

AGENDA

Monday, May 20, 2019

**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**

May 8th, 2019

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their May 14, 2019 meeting.

A letter from the City Plan Commission regarding recommendations from their May 14, 2019 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2019-13 Additional Funds Police \$16,063.00 - Public Safety \$4,300.00

P.O. NO. 2019-14 Transfer Funds MVH Fund \$694,000.00 - CEDIT \$694,000.00 - Local Road & Street Fund \$394,000.00

P.O. NO. 2019-15 Rezone from C-1 to R-2 Residential 1211 W. Sixth St.

P.O. NO. 2019-16 PUD Amendment Addition of Property for Parking & Stormwater Management for Proposed Multi-family Housing Development - North of the Edison Lakes Parkway & Holy Cross Parkway Intersection

8. Resolutions

R2019-15 National Safe Boating Week

R2019-16 Use Variance for 175' Monopole Communication Broadcasting Tower 2506 Grape Rd (Humane Society)

9. Ordinances on Second Reading

P.O. NO. 2019-12 Correction to Ordinance No. 5594 Annexation of 16839 Douglas Rd by Scrivener;s Error(Assigned to Land Use Planning Commission)

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
May 08, 2019

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday May 08, 2019, 2019, at 7:00 p.m. The meeting was called to order by President Dale “Woody” Emmons all were asked to stand for the Pledge of Allegiance.

 Roll Call.

Present: Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Absent: Mrs. Voelker.

Minutes for the Regular Meeting of April 15, 2019 were approved as received from the Clerk’s Office.

Clerk Block read the following petition to the council who referred it to the City Plan Commission for their recommendation.

PETITION NO. 2019-06 PUD Amendment Addition of property for parking & stormwater Management for proposed Multi-Family Housing Development – North of the Edison Lakes Parkway & Holy Cross Parkway Intersection

Presentation of Encumbered Funds – No Action Required

Clerk Block read the following proposed ordinance by title, assigned to a committee and set for public hearing at the next meeting.

PROPOSED ORDINANCE NO. 2019-12

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

(Correction to Ordinance No. 5594 Annex of 16839 Douglas Rd. by Scrivener’s Error)
(Assigned to the Land Use Planning Committee)

Clerk Block read the following proposed ordinances by title and were opened for public hearing.

PROPOSED ORDINANCE NO. 2019-09

**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.**

(Rez from R-1 to I1 Ind. 215 & 217 S. Elder)
(Assigned to the Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be presented to the council as a whole. This is signed by the entire committee upon a second by Mr. Hixenbaugh motion carried.

Terry Lang Feeney, Lang Feeney & Associates represented the petitioner. He said the parcel was immediately adjacent from the railroad crossing at Elder Street. Mr. Feeney continued to say surrounding the property to the east and the west were zoned industrial and the parcels to the south were residential. He said the use of the property would be for storage warehouse, the facility may create a sound buffer for the train noise, which would be great for the residence nearby.

Questioned was called for at 7:06P.M. for **PROPOSED ORDINANCE NO. 2019-09** 

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5653**

PROPOSED ORDINANCE NO. 2019-10

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019

(Add Funds – Merrifield Improvements \$18,500)
(Assigned to the Budget and Finance Committee)

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be presented to the council as a whole. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Phil Blasko, Park Superintendent said due to unexpected circumstances the Merrifield Pool slide needed repairs. He continued to say in order to accommodate the cost, they were requesting for an additional appropriation of funds in the amount of \$18,500 from their non-reverting account.

Mr. Mammolenti questioned the major repairs needed for the pool. Mr. Blasko said at this time the pool slide and resurfacing the interior.

Mr. Emmons asked when they planned to open the pool for the season. Mr. Blasko said they were hoping to open the first weekend of June. He continued to say since majority of their lifeguards were high school students, they would open the pool fully once school was out for summer. Mr. Emmons also questioned the time frame to repair the slide. Mr. Blasko said the slide repair should be done in a week.

Question was called for at 7:09P.M. for **PROPOSED ORDINANCE NO. 2019-10**  **Vote:**
Motion carried by unanimous roll call vote (**summary:** Yes = 8).
Yes: Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5654**

PROPOSED ORDINANCE NO. 2019 -11

AN ORDINANCE AMENDING ORDINANCE 5642 THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2019.

(Amd Civil City 2019 Salary Ord)

(Assigned to the Budget and Finance Committee)

Mr. Hixenbaugh reported the Budget and Finance Committee recommended this proposed ordinance should be presented to the council as a whole. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller explained they discovered 2 items needed to be corrected in the salary ordinance. She said the first item they discovered was the Part-Time Hourly Position, it was currently minimum wage at \$7.25 to 25 an hour. She continued to say when the full-time salary was populated to the hourly position, just over 25 dollars an hour. Ms. Miller stated now it was time to raise the upper ceiling of the part time hourly wage to \$30 an hour. Ms. Miller went on to say there was also the matter of correcting the hourly wage for the MVH Group 3 Laborers. She said was not calculated correctly from the original salary ordinance, the hourly wage should be \$18.20 an hour.

Mr. Mammolenti questioned the part time position. Ms. Miller said they currently had a position in the Engineering Department, the Mishawaka MS4 Coordinator for the Separate Storm System Permit Program. She explained the position was originally full time, they made it a part time position to keep the employee working as it was a valuable position.

Question was called for at 7:13 P.M. for **PROPOSED ORDINANCE 2019-11**  **Vote:**
Motion carried by unanimous roll call vote (**summary:** Yes = 8).**Yes:** Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5655**

NEW BUSINESS

Mr. Mammolenti announced the Twin Branch Neighborhood meeting would be May 15th at 7P.M., guest speaker would be Indiana State Representative Ross Deal.

Mr. Emmons announced the Police Department Memorial Ceremony would be held at the Police Station on May 15, 2019 at 6P.M. He also announced the 1st District Neighborhood meeting would be May 16, 2019 at St. Bavo's Church at 7P.M., speaker would be Judge Jason Cickowitz.

ADJOURNMENT 7:17 P.M.

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

Dale "Woody" Emmons /s/
Dale "Woody" Emmons, President



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 15, 2019

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 16 2019

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
May 14, 2019

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 #19-13 An appeal submitted by the Humane Society of St. Joseph County requesting a Use Variance for **2506 Grape Road** to permit a 175' monopole communication broadcasting tower (cell tower).

The Board, with a vote of 4-0, recommended approval subject to the following conditions:

- 1) The monopole tower shall not exceed more than 180-feet in height (does not include height of attached lighting rod).
- 2) An opaque fence of no higher than 8-foot will be allowed around the base of the tower and equipment building.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
- 4) A double row of evergreens shall be planted between Grape Road and the fenced compound and shown on the Administrative site plan.
- 5) The entire access drive shall be paved. This includes the approximately 10' between the existing paved drive and the leased compound area. The access shall utilize an existing curb cut of the Humane society. A storm water management system shall be provided for all new impervious surface area.
- 6) The monopole tower shall not be located any closer to Grape Road than the existing Humane Society main building to the north. This will require the tower be offset on the east side of the proposed compound area.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Andy Fitz

CITY OF MISHAWAKA DEPARTMENT OF CITY PLANNING

STAFF REPORT

Location: 2506 Grape Road

Date: April 9, 2019

Appeal: 19-13

Prepared By: CH

GENERAL INFORMATION

Applicant: Humane Society of St. Joseph County

Status: Property Owner

Request: Use Variance to allow a 175' monopole tower with three (3) wireless telecommunications antennas with equipment shelter and generator.

Zoning Classification: C-1 General Commercial

Lot Size: Approximately 2000 square feet of surface area of the 5-acre property

Applicable Regulations: Section 137-301 C-1 Uses
Section 137-42 (4) Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: S-2 Planned Unit Development (Office/bank uses)
East: I-1 Light Industrial
West: C-2 Shopping Center Commercial (Big Lots & Planet Fitness)

Thoroughfare: Grape Road

School District: School City of Mishawaka

Public Utilities: Yes, all Utilities are available to the site.

Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, Humane Society of St. Joseph County, is requesting a use variance to allow a 175-foot communications tower and radio building to be located on their property. The proposed tower is intended to provide for antenna installations at various heights with the primary request coming from AT&T wireless.

Back in 2008, a similar request was approved for a 150' tower located a behind the Humane Society building. There was remonstrance from the neighbors to the north and the Council vote was not unanimous. This tower was never constructed.

A representative for the tower company contacted the Planning Department back 2017 about a new location. This proposal puts the tower south of the main building, just in front of the accessory structure. This location is over 350' from the nearest single family residential property. The location was actually suggested by staff because it is strategically located away from residential and surrounding roads.

Staff has attached an aerial photo of the area showing the context of the previous request relative to the new request and the surrounding adjacent land uses.

Upon completing this staff report, approximately one week prior to the meeting, we have received one email in opposition to the project. As a reminder for the Board, Federal law does not allow local government to consider "environmental factors" relative to the review and approval of cell phone technology.

The property on which the communication tower is proposed is zoned C-1 General Commercial and has been the home to the Humane Society for many years. Although not relevant to the approval or denial of the request, Staff also feels that the potential income generated by tower would be a nice secondary effect for the not for profit entity if approved.

For reference, the Zoning Ordinance of the City of Mishawaka requires communications to be constructed as a conditional use in the I-2 Heavy Industrial Zoning District. Due to the unique requirements for locating such facilities, and in consideration of the tower height and equipment pads needed, requests to erect towers and construct the accompanying equipment need to be evaluated on an individual basis. The Conditional Use Permit process allows the City to do just that. Because the property on which the proposed tower is to be constructed is zoned Commercial, not I-2 Heavy Industrial, a conditional use cannot be obtained. Therefore, the Petitioner is requesting a use variance to vary from the permitted uses identified within the C-1 General Commercial Zoning District to allow the property to be used to construct a single 175' monopole tower with three (3) wireless telecommunications antennas with equipment shelter and generator.

RECOMMENDATION

The staff recommends in favor Appeal 19-13 to allow for the installation of a communications tower and radio building subject to the following conditions:

- 1) The monopole tower shall not exceed more than 180-feet in height (does not include height of attached lighting rod).
- 2) An opaque fence of no higher than 8-foot will be allowed around the base of the tower and equipment building.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
- 4) A double row of evergreens shall be planted between Grape Road and the fenced compound and shown on the Administrative site plan.
- 5) The entire access drive shall be paved. This includes the approximately 10' between the existing paved drive and the leased compound area. The access shall utilize an existing curb cut of the Humane society. A storm water management system shall be provided for all new impervious surface area.
- 6) The monopole tower shall not be located any closer to Grape Road than the existing Humane Society main building to the north. This will require the tower be offset on the east side of the proposed compound area.

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 property on which the tower is to be located is almost 5 acres, and the tower is located the furthest from the single family homes in the area, using the building as buffer. The proposed tower is also located adjacent to existing commercial and industrial areas to the south, east, and west and will be constructed and managed according to all regulatory codes.
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 primarily surrounded by commercial development; and there is a sufficient distance between where the tower is sited on the petitioner's property and the residential properties to the north.

