

**AGENDA**

**Monday, August 6, 2018**

**Ray Schultz 911 Dispatch Center**

**Budget**

**6:00PM**

**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**

July 16, 2018

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

Appeal No. 2018-21 Use Variance to allow a Two-Family Home(duplex) to remain in the R-1 Single Family District 2606 & 2608 W. Ewing

Petition No. 2018-20 Annexation, Rezoning to S-2 PUD & PUD Amendment Part of Northwest Capital - Toll Road PUD Beacon Health System, Inc.

Petition No. 2018-21 Rezone from C-1 to C-4 for Proposed Car Wash Facility - 4405 & 4415 Grape Road

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

P.O. NO. 2018-16 Transfer and Appropriation Community Crossings Grant \$1,300,000.00

- 8. Resolutions**
- 9. Ordinances on Second Reading**
- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**

P.O. NO. 2018-12 Rezone from C-1 General Commercial to C-4 Auto Oriented Commercial for Car Wash Vacant Property East of 1030 W. Edison Rd (Assigned to Land Use Planning Committee)(Requesting Withdrawal)

- 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

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements, contact Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL  
July 16, 2018

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 July 16, 2018, at 7:00 p.m. The meeting was called to order by President Mammolenti all were asked to stand for the Pledge of Allegiance.



**Roll Call.**

**Present:** Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.

**Absent:** Mr. Compton.

Minutes of the Regular Meeting of July 02, 2018 were approved as received from the Clerk's Office.

**UNFINISHED BUSINESS**

Clerk Block read the following resolution by title and was opened for public hearing.

**RESOLUTION NO. 2018-13**

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

**426 East Mishawaka Avenue, Mishawaka, Indiana**

Dion Mawhorter, owner of Scooby's Restaurant said he was requesting for residential to be added back into the zoning along with the commercial downstairs.

Mr. Canarecci questioned who would be living on the property. Mr. Mawhorter said he would be living in the upstairs apartment; he would not be renting out the property.

Mrs. Volker questioned the restaurant layout. Mr. Mawhorter said there would be a bit of a down size, there may be 15 tables seating two. He continued to say he would continue to provide pick-up and delivery orders. Mr. Mawhorter said if there was additional space he would add the dinning outside.

Mr. Tanner asked what the plans were for renovations of the old bait shop. Mr. Mawhorter said they would gut the property and bring in new.

Mr. Mammolenti questioned the timeline of the renovation. Mr. Mawhorter said he hoped 3 months, opening in mid-October or beginning of November. He said the current restaurant would continue running until renovations were done.

Question was called for at 7:06 P.M. for **RESOLUTION 2018-13**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.**

Clerk Block read the following proposed ordinance by title and opened the public hearings.

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL  
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME  
AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF  
THE CITY OF MISHAWAKA, INDIANA.  
(Rezone from C-1 to R-1 1028 Ironwood Dr.)  
(Assigned to Land Use Planning Committee)**

Jay Primmer explained they were requesting for the property to be rezoned to R-1 to sell as residential, their current tenants were interested in purchasing the property.

Question was called for at 7:08 P.M. for **PROPOSED ORDINANCE NO. 2018-14**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti. Thus, it becomes ORDINANCE NO. 5621.**

**NEW BUSINESS**

Mr. Emmons announced the 1<sup>st</sup> District Neighborhood meeting would be July 19, 2018 at 7 P.M. at St. Bavo's. He said the speaker would be Dean Huppert, Athletic Director of Mishawaka School's speaking about the changes at the schools.

**ADJOURNMENT 7:09 P.M.**

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

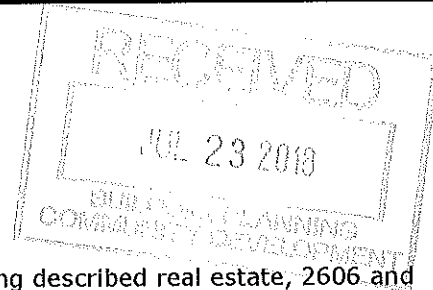
Matt Mammolenti /s/  
Matt Mammolenti, President

RECEIVED  
DEBORAH S. BLOCK, MMC

DATE: July 18, 2018

JUL 31 2018

TO: Board of Zoning Appeals  
City of Mishawaka, Indiana  
CITY CLERK  
MISHAWAKA, IN



The undersigned appellant respectfully shows the Board:

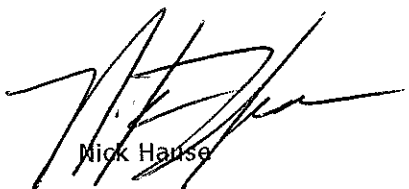
1. We, Nick and Jessica Hause, are the owner of the following described real estate, 2606 and 2608 Ewing Ave located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana.

