

AGENDA

February 18, 2013

**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**

February 4, 2013

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

A letter from the City Plan Commission regarding recommendations from their February 12, 2013 meeting.

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

P.O. NO. 2013-05 Revised Water Rates and Charges

P.O. NO. 2013-06 Memorandum of Understanding for the Fire Dept. concerning Fire Marshals

P.O. NO. 2013-07 Rezone from C-1 and C-4 to C-7 Automobile Restaurant Commercial - Southeast corner of Bremen Hwy and Fulmer Rd.

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

Mayor Wood's State of the City

- 13. Adjournment**

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
February 4, 2013

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Wednesday February 4, 2013 at 7:00 p.m. The meeting was called to order by President Mike Compton, and all were asked to stand for the Pledge of Allegiance.

Clerk Block's roll call showed the following:



Roll Call.

Present: Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman.

Others present; Mary Ellen Hazen Chief Deputy I, Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel

The minutes from the January 21, 2012 meeting were approved as received from the Clerk's Office.

Clerk Block presented the following Petition to the Council, who referred them to the Plan Commission for their recommendation

**PETITION NO. 2013-02 Rezone from C-1 and C-4 to C-7
Automobile Restaurant Commercial –
Southeast Bremen Highway and
Fulmer Road.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-01** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-01

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA, INDIANA AMENDING TITLE III,
CHAPTER 34 OF THE MISHAWAKA MUNICIPAL CODE
(Revised Drug Free Workplace Policy)**

Mr. Roggeman reported the Personnel Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki the motion carried.

Bonnie Bonham, Human Resource Director said the Drug Free Workplace ordinance has been changed from time to time due to changes made from the Federal Government so updates needed to be made in the city's policy to reflect those changes.

She said most recently it has become unlawful to test for alcohol use in a post accident due to the fact this test is now considered a medical test and can not be preformed unless there was reasonable suspicion that alcohol use contributed to the accident. Ms. Bonham said so with that change in the policy it allowed them the opportunity to make other changes and clarifications and the definitions of those terms used in the policy can be found on page 2.

Included in the definitions of terms used in the policy are as follows:

They separated out the CDL Driver testing - Random Testing for CDL holders and now there was a list for non-CDL holders because the requirements were different.

Included in the voluntary commitment policy on page 4 – which has been in effect for many years, It states, if an employee feels they are under the influence of drugs or alcohol and not seem to get any help they can come in and disclose that information voluntarily. There would be a specific procedure they go through – although this can not be used after a person has been tested positive for a drug.

Mr. Roggeman asked if there were any employees who have taken advantage of this. Ms. Bonham said Yes.

Ms. Bonham went on to say Prevention and Treatment Resources were listed on page 6 to help with substance abuse. She explained the initial and confirmatory tests cut off levels have changed due to the prescribed use of Vicodin, Adderall, and Ritalin those drugs have seemed to eschew test results so they have raised the cut off levels to include those people who are on those prescribed drugs.

Ms. Bonham said the attached policy was approved by the Board of Public Works and Safety and she asked for the Council's approval.

Question was called for at 7:06 p.m. on **PROPOSED ORDINANCE NO. 2013-01** with the  Vote: Motion carried by unanimous roll call vote (summary: Yes = 9). Yes: Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **ORDINANCE NO.5378.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-02** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-02

AN ORDINANCE DECLARINIG AN EMERGENCY AND DETERMINING THE EXPENDTURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2013

(Additional Funds – Clerk's Office \$8,000.00)

Mr. Mammolenti reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki the motion carried.

Debbie Block, City Clerk said she was fortunate enough to have a paid intern through a state program this past summer to work on a project scanning and indexing old city ordinances dating back to the beginning of time. She said it has worked out very well and was asking for this additional to have the paid intern working in the City Clerk's Office for the remainder of this year working on this project.

Mrs. Voelker asked if the intern would be able to finish the project this year. Mrs. Block said she wasn't sure these documents date back to the early 1800's so it was difficult to know how long the project would take. She said it was working out very well to have this project completed in house as opposed to sending the documents outside the building which, they really do not like to do, it is something they have never done, and do not want to do. Mrs. Block said the intern was a very hard worker and she was very pleased with her work.

Mr. Reisdorf asked if there were other documents that might need similar treatment.

Clerk Block said presently they were concentrating on ordinances but they would also like to do minutes. She said it would become more difficult the older the records due to the fact that some of the old books were bound books so those would have to be professionally done.

Question was called for at 7:08 p.m. with the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5379.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-03** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-03

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2013

(Additional Funds – Corporate Counsel \$35,000.000)

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Banicki the motion carried.

Geoff Spiess, Staff Attorney City of Mishawaka said the requested appropriation was for Barnes and Thornburg, litigation fees from Mr. Oberloh, law suit against the city. He said Mr. Gourley, City Attorney requested funds last year and the case continues.

Mr. Emmons asked for an update. Mr. Spiess stated Mr. Oberloh was representing himself and he has been failing to provide discovery, where you answer questions and provide information, a judges explanation of that was you play with your cards face up and Mr. Oberloh has failed to do that. He said Barnes and Thornburg has filed a motion to compel the discovery and also requested attorney's fees for the litigation just of these discovery issues, because Mr. Oberloh was the one causing the litigation to side track.

Mr. Spiess went on to say the Judge issued a new order with new deadlines for Mr. Oberloh to comply and those deadlines were in January. He said Barnes and Thornburg did receive at least answers to most of the questions they had but his answers were very insufficient. Mr. Spiess said without trying to predict, based on the order that the Judge issued setting these new deadlines, there was a good chance Mr. Oberloh would be sanctioned, possibly with dismissal of the case or attorney fees.

Mr. Spiess said it was an American Disabilities Act and to even have standing Mr. Oberloh has to prove he has disabilities. He said one of the questions they asked him was what, was his disability, along with what were the names of the doctors who treated him for those disabilities. Mr. Oberloh said he couldn't list a doctor to confirm those facts. Mr. Spiess went on to say without someone to confirm he has a disability he won't have an ADA case. He said they were cautiously optimistic they may be able to move past this episode.

Mr. Compton asked when the next hearing would be. Mr. Spiess said the close of discovery hearing was not until April, he was not sure if the Judge would wait until then or if our attorney's would move forward sooner due to the fact they do not feel he has fully complied.

Mr. Emmons asked if the \$35,000.00 requested in the ordinance would cover all the costs. Mr. Spiess said to date the city has spent a little over \$65,000.00 on this plus the \$35,000.00 requested in this ordinance. Ms. Milligan, City Controller said \$21,000.00 of this total was when a special attorney came in and went through the city. Mr. Compton said that was for the ADA Survey, Ms. Milligan said that was correct. Mr. Spiess said he does not believe this would go to trial; hopefully it would be dismissed, so no more money should be needed.

Mr. Bellovich asked if this were to go to litigation what the worst case scenario would be, in regards to cost. Mr. Spiess said the City of LaPorte had a judgment against them for somewhere around 10 or 11 million dollars and so he supposes that was a possibility. He said he did not want to be over confident but he does believe that Mr. Oberloh does not have a good case against the City Of Mishawaka and he feels he dose not even have standing based on the fact he can not provide information that he even has a disability..

Mr. Roggeman asked who the judge was on this case. Mr. Spiess said it was a Magistrate Nuechterlein from the northern part of the district.

Question was called for at 7:19 p.m..  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. Voelker. Thus it becomes **ORDINANCE NO. 5380**

NEW BUSINESS

Mr. Emmons said he would not have a meeting in the month of February; he would resume his usual schedule of the third Thursday in March. He said at that time Mr. Watson, Street Commissioner would be updating the citizens on the road projects for the summer and going over the new purchase of the Central Services Building.

Mr. Compton said he and Mr. Emmons went to a seminar put on by the South Bend Police Department called Leads On Line. He said it has to do with second hand stores, pawn shops, and precious metal dealerships, he said it was very interesting and he encouraged the Mayor and the Mishawaka Police Department to look at and consider the options of what this would provide for the City Of Mishawaka. Mr. Compton stated a patron can sell an item in another city or state and this new system has a picture of the seller, their name, a thumb print, the serial number of the item sold, and the date they brought it in. He said the company that maintains this web-site cross references this information to other places, they claim they are the lead vender in this and would like for St. Joseph County to be on line, the fee would be \$7,000.00 a year. Mr. Compton said he was very impressed with the demonstration..

Mr. Emmons said this new system has been successful in helping solve other crimes with the information they have obtained from this new system.

Mr. Mammolenti said on February 20th at 7:00 p.m. at Fire Station 4 on Harrison Road, he would be holding his first quarterly City Wide Round Table discussion open to the public, Council members, and Administration. He said there would also be a tour of the station. Mr. Mammolenti said this would be in place of the Twin Branch Neighborhood meeting.