3. The need for the variance arises from some condition peculiar to the property involved in that the geographic position and the open nature of the property all make it ideally suited for a communications tower.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology have rapidly increased in the past few years and created a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan identifies this property for General Commercial, the Comprehensive Plan will not be substantially interfered with because of the limited use of the property and the specific hardships/development characteristics of the site associated with the request.

ATTACHMENTS

Photographs, Appeal, Photographs of proposed tower height, Site Plan, Location map



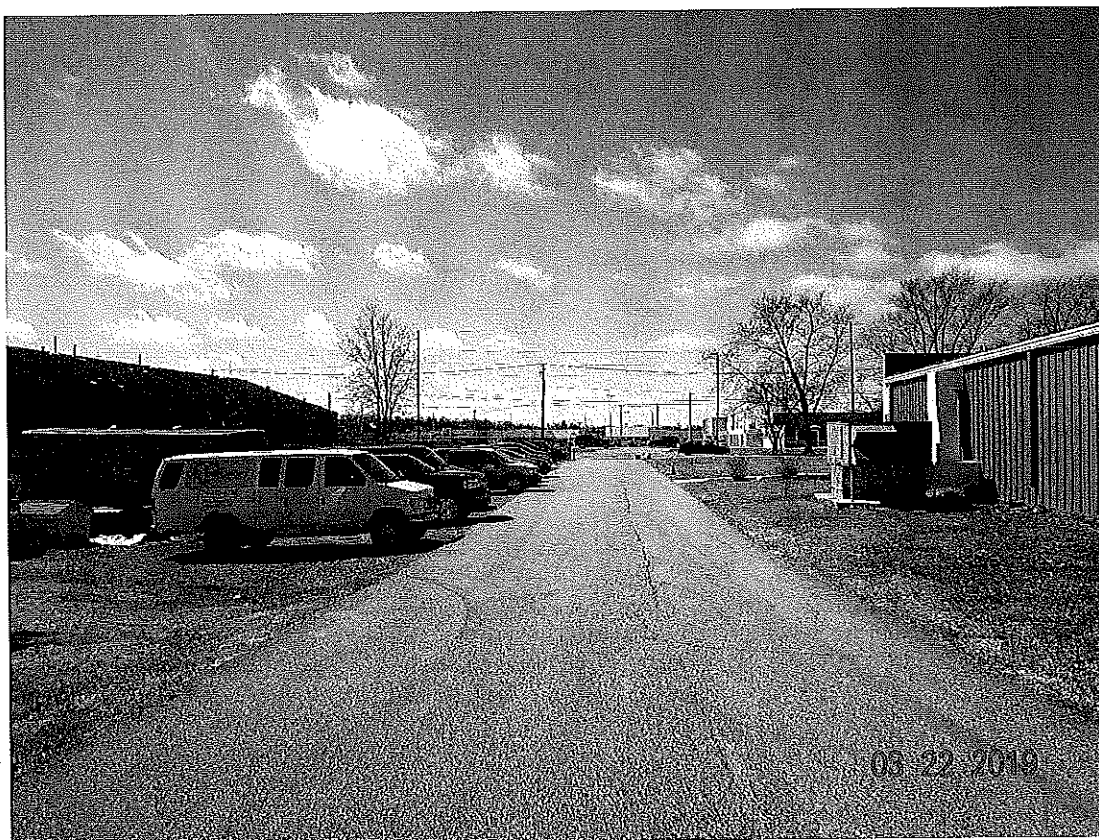
Dashed Line = Boundary of Property
Hatched Square = Leased area for tower



A view of the Humane Society campus from the front parking lot.



A view of the tower location
(south of the accessory building where the storage containers are)



A view showing the distance from Grape Road
(approximately 230')



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 15, 2019

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
May 14, 2019, Public Hearing
Certification of Proposed Ordinances

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 #19-04 A petition submitted by KISO INC. requesting to rezone **1211 West Sixth Street** from C-1 General Commercial District to R-2 Two-Family Residential District.

The Commission, with a vote of 8-0, recommended approval.

PETITION #19-06 A petition submitted by John Coussens and Cressy Land Investment LLC requesting to amend the Coussens-Golden Corral PUD for addition of property for parking and stormwater management for proposed multi-family housing development.

The Commission, with a vote of 8-0, 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, Mishawaka Plan Commission

cc: Ruth Sila
Mike Huber

PETITION #19-06
Coussens-Golden Corral PUD Amendment
Conditions of Approval
(Changes from original approved conditions in italics)

Uses:

1. Permitted uses for all property in the original PUD (*Ordinance 5348*) and *expanded 1.5 acre area included in this amendment* 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. Permitted uses on the south 10 acres of the original PUD *and expanded 1.5 acre area included in this amendment* shall be expanded to include R-3 Multifamily Residential uses.
3. Permitted uses on the area adjacent to the Edison Lakes Parkway including all or a portion of Lot 1 of Portillo's Main Street Minor Subdivision shall be limited to those uses identified in the C-1 (General Commercial) zoning district.
4. 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.
5. 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/Sidewalk 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.

2. A minimum of two access points are required for the proposed multifamily residential apartment complex.
3. Sidewalks connecting the apartments and the hospital sites shall be constructed by the developer. A pedestrian access/sidewalk plan shall be submitted and approved by the City Director of Engineering.

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.
4. The parcels located along Edison Lakes Parkway and Holy Cross Parkway shall be permitted two (2) signs. One (1) for the outlot/development parcel and one (1) for the apartment site subject to the 1.a. requirements above.
5. An internal directional signage plan for the apartment site shall be submitted subject to Staff approval. Signs shall be not directly visible from the public right-of-way and shall be subject to the height and size requirement per 1.a above.

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.
4. The maximum building height for the proposed apartment complex shall be limited to five (5) stories.

Parking/Landscaping:

1. The number of parking spaces required for the proposed apartment complex shall be provided at a rate of 1.2 spaces per apartment unit.
2. 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.
3. For large shopping areas where shopping carts are utilized, cart corrals 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.
4. 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.
5. 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.

6. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
7. 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 REPORT

Location: 1211 W. Sixth Street

Date: April 9, 2019

Petition: 19 04

Prepared By: KM

GENERAL INFORMATION

Applicant: KISO INC.

Status: Property Owner

Request: Rezone from C-1 General Commercial District to R-2 Two-Family Residential

Zoning Classification: C-1 General Commercial District

Lot Size: 40' X 116.5'

Applicable Regulations: Sec. 137-186 Residential R-2 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial District
South: R-1 Single Family Residential District
East: R-1 Single Family Residential District
West: R-1 Single Family Residential District

Thoroughfare: West Sixth Street east of Logan

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioner is requesting to rezone 1211 W. Sixth Street to R-2 Two-Family Residential District. The property is surrounded on the south, east and west by residential properties. An industrial building is located across the street.

The property is the former Jerry's Pub which operated as a bar/restaurant for a number of years. The bar is attached to a single family home which also has a detached two-stall garage off the alley. The adjacent parking lot was used by patrons of the Pub, but is not part of the Petitioner's property and the owner will not be utilizing it.

The Petitioner states she is seeking to rezone the property in order to convert the front portion of the building (former bar) to an apartment while maintaining the existing residence. There is sufficient parking on the property to accommodate the required four (4) parking spaces; two in the existing garage and two can use the existing driveway.

Other pertinent City Departments have reviewed and approved the request. The Engineering Department had comments about the adjacent parking lot, but that is not the owner's property.

RECOMMENDATION

The Planning Department recommends **approval** of Petition 19-04 to rezone 1211 W. Sixth Street from C-1 General Commercial District to R-2 Two-Family Residential District. This recommendation is based upon the following findings of fact:

1. There are few commercial uses near the property, and the surrounding neighborhood is residential in nature and maintaining its historic use as a residential property would be compatible to 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, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a two-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-2 Two-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-2 Two-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for low density residential and its potential use as a residential property is compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP



1211 W. Sixth Street



Side view of property

STAFF REPORT

Location: North of the Edison Lakes Parkway & Holy Cross
Parkway intersection

Date: May 14, 2019

Petition: 19-06

Prepared By: DJS

GENERAL INFORMATION

Applicants: John Coussens & Cressy Land Investments, LLC / Saxon Partners

Status: Property Owners / Contingent Developer

Request: Amend the Coussens-Golden Corral Planned Unit Development to expand the PUD boundary for a proposed 368 unit multi-family residential apartment complex

Existing Zoning: S-2 Planned Unit Development specifically for a hospital with medical buildings and helipad

Proposed Zoning: S-2 Planned Unit Development to permit C-1 General Commercial, C-2 Shopping Center Commercial, and R-3 Multi-Family Residential Uses

Lot Size: +/- 1.5 acres

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District; Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern:

North:	S-2 Planned Unit Development (Vacant Land/Approved for C-1 General Commercial, C-2 Shopping Center Commercial, and R-3 Multi-Family Residential uses)
South:	C-1 General Commercial (Hospital/Vibra Hospital currently under construction & Vacant Land)
East:	S-2 Planned Unit Development (Hospital/St. Joseph Health System Mishawaka Medical Center)
West:	S-2 Planned Unit Development (Vacant Land/Approved for C-1 General Commercial uses)

Thoroughfare: Edison Lakes Parkway

School District: South Bend Community School Corporation

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's expense

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identified a preferred or planned use of Medium Density Residential (apartment complexes and nursing facilities)

ANALYSIS

The petitioner is requesting to expand the boundary and amend a part of the Coussens-Golden Corral Planned Unit Development (PUD), originally approved in 2012 (Petition 12-13/Ordinance 5348) and amended in 2018 (Petition 18-32/Ordinance 5646), to allow for the development of a multi-family residential apartment complex. The PUD is generally located north of the Edison Lakes Parkway and Holy Cross Parkway intersection east of N. Main Street.

The approximate 1.5 acre area included in this amendment is currently owned by John Coussens and Cressy Land Investments, LLC. Saxon Partners, the contingent developer of the Saxon Residences at Edison Lakes, will acquire the property and utilize the area for parking and storm water retention for a proposed multi-family residential apartment complex. A Final Site Plan (SP 19-02) was submitted in conjunction with the PUD amendment petition.

The property, which is adjacent to the southern boundary of the Coussens-Golden Corral PUD, is currently a part of the St. Joseph Medical Edison Lakes PUD (Ordinance 5035 and 5222) located to the east. Permitted uses on this property were restricted to a hospital with medical buildings and a helipad. By adding the property to the Coussens-Golden Corral PUD, permitted uses on the 1.5 acre area will include all C-1 General Commercial, C-2 Shopping Center Commercial, and R-3 Multi-Family Residential uses. The area will also be subject to all development standards and conditions per the amended PUD (Ordinance 5646).

All pertinent City Departments have reviewed and approved the request providing no comments.

RECOMMENDATION

Staff recommends **approval** of Petition 19-06 to expand the boundary and amend a part of the Coussens-Golden Corral PUD to allow for the development of a 368 unit multifamily residential apartment complex.