**Lots # 238 and 239 Lafayette Place**

2. The above-described real estate presently has a zoning classification of R-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: **We have owned the property since 2015. Both units have consistently been occupied since our purchase. One unit is currently vacant and will be occupied by the new owner.**
4. Appellant desires to (Explain what is proposed that violates the Ordinance.) **The property is currently zoned R-1 with the City of Mishawaka, but zoned and taxed R-2 with the county of St. Joseph. The property was built in 1951 as a duplex and we would like the zoning to reflect this.**
5. The Zoning Ordinance of the City of Mishawaka requires (Explain ordinance requirements and note Section Number of the Ordinance.) **Two family dwellings are not allowed in section number 137-165. Section number 137-165.**
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. **If we had to convert the property back into a single family home, we would need to do a major remodel that would include major renovations to the property. Both Mishawaka Utilities and Nipsco have records of separate meters and accounts for the property going back to 1972 and 1983 respectively.**
7. Answer the following necessary questions for a **USE VARIANCE**:
  - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? YES OR NO and explain your reason why. **The property will remain the same as constructed. Nothing new would be done to the property.**
  - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? YES OR NO and explain your reason why. **The property will remain the same as constructed. Nothing new would be done to the property.**
  - (3) Does the need for the variance arise from some condition peculiar to the property involved? YES OR NO and explain your reason why. **We are currently selling the property and are in escrow. During escrow it came to our attention that the property is not zoned correctly. The property was built in 1951 as a duplex and we would like the zoning to reflect this. Both Mishawaka Utilities and Nipsco have records of separate meters and accounts for the property going back to 1972 and 1983 respectively.**
  - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? YES OR NO and explain your reason why. **If we had to convert the property back into a single family home, we would need to do a major remodel that would include major renovations to the property.**
  - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? YES OR NO and explain your reason why. **The property is in a low density residential neighborhood. The property currently sits on 2 lots (lot # 238 and 239). The density stays equal with current single family homes.**