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

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

☐ S. Michael Compton
S. Michael Compton,
Presiding Officer



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

February 14, 2013

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
February 12, 2013, Public Hearing
Certification of Proposed Ordinance

Honorable Members:

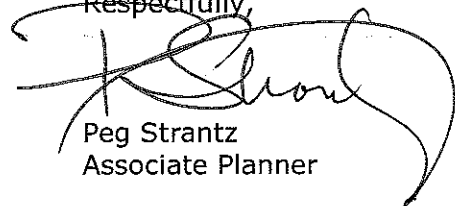
A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed Ordinance was considered:

PETITION #13-02 A petition submitted by Meijer Stores Limited Partnership/Meijer Realty Company requesting to rezone property located in the **3600 Block of South Bremen Highway** from C-1 General Commercial District and C-4 Automobile Oriented Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

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

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

Respectfully,


Peg Strantz
Associate Planner

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 14 2013

CITY CLERK
MISHAWAKA, IN

STAFF REPORT

Location: Southeast corner of Bremen Hwy & Fulmer Road

Date: February 12, 2013

PET 13 02

Prepared By: GGS

GENERAL INFORMATION

Applicant: Meijer Stores Limited Partnership/Meijer Realty Company

Status: Property Owners

Request: To rezone from C-1 General Commercial and C-4 Automobile Oriented Commercial to C-7 Automobile Oriented Restaurant Commercial

Zoning Classification: C-7 Automobile Oriented Restaurant Commercial (Proposed)

Lot Size: 3.49 acres

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

SPECIAL INFORMATION

Area Development Pattern:	North:	C-6 Linear Office Commercial
	South:	C-4 Automobile Oriented Commercial, C-1 General Commercial
	East:	C-1 General Commercial
	West:	C-4 Automobile Oriented Commercial, C-1 General Commercial, C-7 Automobile Oriented Commercial

Thoroughfare: Bremen Hwy & Fulmer Road

School District: Penn-Harris-Madison School Corporation

Public Utilities: All utilities are available to the site

Comprehensive Plan: General Commercial

ANALYSIS

The petitioner is requesting approval to rezone property from C-1 General Commercial and C-4 Automobile Oriented Commercial to C-7 Automobile Oriented Restaurant Commercial to allow for a McDonald's restaurant with a drive-thru facility. The property to be rezoned and the proposed restaurant will be located on a parcel of land at the southeast corner of Bremen Highway and Fulmer Road. Currently, this parcel is vacant.

The proposed development will consist of a one-story 4587 sf building with a drive-thru. The petitioner is proposing a total of 58 parking spaces. A total of 66 spaces are required to be provided at a ratio of 15 spaces per 1000. A variance is being requesting from the Board of Zoning Appeals to allow the reduction in parking.

The proposed rezoning is consistent with the existing uses in the area. To the east and south of the property are Meijer and the Meijer filling station. To the west across Bremen Highway are Bruno's Pizza, BP filling station/convenience store, Walgreens, and Subway, which includes a drive-thru. Given the surrounding commercial use and the close proximity to the off/on ramps to the 20 Bypass, the proposed rezoning to C-7 Restaurant Oriented Commercial is appropriate.

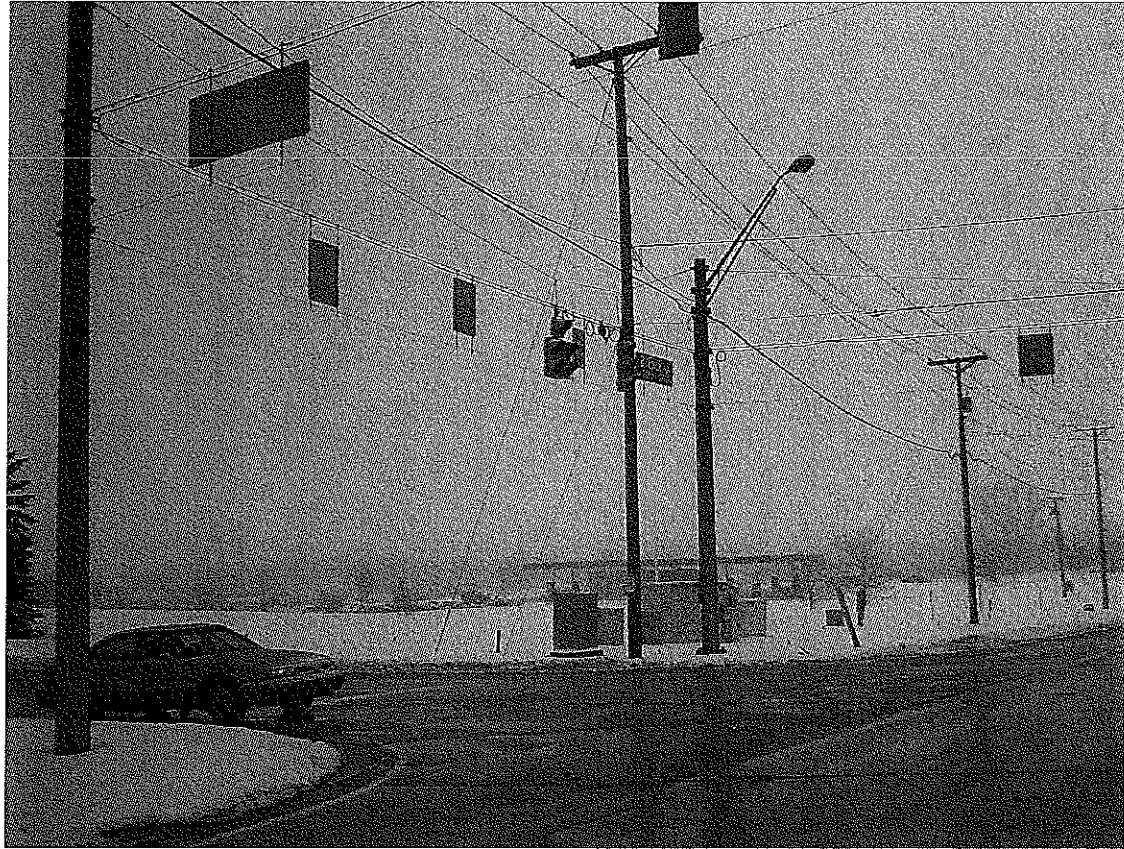
RECOMMENDATION

The Planning Department recommends approval of Petition 13-02 to rezone property located at the southeast corner of Bremen Highway and Fulmer Road from C-1 General Commercial and C-4 Automobile Oriented Commercial to C-7 Automobile Oriented Restaurant Commercial. This recommendation is based upon the following findings of fact:

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

ATTACHMENTS

Photograph, Petition, Site Plan



View looking onto site from the Bremen Hwy & Fulmer Rd intersection



View looking onto northwest onto site

Date: January 15, 2013

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



RE: Meijer Stores Limited Partnership/Meijer Realty Company
Petition for rezoning:

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

A PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331) WHICH IS SOUTH 00°11'41" EAST (REC. SOUTH 00°10'25" WEST) A DISTANCE OF 75.42 FEET MORE OR LESS AND SOUTH 89°58'39" E. (REC. SOUTH 89°38'50" EAST) A DISTANCE OF 80.00 FEET MORE OR LESS FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE SOUTHERLY LINE OF AN INTERIOR ROAD KNOWN AS "FULMER ROAD" FOR APPROXIMATELY THE NEXT THREE (3) COURSES, AS DESCRIBED IN A DEED OF DEDICATION DOCUMENT RECORDED BY DOCUMENT NO. 1206703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, SOUTH 89°58'22" EAST, 146.86 FEET (REC. SOUTH 89°38'33" EAST, 146.92 FEET) MORE OR LESS, AND SOUTH 65°10'47" EAST, 101.24 FEET (REC. SOUTH 64°50'58" EAST) MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 135.59 FEET, WITH A RADIUS OF 449.26 FEET, WITH A CHORD BEARING OF SOUTH 76°23'50" EAST, WITH A CHORD LENGTH OF 135.07 FEET, AND ALONG A CURVE TURNING TO THE RIGHT MORE OR LESS WITH AN ARC LENGTH OF 29.76 FEET, WITH A RADIUS OF 50.00 FEET, WITH A CHORD BEARING OF SOUTH 27°52'34" EAST, WITH A CHORD LENGTH OF 29.33 FEET, THENCE SOUTH 10°49'23" EAST, 70.31 FEET MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 62.29 FEET, WITH A RADIUS OF 100.00 FEET, WITH A CHORD BEARING OF SOUTH 28°40'08" EAST, WITH A CHORD LENGTH OF 61.29 FEET, AND SOUTH 46°30'53" EAST, 79.05 FEET MORE OR LESS; THENCE SOUTH 07°47'09" WEST, 90.40 FEET MORE OR LESS; THENCE SOUTH 44°19'41" WEST, 42.26 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 74.18 FEET MORE OR LESS; THENCE NORTH 00°11'51" EAST, 33.12 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 135.50 FEET MORE OR LESS; THENCE SOUTH 55°30'20" WEST, 60.61 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 181.09 FEET MORE OR LESS TO THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331); THENCE NORTH 00°11'41" WEST (REC. NORTH 00°10'25" EAST) ALONG SAID EAST RIGHT-OF-WAY LINE, 397.16 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 3.49 ACRES MORE OR LESS.

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

Also commonly known as the 3600 Block of South Bremen Highway,
Mishawaka, Indiana 46544.

The above described parcel of land is presently zoned "C-1" and "C-4"
Commercial District.

