

AGENDA

August 19, 2013

6:00 P.M. Chamber of Commerce Presentation

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

August 05, 2013

5. Petitions, Communications, Remonstrance and Memorials

State Statute Hearing on Vacation 2013-08

A letter from the Board of Zoning Appeals regarding recommendations from their August 13, 2013 meeting.

A letter from the City Plan Commission regarding recommendations from their August 13, 2013 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2013-37 Vacation of Public Right of Way - Second East-West Alley South of Stanley St. West of Sara St. approximately 151 Ft. and the First North-South Alley South of Stanley St. West of Sara St. approximately 120 Ft.

P.O. NO. 2013-38 Amend the PUD for Heritage Square in the NE area of Gumwood Rd & SR23 - Proposed Hampton Inn and Suites Hotel

P.O. NO. 2013-39 Transfer Funds - Fire Department - \$51,000.00

P.O. NO. 2013-40 Elected Officials Salary Ordinance for 2014

8. Resolutions

R2013-16 Use Variance to allow a duplex in a R-1 Single Family District - 1022 Willow Street

9. Ordinances on Second Reading

P.O. NO. 2013-35 Amending the Park and Recreation Ordinance - Prohibited Acts (Assigned to Public Health and Safety Committee)

P.O. NO. 2013-36 Additional Funds - Law Department - \$100,000.00 (Assigned to Budget and Finance Committee)

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

Appointment to Board of Zoning Appeals

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
August 5, 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 August 5, 2013 at 7:00 p.m. The meeting was called to order by President Michael Compton and all were asked to stand for the Pledge of Allegiance.

President Compton asked for a moment of silence for James Trippel who recently passed away. He stated Mr. Trippel was a member of the Board of Zoning Appeals for the City of Mishawaka.

Clerk Block's roll call showed the following: 

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, present and Council Attorney Mike Trippel absent.

The minutes from the July 15, 2013 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. 2013-30 Vacation of Public Right of Way – Second East-West Alley South of Stanley Street West of Sara Street approximately 151 feet and the First North-South Alley South of Stanley Street West of Sara Street approximately 120 Feet

Petition No. 2013-31 Amend the PUD for Heritage Square in the North East area of Gumwood Road and State Road 23 Proposed Hampton Inn and Suites Hotel

The following proposed ordinance was given first reading, and assigned to committee, to be set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2013-35

AN ORDINANCE AMENDING CHAPTER 50, OF THE MUNICIPAL OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE "PARKS AND RECREATION ORDINANCE"

OF THE CITY OF MISHAWAKA, INDIANA

Amending the Park and Recreation Ordinance- Prohibited Acts
(Assigned to Public Health and Safety)

PROPOSED ORDINANCE NO. 2013-36

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

Additional Funds – Law Department \$100,000.00
(Assigned to Budget and Finance Committee)

Clerk Block explained what they were going to do was group ordinances together that are related and Mr. Prince would be speaking on all of them at one time. She read the following titles:

Proposed Ordinance NO. 2013-19, Proposed Ordinance No. 2013-20, Proposed Ordinance No. 2013-21, Proposed Ordinance No. 2013-22, Proposed Ordinance No. 2013-23, Proposed Ordinance No. 2013-27, Proposed Ordinance No. 2013-28, Proposed Ordinance No. 2013-29, Proposed Ordinance No. 2013-30, Proposed Ordinance No. 2013-31, Proposed Ordinance No. 2013-32 Clerk Block stated the question on these proposed ordinance would be called for at the same time.

President Compton called for the committee reports on all of these Proposed Ordinances.

Mr. Roggeman reported the Land Use Planning Committee recommended these proposed ordinances should be adopted and moved for acceptance of same upon a second by Mr. Banicki the motion carried.

Ken Prince, City Planner, said this was the end of approximately 10 years of public works the city has undertaken during the widening of Main Street and the underpass. He said under that process there has been acquisitions and demolition of numerous structures, and properties that had to be impacted in that way because of the widening.

Mr. Prince said they then did the physical improvements including part of the road construction, and the dedication of easements for utilities was part of the corridor. He went on to explain when that was completed they could then survey it and recreate the necessary corridor with the right of way and the easement limits to establish what property was left. Mr. Prince went on to say once that was accomplished they could then look at the properties individually to see what would make since in terms of re-subdividing, and attaching slivers of leftover property to create larger pieces. He said they have done that for every piece of property that has been acquired, evaluated it and it is now being presented to the Council for rezoning.

What they are planning on doing, Mr. Prince explained he would walk through the individual parcels and explain why they chose the individual zonings, trying to determine the highest and best use for those properties. He said he would break them down by Proposed Ordinances.

Clerk Block read **PROPOSED ORDINANCE NO. 2013-19** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-19

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone property to C-4 Auto Oriented Commercial & C-7 Auto Oriented Restaurant Commercial Main Street and McKinley Avenue)

Mr. Prince said two properties at the Northwest corner of Main Street and McKinley Highway, were the former muffler shop and north of it was the church, they were acquired and demolished as part of the widening project for the underpass. He said a portion of the church property was intended to remain R1 zoning and would provide a buffer for a large drainage easement next to the house immediately north of this property that would likely be conveyed as part of the property the city owns, the remaining part of the church property would be zoned C-4 as it was previously used as that and it was adjacent to another C-4 property on McKinley.

Mr. Prince said they were requesting a C-7 Auto Oriented Restaurant Commercial Classification which matches the adjacent Dairy Queen and is located on the Southeast corner of Main Street and McKinley Highway.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-19**

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. 5396.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-20** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-20

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone to C-6 Linear Office Commercial 1600 to 1800 Block of North Main Street)

Mr. Prince said these are the combination of single family and office structures that were acquired and demolished as part of the widening project. He said there are two dentist offices located to the north as well as Trevino Insurance Agency so they are looking to combine **Proposed Ordinance 2013-20 and 2013-21** and are requesting C-6 zoning all the way to Borley Avenue. Mr. Prince said the reason they were not requesting a C-6 zoning from Borley Avenue to Jefferson Boulevard was because it was such a small

sliver they do not believe it was developable and think R1 would be a better zoning so they could blend it into the neighborhood. He explained that C-6 zoning also permits commercial structures such as a bank as well as R1 single family residence.

Mr. Roggeman asked about the R1 property furthest north right below the C-6 property could someone put a house on that sliver of land. Mr. Prince said he did not believe it was buildable from what he understands from Mr. West, Borley was going to be extended to the north so the sliver between Borley and Main would be too small to build on. Mr. Roggeman asked if the city would have to maintain that property. Mr. Prince stated if they do not find a purchaser, yes, an adjacent property owner could purchase it and add it to their property.

Mr. Emmons asked if someone could have a commercial office in a residence. Mr. Prince said that would be possible but they would have to build it to commercial and a residential standard, there was a different building code for that type of residence so it was less likely to see that type of development along the corridor but theoretically they could.

Ms. Voelker asked if the entrances to these parcels would be from Borley Avenue. Mr. Prince responded that the intent would be for all of these parcels to be accessed by the adjacent streets.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-20** 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. 5397**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-21** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-21

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone to R-1 Single Family and C-6 Linear Office Commercial – 1400 to 1500 Block of North Main Street)

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-21** 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. 5398.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-22** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-22

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone to R-1 Single Family – 1200 to 1300 Block of North Main Street)

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-22**

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. 5399**

Mr. Prince said regarding **Proposed Ordinance 2013-22 and 2013-23** this was the former Mishawaka Transmission along the railroad tracks and was a Commercial Automotive Classification, now the only access was through Stanley Street into the neighborhood and they feel like that entire section should be rezoned R1 single family residential, as well as everything North of Broadway because it was adjacent single family residential neighborhoods and that would be the appropriate classification at this time..

Mr. Banicki asked if that would be left as one lot or would it be sub-divided. Mr. Prince said it was two to three lots, as well as the property North of Broadway there are probably 8 to 9 single family residential lots in that portion.

Clerk Block read **PROPOSED ORDINANCE NO. 2013-23** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-23

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone to R-1 Single Family – NW Broadway Street and North Main Street and South of Grand Truck Railroad)

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-23**

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. 5400.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-27** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-27

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

(Vacation of Public Right of Way-First North-South Alley East of Main Street, running from McKinley Hwy South to Russ Avenue)

Mr. Prince explained there was a small North/South alley from McKinley Highway to Russ Street that runs along side of the Dairy Queen at the South East Corner of Main and McKinley there was no need for that alley anymore and it needs to be vacated.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-27**

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. 5401.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-28** opening it for public  hearing.

PROPOSED ORDINANCE NO. 2013-28

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

(Vacation of Public Right of Way – portion of First East-West Alley South of Omer Avenue running East from Main Street to approximately 105 Feet)

Mr. Prince said this alley also needs to be vacated it runs East/West between Lowell Street and Omer Street again the idea was to restrict access to Main Street to limit the number of curb cuts this alley also needs to be vacated.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-28**

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. 5402.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-29** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-29

**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**

(Vacation of Public Right of Way – portion of first East-West Alley South of Jefferson
Boulevard running from Main Street East approximately 59 feet and a portion of Stanley
Street running East from Main Street fro approximately 48 feet)

Mr. Prince the small alley that extended to Jefferson was no longer possible because it was so close to the intersection. He said Stanley Street use to run to Main Street and that is no longer possible so this public right of way as well as the alley need to be vacated.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-29**

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. 5403.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-30** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-30

**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**

(Vacation of Public Right of Way – Portion of Borley Street running East from Main
Street approximately 65 feet, portion of first North-South Alley East of Main Street
running from Jefferson Boulevard North to an existing East-West Alley)

Mr. Prince said Borley Avenue North of Jefferson was looking to be relocated to the North to connect to Donaldson and the small alley that formerly extended to Jefferson that was no longer possible because it was so close to the intersection and

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-30**

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. 5404.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-31** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-31

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

(Vacation of Public Right of Way – Portion of first East – West Alley North of Marion Street running from Main Street running from Main Street East approximately 193 feet)

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-31**

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. 5405.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-32** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-32

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

(Vacation of Public Right of Way – Portion of Marion Street running West from Main Street approximately 110 feet - portion of the first East-West Alley North of Broadway Street running from Main Street West approximately 74 feet, - portion of the second East-West Alley North of Broadway Street running West from Main Street approximately 135 feet.)

Mr. Prince said moving to the South **Proposed Ordinance 2013-31 and 2013-32** the area on the East side of Main on Marion Street there was a long section of alley that continued across Main Street that needs to be removed to create the single family lots. He said these lots back up to the tracks where the alley turns and backs up to Marion Street and the section of Marion Street that use to connect to Main Street and the alley of the East/West connection also would be removed.

Mr. Emmons asked if the vacated alley would go to the homeowners. Mr. Prince said they would be split on both sides with homeowners getting half the alley adjacent to their property if they are in the same sub-division by law. He said in this case it would belong to the city since they own the surrounding property.

Question was called for at 7:26 p.m. on **PROPOSED ORDINANCE NO. 2013-32**

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. 5406.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-24** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-24

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF
THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966”
OF THE CITY OF MISHAWAKA, INDIANA**

(Rezone to C-3 City Center Commercial between West Mishawaka Avenue and West Grove Street and North Main Street and Elizabeth)

Mr. Banicki reported the Land Use Planning Committee recommended proposed ordinances No. 2013-24 and No. 2013-33 should be adopted and moved for acceptance of same upon a second by Mr. Reisdorf the motion carried.



President Compton said these two ordinances relate to the Property on Mishawaka Ave that the Barak Group wants to build apartments/condos on. He said the question would be on rezoning and a partial vacation of an alley that runs through that property.

Ken Prince, City Planner said these proposed ordinances refers to a rezoning of the property owned by the city and the property owned by the Barak Group the current classifications were C-1 and C-4, which was General Commercial and Automobile Related Commercial Classification to a C-3 City Center Zoning Classification. He explained that zoning was a Downtown District and was the one zoning district in the city intended for an Urban, Walkable, Pedestrian Oriented, Architecturally Significant District, adopted in 1999 that was in the Design Review and has much higher development standards then the other residual commercial zoning classifications in the city.

Mr. Prince said the Barak Group was interested in building 60 to 80 residential units as well as lower level commercial on this site. He said there was an existing development agreement between the Barak Group and the Redevelopment Commission. Mr. Prince said the only issue before the Council was if the C-3 Zoning an appropriate use or zoning district for the property as well a vacation between the alley and Main Street an appropriate vacation. He said he would present the case because of the on going investments of the city and because of the higher end Town Houses that the residential development proposed was both fitting and appropriate. Mr. Prince went on to say that the developers have worked to address some of the original concerns of scale, and in stepping back the height of the building, going up six floors, on Grove and Mishawaka Avenue, including a flat roof in terms of height and how it would blend into the residential midway. He said all of the parking for the units themselves would be located within the structure itself with a service parking garage on the Elizabeth Street side of the building.

Mr. Prince said the driving force for developing the Uniroyal property was a density issue, the more people you can bring to the downtown the more it would help to

encourage development there. He said having said all that it is a high quality development and appropriate for the location.

Mr. Prince stated the request to vacate the alley was only for the portion that runs west of the 7/11 property and only services the property owned by the Barak Group. He said there were utilities on this property that the city has agreed to relocate to allow for the construction of the parking garage. Mr. Prince went on to say the portion of the alley that runs east along the 7/11 needs to remain in place as they have a dumpster on the back end of the property as well as Affordable Auto also takes their curb cut directly from the alley approach off of Main Street so the alley needs to remain in place to serve them as well.

Mr. Roggeman asked what the zonings were for the 7/11 and the Affordable Auto. Mr. Prince said he believed C-4 Automobile Oriented Commercial.

Question was called for at 7:40 p.m. on **PROPOSED ORDINANCE NO. 2013-24 and 2013-33** 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. 5407.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-33** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-33

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

(Vacation of Public Right of Way – First East – West Alley South of Grove Street running from Elizabeth Street East approximately 269 feet)

Jim Cierzniak 1518 Pinetop Trace, Mishawaka, said while attending a Redevelopment he asked two questions which were essential to understanding the Barak Group's plans. He asked how much did they intend to ask for the Town Homes and what would be the rental rates for the apartments and the Barak representative refused to answer those questions. Mr. Cierzniak He said unfortunately he did not press the issue and neither did the members of the Redevelopment Commission. Mr. Cierzniak said he thought it strange that the Barak Group was so eager to sell their product but refused to revile the price of that product. He said he urged the Council to approach this matter with extreme caution, downtown Mishawaka does not need another hard to sell real estate project, the town homes presently on Mishawaka Avenue and the ones to be built by the Barak Group would detract from each other, the affordable Auto Business with its 20 to 40 cars as well as the 7/11 would mar the project site as neither business would be an asset, a better solution for that block would be several modest single family homes on Grove Street along with a refurbished apartment building on Mishawaka Avenue.

President Compton stated he too was at the Redevelopment Commission meeting and what he remembers the Barak Group saying was they did not have a design plan or building model put together yet and he did not consider that not wanting to answer the question. He said he remembers that because he too was fishing for an answer to the same question.

Ms. Voelker asked Mr. Cierzniak if he thought it would be appropriate to rezone this property to the Center City Zoning Classification, whether the Barak Group's project goes forward or not and his answer to that was yes.

Mr. Banicki said it was his feeling that if a group comes before the Council and wants to build something that big and elaborate he did not know if it was up to the Council to say no to that, it was like saying how many is too many restaurants. He said it was an open market and up to the person wanting to build or open a place of business to do their homework to make sure it was feasible. Mr. Banicki said he would be supporting this.

Question was called for at 7:40 p.m. on **PROPOSED ORDINANCE NO. 2013-24 and 2013-33** 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. 5408.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-25** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-25

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA

(Rezone to C-6 Linear Office Commercial 2319 Lincolnway East)

Ms. 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. Banicki the motion carried

Ken Prince, City Planner this building was known as Fire Station #4 and they believe it was eligible for historic designation. He said the issue was it was no longer useable as a fire station so what would be the best and highest use for this building. Mr. Prince said what the city would like to see is the building preserved while blending into the neighborhood and there were two ways to do that 1) someone would acquire it for a single family residence move in and maintain it, 2) Office building in a highly visible location, as well as live in this building. He said the only way that could be done, would be to rezone this from an R-1 to a C-6 which is a Linier Office Commercial District. Mr.

Prince said this property was surrounded by predominately R-1 Single Family Residential, further to the west you would find scattered businesses. He said their intention was to preserve the integrity of this property. Mr. Prince said it would cost a few thousand dollars to go through the appraisal process that by law they were required to get two appraisals, putting it out for every possible appropriate use and receive bids evaluating the best one and dispose of it in that manner through the Redevelopment Commission to evaluate what the highest and best use from the bids they receive.

Mr. Bellovich asked what would happen if the building was declared a Historic Building. Mr. Prince replied that the Historic Preservation restricts alterations and they would request a review of any changes prior to them being done to the exterior of the building to protect the integrity of the building, the inside can be changed.

Ms. Voelker asked if the construction for C-6 was more stringent then R-1. Mr. Prince stated it was, a normal conversion along Lincolnway usually would receive variances for things like parking, due to the lack of parking on Lincolnway. He explained converting the fire station building to a commercial structure would require paying for a parking lot and that was where the C-6 zoning comes in, where R-1 requires parking for 2 vehicles.

Question was called for at 7:52 p.m. on **PROPOSED ORDINANCE NO. 2013-25**

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. 5409.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-26** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-26

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “ THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA
(Rezone to R-1 single Family – 309 Smith Street)

Ms. 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. Banicki the motion carried

Karen Hiatt 25781 Grant Road, South Bend said she was part owner of the this property and it has not been used as a commercial property since 1980 when her mother had a beauty shop in the basement. She said they would like to keep the home in the family and have it rezoned to R-1 Residential property.

Question was called for at 7:55 p.m. on **PROPOSED ORDINANCE NO. 2013-26**

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. 5410.**

Clerk Block read **PROPOSED ORDINANCE NO. 2013-34** opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-34

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

(Amend the PUD for Fir Road Athletic Club to allow for a Nursing Facility – 5800 block Fir Road)

Ms. 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. Banicki the motion carried

Anthony M. Zappia, Attorney At Law 52582 State Road 933 North, South Bend said he has been retained by Long Term Investments Inc. the contingent purchaser, to amend the PUD to allow for a Skilled Nursing Facility. He said the current zoning is S-2 PUD, the lot size is approximately 6 acres, a review of the area indicates to the North and west the zoning was S-2 PUD to the south and east it was unincorporated St. Joseph County, the petitioner was requesting to amend the old Michiana Tennis Association PUD for the Skilled Care Nursing Facility. Mr. Zappia said the proposed facility would be located on the south eastern portion of the property that was where the Michiana Tennis Association was going to construct six separate buildings. He said the nursing facility would have 84 beds, they were asking for one parking space per 84 beds which would be 84 parking spaces, which was in line with what other health care facilities were required to do.

Mr. Zappia said the traffic would be far less then what was previously proposed for that site. He said the city was recommending a buffer requirement of 10 feet to allow for fencing and landscaping and they have no objection to that, they have agreed to every recommendation listed by the plan commission.

Mr. Zappia went on to say this facility has been dormant for a number of years and this project would be putting in a skilled facility with a residential flavor. He said Andy Place was the Developer of the project and available for any questions.

Mr. Emmons asked if this should pass what would the time line be for moving forward.

Mr. Zappia said they would start building this fall with the completion in approximately 12 months.

Mr. Banicki asked if this was similar to the facility along the Toll Road just to the north east across the street. Mr. Zappia said that was the Hearth and he believes that was different from what they plan to do, the Hearth was more of nursing home center and they were planning a rehabilitation center. Ms. Voelker said the Hearth was an assisted living facility. Mr. Banicki said he was concerned about traffic. Mr. Zappia stated with 84 beds their traffic would be minimal.

Ms. Voelker asked exactly what did skilled nursing mean, would it be someone coming out of the hospital and going into this facility because they were not ready to go home yet. Mr. Zappia stated that was correct. She asked if he could compare it to another facility in our area. Mr. Zappia said there was one located south of town by the South Bend Orthopedics Surgeons Office, and St. Joseph Hospital has one located in the Dougdale location. Ms. Voelker said then it was a rehab place. Mr. Zappia said yes.

Andy Place 1628 Rockwood Lane, Mishawaka said yes it was, another thing he feels they bring to the table with this facility they were one story which adds even more to the residential flavor.

Question was called for at 8:07 p.m. on **PROPOSED ORDINANCE NO. 2013-34**

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. 5411.**

NEW BUSINESS

Mr. Emmons said he wanted to remind everyone of his monthly meeting on the 15th of August at St. Bavo's School, 7:00 p.m. with a speaker to be announced.

