AGENDA

Monday, August 20, 2018

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

August 06, 2018

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their August 14, 2018 meeting.

A letter from the City Plan Commission regarding recommendations from their August 14, 2018 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2018-17 Amending Hellenic Senior Living of Mishawaka, LLC (Petitioner Requesting Second Reading)

P.O. NO. 2018-18 Annexation, Rezoning to S-2 PUD & PUD Amendment Part of Northwest Capital - Toll Road PUD Beacon Health Systems, Inc.

8. Resolutions

R2018-16 Use Variance to allow a Two-Family Home (Duplex) to remain in the R-1 Single Family District - 2606 & 2608 W. Ewing Ave.

9. Ordinances on Second Reading

P.O. NO. 2018-16 Transfer and Appropriation Community Crossings Grant $1,300,000.00(Assigned to Budget and Finance Committee)

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

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
August 6, 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 August 6, 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 and a moment of silence for former Councilwomen Marsha McClure's Daughter Amber Fayerweather.

Roll Call.
Present: Mr. Tanner, Mr. Deal, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Canarecci, Mr. Mammolenti.
Absent: Mrs. Voelker, Mr. Compton.

Minutes of the Regular Meeting of July 16, 2018 were approved as received from the Clerk's Office.

Clerk Block read the following the following Appeal and Petitions to the council, who referred them to the Board of Zoning Appeals and City Plan Commission for their recommendations.

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 Ave

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

Clerk Block read the following proposed ordinances by title and was set for public hearing at the next council meeting.

PROPOSED ORDINANCE 2018-16

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
(Transfer & Appropriate Community Crossing Grant $1,300,000)
(Assigned to Budget and Finance Committee)

UNFINISHED BUSINESS

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

PROPOSED ORDINANCE NO. 2018-12

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 C-1 to C-4 Auto Oriented Commercial for Car Was E. of 906 W. Edison)
(Assigned to the Land Use Planning Committee)

Clerk Block read a letter from the petitioners requesting to withdraw **PROPOSED ORDINANCE 2018-12.** Mr. Banicki made a motion to withdraw **PROPOSED ORDINANCE NO. 2018-12** second by Mr. Tanner motion carried.

NEW BUSINESS

Mr. Emmons announced 1st District Neighborhood Meeting would be September 16th at St Bavos at 7:00PM. The speaker would be Ray Schultz, Director of 911.

Mr. Tanner stated the "The Oaks" Neighborhood Meeting would be August 14th at the Central Services Building at 6:00PM.

Mr. Mammolenti stated applications for the Transpo Board was available in the City Clerk's Office and on-line.

ADJOURNMENT 7:07P.M.

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

Matt Mammolenti /s/
Matt Mammolenti, President

City of Mishawaka

DAVID A. WOOD, MAYOR **DEPARTMENT OF CITY PLANNING**

August 15, 2018

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 14, 2018, Public Hearing

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 Variance was considered:

APPEAL #18-21 An appeal submitted by Nick and Jessica Hause requesting a Use Variance for **2606 and 2608 Ewing Avenue** to allow a two-family home to remain in the R-1 Single Family Residential District.

The Board, with a vote of 5-0, recommended approval.

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Nick Hause
Sharon McDonald

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

City Hall, 600 East Third Street, Mishawaka, IN 46544-2241 (574) 258-1625 FAX (574) 968-6999
E-mail planning @ Mishawaka.in.gov

STAFF REPORT

Location: 2606-2608 Ewing

Date: August 14, 2018

Appeal: 18 21

Prepared By: CH

GENERAL INFORMATION

Applicant:	Nick and Jessica Hause
Status:	Property Owner
Request:	Use variance to allow a duplex in a R-1 Single Family Residential District.
Zoning Classification:	R-1 Single Family Residential
Lot Size:	77' x 120' (0.21 acres)
Applicable Regulations:	Section 137-42 / (5) Board of Zoning Appeals – Developmental Variance; Section 137-165 / R-1 District - Uses

SPECIAL INFORMATION

Area Development Pattern:	North:	R-1 Single Family Residential
	South:	R-1 Single Family Residential
	East:	R-1 Single Family Residential
	West:	R-1 Single Family Residential
Thoroughfare:	Ewing Avenue	
School District:	School City of Mishawaka	
Township:	Penn	
Public Utilities:	All utilities are available and existing to the site.	
Comprehensive Plan:	Low Density Residential	

ANALYSIS

The Appellant is requesting a use variance to allow a duplex in the R-1 Single Family Residential District.

The building was built in 1951, according to tax records. The Appellant also provided Polk Directories back to 1954, and statements that NIPSCO indicated there have been separate meters since 1972 and Mishawaka Utilities have had separate billing accounts since 1983. The City's address layer has two addresses, 2606 and 2608 listed for this parcel. While this information may have been enough for a legal non-conforming letter (grandfathered letter), that letter still contains the statement any nonconforming use can only be rebuilt if the damage is not more than 75% of fair market value. The Use Variance procedure will provide a permanent approval.

The Appellants are in the process of selling the property when an appraisal indicated the zoning did not match the use.