The Petitioners desire said real estate, to be rezoned to the "C-7"
Commercial District classification. The purpose for the rezoning is to
allow for the real estate to be purchased by an interested party who
desires to build a restaurant containing a drive-thru facility on the
site.

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

MEIJER STORES LIMITED PARTNERSHIP
By: Meijer Group, Inc.
Its: General Partner

MEIJER REALTY COMPANY

By: Michael L. Kinstle
Its: Vice President-Real Estate

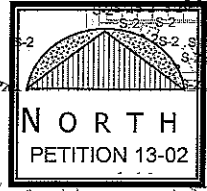
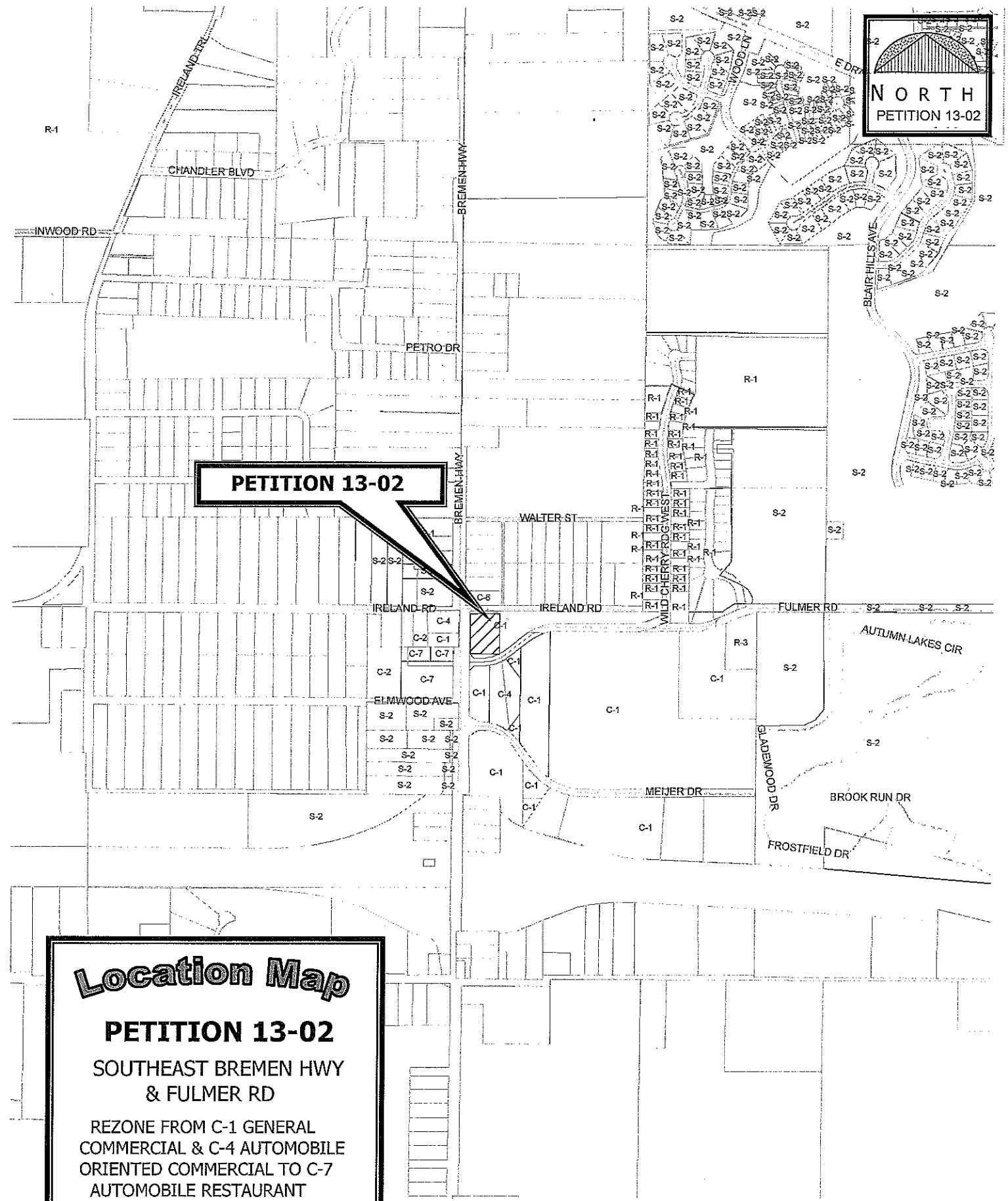
By: Michael L. Kinstle
Its: Vice President-Real Estate

Legal AB

Bus. RDH

Meijer Stores Limited Partnership
Attn: Real Estate Department
2929 Walker Avenue
Grand Rapids, Michigan 49544
616) 791-3909

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



PETITION 13-02

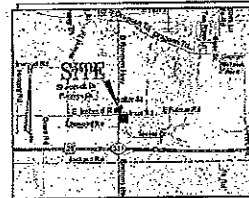
Location Map

PETITION 13-02

SOUTHEAST BREMEN HWY
& FULMER RD

REZONE FROM C-1 GENERAL
COMMERCIAL & C-4 AUTOMOBILE
ORIENTED COMMERCIAL TO C-7
AUTOMOBILE RESTAURANT
COMMERCIAL

PRELIMINARY SITE PLAN
A PART OF THE SOUTHWEST QUARTER OF SECTION 27, T.37N., R.3E.
PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA.



LEGAL DESCRIPTION:

A PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF BURGESS HIGHWAY (S.R. 331) WHICH IS SOUTH 00°11'41" EAST (REC. SOUTH 00°10'25" WEST) A DISTANCE OF 75.42 FEET MORE OR LESS AND SOUTH 89°58'39" E. (REC. SOUTH 89°39'50" EAST) A DISTANCE OF 80.00 FEET MORE OR LESS FROM THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE SOUTHERLY LINE OF AN INTERIOR ROAD KNOWN AS "FULMER ROAD" FOR APPROXIMATELY THE NEXT THREE (3) COURSES, AS DESCRIBED IN A DEED OF DEDICATION DOCUMENT RECORDED BY DOCUMENT NO. 1206703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, SOUTH 09°58'22" EAST, 145.86 FEET (REC. SOUTH 09°58'13" EAST, 145.92 FEET) MORE OR LESS, AND SOUTH 65°10'47" EAST, 101.24 FEET (REC. SOUTH 64°50'58" EAST) MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 135.59 FEET, WITH A RADIUS OF 449.26 FEET, WITH A CHORD BEARING OF SOUTH 76°22'50" EAST, WITH A CHORD LENGTH OF 135.07 FEET, AND ALONG A CURVE TURNING TO THE RIGHT MORE OR LESS WITH AN ARC LENGTH OF 29.76 FEET, WITH A RADIUS OF 50.00 FEET, WITH A CHORD BEARING OF SOUTH 27°52'34" EAST, WITH A CHORD LENGTH OF 29.33 FEET, THENCE SOUTH 10°49'23" EAST, 70.31 FEET MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 61.25 FEET, WITH A RADIUS OF 100.00 FEET, WITH A CHORD BEARING OF SOUTH 28°40'08" EAST, WITH A CHORD LENGTH OF 61.23 FEET, AND SOUTH 45°30'53" EAST, 79.05 FEET MORE OR LESS; THENCE SOUTH 07°47'09" WEST, 90.40 FEET MORE OR LESS; THENCE SOUTH 44°19'41" WEST, 42.26 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 74.10 FEET MORE OR LESS; THENCE NORTH 00°11'51" EAST, 33.12 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 135.50 FEET MORE OR LESS; THENCE SOUTH 55°30'20" WEST, 69.61 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 181.09 FEET MORE OR LESS TO THE EAST RIGHT-OF-WAY LINE OF BURGESS HIGHWAY (S.R. 331); THENCE NORTH 00°11'41" WEST (REC. NORTH 00°10'25" EAST) ALONG SAID EAST RIGHT-OF-WAY LINE, 397.16 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 3.49 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

LINE DATA		
LINE	BEARING	DISTANCE
1	S 00°11'41" E	75.42
2	S 89°58'39" E	80.00
3	S 65°10'47" E	101.24
4	S 09°58'22" E	145.86
5	S 44°19'41" W	42.26
6	N 00°11'51" E	33.12

CURVE DATA				
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	449.26	135.59	135.07	N 28°40'08" W
C2	50.00	29.76	29.33	S 27°52'34" E
C3	100.00	61.25	61.23	N 28°40'08" W

GENERAL SURVEY DISCLAIMER NOTES:

THE INFORMATION SHOWN ON THIS DRAWING IS EXTENDED FOR THE CLIENT ONLY. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.