Mr. Mammolenti said Twin Branch would not have a neighborhood meeting the month of August due to the fact there was National Night Out Tuesday August 6, at 5:30 Twin Branch Park

Mr. Reisdorf read a letter from the St. Bavo's Church Bulletin written by Father Barry England expressing his gratitude for living in the City of Mishawaka and the leadership that we have here.

Mayor Wood said the National Night Out would be at Hillis Hans Park and a small group on 4th Street, as well as Twin Branch Park.

There being no further business to come before the Council, President Compton adjourned the meeting at 8:11 p.m.

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

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



CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

NOTICE OF HEARING

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

Vacation No. 2013-08

Date of Hearing: August 19, 2013

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

Petitions have been filed by Ken Prince for the City of Mishawaka for vacation of the following described public right of ways in the City of Mishawaka described as follows:

Vacation No. 2013-08 Petition No. 2013-30

Vacation of Public Right of Way - Second East-West Alley South of Stanley St. West of Sara St. approximately 151 Ft. and the First North-South Alley South of Stanley St. West of Sara St. approximately 120 Ft.

Notices are sent to the petitioner and to the owners of property affected by the petition. A hearing upon this petition will be held in the Council Chambers, Municipal Building, 600 East Third Street, Mishawaka, Indiana. At this time, you may appear either in person, present in writing, be represented by an agent or attorney, and present any reasons which you may have to the granting or denying of this petition. You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of scheduled hearing.

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



City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 14, 2013

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 14 2013

CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 13, 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 #13-21 An appeal submitted by Todd Sikorski, Diana S. Ritchie, Jack W. Ritchie, JoAnn T. Rorie, and Jessie O. Rorie requesting a Use Variance for **1022 Willow Street** to permit a duplex in a R-1 Single Family Residential District.

The Board, with a vote of 3-0, forwarded *no recommendation* to the Common Council and if approved is subject to the following conditions:

1. This approval shall be for a period of not more than five (5) years at which point the home must be converted back into a single-family residence.
2. An administrative site plan shall be submitted showing three (3) off-street parking spaces with appropriate storm-water management measures, a concrete walkway from the parking area to the house, and an enclosure for trash and recycling.

Respectfully,

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Todd Sikorski

STAFF REPORT

AUG 13, 2013

Location: 1022 Willow Street

Date: June 11, 2013

Appeal: 13 21

Prepared By: KM

GENERAL INFORMATION

Applicant: Diana S. Ritchie, Jack W. Ritchie, JoAnn T. Rorie, Jessie O. Rorie/Todd Sikorski

Status: Property Owners/Contingent Owner

Request: Use Variance to allow a two-family home on R-1 zoned property

Zoning Classification: R-1 Single Family Residential District

Lot Size: 35.9' X 132'

Applicable Regulations: Section 137-42 Board of Zoning Appeals

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: R-1 Single Family Residential

Thoroughfare: Willow Street

School District: School City of Mishawaka

Township: Penn

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Appellants are requesting a Use Variance to permit a two-family unit on R-1 Single Family Residential zoned property. The home is located on the southeast corner of Willow and Marion Street and is surrounded on all four sides by R-1 Single Family Residential zoned property.

The Penn Township Assessor indicates the 1,320 sqft home was built as a single family residence in 1950 and has continued to be taxed as a single family home. According to the Polk Directories, the structure was not listed as a duplex until 1983. The Planning and Building Departments have no record of the home being converted to a duplex.

The contingent property owner states that as the structure currently exists, the downstairs dwelling cannot be accessed via the upstairs dwelling. Each apartment has its own entrance. Staff is recommending, as a condition of approval, that this approval be for a period of not longer than five years at which time the home must be converted back into a single family residence. This would give the property owner five years to collect revenue from the rental of the property to pay for the improvements necessary for the conversion.

The property does not have a garage and previous tenants have parked on the street or in the back yard. The Zoning Ordinance requires 1.5 parking spaces per dwelling unit. As a condition of approval, staff recommends providing three (3) paved parking spaces with vehicle access from the alley. The Planning Department has been contacted by a number of neighbors who have concerns about the number of people who might be living in such a small dwelling and the fact that the property will more than likely be a rental and not be occupied by the owner. The contingent owner states he owns several nearby businesses and will be able to monitor the property on a regular basis. Copies of a petition submitted by the neighbors has been included in this packet.

All pertinent City departments have reviewed and approved of the request.

RECOMMENDATION

The Staff recommends approval of Appeal 13-21 to allow a two-family home on R-1 Single Family Residential property, subject to the following conditions of approval:

1. This approval shall be for a period of not more than five (5) years at which point the home must be converted back into a single-family residence.
2. An administrative site plan shall be submitted showing three (3) off-street parking spaces with appropriate storm-water management measures, a concrete walkway from the parking area to the house, and an enclosure for trash and recycling.

This recommendation is based upon the following Findings of Fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all required permits will be secured and codes adhered to;
2. The use and value of the area adjacent to the property included in the variance will not have an adverse impact on the surrounding neighborhood because the duplex use has existed since 1983. The property is now being updated and repaired and will no longer continue to deteriorate;
3. The need for the variance arises from some condition peculiar to the property involved in that the property is zoned R-1, which does not allow the multi-family use.
4. The strict application of the terms of this chapter will result in practical difficulties in that the historical use of the property has been multi-family and improvements to the property cannot be implemented until the property is rezoned appropriately or a Use Variance is granted.
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the area has been identified low density residential.

ATTACHMENTS

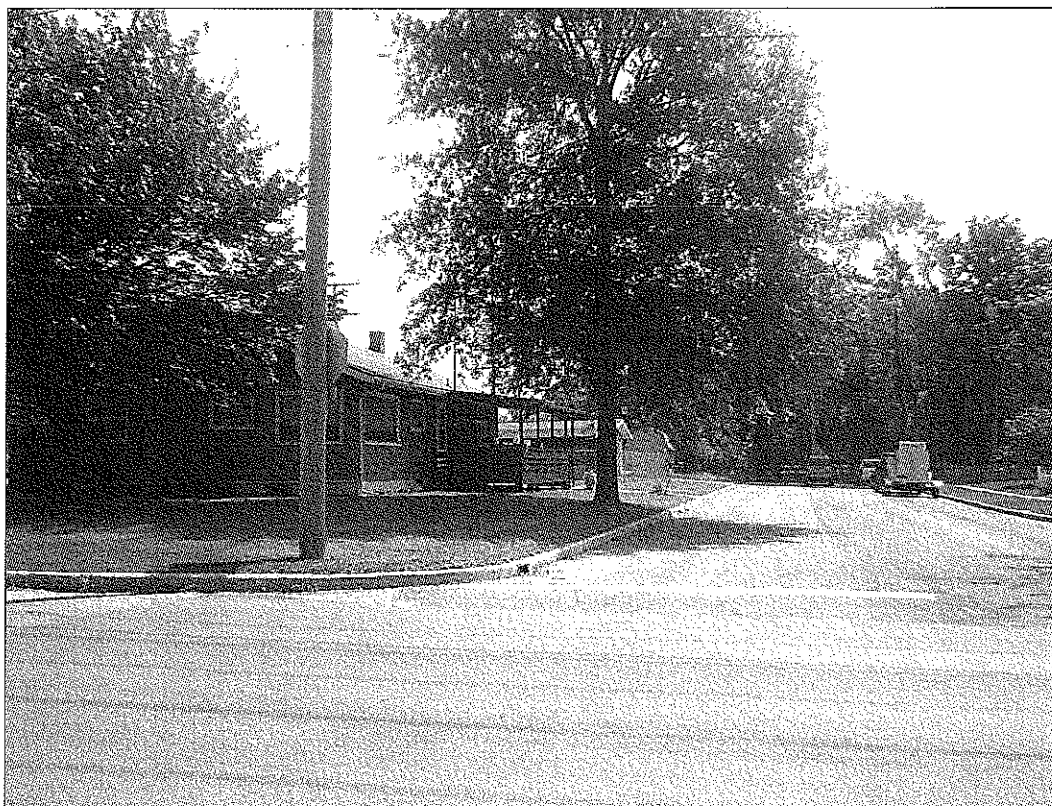
Photographs, Appeal, Aerial, Location Map



View of the home from Willow



View of the rear of the home



View of home north across Marion Street

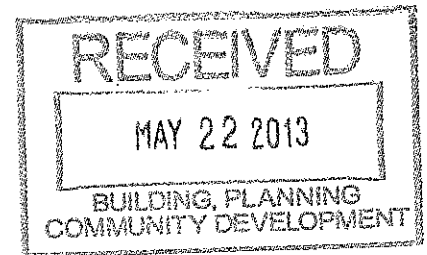


View of adjacent home to the east on Marion



View of nearby homes on Willow Street

APPEAL FOR USE VARIANCE FOR
THE REAL ESTATE LOCATED AT
1022 WILLOW STREET, MISHAWAKA, IN 46545



DATE: May 22, 2013
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

AP 13-21

The undersigned appellant respectfully shows the Board:

1. I, Todd Sikorski, am purchasing the following described Real Estate pursuant to a Land Contract with the owners, Diana S. Ritchie, Jack W. Ritchie, JoAnn T. Rorie and Jessie O. Rorie:

A parcel of land being a part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of Lot "A" as shown on the Plat of Battell Hills, the same being recorded April 26, 1933 in Plat Book 14, page B-1 in the Office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East (the basis of bearings for this legal description) along the Easterly right-of-way line of Willow Street, a distance of 91.25 feet; thence North 86°46'55" East, a distance of 251.26 feet; thence South 00°00'00" East, parallel with the Westerly right-of-way line of Merrifield Avenue, a distance of 108.04 feet; thence North 89°23'15" West, a distance of 250.88 feet to the place of beginning.

(more commonly known as 1022 Willow Street, Mishawaka, Indiana 46545, Tax Key Number 16-2094-3102).

2. The above-described Real Estate presently has a zoning classification of Residential R-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently proposes to use the above-described property in the following manner:
as a duplex.
4. Appellant desires to request a special use variance from Residential R-1 District to allow Appellant to utilize the Real Estate as a duplex.
5. The Zoning Ordinance of the City of Mishawaka requires that Real Estate zoned residential R-1 contain only single-family dwelling only to be occupied by no more than one family. See Chapter 137, Article IV, Division 2, Subdivision II, Section 137-164 and 137-165 of the Municipal Code of the City of Mishawaka, Indiana.
6. The structure on the Real Estate was constructed as a duplex. Strict adherence to the Ordinance requirements of residential R-1 would create an unusual hardship for the Appellant as he will be prohibited from utilizing the structure in its present formation (design).
7. Developmental Variance Questions:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the

community?

Answer: No. The structure was constructed as a duplex. Use as a duplex is the only realistic use of the Real Estate based upon its present design and layout.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

Answer: No. The variance will not affect the adjacent property adversely as the variance will serve to allow the structure to be utilized for the purpose for which it was constructed. Further, the Appellant owns neighboring business property so he will be monitoring this Real Estate on a regular basis. Given his ownership of neighboring property, the Appellant has a direct interest in ensuring the use of this Real Estate will not injure or otherwise negatively impact any other properties in the neighborhood.

- (3) Will strict application of the terms of this chapter result in practical difficulties in the use of the property?

Answer: Yes. Strict application of the terms of the applicable chapter of the Municipal Code of the City of Mishawaka will serve to prohibit the Appellant from utilizing the structure for the purpose for which it was constructed.

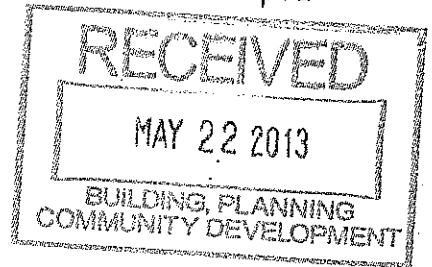
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing the Board grant the requested variance.



Todd Sikorski

CONTACT PERSON:

James P. Knepp, Attorney-at-Law
Andrea Kurek Slagh, Attorney-at-Law
HAHN, KNEPP and SLAGH
509 West Washington Avenue
South Bend, IN 46601
Tel. No. (574) 234-2118
Fax No. (574) 234-2119
Email: jknepp@hkslaw.com
aslagh@hkslaw.com

**AUTHORIZATION**

We, the undersigned, are the owners of the following described Real Estate:

A parcel of land being a part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of Lot "A" as shown on the Plat of Battell Hills, the same being recorded April 26, 1933 in Plat Book 14, page B-1 in the Office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East (the basis of bearings for this legal description) along the Easterly right-of-way line of Willow Street, a distance of 91.25 feet; thence North 86°46'55" East, a distance of 251.26 feet; thence South 00°00'00" East, parallel with the Westerly right-of-way line of Merrifield Avenue, a distance of 108.04 feet; thence North 89°23'15" West, a distance of 250.88 feet to the place of beginning.

(more commonly known as 1022 Willow Street, Mishawaka, Indiana 46545, Tax Key Number 16-2094-3102).

Todd Sikorski has an interest in this Real Estate pursuant to the terms of a Contract for Conditional Sale of Real Estate dated January 14, 2013 and recorded in the St. Joseph County Recorder's Office on January 13, 2013 as Document No. 1301795.

We hereby authorize and empower Todd Sikorski to file an Appeal for Special Use Variance for this Real Estate pursuant to which he will seek a special use variance from Residential R-1 District so that the structure constructed on said Real Estate as a duplex can be utilized as such.

Dated: 5-21-13

Diana S. Ritchie
Diana S. Ritchie

Dated: 5-21-13

Jack W. Ritchie
Jack W. Ritchie

Dated: 5-21-13

Joanne T. Rorie
Joanne T. Rorie

Dated: 5-21-13

Jessie O. Rorie
Jessie O. Rorie

Dated: 5-21-13

Donna R. Minarik
Donna R. Minarik

Dated: 5-21-13

George A. Minarik
George A. Minarik

Dear Neighbors

06/01/2013

Residents within 300 ft. of 1022 Willow were mailed a petition to permit duplex use of the small house on the S.E corner of Willow and Marion Streets. Several of the residents in the area including myself strongly believe that this should not be allowed. The reasons for these feelings are as follows.

The vast majority of the single family residences in the neighborhood are well kept, mown regularly and have landscaping. Rental properties as a rule do not promote aesthetics that would enhance the look of the neighborhood and enhance property values.

This house is very small, roughly 24 ft. square, with the request allowing tenants both on the main floor and in the basement. This allows less than 400 Sq. ft. per tenant. Extremely limited space for two families.

There is just one entrance/exit to the basement, certainly a safety issue. There is no access to the first floor from the basement unit.

There is no garage, parking is now accomplished by pulling into the back yard.

This residence was at one time occupied by relatives of the owner and had a temporary use permit, but had set vacant for approximately 15 years. The previous use permit expired when the house became vacant. It should never have been a multi family dwelling. The previous owners were the Mishawaka Fire chief, and his wife.

If you agree with this assessment, please sign below or on subsequent pages. Attendance at the hearing that is scheduled for June 11th at 6:00 P.M. At City Hall. while not mandatory would certainly be a benefit.

Jerry DeDapper William Hall
1011 Willow 1005 Marion

Name: Address:

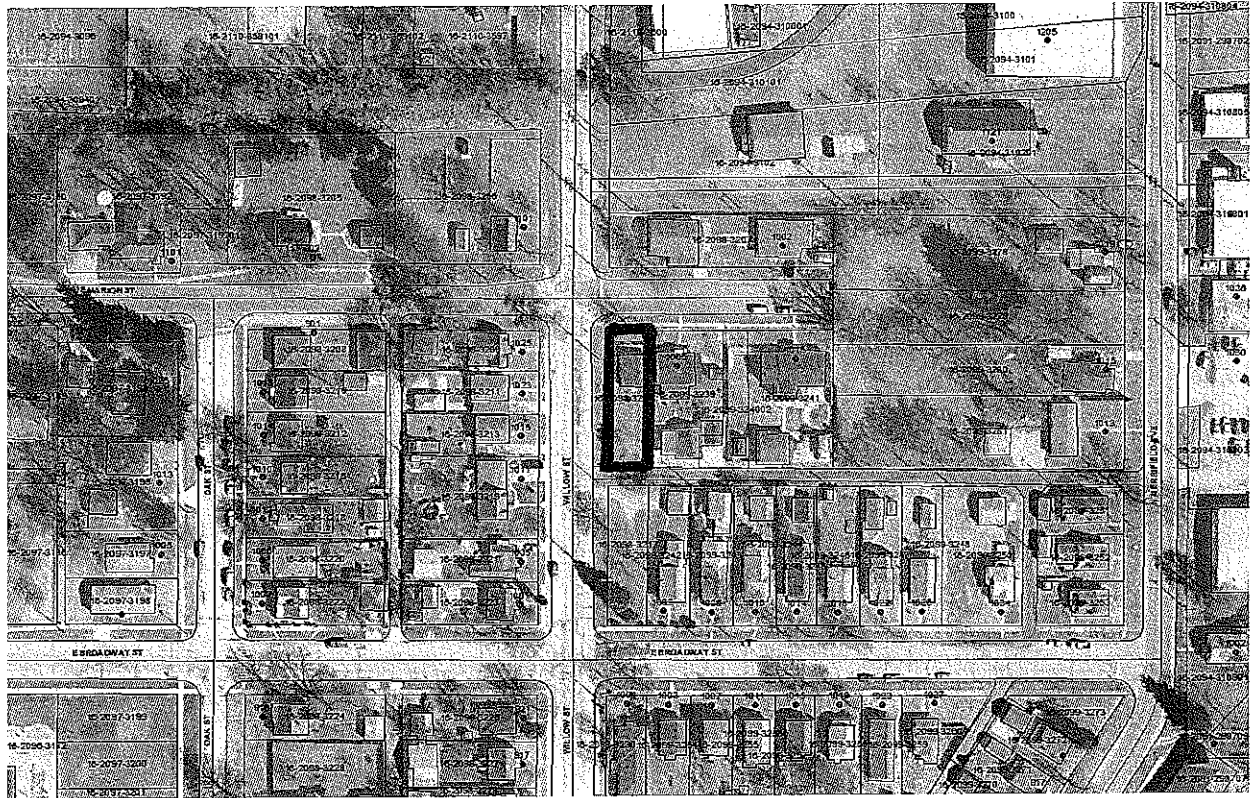
DAN HUBBARD 917 willow ST mishawaka IN 46545
William R. Hall 1005 E Marion St Mish IN 46545-6-1-2013
John M. Welch 1002 E MARION ST MISH IN 46545
John M. Welch 1015 E. MARION ST MISH IN 46545
James L. J. Brown 1101 Willow St MISH IN 46545
Matthew R. R. 921 N. Merrifield Dr. MISH IN 46545
Ron Buckhart 1026 E BROADWAY MISH IN 46545
Gordon Brown 1018 E. Broadway MISH IN 46545
T. Schentels 1010 E. Broadway MISH IN 46545
Scott R. R. 1006 E. Broadway MISH IN 46545
Robert L. Lewis 1002 E Broadway MISH IN 46545
Dyane B. Brown 1002 E Broadway MISH IN 46545
Paul C. Brown 1009 N. Merrifield Ave. IN 46545

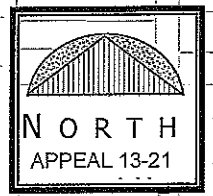
Name:

Address

JEFF SIEGEL	917 N. MERRIFIELD AVE	MISHAWAKA IN	46545
LYNDA DECATUR	910 N Merrifield Ave	Mish IN	46545
Rob Bice	1020 E. BATTLE ST.	Mishawaka, IN	46545
med Quinn	1016 E. Battell	Mish., IN.	46545
Jeanne Wilbur	1004 E Battell	Mish IN	46545
Lois Bell	926 E Battell	Mish IN	46545
Vicki Topolski	914 Oak St.	Mishawaka IN	46545
Primo Echevarria	1002 E. Battell	Mish.	46545
Laura Echevarria	1002 E. Battell St.	Mish.	46545
Steve	923 E Battell St	Mish	46545
James Hare	1001 E Battell St	Mish	46545
James Hare	1001 E BATTLE ST	Mish	46545
Jessica Cateed	1013 N Merrifield Ave	Mosh	46545