All pertinent departments reviewed the request and had no comments.

RECOMMENDATION

The Planning Staff recommends approval of Appeal 18-21 to allow a use variance for a duplex in the R-1 Single Family Residential District at 2606-2608 Ewing Avenue. This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because no physical changes are being made to the property;

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 property has been used in this way for many years, without any problems that we know of;

3. The need for the variance arises from some condition peculiar to the property in that the property was built as a duplex, or was at least converted by 1954, but the zoning was never changed to match the use;

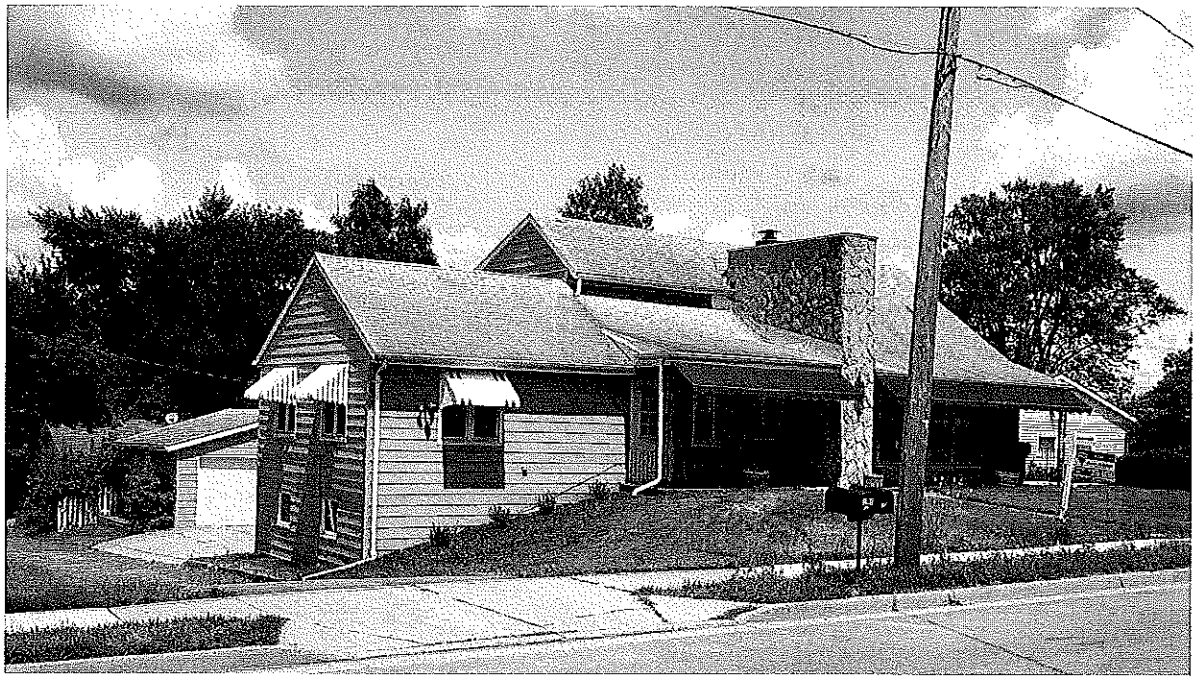
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the building was built as a duplex;

5. The recommendation is consistent with Comprehensive Plan which indicates low density residential uses for this area.

ATTACHMENTS

Photographs, Appeal, Site Plan, Location Map

Front view of the house



Side view showing garage

City of Mishawaka

DAVID A. WOOD, MAYOR **DEPARTMENT OF CITY PLANNING**

August 15, 2018

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
August 14, 2018, Public Hearing
Certification of Proposed Ordinance

Honorable Members:

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

PETITION #18-20 A petition submitted by Beacon Health System, Inc. requesting to annex and zone **14710 State Road 23, Granger** to S-2 Planned Unit Development and amend the Northwest Capital – Toll Road Planned Unit Development.

The Commission, with a vote of 7-0, recommended approval subject to the following:

1. All previously approved development standards per Ordinance 5186 and 5620AA applicable to property owned by Beacon Health Systems, Inc., being more specifically Lot 2 of the Beacon Health Subdivision, shall be adhered to.

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

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Brian McMorrow

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

City Hall, 600 East Third Street, Mishawaka, IN 46544-2241 (574) 258-1625 FAX (574) 968-6999
E-mail planning @ Mishawaka.in.gov

STAFF REPORT

Location: 14710 State Road 23 – South Side of State Road 23 approximately 430' west of Capital Avenue

Date: August 14, 2018

Petition: 18- 20

Prepared By: DJS

GENERAL INFORMATION

Applicant:	Beacon Health System, Inc.
Status:	Property Owner
Request:	To annex, establish zoning, and amend the Northwest Capital – Toll Road Planned Unit Development to allow for C-1 General Commercial uses
Existing Zoning:	Unincorporated St. Joseph County
Proposed Zoning:	S-2 Planned Unit Development
Lot Size:	1.35 acres including public right-of-way (State Road 23)
Applicable Regulations:	Section 137-671 to 137-679 / S-2 Planned Unit Development District & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern:	North:	Unincorporated St. Joseph County – R Residential (Church/ Northpoint Vineyard)
	South:	S-2 Planned Unit Development being the Northwest Capital – Toll Road Planned Unit Development (Vacant/ Permitted for commercial use per Ord. 5186 & 5620AA)
	East:	Unincorporated St. Joseph County – C Commercial (Retail/ Multi-Tenant Commercial Building)
	West:	Unincorporated St. Joseph County – R Residential (Vacant)