This recommendation includes the following conditions, *with changes from the original approved conditions in italics*.

Uses:

1. Permitted uses for all property in the original PUD (*Ordinance 5348*) and *expanded 1.5 acre area included in this amendment* 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. Permitted uses on the south 10 acres of the original PUD *and expanded 1.5 acre area included in this amendment* shall be expanded to include R-3 Multifamily Residential uses.
3. Permitted uses on the area adjacent to the Edison Lakes Parkway including all or a portion of Lot 1 of Portillo's Main Street Minor Subdivision shall be limited to those uses identified in the C-1 (General Commercial) zoning district.
4. 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.
5. 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/Sidewalk 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.
2. A minimum of two access points are required for the proposed multifamily residential apartment complex.
3. Sidewalks connecting the apartments and the hospital sites shall be constructed by the developer. A pedestrian access/sidewalk plan shall be submitted and approved by the City Director of Engineering.

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.
 4. The parcels located along Edison Lakes Parkway and Holy Cross Parkway shall be permitted two (2) signs. One (1) for the outlot/development parcel and one (1) for the apartment site subject to the 1.a. requirements above.
 5. An internal directional signage plan for the apartment site shall be submitted subject to Staff approval. Signs shall be not directly visible from the public right-of-way and shall be subject to the height and size requirement per 1.a above.

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 may be 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.
4. The maximum building height for the proposed apartment complex shall be limited to five (5) stories.

Parking/Landscaping:

1. The number of parking spaces required for the proposed apartment complex shall be provided at a rate of 1.2 spaces per apartment unit.
2. 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.
3. For large shopping areas where shopping carts are utilized, cart corrals 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.
4. 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.

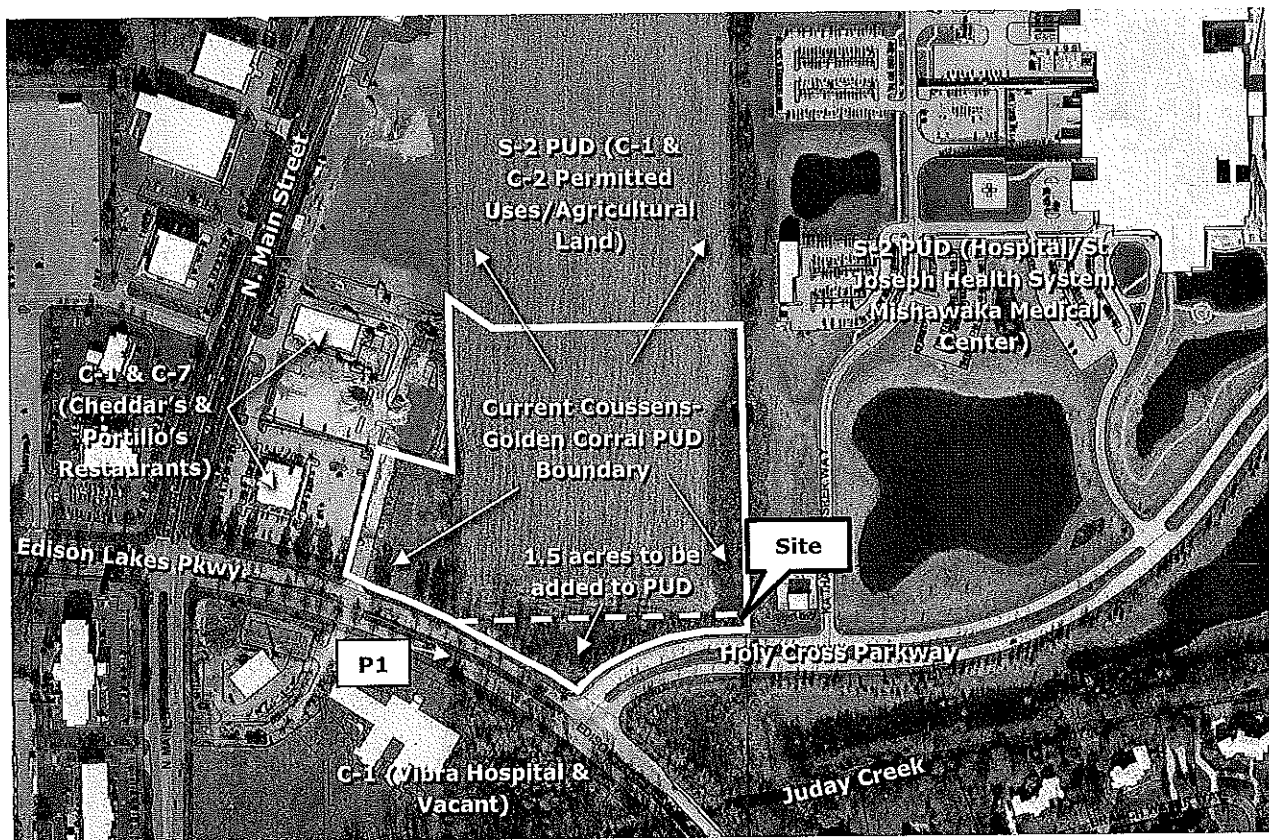
This recommendation is based on the following findings of fact:

1. Existing Conditions - The subject property, located east of N. Main Street and north of Edison Lakes Parkway, is undeveloped land currently zoned for hospital with medical bulidings and a helipad. N. Main Street is a highly travelled corridor with an average annual daily traffic count of nearly 33,000 vehicles per counts taken in 2015. Adjacent land uses include vacant agricultural land to the north proposed for development as a multi-family residential apartment complex, the St. Joseph Health System Mishawaka Medical Center to the east, Vibra Hospital currently under construction and vacant commercial land to the south, and vacant land approved for commercial uses to the west.

2. Character of Buildings in Area - The area is predominantly commercial and medical-related uses. 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, professional office and service, and multifamily residential 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.
5. Comprehensive Plan - This property has been guided as medium density residential as part of the City's 2000 Comprehensive Plan.

ATTACHMENTS

Aerial Map, Photographs, Petition, Site Plan, Location Map



Aerial Photograph – Coussens-Golden Corral PUD Amendment



P2. Looking easterly along Edison Lakes Parkway toward the property to be added to the PUD.

MAY 15 2019

CITY CLERK
MISHAWAKA, IN

1st Reading 5-20-19 PROPOSED ORDINANCE NO. 2019-13

2nd Reading

Passed

Failed

Continued To

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019

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, 2019 in addition to that set out in detail in the
published budget.

Section 2. There is hereby appropriated from the General Fund of the City of
Mishawaka the sum of \$16,063.00 for assignment as follows:

General

Police Department

Capital Outlays

101-20-445-08

Police Equipment

\$16,063.00

Section 3. There is hereby appropriated from the Public Safety Fund of the City of
Mishawaka the sum of \$4,300.00 for assignment as follows:

Public Safety

Capital Outlays

430-50-445-08

Police Equipment

\$ 4,300.00

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 _____, 2019 at _____ o'clock, _____. M.

Dale "Woody" Emmons, 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 _____, 2019 at _____ o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2019 at
_____ o'clock, _____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA



Police Department
200 North Church Street
Mishawaka, IN 46544

David A. Wood, Mayor
Kenneth L. Witkowski, Chief

May 20, 2019

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 15 2019

Mishawaka Common Council
Mayor David Wood

CITY CLERK
MISHAWAKA, IN

Re: Appropriation of Additional Funds - Ordinance #

Dear Mr. President and Honorable Council Members:

The Mishawaka Police Department would like to purchase a 4 x 4 Mule cart for police patrol and a 2 x 2 CAPS cart. The quotes for these carts are \$15,443.58. We wish to use the funds from insurance proceeds from totaled police vehicles that were damaged in 2018 for the purchase of these carts.

4 x 4 Mule Cart - \$8,276.57

2 x 2 CAPS Cart - \$7,167.01

\$15,443.58

We would also like to use additional funds from insurance proceeds of \$4,919.42 from this year to purchase gun holsters.

I am asking of the Council to approve the appropriations of the additional funds so that the MPD can purchase these carts and gun holsters.

Respectfully,

Kenneth L. Witkowski
Chief of Police

KLW:cd

Emergency 911
Front Desk 574-258-1678
Investigative Division 574-258-1684
Records Division 574-258-1681

Chief 574-258-1683
Uniform Chief 574-258-1688
Traffic Division 574-259-2966
Fax 574-258-1690

MAY 16 2019

1st Reading 5-20-19 PROPOSED ORDINANCE NO. 2019-14

2nd Reading ORDINANCE NO. _____

Passed

Failed

Continued To

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2019

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

Section 1. An emergency exists which requires the transfer of funds within the
Motor Vehicle Highway, CEDIT, and Local Road and Street funds for the budgets adopted
for the fiscal year ending December 31, 2019.

Section 2. There is hereby transferred and reappropriated the sum of
\$1,782,000.00 as follows:

Motor Vehicle Highway Fund

From: Supplies

201-50-422-02	Gas, Oil, etc.	\$100,000.00
201-50-423-03	Equip/Parts, Supplies	\$100,000.00

Other Services and Charges

201-50-431-09	Health Screenings/Vaccines	\$ 5,000.00
201-50-434-90	Insurance Premiums/Deductibles	\$150,000.00
201-50-435-01	MU Charges	\$135,000.00
201-50-435-02	NIPSCO	\$ 54,000.00
201-50-436-01	Building/Equipment Repair	\$150,000.00
	Total	\$694,000.00

To: Capital Outlays

201-50-442-01	Street Repair	\$694,000.00
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CEDIT

From: Supplies

430-50-423-01	Street material/dust control	\$ 54,000.00
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Capital Outlays

430-50-442-01	Paving	\$300,000.00
430-50-442-04	Sidewalk and Curb Program	\$100,000.00
430-50-445-02	MVH Equipment	<u>\$240,000.00</u>
		\$694,000.00

To: Supplies

430-50-422-02	Gas, Oil, etc.	\$100,000.00
430-50-423-03	Equip/Parts, Supplies	\$100,000.00

Other Services and Charges

430-50-431-09	Health Screenings/Vaccines	\$ 5,000.00
430-50-434-90	Insurance Premiums/Deductibles	\$150,000.00
430-50-435-01	MU Charges	\$135,000.00
430-50-435-02	NIPSCO	\$ 54,000.00
430-50-436-01	Building/Equipment Repair	<u>\$150,000.00</u>
	Total	\$694,000.00

Local Road and Street

From: Capital Outlays

202-50-442-01	Street Repair/Summer Street	\$394,000.00
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To: Supplies

202-50-423-01	Street material/dust control	\$ 54,000.00
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Capital Outlays

202-50-442-04	Sidewalk and Curb Program	\$100,000.00
202-50-445-02	MVH Equipment	<u>\$240,000.00</u>
		\$394,000.00

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 _____, 2019 at _____ o'clock, _____.M.

Dale "Woody" Emmons, Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of _____, 2019 at
_____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2019 at _____ o'clock,
_____.M.