APPEAL #13-21
1022 Willow Street





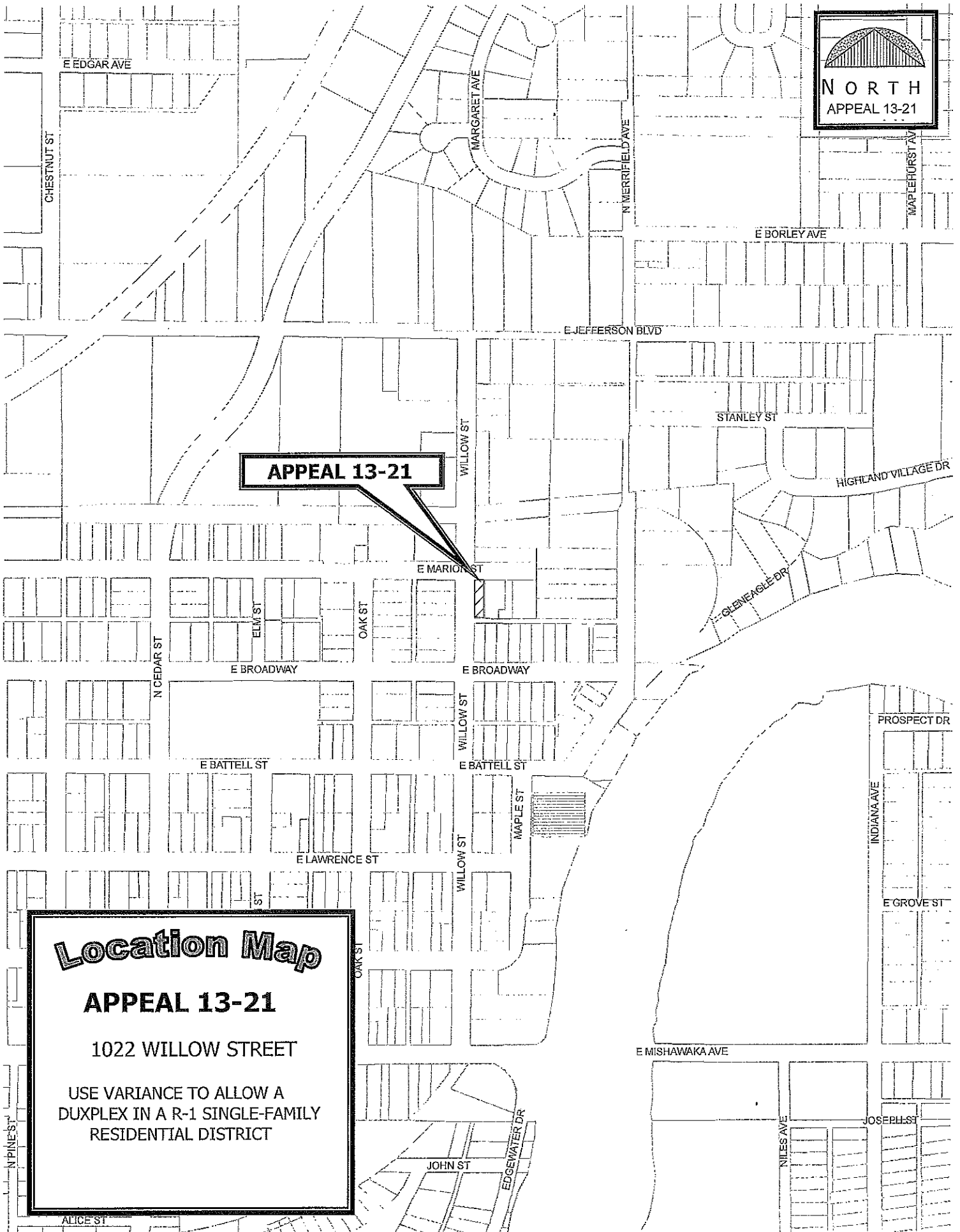
APPEAL 13-21

Location Map

APPEAL 13-21

1022 WILLOW STREET

USE VARIANCE TO ALLOW A
DUPLEX IN A R-1 SINGLE-FAMILY
RESIDENTIAL DISTRICT





City of Mishawaka

DAVID A. WOOD, MAYOR

DEPARTMENT OF CITY PLANNING

August 14, 2013

RECEIVED
DEBORAH S. BLOCK, MMC

Honorable Members of the Common Council
City of Mishawaka, Indiana

AUG 14 2013

RE: Plan Commission Recommendation
August 13, 2013, Public Hearing
Certification of Proposed Ordinances

CITY CLERK
MISHAWAKA, IN

Honorable Members:

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

PETITION #13-30 A petition submitted by the City of Mishawaka to vacate public right of way(s) being: 1) the second east-west alley south of Stanley Street running from Sarah Street West approximately 151 feet; and 2) first north-south alley south of Stanley Street and West of Sarah Street running North from an existing east-west alley for approximately 120 feet to an existing east-west alley.

The Commission, with a vote of 9-0, recommended approval.

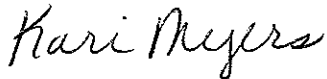
PETITION #13-31 A petition submitted by Garrison Holladay Heritage Square Delaware, LLC, requesting to amend the Heritage Square Planned Unit Development to revise the approved preliminary site plan and its associated conditions to allow for a hotel use and to amend the approved sign program.

The Commission, with a vote of 9-0, recommended approval subject to the following amended PUD developmental standards/conditions:

1. The maximum building height for the hotel shall be limited to 59-feet.
2. The rear building setback for the hotel, adjacent to Toscana Park , may be 20-feet.
3. The total number of parking spaces may be reduced to 4.1 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development including the hotel, and 4.9 spaces per 1000 sf of existing building area when providing 1 parking space per hotel room and 1 parking space per hotel employee.
4. An additional free-standing monument sign may be installed along Gumwood Road as submitted with the petition.
5. An additional directional sign may be located along State Road 23 as submitted with the petition.
6. An electronic reader board may be installed within the existing Heritage Square monument sign located along State Road 23 as submitted with the petition.

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

Respectfully,

A handwritten signature in cursive script that reads "Kari Myers".

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Brad Mosness

STAFF REPORT

Location: East-West Alley East of Main Street North of Marion Street Date: August 13, 2013
Petition: 13-30 Prepared By: GGS

GENERAL INFORMATION

Applicant: City of Mishawaka
Status: Adjacent Property Owners
Request: Vacate Public Right of Way

Zoning Classification: Public Right of Way
Applicable Regulations: IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-1 Single Family Residential
West: R-1 Single Family Residential

Thoroughfare: Sarah Street
School District: School City of Mishawaka
Public Utilities: Yes
Comprehensive Plan: General Commercial

ANALYSIS

The Petitioner, City of Mishawaka, is requesting to vacate public right of way being the second east-west alley south of Stanley Street running from Sarah Street West approximately 151 feet and the first north-south alley south of Stanley Street and West of Sarah Street running North from an existing east-west alley for approximately 120 feet to an existing east-west alley.

The vacation is a result of the Main Street widening and underpass improvements. The vacation will allow for future development of the adjacent residual parcels the City purchased for the Main Street project.

RECOMMENDATION

Staff recommends in favor of Petition 13-30 to vacate public right of way being the second east-west alley south of Stanley Street running from Sarah Street West approximately 151 feet and the first north-south alley south of Stanley Street and West of Sarah Street running North from an existing east-west alley for approximately 120 feet to an existing east-west alley. This recommendation is based on the following findings of fact:

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Petition, Vacation Diagram

Date: July 22, 2013



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

RE: Petition for vacation of Public Right of Way:

The undersigned, Ken Prince, for the City of Mishawaka respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way(s) located in the City of Mishawaka, St. Joseph County, Indiana:

1). Second East-West Alley South of Stanley Street, running from Sarah Street West approximately 151 feet;

Affected Lots: Lot 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key No. 16-2046-1586.01.

2). First North-South Alley South of Stanley Street and West of Sarah Street, running North from an existing East-West Alley for approximately 120 feet to an existing East-West Alley;

Affected Lots: Lots 91, 92 and 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key Nos. 16-2046-1586.01, 16-2046-1586 and 16-2046-1585 .

Petitioners further state they are the owners of the property immediately adjacent to the above-described right of way(s).

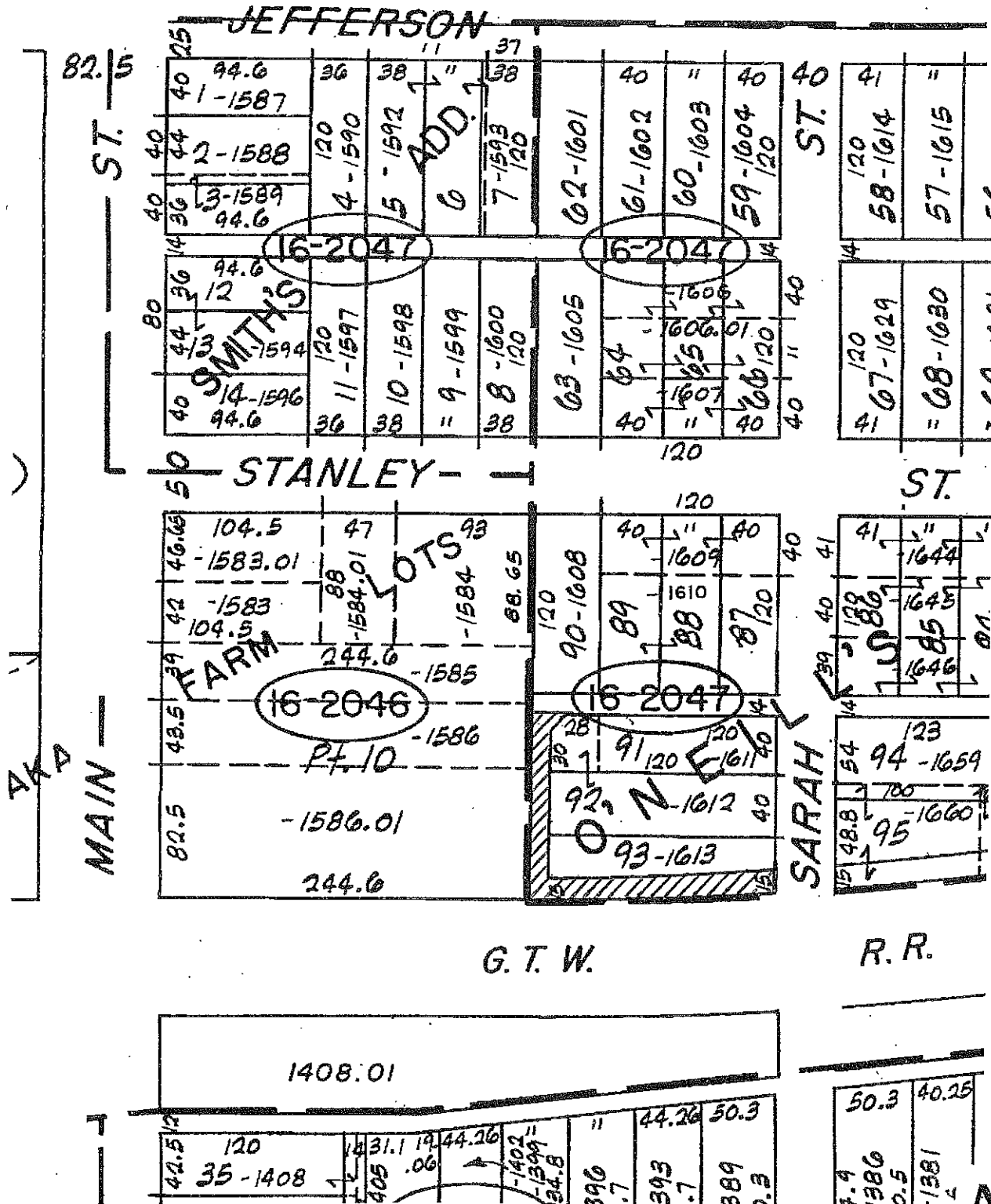
Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacating the above described right of way(s) located in the City of Mishawaka.

Ken Prince, for the City of Mishawaka, Indiana

Contact Person:

Michael J. Danch
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574-234-4003, Fax 574-234-4119

VACATION DIAGRAM



ALLEY LEGALS:

1). Second East-West Alley South of Stanley Street, running from Sarah Street West approximately 151 feet;

Affected Lots: Lot 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key No. 16-2046-1586.01.

2). First North-South Alley South of Stanley Street and West of Sarah Street, running North from an

STAFF REPORT

Location: Heritage Square

Date: August 13, 2013

Petition: 13 31

Prepared By: GGS

GENERAL INFORMATION

Applicant: Garrison Holladay Heritage Square Development

Status: Property Owner

Request: Amend PUD to allow for a hotel

Zoning Classification: S-2 Planned Unit Developments

Lot Size: Approximately 25 acres

Applicable Regulations: Section 137-671 to 137-679 S-2 Planned Unit Development District
Section 137-41 Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: Unincorporated St. Joseph County
South: S-2 Planned Unit Development, R-3 Multi-Family Residential
East: Unincorporated St. Joseph County
West: Unincorporated St. Joseph County

Thoroughfare: Gumwood & State Road 23

School District: Penn-Harris-Madison School Corporation

Township: Harris

Public Utilities: All utilities are available or will be available to the site

Comprehensive Plan: Not identified

ANALYSIS

The petitioner is requesting to amend the Heritage Square PUD to allow for a new Hampton Inn and Suites Hotel in the internal non-outlot portion of the development. The proposed hotel will be located on the vacant piece of property just northwest of the Martin's Supermarket. The current PUD allows for big box retail, strip shopping center uses, restaurant uses with and without drive-thru, and convenience store/gas station. The proposed hotel will consist of a 4-story building with 101 guest rooms.

As part of the proposed use amendment, the petitioner is requesting several amendments to the developmental standards of the PUD to allow for the construction of the hotel. The first amendment requested is to allow for a maximum building height of 59-feet. The underlying developmental standards for the PUD would limit buildings to 3-stories or 48-feet in height.

The second developmental standard amendment requested is to allow for a building setback of 20-feet adjacent to the Toscana Park Development to the north. The original Heritage Square standards required a 30-foot setback along the north lot line adjacent to Toscana Park. The 20-ft setback provides ample room for the shared access drive located between Heritage Square and Toscana Park.

The last developmental standard to be amended is for the total required amount of parking. The original PUD standards required a minimum of 5 parking spaces per 1000 sf of building area for the internal non-outlot shopping center portion of Heritage Square. The petitioner is requesting to amend the PUD standards to allow for 4.1 parking spaces per 1000 sf of building area for the internal non-outlot portion of Heritage Square, and 4.9 spaces per 1000 sf of existing building area when providing 1 parking space per hotel room and 1 parking spaces per hotel employee.

In addition to the use and developmental standards amendments, the petitioner is requesting to amend the PUD to allow for additional signage. The PUD has been previously amended a number of times to allow various signage to what currently exists on the site. The petitioner desires to allow an additional freestanding monument sign for Hampton Inn and Suites along Gumwood Road, a directional sign for the hotel along State Road 23, and an electronic reader board to be added to the existing Heritage Square Monument sign located along State Road 23. The proposed signage is appropriate given the fact that the hotel will be located toward the rear of property and will not be visible from Gumwood and State Road 23. The signage will be needed to provide visual identification of the proposed hotel.

RECOMMENDATION

Staff recommends in favor of amending the Heritage Square PUD to allow for a hotel located within the internal non-outlot portion of the PUD with the following amended PUD developmental stands/conditions:

1. The maximum building height for the hotel shall be limited to 59-feet.
2. The rear building setback for the hotel, adjacent to Toscana Park , may be 20-feet
3. The total number of parking spaces may be reduced to 4.1 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development including the hotel, and 4.9 spaces per 1000 sf of existing building area when providing 1 parking space per hotel room and 1 parking space per hotel employee.
4. An additional free-standing monument sign may be installed along Gumwood Road as submitted with the petition.
5. An additional directional sign may be located along State Road 23 as submitted with the petition.
6. An electronic reader board may be installed within the existing Heritage Square monument sign located along State Road 23 as submitted with the petition.

This recommendation is based upon the following findings of fact:

1. Existing Conditions- The proposal is in keeping with the existing area by maintaining commercial Uses.
2. Character of Buildings in Area- The character of the buildings located in the Heritage Square PUD is commercial. The proposed facility will be commercial in nature.
3. The most desirable/highest and best use- Due to the presence of the commercial activity in the surrounding area, the most desirable/highest use is the proposed commercial use.
4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding commercial area.
5. Comprehensive Plan- This area was not identified within The Comprehensive Plan. However, the proposed is consistent with the commercial development of the area.

ATTACHMENTS

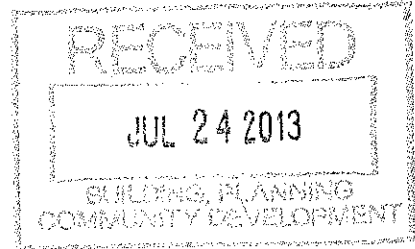
Photographs, Petition, , Plan, Location Map



View looking northwest onto proposed hotel site



View looking onto existing development southwest of proposed hotel site



DATE: July 24, 2013

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

RE: **PETITION FOR PUD AMENDMENT**
Heritage Square PUD

The undersigned Garrison Holladay Heritage Square Delaware, LLC, respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

PARCEL I: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southwest corner of Lot Number 1 of the plat of "Mucha's Subdivision 2" as recorded by Document Number 7827130 in the records of the St. Joseph County, Indiana Recorder's Office; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet to the Point of Beginning; thence North 00°31'00" West on said West line 699.55 feet to the Northwest corner of Lot 11 of said Mucha's Subdivision, Section 2, also said Northwest corner being on the North line of the South Half of the Southwest Quarter of said Section 22; thence North 89°27'05" East along the North line of the South Half of the Southwest Quarter of said Section 22, a distance of 1288.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East on said North and South centerline 657.77 feet to the North line of the South Half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said North line, 79.24 feet to the Northerly right-of-way line of State Road Number 23; thence South 55°19'38" West along said Northerly right-of-way line, 87.29 feet; thence North 32°36'51" West 239.30 feet; thence Northwesterly 44.55 feet around a 512.00 foot radius curve to the right, whose chord bears North 28°06'18" West 44.54 feet; thence South 62°28'10" West 24.37 feet; thence Southwesterly 82.84 feet around a 125.00 foot radius curve to the left, whose chord bears South 43°29'02" West 81.33 feet; thence South 24°29'54" West 38.36 feet; thence Southwesterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears South 42°08'35" West 75.78 feet; thence South 59°47'16" West 330.61 feet; thence Southwesterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears South 64°47'54" West 87.34 feet; thence South 69°48'32" West 264.21

Pet 13-31

feet; thence Southwesterly 52.85 feet around a 300.00 foot radius curve to the right, whose chord bears South 74°51'21" West 52.78 feet; thence South 79°54'09" West 30.44 feet; thence North 05°05'05" West 232.69 feet; thence South 89°29'03" West 287.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE part of Lot Five (5) and all of Lots Six (6) through Eleven (11) as shown on Mucha's Subdivision Section 2, recorded as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL II: Rights and benefits of Master Declaration of Easements, Covenants, Conditions and Restriction dated September 29, 2005, as Document Number 0545679 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL III: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southeast corner of Lot #1 of the plat of "Mucha's Subdivision, Section 2" as recorded by Document No. 7827130 in the records of the St. Joseph County Indiana Recorder's Office and being the Point of Beginning; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet; thence North 89°29'03" East 287.00 feet; thence South 05°05'05" East 232.69 feet; thence North 79°54'09" East 30.44 feet; thence Northeasterly 52.85 feet around a 300.00 foot radius curve to the left, whose chord bears North 74°51'21" East 52.78 feet; thence North 69°48'32" East 264.21 feet; thence Northeasterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears North 64°47'54" East 87.34 feet; thence North 59°47'16" East 330.61 feet; thence Northeasterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears North 42°08'35" East 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet around a 125.00 foot radius curve to the right, whose chord bears North 43°29'02" East 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet around a 512.00 foot radius curve to the left, whose chord bears South 28°06'18" East 44.54 feet; thence South 32°36'51" East 239.30 feet to the Northerly right-of-way line of State Road 23, thence South 55°10'38" West on said right-of-way line, 30.17 feet; thence South 52°18'53" West on said right-of-way line, 65.70 feet; thence South 55°10'38" West of said right-of-way line, 262.47 feet; thence South 57°49'03" West on said right-of-way line, 255.10 feet; thence Southwesterly 111.39 feet around a 1851.17 foot radius curve to the left, whose chord bears South 63°05'40" West 111.37 feet; thence South 68°11'06" West 232.49 feet; thence Southwesterly 61.81 feet around a 1852.12 foot radius curve to the left, whose chord bears South 72°58'22" West 61.81 feet; thence North 04°28'27" West 150.13 feet; thence South 79°00'53" West 208.87 feet to the East line of Lot 1 of said Mucha's Subdivision Section 2; thence South 00°31'00" East on the East line of said Lot 1, a distance of 20.25 to the Southeast corner of said Lot 1; thence South 89°38'43" West on the South line of said Lot 1, a distance of 191.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE Lots One (1) through Four (4) and part of Lot Five (5) as shown on the plat of Mucha's Subdivision Section 2 as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

EXCEPTING THEREFROM THE FOLLOWING TRACTS OF LAND:

TRACT A: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the Northeast corner of Lot 11 of the plat of "Mucha's Subdivision Section 2" as recorded in Instrument No. 7827130 in the Office of the Recorder of St. Joseph County, Indiana; thence North 89°27'05" East along the north line of the south half of the Southwest Quarter of Section 22, a distance of 1097.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East along said North and South, 657.77 feet to the north line of the south half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said north line 79.24 feet to the northerly boundary line of S.R. 23; thence South 55°19'38" West along said boundary line, 87.29 feet to the point of beginning of this description; thence continuing South 55°19'38" West along said boundary line, 30.68 feet; thence South 52°27'53" West along said boundary line, 65.70 feet; thence South 55°19'38" West along said boundary line, 118.94 feet; thence North 30°12'44" West 236.78 feet; thence Northeasterly 76.99 feet along an arc to the left, having a radius of 125.00 feet and subtended by a long chord having a bearing of North 42°08'35" East and a length of 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet along an arc to the right, having a radius of 125.00 feet and subtended by a long chord having a bearing of North 43°29'02" East and a length of 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet along a non-tangent arc to the left, having a radius of 512.00 feet and subtended by a long chord having a bearing of South 28°06'18" East and a length of 44.54 feet; thence South 32°36'51" East 239.30 feet to the point of beginning.