Thoroughfare:	State Road 23
School District:	Penn-Harris-Madison
Township:	Harris
Public Utilities:	All utilities are available and/or will be extended to/throughout the site at the developer's/owner's expense.
Comprehensive Plan:	Not specifically identified in the Mishawaka 2000 Comprehensive Plan. The Capital Avenue Land Use Plan jointly prepared by St. Joseph County and the City of Mishawaka identifies this parcel as an area for commercial office and retail, hotel, medical, and research parks.

ANALYSIS

Proposal:
The applicant is proposing to annex and establish zoning to permit C-1 General Commercial uses for vacant property located at 14710 State Road 23. The 1.35 acre parcel, which was occupied with a single-family residence until being demolished last year, will be added to the adjacent Northwest Capital – Toll Road Planned Unit Development (PUD) to the south. The PUD contains property owned by the applicant being more specifically Lot 2 in the recently approved Beacon Health Subdivision (Plat 18-19). All previously approved PUD development standards and conditions of approval for said Lot 2 are applicable to the parcel being annexed. Beacon Health will be constructing an acute care hospital within said Lot 2.

Normally when an annexation and zoning petition is filed, a preliminary Planned Unit Development Site Plan is required to conceptually show how the property will be developed. In this case, no preliminary site plan was provided since no immediate development plans are proposed for the property. Per prior discussions with the applicant's architect and engineering consultant, the property may be utilized to provide an additional access point from State Road 23.

Annexation:
In 2008, the adjacent property to the south was annexed into the City and approved for C-1 General Commercial and C-2 Shopping Center Commercial uses. There were no specific plans for development when the annexation occurred. In 2015, a final planned unit development site plan (SP 15-E) was submitted for the Bayer Healthcare office building which has yet to be constructed. This site plan was never finalized or recorded. In June 2018, a PUD amendment (Petition 18-18) and final planned unit development site plan (SP 18-D) were submitted for the proposed Beacon Health Care acute care hospital. Site clearing for the hospital has commenced with the building construction to begin shortly thereafter.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. Based on the provided exhibit, 188.01 feet, or 18.02%, of the total 1043.6 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:
The site is located to the south of State Road 23 approximately 430' west of Capital Avenue, and is bordered to the north by a church located within unincorporated St. Joseph County; to the west by vacant land located within unincorporated St. Joseph County; to the south by agricultural land located within the Northwest Capital – Toll Road Planned Unit Development permitted for various commercial and medical uses; and to the east by a multi-tenant commercial building located within unincorporated St. Joseph County. The State Road 23 corridor includes a variety of single-family residential and commercial land uses.

Zoning Change:
Staff believes that the proposed zoning of this property for C-1 General Commercial uses, including medical-related uses, is appropriate given that the property will be added to the adjacent Planned Unit Development and is being proposed for similar commercial and/or medical uses.

Transportation/Roads:
According to the latest available traffic count to the west of the property, there were 19,100 annual average daily trips (AADT) (2015) along State Road 23. With the existing and anticipated increase in commercial and residential development in the northern Mishawaka and Granger areas, it is anticipated that traffic volumes will remain consistent and/or increase in future years.

Preliminary Planned Unit Development Site Plan:
As previously indicated, the zoning ordinance requires a preliminary Planned Unit Development Site Plan be submitted with a petition for annexation and zoning. The purpose of the preliminary site plan is to identify the basic requirements that will be followed in the preparation of final planned unit development site plans. These requirements normally include, but are not limited to, elements such as parking ratios, setbacks, curb cut/access locations, and proposed phasing. For this petition, no preliminary site plan was submitted since there are no immediate plans for development.

However since the property is being added to the Northwest Capital – Toll Road Planned Unit development, all previously approved development standards and conditions of approval per Ordinance 5186 and 5620AA are applicable.

All pertinent City Departments have reviewed and approved the request for annexation, zoning, and amending a PUD.

The Engineering Department commented that a master plan shall be provided and discussions regarding an access point to State Road 23 will be forthcoming.