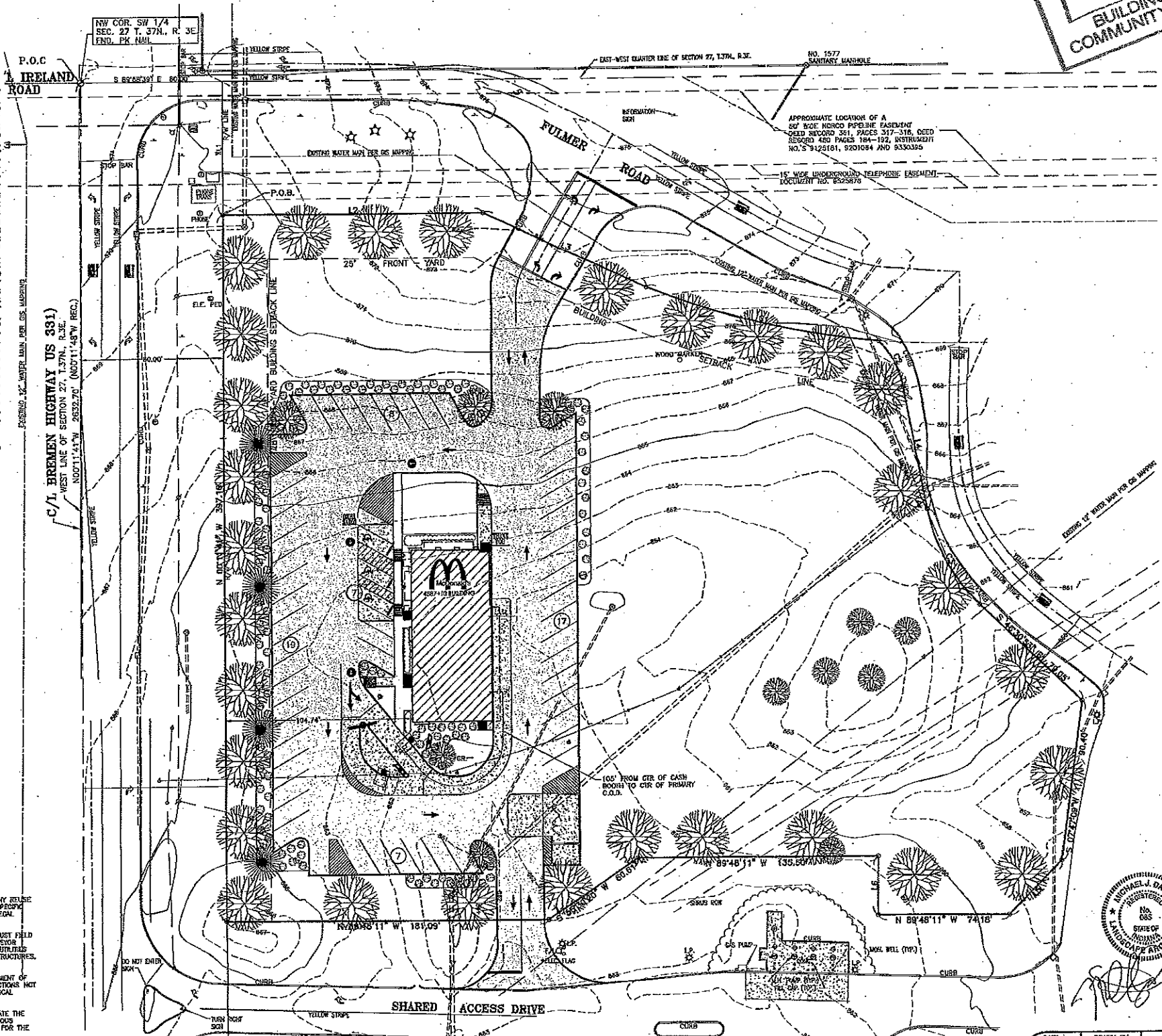
ANY UTILITY OR EASEMENT LOCATIONS, IF SHOWN, ARE APPROXIMATE. THE CLIENT MUST FIELD VERIFY UTILITY LOCATIONS WITH THE RESPECTIVE UTILITY COMPANY. THIS LAND SURVEYOR ASSUMES NO LIABILITY FOR THE ACCURACY OF THE LOCATION OR SIZE OF EXISTING UTILITIES OR THE EXISTENCE OR NON-EXISTENCE OF ADDITIONAL UNDERGROUND UTILITIES OR STRUCTURES.

NO IMPROVEMENTS SHOULD BE MADE ON THE BASIS OF THIS PLAN ALONE. FIELD MONITORING SHOULD BE CONDUCTED PRIOR TO COMMENCEMENT OF ANY AND ALL CONSTRUCTION. FOR BUILDING LINES, EASEMENTS AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO YOUR DEED, ABSTRACT, TITLE POLICY, CONTRACTS AND LOCAL BUILDING, ZONING AND SUBDIVISION ORDINANCES.

UNLESS SPECIFICALLY SHOWN HEREON, THIS SURVEY DOES NOT PURPORT TO INDICATE THE PRESENCE OR ABSENCE OF WETLANDS AND HAZARDOUS OR ENVIRONMENTALLY HAZARDOUS MATERIALS. THE SURVEYOR EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR THE SAME.

ANY INFORMATION ON THIS DRAWING IS NOT PRETENDED TO BE SUITABLE FOR REUSE BY ANY PERSON, FIRM OR CORPORATION OR ANY OTHER PERSON OR ENTITY FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PREPARED. ANY REUSE WITHOUT WRITTEN PERMISSION AND ADAPTATION BY THE SURVEYOR, ARCHITECT OR SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE SURVEYOR, ARCHITECT OR SURVEYOR.

ALL UNDERGROUND UTILITIES MUST BE FIELD VERIFIED BY THE CONTRACTOR BEFORE ANY CONSTRUCTION MAY BEGIN.



- TABULATED SITE DATA
- ACREAGE OF SITE 3.49 AC.
 - PROPOSED LAND USE
A. 1 STORY, 4,350 SQUARE FOOT RESTAURANT (PROPOSED)
 - PARKING RATIO REQUIRED BY ORDINANCE FOR "C-2" COMMERCIAL RESTAURANTS WITH DRIVE-IN OR DRIVE-THRU SERVICE
A. FIFTEEN (15) PER 1000 SQUARE FEET OF GROSS FLOOR SPACE
NUMBER OF SPACES REQUIRED FOR 4,350 S.F. RESTAURANT 66 SPACES
NUMBER OF SPACES PROVIDED FOR 4,350 S.F. RESTAURANT 50 SPACES
 - PROPOSED LAND COVERAGE

	SQUARE FOOTAGE	% OF SITE
A. BUILDINGS	4,350	124.80
B. PARKING AND DRIVES	40,787	1166.39
C. CONCRETE WALKS	1,089	31.21
D. OPEN SPACE	106,258	3042.60
TOTAL	152,024	4375.00
 - SURFACE RUN-OFF AND DRAINAGE TO BE HANDLED THROUGH THE USE OF STORM STRUCTURES TIED INTO EXISTING DRAINAGE SYSTEM FOR FUTURE DEVELOPMENT.
 - PROPOSED BUILDING IS SINGLE STORY.
 - BUILDING WILL BE CONNECTED TO MISHAWAKA UTILITIES.
 - DRAINAGE CAPACITY WILL BE BASED ON AVERAGE REQUIRED TO BE HELD BY THE CITY OF MISHAWAKA ENGINEERING DEPARTMENT.
 - ALL PARKING SPACES ARE TO BE 9'x20', EXCEPT HANDICAP WHICH WILL MEET THE LATEST A.A.A. STANDARDS. BUILDING ENTRANCES WILL HAVE A RAMPED SIDEWALK FROM PARKING AREA FOR HANDICAP ACCESSIBILITY.
 - DRIVEWAY OPENINGS SHALL BE REQUIRED TO MEET THE LATEST CITY OF MISHAWAKA STANDARDS.
 - ALL SIGNS SHALL CONFORM TO THE LATEST CITY OF MISHAWAKA ZONING STANDARDS.
 - ALL EXTERIOR LIGHTING SHALL MEET THE LATEST CITY OF MISHAWAKA STANDARDS.
 - ALL LIGHTING SHALL CONFORM TO CITY OF MISHAWAKA ZONING STANDARDS.

PETITIONERS:

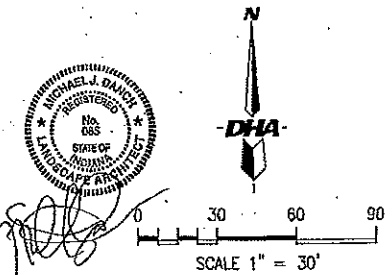
MILLER STORES LIMITED PARTNERSHIP/MRC
ATTN: HR DEPARTMENT
2929 PALMER AVENUE
GRAND RAPIDS, MICHIGAN 49544

LAND SURVEYOR:

DANCK, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003

REZONING REQUEST:

REZONING FROM "C-1" AND "C-4" COMMERCIAL DISTRICT TO "C-2" COMMERCIAL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF A RESTAURANT CONTAINING A DRIVE-THRU FACILITY.