David A. Wood, Mayor

MAY 16 2019

CITY CLERK
MISHAWAKA, IN



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurtis D. Vardaman, Deputy Controller

Date: May 16, 2019

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: **Transfer of Motor Vehicle Highway (MVH), Local Road and Street (LRS), and County Economic Development Income Tax (CEDIT) funds to meet the requirements of the new sub fund, MVH Restricted (MVHR)**

For first reading on May 20th, I have a transfer to meet the 50% MVH revenue requirement to be used for Construction, Reconstruction, and Preservation (CRP) of our streets.

Our current MVH budget is two thirds personal services. With new revenue earmarked for street projects 50% of the funding must have correlating expenses paid from the MVH funds. Currently we use the LRS and CEDIT funds for the bulk of our street paving.

With CEDIT having the use of any legal expense and LRS having a broader definition than MVH for street repair, I am transferring between these funds to meet this requirement.

Our current estimate for 50% of MVH revenue is \$994,000. This is the total that will be in the MVH budgets, funds 201 and new sub fund 203.

Please contact me with any questions.

c: David A. Wood – Mayor
Tim Ryan – Street Commissioner
Christine Jamrose – Director of Engineering/City Engineer

MAY 16 2019

1st Reading 5-20-19
2nd Reading
Passed
Failed
Continued To

PETITION 19-04
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2019-15
ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

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 NUMBERED FIFTY-EIGHT (58) AS SHOWN ON THE RECORDED PLAT OF MANOKA PLACE, AN ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 9, PAGE 1 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA

COMMON ADDRESS: 1211 West Sixth Street

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-2 Two-Family Residential 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. There are few commercial uses near the property, and the surrounding neighborhood is residential in nature and maintaining its historic use as a residential property would be compatible to 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, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a two-family use;

Proposed Ordinance No: 2019-15

Ordinance No: _____

3. Because the parcel is located in an area of residential uses, the rezoning to R-2 Two-Family Residential is a desirable use for this property;
4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-2 Two-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for low density residential and its potential use as a residential property is compatible and consistent with the historic residential uses in the area.

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 _____, 2019, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2019, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at _____ o'clock _____.M.

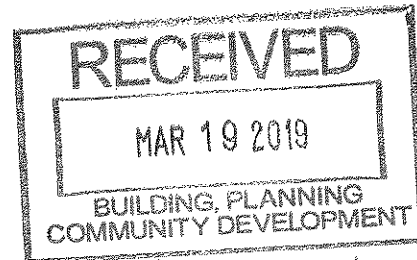
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

March 11th, 2019

MAR 27 2019

CITY CLERK
MISHAWAKA, IN



Ref 19-04

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

RE: PETITION TO REZONE - Parcel ID 71-09-16-310-011.000-023

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

Parcel ID 71-09-16-310-011.000-023; LOT NUMBERED FIFTY-EIGHT (58) AS SHOWN ON THE RECORDED PLAT OF MANOKA PLACE, AN ADDITION TO THE CITY OF MISHAWAKA, RECORDED IN PLAT BOOK 9, PAGE 1 IN THE OFFICE OF THE RECORDER OF SAINT JOSEPH COUNTY, INDIANA currently located at 1211 WEST 6TH ST., MISHAWAKA, IN 46544.

Petitioners own one hundred percent (100%) of the above described parcel of land which carries a zoning classification of C. Said property is currently vacant.

Petitioner(s) desire said real estate to be rezoned to R-2 District. Petition(s) further state that they intend to utilize said land for multifamily housing.

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.


KISO, INC.
Property Owner.

CONTACT PERSON:

Name: Ruth Sila

Address: 10994 Fairview Ave., Osceola IN 46561

Phone Number: 404-731-8391

Email: rksila@gmail.com

RECEIVED
DEBORAH S. BLOCK, MMC

1st Reading 5-20-19
2nd Reading
Passed
Failed
Continued To

PETITION 19-06

MAY 16 2019

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2019-16

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:

Part of the Northeast Quarter (NE ¼) of Section 33, Township 38 North, Range 3 East, situated in Clay Township, St. Joseph County, State of Indiana, being more particularly described as follows:

Commencing at an iron pipe marking the Southeast Quarter of the Northeast Quarter (NE ¼) of said Section 33; thence North 00 18' 40" West along the East line of the Northeast Quarter (NE ¼) of said Section 33 a distance of 239.20 feet to a point in the centerline of Juday Creek; thence continuing North 00 18' 40" West along the East line of the Northeast Quarter (NE ¼) of said Section 33 a distance of 420.24 feet to the place of beginning of this description; thence North 89 57' 13" West parallel with the South line of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33 a distance of 195.85 feet to a point of curvature of a tangent curve; thence Southwesterly along a curve to the left, said curve having a radius of 290.00 feet, an arc length of 72.89 feet and being subtended by a long chord having a bearing of South 82 50' 44" West and a length of 72.70 feet to a point of tangency; thence South 75 38' 41" West a distance of 51.51 feet to a point of curvature of a tangent curve; thence southwesterly along a curve to the left, said curve having a radius of 185.43 feet, and an arc length of 84.88 feet and being subtended by a long chord having a bearing of 62 31' 54" West and a length of 84.14 feet to a point of compound curvature; thence southwesterly along a curve to the left said curve having a radius of 302.00 feet, an arc length of 73.98 feet and being subtended by a long chord having a bearing of South 42 24' 03" West and a length of 73.80 feet; thence South 35 22' 58" West a distance of 9.13 feet to a point on the Northerly right-of-way line of Edison Lakes Parkway; thence North 55 58' 48" West along the Northerly right-

Proposed Ordinance No: 2019-16

Ordinance No: _____

of-way line of Edison Lakes Parkway a distance of 2.06 feet; thence North 61° 51' 37" West along the Northerly right-of-way line of Edison Lakes Parkway a distance of 206.29 feet; thence Northwestwardly along a curve to the left, said curve having a radius of 2008.26 feet, an arc length of 35.91 feet and being subtended by a long chord having a bearing of North 62° 31' 50" West and a length of 35.91 feet to a point on the West line of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33; thence North 00° 14' 01" West along the West line of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33 a distance of 12.94 feet to a rebar marking the Southwest Corner of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33; thence South 89° 57' 13" East along the South line of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33 a distance of 663.09 feet to an iron pipe marking the Southeast Corner of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section 33; thence South 00° 18' 40" East along the East line of the Northeast Quarter (NE ¼) of said Section 33 a distance of 5.00 feet to the place of beginning of this description.

Parcel 2

A PARCEL OF LAND BEING A PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 00°40'39" WEST ALONG THE EAST LINE OF SAID QUARTER SECTION, 627.38 FEET TO THE POINT OF BEGINNING, ALSO BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HOLY CROSS PARKWAY; THENCE THE NEXT (3) THREE COURSES ALONG THE NORTHERLY AND NORTHWESTERLY RIGHT-OF-WAY LINE OF HOLY CROSS PARKWAY; (1) THENCE SOUTH 89°09'31" WEST, 70.43 FEET TO A POINT OF CURVE TO THE LEFT, HAVING A RADIUS OF 465.00 FEET, SUBTENDED BY A CHORD LENGTH OF 320.19 FEET, BEARING SOUTH 69°00'52" WEST; (2) THENCE SOUTHWESTERLY ALONG SAID CURVE, 326.88 FEET; (3) THENCE SOUTH 85°58'37" WEST, 37.60 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF EDISON LAKES PARKWAY; THENCE NORTH 56°39'42" WEST ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF EDISON LAKES PARKWAY, 47.45 FEET; THENCE NORTH 35°01'08" EAST, 7.98 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 302.00 FEET, SUBTENDED BY A CHORD LENGTH OF 73.80 FEET, BEARING NORTH 42°02'13" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, 73.98 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 185.43 FEET, SUBTENDED BY A CHORD LENGTH OF 84.14 FEET, BEARING NORTH 62°10'04" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, 84.88 FEET; THENCE NORTH 75°16'51" EAST, 51.51 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 290.00 FEET, SUBTENDED BY A CHORD LENGTH OF 72.70 FEET, BEARING NORTH 82°28'54" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, 72.89 FEET; THENCE NORTH 89°40'57" EAST, 195.85 FEET TO A POINT ON THE EAST LINE OF SAID QUARTER SECTION; THENCE SOUTH 00°40'39" EAST ALONG SAID EAST LINE, 32.06 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 0.58 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

COMMON ADDRESS: North of Edison Lakes Parkway and Holy Cross Parkway Intersection

Proposed Ordinance No: 2019-16

Ordinance No: _____

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to expand the boundary and amend a part of the Coussens-Golden Corral Planned Unit Development to allow for the development of a 368 unit multi-family residential apartment complex subject to the attached conditions.

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

1. Existing Conditions - The subject property, located east of N. Main Street and north of Edison Lakes Parkway, is undeveloped land currently zoned for hospital with medical buildings and a helipad. North Main Street is a highly travelled corridor with an average annual daily traffic count of nearly 33,000 vehicles per counts taken in 2015. Adjacent land uses include vacant agricultural land to the north proposed for development as a multi-family residential apartment complex, the St. Joseph Health System Mishawaka Medical Center to the east, Vibra Hospital currently under construction and vacant commercial land to the south, and vacant land approved for commercial uses to the west.
2. Character of Buildings in Area - The area is predominantly commercial and medical-related uses. 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, professional office and service, and multifamily residential 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.
5. Comprehensive Plan - This property has been guided as medium density residential as part of the City's 2000 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 _____, 2019, at _____ o'clock ____ M.

Presiding Officer

Proposed Ordinance No: 2019-16

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2019, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at
_____ o'clock _____.M.

David A. Wood, Mayor

PETITION #19-06
Coussens-Golden Corral PUD Amendment
Conditions of Approval
(Changes from original approved conditions in italics)

Uses:

1. Permitted uses for all property in the original PUD (*Ordinance 5348*) and *expanded 1.5 acre area included in this amendment* 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. Permitted uses on the south 10 acres of the original PUD *and expanded 1.5 acre area included in this amendment* shall be expanded to include R-3 Multifamily Residential uses.
3. Permitted uses on the area adjacent to the Edison Lakes Parkway including all or a portion of Lot 1 of Portillo's Main Street Minor Subdivision shall be limited to those uses identified in the C-1 (General Commercial) zoning district.
4. 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.
5. 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/Sidewalk 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.

2. A minimum of two access points are required for the proposed multifamily residential apartment complex.
3. Sidewalks connecting the apartments and the hospital sites shall be constructed by the developer. A pedestrian access/sidewalk plan shall be submitted and approved by the City Director of Engineering.

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.
 4. The parcels located along Edison Lakes Parkway and Holy Cross Parkway shall be permitted two (2) signs. One (1) for the outlot/development parcel and one (1) for the apartment site subject to the 1.a. requirements above.
 5. An internal directional signage plan for the apartment site shall be submitted subject to Staff approval. Signs shall be not directly visible from the public right-of-way and shall be subject to the height and size requirement per 1.a above.