RECOMMENDATION

Staff recommends approval of Petition 18-20 to annex and establish zoning to permit C-1 General Commercial uses for property located at 14710 State Road 23, and amend the Northwest Capital – Toll Road Planned Unit Development to add the parcel to the PUD subject to the following:

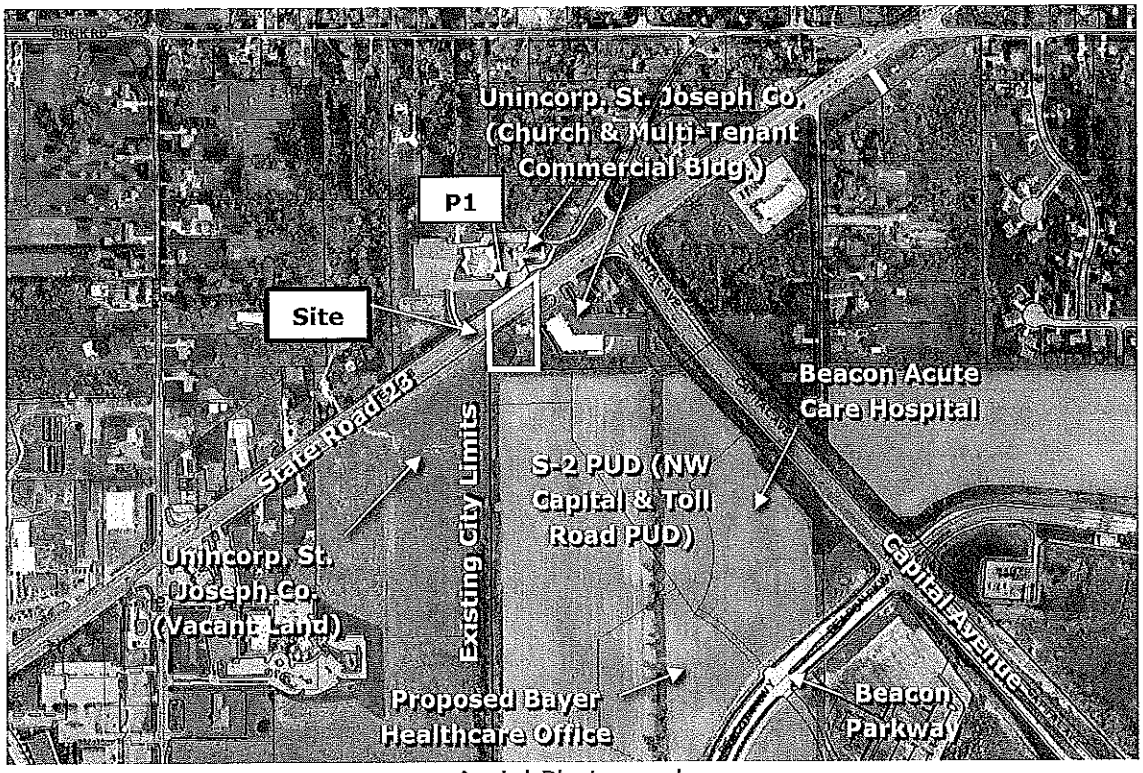
1. All previously approved development standards per Ordinance 5186 and 5620AA applicable to property owned by Beacon Health Systems, Inc., being more specifically Lot 2 of the Beacon Health Subdivision, shall be adhered to.

This recommendation is based on the following findings of fact:

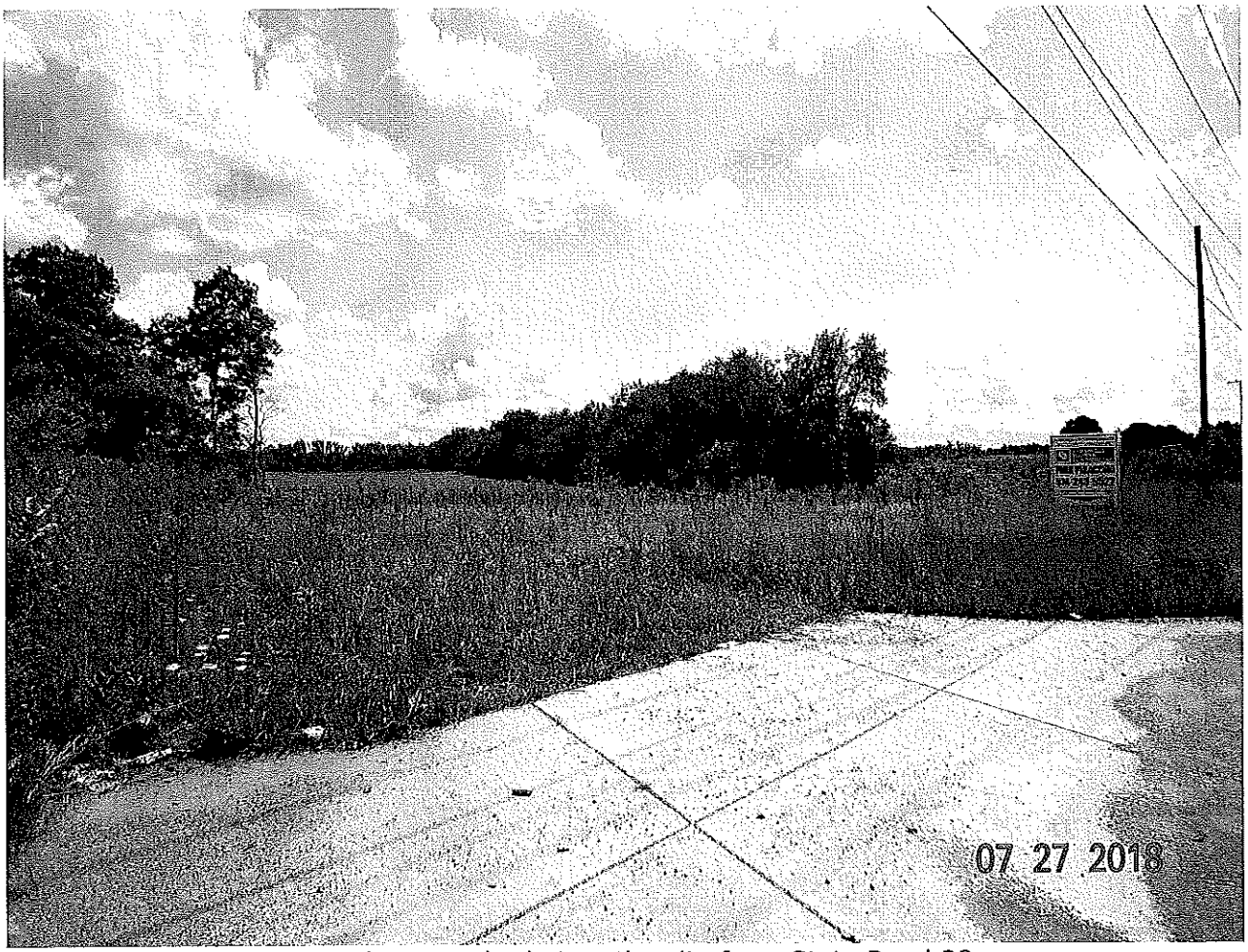
1. Existing Conditions – The subject parcel is located on State Road 23, a highly travelled corridor on which traffic volumes will remain consistent or increase due to the significant commercial and residential growth that has occurred in the northeast part of the Mishawaka and Granger. The site, which is currently vacant, is adjacent to a church to the north, vacant land to the west, agricultural land to the south within the Northwest Capital – Toll Road Planned Unit Development approved for various commercial and medical uses, and a multi-tenant commercial building to the east.
2. Character of Buildings in the Area – The character of buildings and land uses located along State Road 23 vary greatly and include both low-density single family residential homes and commercial development within unincorporated St. Joseph County.
3. The most desirable/highest and best use – With the property's location along State Road 23 and the planned office and medical uses to the south, the most desirable use for the property is for commercial use.
4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area because the C-1 General Commercial uses are compatible with the existing and adjacent proposed development.
5. Comprehensive Plan – The property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, it is within the extents of the Capital Avenue Land Use Plan which identifies this parcel and the adjacent land to the south as an area for commercial office and retail, hotel, medical, and research parks. This plan was jointly prepared by St. Joseph County and the City of Mishawaka.

ATTACHMENTS

Photographs, Petition including Exhibit A – Legal Description and Exhibit B – Parcel Diagram, Beacon Health Subdivision showing adjacent property owned by the applicant, Location Map



Aerial Photograph
14710 State Road 23 to be Annexed and Zoned &
Amending a part of the Walker PUD and Northwest Capital – Toll Road PUD



P1. Looking southerly into the site from State Road 23.

Attached is a proposed form of amending ordinance (the "Amending Ordinance") for consideration by the Common Council relating to the Hellenic Senior Living of Mishawaka, LLC (the "Borrower") project proposed to be located at 1128 West Dragoon Trail. The Common Council adopted Ordinance No. 5590 (the "Bond Ordinance") last September authorizing the issuance of bonds in an aggregate principal amount not to exceed $19,000,000 (the "Bonds") and approving related actions related to loaning the bond proceeds to the Borrower for the purpose of completing the project which consists of the construction of a 136 unit senior affordable assisted living facility at the Dragoon Trail site.

Since that time the Borrower has been working to provide the financing for the project and has represented it is now prepared to proceed. Since last fall, a new underwriter is working with the Borrower which requires an amendment to the Bond Ordinance to change the reference to the underwriter. We have prepared the amending ordinance to change the underwriter reference and also to change reference to the bonds to be 2018 Bonds (rather than 2017 Bonds). No other changes to the Bond Ordinance are required to allow the Project to proceed. As a reminder (and as set forth in the Bond Ordinance and in Indiana Code 36-7-12 authorizing the City to issue the Bonds), the City's role is only as a conduit issuer – the City bears no responsibility for the Project or the payment of the debt service on the Bonds.

We ask that the Amending Ordinance be placed on the Council's agenda for the upcoming meeting on August 20th. While we understand this is not the normal course for the Council, given the very minor amendments to the Bond Ordinance set out in the Amending Ordinance, we would also request, if possible, consideration by the Council to suspending the rules and consider adoption of the Amending Ordinance at the August 20th meeting. Doing so would aid in moving the financing forward that much sooner.

Thank you and any questions, please give me a call. Randy

Randy Rompola | Partner
Barnes & Thornburg LLP
700 1st Source Bank Center, 100 North Michigan, South Bend, IN 46601-1632
Direct: (574) 237-1244 | Mobile: (574) 360-8610 | Fax: (574) 237-1125

Atlanta | Chicago | Dallas | Delaware | Indiana | Los Angeles | Michigan | Minneapolis | Ohio | Washington, D.C.