TRACT B: Part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, said tract being part of Lots 3 and 4 as the same are shown and designated on the Plat of Mucha's Subdivision Section 2, all within Harris Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the West Quarter Corner of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana; thence South 00°31'00" East (bearing assumed) on the West line of the Southwest Quarter of said Section 22, a distance of 2051.18 feet; thence North 89°02'46" East, a distance of 86.59 feet to the point of beginning; thence continuing North 89°02'46" East, a distance of 106.42; thence South 01°00'48" East, a distance of 16.98 feet; thence Southwesterly on a curve to the right, having a radius of 3.98 feet, a chord distance of 5.84 feet bearing South 46°30'06" West, an arc distance of 6.55 feet; thence South 89°51'32" West, a distance of 15.70 feet; thence South 00°34'48" East, a distance of 50.81 feet; thence North 88°56'08" East, a distance of 15.98 feet; thence Southwesterly on a curve to the right, having a radius of 4.46 feet, a chord

distance of 8.90 feet bearing South 00°23'20" West, an arc distance of 13.47 feet; thence South 89°32'00" West, a distance of 102.49 feet; thence North 00°31'00" West parallel to the West line of the Southwest Quarter of said Section 22, a distance of 79.52 feet to the point of beginning.

TRACT C: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the West line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline, 1094.31 feet along a non-tangent arc to the left having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 71°34'44" East and a length of 1079.43 feet; thence continuing along said centerline North 55°10'32" East 54.55 feet; thence North 34°49'28" West 56.27 feet to the Northern Boundary of S.R. 23 (Edwardsburg Highway), and also being the point of beginning of this description; thence South 57°58'03" West 53.23 feet along said Northern Boundary; thence North 30°12'44" West 249.63 feet; thence North 59°47'16" East 196.30 feet to the Northwest corner of that parcel of land described in Instrument No. 06-26526, St. Joseph County Recorder; thence South 30°12'44" East 236.78 feet along the West line of said Instrument No. to the Northern Boundary of S.R. 23 (Edwardsburg Highway); thence South 55°19'38" West 145.53 feet along said boundary to the point of beginning.

TRACT D: A part of the Southwest quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the west line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering, Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline 869.33 feet along a non-tangent arc to the left, having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 74°57'06" East and a length of 861.85 feet; thence North 27°39'17" West 57.89 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway) and also being the point of beginning of this description; thence continuing North 27°39'17" West 220.00 feet; thence North 26°17'07" East 28.85 feet; thence North 60°03'20" East 185.00 feet; thence South 30°12'44" East 229.02 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway); thence South 57°58'03" West 201.87 feet along said boundary; thence southwesterly along an arc to the right, 17.11 feet having a radius of 1849.86 feet and subtended by a long chord having a bearing of South 61°47'05" West and a length of 17.11 feet along said boundary to the point of beginning.

The legal descriptions on this document are from record information.

Common Address: Heritage Square in the Northeast Area of Gumwood Road
and State Road 23, Mishawaka, Indiana

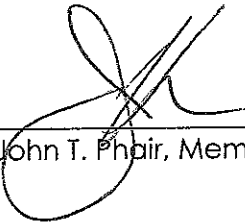
Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development (PUD) specifically for a commercial retail development shopping center including "big box" retail, strip shopping center uses, restaurant uses with and without drive-thru, and convenience store/gas station. Said described parcel is a part of the previously approved PUD Ordinances for Heritage Square.

The purpose of this petition is to revise the approved preliminary site plan and its associated conditions to allow for a hotel use. Accompanying this petition is a drawing showing the boundary of the above-described parcel of real estate, preliminary site plan showing the proposed use, and supporting documentation.

Petitioner desires said real estate to be amended as follows:

1. To allow for a hotel use located in the internal non-outlot portion of the development;
2. To allow for a maximum building height of 59 feet;
3. To allow for a rear building setback of 20 feet adjacent to the Toscana Park Development;
4. To allow for 4.1 parking spaces per 1,000 sq. ft. of building area for the internal non-outlot portion of the development including the hotel, and 4.9 spaces per 1,000 sq. ft. of existing building area when providing 1 parking space per hotel room and 1 parking space per hotel employee;
5. To allow for an additional freestanding monument sign located along Gumwood Road;
6. To allow for a directional sign located along State Road 23;
7. To allow for an electronic reader board located along State Road 23.

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

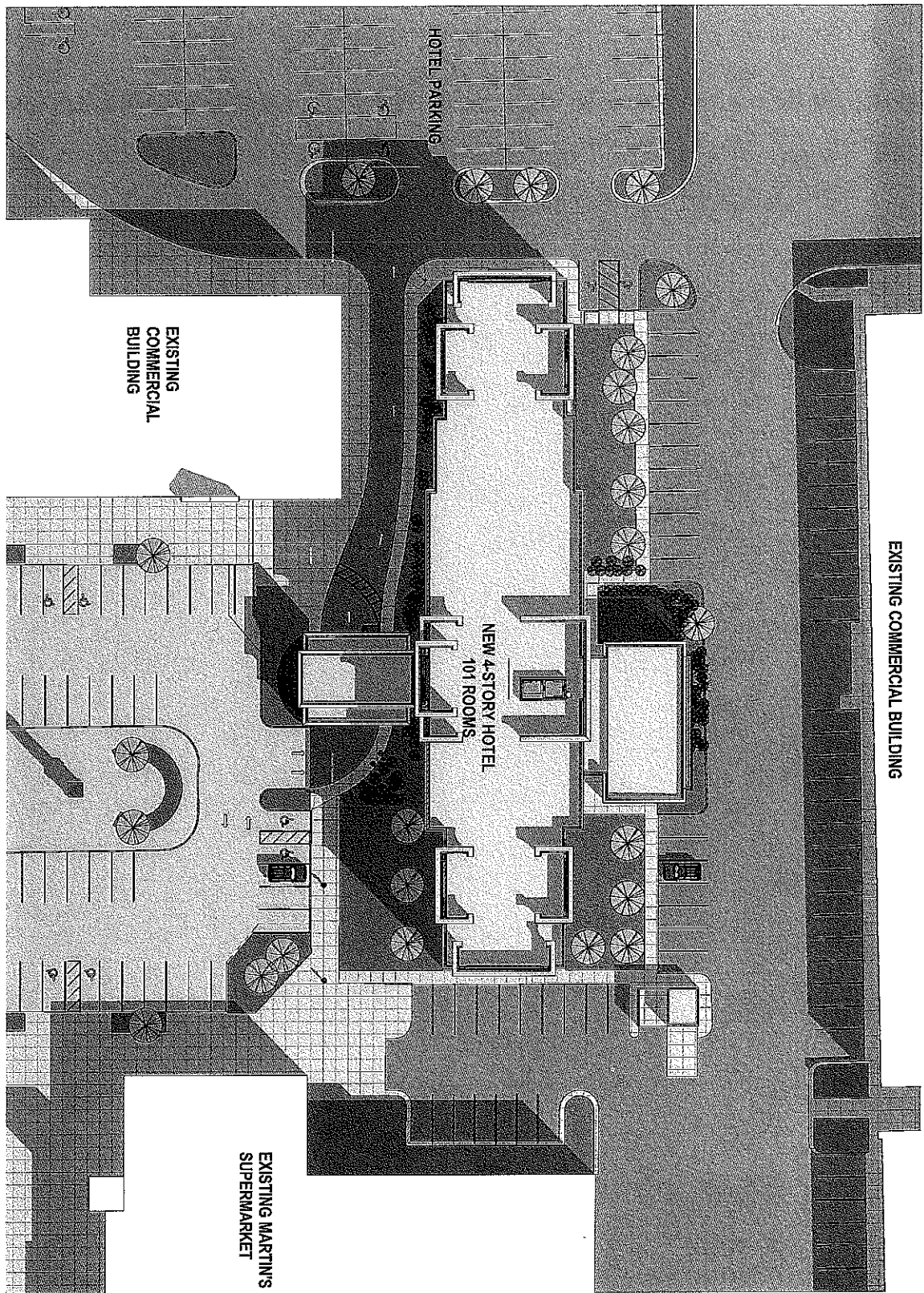


John T. Phair, Member

Garrison Holladay Heritage Square Delaware, LLC
227 South Main Street, Suite 300
South Bend, IN 46601

CONTACT PERSON:

Bradley E. Mosness, PE
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
bmosness@abonmarche.com



GROSS BUILDING AREA	
GROUND FLOOR	18560 SF
SECOND FLOOR	14510 SF
THIRD FLOOR	15540 SF
FOURTH FLOOR	15540 SF
	64150 SF



SITE PLAN
SCALE: 1" = 40'-0"

DATE	07/23/2013
SCALE	1" = 40'-0"
SHEET	001



HAMPTON INN & SUITES AT HERITAGE SQUARE

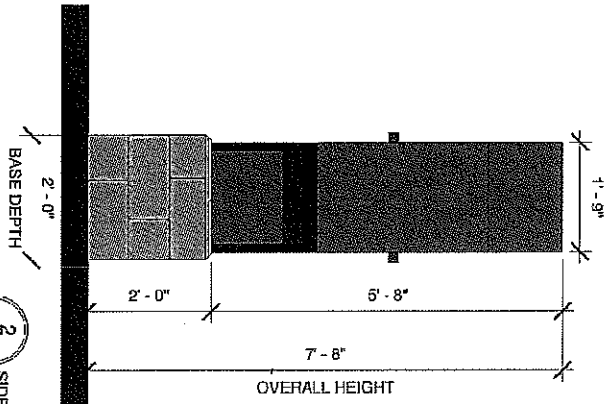
7115 HERITAGE SQUARE DRIVE GRANGER, IN 46530



Kaczmar
architects incorporated
cleveland ohio

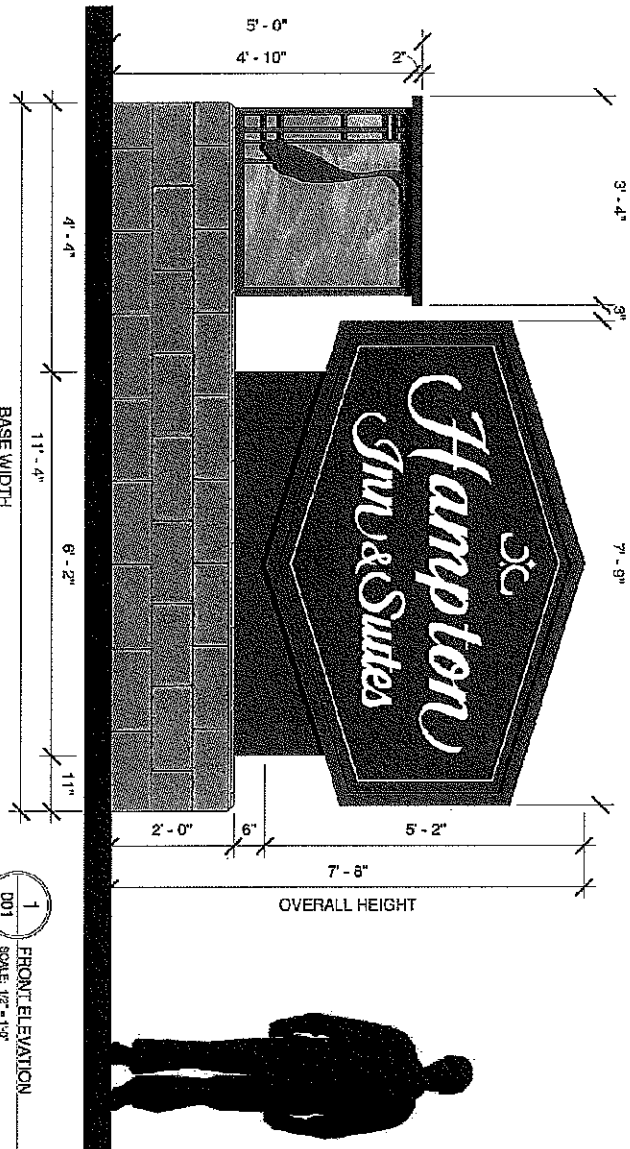
1468 West 9th Street #400
Cleveland, OH 44113
P: 216.687.1555 F: 216.687.1558

2 SIDE ELEVATION
001
SCALE: 1/2" = 1'-0"



BASE WIDTH
11'-4"

1 FRONT ELEVATION
001
SCALE: 1/2" = 1'-0"



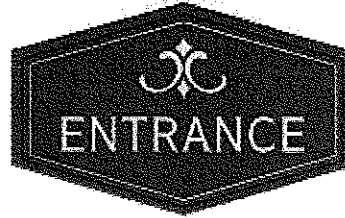
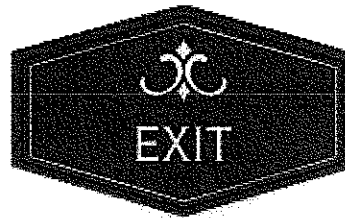
07/09/13
1/2" = 1'-0"
001



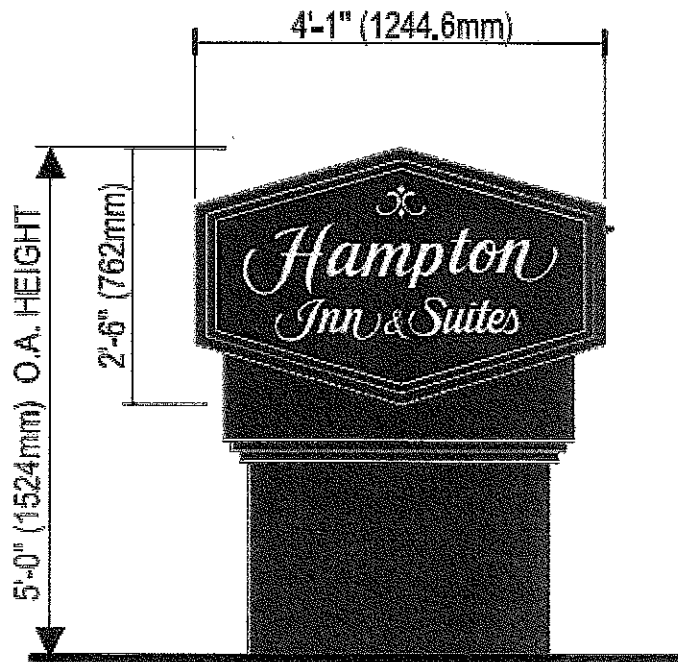
HAMPTON INN & SUITES AT HERITAGE SQUARE

7115 HERITAGE SQUARE DRIVE
GRANGER, IN 46530

Kaczmar
architects incorporated
cleveland ohio
1465 West 9th Street #400
Cleveland, OH 44113
P 216.687.1555 F 216.687.1558



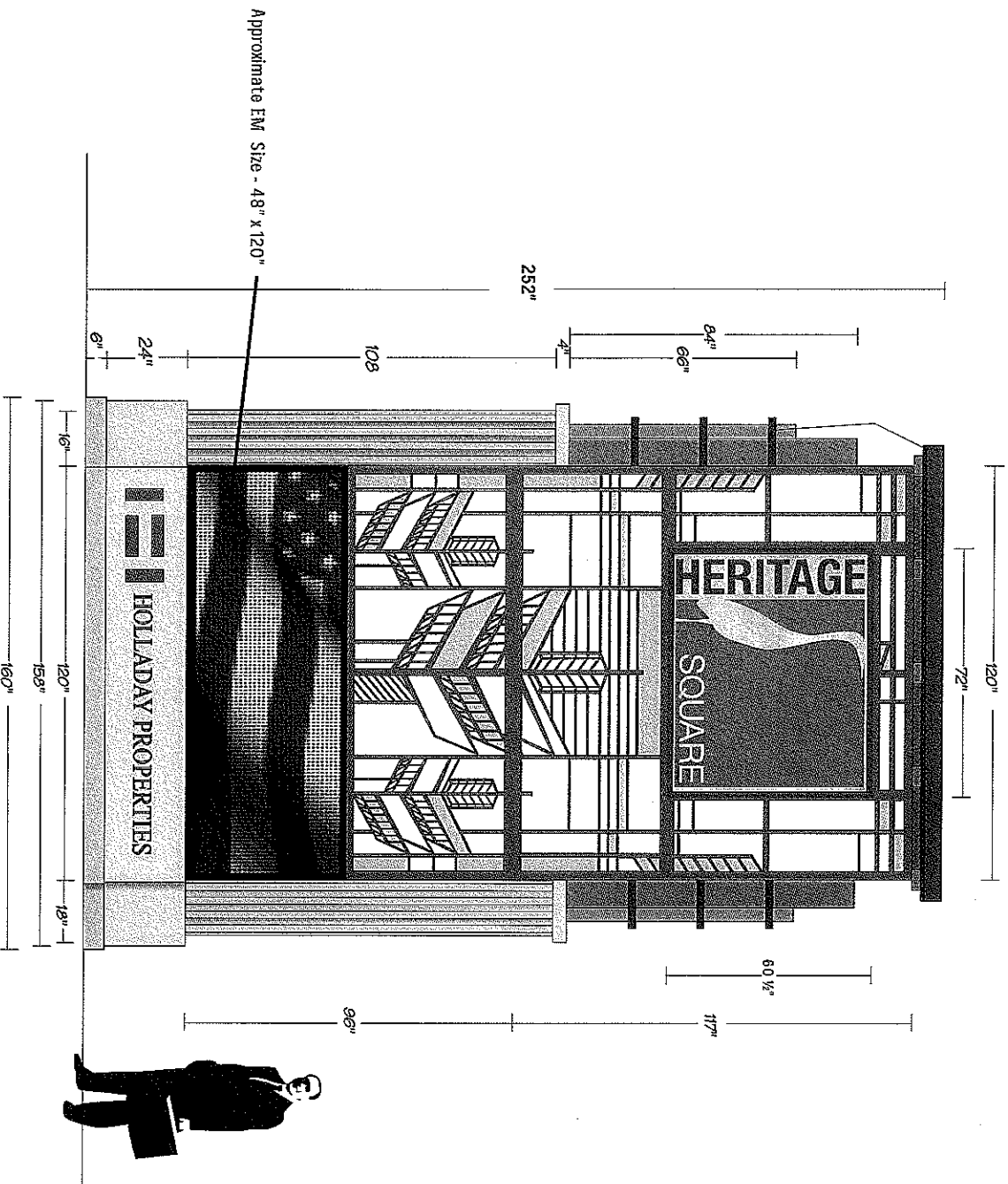
ALTERNATE FACE LAYOUTS FOR HIS-10D SIGN



HIS-10 DIRECTIONAL SIGN

Please refer to actual vinyl/paint or PMS colors. Colors are close approximations of actual colors.

This Design is the Property of Burkhardt Advertising Inc. Any Reproduction or Duplication without the Express Written Permission of Burkhardt Advertising, Inc. is Prohibited.