AP 18-21

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



Nick Hause



Jessica Hause

**CONTACT PERSON:**

Name: Nick Hause

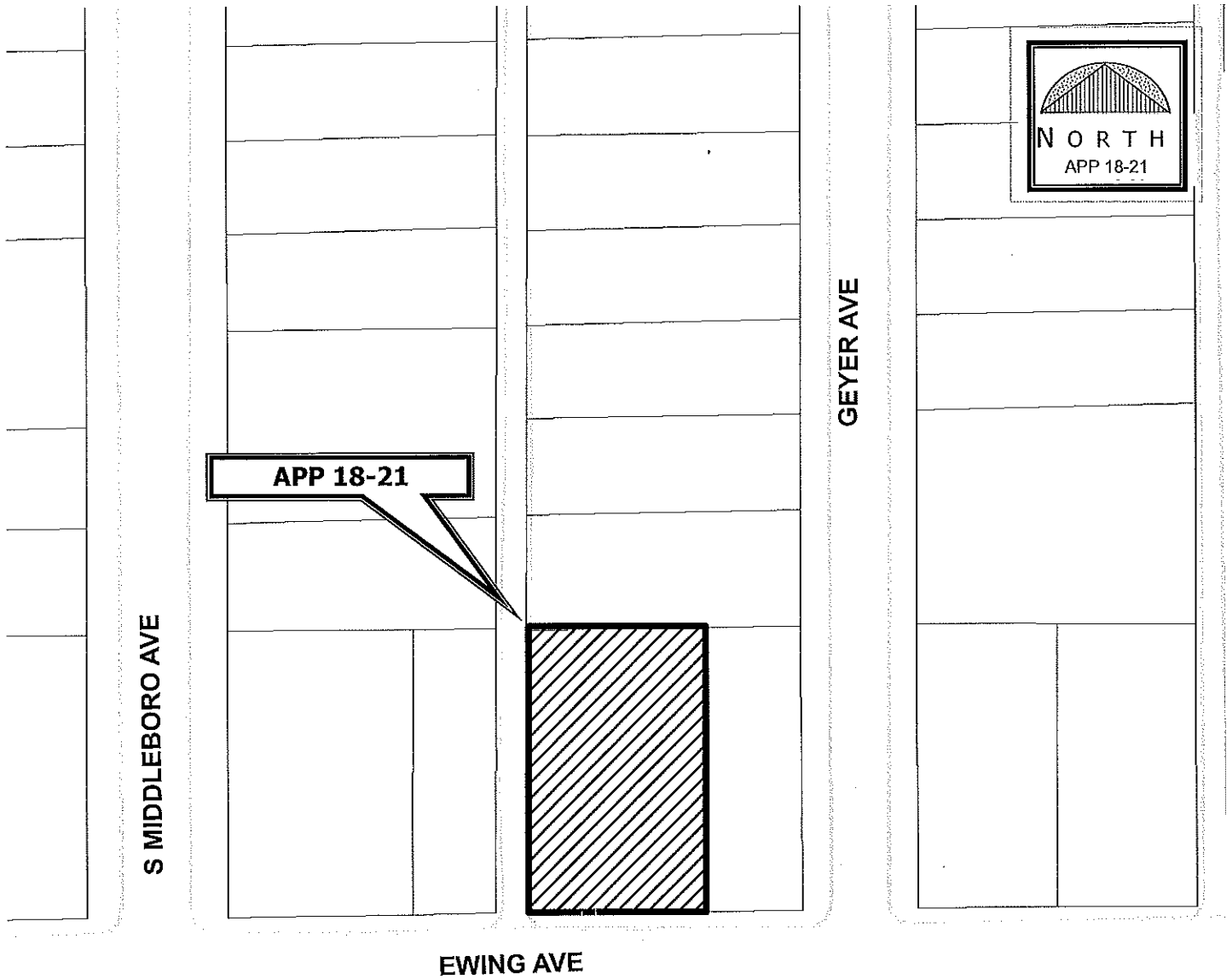
Address: 4458 Pixie Ave, Lakewood CA 90712

Day Phone Number: (562) 569-4929

Fax Number: (562) 569-4929

Email: nick\_hause@yahoo.com

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## Location Map APP 18-21

NICHOLAS D. & JESSICA L. HAUSE

2606 & 2608 W. EWING AVE. - LOTS  
238 & 239 OF LAFAYETTE PLACE

USE VARIANCE TO ALLOW A TWO-  
FAMILY HOME (DUPLEX) TO REMAIN  
IN THE R-1 SINGLE-FAMILY  
RESIDENTIAL DISTRICT

RECEIVED  
DEBORAH S. BLOCK, MMC

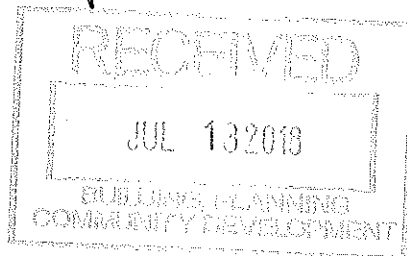
JUL 31 2018

CITY CLERK  
MISHAWAKA, IN

DATE: July 18, 2015

TO THE:

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



RE: Petition for Annexation, Zoning Classification, and PUD Amendment

The undersigned Beacon Health System, Inc respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A PART OF THE NORTHWEST QUARTER 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°33'26" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 1,318.45 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST QUARTER; THENCE SOUTH 89°56'36" WEST ALONG SAID SOUTH LINE, 1,131.60 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°56'36" WEST ALONG SAID SOUTH LINE, 188.01 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST QUARTER; THENCE NORTH 00°30'57" WEST ALONG SAID WEST LINE, 250.18 FEET, MORE OR LESS TO THE NORTHERLY RIGHT-OF-WAY OF STATE ROAD 23; THENCE NORTH 55°27'51" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 226.82 FEET; THENCE SOUTH 00°30'57" EAST, 378.59 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 1.35 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF- WAY OF RECORD. (ADDRESS: 14710 STATE ROAD 23, GRANGER, IN 46530)

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located within a part of the northwest quarter of Section 23, Township 38 North, Range 3 East, Harris Township, St Joseph County and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a "S-2" Planned Unit Development District to allow for uses in the C1 zoning classification. Petitioners further state that the current proposal includes medical uses, including an acute care hospital, along with uses compatible to such. It is the Petitioners' intent that the existing "S-2 Planned Unit Development" and its referenced legally described property created through Ordinance #5186 be amended to include the Annexation of this parcel, bringing the full area within the City of Mishawaka municipal jurisdiction under the approved zoning classification.

