

AGENDA

March 20, 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**

March 04, 2013

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

A letter from the Board of Zoning Appeals regarding recommendations from their March 12, 2013 meeting.

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

R2013-01 Honoring Tommy Forte Mishawaka High School State Champion Wrestling

R2013-02 Honoring Grant Martsolf Mishawaka High School State Champion Wrestling

R2013-03 Honoring Tristan Macri Mishawaka High School State Champion Wrestling

R2013-04 Honoring Jake Sinkovics Mishawaka High School State Champion Wrestling

R2013-05 Honoring Zack Davis Penn High School State Champion Wrestling

R2013-06 Honoring Drew Hildbrandt Penn High School State Champion Wrestling

R2013-07 Development and Use Variance to allow an Off-premise Real Estate Sign - City Plaza North

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

13. Adjournment

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
March 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 Monday March 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, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman.

Absent/Excused: Mr. Banicki, Mr. Emmons.

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

The minutes from February 18, 2012 meeting were approved as received from the Clerk's Office.

Clerk Block presented the following Appeal to the Council, who referred them to the Board of Zoning Appeals for their recommendation.

APPEAL NO. 2013-07 Development and Use Variance to allow an off-Premise Real Estate Sign – City Plaza North

Clerk Block read **PROPOSED ORDINANCE NO. 2013-04** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-04

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF MISHAWAKA ADOPTING THE AMERICANS WITH
DISABILITIES ACT PUBLIC RIGHT-OF-WAY-SELF EVALUATION
AND TRANSITION PLAN**

Clerk Block read a letter from Staff Attorney Geoff Spiess requesting **PROPOSED ORDINANCE NO. 2013-04** be postponed to a later date.

Mrs. Voelker made a motion to postpone **PROPOSED ORDINANCE NO. 2013-04** until a later date with a 2nd by Mr. Mammolenti the motion carried.

Clerk Block read **PROPOSED ORDINANCE NO. 2013-05** opening it for public hearing

PROPOSED ORDINANCE NO. 2013-05

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES
FOR WATER SERVICES FURNISHED BY THE CITY OF MISHAWAKA
MUNICIPAL WATER UTILITY
(Revised Water Rates and Charges)**

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. Reisdorf the motion carried.

John Julian, Umbaugh and Associates Certified Public Accountants, 112 IronWorks Avenue, Suite C, Mishawaka said the summer of 2012 they spent a significant amount of time discussing the financial needs of the Water Utility and made a recommendation regarding rates and charges. He said in the process of going through that the city was successful of removing itself from the Indiana Utility Regulatory Commission. Mr. Julian stated there was a significant amount of costs with being regulated by the Commission and as a result of exciting that there was a savings they calculated to be approximately \$50,000.00 per year that was embedded in the rates calculated last year. He said the rates before the Council in this proposed ordinance was an adjustment of those rates to reduce those rates by \$50,000.00 a year which results into a reduction of 25 cents per month per bill for rate payers. Mr. Julian recommended these rates and charges be adjusted by this proposed ordinance.

Jim Schrader, General Manager of Mishawaka Utilities said he concurred with Mr. Julian's comments and went on to explain it has been 12 years since rates have increased in the Water Utility. He said via the Council's help they went into the neighborhoods and did an extensive sweep to educate the citizens and it was received very well. Mr. Schrader stated he was in favor of this ordinance.

Dave Wood, Mayor said throughout this extended process as they have excited the IURC, and spoke to the Council and the Public regarding rates those needs continue to be there. He said they have deferred maintenance and reduced staff but there is still a genuine need to increase rates to cover the costs and make sure there is a system in place capable of delivering great service with great water so the citizens can take their service for granted. Mayor Wood said for those reasons he was in support of this and he wanted to thank John Julian from Umbaugh and Associates and all of their work, and Mr. Schrader and the Mishawaka Utilities, the Council for the many meetings and after hour's meetings that were had, and also the public for coming out and giving thought to the issues the city had.

Question was called for at 7:11 p.m. on **PROPOSED ORDINANCE NO. 2013-05**

the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).

Yes: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5381**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-06** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-06

**AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA
FREFIGHTERS ASSOCIATION LOCAL NO.
360 OF THE INTERNATIONAL ASSOCIATION OF IFREFIGHTERS, AFL-CIO
(Memorandum of Understanding for the Fire Department concerning Fire Marshals)**

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

Jeff Spiess, City Staff Attorney, said this proposed ordinance has to do with the collective bargaining agreement that went into effect on January 1, 2013. He said in the last contract the EMS Personnel and Suppression Personnel had a separate set of days off, which was a remnant from the merger so they have now remedied that by eliminating the Fire Fighters days off and they now have assumed the same number and types of days off as the EMS which was an improvement for the Fire Fighters. Mr. Spiess went on to say that in that same contract the Fire Marshall had 28 days off and this proposed ordinance would reflect that they would continue to get 28 days off.