DATE		DRAWN BY		CHECKED BY		DATE		BY		REVISIONS	
01/17/13		-		-		-		-		-	
SCALE		1"=30'		-		-		-		-	
FILE #		120238.5		-		-		-		-	

Danck, Harner & Associates, Inc.
Land Surveyors • Professional Engineers
Landscape Architects • Land Planners
Office: 1643 Commerce Drive • South Bend, IN 46628
Phone: (574) 234-4003 • Fax: (574) 234-4003

FEB 13 2013

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-05

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES
FOR WATER SERVICES FURNISHED BY THE CITY OF
MISHAWAKA'S MUNICIPAL WATER UTILITY**

WHEREAS, the City of Mishawaka, Indiana, operates a municipal water utility through its agency Mishawaka Utilities (the "Utility") for the purpose of acquiring and distributing water to aid City and surrounding areas; and,

WHEREAS, the existing rates and charges for water services provided by the Utility were placed into effect following approval by the Indiana Utility Regulatory Commission (the "Commission") in Cause No. 41395, Order dated June 16, 2000; and,

WHEREAS, the Utility engaged H.J. Umbaugh & Associates to study the Utility's revenue requirements for water service under IC 8-1.5-3.8 and IC 8-1.5-2-28, and develop, in addition to other information, annual pro forma revenues and expenses for the test year ended December 31, 2011; and,

WHEREAS, H.J. Umbaugh & Associates has studied the Utility's annual revenue requirements and determined that the Utility's annual pro forma operating revenues from water service do not produce an adequate net operating income, and such revenues need to be increased to provide income for the revenue requirements set forth in IC 8-1.5-3-8 and IC 8-1.5-2-28; and,

WHEREAS, the Utility Board of the City of Mishawaka has recommended to the Common Council that it approve by Ordinance the revised rates and charges for water service developed by H.J. Umbaugh & Associates, which rates and charges are set forth as part of Exhibits "A" and "B" attached hereto; and,

WHEREAS, the Common Council of the City of Mishawaka, Indiana now finds that (i) the Utility's annual revenues from rates and charges for water service should be increased with the Utility's annual revenues from water service increasing by \$1,214,219; and (ii) the rates and charges for water service attached hereto as part of Exhibits "A" and "B" have been set to recover the necessary increases in the Utility's annual revenues from water service and so that they are non-discriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8;

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

Section 1. The rates and charges for water service attached hereto as part of Exhibits "A" and "B" are hereby adopted as and for the rates and charges to be utilized by the Utility when charging customers for water service, effective as set forth below.

Section 2. The rates and charges for water service for customers outside the City of Mishawaka are higher than the rates inside the City. The percentage difference by rate can be found on Exhibit "B".

Section 3. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that the existing rates and charges for water service shall remain in full force and effect until the rates and charges fixed by this Ordinance shall be approved by the Common Council.

Section 4. This Ordinance shall be in full force and effect from and after its passage.

**PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, ON THIS ____ DAY OF _____, 2013.**

Common Council
City of Mishawaka, Indiana

S. Michael Compton, President

ATTEST:

Deborah S. Block, IAMC, MMC City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of _____, 2013 at ____ o'clock ____m.

Deborah S. Block, IAMC, MMC City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this ____ day of _____, 2013.

Dave Wood, Mayor
City of Mishawaka, Indiana

ATTEST:

Deborah S. Block, IAMC, MMC City Clerk

EXHIBIT A

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - INSIDE CITY

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

**Per 100
Cubic Feet**

(a) **Metered Rates Per Month**

All consumption \$ 1.69

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

Size of Meter

5/8" - 3/4"

1"

**Monthly
Charge**

\$ 5.55

5.55

(c) **Fire Protection Charge**

**Monthly
Charge**

\$ 4.09

Small Non-Residential

(a) **Metered Rates Per Month**

**Per 100
Cubic Feet**

All consumption \$ 1.72

(b) **Customer Base Charge**

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

Size of Meter

5/8" - 3/4"

1"

1 1/2"

2"

3"

**Monthly
Charge**

\$ 5.55

11.20

20.60

31.85

58.15

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 4.09
1"	10.23
1 1/2"	20.45
2"	32.72
3"	61.35

Large Non-Residential

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>
First 7,750 cubic feet	\$ 1.80
Over 7,750 cubic feet	1.14

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
4"	\$ 95.70
6"	189.65
8"	302.35
10"	433.85

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Monthly Charge</u>
4"	\$102.23
6"	204.50
8"	327.20
10"	470.35

Hydrant Rental

Private hydrants - per annum	\$ 526.92
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MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Private Fire Protection Service

Sprinkler connection - per annum

1"	\$ 14.64
1 1/2"	33.00
2"	58.56
3"	131.76
4"	234.24
6"	526.92
8"	936.72
10"	1,463.64
12"	2,107.68

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

EXHIBIT B

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - OUTSIDE RATES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>	<u>Outside City Increase In Percentage</u>
All Consumption	\$ 1.96	16%

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City Increase In Percentage</u>
5/8" - 3/4"	\$ 6.55	18%
1"	6.55	

(c) Fire Protection Charge

Monthly
Charge
\$ 4.09

Small Non-Residential

(a) <u>Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>	<u>Outside City Increase In Percentage</u>
All Consumption	\$ 1.97	15%

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City Increase In Percentage</u>
5/8" - 3/4"	\$ 6.55	18%
1"	13.70	22%
1-1/2"	25.60	24%
2"	39.90	25%
3"	73.25	26%

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 4.09
1"	10.23
1 1/2"	20.45
2"	32.72
3"	61.35

Large Non-Residential

<u>(a) Metered Rates Per Month</u>	<u>Per 100 Cubic Feet</u>	<u>Outside City Increase In Percentage</u>
First 7,750 cubic feet	\$ 1.68	(7%)
Over 7,750 cubic feet	1.30	14%

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City Increase In Percentage</u>
4"	\$120.90	26%
6"	240.00	27%
8"	382.90	27%
10"	549.65	27%

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Monthly Charge</u>
4"	\$102.23
6"	204.50
8"	327.20
10"	470.35

Hydrant Rental

Private hydrants - per annum	\$ 526.92
------------------------------	-----------

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY
SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Hydrant Rental

Private hydrants - per annum	\$ 526.92
------------------------------	-----------

Private Fire Protection Service

Sprinkler connection - per annum

1"	\$ 14.64
1 1/2"	33.00
2"	58.56
3"	131.76
4"	234.24
6"	526.92
8"	936.72
10"	1,463.64
12"	2,107.68

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

APPENDIX B

NON-RECURRING CHARGES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

- A. Water Account Service Charge - \$20.00
 - B. Sprinkling Meters Turn-on Charge \$20.00
 - C. Service Deposits- Service deposits are set by the Utility and can be up to one-sixth of normal annual bill per service location
 - D. Failure to Meet Appointment Scheduled Charge - \$15.00
 - E. Dishonored Negotiable Instrument Charge - \$20.00
 - F. Processing/Disconnect Charge
 - Disconnect During Office Hours—\$25.00
 - Additional Reconnect charges after hours—\$70.00
 - Additional Reconnect charges on Sundays & Holidays— \$90.00
 - G. After Hours Service Charge
 - After hours & Saturdays - \$70.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$35.00 per hour per man
 - Sundays and Holidays - \$90.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$45.00 per hour per man
 - H. Turn Water Services Off/On (For Repair or To Test Plumbing). No charge during office hours 8-5
- For after hour charges, refer to item G
- I. Late Penalty – 10% of the first \$3.00 plus 3% of the balance
 - J. Meter Tampering Charge
 - First Offense – Actual cost of parts, labor, equipment and overhead plus cost of service estimated to have been used, based on prior history - \$75.00 + damages and a police report filed with police.
 - Second Offense – Same as above, plus \$250.00 + damages.
 - Subsequent Offenses – Same as second offense, plus disconnection of service

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

K. Violation of Fire Service Agreement – Illegal use of fire hydrant

First Offense - \$500.00

Subsequent Offense - \$1,000.00 and subject to criminal charges

L. Construction Permit Fees

150 day Residential – \$65.00

240 day Commercial – \$135.00 Per Building or \$5.00 per unit (whichever is larger)

320 day Industrial – \$600.00 Per Building

M. New Service Address Meter Charges –

Contact Water Department for current cost – 574-258-1652

Meter Size	Charge
5/8" — 3/4" (touch pad)	Meter Charges are based on: Actual cost of equipment plus Installation labor costs plus Shipping/handling/transportation costs
1"	
1 1/2"	
2"	
3" & Larger	

Damage to Existing System Actual cost of repair

N. Meter Test at Customer Request

(No charge for first & second meter testing if second test has been requested after twelve months of the first testing)

Meter Size	Test Fee
5/8" — 1"	\$25.00
1 1/2" - 2"	\$48.00
3" & larger	Actual Cost

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

O. Hydrant Use Agreement

Hydrant Permit Charge – \$35.00

Deposit \$750.00

Damages to hydrant - repair cost to be deducted from deposit before refund, plus cost of water used, or per month (whichever is larger) \$ 50.00 minimum.

Township Hydrant Use (Fire Department Use Only) \$ 25.00 plus cost of water.