Burkhardt

SIGNSYSTEMS

General

Job Name: Heritage Square
Location: Granger, Indiana
Account: B. Miller

Details

Sign Size: 84" x 72" x 22"
244" x 120" x 22"

Materials

Frame: ☐ Angle Alum., ☒ Extruded.
Other: ☐ Illuminated ☐ Non Illuminated
Lamps: ☐ Vertical ☐ Horizontal
Size: ☐ Size: ☐ Quantity:
Ballast: ☐ Size: ☐ Quantity:
Pylon Cover: ☐ Tilt: ☐

Notes

☒ Double Front ☐ Single
☐ Lowry ☐ Flexible ☐ Pan
☒ Aluminum
of Rustic Backed with Frosted Pk
& M.L. 160 Acrylic
For Top Cabinet

Finish/Color

Paint: ☐ HP: ☐ Translucent Silver
Copy: ☐ Paint: ☐ HP: ☐ Translucent
Logo: ☐ Paint: ☐ Translucent

Hardware

☐ Filler: ☐ Turn: ☐ Rod: ☐ Upright: ☐

See Drawing

Saddle ☐ Match Plate
External ☐ Clips
Wall ☐ Separators
Steel: ☐ Round ☐ Square
Direct Burial ☐ Anchor Bolts
Existing ☐ Foundation:
☐ Pad: ☐ Base:
☐ Concret In Base

Scale

3/8" = 1'

Design

E. Vinkler
Rev. No. 07/18/13a-4b
Rev. Date:

Approval

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION #13-30

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2013-37

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 14 2013

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the City of Mishawaka has filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioner is owner of all land that abuts the public right-of-way sought to be vacated;

WHEREAS, notice of the filing and petition and date of hearing on said petition has been given as required by law;

WHEREAS, the vacation will not hinder the growth or orderly development of the neighborhood;

WHEREAS, the public right-of-way sought to be vacated will not prevent access to any abutting lands by means of a public way;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the public's access to a church, school, or other public building or place;

WHEREAS, the vacation of the public right-of-way sought to be vacated will not hinder the use of any public way, utility or place;

WHEREAS, the vacation of the public right-of-way does not conflict with the goals, objectives and policies of the Mishawaka Comprehensive Plan; and

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as 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 second east-west alley south of Stanley Street running from Sarah Street West approximately 151 feet; affected Lots: Lot 93 of the Plat of O'Neill's 2nd Addition Subdivision and part of Mishawaka Farm Lot #10; and 2) first north-south alley south of Stanley Street and West of Sarah Street running North from an existing east-west alley for approximately 120 feet to an existing

PROPOSED ORDINANCE NO. 2013-37

ORDINANCE NO. __

east-west alley; affected lots: Lots 91, 92, and 93 of the Plat of O'Neill's 2nd Addition Subdivision and part of Mishawaka Farm Lot #10.

COMMONLY KNOWN AS: The second east-west alley south of Stanley Street running from Sarah Street approximately 151 feet; and the first north-south alley south of Stanley Street and West of Sarah Street running North from an existing east-west alley for approximately 120 feet

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

- 1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.
- 2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.
- 3) The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination.
- 4) The proposed vacation will not hinder the use of any public way, utility or place.
- 5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this ____ day of _____, 2013.

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

PROPOSED ORDINANCE NO. 2013-37

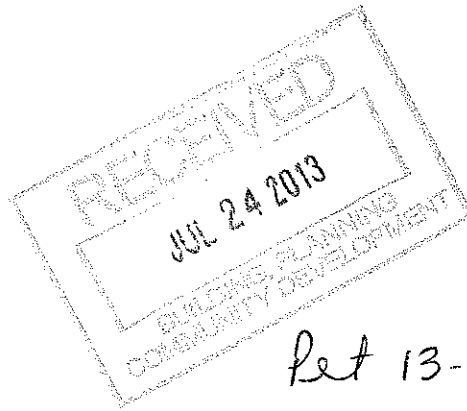
ORDINANCE NO. _

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

David A. Wood, Mayor

Date: July 22, 2013

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



RE: Petition for vacation of Public Right of Way:

The undersigned, Ken Prince, for the City of Mishawaka respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way(s) located in the City of Mishawaka, St. Joseph County, Indiana:

1). Second East-West Alley South of Stanley Street, running from Sarah Street West approximately 151 feet;

Affected Lots: Lot 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key No. 16-2046-1586.01.

2). First North-South Alley South of Stanley Street and West of Sarah Street, running North from an existing East-West Alley for approximately 120 feet to an existing East-West Alley;

Affected Lots: Lots 91, 92 and 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key Nos. 16-2046-1586.01, 16-2046-1586 and 16-2046-1585 .

Petitioners further state they are the owners of the property immediately adjacent to the above-described right of way(s).

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

Ken Prince, for the City of Mishawaka, Indiana

Contact Person:

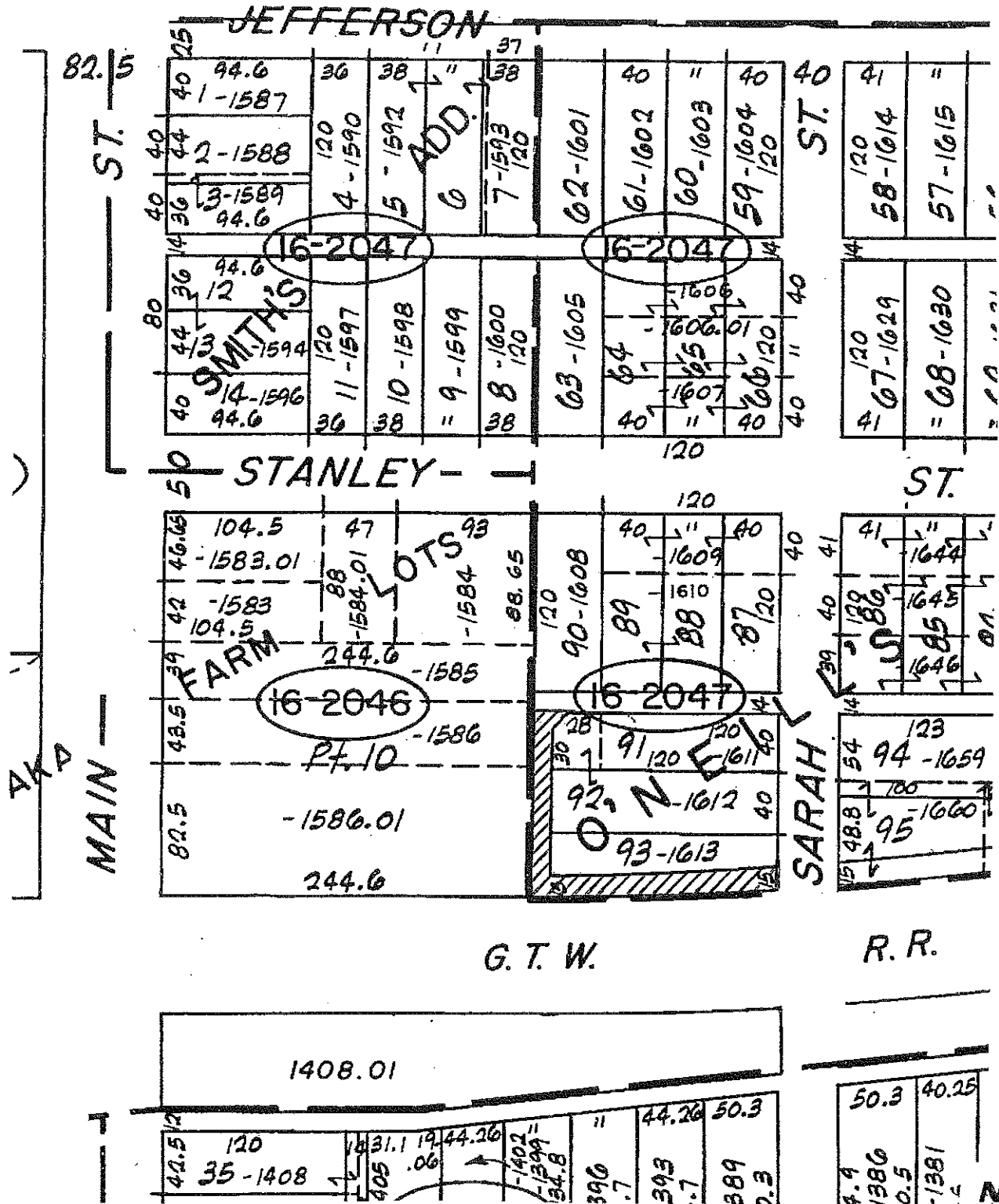
Michael J. Danch
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574-234-4003, Fax 574-234-4119

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 25 2013

CITY CLERK
MISHAWAKA, IN

VACATION DIAGRAM





CITY OF MISHAWAKA

Deborah S. Block, IAMC, MMC City Clerk

FACSIMILE COVER LETTER

TO: Mark From: Linda Dotson

Attn: Auditor's Office Fax: 574-258-1728

Fax: 235-5024 Date: 8-1-13

Re: Abutting property Pages: including cover

Mary Ellen Hazen, Chief Deputy Linda Dotson Deputy

City Hall 600 East Third Street, Mishawaka, IN 46544 (574) 258-1616 (574) 258-1728

* * * Communication Result Report (Aug. 1. 2013 11:30AM) * * *

1) Mishawaka City Clerk
2)

Date/Time: Aug. 1. 2013 11:29AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
2453 Memory TX	92355024	P. 3	OK	

Reason for error

E. 1) Hang up or line fail
E. 3) No answer
E. 5) Exceeded max. E-mail size

E. 2) Busy
E. 4) No facsimile connection



CITY OF MISHAWAKA

Deborah S. Block, IAMC, MMC City Clerk

FACSIMILE COVER LETTER

TO: Mark From: Linda DotsonAttn: _____ Fax: 574-258-1728Fax: 235-5024 Date: 8-1-13Re: Abutting property Pages: including cover

Mary Ellen Hazen, Chief Deputy Linda Dotson Deputy

City Hall 600 East Third Street, Mishawaka, IN 46544 (574) 258-1616 (574) 258-1728

ST. JOSEPH COUNTY AUDITOR2ND FLOOR COUNTY CITY BUILDING

227 W. JEFFERSON BLVD.

SOUTH BEND IN 46601

Telephone 574-235-9668

Fax 574-235-5024

Peter H. Mullen
Auditor**Teresa M. Shuter**
Chief Deputy**FAX TRANSMITTAL LETTER**To: Linda Rotson Date: 8/2/13Fax Number: 258-1728From: Mass Auditors Office Plat roomTotal number of pages including this page 14

If you do not receive all of the pages indicated above
please call us as soon as possible

Additional
Comments: _____

This message is intended for only the use of the person to whom it is addressed. This message may contain information that is privileged. Confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient. The distribution or copying of this communication is strictly prohibited.

cells County Parcels

Rec	PARCELID	PARCELSTAT	LEGALDESCR	NAME_1	MAILINGADD	MAILINGCITY	MAILINGSTATE	MAILINGZIP
1	016-2046-1586	71-09-09-429-009,000-023	43 1/2 F1 N & S X 244.6 F1 E & W On Main St. S Side Se Ne N Pl Se 9-37-3e	CITY OF MISHAWAKA	1625 N Post Rd	Indianapolis	IN	46219
2	016-2046-158601	71-09-09-429-010,000-023	5 Rds X 16 Rds Cor Main St & G T W R Se Ne N Pl Se 1-4 Sec 9-37-3e	CITY OF MISHAWAKA	1625 N Post Rd	Indianapolis	IN	46219
3	016-2047-1612	71-09-09-429-012,000-023	Lot 92 & 28' W End Lot 91 O'Neills 2nd	BECK CHARLES E & LORRAINE V	1207 N Sarah	Mishawaka	IN	46545
4	016-2047-1611	71-09-09-429-011,000-023	120 F1 E End Lot 91 O'Neills 2nd	GROSS MICHELE K	1211 N Sarah St	Mishawaka	IN	46545
5	016-2047-1613	71-09-09-429-013,000-023	Lot 93 O'Neills 2nd Add	CITY OF MISHAWAKA	United Consulting Adams Boyer	Indianapolis	IN	46219

these records

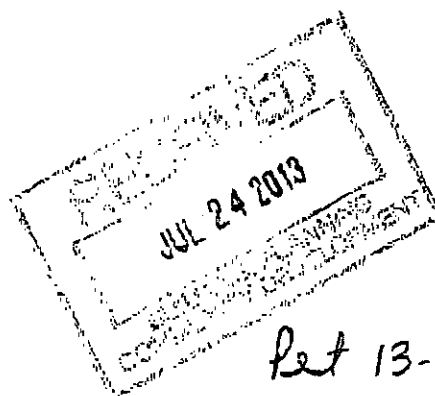
own
for all
gross
back

Aug. 1. 2013 11:30AM Mishawaka City Clerk

No. 2453 P. 2

Date: July 22, 2013

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



RE: Petition for vacation of Public Right of Way:

The undersigned, Ken Prince, for the City of Mishawaka respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way(s) located in the City of Mishawaka, St. Joseph County, Indiana:

1). Second East-West Alley South of Stanley Street, running from Sarah Street West approximately 151 feet;

Affected Lots: Lot 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key No. 16-2046-1586.01.

2). First North-South Alley South of Stanley Street and West of Sarah Street, running North from an existing East-West Alley for approximately 120 feet to an existing East-West Alley;

Affected Lots: Lots 91, 92 and 93 of the Plat of "O'Neill's 2nd Addition" Subdivision and part of "Mishawaka Farm Lot # 10 known as Tax Key Nos. 16-2046-1586.01, 16-2046-1586 and 16-2046-1585.

Petitioners further state they are the owners of the property immediately adjacent to the above-described right of way(s).

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

Ken Prince, for the City of Mishawaka, Indiana

Contact Person:

Michael J. Danch
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574-234-4003, Fax 574-234-4119

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 25 2013

CITY CLERK
MISHAWAKA, IN

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 14 2013

CITY CLERK
MISHAWAKA, IN

PETITION 13-31

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2013-38

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:

PARCEL I: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southwest corner of Lot Number 1 of the plat of "Mucha's Subdivision 2" as recorded by Document Number 7827130 in the records of the St. Joseph County, Indiana Recorder's Office; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet to the Point of Beginning; thence North 00°31'00" West on said West line 699.55 feet to the Northwest corner of Lot 11 of said Mucha's Subdivision, Section 2, also said Northwest corner being on the North line of the South Half of the Southwest Quarter of said Section 22; thence North 89°27'05" East along the North line of the South Half of the Southwest Quarter of said Section 22, a distance of 1288.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East on said North and South centerline 657.77 feet to the North line of the South Half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said North line, 79.24 feet to the Northerly right-of-way line of State Road Number 23; thence South 55°19'38" West along said Northerly right-of-way line, 87.29 feet; thence North 32°36'51" West 239.30 feet; thence Northwesterly 44.55 feet around a 512.00 foot radius curve to the right, whose chord bear North 28°06'18" West 44.54 feet; thence South 62°28'10" West 24.37 feet; thence Southwesterly 82.84 feet around a 125.00 foot radius curve to the left, whose chord bear South 43°29'02" West 81.33 feet; thence South 24°29'54" West 38.36 feet; thence Southwesterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears South 42°08'35" West 75.78 feet; thence South 59°47'16" West 330.61 feet; thence Southwesterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears South 64°47'54" West 87.34 feet; thence South 69°48'32" West

ORDINANCE NO. 2013-38

PROP. ORD. NO. _____

264.21 feet; thence Southwesterly 52.85 feet around a 300.00 foot radius curve to the right, whose chord bears South 74°51'21" West 52.78 feet; thence South 79°54'09" West 30.44 feet; thence North 05°05'05" West 232.69 feet; thence South 89°29'03" West 287.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE part of Lot Five (5) and all of Lots Six (6) through Eleven (11) as shown on Mucha's Subdivision Section 2, recorded as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL II: Rights and benefits of Master Declaration of Easements, Covenants, Conditions and Restriction dated September 29, 2005, as Document Number 0545679 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL III: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southeast corner of Lot #1 of the plat of "Mucha's Subdivision, Section 2" as recorded by Document No. 7827130 in the records of the St. Joseph County Indiana Recorder's Office and being the Point of Beginning; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet; thence North 89°29'03" East 287.00 feet; thence South 05°05'05" East 232.69 feet; thence North 79°54'09" East 30.44 feet; thence Northeasterly 52.85 feet around a 300.00 foot radius curve to the left, whose chord bears North 74°51'21" East 52.78 feet; thence North 69°48'32" East 264.21 feet; thence Northeasterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears North 64°47'54" East 87.34 feet; thence North 59°47'16" East 330.61 feet; thence Northeasterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears North 42°08'35" East 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet around a 125.00 foot radius curve to the right, whose chord bears North 43°29'02" East 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet around a 512.00 foot radius curve to the left, whose chord bears South 28°06'18" East 44.54 feet; thence South 32°36'51" East 239.30 feet to the Northerly right-of-way line of State Road 23, thence South 55°10'38" West on said right-of-way line, 30.17 feet; thence South 52°18'53" West on said right-of-way line, 65.70 feet; thence South 55°10'38" West of said right-of-way line, 262.47 feet; thence South 57°49'03" West on said right-of-way line, 255.10 feet; thence Southwesterly 111.39 feet around a 1851.17 foot radius curve to the left, whose chord bears South 63°05'40" West 111.37 feet; thence South 68°11'06" West 232.49 feet; thence Southwesterly 61.81 feet around a 1852.12 foot radius curve to the left, whose chord bears South 72°58'22" West 61.81 feet; thence North 04°28'27" West 150.13 feet; thence South 79°00'53" West 208.87 feet to the East line of Lot 1 of said Mucha's Subdivision Section 2; thence South 00°31'00" East on the East line of said Lot 1, a distance of 20.25 to the Southeast corner of said Lot 1; thence South 89°38'43" West on the South line of said Lot 1, a distance of 191.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE Lots One (1) through Four (4) and part of Lot Five (5) as shown on the plat of Mucha's Subdivision Section 2 as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

EXCEPTING THEREFROM THE FOLLOWING TRACTS OF LAND:

TRACT A: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the Northeast corner of Lot 11 of the plat of "Mucha's Subdivision Section 2" as recorded in Instrument No. 7827130 in the Office of the Recorder of

ORDINANCE NO. 2013-38

PROP. ORD. NO. _____

St. Joseph County, Indiana; thence North 89°27'05" East along the north line of the south half of the Southwest Quarter of Section 22, a distance of 1097.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East along said North and South, 657.77 feet to the north line of the south half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said north line 79.24 feet to the northerly boundary line of S.R. 23; thence South 55°19'38" West along said boundary line, 87.29 feet to the point of beginning of this description; thence continuing South 55°19'38" West along said boundary line, 30.68 feet; thence South 52°27'53" West along said boundary line, 65.70 feet; thence South 55°19'38" West along said boundary line, 118.94 feet; thence North 30°12'44" West 236.78 feet; thence Northeasterly 76.99 feet along an arc to the left, having a radius of 125.00 feet and subtended by a long chord having a bearing of North 42°08'35" East and a length of 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet along an arc to the right, having a radius of 125.00 feet and subtended by a long chord having a bearing of North 43°29'02" East and a length of 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet along a non-tangent arc to the left, having a radius of 512.00 feet and subtended by a long chord having a bearing of South 28°06'18" East and a length of 44.54 feet; thence South 32°36'51" East 239.30 feet to the point of beginning.

TRACT B: Part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, said tract being part of Lots 3 and 4 as the same are shown and designated on the Plat of Mucha's Subdivision Section 2, all within Harris Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the West Quarter Corner of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana; thence South 00°31'00" East (bearing assumed) on the West line of the Southwest Quarter of said Section 22, a distance of 2051.18 feet; thence North 89°02'46" East, a distance of 86.59 feet to the point of beginning; thence continuing North 89°02'46" East, a distance of 106.42; thence South 01°00'48" East, a distance of 16.98 feet; thence Southwesterly on a curve to the right, having a radius of 3.98 feet, a chord distance of 5.84 feet bearing South 46°30'06" West, an arc distance of 6.55 feet; thence South 89°51'32" West, a distance of 15.70 feet; thence South 00°34'48" East, a distance of 50.81 feet; thence North 88°56'08" East, a distance of 15.98 feet; thence Southwesterly on a curve to the right, having a radius of 4.46 feet, a chord distance of 8.90 feet bearing South 00°23'20" West, an arc distance of 13.47 feet; thence South 89°32'00" West, a distance of 102.49 feet; thence North 00°31'00" West parallel to the West line of the Southwest Quarter of said Section 22, a distance of 79.52 feet to the point of beginning.

TRACT C: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the West line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline, 1094.31 feet along a non-tangent arc to the left having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 71°34'44" East and a length of 1079.43 feet; thence continuing along said centerline North 55°10'32" East 54.55 feet; thence North 34°49'28" West 56.27 feet to the Northern Boundary of S.R. 23 (Edwardsburg Highway), and also being the point of beginning of this description; thence South 57°58'03" West 53.23 feet along said Northern Boundary; thence North 30°12'44"

ORDINANCE NO. 2013-38

PROP. ORD. NO. _____

West 249.63 feet; thence North 59°47'16" East 196.30 feet to the Northwest corner of that parcel of land described in Instrument No. 06-26526, St. Joseph County Recorder; thence South 30°12'44" East 236.78 feet along the West line of said Instrument No. to the Northern Boundary of S.R. 23 (Edwardsburg Highway); thence South 55°19'38" West 145.53 feet along said boundary to the point of beginning.