James Elliott, President of Mishawaka Fire Fighters Local 360 said this was an over site and was missed in the contract. He said this would prevent members from having to work 72 hours straight only having to work a maximum of 36hours if called in so it was a major change and thanked the Controller's office for catching this.

Question was called for at 7:16 p.m. on **Proposed Ordinance No. 2013-06** the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7).
Yes: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **Ordinance No. 5382**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-07** opening if for public hearing

PROPOSED ORDINANCE NO. 2013-07

**AN ORDINCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF
THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS THE ZONING ORDINANCE OF 1966”
OF THE CITY OF MISHAWAKA, INDIANA
(Rezone from C-1 and C-4 to C-7 Automobile Restaurant Commercial –Southeast corner
of Bremen Highway and Fulmer Road)**

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

Mike Danch, Danch Harner & Associates, 1643 Commerce Drive, South Bend said he was representing McDonalds and Meijers to purchase and rezone the Outlet at Ireland and Bremen Highway, which was approximately a 4 acre site. He said McDonalds wants to purchase access off of Fulmer Road and the road off of the gas station road, they would push the building back and have a large green space with extensive landscaping and would put in a sewer drainage system. Mr. Danch said if this passes they would start construction in June.

Mr. Mammolenti asked what type of signage would they have. Mr. Danch said it would be a monument type of sign and would be on the side of the building and they would be seeking a variance for that.

Mr. Roggeman asked if this would be owned by the Sparks family. Mr. Danch said yes. Mr. Roggeman said he welcomed the addition to the south side of the city. He said the drive thru would be located on the south and west side of the building, they would be putting in landscaping there so this would not be seen from Bremen Highway per Mr. Prince's request.

Mr. Compton said private growth in Mishawaka was always a positive thing.

Question was called for at 7:22 p.m. on **PROPOSED ORDINANCE NO. 2013-07** the  Vote: Motion carried by unanimous roll call vote (summary: Yes = 7).
Yes: Mr. Reisdorf, Mrs. Voelker, Mr. Compton, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5383**

NEW BUSINESS

Mr. Reisdorf made a motion to change the Monday March 18th Council Meeting to Wednesday March 20th due to the Indiana Association of Cities and Towns meeting in Indianapolis with a second by Mr. Bellovich the motion carried.

Mr. Reisdorf said Maurie Cocquyt has served as the appointment to the Trsanpo Board but due to scheduling conflicts he would no longer be able to hold that appointment. He said he would like to make a motion to nominate Mr. Randy Squadronni to that seat with a second by Mr. Mammolenti the motion carried.

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

March 14, 2013

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
March 12, 2013, Public Hearing

Honorable Members:

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

APPEAL #13-07 An appeal submitted by Great Lakes Capital, LLC, requesting a Use Variance for 902 East University Drive (City Plaza North), Mishawaka, Indiana, to permit an oversized off-premise real estate development sign.

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

1. The existing real estate development signs at City Plaza North must be removed when new sign is installed.
2. The sign must be removed after two (2) years.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Doug Merritt

RECEIVED
DEBORAH S. BLOCK, MMC

MAR 14 2013

CITY CLERK
MISHAWAKA, IN

STAFF REPORT

Location: 902 E. University Drive (City Plaza North)

Date: March 12, 2013

Appeal: 13 07

Prepared By: KM

GENERAL INFORMATION

Applicant: Great Lakes Capital, LLC/Professional Permits

Status: Property Owner/Agent

Request: Use Variance for an off-premise real estate development sign, and Sign Variance for the size of the sign

Lot Size: 15 +/- acres

Applicable Regulations: Section 129-36 (a)(4) Sign Variance
Section 137-42 (4) Use Variance**SPECIAL INFORMATION**Area Development Pattern: North: C-1 General Commercial
South: S-2 Planned Unit Development (City Plaza South)
East: Unincorporated St. Joseph County
West: R-1 Single Family Residential (Granger Community Church)

Thoroughfare: East University Drive

School District: Penn-Harris-Madison

Township: Harris

Public Utilities: Available

Comprehensive Plan: Area not included in Comprehensive Plan

ANALYSIS

The Appellant is requesting a Use Variance and Sign Variance to permit the installation of a 64 sqft (8' X 8'), 12' tall real estate development sign at the City Plaza North Development near the entrance to Ruth's Chris Steak House. The site is located on East University Drive between Main Street and Fir Road. The site is surrounded by commercial development to the north and south. Granger Community Church property is located to the west.