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

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

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a "S-2 Planned Unit Development" zoning classification.



\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Jeffrey P. Costello  
Print Property Owner Name

Contact Person:

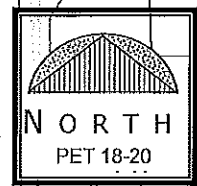
|                    |                                    |
|--------------------|------------------------------------|
| NAME :             | Mike Huber, Abonmarche Consultants |
| ADDRESS :          | 750 Lincoln Way East               |
| TELEPHONE NUMBER : | 574.2332.8700                      |
| FAX NUMBER :       | 574.251.4400                       |
| EMAIL:             | mhuber@abonmarche.com              |

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

A PART OF THE NORTHWEST QUARTER 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°33'26" EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 1,318.45 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST QUARTER; THENCE SOUTH 89°56'36" WEST ALONG SAID SOUTH LINE, 1,131.60 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°56'36" WEST ALONG SAID SOUTH LINE, 188.01 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID NORTHWEST QUARTER; THENCE NORTH 00°30'57" WEST ALONG SAID WEST LINE, 250.18 FEET, MORE OR LESS TO THE NORTHERLY RIGHT-OF-WAY OF STATE ROAD 23; THENCE NORTH 55°27'51" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 226.82 FEET; THENCE SOUTH 00°30'57" EAST, 378.59 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 1.35 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT-OF- WAY OF RECORD.



**PET 18-20**

ELR RD

STATE RD 23

EXISTING CITY LIMITS

CAPITAL AVE

CAPITAL AVE

EXISTING CITY LIMITS

AREA TO BE  
ANNEXED, ZONED  
S-2 PUD, AND ADDED  
TO THE NW CAPITAL-  
TOLL ROAD PUD

EXISTING CITY LIMITS

NW CAPITAL-  
TOLL ROAD PUD

BEACON PKWY

BEACON PKWY

EXISTING CITY LIMITS

## Location Map

**PET 18-20**

BEACON HEALTH SYSTEM, INC.

PART OF NORTHWEST  
CAPITAL - TOLL ROAD PUD

ANNEXATION, REZONING TO  
S-2 PUD & PUD AMENDMENT

EVERGREEN RD  
INDIANA TOLL RD  
INDIANA TOLL RD

EXISTING CITY LIMITS

July 24, 2018

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

RECEIVED  
DEBORAH S. BLOCK, MMC

JUL 31 2018

CITY CLERK  
MISHAWAKA, IN

**RE: PETITION TO REZONE**

The undersigned Garatoni Holdings LP V respectfully show they are the owners of the following described real estate, and the undersigned Wyant Properties LLC respectfully show they are the contract purchasers of the following described real estate, located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

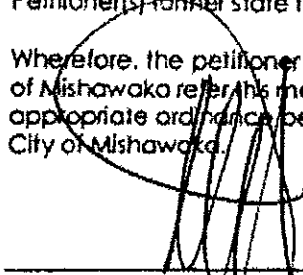
Lot 3AA Second Replot of Healthquest-Grape Rd Minor NP #2297 04-05-11

Address: 4405 & 4415 Grape Road, Mishawaka, IN 46545  
Parcel ID: 029-1001-001311

Garatoni Holdings LP V owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1, General Commercial District. Wyant Properties LLC will own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1, General Commercial District. Said property is a vacant commercial lot.

Petitioner(s) desire said real estate to be rezoned to C-4, Auto-Oriented Commercial District. Petitioner(s) further state that they intend to utilize said land for a car wash facility.