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.
4. The maximum building height for the proposed apartment complex shall be limited to five (5) stories.

Parking/Landscaping:

1. The number of parking spaces required for the proposed apartment complex shall be provided at a rate of 1.2 spaces per apartment unit.
2. 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.
3. For large shopping areas where shopping carts are utilized, cart corrals 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.
4. 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.
5. 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.

6. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission.
7. 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:

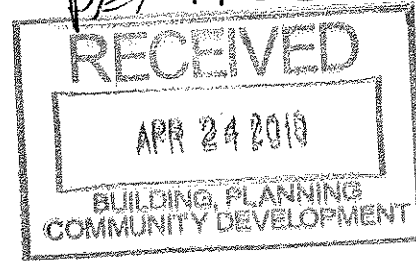
1. The phasing and development of infrastructure for the development shall be reviewed and approved by the Planning Commission concurrently with the first planned unit development site plan submission. Future modifications and requirements may be placed by the Planning Commission concurrent with each subsequent planned unit development site plan submission to provide for the interconnectivity of roads and other related infrastructure.

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 01 2019

CITY CLERK
MISHAWAKA, IN

April 24, 2019



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

RE: PETITION FOR PUD AMENDMENT

The undersigned John Coussens and Cressy Land Investments LLC respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

PARCEL 1

SEE ATTACHED EXHIBIT A FOR REVISED LEGAL

NORTHWEST CORNER OF EDISON LAKES PARKWAY AND PROPOSED CONNECTOR ROAD ENTERING NEW CAMPUS

PARCEL 6, MARBACH, BRADY & WEAVER ALTA LAND TITLE SURVEY, JOB 35-02, DRAWING A-22500, REVISED 8/7/02

LEGAL DESCRIPTION

PART OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, SITUATED IN CLAY TOWNSHIP, ST. JOSEPH COUNTY, STATE OF INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIPE MARKING THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33; THENCE NORTH 00 18' 40" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33 A DISTANCE OF 239.20 FEET TO A POINT IN THE CENTERLINE OF JUDAY CREEK; THENCE CONTINUING NORTH 00 18' 40" WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33 A DISTANCE OF 420.24 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 89 57' 13" WEST PARALLEL WITH THE SOUTH LINE OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33 A DISTANCE OF 195.85 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 290.00 FEET, AN ARC LENGTH OF 72.89 FEET AND BEING SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 82 50' 44" WEST AND A LENGTH OF 72.70 FEET TO A POINT OF TANGENCY; THENCE SOUTH 75 38' 41" WEST A DISTANCE OF 51.51 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 185.43 FEET, AND AN ARC LENGTH OF 84.88 FEET AND BEING SUBTENDED BY A LONG CHORD HAVING A BEARING OF 62 31' 54" WEST AND A LENGTH OF 84.14 FEET TO A POINT OF COMPOUND CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 302.00 FEET, AN ARC LENGTH OF 73.98 FEET AND BEING SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 42 24' 03" WEST AND A LENGTH OF 73.80 FEET; THENCE SOUTH 35 22' 58" WEST A DISTANCE OF 9.13 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF EDISON

LAKES PARKWAY; THENCE NORTH 55° 58' 48" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF EDISON LAKES PARKWAY A DISTANCE OF 206.29 FEET; THENCE NORTHWESTWARDLY ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 2008.26 FEET, AN ARC LENGTH OF 35.91 FEET AND BEING SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 62° 31' 50" WEST AND A LENGTH OF 35.91 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33; THENCE NORTH 00° 14' 01" WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33; THENCE SOUTH 89° 57' 13" EAST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33; THENCE SOUTH 00° 18' 40" EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER (NE ¼) OF SAID SECTION 33 A DISTANCE OF 5.00 FEET TO THE PLACE OF BEGINNING OF THIS DESCRIPTION

AND

Parcel 2

A PARCEL OF LAND BEING A PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMON ADDRESSSES: *North of the Edison Lakes Parkway and Holy Cross Parkway Intersection*

Exhibit A - **PARCEL 1**

Northwest Corner of Edison Lakes Parkway and Proposed Connector Road Entering New Campus
Parcel 6, Marbach, Brady & Weaver ALTA Land Title Survey, Job 35-02, Drawing A-22500, revised 8/7/02

Legal Description

Part of the Northeast Quarter (NE $\frac{1}{4}$) of Section 33, Township 38 North, Range 3 East, situated in Clay Township, St. Joseph County, State of Indiana, being more particularly described as follows:

Commencing at an iron pipe marking the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33; thence North 00 18' 40" West along the East line of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 239.20 feet to a point in the centerline of Juday Creek; thence continuing North 00 18' 40" West along the East line of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 420.24 feet to the place of beginning of this description; thence North 89 57' 13" West parallel with the South line of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 195.85 feet to a point of curvature of a tangent curve; thence Southwesterly along a curve to the left, said curve having a radius of 290.00 feet, an arc length of 72.89 feet and being subtended by a long chord having a bearing of South 82 50' 44" West and a length of 72.70 feet to a point of tangency; thence South 75 38' 41" West a distance of 51.51 feet to a point of curvature of a tangent curve; thence southwesterly along a curve to the left, said curve having a radius of 185.43 feet, and an arc length of 84.88 feet and being subtended by a long chord having a bearing of 62 31' 54" West and a length of 84.14 feet to a point of compound curvature; thence southwesterly along a curve to the left said curve having a radius of 302.00 feet, an arc length of 73.98 feet and being subtended by a long chord having a bearing of South 42 24' 03" West and a length of 73.80 feet; thence South 35 22' 58" West a distance of 9.13 feet to a point on the Northerly right-of-way line of Edison Lakes Parkway; thence North 55 58' 48" West along the Northerly right-of-way line of Edison Lakes Parkway a distance of 2.06 feet; thence North 61 51' 37" West along the Northerly right-of-way line of Edison Lakes Parkway a distance of 206.29 feet; thence Northwestwardly along a curve to the left, said curve having a radius of 2008.26 feet, an arc length of 35.91 feet and being subtended by a long chord having a bearing of North 62 31' 50" West and a length of 35.91 feet to a point on the West line of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33; thence North 00 14' 01" West along the West line of the Southeast Quarter (SE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 12.94 feet to a rebar marking the Southwest Corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33; thence South 89 57' 13" East along the South line of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 663.09 feet to an iron pipe marking the Southeast Corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33; thence South 00 18' 40" East along the East line of the Northeast Quarter (NE $\frac{1}{4}$) of said Section 33 a distance of 5.00 feet to the place of beginning of this description

Petitioner(s) own one hundred (100%) percent of the above described parcels which carry zoning classifications of S-2 Planned Unit Development specifically for
A hospital with medical buildings and a helipad.. Said parcels are currently vacant.
Petitioner(s) desire said real estate to be amended to allow for:

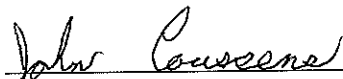
1. *Expansion of the Coussens-Golden Corral PUD, as approved per Ordinance 5348 and amended per Ordinance 5646, to include the property as described above. The property is owned by Cressy Land Investments and zoned S-2 PUD. Saxon Partners, the contingent developer of a proposed multi-family housing project, is acquiring the above described property which is adjacent to the southern boundary of the existing Coussens-Golden Corral PUD. The parcel(s) is currently zoned S-2 PUD, and are part of the St. Joseph Medical Edison Lakes PUD approved as Ordinance #5035 and #5222. The parcel(s) will allow for parking to accommodate the Multi-family Housing development, and be a part of the overall storm water management plan for the site.*

As such, we are requesting that the parcels be released from the existing St. Joseph Medical Edison Lakes PUD Ordinance regulations, and be incorporated into the Coussens-Golden Corral PUD, as amended under ordinance #5646.

Accompanying this petition is a drawing, to scale, showing the above described parcel of real estate, and showing the proposed location and size of the proposed building structures.

Petitioners further agree to the remaining standards and conditions as they exist in the current PUD Ordinance #5646.

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 amending the PUD of the above described parcel of land located in the City of Mishawaka.


Signed _____

John Coussens

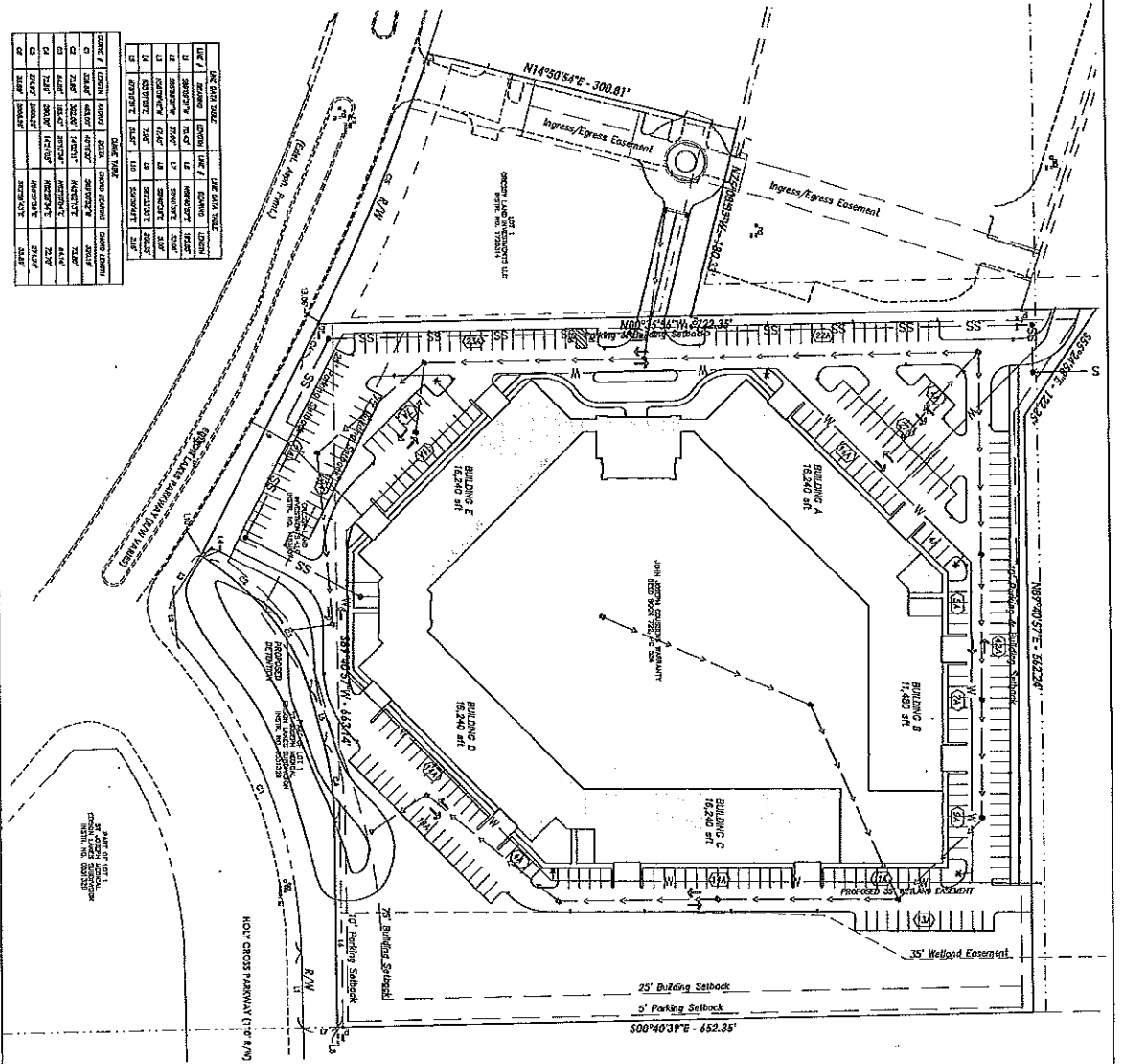

Signed _____

George Cressy
Cressy Land Investments LLC

CONTACT PERSON:

Name: Mike Huber, Abonmarche Consultants
Address 750 Lincoln Way East, South Bend, IN 46601
Phone Number/ Fax 574.347.4610
Email mhuber@abonmarche.com

LINE	FROM	TO	BEARING	DIST.	AREA	LINE	FROM	TO	BEARING	DIST.	AREA
1	100.00	100.00	N 0° 0' 0" E	100.00	0.00	1	100.00	100.00	N 0° 0' 0" E	100.00	0.00
2	100.00	100.00	N 0° 0' 0" E	100.00	0.00	2	100.00	100.00	N 0° 0' 0" E	100.00	0.00
3	100.00	100.00	N 0° 0' 0" E	100.00	0.00	3	100.00	100.00	N 0° 0' 0" E	100.00	0.00
4	100.00	100.00	N 0° 0' 0" E	100.00	0.00	4	100.00	100.00	N 0° 0' 0" E	100.00	0.00
5	100.00	100.00	N 0° 0' 0" E	100.00	0.00	5	100.00	100.00	N 0° 0' 0" E	100.00	0.00
6	100.00	100.00	N 0° 0' 0" E	100.00	0.00	6	100.00	100.00	N 0° 0' 0" E	100.00	0.00
7	100.00	100.00	N 0° 0' 0" E	100.00	0.00	7	100.00	100.00	N 0° 0' 0" E	100.00	0.00
8	100.00	100.00	N 0° 0' 0" E	100.00	0.00	8	100.00	100.00	N 0° 0' 0" E	100.00	0.00
9	100.00	100.00	N 0° 0' 0" E	100.00	0.00	9	100.00	100.00	N 0° 0' 0" E	100.00	0.00
10	100.00	100.00	N 0° 0' 0" E	100.00	0.00	10	100.00	100.00	N 0° 0' 0" E	100.00	0.00



PROPOSED FEATURES LEGEND

- Boundary of 10' and 20' Area Parking Space/Driveway
- 10' and 20' Area Parking Space/Driveway
- Direction of Traffic Flow

GRAPHIC SCALE

1" = 50' 0"

ABONMARCHÉ

18-1761

1 of 1

- GENERAL NOTES**
1. Current zoning of the property is R-100.
 2. Existing lot line, vacant / proposed lot line (R-100) is indicated.
 3. Front building setback is consistent with the minimum building setback for the property.
 4. The building will be situated by City of Mishawaka municipal water and sewer.
 5. Storm water will be collected and treated by the City of Mishawaka.
 6. Storm water will be collected and treated by the City of Mishawaka.
 7. Storm water will be collected and treated by the City of Mishawaka.
 8. Storm water will be collected and treated by the City of Mishawaka.
 9. Storm water will be collected and treated by the City of Mishawaka.
 10. Storm water will be collected and treated by the City of Mishawaka.

18-1761

1 of 1

SITE PLAN

PLANNED UNIT DEVELOPMENT

AMENDMENT

SAXON PARTNERS, LLC

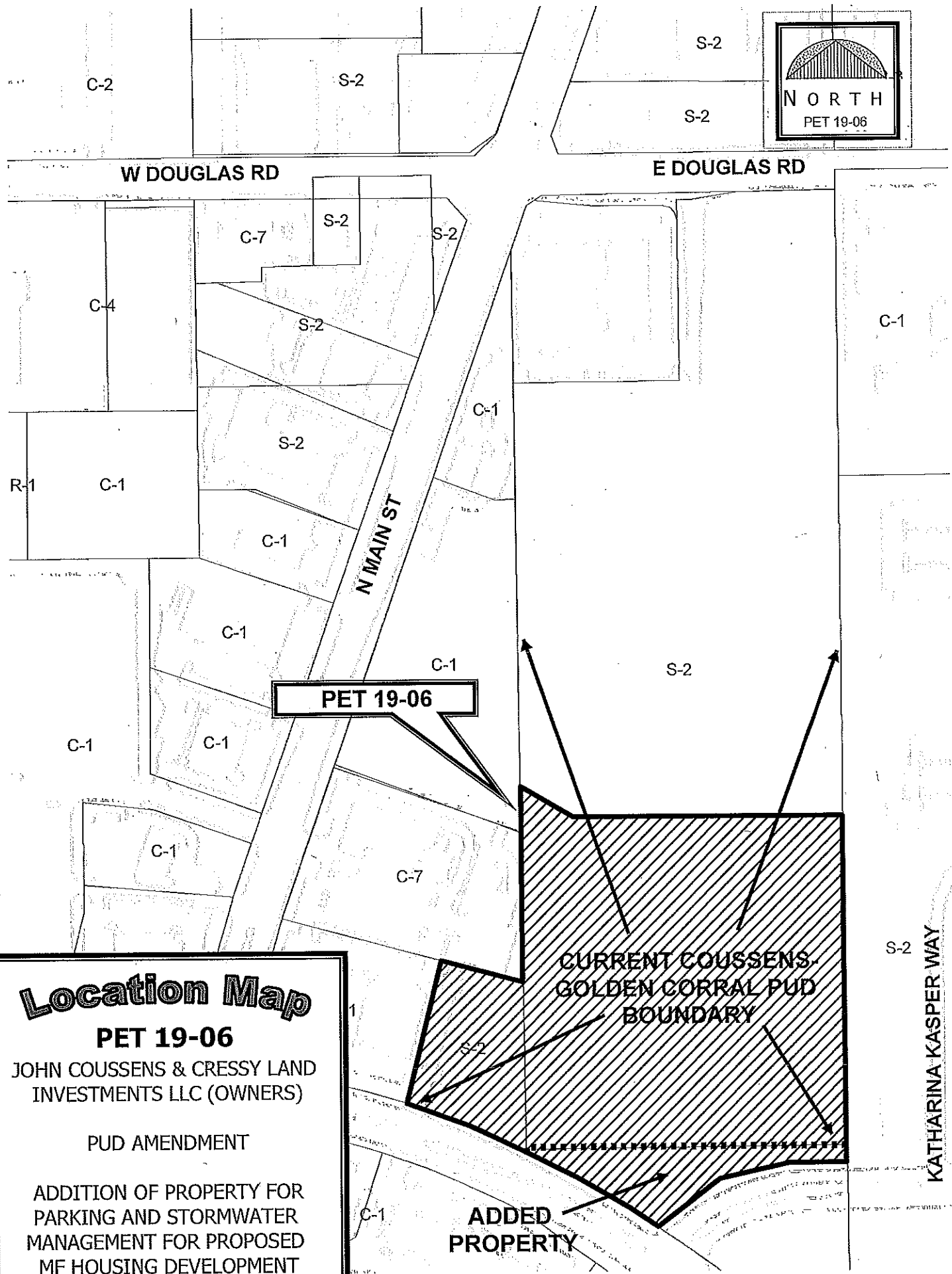
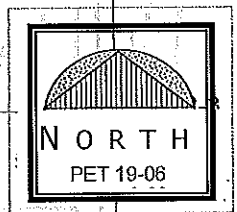
SAXON RESIDENCES AT EDISON LAKES

MISHAWAKA, INDIANA

ABONMARCHÉ

18-1761

1 of 1



Location Map

PET 19-06

JOHN COUSSENS & CRESSY LAND INVESTMENTS LLC (OWNERS)

PUD AMENDMENT

ADDITION OF PROPERTY FOR PARKING AND STORMWATER MANAGEMENT FOR PROPOSED MF HOUSING DEVELOPMENT

CURRENT COUSSENS GOLDEN CORRAL PUD BOUNDARY

ADDED PROPERTY

KATHARINA KASPER WAY

City of Mishawaka

RESOLUTION R2019-15

WHEREAS, For nearly 100 million Americans, boating continues to be a popular recreational activity. From coast to coast, and everywhere in between, people are taking to the water and enjoying time together boating, sailing, paddling and fishing. During National Safe Boating Week, the U.S. Coast Guard and its federal, state, and local safe boating partners encourage all boaters to explore and enjoy America's beautiful waters responsibly.

WHEREAS, Safe boating begins with preparation. The Coast Guard estimates that human error accounts for 70 percent of all boating accidents and that life jackets could prevent nearly 85 percent of boating fatalities. Through basic boating safety procedures – carrying lifesaving emergency distress and communications equipment, wearing life jackets, attending safe boating courses, participating in free boat safety checks, and staying sober when navigating – we can help ensure boaters on America's coastal, inland, and offshore waters stay safe throughout the season.

WHEREAS, National Safe Boating Week is observed to bring attention to important life-saving tips for recreational boaters so that they can have a safer, more fun experience out on the water throughout the year.

WHEREAS, on average, 650 people die each year in boating-related accidents in the U.S.; 76 percent of these are fatalities caused by drowning; and

WHEREAS, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment or environmental factors; and

WHEREAS, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets.

NOW, THEREFORE BE IT RESOLVED by the Mishawaka Common Council, Mayor David A. Wood, City Clerk Deborah Block do hereby support the goals of the Safe Boating Campaign and proclaim May 18-24, 2019 as National Safe Boating Week and the start of the year-round effort to promote safe boating.

In Witness Whereof, we urge all those who boat to practice safe boating habits and wear a life jacket at all times while boating.

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

Dale "Woody" Emmons, President
1st District

Ron Banicki Vice President
6th District

Mike Bellovich, 2nd District

Matt Mammolenti, At Large

Stacy Petko Reisdorf,
3rd District

Bryan Tanner, At Large

Kate Voelker, 4th District

Gregg Hixenbaugh, At Large

S. Michael Compton
5th District

Deborah S. Block IAMC, MMC,
City Clerk

David A. Wood, Mayor

MAY 16 2019

APPEAL #19-13

RESOLUTION NO. 2019- 16

CITY CLERK
MISHAWAKA, IN

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:

2506 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 Use Variance for property located at **2506 Grape Road, Mishawaka, Indiana**, more particularly known and described as follows:

A parcel of land bounded by a line running as follows: Beginning at a point Five Hundred Forty (540) feet North of the Southwest corner of the Southeast Quarter (1/4) of Section Four (4), Township Thirty-seven (37) North, Range Three (3) East; thence East parallel with the South line of said Section Four (4) Four Hundred Sixty-one (461) feet; thence North Four Hundred Fifty-four and Eighty-seven Hundredths (454.87) feet, more or less; thence West Four Hundred Sixty-one (461) feet to the West line of the Southeast Quarter (1/4) of said Section Four (4); thence South along the West line of the Southeast Quarter (1/4) of said Section Four (4) Four Hundred Forty-Nine and Six Tenths (449.6) feet to the place of beginning. Less and Except therefrom that portion of the property conveyed to the City of Mishawaka, Indiana, by Corporate Warranty Deed dated October 8, 1987 and recorded November 10, 1987, as Instrument No. 8736059.