Use Variance:

The Appellant is requesting a Use Variance to permit the installation of an off-premise real estate development sign to be installed near the west entrance of City Plaza North (near Ruth's Chris Steak House). Said sign would provide leasing information for not only City Plaza but also "The Residences at Toscana Park" located north of Heritage Square on Gumwood Road. Both retail developments are owned by Great Lakes Capital, LLC.

The City of Mishawaka Zoning Ordinance defines an Off-Premise Sign as advertising a business, product, service, or event not necessarily available on the premises where the sign is located. Such signs are not permitted in the S-2 zoning district.

It is important to note that while permits are not required for real estate development signs nor is there a specified length of time the signs may remain, staff feels two years is an appropriate amount of time for the proposed sign to be in place. Also, if approved, staff recommends that all existing real estate development signs be removed from the property when the new sign is installed.

Sign Variance:

The Appellant is also requesting a Sign Variance for the 64 sqft, 12' tall real estate development sign.

The On-Premise Sign Standards limits the size of real estate signs to 32 sqft, 10' tall.

The Appellant states the proposed sign will promote interest in City Plaza as well as the Toscana Park Retail Development and specifically highlight the high quality residential component currently under construction. The real estate development sign, while exceeding the 32 sqft permitted by the On Premise Sign Standards, is appropriate given the size of the property (approximately 15 acres).

All pertinent city departments have reviewed and approved the variance request.

RECOMMENDATION

Use Variance:

Staff recommends approval of Appeal #13-07 Use Variance to allow an off-premise real estate development sign subject to the following conditions of approval:

1. The existing real estate development signs at City Plaza North must be removed when new sign is installed.
2. The sign must be removed after two (2) years.

This recommendation is based upon the following Finds of Fact:

1. Approval will not be injurious to the public health, safety, morals, or general welfare of the community because the sign will be located on the Appellant's property, outside of all City right-of-way and utility easements, and will not create a visual obstruction to motorists entering and exiting the property;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the sign will be professional designed to provide optimum visibility for the motorist navigating the curvature of University Drive;
3. The need for the variance arises from some condition peculiar to the property because the S-2 Zoning district does not permit signs advertising a business, product, service, or event not necessarily available on the premises where the sign is located;
4. The strict application of the terms of this chapter would constitute an unnecessary hardship if applied to the property because the Appellant desires to not only highlight and promote the City Plaza Development but Toscana Park Retail and Residential developments which are both owned by the Appellant; and
5. While the area is not included in the Mishawaka 2000 Comprehensive Plan, the surrounding area is predominantly commercial and both City Plaza North and City Plaza South (located directly across the street) are owned by the Appellant.

Sign Variance:

Staff recommends approval of Appeal #13-07 Sign Variance to allow an 8' X 8' (64 sqft), 12' OAH real estate development sign to be placed at City Plaza North. This recommendation is based upon the following Findings of Fact:

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because the sign will be located on the Appellant's property, outside of all City right-of-

way and utility easements, and will not create a visual obstruction to motorists entering and exiting the property;

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because there will be one professionally designed real estate development sign for City Plaza North; and
3. Strict application of the terms of the On-Premise Sign Standards will result in a practical difficulty in the use of the property because the ordinance would only permit a sign display area of 32 sqft for the approximate 15 acre parcel.

ATTACHMENTS

PHOTOGRAPHS, APPEAL, SITE PLAN, LOCATION MAP



View from City Plaza South (across the street)

City of Mishawaka

Resolution No. 2013-01

Whereas, Tommy Forte’s personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Tommy Forte was named Champion of the 138 lb Weight Class First Team NIC, Undefeated Season as well as Sectional, Regional, and Semi-State and,

Whereas, wrestling in the 138 pound weight class, Tommy Forte won the 2012-2013 IHSAA State Wrestling Championship, at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Tommy Forte finishes his season 46-0 and went on to score a 12-7 victory over his opponent who also entered the championship round undefeated.

Whereas, Tommy Forte’s accomplishments have brought honor and distinction to himself, his family, his coaches, Mishawaka High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

Tommy Forte Day

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Mishawaka High School Wrestling Head Coach Bryce Hasseman, Varsity Assistant Coaches Sam Baily, Brian Woodworth and Charlie Cornett., also be recognized for their achievements in coaching this team of wrestlers who finished Third in the State of Indiana.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton, President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

City of Mishawaka

Resolution No. 2013-02

Whereas, Grant Martsolf’s personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Grant Martsolf was Second Team NIC, as well as Sectional, Regional Champion, and Third Place in Semi-State and,

Whereas, Grant Martsolf won 2nd Place in the IHSAA 2012-2013 State Championship of the 132 lb Weight Class at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Grant Martsolf finishes his season with a record of 40-7.