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

  
\_\_\_\_\_  
Garatoni Holdings LP V

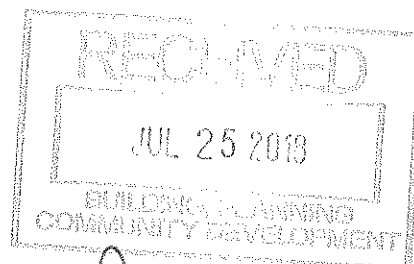
  
\_\_\_\_\_  
John Wyant, Wyant Properties LLC

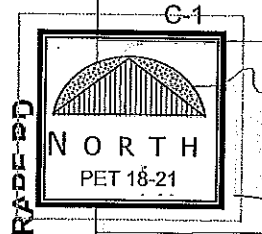
**CONTACT PERSON:**

Abonmarche Consultants, Inc. (Attn. Brian McMorrow)  
750 Lincoln Way East  
South Bend, IN 46601  
574.314.1022  
bmcmmorrow@abonmarche.com

Garatoni Holdings Limited Partnership V  
By: The Garatoni Holdings Management, LLC, General Partner  
By: Garatoni Holdings Irrevocable Trust, Sole Member  
By:

\_\_\_\_\_  
Steven L. Garatoni, Trustee





C-2

VACANT

C-2

C-1

PET 18-21

POND / RETENTION AREA

R-3

R-3

TANGLEWOOD TRACE  
SENIOR COMMUNITY

S-2

TANGLEWOOD LN

GRAPE RD

# Location Map

## PET 18-21

GARATONI HOLDINGS LP V

4405 & 4415 GRAPE ROAD  
LOT 3AA OF THE 2ND REPLAT OF  
HEALTHQUEST-GRAPE ROAD  
MINOR SUBDIVISION

REZONING FROM C-1 TO C-4 FOR  
A PROPOSED CAR WASH FACILITY

C-9

BW3'S RESTAURANT

C-4

LEXUS AUTO  
DEALERSHIP

RECEIVED  
DEBORAH S. BLOCK, MMC

AUG 02 2018

CITY CLERK  
MISHAWAKA, IN

1st Reading 8-6-18  
2nd Reading  
Passed  
Failed  
Continued To

PROPOSED ORDINANCE NO. 2018-16

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TRANSFERRING FUNDS FROM THE  
MOTOR VEHICLE HIGHWAY FUND AND THE  
LOCAL ROAD AND STREET FUND OF THE  
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE  
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA  
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2018  
AND AN ORDINANCE APPROPRIATING ADDITIONAL  
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2018

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

Section 1. There is hereby transferred from the Motor Vehicle Highway (MVH)  
Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of the City  
of Mishawaka the sum of \$183,000.00

Section 2. There is hereby transferred from the Local Road and Street (LRS)  
Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of the City  
of Mishawaka the sum of \$467,000.00.

Section 3. Which requires the appropriation of additional funds for the fiscal year  
ending December 31, 2018 in addition to that set out in detail in the published budget.

Section 4. There is hereby appropriated from the Local Bridge and Road  
Matching Grant Fund of the City of Mishawaka the sum of \$1,300,000.00 for assignment  
as follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges

244-50-436-03

Street Repair

\$1,300,000.00

Section 4. 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 \_\_\_\_\_, 2018 at \_\_\_\_\_ o'clock, \_\_\_\_\_. M.

\_\_\_\_\_  
Matt Mammolenti, 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 \_\_\_\_\_, 2018 at \_\_\_\_\_ o'clock, \_\_\_\_\_. M.

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this \_\_\_\_\_ day of \_\_\_\_\_, 2018 at  
\_\_\_\_\_ o'clock, \_\_\_\_\_. M.

\_\_\_\_\_  
David A. Wood, Mayor



# CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE  
Rebecca S. Miller, Controller  
Kurt Vardaman, Deputy Controller

Date: August 2, 2018  
To: Honorable Members of the Common Council  
From: Rebecca Miller  
Re: Transfer from MVH and LRS Funds and Additional Appropriation  
Local Road & Bridge Matching Fund

I am requesting approval for the transfer of \$183,000 from the Motor Vehicle Highway Fund and \$467,000 from the Local Road and Street Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds were budgeted for 2018 for the purpose of the match.

This transfer along with the \$650,000 grant received from the State must be appropriated. Therefore, I am also requesting approval of the additional appropriation for \$1,300,000.00.