TRACT D: A part of the Southwest quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the west line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering, Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline 869.33 feet along a non-tangent arc to the left, having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 74°57'06" East and a length of 861.85 feet; thence North 27°39'17" West 57.89 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway) and also being the point of beginning of this description; thence continuing North 27°39'17" West 220.00 feet; thence North 26°17'07" East 28.85 feet; thence North 60°03'20" East 185.00 feet; thence South 30°12'44" East 229.02 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway); thence South 57°58'03" West 201.87 feet along said boundary; thence southwesterly along an arc to the right, 17.11 feet having a radius of 1849.86 feet and subtended by a long chord having a bearing of South 61°47'05" West and a length of 17.11 feet along said boundary to the point of beginning.

COMMON ADDRESS: Heritage Square Shopping Center, State Road 23 and
 Gumwood Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to revise the preliminary site plan and its associated conditions to allow for a hotel use and to amend the approved sign program subject to the following amended PUD developmental standards/conditions:

1. The maximum building height for the hotel shall be limited to 59-feet.
2. The rear building setback for the hotel, adjacent to Toscana Park , may be 20-feet
3. The total number of parking spaces may be reduced to 4.1 parking spaces per 1000 sf of building area for the internal non-outlot portion of the development including the hotel, and 4.9 spaces per 1000 sf of existing building area when providing 1 parking space per hotel room and 1 parking space per hotel employee.
4. An additional free-standing monument sign may be installed along Gumwood Road as submitted with the petition.
5. An additional directional sign may be located along State Road 23 as submitted with the petition.
6. An electronic reader board may be installed within the existing Heritage Square monument sign located along State Road 23 as submitted with the petition.

ORDINANCE NO. 2013-38

PROP. ORD. NO. _____

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

1. Existing Conditions - The proposal is in keeping with the existing area by maintaining commercial uses.
2. Character of Buildings in Area - The character of the buildings located in the Heritage Square Planned Unit Development is commercial. The proposed facility will be commercial in nature.
3. The most desirable/highest and best use - Due to the presence of the commercial activity in the surrounding area, the most desirable/highest use is the proposed commercial use.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding commercial area.
5. Comprehensive Plan - This area was not identified within The Comprehensive Plan. However, the proposed is consistent with the commercial development of the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this day of _____, 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

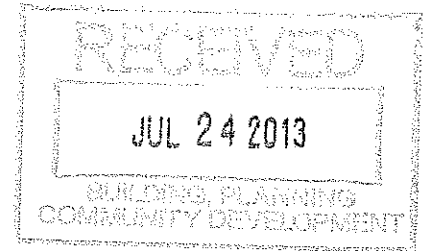
APPROVED by me this _____ day of _____, 2013, at o'clock _____.M.

David A. Wood, Mayor

DATE: July 24, 2013

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

RE: **PETITION FOR PUD AMENDMENT**
Heritage Square PUD



RECEIVED
DEBORAH S. BLOCK, MMC

JUL 25 2013

CITY CLERK
MISHAWAKA, IN

The undersigned Garrison Holladay Heritage Square Delaware, LLC, respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

PARCEL 1: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southwest corner of Lot Number 1 of the plat of "Mucha's Subdivision 2" as recorded by Document Number 7827130 in the records of the St. Joseph County, Indiana Recorder's Office; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet to the Point of Beginning; thence North 00°31'00" West on said West line 699.55 feet to the Northwest corner of Lot 11 of said Mucha's Subdivision, Section 2, also said Northwest corner being on the North line of the South Half of the Southwest Quarter of said Section 22; thence North 89°27'05" East along the North line of the South Half of the Southwest Quarter of said Section 22, a distance of 1288.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East on said North and South centerline 657.77 feet to the North line of the South Half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said North line, 79.24 feet to the Northerly right-of-way line of State Road Number 23; thence South 55°19'38" West along said Northerly right-of-way line, 87.29 feet; thence North 32°36'51" West 239.30 feet; thence Northwesterly 44.55 feet around a 512.00 foot radius curve to the right, whose chord bears North 28°06'18" West 44.54 feet; thence South 62°28'10" West 24.37 feet; thence Southwesterly 82.84 feet around a 125.00 foot radius curve to the left, whose chord bears South 43°29'02" West 81.33 feet; thence South 24°29'54" West 38.36 feet; thence Southwesterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears South 42°08'35" West 75.78 feet; thence South 59°47'16" West 330.61 feet; thence Southwesterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears South 64°47'54" West 87.34 feet; thence South 69°48'32" West 264.21

Let 13-31

feet; thence Southwesterly 52.85 feet around a 300.00 foot radius curve to the right, whose chord bears South 74°51'21" West 52.78 feet; thence South 79°54'09" West 30.44 feet; thence North 05°05'05" West 232.69 feet; thence South 89°29'03" West 287.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE part of Lot Five (5) and all of Lots Six (6) through Eleven (11) as shown on Mucha's Subdivision Section 2, recorded as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL II: Rights and benefits of Master Declaration of Easements, Covenants, Conditions and Restriction dated September 29, 2005, as Document Number 0545679 in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL III: That part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, which is described as: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West on the West line of said Section 22, a distance of 217.75 feet; thence North 89°38'43" East 40.00 feet to the Southeast corner of Lot #1 of the plat of "Mucha's Subdivision, Section 2" as recorded by Document No. 7827130 in the records of the St. Joseph County Indiana Recorder's Office and being the Point of Beginning; thence North 00°31'00" West along the West line of said Mucha's Subdivision, Section 2, a distance of 402.44 feet; thence North 89°29'03" East 287.00 feet; thence South 05°05'05" East 232.69 feet; thence North 79°54'09" East 30.44 feet; thence Northeasterly 52.85 feet around a 300.00 foot radius curve to the left, whose chord bears North 74°51'21" East 52.78 feet; thence North 69°48'32" East 264.21 feet; thence Northeasterly 87.45 feet around a 500.00 foot radius curve to the left, whose chord bears North 64°47'54" East 87.34 feet; thence North 59°47'16" East 330.61 feet; thence Northeasterly 76.99 feet around a 125.00 foot radius curve to the left, whose chord bears North 42°08'35" East 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet around a 125.00 foot radius curve to the right, whose chord bears North 43°29'02" East 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet around a 512.00 foot radius curve to the left, whose chord bears South 28°06'18" East 44.54 feet; thence South 32°36'51" East 239.30 feet to the Northerly right-of-way line of State Road 23, thence South 55°10'38" West on said right-of-way line, 30.17 feet; thence South 52°18'53" West on said right-of-way line, 65.70 feet; thence South 55°10'38" West of said right-of-way line, 262.47 feet; thence South 57°49'03" West on said right-of-way line, 255.10 feet; thence Southwesterly 111.39 feet around a 1851.17 foot radius curve to the left, whose chord bears South 63°05'40" West 111.37 feet; thence South 68°11'06" West 232.49 feet; thence Southwesterly 61.81 feet around a 1852.12 foot radius curve to the left, whose chord bears South 72°58'22" West 61.81 feet; thence North 04°28'27" West 150.13 feet; thence South 79°00'53" West 208.87 feet to the East line of Lot 1 of said Mucha's Subdivision Section 2; thence South 00°31'00" East on the East line of said Lot 1, a distance of 20.25 to the Southeast corner of said Lot 1; thence South 89°38'43" West on the South line of said Lot 1, a distance of 191.00 feet to the Point of Beginning.

SAID PARCEL TO INCLUDE Lots One (1) through Four (4) and part of Lot Five (5) as shown on the plat of Mucha's Subdivision Section 2 as Document Number 7825719 in the Office of the Recorder of St. Joseph County, Indiana.

EXCEPTING THEREFROM THE FOLLOWING TRACTS OF LAND:

TRACT A: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the Northeast corner of Lot 11 of the plat of "Mucha's Subdivision Section 2" as recorded in Instrument No. 7827130 in the Office of the Recorder of St. Joseph County, Indiana; thence North 89°27'05" East along the north line of the south half of the Southwest Quarter of Section 22, a distance of 1097.69 feet to the North and South centerline of the Southwest Quarter of said Section 22; thence South 00°30'01" East along said North and South, 657.77 feet to the north line of the south half of the Southeast Quarter of the Southwest Quarter of said Section 22; thence North 89°27'05" East along said north line 79.24 feet to the northerly boundary line of S.R. 23; thence South 55°19'38" West along said boundary line, 87.29 feet to the point of beginning of this description; thence continuing South 55°19'38" West along said boundary line, 30.68 feet; thence South 52°27'53" West along said boundary line, 65.70 feet; thence South 55°19'38" West along said boundary line, 118.94 feet; thence North 30°12'44" West 236.78 feet; thence Northeasterly 76.99 feet along an arc to the left, having a radius on 125.00 feet and subtended by a long chord having a bearing of North 42°08'35" East and a length of 75.78 feet; thence North 24°29'54" East 38.36 feet; thence Northeasterly 82.84 feet along an arc to the right, having a radius of 125.00 feet and subtended by a long chord having a bearing of North 43°29'02" East and a length of 81.33 feet; thence North 62°28'10" East 24.37 feet; thence Southeasterly 44.55 feet along a non-tangent arc to the left, having a radius of 512.00 feet and subtended by a long chord having a bearing of South 28°06'18" East and a length of 44.54 feet; thence South 32°36'51" East 239.30 feet to the point of beginning.

TRACT B: Part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, said tract being part of Lots 3 and 4 as the same are shown and designated on the Plat of Mucha's Subdivision Section 2, all within Harris Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the West Quarter Corner of Section 22, Township 38 North, Range 3 East, Harris Township, City of Mishawaka, St. Joseph County, Indiana; thence South 00°31'00" East (bearing assumed) on the West line of the Southwest Quarter of said Section 22, a distance of 2051.18 feet; thence North 89°02'46" East, a distance of 86.59 feet to the point of beginning; thence continuing North 89°02'46" East, a distance of 106.42; thence South 01°00'48" East, a distance of 16.98 feet; thence Southwesterly on a curve to the right, having a radius of 3.98 feet, a chord distance of 5.84 feet bearing South 46°30'06" West, an arc distance of 6.55 feet; thence South 89°51'32" West, a distance of 15.70 feet; thence South 00°34'48" East, a distance of 50.81 feet; thence North 88°56'08" East, a distance of 15.98 feet; thence Southwesterly on a curve to the right, having a radius of 4.46 feet, a chord

distance of 8.90 feet bearing South 00°23'20" West, an arc distance of 13.47 feet; thence South 89°32'00" West, a distance of 102.49 feet; thence North 00°31'00" West parallel to the West line of the Southwest Quarter of said Section 22, a distance of 79.52 feet to the point of beginning.

TRACT C: A part of the Southwest Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows: Commencing at the Southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the West line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline, 1094.31 feet along a non-tangent arc to the left having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 71°34'44" East and a length of 1079.43 feet; thence continuing along said centerline North 55°10'32" East 54.55 feet; thence North 34°49'28" West 56.27 feet to the Northern Boundary of S.R. 23 (Edwardsburg Highway), and also being the point of beginning of this description; thence South 57°58'03" West 53.23 feet along said Northern Boundary; thence North 30°12'44" West 249.63 feet; thence North 59°47'16" East 196.30 feet to the Northwest corner of that parcel of land described in Instrument No. 06-26526, St. Joseph County Recorder; thence South 30°12'44" East 236.78 feet along the West line of said Instrument No. to the Northern Boundary of S.R. 23 (Edwardsburg Highway); thence South 55°19'38" West 145.53 feet along said boundary to the point of beginning.

TRACT D: A part of the Southwest quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St. Joseph County, Indiana, and being more particularly described as follows:

Commencing at the southwest corner of said Section 22; thence North 00°31'00" West 0.53 feet along the west line of said Section to the centerline of S.R. 23 (Edwardsburg Highway) as defined by the Location Control Route Survey prepared by Lawrence Suhre, PLS of First Group Engineering, Inc., recorded as Instrument No. 98-22852 in the Office of the Recorder, St. Joseph County, Indiana; thence Northeasterly along said centerline 869.33 feet along a non-tangent arc to the left, having a radius of 1911.16 feet and subtended by a long chord having a bearing of North 74°57'06" East and a length of 861.85 feet; thence North 27°39'17" West 57.89 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway) and also being the point of beginning of this description; thence continuing North 27°39'17" West 220.00 feet; thence North 26°17'07" East 28.85 feet; thence North 60°03'20" East 185.00 feet; thence South 30°12'44" East 229.02 feet to the Northern boundary of S.R. 23 (Edwardsburg Highway); thence South 57°58'03" West 201.87 feet along said boundary; thence southwesterly along an arc to the right, 17.11 feet having a radius of 1849.86 feet and subtended by a long chord having a bearing of South 61°47'05" West and a length of 17.11 feet along said boundary to the point of beginning.

The legal descriptions on this document are from record information.

Common Address: Heritage Square in the Northeast Area of Gumwood Road
and State Road 23, Mishawaka, Indiana

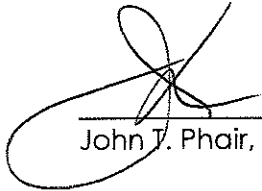
Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development (PUD) specifically for a commercial retail development shopping center including "big box" retail, strip shopping center uses, restaurant uses with and without drive-thru, and convenience store/gas station. Said described parcel is a part of the previously approved PUD Ordinances for Heritage Square.

The purpose of this petition is to revise the approved preliminary site plan and its associated conditions to allow for a hotel use. Accompanying this petition is a drawing showing the boundary of the above-described parcel of real estate, preliminary site plan showing the proposed use, and supporting documentation.

Petitioner desires said real estate to be amended as follows:

1. To allow for a hotel use located in the internal non-outlot portion of the development;
2. To allow for a maximum building height of 59 feet;
3. To allow for a rear building setback of 20 feet adjacent to the Toscana Park Development;
4. To allow for 4.1 parking spaces per 1,000 sq. ft. of building area for the internal non-outlot portion of the development including the hotel, and 4.9 spaces per 1,000 sq. ft. of existing building area when providing 1 parking space per hotel room and 1 parking space per hotel employee;
5. To allow for an additional freestanding monument sign located along Gumwood Road;
6. To allow for a directional sign located along State Road 23;
7. To allow for an electronic reader board located along State Road 23.

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



John T. Phair, Member

Garrison Holladay Heritage Square Delaware, LLC
227 South Main Street, Suite 300
South Bend, IN 46601

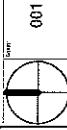
CONTACT PERSON:

Bradley E. Mosness, PE
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
bmosness@abonmarche.com



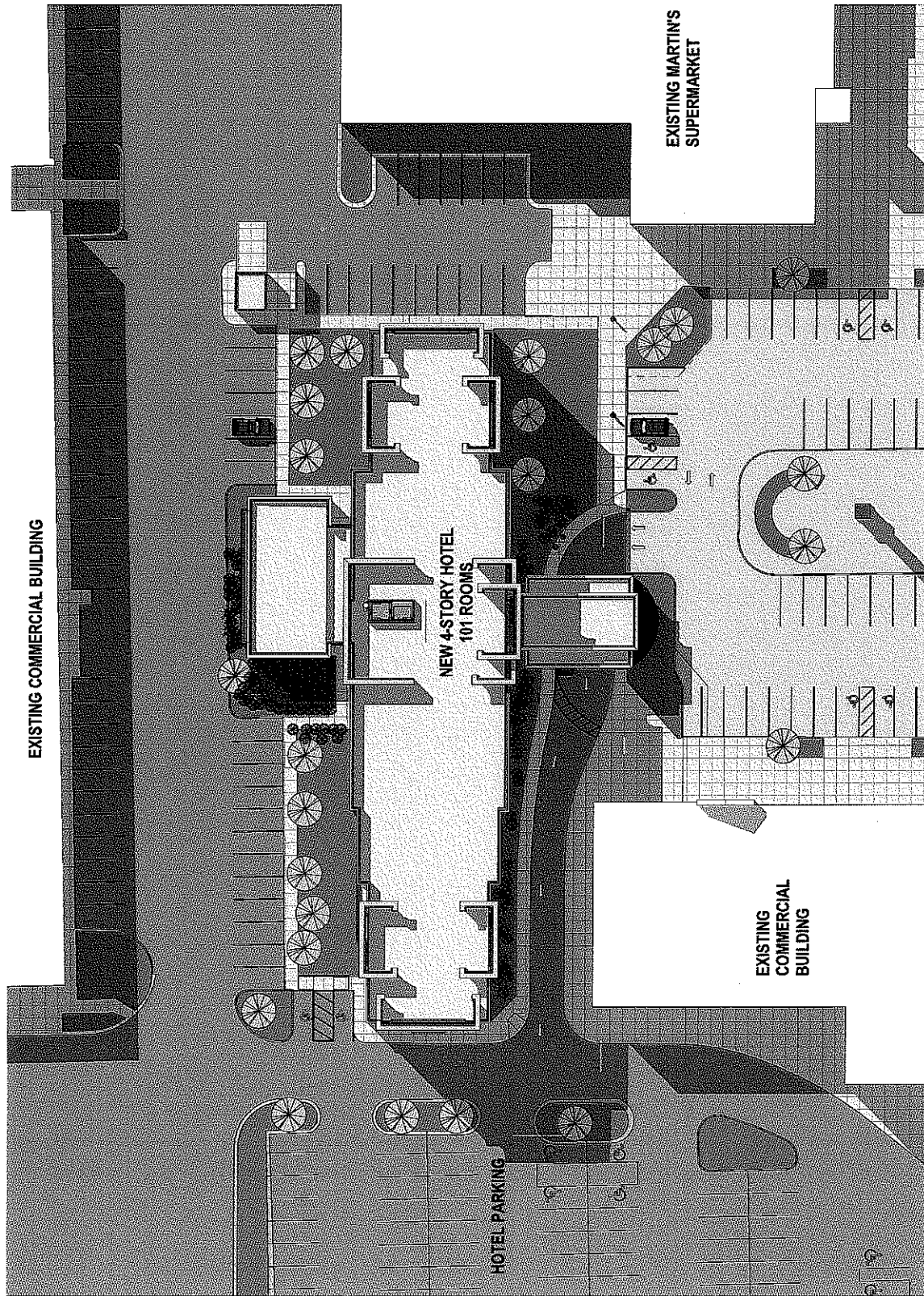
07/23/2013

1" = 40'-0"



001

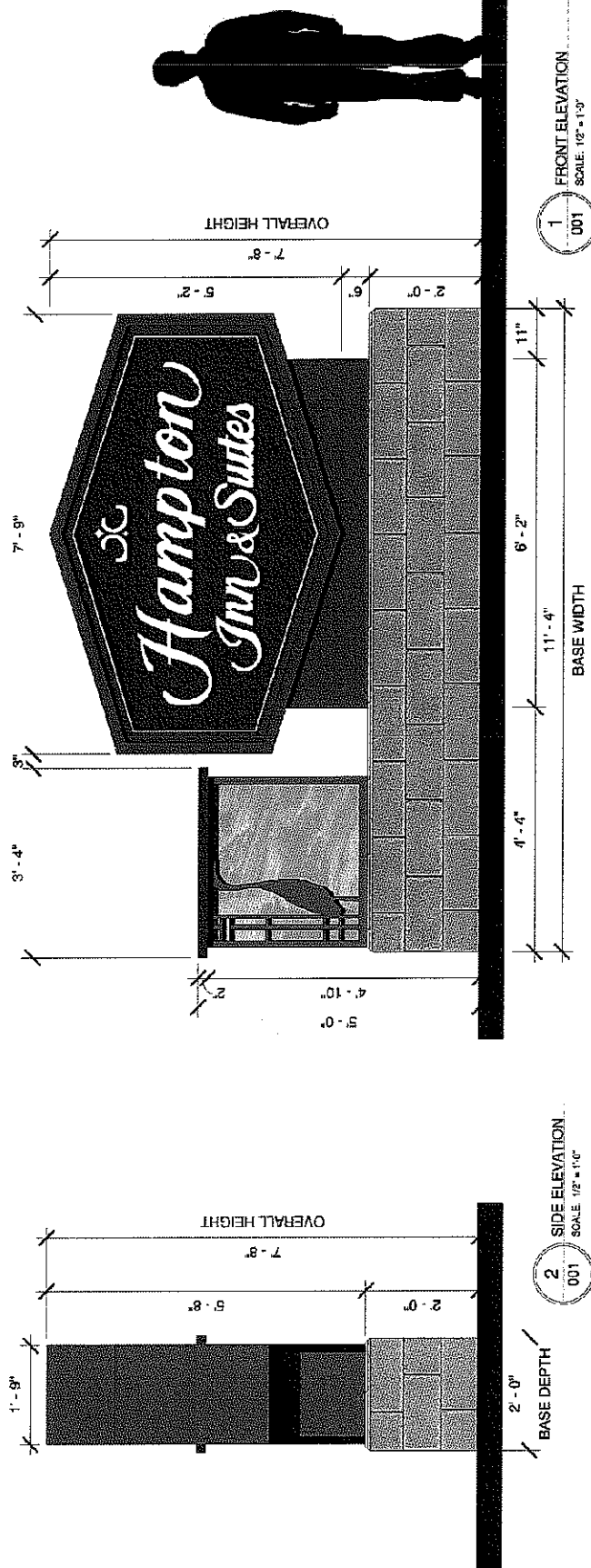
SITE PLAN
 SCALE: 1" = 40'-0"