Whereas, Grant Martsolf’s accomplishments have brought honor and distinction to himself, his family, his coaches, Mishawaka High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

GRANT MARTSOLF DAY

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Mishawaka High School Wrestling Head Coach Bryce Hasseman, Varisty Assistant Coaches Sam Baily, Brian Woodworth and Charlie Cornett., also be recognized for their achievements in coaching this team of wrestlers who finished Third in the State of Indiana.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton, President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

City of Mishawaka

Resolution No. 2013-03

Whereas, Tristan Macri’s personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Tristan Macri was First Team NIC, as well as Sectional, Regional, and Semi-State Champion and,

Whereas, Tristan Macri won 3rd Place in the IHSAA 2012-2013 State Championship in the 145 lb Weight Class at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Tristan Macri finishes his season with a record of 43-2.

Whereas, Tristan Macri’s accomplishments have brought honor and distinction to himself, his family, his coaches, Mishawaka High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

TRISTAN MACRI DAY

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Mishawaka High School Wrestling Head Coach Bryce Hasseman, Varisty Assistant Coaches Sam Baily, Brian Woodworth and Charlie Cornett., also be recognized for their achievements in coaching this team of wrestlers who finished Third in the State of Indiana.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton, President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

City of Mishawaka

Resolution No. 2013-04

Whereas, Jake Sinkovics’ personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Jake Sinkovics’ was First Team NIC, as well as Sectional, Regional Champion, and Semi-State Champion and,

Whereas, Jake Sinkovics won 7th Place in the IHSAA 2012-2013 State Championship in the 106 lb Weight Class at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Jake Sinkovics finishes his season with a record of 44-2.

Whereas, Jake Sinkovics accomplishments have brought honor and distinction to himself, his family, his coaches, Mishawaka High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

JAKE SINKOVICS DAY

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Mishawaka High School Wrestling Head Coach Bryce Hasseman, Varisty Assistant Coaches Sam Baily, Brian Woodworth and Charlie Cornett., also be recognized for their achievements in coaching this team of wrestlers who finished Third in the State of Indiana.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton,President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

City of Mishawaka

Resolution No. 2013-05

Whereas, Zack Davis’ personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Zack Davis a Junior at Penn High School wrestled in the 113 pound weight class, winning 2nd Place in the 2012-2013 IHSAA State Wrestling Championship, at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Zack Davis finishes his season 44-6 and went as well as a 2 time Sectional Champion and a 2 time Regional Champion.

Whereas, Zack Davis’ accomplishments have brought honor and distinction to himself, his family, his coaches, Penn High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

ZACK DAVIS DAY

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Penn High School Wrestling Head Coach Brad Harper Varsity Assistant Coach Chad Hersburger, also be recognized for their achievements in coaching this team of wrestlers.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton, President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

City of Mishawaka

Resolution No. 2013-06

Whereas, Drew Hildbrandt’s personal dedication, sacrifice, discipline and iron will have enabled him to win numerous awards and honors as an outstanding wrestler; and

Whereas, Drew Hildbrandt a Freshman at Penn High School wrestled in the 106 pound weight class, winning 8th Place in the 2012-2013 IHSAA State Wrestling Championship, at Bankers Life Fieldhouse in Indianapolis.

Whereas, among his accomplishments, Drew Hildbrandt finishes his season 39-12

Whereas, Drew Hildbrandt’s accomplishments have brought honor and distinction to himself, his family, his coaches, Penn High School and our community; and

Whereas, such outstanding achievement deserves recognition and commendation by the proud City in which he resides;

NOW, THEREFORE, BE IT RESOLVED by the City of Mishawaka Common Council, Mayor and Clerk March 20, 2013 is hereby proclaimed

DREW HILDBRANDT’S DAY

In the City of Mishawaka, and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young man.

WE DO FURTHER RESOLVE that Penn High School Wrestling Head Coach Brad Harper Varsity Assistant Coach Chad Hersburger, also be recognized for their achievements in coaching this team of wrestlers.

Dale “Woody” Emmons

Ron Banicki

Mike Bellovich

Dan Bilancio

John Reisdorf

Matt Mammolenti

Kate Voelker

John Roggeman

S Michael Compton, President

Deborah S. Block, IAMC, MMC, City Clerk

David A. Wood, Mayor

MAR 14 2013

APPEAL #13-07

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2013-07

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:

902 EAST UNIVERSITY DRIVE, 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 **902 East University Drive, Mishawaka, Indiana**, more particularly known and described as follows:

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 42 SECONDS WEST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO LYING ON THE NORTH RIGHT-OF-WAY LINE OF UNIVERSITY DRIVE; THENCE CONTINUING NORTH 00 DEGREES 07 MINUTES 42 SECONDS WEST, A DISTANCE OF 569.71 FEET; THENCE NORTH 73 DEGREES 56 MINUTES 26 SECONDS EAST, A DISTANCE OF 199.02 FEET; THENCE SOUTH 26 DEGREES 24 MINUTES 59 SECONDS EAST, A DISTANCE OF 298.88 FEET; THENCE NORTH 63 DEGREES 35 MINUTES 01 SECONDS EAST, A DISTANCE OF 179.90 FEET; THENCE SOUTH 26 DEGREES 24 MINUTES 59 SECONDS EAST, A DISTANCE OF 165.62 FEET TO THE NORTH RIGHT-OF-WAY OF SAID UNIVERSITY PARK DRIVE; THENCE THE NEXT THREE COURSES ALING SAID NORTH RIGHT-OF-WAY LINE: (1) SOUTH 48 DEGREES 27 MINUTES 02 SECONDS WEST; A DISTANCE OF 216.63 FEET TO THE

POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVE A RADIUS OF 576.00 FEET, A CENTRAL ANGLE OF 40 DEGREES 55 MINUTES 16 SECONDS, AND A CHORD OF 402.70 FEET BEARING SOUTH 68 DEGREES 54 MINUTES 40 SECONDS WEST; (2) THENCE SOUTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 411.38 FEET; (3) THENCE SOUTH 89 DEGREES 22 MINUTES 18 SECONDS WEST, A DISTANCE OF 19.90 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED TRACT CONTAINING 4.986 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAY OF RECORD.

The Use Variance will allow an oversized off-premise real estate development sign subject to the following conditions:

1. The existing real estate development signs at City Plaza North must be removed with the new sign is installed.
2. The sign must be removed after two (2) years.

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. Approval will not be injurious to the public health, safety, morals, or general welfare of the community because the sign will be located on the Appellant's property, outside of all City right-of-way and utility easements, and will not create a visual obstruction to motorists entering and exiting the property;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the sign will be professional designed to provide optimum visibility for the motorist navigating the curvature of University Drive;
3. The need for the variance arises from some condition peculiar to the property because the S-2 Zoning district does not permit signs advertising a business, product, service, or event not necessarily available on the premises where the sign is located;
4. The strict application of the terms of this chapter would constitute an unnecessary hardship if applied to the property because the Appellant desires to not only highlight and promote the City Plaza Development but Toscana Park Retail and Residential developments which are both owned by the Appellant; and

5. While the area is not included in the Mishawaka 2000 Comprehensive Plan, the surrounding area is predominantly commercial and both City Plaza North and City Plaza South (located directly across the street) are owned by the Appellant.

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 _____, 2013, at _____ o'clock _____ .m.

Presiding Officer

ATTEST:

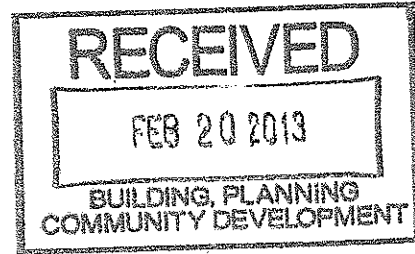
Deborah S. Block, IAMC, MMC, City Clerk

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



February 20, 2013

City of Mishawaka
Planning Department
Board of Zoning Appeals
600 E. Third Street
Mishawaka, IN 46544
574-258-1625

RECEIVED
DEBORAH S. BLOCK, MMC

FEB 25 2013

CITY CLERK
MISHAWAKA, IN

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

RE: City Plaza – Developmental & Use Variance

The undersigned appellant respectfully shows the Board:

1. I, Matt Powell, Officer of Great Lakes Capitol, LLC, am the property owner of the following described real estate located within the City of Mishawaka (Granger), Harris Township, St. Joseph County, State of Indiana, to-wit:

Address: 902 E. University Drive (City Plaza Development)

Tax Key: 030-1012-0149

Legal: (Cont'd on next page)

LEGAL DESCRIPTION

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID NORTHEAST QUARTER; THENCE NORTH 00 DEGREES 07 MINUTES 42 SECONDS WEST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO LYING ON THE NORTH RIGHT-OF-WAY LINE OF UNIVERSITY DRIVE; THENCE CONTINUING NORTH 00 DEGREES 07 MINUTES 42 SECONDS WEST, A DISTANCE OF 569.71 FEET; THENCE NORTH 73 DEGREES 56 MINUTES 26 SECONDS EAST, A DISTANCE OF 199.02 FEET; THENCE SOUTH 26 DEGREES 24 MINUTES 59 SECONDS EAST, A DISTANCE OF 298.88 FEET; THENCE NORTH 63 DEGREES 35 MINUTES 01 SECONDS EAST, A DISTANCE OF 179.90 FEET; THENCE SOUTH 26 DEGREES 24 MINUTES 59 SECONDS EAST, A DISTANCE OF 165.62 FEET TO THE NORTH RIGHT-OF-WAY OF SAID UNIVERSITY PARK DRIVE; THENCE THE NEXT THREE COURSES ALONG SAID NORTH RIGHT-OF-WAY LINE: (1) SOUTH 48 DEGREES 27 MINUTES 02 SECONDS WEST, A DISTANCE OF 216.63 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 576.00 FEET, A CENTRAL ANGLE OF 40 DEGREES 55 MINUTES 16 SECONDS, AND A CHORD OF 402.70 FEET BEARING SOUTH 68 DEGREES 54 MINUTES 40 SECONDS WEST; (2) THENCE SOUTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 411.38 FEET; (3) THENCE SOUTH 89 DEGREES 22 MINUTES 18 SECONDS WEST, A DISTANCE OF 19.90 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED TRACT CONTAINING 4.986 ACRES, MORE OR LESS.

SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAY OF RECORD;

2. The above-described real estate presently has a zoning classification of S-2 Planned Unit Development District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Retail (multiple-tenant) development.
4. Appellant desires to seek approval for a development real estate sign parallel to University Park Drive located within the approved landscape area. The subject sign is a professionally designed color layout identifying the site-specific development; Great Lakes Capitol (Toscana Park Residences); Bradley Company; and contact information for the management company. The sign dimensions as proposed include an overall height of twelve feet (12'-0) with a sign face layout of eight feet (8'-0) length and eight feet (8'-0) height. Total sign face area of sixty-four (64) square feet. Exposed support members will be surfaced coated with a complementary color.

5. The Zoning Ordinance of the City of Mishawaka requires; Section 129-73 (18) Final PUD; Section 129-73 Permitted Signs by Zoning District (18), S-2 Planned Unit Development District; All signage within a planned unit development that is adopted after the effective date of the ordinance from which this article is derived shall conform to the sign standards of the most restrictive zoning district in which the various land use would otherwise be permitted. The plan commission shall not deviate from these regulations.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship: The proposed Real Estate Sign will promote public interest in the City Plaza development and another high quality residential-retail development by Great Lakes Capitol identified as The Residences at Toscana Park. City Plaza and the respective tenants offer a wonderful draw and patronage to the City of Mishawaka. Strict adherence and denial of the proposed Real Estate Sign will create an unnecessary burden and development identification to Great Lakes Capital and the respective offerings at each development. Section 129-73; provides, a smaller dimensional allowance with regard to Real Estate Signage. The proposed signage is professionally designed in content, color, and letter height to provide optimum visibility for the motorist navigating the curvature of the roadway surrounding the development and proximity to Fir Road.
7. Answer the following necessary questions for a **Sign Variance**:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? No, relief if granted will allow for ease of identification and a professionally designed Real Estate Sign in content, color, and letter height to provide optimum visibility for the motorist navigating the curvature of the roadway surrounding the development and proximity to Fir Road.
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? No, the proposed signage will promote the business climate within the economic trade area and provide assurance of the increased growth of our local market place. The sign is a professionally designed sign meeting the requirements of the surrounding roadway and road speed.

(3) Will strict application of the terms of the On-Premise Sign Standards Ordinance result in practical difficulties in the use of the property. Yes, the property as a Retail Development includes many businesses that cater to citizens of our community and patrons outside of Saint Joseph County, IN. The proposed Real Estate Sign will provide vital information to the public and promote safe driving maneuvers surrounding the development.

8. Answer the following necessary questions for a **Use Variance**:

(1) Will the approval be injurious to the public health, safety, morals or general welfare of the community? Explain your reason why. ? No, relief if granted will allow for ease of identification and a professionally designed Real Estate Sign in content, color, and letter height to provide optimum visibility for the motorist navigating the curvature of the roadway surrounding the development and proximity to Fir Road. We respectfully request approval of the Use variance to allow for identification of The Residences at Toscana Park to promote the quality craftsmanship and excellence in land development exhibited by Great Lakes Capital, LLC to those patrons and persons entering the City Plaza Development. Continuity of the two (2) developments is the key in promoting the high standard of new construction expectations in the City of Mishawaka and by the developer.

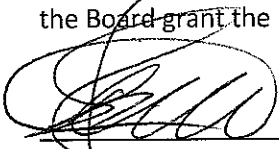
(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Explain your reason why. No, the proposed signage will promote the business climate within the economic trade area and provide assurance of the increased growth of our local market place. The sign is a professionally designed sign meeting the requirements of the surrounding roadway, posted road speed and promotes continuity of the developer's recent and current construction efforts in the City of Mishawaka.

(3) Does the need for the variance arise from some condition peculiar to the property involved? Explain your reason why. Yes, the site-specific location and demographic base surrounding the development is identified as a strong consumer base or draw for the respective developments. Both properties are owned and controlled by the Petitioner.