This ordinance takes care of both the transfer and appropriation in this fund and is required every year to show proper accounting of the grant and match.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor  
Christine Jamrose, Director of Engineering/City Engineer

# DHA

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**Danch, Harner & Associates, Inc.**

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Land Surveyors   ■   Professional Engineers  
Landscape Architects   ■   Land Planners  
Office: (574)234-4003 / (800)594-4003   ■   Fax: (574)234-4009  
1643 Commerce Drive   ■   South Bend, IN 46628

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City of Mishawaka Common Council  
Attn: Mr. Matt Mammolenti- Council President  
600 East Third Street  
Mishawaka, Indiana 46544

July 26, 2018

RE: Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14  
Rezoning located West of and adjacent to 906 West Edison Road,  
Mishawaka, Indiana:

Dear Mr. Mammolenti:

On behalf of our clients, we are requesting a withdrawal of Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14, for property located West of and adjacent to 906 West Edison Road, Mishawaka, Indiana.

If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

*Michael J. Danch*

Michael J. Danch  
President  
Danch, Harner & Associates, Inc.

Cc: Donald & Patricia Cressy Foundation  
Anthony M. Zappia

RECEIVED  
DEBORAH'S BLOCK, MMC

MAY 16 2018

CITY CLERK  
MISHAWAKA, IN

1st Reading 5-21-18

2nd Reading

Passed

Failed

Continued To 6-18-18  
8-6-18

PETITION 18-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2018-12

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 forwarded an unfavorable recommendation regarding 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:

The parcel is legally described as: A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF LOT #1 OF THE PLAT OF "FAMILY EXPRESS MINOR SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 1614939 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE ALONG THE WEST LINE OF SAID LOT, NORTH 00°45'56" WEST (BEARING ASSUMED) A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH 88°51'23" EAST A DISTANCE OF 166.67 FEET MORE OR LESS TO THE EAST LINE OF PROPERTY OWNED BY THE DONALD AND PATRICIA CRESSY FOUNDATION; THENCE ALONG SAID EAST LINE SOUTH 00°45'56" EAST A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE SOUTH 89°14'04" WEST ALONG SAID NORTH LINE A DISTANCE OF 166.67 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 1.50 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant property east of 1030 West Edison Road

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-4 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Existing Conditions – The subject property consists of a vacant parcel of land located near the intersection of W. Edison Road and Hickory Road. These arterial roads are

Proposed Ordinance No: 2018-12

Ordinance No: \_\_\_\_\_

highly travelled corridors providing major north-south and east-west access through both the City of Mishawaka and South Bend. Adjacent land uses include a vacant parcel zoned for commercial use to the north, a recently developed convenience store with gas station and car wash to the west, a government office and commercial/retail use to the south, and a bank to the east.

2. Character of Buildings – The character of the buildings in the area are predominantly single and multi-tenant commercial.
3. The most desirable/highest and best use – Because of the parcel's location and the existing commercial development along W. Edison and Hickory Road, the most desirable use for the property is commercial.
4. Conservation of property values – The proposed rezoning should not be injurious to property values in the area. The proposed carwash facility use and other permitted C-4 Auto Oriented Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided general commercial development within this property. The proposal is consistent with the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
David A. Wood, Mayor

Date: April 15, 2018

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

RE: Donald & Patricia Cressy Foundation  
Petition for Rezoning:

The undersigned, respectfully show that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF LOT # 1 OF THE PLAT OF "FAMILY EXPRESS MINOR SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 1614939 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE ALONG THE WEST LINE OF SAID LOT, NORTH 00°45'56" WEST (BEARINGS ASSUMED) A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH 88°51'23" EAST A DISTANCE OF 166.67 FEET MORE OR LESS TO THE EAST LINE OF PROPERTY OWNED BY THE DONALD AND PATRICIA CRESSY FOUNDATION; THENCE ALONG SAID EAST LINE SOUTH 00°45'56" EAST A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE SOUTH 89°14'04" WEST ALONG SAID NORTH LINE A DISTANCE OF 166.67 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 1.50 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

Also, commonly known as the vacant land West of and adjacent to 906 West Edison Road, Mishawaka, Indiana 46545.

The above described parcel of land is presently zoned "C-1" Commercial District.

The Petitioners desire said real estate, to be rezoned to the "C-4" Commercial District classification. The purpose for the rezoning is to allow for the real estate to be purchased by an interested party who desires to build a carwash facility on the site.

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of real estate located in the City of Mishawaka.