The Use Variance will allow a 175' monopole tower with three (3) wireless telecommunications antennas with equipment shelter and generator subject to the following conditions:

- 1) The monopole tower shall not exceed more than 180-feet in height (does not include height of attached lighting rod).
- 2) An opaque fence of no higher than 8-foot will be allowed around the base of the tower and equipment building.
- 3) An Administrative Site Plan shall be submitted for the property. The site plan shall be consistent with the schematic site plan submitted.
- 4) A double row of evergreens shall be planted between Grape Road and the fenced compound and shown on the Administrative site plan.
- 5) The entire access drive shall be paved. This includes the approximately 10' between the existing paved drive and the leased compound area. The access shall utilize an existing curb cut of the Humane society. A storm water management system shall be provided for all new impervious surface area.
- 6) The monopole tower shall not be located any closer to Grape Road than the existing Humane Society main building to the north. This will require the tower be offset on the east side of the proposed compound area.

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 property on which the tower is to be located is almost 5 acres, and the tower is located the furthest from the single family homes in the area, using the building as buffer. The proposed tower is also located adjacent to existing commercial and industrial areas to the south, east, and west and will be constructed and managed according to all regulatory codes.
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 primarily surrounded by commercial development; and there is a sufficient distance between where the tower is sited on the petitioner's property and the residential properties to the north.
3. The need for the variance arises from some condition peculiar to the property involved in that the geographic position and the open nature of the property all make it ideally suited for a communications tower.

4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because cell towers are only allowed in industrial zoned properties. The use of cellular phones and technology have rapidly increased in the past few years and created a higher demand for better cellular coverage for users. The location of properties zoned heavy industrial within the City requires that sites be evaluated on a case by case basis relative to the context of a specific location.
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan. Although the Comprehensive Plan identifies this property for General Commercial, the Comprehensive Plan will not be substantially interfered with because of the limited use of the property and the specific hardships/development characteristics of the site associated with the request.

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 _____, 2019, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2019,
at _____ o'clock ____ .m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at
_____ o'clock ____ .m.

David A. Wood, Mayor

MAR 27 2019

CITY CLERK
MISHAWAKA, IN

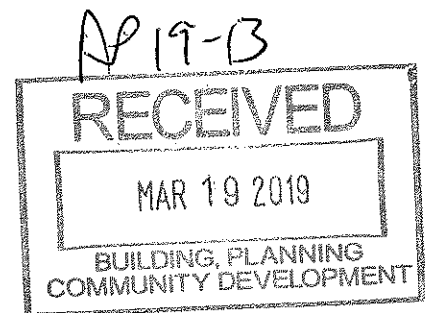
Date: March 18, 2019

To: City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, Humane Society of St. Joseph County, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to wit: 2506 Grape Road, Mishawaka IN, 46545:

A parcel of land bounded by a line running as follows: Beginning at a point Five Hundred Forty (540) feet North of the Southwest corner of the Southeast Quarter (1/4) of Section Four (4), Township Thirty-seven (37) North, Range Three (3) East; thence East parallel with the South line of said Section Four (4) Four Hundred Sixty-one (461) feet; thence North Four Hundred Fifty-four and Eighty-seven Hundredths (454.87) feet, more or less; thence West Four Hundred Sixty-one (461) feet to the West line of the Southeast Quarter (1/4) of said Section Four (4); thence South along the West line of the Southeast Quarter (1/4) of said Section Four (4) Four Hundred Forty-Nine and Six Tenths (449.6) feet to the place of beginning. Less and Except therefrom that portion of the property conveyed to the City of Mishawaka, Indiana, by Corporate Warranty Deed dated October 8, 1987 and recorded November 10, 1987 as Instrument No. 8736059.



2. The above described real estate presently has a zoning classification of C-1, General Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above described property in the following manner: Humane Society – a nonprofit animal care facility that sees over 3,350 animals each year. Operating the Department of Animal Welfare, the Humane Society of St. Joseph County's Humane Officers respond to over 4,600 cruelty, neglect, nuisance and abuse calls each year
4. Appellant desires to construct a 175 foot monopole, and to install three (3) wireless telecommunications antennas on the monopole at 2506 Grape Road. The antenna array will consist of three (3) flat panel antennas. Each antenna is approximately 99.7 inches tall and 13.7 inches wide and 8.2 inches deep. A fenced compound will also be constructed at the base of the monopole, within which an AT&T equipment shelter and generator will be located. The monopole will be designed to accommodate a total of four (4) carriers.
5. The Zoning Ordinance of the City of Mishawaka requires a Use Variance in order to construct a use other than those specifically permitted under Section 137-379(b).
6. Strict adherence to the Ordinance requirements will create an unusual hardship by effectively preventing AT&T from expanding and improving its network and in providing optimal voice and

data streaming services, as well as reliable E-911 services, to businesses and residents within the surrounding area.

7. Use Variance Proofs

A. Will Approval be injurious to the public health, safety, morals or general welfare of the Community:

NO. The site is fully developed and adequately served with existing infrastructure improvements. The proposed facility will not generate any traffic, will generate no emissions, and will not place any undue demand on existing utility facilities. There will therefore be no adverse impact on the adjacent property or neighborhood.

B. Will the use and value of the area adjacent to property included in the Variance be affected in a substantially adverse manner?

NO. Approval of the telecommunications facility will have no negative impact on the use and value of surrounding properties. The property is commercial in nature and the addition of a telecommunications facility as an accessory use, will in fact provide a direct and tangible benefit through the provision of wireless communication service to the area.

C. Does the need for the variance arise from some condition peculiar to the property involved?

YES. The condition that gives rise to the need for a variance is the specific zoning designation of the subject property itself.

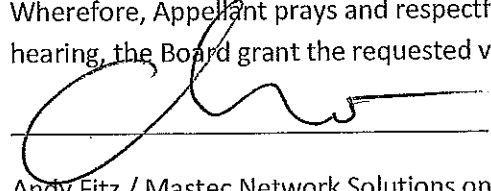
D. Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

YES. Strict application of Section 137-379(b) of the Zoning Ordinance would limit the full use and enjoyment of the subject property, and prevent the highest and best use of the property, which is an ideal location for the siting of telecommunications facility that will be a direct benefit to the present business located on the property, and its customers.

E. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

NO. The Comprehensive Plan recognizes the value and benefits of a strong commercial sector, and a reliable and robust wireless telecommunications network is vital to maintaining and growing that sector of the community.

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

A handwritten signature in black ink, appearing to read 'Andy Fitz', is written over a horizontal line.

Andy Fitz / Mastec Network Solutions on behalf of the property owner

Contact Person: Andy Fitz, 1351 E .Irving Park Road, Itasca, IL. 60143, 773-368-0109
andy.fitz@mastec.com



March 13, 2019

To: City of Mishawaka

RE: Authorization to file for Permits Carrier: AT&T GRANMI1786
Agent: Mastec Network Solutions
Site Address: 2506 Grape Road, Mishawaka

To whom it may concern:

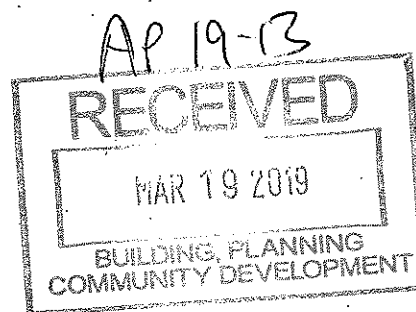
The Humane Society of Joseph County hereby grants Mastec Network Solutions (Agent) and AT&T (Wireless Carrier) authority to obtain any necessary approvals and permits for the construction of a wireless telecommunications facility at the above referenced site.

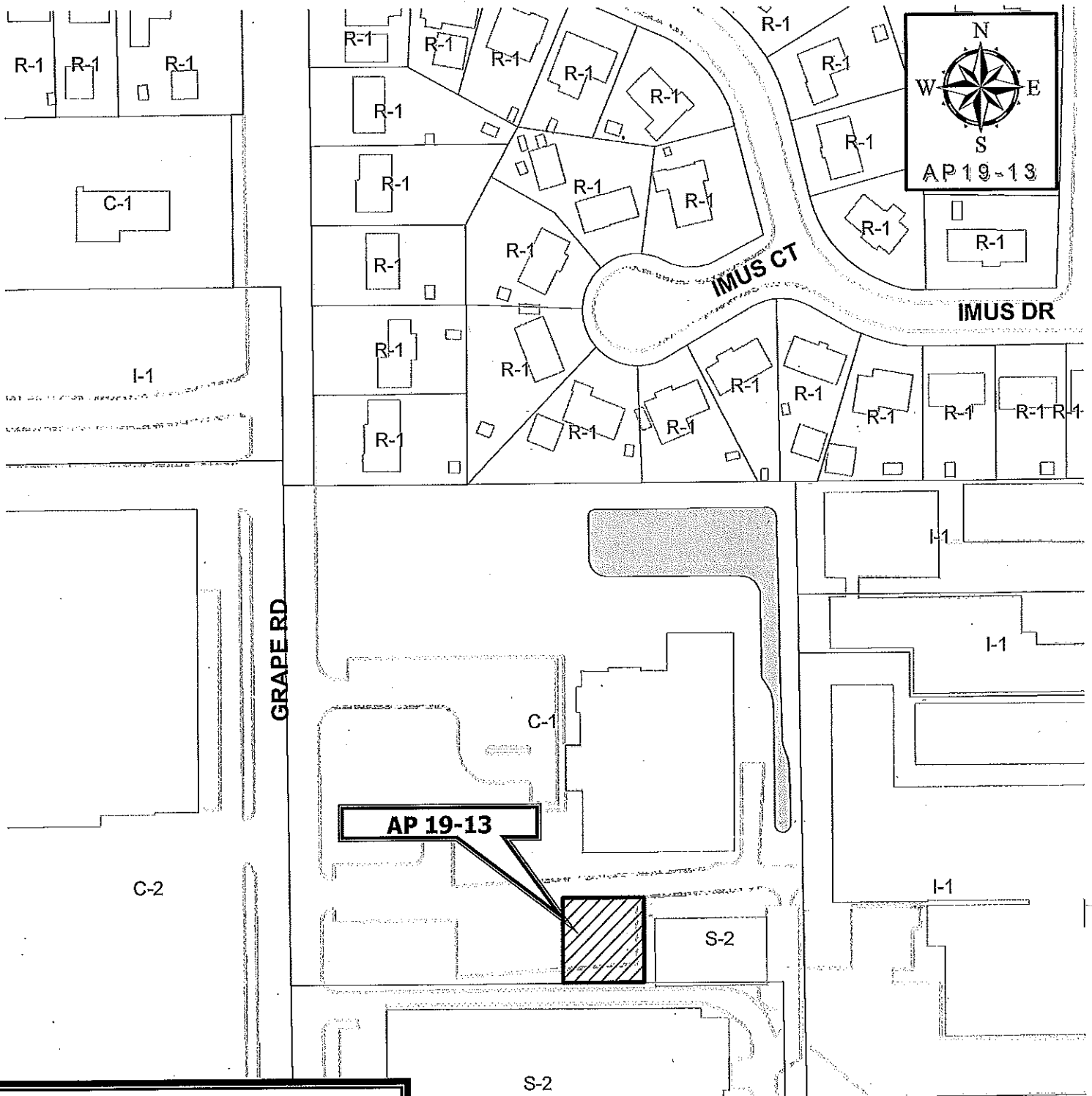
Should you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be "Genny Carlson", written over a horizontal line.