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

1st Reading 8-20-18
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2018- 17

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AMENDING ORDINANCE NO. 5590 REGARDING THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE BONDS IN ONE (1) OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED NINETEEN MILLION AND 00/100 DOLLARS ($19,000,000.00)

WHEREAS, the Common Council of the City of Mishawaka, Indiana (the "Common Council"), has previously adopted Ordinance No. 5590 on September 5, 2018 (the "Bond Ordinance"), authorizing the issuance by the City in one or more series of its taxable or tax-exempt Multifamily Housing Revenue Bonds (Hellenic Senior Living of Mishawaka Project), Series 2017 (with such further series or other designation as determined to be necessary, appropriate or desirable), in an aggregate principal amount not to exceed Nineteen Million Dollars ($19,000,000) (the "Bonds"), pursuant to Indiana Code 36-7-11.9 and 12 (collectively, the "Act") for the purpose of lending all or a portion of the proceeds of such Bonds to Hellenic Senior Living of Mishawaka, LLC (the "Borrower") to pay all or a portion of financing the costs of certain economic development facilities to be owned by the Borrower, consisting of the acquisition, design, construction and equipping of a 136-unit affordable assisted living multifamily housing facility, together with functionally related and subordinate facilities for low and moderate income seniors (the "Project") to be located at 1128 West Dragoon Trail, Mishawaka, Indiana; funding a debt service reserve fund and/or other permissible reserves, if necessary; paying capitalized interest, if necessary; and paying all or a portion of the incidental expenses incurred on account of the issuance of the Bonds; and

WHEREAS, the Borrower has advised this Common Council that since the time of the adoption of the Bond Ordinance, the Borrower has worked to assemble a financing team in order to provide for the issuance of the Bonds and as a result, certain modifications to the Bond Ordinance are necessary; and

WHEREAS, this Common Council now desires to amend the Bond Ordinance as set forth below.

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

SECTION 1. The Bond Ordinance is hereby amended as follows:

(i) the underwriter for the Bonds as described in the Bond Ordinance shall now be Cain Brothers & Company, LLC, a division of Key Bank Capital Markets; and

(ii) the Bonds as described in the Bond Ordinance shall be described as Multifamily Housing Revenue Bonds (Hellenic Senior Living of Mishawaka Project), Series 2018 (with such further series or other designation as determined to be necessary, appropriate or desirable).

SECTION 2. Except as modified herein, the Bond Ordinance shall remain in full force and effect and all terms, conditions and provisions of the Bond Ordinance, as amended hereby, are hereby ratified and affirmed.

SECTION 3. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-4-6.

* * * * *

PASSED AND ADOPTED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this _____ day of _____, 2018.

_____
Presiding Officer

ATTEST:

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

PRESENTED to the Mayor of the City of Mishawaka, Indiana, this ____ day of _____, 2018, at _____ o'clock, _____.M.

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

APPROVED, this _____ day of _____, 2018, _____, o'clock, ____.M.

_____
David S. Wood, Mayor

DMS 13074826v2

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

1st Reading 8-20-18
2nd Reading
Passed
Failed
Continued To

PETITION #18-20

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2018-18

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 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 RECORD.

COMMON ADDRESS: 14710 State Road 23, Granger, Indiana

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 District, subject to the following:

1. All previously approved development standards per Ordinance 5186 and 5620AA applicable to property owned by Beacon Health Systems, Inc., being more specifically Lot 2 of the Beacon Health Subdivision, shall be adhered to.

Proposed Ordinance No. 2018-18

Ordinance No. _____

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

1. Existing Conditions – The subject parcel is located on State Road 23, a highly travelled corridor on which traffic volumes will remain consistent or increase due to the significant commercial and residential growth that has occurred in the northeast part of the Mishawaka and Granger. The site, which is currently vacant, is adjacent to a church to the north, vacant land to the west, agricultural land to the south within the Northwest Capital – Toll Road Planned Unit Development approved for various commercial and medical uses, and a multi-tenant commercial building to the east.

2. Character of Buildings in the Area – The character of buildings and land uses located along State Road 23 vary greatly and include both low-density single family residential homes and commercial development within unincorporated St. Joseph County.

3. The most desirable/highest and best use – With the property's location along State Road 23 and the planned office and medical uses to the south, the most desirable use for the property is for commercial use.

4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area because the C-1 General Commercial uses are compatible with the existing and adjacent proposed development.

5. Comprehensive Plan – The property is not included within the extents of the Mishawaka 2000 Comprehensive Plan. However, it is within the extents of the Capital Avenue Land Use Plan which identifies this parcel and the adjacent land to the south as an area for commercial office and retail, hotel, medical, and research parks. This plan was jointly prepared by St. Joseph County and the City of Mishawaka.