*M. Rose Meissner*

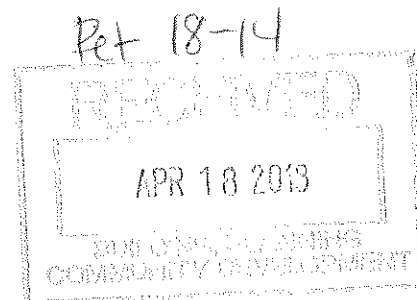
Name: M. Rose Meissner, Secretary/Treasurer  
For the Donald & Patricia Cressy  
Foundation  
574-271-4060

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

RECEIVED  
DEBORAH S. BLOCK MMC

MAY 01 2018

CITY CLERK  
MISHAWAKA, IN



LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF LOT # 1 OF THE PLAT OF "FAMILY EXPRESS MINOR SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 1614939 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE ALONG THE WEST LINE OF SAID LOT, NORTH 00°45'56" WEST (BEARINGS ASSUMED) A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH 88°51'23" EAST A DISTANCE OF 166.67 FEET MORE OR LESS TO THE EAST LINE OF PROPERTY OWNED BY THE DONALD AND PATRICIA CRESSY FOUNDATION; THENCE ALONG SAID EAST LINE SOUTH 00°45'56" EAST A DISTANCE OF 390.82 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF EDISON ROAD; THENCE SOUTH 89°14'04" WEST ALONG SAID NORTH LINE A DISTANCE OF 166.67 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 1.50 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

PETITIONERS:

Donald & Patricia Cressy Foundation  
205 W. Jefferson Blvd, Suite 610  
South Bend, Indiana 46624

LAND SURVEYOR:

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

REZONING REQUEST:

REZONING FROM "C-1" COMMERCIAL DISTRICT TO "C-4" COMMERCIAL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF A CARWASH FACILITY ON THE SITE.

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

April 15, 2018

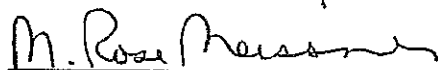
RE: Donald & Patricia Cressy Foundation  
Rezoning & Subdivision Request:

Dear Council Members and Plan Commission Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request and subdivision will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 271-4060.