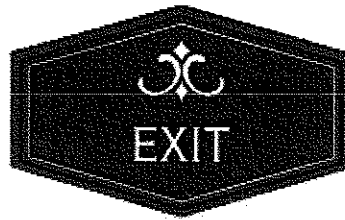


GROSS BUILDING AREA	
GROUND FLOOR	18660 SF
SECOND FLOOR	14510 SF
THIRD FLOOR	15540 SF
FOURTH FLOOR	15540 SF
	64150 SF

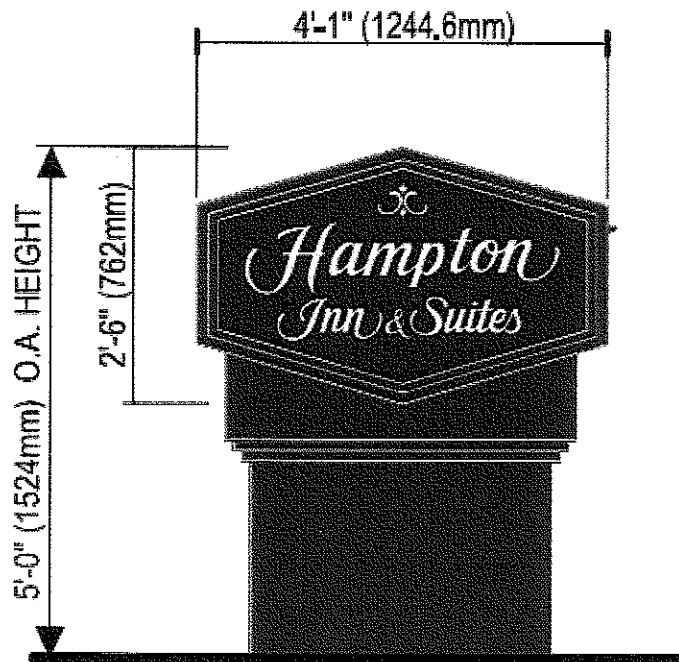


DATE 07/09/13
SCALE 1/2" = 1'-0"





ALTERNATE FACE LAYOUTS FOR HIS-10D SIGN



HIS-10 DIRECTIONAL SIGN



Kaczmar
architects incorporated
cleveland • ohio

1468 West 9th Street #400
Cleveland, OH 44113
P:216.687.1555 F:216.687.1558

**HAMPTON INN & SUITES AT
HERITAGE SQUARE**
HERITAGE SQUARE HOTEL, LLC
7115 HERITAGE SQUARE DRIVE
GRANGER, IN 46530

Reference Sheet:

Date:
07/19/13

Scale:

Supplemental Drawing:

Burkhart SIGNSYSTEMS

Heritage Square
Granger, Indiana

B. Miller

61" x 72" x 22"
214" x 120" x 22"

☐ Angle Alum.
☒ Extrusion
☐ Other:

☒ Illuminated ☐ Non Illuminated
Lamps: ☐ Vertical ☐ Horizontal
Size: Size:
Quantity: Quantity:

Pylon Cover:
Trim:

☒ Double Faced ☐ Single
☒ Lexan ☐ Flexible ☐ Pan
☒ Aluminum
☒ Routed Backed with Frosted PK
& ML 180 Acrylic
For Top Cabinet

☐ Paint:
☐ HP:
☐ Translucent Silver
Copy: ☐ Paint:
☐ HP:
☐ Translucent:
Laser: ☐ Paint:
☐ Translucent:

☐ Filler:
☐ Trim:
☐ Rod:
☐ Uprights:

See Drawing

☐ Saddle ☐ Match Plane
☒ External ☐ Clips
☐ Wall

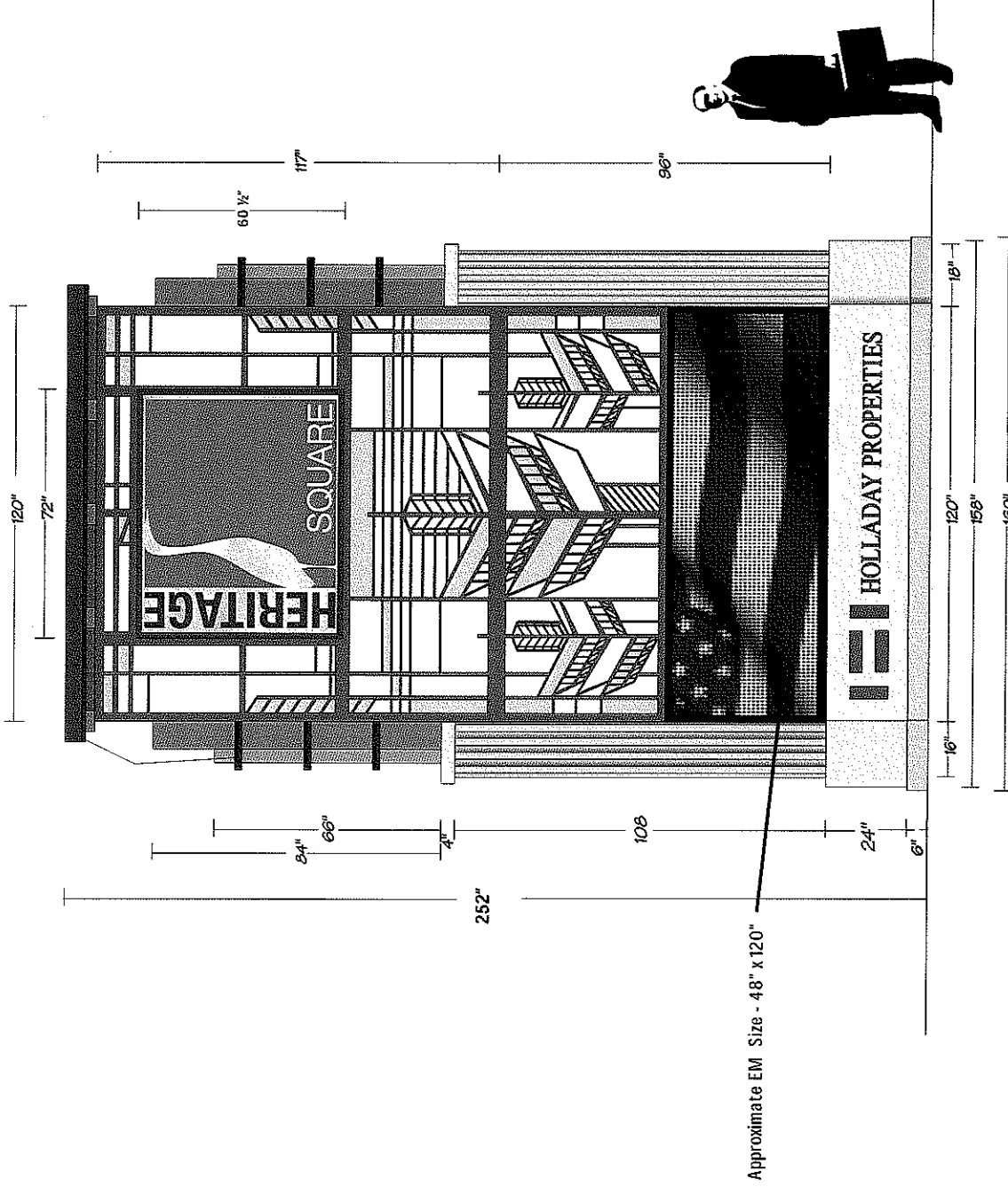
Steel: ☐ Round ☐ Square:
☒ Direct Burial
☐ Anchor Bolts
☐ Extending

Foundation:
☐ Pad:
☐ Base:
☐ Conduit in Base

Scale: 3/16" = 1'

Design: E. Willock

Draw. No.: 071813a-eb
Rev. Date:



Please refer to actual vinyl/paint or PMS colors
Colors are close approximations of actual colors.

This Design is the Property of Burkhardt Advertising Inc. Any Reproduction or
Duplication Without the Express Written Permission of Burkhardt Advertising, Inc. Is Prohibited.

AUG 13 2013

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2013-39

ORDINANCE NO. _____

1st Reading
2nd Reading
Passed
Failed
Continued To

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDED DECEMBER 31, 2013

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

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the budget of the Fire Department in the General Fund adopted for the fiscal year ending December 31, 2013.

Section 2. There is hereby transferred and reappropriated the sum of \$51,000.00 as follows:

		General Fund
From:	Fire Department	
	<u>Personal Services</u>	
	101-19-411-66 Clothing Allowance	\$ 7,000.00
	<u>Other Services and Charges</u>	
	101-19-436-90 Service Contracts	<u>44,000.00</u>
	Total	\$ 51,000.00
To:	Fire Department	
	<u>Supplies</u>	
	101-19-422-01 Operating Supplies	\$ <u>51,000.00</u>
	Total	\$ 51,000.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka,

Indiana, on this _____ day of _____, 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



CITY OF MISHAWAKA



DAVID A. WOOD, MAYOR

MISHAWAKA FIRE DEPARTMENT
Dale E. Freeman
Chief of Department

To: Honorable Common Council Members
City of Mishawaka

From: Dale E. Freeman, Fire Chief

Date: 8/15/2013

Re: Transfer

Dear Honorable Members of the Common Council,

In asking for your favorable recommendation for the transfer of funds I would like to explain a little bit about where the expenditures have gone to this point. This is the catch all line for the fire department with all replacement gear, medical, operating, parts, tires, cleaning supplies, etc. coming from here.

The majority of the funds spent so far year to date have occurred in two areas.

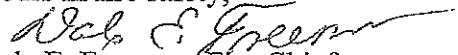
The first and largest is our disposable medical line. With the addition of the third ambulance 24/7 we have been able to increase our run volume by 451 runs year to date. Besides the additional call volume and the need for additional supplies we were hit with in some cases a 300% increase in the cost of disposable medical from our suppliers. This occurred after the budget for 2013 had been established. We continue to shop for the best pricing, but another factor we face is a nationwide shortage of certain drugs. In addition we are bound by D.E.A. protocols to sole source some drugs. What this means is we are spending around \$10,000 per month on disposable medical supplies.

The second major area is new, and replacement gear. We try to follow National Fire Protection Association guidelines for replacement turn out gear. With 113 employees we try to replace gear on a seven (7) year cycle. Therefore, we need roughly 16-18 sets of gear per year at roughly \$2,000.00 per set.

Again as I stated this is the catch all line for the fire department, but these are the major purchases.

If I may answer any questions or explain these in more detail please feel free to call or stop by.

Yours in fire safety,


Dale E. Freeman, Fire Chief

Account Performance

January-July	2012	2013
Total Run Volume	2,292	2,743
BLS Run Volume	595	684
ALS Run Volume	1,532	1,876
Treatment No Transports	165	183
Gross Charges	\$1,346,339.63	\$1,612,053.76
Contractuals	\$404,993.04	\$452,314.71
Payments	\$715,796.65	\$744,421.66
Average Recovery Per Run	\$312.30	\$271.39

Payor Mix

January-July	2012	2013
Medicare	49%	46%
Medicaid	15%	12%
Commercial	20%	16%
Self Pay	16%	26%

Conclusion

The contributing factors to changes in revenue and average recovery per run are as follows:

- ✓ Run volume variations-changes in run volume will impact revenue.
- ✓ Payor mix changes-Self Pay has increased from 16% to 26% in 2013, this equates to a 62.5% increase. Commercial has decreased by 4%. If this trend continues into 2013, it will have a negative impact on revenue. Lastly, the Medicaid payor mix has decreased in 2013. This will have a positive impact on revenue as Medicaid has the lowest allowable amounts.
- ✓ Fee schedule changes-Medicare reduced payments to ambulance suppliers by 2% effective 4/1/2013.

City of Mishawaka January-July 2012/2013 Account Review

The following analysis has been completed on your account. The intention of this analysis is to keep you informed of the various opportunities that may optimize the revenue for your agency or community in full compliance with all regulatory entities. This analysis is supplemental to the resources you currently receive through The AccuMed Group, such as: memos, fax alerts, our web site, compliance /educational seminars and unlimited access to AccuMed's administrative staff.

Account Review

Level of Service	Resident	Non Resident	Suggested Fees*
BLS Emergency	\$474.29	\$632.28	\$350.00-\$632.28
BLS Non-Emergency	\$296.43	\$395.24	\$250.00-\$395.24
ALS Emergency	\$563.21	\$750.94	\$420.00-\$750.94
ALS II Emergency	\$815.16	\$1,086.88	\$600.00-\$1,086.88
ALS Non-Emergency	\$355.71	\$474.28	\$280.00-\$474.28
Mileage	\$10.11	\$13.48	\$10.50-\$13.48
Oxygen	\$0	\$0	\$16.00-\$20.00
BLS Treatment No Transport	\$100.00	\$150.00	\$150.00-\$300.00
ALS Treatment No Transport	\$170.00	\$225.00	\$150.00-\$300.00
ALS Assist	\$500.00	\$500.00	No Suggestions
Standby 1 BLS Ambulance	\$250.00	\$250.00	No Suggestions
Standby 1 ALS Ambulance	\$275.00	\$275.00	No Suggestions
Standby 1 Paramedic	\$140.00	\$140.00	No Suggestions

*The suggested fees are ranges based on State, Federal, and Local insurance carrier fee schedules.

Billing/Collection Policies	Suggestions
- All delinquent accounts \$50.00 and above are transferred to Ann Arbor Credit Bureau. - The City currently does not accept credit cards as form of payment for EMS services.	✓ Consider the provision of Credit Card Payment option to increase chances of payment from a patient prior to account being written off uncollectable, or sent to a collection agency.

AUG 13 2013

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2013- 40

ORDINANCE NO. - _____

1st Reading
2nd Reading
Passed
Failed
Continued To

AN ORDINANCE FIXING THE SALARIES
OF CERTAIN ELECTED OFFICIALS OF THE CITY OF MISHAWAKA
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2014

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

Section 1. The annual salaries of the following elected officials of the City of Mishawaka, Indiana, for the fiscal year beginning January 1, 2014 shall be payable in 26 equal biweekly pay periods beginning January 04, 2014 in the following amounts:

	2014 Annualized	Per biweekly pay period Beginning January 03, 2014
Mayor	\$ 73,848.00	\$ 2,840.30
Clerk	51,871.00	1,995.02
Council member	9,331.00	358.85

Section 2. Any prior ordinances in conflict herewith are hereby repealed.

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on
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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Misti D. Horvath, Deputy Controller

Date: August 13, 2013
To: Members of the Common Council
From: Becky Miller
Re: Elected Officials Salary Ordinance

As part of your packet for the August 19th meeting there is an ordinance for the first reading of the 2014 Elected Officials Salary. This date meets the budgetary guidelines set forth by the State. The raise is 1.5% and follows the Civil City raise approved last year for 2014.

If you have any questions or would like additional information, please contact me.

c: David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2013

CITY CLERK
MISHAWAKA, IN

AUG 14 2013

APPEAL #13-21

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2013-16

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

1022 Willow Street, 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 no 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 **1022 Willow Street, Mishawaka, Indiana**, more particularly known and described as follows:

A parcel of land being a part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of Lot "A" as shown on the Plat of Battell Hills, the same being recorded April 26, 1933 in Plat Book 14, page B-1 in the Office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East (the basis of bearings for this legal description) along the Easterly right-of-way line of Willow Street, a distance of 91.25 feet; thence North 86°46'55" East, a distance of 251.26 feet; thence South 00°00'00" East, parallel with the Westerly right-of-way line of Merrifield Avenue, a distance of 108.04 feet; thence North 89°23'15" West, a distance of 250.88 feet to the place of beginning.

The Use Variance will allow for a two-family home on R-1 Single Family Residential zoned property subject to the following conditions:

1. This approval shall be for a period of not more than five (5) years at which point the home must be converted back into a single-family residence.

2. An administrative site plan shall be submitted showing three (3) off-street parking spaces with appropriate storm-water management measures, a concrete walkway from the parking area to the house, and an enclosure for trash and recycling.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all required permits will be secured and codes adhered to;
2. The use and value of the area adjacent to the property included in the variance will not have an adverse impact on the surrounding neighborhood because the duplex use has existed since 1983. The property is now being updated and repaired and will no longer continue to deteriorate;
3. The need for the variance arises from some condition peculiar to the property involved in that the property is zoned R-1, which does not allow the multi-family use.
4. The strict application of the terms of this chapter will result in practical difficulties in that the historical use of the property has been multi-family and improvements to the property cannot be implemented until the property is rezoned appropriately or a Use Variance is granted.
5. The approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan because the area has been identified low density residential.

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

RESOLUTION #2013-16
1022 Willow Street
Page 3 of 3

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

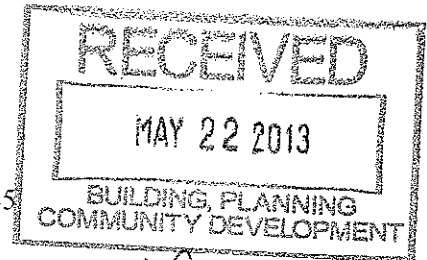
PRESENTED by me to the Mayor this _____ day of _____ 2013,
at _____ o'clock ____m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2013, at
_____o'clock ____m.

David A. Wood, Mayor

APPEAL FOR USE VARIANCE FOR
THE REAL ESTATE LOCATED AT
1022 WILLOW STREET, MISHAWAKA, IN 46545



DATE: May 22, 2013
TO: Board of Zoning Appeals
City of Mishawaka, Indiana

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 30 2013

The undersigned appellant respectfully shows the Board:

CITY CLERK
MISHAWAKA, IN

1. I, Todd Sikorski, am purchasing the following described Real Estate pursuant to a Land Contract with the owners, Diana S. Ritchie, Jack W. Ritchie, JoAnn T. Rorie and Jessie O. Rorie:

A parcel of land being a part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of Lot "A" as shown on the Plat of Battell Hills, the same being recorded April 26, 1933 in Plat Book 14, page B-1 in the Office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East (the basis of bearings for this legal description) along the Easterly right-of-way line of Willow Street, a distance of 91.25 feet; thence North 86°46'55" East, a distance of 251.26 feet; thence South 00°00'00" East, parallel with the Westerly right-of-way line of Merrifield Avenue, a distance of 108.04 feet; thence North 89°23'15" West, a distance of 250.88 feet to the place of beginning.

(more commonly known as 1022 Willow Street, Mishawaka, Indiana 46545, Tax Key Number 16-2094-3102).

2. The above-described Real Estate presently has a zoning classification of Residential R-1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently proposes to use the above-described property in the following manner:
as a duplex.
4. Appellant desires to request a special use variance from Residential R-1 District to allow Appellant to utilize the Real Estate as a duplex.
5. The Zoning Ordinance of the City of Mishawaka requires that Real Estate zoned residential R-1 contain only single-family dwelling only to be occupied by no more than one family. See Chapter 137, Article IV, Division 2, Subdivision II, Section 137-164 and 137-165 of the Municipal Code of the City of Mishawaka, Indiana.
6. The structure on the Real Estate was constructed as a duplex. Strict adherence to the Ordinance requirements of residential R-1 would create an unusual hardship for the Appellant as he will be prohibited from utilizing the structure in its present formation (design).
7. Developmental Variance Questions:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the

community?

Answer: No. The structure was constructed as a duplex. Use as a duplex is the only realistic use of the Real Estate based upon its present design and layout.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

Answer: No. The variance will not affect the adjacent property adversely as the variance will serve to allow the structure to be utilized for the purpose for which it was constructed. Further, the Appellant owns neighboring business property so he will be monitoring this Real Estate on a regular basis. Given his ownership of neighboring property, the Appellant has a direct interest in ensuring the use of this Real Estate will not injure or otherwise negatively impact any other properties in the neighborhood.

- (3) Will strict application of the terms of this chapter result in practical difficulties in the use of the property?

Answer: Yes. Strict application of the terms of the applicable chapter of the Municipal Code of the City of Mishawaka will serve to prohibit the Appellant from utilizing the structure for the purpose for which it was constructed.