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

Proposed Ordinance No. 2018-18

Ordinance No. _____

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

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 31 2018

CITY CLERK
MISHAWAKA, IN

PET 13-20

RECEIVED
JUL 13 2018
BUILDING, PLANNING
COMMUNITY DEVELOPMENT

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:

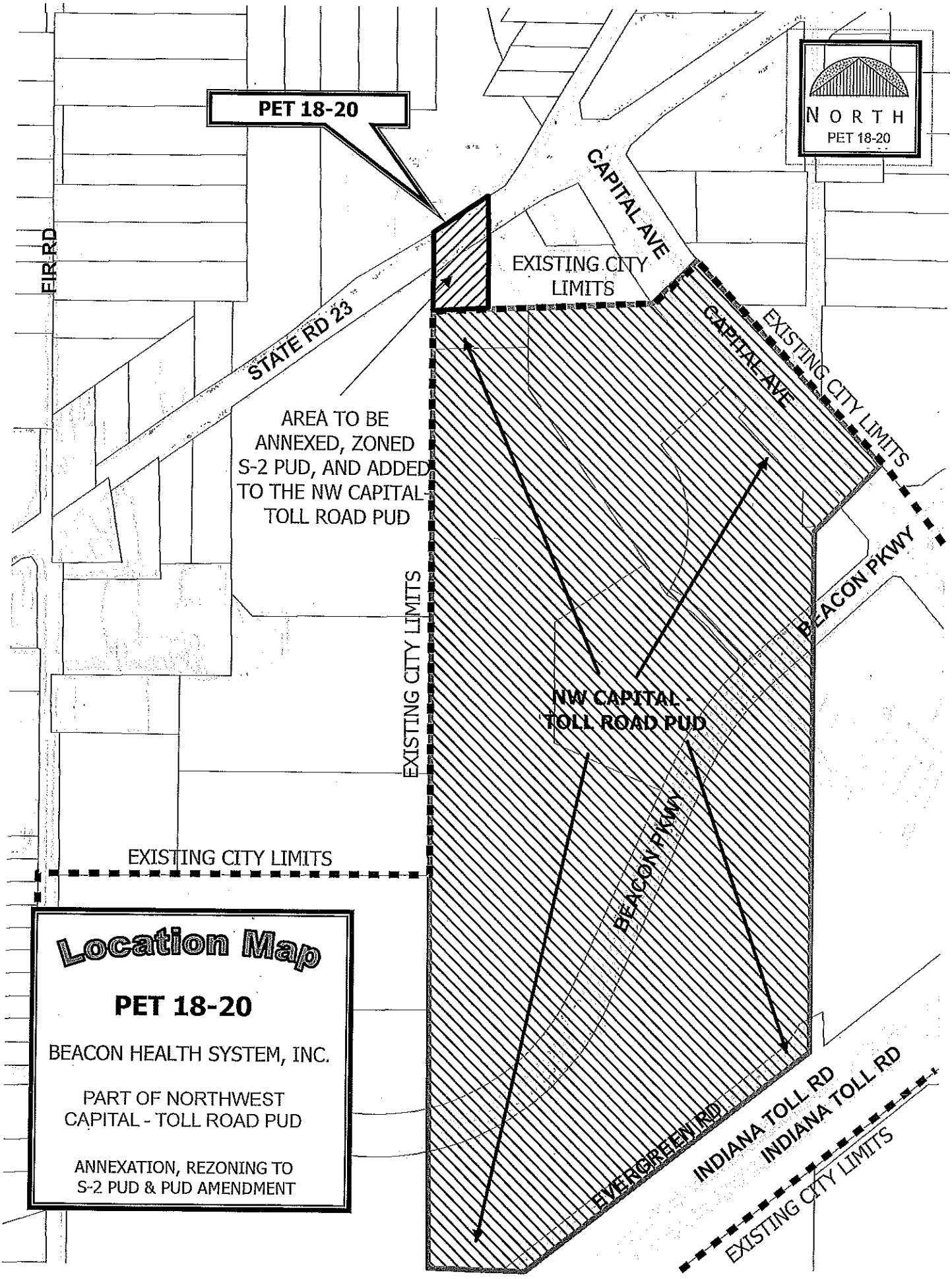
NAME :	Mike Huber, Abonmarche Consultants
ADDRESS :	750 Lincoln Way East
TELEPHONE NUMBER :	574.2332.8700
FAX NUMBER :	574.251.4400
EMAIL:	mhuber@abonmarche.com

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
NORTH
PET 18-20
CAPITAL AVE
EXISTING CITY LIMITS
FIR RD
STATE RD 23
CAPITAL AVE
EXISTING CITY LIMITS
AREA TO BE ANNEXED, ZONED S-2 PUD, AND ADDED TO THE NW CAPITAL - TOLL ROAD PUD
BEACON PKWY
EXISTING CITY LIMITS
NW CAPITAL - TOLL ROAD PUD
BEACON PKWY
EXISTING CITY LIMITS
EVERGREEN RD
INDIANA TOLL RD
INDIANA TOLL RD
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

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 15 2018
CITY CLERK
MISHAWAKA, IN

APPEAL #18-21

RESOLUTION NO. 2018- **16**

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:

2606 and 2608 Ewing 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 Use Variance for property located at **2606 and 2608 Ewing Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

Lots #238 and #239, Lafayette Place, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

COMMON ADDRESS: 2606 and 2608 Ewing Avenue

The Use Variance, if approved, will allow a two-family home to remain in R-1 Single Family Residential District.