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? Explain your reason why. Yes, it is important to promote the business climate within the economic trade area and provide assurance of the increased growth of our local market place and identify quality development information to the public.

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? Explain your reason why. No, the proposed Real Estate Signage is within the spirit of the commercial area and Comprehensive Plan for anticipated growth within our community and the living ordinances as adopted by our City Council.

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



Mr. Matthew Powell, Officer
Great Lakes Capitol, LLC
101 N. Michigan Street, Suite 600
South Bend, IN 46601
Tel: 574-251-4400

Contact Person:

Douglas A. Merritt
113 S. Main Street, Suite 201
Mishawaka, IN 46544
P: 574-257-2954
F: 574-257-2724
Email: dm@professionalpermits.com

Great Lakes Capital

101 N. Michigan Street, Suite 600
South Bend, IN 46601
(574) 251-4400

greatlakescapital.com

February 20, 2013

Great Lakes Capital, LLC
Mr. Matthew Powell, Officer
101 N. Michigan Street
Suite 600
South Bend, IN 46601
Tel: (574) 251-4400

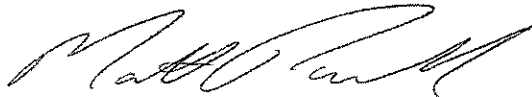
RE: Great Lakes Capital, LLC
City Plaza – Toscana Park Development
Mishawaka (Granger), IN 46530

I, Matt Powell, acknowledge The Sign Associates and their agents to act on my behalf and execute all necessary municipal documents specific to the Toscana Park and City Plaza developments within the City of Mishawaka. This authorization is limited to sign permit and variance applications and related documents.

If you have any questions, please feel free to contact me with any questions.