P. Tapping Permit

Existing taps never used and no fee paid at time of installation

Residential	
3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00
Commercial	
3/4"	Actual Current Cost
1"	Actual Current Cost
1 1/2"	Actual Current Cost
2"	Actual Current Cost
Commercial/Industrial	
4"	Actual Current Cost
6"	Actual Current Cost
8"	Actual Current Cost
10"	Actual Current Cost
12"	Actual Current Cost

All New Taps – Actual Current Cost

Contact Water Department for current pricing – 574-258-1652

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

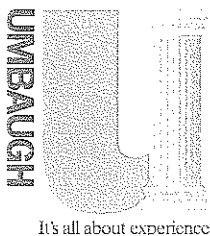
Q. Lead Service Line Replacement Tap Costs

(Does Not Include Meter)

Size	Cost
5/8" — 3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00

R. Land Improvement Charges

Non-Residential	
Water Main	Charge / Linear Foot
6"	\$12.00
8"	\$16.00
10"	\$20.00
12"	\$24.00
14"	\$28.00
16"	\$32.00
20"	\$40.00
24"	\$48.00
Residential	
1/2 of the current cost of a 6" water main (100 feet maximum)	



H. J. Umbaugh & Associates
Certified Public Accountants, LLP
112 IronWorks Avenue
Suite C
Mishawaka, IN 46544
Phone: 574-935-5178
Fax: 574-935-5928
www.umbaugh.com

January 29, 2013

Mishawaka Common Council
600 East Third Street
Post Office Box 363
Mishawaka, Indiana 46546-0363

RE: Mishawaka Municipal Water Utility – Adjustment of Rates and Charges

Dear Council Members:

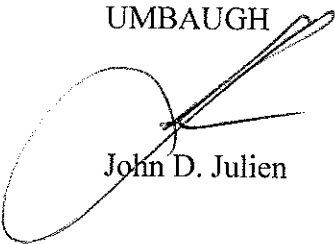
As I am sure you recall, in August of 2012 you took action on a new schedule of rates and charges for the water utility as part of a rate hearing process before the Indiana Utility Regulatory Commission (IURC). Before those rates and charges were acted upon by the IURC, the City completed the process of removing the water utility from IURC jurisdiction. By withdrawing from the IURC, control of water rates and charges rests with the Common Council. Before those rates and charges can be put in place, the Common Council must introduce an ordinance and conduct a public hearing on the proposed ordinance. The attached Rate Ordinance is intended to allow you to move forward with the process.

The rates reflected in the ordinance are the rates that the Council acted on last August, with one modification. Due to the withdrawal of the water utility from the IURC's jurisdiction, we believe the water utility will benefit from reduced cost of regulation saving approximately \$50,000 a year. That savings has been incorporated in the new schedule of rates and charges and as a result, each ratepayer will see a reduction of 25¢ per month from those rates that were acted on by the Council last summer.

We will be at the Council meeting on March 4, 2013 to explain the analysis we prepared and the basis for our recommendations. In the meantime, if you have any questions or comments, as always, please feel free to contact me.

Very truly yours,

UMBAUGH


John D. Julien

JDJ/jf

Enclosure

cc: Honorable Dave Wood, Mayor
Mr. James M. Schrader, Utility General Manager
Mishawaka Board of Public Works

FEB 13 2013

CITY CLERK
MISHAWAKA, IN

**NOTICE OF A HEARING ON
PROPOSED RATES AND CHARGES**

Property owners, rate payers, and other interested parties in or served or to be served by the Mishawaka Water Utility are hereby notified that Proposed Ordinance No. 2013-05 establishing water rates and charges for services to be rendered by the utility was introduced at a meeting of the Common Council of the City of Mishawaka, Indiana held on February 18, 2013. At a meeting of the Council to be held at 7:00 p.m. (local time) on March 4, 2013, at the Council's meeting room there will be a public hearing on the matter of rates and charges, and consideration of adoption of said Proposed Ordinance No. 2013-05, which provides in part as follows:

EXHIBIT A
SCHEDULE OF RATES AND CHARGES - INSIDE CITY

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

	<u>Per 100 Cubic Feet</u>
(a) <u>Metered Rates Per Month</u>	
All consumption	\$ 1.69
(b) <u>Customer Base Charge</u>	
Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:	
<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 5.55
1"	5.55
(c) <u>Fire Protection Charge</u>	
	<u>Monthly Charge</u>
	\$ 4.09

Small Non-Residential

	<u>Per 100 Cubic Feet</u>
(a) <u>Metered Rates Per Month</u>	
All consumption	\$ 1.72
(b) <u>Customer Base Charge</u>	
Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:	
<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 5.55
1"	11.20
1 1/2"	20.60
2"	31.85
3"	58.15
(c) <u>Fire Protection Charge</u>	
<u>Size of Meter</u>	<u>Monthly Charge</u>
5/8" - 3/4"	\$ 4.09
1"	10.23
1 1/2"	20.45
2"	32.72
3"	61.35

Large Non-Residential

- (a) **Metered Rates Per Month**
- | | <u>Per 100
Cubic Feet</u> |
|------------------------|--------------------------------------|
| First 7,750 cubic feet | \$ 1.80 |
| Over 7,750 cubic feet | 1.14 |
- (b) **Customer Base Charge**
- Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>
4"	\$ 95.70
6"	189.65
8"	302.35
10"	433.85

- (c) **Fire Protection Charge**
- | <u>Size of Meter</u> | <u>Monthly Charge</u> |
|-----------------------------|------------------------------|
| 4" | \$102.23 |
| 6" | 204.50 |
| 8" | 327.20 |
| 10" | 470.35 |

Hydrant Rental

Private hydrants - per annum \$ 526.90

Private Fire Protection Service

Sprinkler connection - per annum

1"	\$ 14.64
1 1/2"	33.00
2"	58.56
3"	131.76
4"	234.24
6"	526.92
8"	936.72
10"	1,463.64
12"	2,107.68

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

EXHIBIT B
SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit

	<u>Per 100 Cubic Feet</u>	<u>Outside City Surcharge Percentage</u>
(a) <u>Metered Rates Per Month</u>		
All Consumption	\$ 1.96	16%
(b) <u>Customer Base Charge</u>		
Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:		
<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City Surcharge Percentage</u>
5/8" - 3/4"	\$ 6.55	18%
1"	6.55	
(c) <u>Fire Protection Charge</u>	<u>Monthly Charge</u>	
	\$ 4.09	

Small Non-Residential

	<u>Per 100 Cubic Feet</u>	<u>Outside City Surcharge Percentage</u>
(a) <u>Metered Rates Per Month</u>		
All Consumption	\$ 1.97	15%
(b) <u>Customer Base Charge</u>		
Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:		
<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City Surcharge Percentage</u>
5/8" - 3/4"	\$ 6.55	18%
1"	13.70	22%
1-1/2"	25.60	24%
2"	39.90	25%
3"	73.25	26%
(c) <u>Fire Protection Charge</u>	<u>Monthly Charge</u>	
<u>Size of Meter</u>	<u>Monthly Charge</u>	
5/8" - 3/4"	\$ 4.09	
1"	10.23	
1 1/2"	20.45	
2"	32.72	
3"	61.35	

Large Non-Residential

(a) <u>Metered Rates Per Month</u>	<u>Per 100</u>	<u>Outside City</u>
	<u>Cubic Feet</u>	<u>Surcharge</u>
First 7,750 cubic feet	\$ 1.68	(7%)
Over 7,750 cubic feet	1.30	14%

(b) **Customer Base Charge**
Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Monthly Charge</u>	<u>Outside City</u>
4"	\$120.90	26%
6"	240.00	27%
8"	382.90	27%
10"	549.65	27%

(c) **Fire Protection Charge**

<u>Size of Meter</u>	<u>Monthly Charge</u>
4"	\$102.23
6"	204.50
8"	327.20
10"	470.35

Hydrant Rental

Private hydrants - per annum \$ 526.90

Private Fire Protection Service

Sprinkler connection - per annum

1"	\$ 14.64
1 1/2"	33.00
2"	58.56
3"	131.76
4"	234.24
6"	526.92
8"	936.72
10"	1,463.64
12"	2,107.68

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective _____.

At such hearing and prior to final adoption of said Ordinance, all interested parties may appear and be heard. A copy of Proposed Ordinance No. 2013-05 may be examined at the office of the City Clerk

Dated this 13th day of February 2013.

Deborah S. Block, IAMC, MMC City Clerk

1st Reading
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 13 2013

PROPOSED ORDINANCE NO. 2013-06

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA
FIREFIGHTERS ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS, AFL - CIO**

WHEREAS, the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters mutually agreed to a Collective Bargaining Agreement for the period of January 1, 2013 to December 31, 2014;

WHEREAS, such Agreement was approved by the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

WHEREAS, both parties to the agreement recognize and agree that their intent was that Fire Marshals would retain the same number of days off under the 2013 – 2014 Agreement as under the previous Collective Bargaining Agreement;

WHEREAS, on the 5th day of February, 2013, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved a Memorandum of Understanding memorializing two (2) Random Days for the Fire Marshals; and

WHEREAS, such Memorandum of Understanding will result in the Fire Marshals being entitled to the same total number of days off for the duration of the 2013 – 2014 Collective Bargaining Agreement, expiring December 31, 2014, as under the previous Collective Bargaining Agreement.

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

Section 1. The Memorandum of Understanding executed the 5th day of February, 2013, effective January 1, 2013, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters is hereby approved.

Section 2. 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, this _____ day of _____, 2013, at _____ o'clock _____ M.