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:

The Planning Staff recommends approval of Appeal 18-21 to allow a use variance for a duplex in the R-1 Single Family Residential District at 2606-2608 Ewing Avenue. This recommendation is based upon the following findings of fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because no physical changes are being made to the property;

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 property has been used in this way for many years, without any problems that we know of;

3. The need for the variance arises from some condition peculiar to the property in that the property was built as a duplex, or was at least converted by 1954, but the zoning was never changed to match the use;

4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the building was built as a duplex;

5. The recommendation is consistent with Comprehensive Plan which indicates low density residential uses for this area.

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_____, 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

RECEIVED
DEBORAH S. BLOCK, MMC
JUL 31 2018
CITY CLERK
MISHAWAKA, IN

RECEIVED
JUL 23 2018
BUILDING, PLANNING
COMMUNITY DEVELOPMENT

DATE: July 18, 2018

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

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

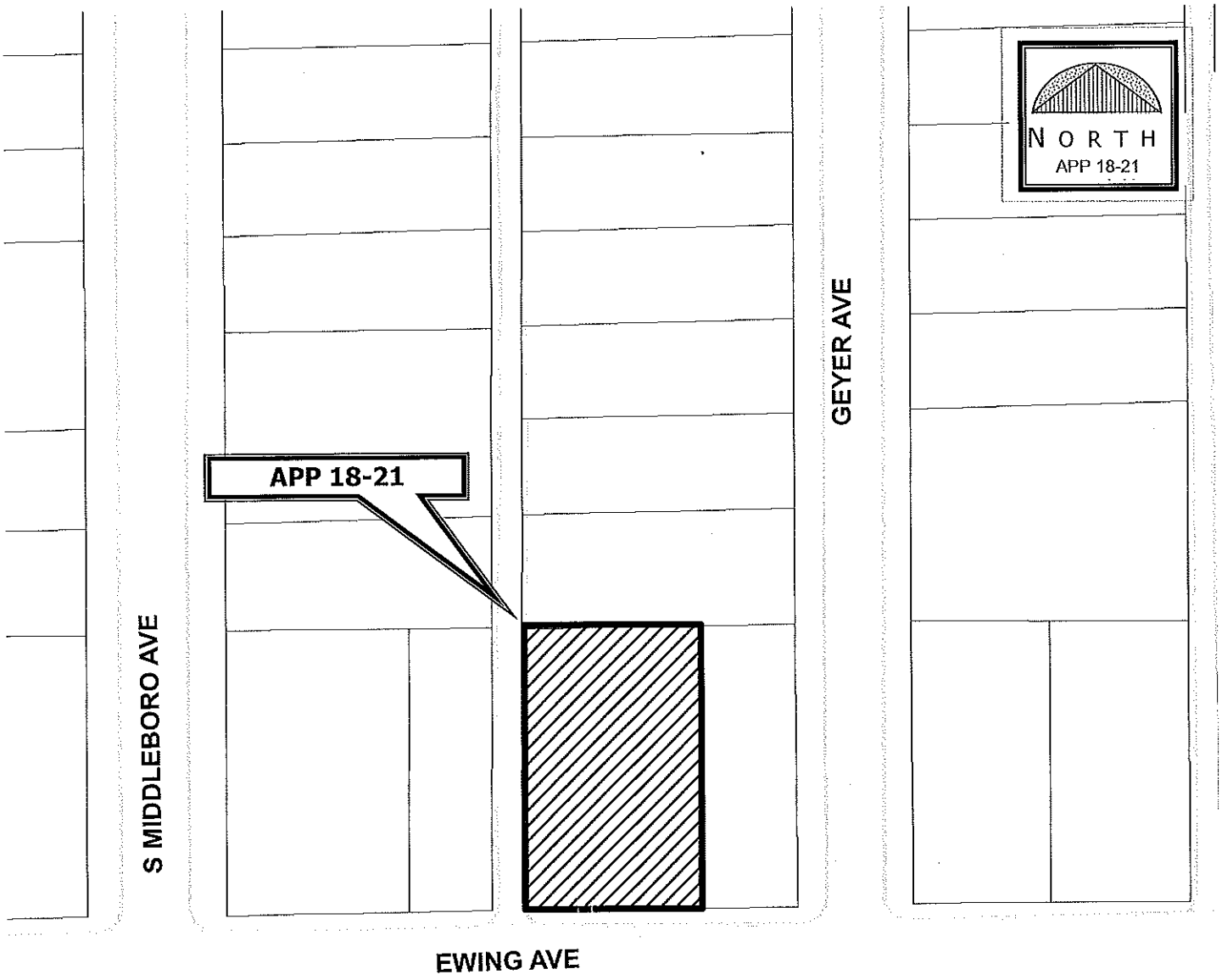
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

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



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
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