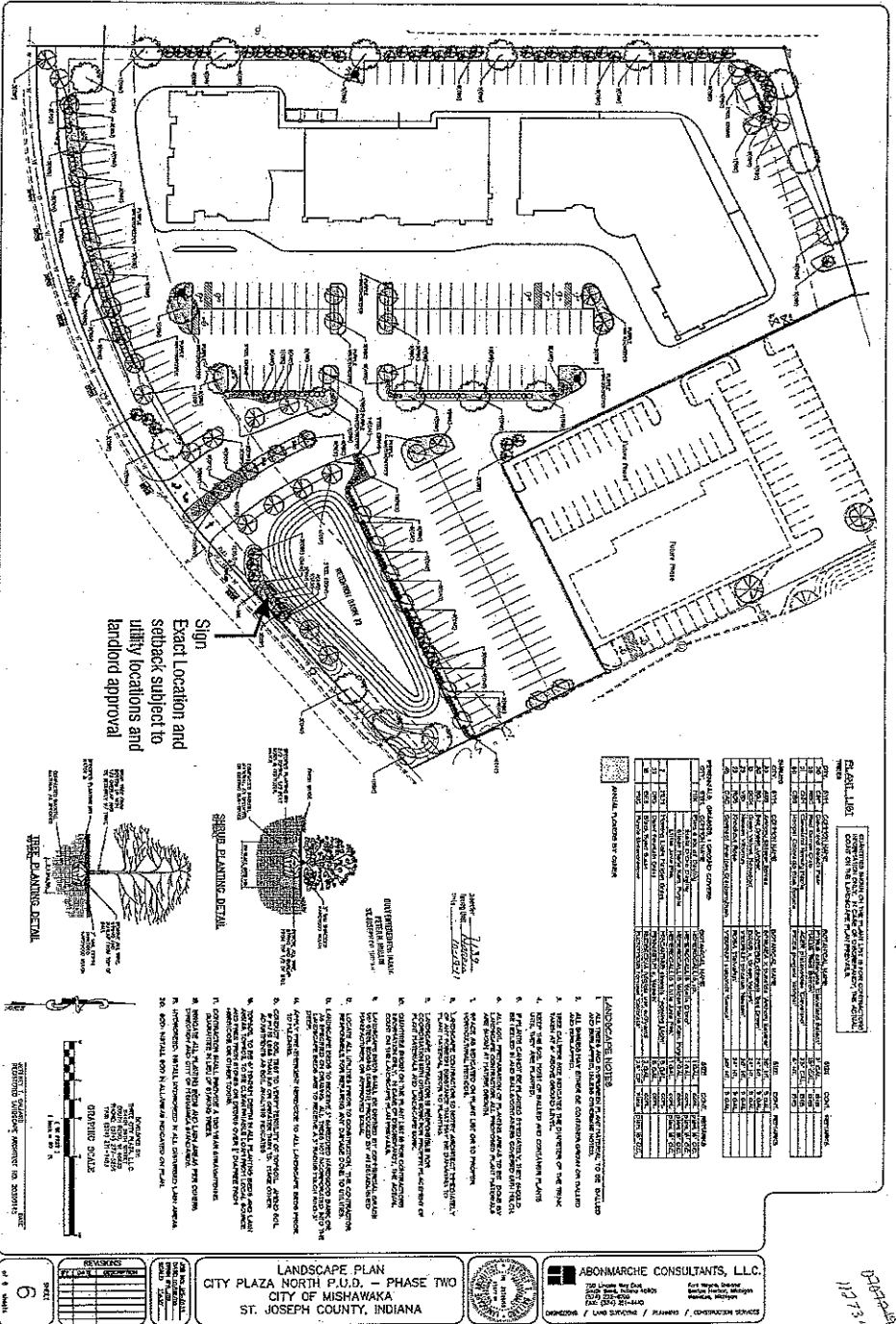
Sincerely,

Signature



Date: 2.20.13

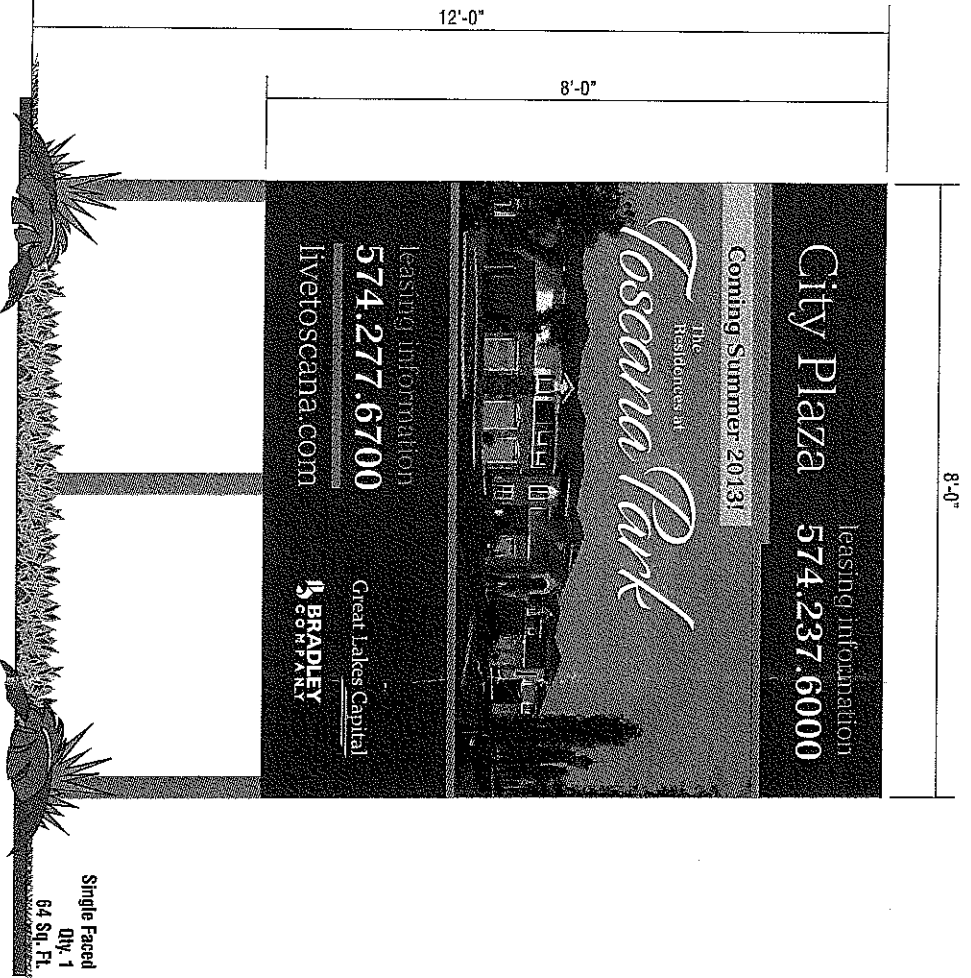
AP 13-07



the Sign Associates <i>signs-graphics-advertising</i>	Client Name: Client Approval	Sales Rep: TSA Designer: Designer
Location: Location	Start Date: Last Revision: Job#: Drawing#: Page:	Landlord Approval: LISTED

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8'-0"



Single Faced
Qty. 1
64 Sq. Ft.

Product Description:

- Temporary Site Sign
- Posts and panel
- 8 x 8

 signs • graphics • advertising	Client Name:		Start Date:		Sales Rep: TSA Designer:
	Location:		Last Revision:		
	Job#:		Client Approval		DESIGNER SIGNATURE LISTED
	Drawing#:		Landlord Approval		
	Page:				

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APPEAL 13-07

Location Map

APPEAL 13-07

CITY PLAZA NORTH

VARIANCE TO ALLOW AN
OFF-PREMISE DEVELOPMENT
REAL ESTATE SIGN