S. Michael Compton
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2013, at
_____ o'clock _____.M.

Deborah S. Block, IAMC MMC, City Clerk

APPROVED by me this _____ day of _____, 2013, at _____
o'clock _____.M.

David A. Wood, Mayor

RESOLUTION NO. 2013-02

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA
FIREFIGHTERS ASSOCIATION, LOCAL NO. 360 OF THE INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS, AFL-CIO**

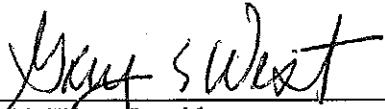
WHEREAS, the City of Mishawaka and the Mishawaka Firefighters Association, Local No. 360 have agreed to a Collective Bargaining Agreement for the period of January 1, 2013 to December 31, 2014;

WHEREAS, such Agreement was approved by the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council; and

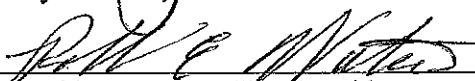
WHEREAS, the parties have agreed to additional terms, outlined in the attached Memorandum of Understanding, concerning days off for Fire Marshals.

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka that the attached Memorandum of Understanding between the City of Mishawaka and the Mishawaka Firefighters, Local No. 360 is hereby approved, and

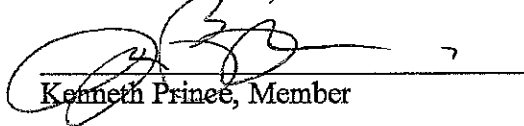
5th ADOPTED by the Board of Public Works of the City of Mishawaka, on this day of February, 2013.



Gary E. West, President

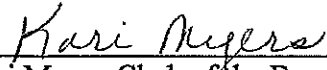


Ronald E. Watson, Vice President



Kenneth Prinee, Member

ATTEST:



Kari Myers, Clerk of the Board

MEMORANDUM OF UNDERSTANDING

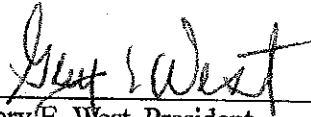
This Memorandum of Understanding is made between the City of Mishawaka, Indiana, and the Mishawaka Professional Firefighters Local 360, in consideration of their mutual promises, do hereby agree as follows:

1. All employees assigned as Fire Marshals shall receive 2 random days in addition to their vacation days. These days will replace the "Ambo day" and the "EVD".
2. Any employee that is "ordered" to work overtime shall only be mandated to work 12 hours maximum as a result of that order in to work.

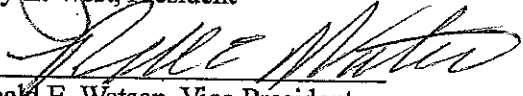
This memorandum of understanding will expire with the current CBA on 12-31-2014.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives in Mishawaka, Indiana, this 5th day of February, 2013.

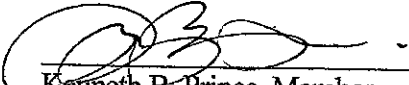
**CITY OF MISHAWAKA, INDIANA
BOARD OF PUBLIC WORKS AND SAFETY**



Gary E. West, President



Ronald E. Watson, Vice President



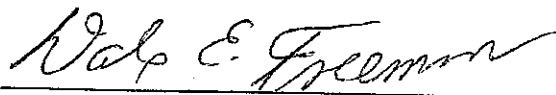
Kenneth B. Prince, Member

**MISHAWAKA FIREFIGHTERS ASSOCIATION LOCAL NO. 360 OF THE
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AFL-CIO**



James P. Elliott, President

**CITY OF MISHAWAKA, INDIANA
FIRE DEPARTMENT**



Dale Freeman, Chief

FEB 14 2013

PETITION 13-02

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2013-07

ORDINANCE NO. _____

1st Reading
2nd Reading
Passed
Failed
Continued To

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:

A PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331) WHICH IS SOUTH 00°11'41" EAST (REC. SOUTH 00°10'25" WEST) A DISTANCE OF 75.42 FEET MORE OR LESS AND SOUTH 89°58'39" E. (REC. SOUTH 89°38'50" EAST) A DISTANCE OF 80.00 FEET MORE OR LESS FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE SOUTHERLY LINE OF AN INTERIOR ROAD KNOWN AS "FULMER ROAD" FOR APPROXIMATELY THE NEXT THREE (3) COURSES, AS DESCRIBED IN A DEED OF DEDICATION DOCUMENT RECORDED BY DOCUMENT NO. 1206703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, SOUTH 89°58'22" EAST, 146.86 FEET (REC. SOUTH 89°38'33" EAST, 146.92 FEET) MORE OR LESS, AND SOUTH 65°10'47" EAST, 101.24 FEET (REC. SOUTH 64°50'58" EAST) MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 135.59 FEET, WITH A RADIUS OF 449.26 FEET, WITH A CHORD BEARING OF SOUTH 76°23'50" EAST, WITH A CHORD LENGTH OF 135.07 FEET, AND ALONG A CURVE TURNING TO THE RIGHT MORE OR LESS WITH AN ARC LENGTH OF 29.76 FEET, WITH A RADIUS OF 50.00 FEET, WITH A CHORD BEARING OF SOUTH 27°52'34" EAST, WITH A CHORD LENGTH OF 29.33 FEET, THENCE SOUTH 10°49'23" EAST, 70.31 FEET MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 62.29 FEET, WITH A RADIUS OF 100.00 FEET, WITH A CHORD BEARING OF SOUTH 28°40'08" EAST, WITH A CHORD LENGTH OF 61.29 FEET, AND SOUTH 46°30'53" EAST, 79.05 FEET MORE OR LESS; THENCE SOUTH 07°47'09" WEST, 90.40 FEET MORE OR LESS; THENCE SOUTH 44°19'41" WEST, 42.26 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 74.18 FEET

Proposed Ordinance No: 2013-07

Ordinance No: _____

MORE OR LESS; THENCE NORTH 00°11'51" EAST, 33.12 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 135.50 FEET MORE OR LESS; THENCE SOUTH 55°30'20" WEST, 60.61 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 181.09 FEET MORE OR LESS TO THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331); THENCE NORTH 00°11'41" WEST (REC. NORTH 00°10'25" EAST) ALONG SAID EAST RIGHT-OF-WAY LINE, 397.16 FEET MORE OR LESS TO THE POINT OF BEGINNING.

COMMON ADDRESS: 3600 Block Bremen Highway
SE Corner Bremen Hwy & Ireland Rd

which real estate is now classified as C-1 General Commercial District and C-4 Automobile Oriented Commercial shall hereafter be within and a part of that District known C-7 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Given the property's close proximity to commercially zoned property and heavily traveled corridors, the C-7 zoning would be compatible with the surrounding commercial properties and the existing C-7 zoned properties in the area.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-7 Automobile Oriented Restaurant Commercial.
3. Because the parcel is located adjacent to commercial properties and along heavily traveled corridors, the C-7 zoning classification would be compatible and is a desirable use for this property;
4. C-7 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding commercial development in the area.
5. The proposed C-7 Automobile Oriented Restaurant Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial for this 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 _____, 2013, at _____ o'clock ____M.

Proposed Ordinance No: 2013-07

Ordinance No: _____

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2013, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2013, at
_____ o'clock _____.M.

David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 30 2013

CITY CLERK
MISHAWAKA, IN



Date: January 15, 2013

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

RE: Meijer Stores Limited Partnership/Meijer Realty Company
Petition for rezoning:

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

A PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331) WHICH IS SOUTH 00°11'41" EAST (REC. SOUTH 00°10'25" WEST) A DISTANCE OF 75.42 FEET MORE OR LESS AND SOUTH 89°58'39" E. (REC. SOUTH 89°38'50" EAST) A DISTANCE OF 80.00 FEET MORE OR LESS FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE SOUTHERLY LINE OF AN INTERIOR ROAD KNOWN AS "FULMER ROAD" FOR APPROXIMATELY THE NEXT THREE (3) COURSES, AS DESCRIBED IN A DEED OF DEDICATION DOCUMENT RECORDED BY DOCUMENT NO. 1206703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, SOUTH 89°58'22" EAST, 146.86 FEET (REC. SOUTH 89°38'33" EAST, 146.92 FEET) MORE OR LESS, AND SOUTH 65°10'47" EAST, 101.24 FEET (REC. SOUTH 64°50'58" EAST) MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 135.59 FEET, WITH A RADIUS OF 449.26 FEET, WITH A CHORD BEARING OF SOUTH 76°23'50" EAST, WITH A CHORD LENGTH OF 135.07 FEET, AND ALONG A CURVE TURNING TO THE RIGHT MORE OR LESS WITH AN ARC LENGTH OF 29.76 FEET, WITH A RADIUS OF 50.00 FEET, WITH A CHORD BEARING OF SOUTH 27°52'34" EAST, WITH A CHORD LENGTH OF 29.33 FEET, THENCE SOUTH 10°49'23" EAST, 70.31 FEET MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 62.29 FEET, WITH A RADIUS OF 100.00 FEET, WITH A CHORD BEARING OF SOUTH 28°40'08" EAST, WITH A CHORD LENGTH OF 61.29 FEET, AND SOUTH 46°30'53" EAST, 79.05 FEET MORE OR LESS; THENCE SOUTH 07°47'09" WEST, 90.40 FEET MORE OR LESS; THENCE SOUTH 44°19'41" WEST, 42.26 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 74.18 FEET MORE OR LESS; THENCE NORTH 00°11'51" EAST, 33.12 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 135.50 FEET MORE OR LESS; THENCE SOUTH 55°30'20" WEST, 60.61 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 181.09 FEET MORE OR LESS TO THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331); THENCE NORTH 00°11'41" WEST (REC. NORTH 00°10'25" EAST) ALONG SAID EAST RIGHT-OF-WAY LINE, 397.16 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 3.49 ACRES MORE OR LESS.