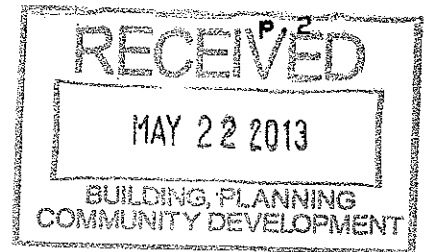
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing the Board grant the requested variance.



Todd Sikorski

CONTACT PERSON:

James P. Knepp, Attorney-at-Law
Andrea Kurek Slagh, Attorney-at-Law
HAHN, KNEPP and SLAGH
509 West Washington Avenue
South Bend, IN 46601
Tel. No. (574) 234-2118
Fax No. (574) 234-2119
Email: jknepp@hkslaw.com
aslagh@hkslaw.com

**AUTHORIZATION**

We, the undersigned, are the owners of the following described Real Estate:

A parcel of land being a part of the Southwest Quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of Lot "A" as shown on the Plat of Battell Hills, the same being recorded April 26, 1933 in Plat Book 14, page B-1 in the Office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East (the basis of bearings for this legal description) along the Easterly right-of-way line of Willow Street, a distance of 91.25 feet; thence North 86°46'55" East, a distance of 251.26 feet; thence South 00°00'00" East, parallel with the Westerly right-of-way line of Merrifield Avenue, a distance of 108.04 feet; thence North 89°23'15" West, a distance of 250.88 feet to the place of beginning.

(more commonly known as 1022 Willow Street, Mishawaka, Indiana 46545, Tax Key Number 16-2094-3102).

Todd Sikorski has an interest in this Real Estate pursuant to the terms of a Contract for Conditional Sale of Real Estate dated January 14, 2013 and recorded in the St. Joseph County Recorder's Office on January 13, 2013 as Document No. 1301795.

We hereby authorize and empower Todd Sikorski to file an Appeal for Special Use Variance for this Real Estate pursuant to which he will seek a special use variance from Residential R-1 District so that the structure constructed on said Real Estate as a duplex can be utilized as such.

Dated: 5-21-13

Diana S. Ritchie
Diana S. Ritchie

Dated: 5-21-13

Jack W. Ritchie
Jack W. Ritchie

Dated: 5-21-13

JoAnne T. Rorie
JoAnne T. Rorie

Dated: 5-21-13

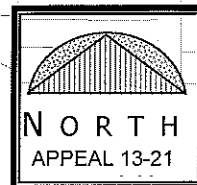
Jessie O. Rorie
Jessie O. Rorie

Dated: 5-21-13

Donna R. Minarik
Donna R. Minarik

Dated: 5-21-13

George A. Minarik
George A. Minarik



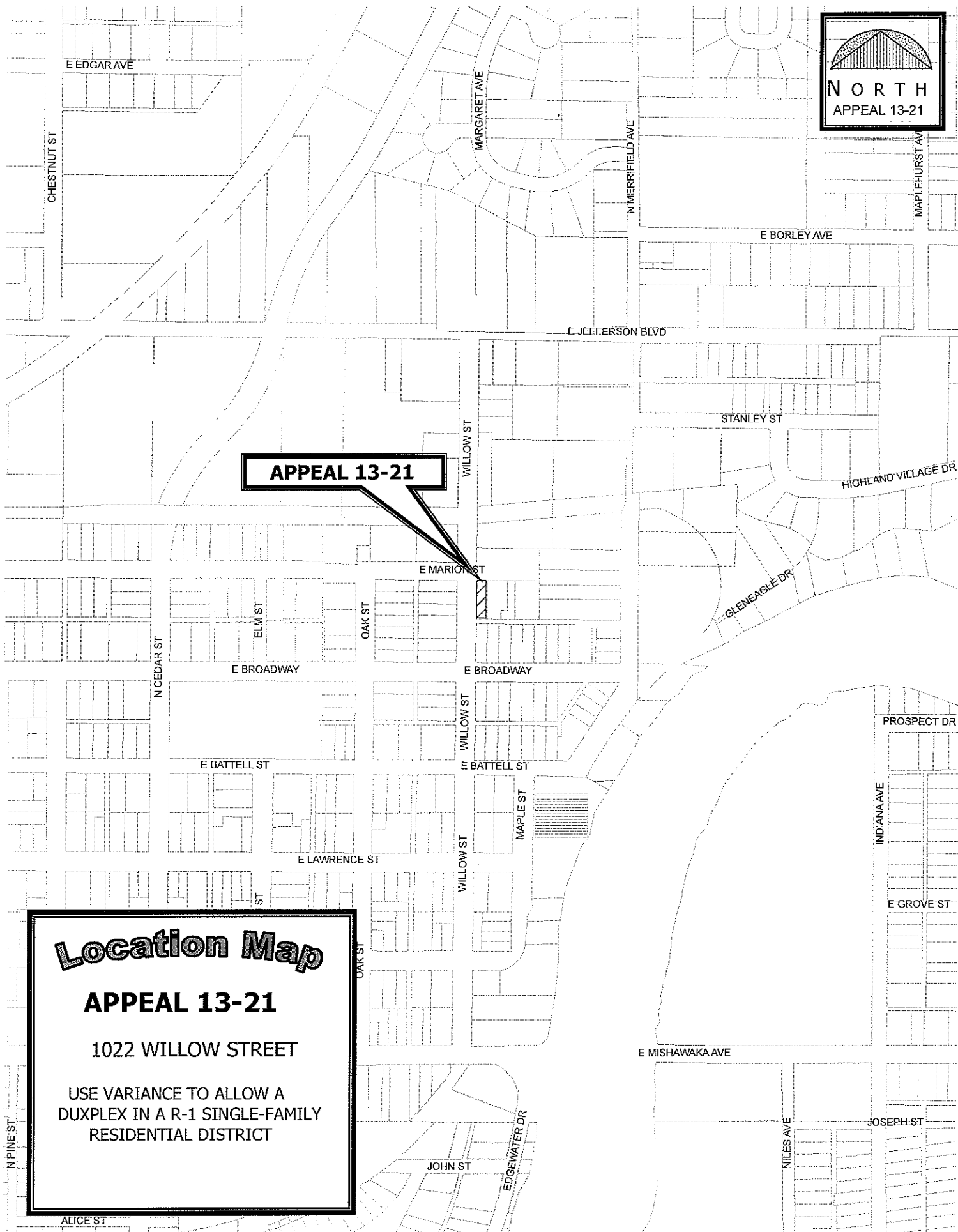
APPEAL 13-21

Location Map

APPEAL 13-21

1022 WILLOW STREET

USE VARIANCE TO ALLOW A
DUPLEX IN A R-1 SINGLE-FAMILY
RESIDENTIAL DISTRICT



1st Reading
2nd Reading
Passed
Failed
Continued To

8-5-13

CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2013-35
ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 25 2013

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE AMENDING CHAPTER 50, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE "PARKS AND RECREATION ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA

WHEREAS, circumstances warrant changes to park hours, rules, and signage from time to time; and

WHEREAS, recent activity at various City of Mishawaka Parks has justified reexamination of park hours, rules, and signage; and

WHEREAS, on July 8th, 2013, the Mishawaka Park Board approved changes to park rules, subject to the approval of the Mishawaka Common Council.

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

Section 1. Chapter 50, of the Municipal Code of the City of Mishawaka, commonly known as the "Parks and Recreation Ordinance," be, and the same is, hereby amended as follows:

Add the following:

Section 50-3. – Prohibited acts.

- (8) No person shall sleep or protractedly lounge on the seats, or benches, or other areas including parking lots; or engage in loud, boisterous, threatening, abusive, insulting or indecent language; or engage in any disorderly conduct or behavior tending to a breach of the public peace in the Public Parks.

Section 2. 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.

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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

PARKS AND RECREATION DEPARTMENT

Mishawaka Park Board

Staff Report

Re: 2013 Park Hours, Rules and Signage

Date: July 8th, 2013

From: Terry Zeller, Superintendent of Parks and Recreation

Summary:

This is a request for changes to be made to the Park Hours policy, Park Rules, and the posting of signage. Feedback from the Mishawaka Police Department has revealed that the current hours are detrimental to their ability to maintain law and order in certain parks, specifically Beutter and Battell parks, and that current park rules do not cover some unwanted activity at the parks.

Recently, late evening activity at Battell Park resulting in damage, fighting, large gatherings of minors and tagging has caused the park to be undesirable for use by the general public, and many complaints have caused the police to respond to this location. Due to the park being open until midnight, their hands are tied in attempting to clear the park of those patrons whose activity is disruptive to others' enjoyment of the park. Loitering and disruptive activity are concentrated at the Battell Bandshell, which has been hit with graffiti in an ongoing way for some time, also tied to these group loitering activities

Concurrently, at Beutter Park, groups are congregating in the parking lots for the sole purpose of loitering within the lots, setting up fire pits, and being generally disruptive in their gatherings with reports of drinking, illegal drug use, and fighting.

The Mishawaka Police department has requested that the park hours for Battell, Beutter, Kate's Garden, Lincoln, Kamm Island, and Central Parks (Downtown Riverwalk Parks) be changed from midnight to 10:30 pm., and that the Park Board add park rules addressing loitering with specific language to be posted at the Battell Bandshell and Beutter stage and lot. Since the Riverwalk itself, outside of park boundaries, is not Park Property, these areas would not be affected by the proposed hours.

Specific Park Rules to be added to Municipal Code :

Sec. 50-3. – Prohibited Acts.

(8) No person shall sleep or protractedly lounge on the seats, or benches, or other areas including parking lots; or engage in loud, boisterous, threatening, abusive, insulting or indecent language; or engage in any disorderly conduct or behavior tending to a breach of the public peace in the Public Parks.

This language, if approved by the Park Board, will be sent to the City Council for their approval to be added to City Ordinance 50-3, which covers Prohibited Acts in the Parks.

Park Board Action:

I move to approve the changes to Park hours and addition of the loitering rule to Sec. 50-3 of prohibited acts as proposed in the Staff Report, and recommend this item be sent to the City Council for adoption as additional language to Mishawaka City Code.

**CITY OF MISHAWAKA, BOARD OF PARKS & RECREATION
MINUTES OF THE MEETING**

DATE: July 8, 2013
TIME: 4:30 p.m.
PLACE: Battell Center Community Room
PRESENT: Reg Wagle, Carolyn Teeter, Bob Shriner, Ellen West, & Bill Pemberton
NOT PRESENT: John Coppens
ALSO PRESENT: Terry Zeller, Michelle Wotring, and Robert C. Beutter, Esq.

* * * * *

Board President, Reg Wagle, called the regularly scheduled meeting to order at 4:31 p.m. The Pledge of Allegiance was then recited. Mr. Wagle called for a motion to approve the minutes of the July 1 (rescheduled from June 24) regularly scheduled meeting. Mrs. Teeter moved to approve the minutes as presented and Mrs. West seconded the motion. The motion carried unanimously.

* * * * *

OLD BUSINESS:

None at this time.

* * * * *

NEW BUSINESS:

The Michiana Youth Ministries request was tabled indefinitely at the request of Mr. Zeller pending his seeking additional information in order to make any recommendation to the Board.

Mrs. Wotring requested approval for payment of claims for the Parks & Recreation Department as listed below:

2013-00000231	\$250.00
2013-00000232	\$49,254.91
2013-00000234	\$954.10
2013-00000235	\$481.00

Mrs. Teeter moved to approve the claims as presented on the above dockets and Mr. Shriner seconded the motion. The motion carried unanimously.

Mrs. Wotring presented the Board information on a \$270 donation received from Jim and Nancy Olson. Mrs. Teeter moved to accept the donations and Mr. Shriner seconded it. The motion carried unanimously.

To provide the public with a more economical and feasible way to rent space at Battell Center on weekends, Mr. Zeller requested the Board approve fee changes for Battell Center Rental Fees effective immediately. Changes included adding a "Staffing Fee" and removing the non-resident rental rates. The staffing fee would reflect the use of a seasonal employee, a facility supervisor, rather than an hourly union employee, to open the building, provide general assistance to the renter and close the building after the rental. This fee would act as a reimbursement fee like the Maintenance Overtime Fee but would significantly reduce the overall hourly rental cost to a customer, potentially increasing Battell Center usage and revenue. Mr. Shriner moved to approve the fee changes as presented and Mrs. Teeter seconded it. The motion carried unanimously.

In an attempt to cut down on loitering and disruptive behavior in parks along the Mishawaka Riverwalk, Mr. Zeller presented a request to the Board to change the closing hours of those parks bordering the Mishawaka

Riverwalk, namely, Battell, Beutter, Kate's Garden, Lincoln, Kamm Island and Central to 10:30 p.m. Such a change would better assist police in enforcing park rules.

In addition to changing park closing hours, above, Mr. Zeller requested the approval of the Board to add clarifying language to Municipal Code 50-3, Prohibited Acts, which would give the Police a more detailed description of prohibited acts by which it can enforce. Once approved by the Board, Mr. Zeller stated that he would submit the language to the City Council for approval and inclusion into the Municipal Code. Mrs. Teeter moved to approve the change in park hours and language to be added to Municipal Code 50-3. Mr. Shriner seconded the motion. The motion carried unanimously.

* * * * *

SUPERINTENDENT'S REPORT:

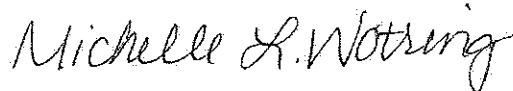
Mr. Zeller advised the Board that Summerfest ended "in the black" this year. He indicated planning for 2014 would be underway shortly and that changes were being considered which would assist in better policing efforts in 2014. Mr. Zeller mentioned youth sports and partnering efforts with School City and that Mary Gibbard pool was down due to mechanical failures.

Mr. Wagle then called for additional questions and/or comments from any others present at the Board meeting. Ann Lesar, President of the Mishawaka Garden Club, told the Board she was pleased with the recent spot on WNDU by reporter Christine Karsten which covered the restoration efforts for the Battell Rock Garden.

As there were no further questions or comments to be made, Mrs. Teeter moved to adjourn the meeting and Mr. Shriner seconded the motion. The motion carried unanimously.

Meeting was adjourned at 4:58 p.m.

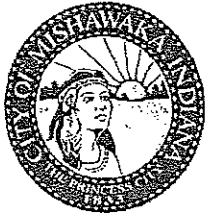
Submitted for Approval to the Board



Michelle L. Wotring,
Office Manager, Parks & Recreation

Approved: _____

Carolyn Teeter, Board Secretary



CITY OF MISHAWAKA



Police Department
200 North Church Street
Mishawaka, IN 46544

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

August 19, 2013

Mishawaka Common Council
Mayor David Wood

Dear Mr. President and Honorable Council Members:

In the event I am not able to attend the next Common Council Meeting due to a meeting I will be attending at the Indiana Law Enforcement Academy today, Monday August 19th, I am sending this letter to speak in favor of proposed Ordinance: 2013-35.

The Mishawaka Police Department has recently been addressing several concerns from local residents regarding the River Walk and Beutter Park area. The most serious of those concerns has been the taunting and foul language coming from a large group of individuals who refuse to cooperate with authorities when asked. This group has basically been "camping out" in the parking lots of Beutter Park and has taken away the family atmosphere that we have enjoyed in past years. Their ill regard for others has driven away those who come to the park to simply enjoy its beauty and peacefulness. The trash that is left behind by this group is appalling. There has also been evidence of drug use and underage drinking along with destruction of City property in or near the band shell at Battell Park. As it now stands, without any visual park guidelines in place, it makes it rather difficult for our police officers to enforce acts of misbehavior. Although nothing has gotten out of hand, as of yet, we would like to instill some rules or guidelines to better help my officers enforce the peace and welfare of our community when they are visiting the River Walk and Beutter Park.

The Parks Department has partnered with the MPD and, with a group effort, we feel that our goal of keeping this community safe within its parks structure is very obtainable by using the available rules outlined in this proposed Ordinance. Therefore, I would ask of the Council for a favorable vote regarding this Ordinance.

Respectfully,

Kenneth L. Witkowski
Chief of Police

KLW:cd

Cc: Terry Zeller -- Parks Department Superintendent

RECEIVED
DEPT. S. BLOCK. MMC

AUG 13 2013

CITY CLERK
MISHAWAKA, IN

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

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

AUG 01 2013

1st Reading 8-5-13
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-36

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

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

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

Section 1. An emergency exists which requires the appropriation of additional
funds for the fiscal year ending December 31, 2013 in addition to that set out in detail in the
published budget.

Section 2. There is hereby appropriated from the General Fund of the City of
Mishawaka the sum of \$100,000.00 for assignment as follows:
General Fund

Corporate Counsel

Other Services and Charges

101.06.434.90 Claims \$ 100,000.00

Total \$ 100,000.00

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this _____ day of _____, 2013 at _____

o'clock, _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this _____ day of _____, 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



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Misti D. Horvath, Deputy Controller

Date: August 1, 2013
To: Members of the Common Council
From: Becky Miller
Re: Additional

As part of your packet for the August 5th meeting there is an ordinance to cover a shortage in the Claims line for the Law Department due to continuing expenses associated with the lawsuit, Oberloh v. City of Mishawaka. I am requesting \$100,000 to cover current and future expenses for this year.

If you have any questions or would like additional information, please contact Bob Beutter (who is filling in for John Gourley) at 243-4100 or Geoff Speiss at 258-1702.

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 01 2013

CITY CLERK
MISHAWAKA, IN

c: David A. Wood, Mayor

State of Indiana
St. Joseph County ss:

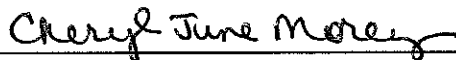
Personally appeared before me, a notary public in and for said county and state, the undersigned Kim Wilson who, being duly sworn says that she is of competent age and is President & Publisher of the South Bend Tribune, a daily newspaper which for at least five (5) consecutive years has been published in the City of South Bend, county of St. Joseph, State of Indiana, and which during the time, has been a newspaper of general circulation, having a bona fide paid circulation, printed in the English Language and entered, authorized and accepted by the post office department of the United States of America as mailable matter of the second-class as defined by the act of Congress of the United States of March 3, 1879, and that the printed matter attached hereto is a true copy, which was duly published in said newspaper.

1 time(s), the dates of publication being as follows:

August 8, 2013



Subscribed and sworn to before me this 8th day
of August 2013



Cheryl June Morey

Notary Public

Resident of St. Joseph County

My Commission expires December 21, 2016

My commission expires December 21, 2016

Charges: \$12.20

Ad # 4409166

NOTICE TO TAXPAYERS OF
PROPOSED ADDITIONAL AP-
PROPRIATION

Notice is hereby given the tax-
payers of Mishawaka, St. Joseph
County, Indiana, that the Com-
mon Council will meet in City
Hall, 600 East Third Street at
7:00 p.m. on the 19th day of
August 2013 and will consider
the following additional appro-
priations in excess of the budget
for the current year.

PROPOSED ORDINANCE
NO. 2013-36

Corporate Counsel
Other Services
and Charges
101,06,434.90 Claims
\$ 100,000.00
Totals
\$100,000.00

Taxpayers appearing at such
meeting shall have a right to be
heard thereon. The additional
appropriations as finally made
will be referred to the State
Board of Tax Commissioners.
The Board shall issue a written
determination within 15 days of
receipt of the proposal.

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

1t: 8: 8

NOTICE TO TAXPAYERS OF
PROPOSED ADDITIONAL APPROPRIATION

Notice is hereby given the taxpayers of Mishawaka, St. Joseph County, Indiana, that the Common Council will meet in City Hall, 600 East Third Street at 7:00 p.m. on the 15th day of August 2013 and will consider the following additional appropriations in excess of the budget for the current year.

PROPOSED ORDINANCE NO. 2013-36

Corporate Counsel
Other Services and Charges
101,06,434.90 Claims

Totals \$ 100,000.00
100,000.00

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriations as finally made will be referred to the State Board of Tax Commissioners. The Board shall issue a written determination within 15 days of receipt of the proposal.

Deborah S. Block, IAMC, MMC, City Clerk

7

State of Indiana St. Joseph County

Personally Appeared Before Me The Undersigned:

Nancy Nich

Legal Clerk of the MISHAWAKA ENTERPRISE, a public newspaper of general circulation, published in the city of Mishawaka in the County aforesaid, who being duly sworn, upon her oath saith, that the notice of which she attached is the true copy, was duly published in the Mishawaka Enterprise for:

XX One TWO THREE

times successively to-wit:

On the 8th day of August, 2013, and

On the day of , 2013, and

On the day of , 2013,

Subscribed & Sworn To Before Me
This 8th day of August, 2013

William L. Nich, Notary Public
Residing in Elkhart County
My Commission Expires 5/30/2019

CHARGES: \$ 21.24