESOLUTION NO. R2012-23

A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF MISHAWAKA, INDIANA
HONORING THE 40TH ANNIVERSARY OF THE
SISTER CITY RELATIONSHIP BETWEEN
SHIOJIRI NAGANO, JAPAN AND
MISHAWAKA, INDIANA, USA

WHEREAS, this is the story of a friendship...a friendship that spans an ocean, transcending time and the divergence of cultures; and,

WHEREAS, out of this friendship, Shiojiri, Nagano, Japan and Mishawaka, Indiana, U.S.A. became “Sister Cities”; and,

WHEREAS, ironically, this did not begin in Japan or the United States but on a train in the small country of Java in 1937; and,

WHEREAS, Helen Amos, a schoolteacher from Mishawaka, met a young Japanese man named Kenichi Midzuno. their conversation led to correspondence when they returned to their home countries until World War II; and,

WHEREAS, Following the war, they resumed their correspondence and in 1952, Mr. Midzuno was sent to Chicago to manage a bank. This enabled him to visit Miss Amos, and their friendship grew and included Mr. Takasuna, vice president of the Shiojiri Nishi Primary School P.T.A . Mr. Takasuna brought schoolwork to the U.S. A. with the hope of visiting an American School, and at his suggestion Shiojiri’s Nishi Primary School became sister schools with Battell Elementary School; and,

WHEREAS, this relationship proved to be so successful that Mr. Komatsu, then mayor of Shiojiri, proposed the idea of Mishawaka and Shiojiri becoming Sister Cities and, in 1972 the relationship became official. Today, we celebrate the 40th anniversary of the “Bridge to Understanding” and hope our Sister City Relationship serves as an inspiration to people of all ages throughout the world to create their own bridges to understanding.

NOW THEREFORE, Let it be known and BE RESOLVED BY THE City of Mishawaka Common Council, Mayor and Clerk, that June 24, 2012 is hereby proclaimed:

The 40th Anniversary of the Sister City Relationship between Shiojiri, Nagano, Japan and Mishawaka, IN, USA in our community, and they call upon all of our citizens to join us in thanking and reaffirming the ideals of this relationship.

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

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.

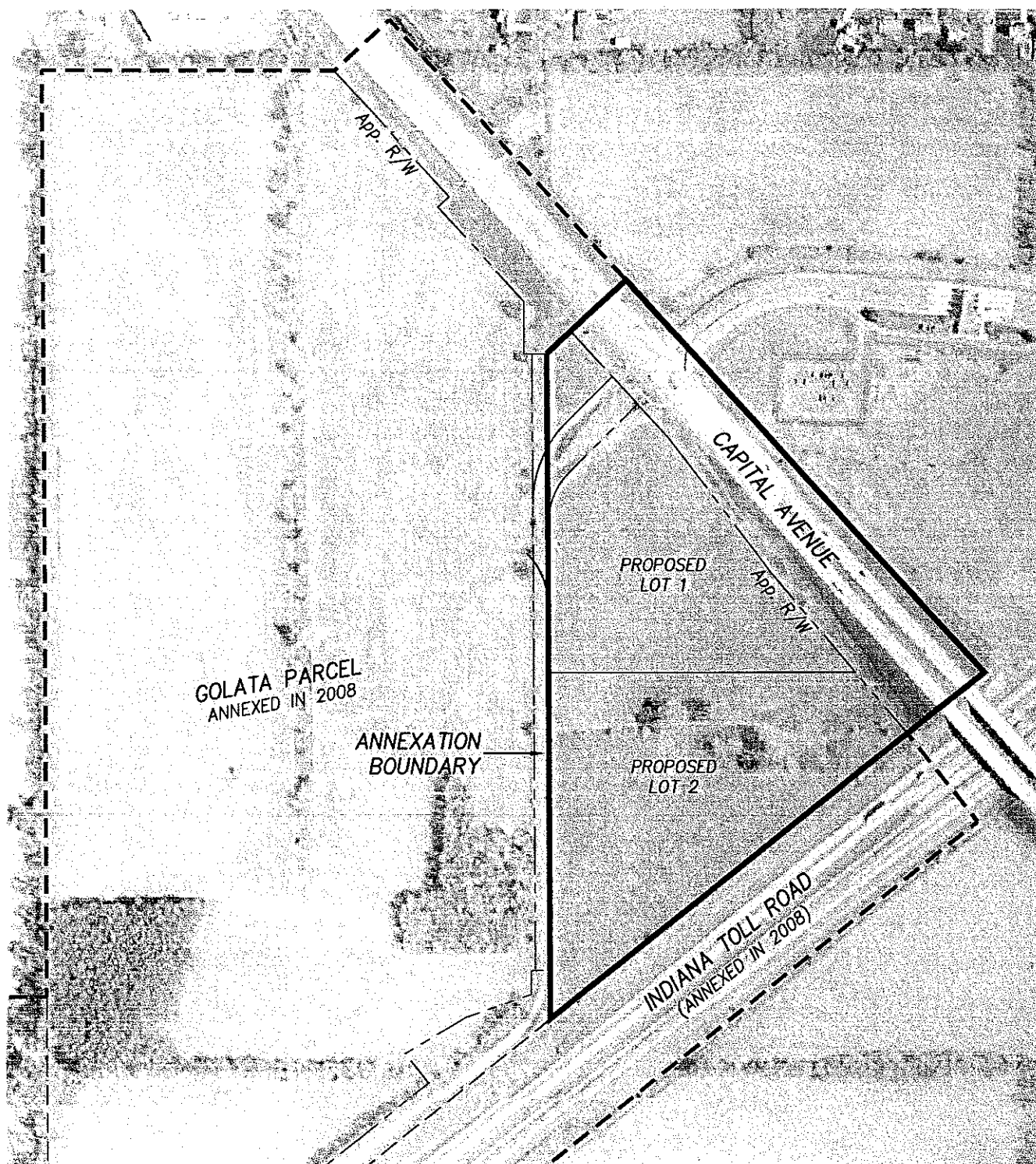


Jeff Costello, Vice President & CFO

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
COPYRIGHT 2012 - ABONMARCHÉ CONSULTANTS, INC.

Ret 12-09

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