Genny Carlson
Executive Director
Humane Society of St. Joseph County
2506 Grape Rd.
Mishawaka, IN 46545





Location Map

AP 19-13

2506 GRAPE RD
HUMANE SOCIETY OF
ST JOSEPH COUNTY

USE VARIANCE FOR
175' MONOPOLE COMMUNICATION
BROADCASTING TOWER
(CELL TOWER)



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

May 1, 2019

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Annexation Ordinance 5594

Clerk Block:

It has come to our attention Ordinance 5594, annexing property at 16839 Douglas Road, contained an incomplete legal description. It is attached as Exhibit A.

The resolution for fiscal plan for this annexation, however, contained the correct legal description. It is attached as Exhibit B.

Attached is a revised ordinance draft with a full correct legal description.

Respectfully,

Christa Hill, Associate Planner

1st Reading 5-8-19
2nd Reading
Passed
Failed
Continued To

PETITION #17-24

MAY 02 2019

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, INPROPOSED ORDINANCE NO. 2019-12

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:

Twelve (12) rods off of the West side of the following described real estate: A part of the Southwest quarter of Section 28, Township 38 North, Range 3 East, bounded by a line running as follows, viz: Commencing at a point 72 rods West of the Southeast corner of said quarter Section; thence running West 44 rods; thence North 160 rods; thence East 44 rods; thence South 160 rods to the place of beginning containing 44 acres of land more or less, and being Lots Numbered 1 and 2 as described in the order of partition recorded in Partition Record No. 1, page 139, in the records of the Court of Common Pleas of said County, in the case of Clarissa Johnson vs. William C. Johnson, et al., excepting from said described tract 1.4 acres taken off of and from the entire width of the North end thereof heretofore conveyed to the State of Indiana for the Indiana East-West Toll Road, as recorded in Deed Record 534, page 131, of the records of St. Joseph County, Indiana.

Also excepting: A parcel of land being a part of the Southwest quarter of Section 28, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana, more fully described as: Commencing at the Southeast corner of said Southwest quarter of said Section 28; thence North 90°00'00" West, 1716 feet, along the South line of said Southwest quarter; thence North 00°12'17" East 640 feet (previously recorded as North 00°20'40" West) to the POINT OF BEGINNING; thence North 90°00'00" West, 198 feet, parallel with said South line; thence North 00°12'17" East, 1691.11 feet, (previously recorded as North 00°20'40" West) to the South right-of-way line of the Indiana East-West Tollway (I-80 and I-90); thence North 89°48'44" East, 198 feet, (previously recorded as North 89°17'22" East) along said South right-of-way line; thence South 00°12'17" West, 1691.76 feet, (previously recorded as South 00°20'40" East) to the POINT OF BEGINNING. Also known as Tract: EPA Parcel #1, said parcel containing 7.69 acres, more or less (Young Landscape Nursery, Inc.).

COMMON ADDRESS: 16839 Douglas Road

Proposed Ordinance No. _____

Ordinance No. _____

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 R-3 Multi-Family Residential District.

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

1. Existing Conditions – This would start to fill in the gap along Douglas Road between the 7-Eleven and University Park apartments.
2. Character of Buildings in Area - Adjacent land uses include several multi-family or medium density residential uses and some commercial uses, on one of the entrances into the City.
3. The most desirable/highest and best use – Because of the parcel's location along the corridor and surrounding uses, the most desirable use for the property is to continue and expand the multi-family use.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed use is compatible with the adjacent multi-family and commercial uses.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan did not specifically identify this area, but did note the other medium density residential uses in the area along Douglas Road. The petition to annex the property as R-3 Multi-Family Residential 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 _____, 2019, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2019, at _____ o'clock _____.M.

Proposed Ordinance No. _____

Ordinance No. _____

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2019, at _____ o'clock
_____.M.

David A. Wood, Mayor

Remonstrance Period 11-24-17

RECEIVED
DEBORAH S. BLOCK, MMC

1st Reading 9-18-17

PETITION #17-24

SEP 13 2017

2nd Reading 10-2-17

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

Passed

10-16-17

PROPOSED ORDINANCE NO. 2017-37

Failed

Continued To

ORDINANCE NO. 5594

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:

Twelve (12) rods off of the West side of the following described real estate: A part of the Southwest quarter of Section 28, Township 38 North, Range 3 East, bounded by a line running as follows, viz: Commencing at a point 72 rods West of the Southeast corner of said quarter Section; thence running West 44 rods; thence North 160 rods; thence East 44 rods; thence South 160 rods to the place of beginning containing 44 acres of land more or less, and being Lots Numbered 1 and 2 as described in the order of partition recorded in Partition Record No. 1, page 139, in the records of the Court of Common Pleas of said County, in the case of Clarissa Johnson vs. William C. Johnson, et al., excepting from said described tract 1.4 acres taken off of and from the entire width of the North end thereof heretofore conveyed to the State of Indiana for the Indiana East-West Toll Road, as recorded in Deed Record 534, page 131, of the records of St. Joseph County, Indiana.

COMMON ADDRESS: 16839 Douglas Road

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 R-3 Multi-Family Residential District.

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

1. Existing Conditions – This would start to fill in the gap along Douglas Road between the 7-Eleven and University Park apartments.

Proposed Ordinance No. 2017-34

Ordinance No. 5594

2. Character of Buildings in Area - Adjacent land uses include several multi-family or medium density residential uses and some commercial uses, on one of the entrances into the City.
3. The most desirable/highest and best use - Because of the parcel's location along the corridor and surrounding uses, the most desirable use for the property is to continue and expand the multi-family use.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed use is compatible with the adjacent multi-family and commercial uses.
5. Comprehensive Plan - The Mishawaka 2000 Comprehensive Plan did not specifically identify this area, but did note the other medium density residential uses in the area along Douglas Road. The petition to annex the property as R-3 Multi-Family Residential 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 16th day of October, 2017, at 7:22 o'clock P.M.



Presiding Officer

ATTEST:

Ross Deal



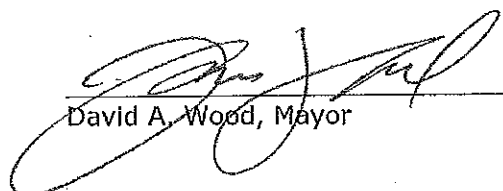
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this 17th day of October, 2017, at 9:18 o'clock A.M.



Deborah S. Block, IAMC, MMC, City Clerk

A APPROVED by me this 17 day of October, 2017, at 9:54 o'clock A.M.



David A. Wood, Mayor

E-RECORDED simplifile

ID: Ord No 5594
County: St Joseph
Date: 12-4-17 Time: 11:30 AM

OCT 10 2017

Appendix "A"
Resolution Adopting Fiscal Plan

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2017- 26

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 PROPERTY LOCATED AT:

16839 Douglas Road, Mishawaka, IN 46545

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:

Twelve (12) rods off of the West side of the following described real estate: A part of the Southwest quarter of Section 28, Township 38 North, Range 3 East, bounded by a line running as follows, viz: Commencing at a point 72 rods West of the Southeast corner of said quarter Section; thence running West 44 rods; thence North 160 rods; thence East 44 rods; thence South 160 rods to the place of beginning containing 44 acres of land more or less, and being Lots Numbered 1 and 2 as described in order of partition recorded in Partition Record No. 1, page 139, in the records of the Court of Common Pleas of said County, in the case of Clarissa Johnson vs. William C. Johnson, et al., excepting from said described tract 1.4 acres taken off of and from the entire width of the North end thereof heretofore conveyed to the State of Indiana for the Indiana East-West Toll Road, as recorded in Deed Record 534, page 131, of the records of St. Joseph County, Indiana.

Also excepting: A parcel of land being a part of the Southwest quarter of Section 28, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana, more fully described as: Commencing at the Southeast corner of said Southwest quarter of said Section 28; thence North 90°00'00" West, 1716 feet, along the South line of said Southwest quarter; thence North 00°12'17" East 640 feet (previously recorded as North 00°20'40" West) to the POINT OF BEGINNING; thence North 90°00'00" West, 198 feet, parallel with said South line; thence North 00°12'17" East, 1691.11 feet, (previously recorded as North 00°20'40" West) to the South right-of-way line of the Indiana East-West Tollway (I-80 and I-90); thence North 89°48'44" East, 198 feet, (previously recorded as North 89°17'22" East) along said South right-of-way line;

thence South 00°12'17" West, 1691.76 feet, (previously recorded as South 00°20'40" East) to the POINT OF BEGINNING. Also known as Tract: EPA Parcel #1, said parcel containing 7.69 acres, more or less (Young Landscape Nursery, Inc.).

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.

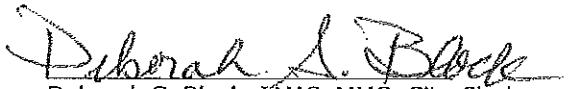
Section III. This Resolution shall be in full force and effect after its adoption by the Common Council and approval by the Mayor, as required by law.

PASSED by the Common Council of the City of Mishawaka, Indiana, this 16th day of October, 2017, at 7:30 o'clock P.M.

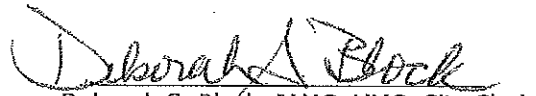

Presiding Officer

Ross Deal

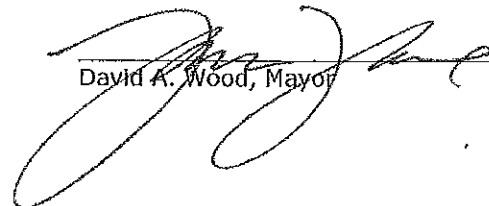
ATTEST:


Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this 17th day of October 2017, at 9:09 o'clock A.M.


Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this 17 day of October 2017, at 9:54 o'clock A.M.


David A. Wood, Mayor