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

Pet 13-02

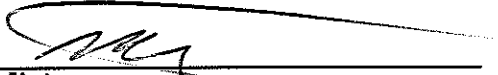
Also commonly known as the 3600 Block of South Bremen Highway, Mishawaka, Indiana 46544.

The above described parcel of land is presently zoned "C-1" and "C-4" Commercial District.

The Petitioners desire said real estate, to be rezoned to the "C-7" Commercial District classification. The purpose for the rezoning is to allow for the real estate to be purchased by an interested party who desires to build a restaurant containing a drive-thru facility on the site.

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

MEIJER STORES LIMITED PARTNERSHIP
By: Meijer Group, Inc.
Its: General Partner

By: 
Michael L. Kinstle
Its: Vice President Real Estate

Meijer Stores Limited Partnership
Attn: Real Estate Department
2929 Walker Avenue
Grand Rapids, Michigan 49544
616) 791-3909

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

MEIJER REALTY COMPANY

By: 
Michael L. Kinstle
Its: Vice President Real Estate

Legal 
Bus. RD12

LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331) WHICH IS SOUTH 00°11'41" EAST (REC. SOUTH 00°10'25" WEST) A DISTANCE OF 75.42 FEET MORE OR LESS AND SOUTH 89°58'39" E. (REC. SOUTH 89°38'50" EAST) A DISTANCE OF 80.00 FEET MORE OR LESS FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE SOUTHERLY LINE OF AN INTERIOR ROAD KNOWN AS "FULMER ROAD" FOR APPROXIMATELY THE NEXT THREE (3) COURSES, AS DESCRIBED IN A DEED OF DEDICATION DOCUMENT RECORDED BY DOCUMENT NO. 1206703 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, SOUTH 89°58'22" EAST, 146.86 FEET (REC. SOUTH 89°38'33" EAST, 146.92 FEET) MORE OR LESS, AND SOUTH 65°10'47" EAST, 101.24 FEET (REC. SOUTH 64°50'58" EAST) MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 135.59 FEET, WITH A RADIUS OF 449.26 FEET, WITH A CHORD BEARING OF SOUTH 76°23'50" EAST, WITH A CHORD LENGTH OF 135.07 FEET, AND ALONG A CURVE TURNING TO THE RIGHT MORE OR LESS WITH AN ARC LENGTH OF 29.76 FEET, WITH A RADIUS OF 50.00 FEET, WITH A CHORD BEARING OF SOUTH 27°52'34" EAST, WITH A CHORD LENGTH OF 29.33 FEET, THENCE SOUTH 10°49'23" EAST, 70.31 FEET MORE OR LESS, AND ALONG A CURVE TURNING TO THE LEFT MORE OR LESS WITH AN ARC LENGTH OF 62.29 FEET, WITH A RADIUS OF 100.00 FEET, WITH A CHORD BEARING OF SOUTH 28°40'08" EAST, WITH A CHORD LENGTH OF 61.29 FEET, AND SOUTH 46°30'53" EAST, 79.05 FEET MORE OR LESS; THENCE SOUTH 07°47'09" WEST, 90.40 FEET MORE OR LESS; THENCE SOUTH 44°19'41" WEST, 42.26 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 74.18 FEET MORE OR LESS; THENCE NORTH 00°11'51" EAST, 33.12 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 135.50 FEET MORE OR LESS; THENCE SOUTH 55°30'20" WEST, 60.61 FEET MORE OR LESS; THENCE NORTH 89°48'11" WEST, 181.09 FEET MORE OR LESS TO THE EAST RIGHT-OF-WAY LINE OF BREMEN HIGHWAY (S.R. 331); THENCE NORTH 00°11'41" WEST (REC. NORTH 00°10'25" EAST) ALONG SAID EAST RIGHT-OF-WAY LINE, 397.16 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 3.49 ACRES MORE OR LESS.

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

PETITIONERS:

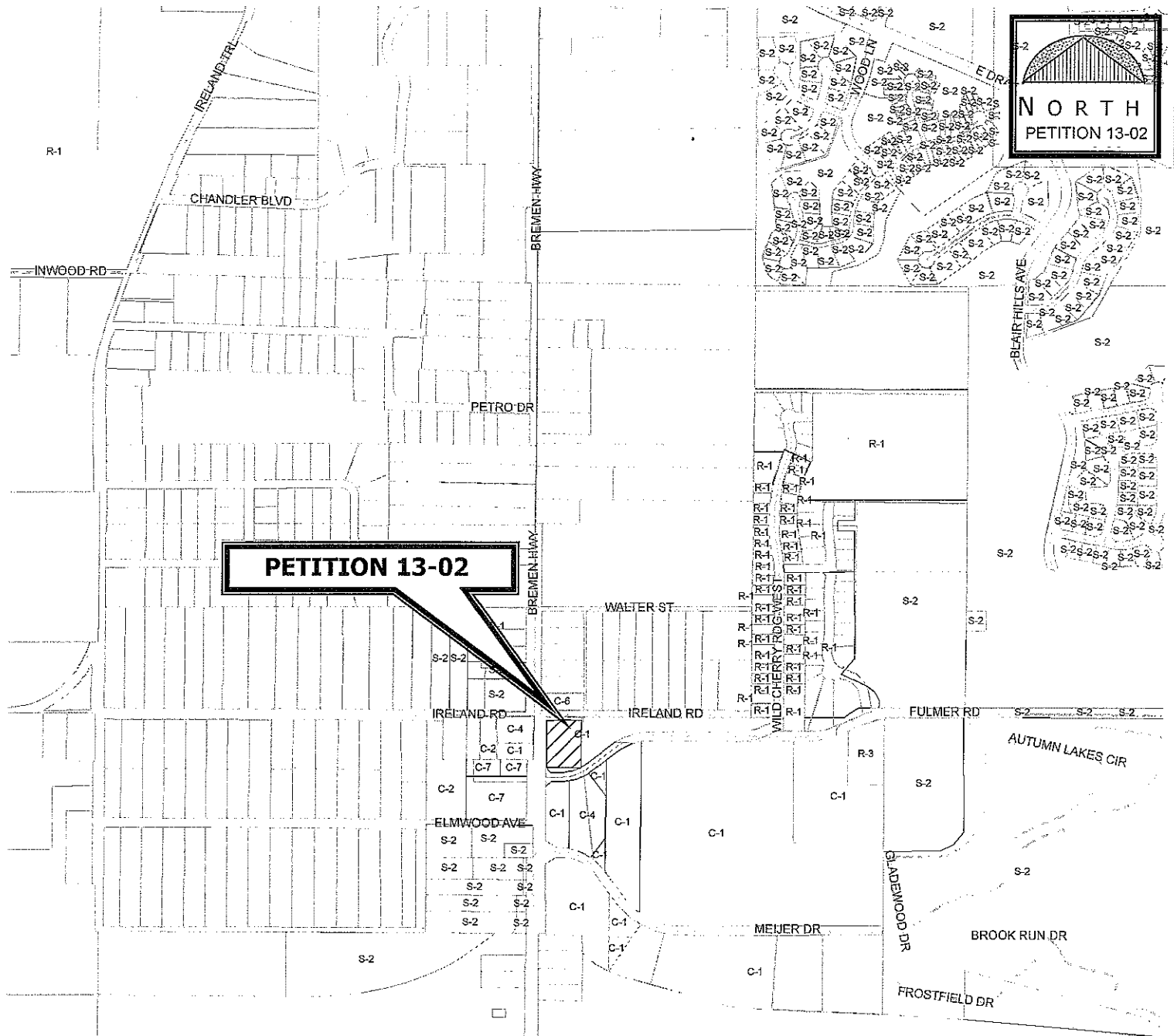
MEIJER STORES LIMITED PARTNERSHIP/
MEIJER REALTY COMPANY
ATTN: REAL ESTATE DEPARTMENT
2929 WALKER AVENUE
GRAND RAPIDS, MICHIGAN 49544

LAND SURVEYOR:

DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.

REZONING REQUEST:

REZONING FROM "C-1" AND "C-4" COMMERCIAL DISTRICT TO "C-7"
COMMERCIAL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF A RESTAURANT
CONTAINING A DRIVE-THRU FACILITY.



Location Map

PETITION 13-02

SOUTHEAST BREMEN HWY
& FULMER RD

REZONE FROM C-1 GENERAL
COMMERCIAL & C-4 AUTOMOBILE
ORIENTED COMMERCIAL TO C-7
AUTOMOBILE RESTAURANT
COMMERCIAL