Sincerely,

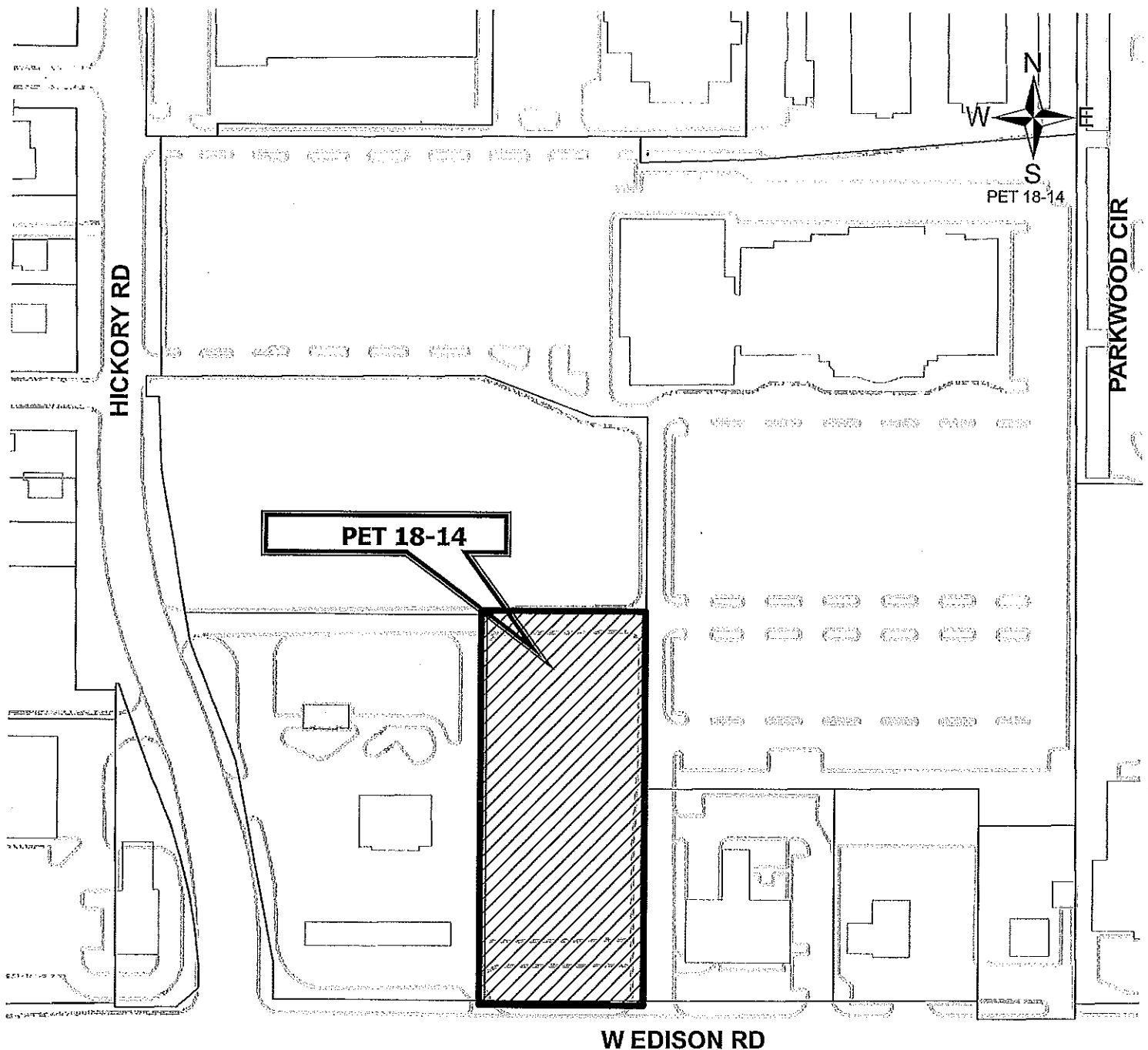


Name: M. Rose Meissner, Secretary / Treasurer

For the Donald & Patricia Cressy Foundation  
(574) 271-4060

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File No. Edison Carwash "C" Md.



## **Location Map**

**PET 18-14**

REZONE FROM  
C-1 GENERALCOMMERCIAL  
TO C-4 AUTOMOBILE ORIENTED  
COMMERCIAL FOR CAR WASH

EAST OF 906 W EDISON

# DHA

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**Danch, Harner & Associates, Inc.**

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Land Surveyors ■ Professional Engineers

Landscape Architects ■ Land Planners

Office: (574)234-4003 / (800)594-4003 ■ Fax: (574)234-4009

1643 Commerce Drive ■ South Bend, IN 46628

City of Mishawaka Common Council  
Attn: Mr. Matt Mammolenti- Council President  
600 East Third Street  
Mishawaka, Indiana 46544

May 18, 2018

RE: Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14  
Rezoning located West of and adjacent to 906 West Edison Road,  
Mishawaka, Indiana:

Dear Mr. Mammolenti:

On behalf of our clients, we are requesting a tabling of Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14, for property located West of and adjacent to 906 West Edison Road, Mishawaka, Indiana until the June 18, 2018 Common Council meeting. This tabling will allow our clients to address issues that were brought up at the Mishawaka Plan Commission meeting.

If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

*Michael J. Danch*

Michael J. Danch  
President  
Danch, Harner & Associates, Inc.

Cc: Donald & Patricia Cressy Foundation

RECEIVED  
DEBORAH S. BLOCK, MMC

JUN 04 2018

CITY CLERK  
MISHAWAKA, IN

# **DHA**

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***Danch, Harner & Associates, Inc.***

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Land Surveyors    ■    Professional Engineers

Landscape Architects    ■    Land Planners

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1643 Commerce Drive    ■    South Bend, IN 46628

City of Mishawaka Common Council  
Attn: Mr. Matt Mammolenti- Council President  
600 East Third Street  
Mishawaka, Indiana 46544

June 11, 2018

RE: Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14  
Rezoning located West of and adjacent to 906 West Edison Road,  
Mishawaka, Indiana:

Dear Mr. Mammolenti:

On behalf of our clients, we are requesting a tabling of Proposed Ordinance No. 2018-12, Plan Commission Petition No. 18-14, for property located West of and adjacent to 906 West Edison Road, Mishawaka, Indiana until the August 6, 2018 Common Council meeting. This tabling will allow our clients to address issues that were brought up at the Mishawaka Plan Commission meeting.

If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

*Michael J. Danch*

Michael J. Danch  
President  
Danch, Harner & Associates, Inc.

Cc: Donald & Patricia Cressy Foundation  
Anthony Zappia