

AGENDA

December 2, 2013

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

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

- 1. Call to Order**
- 2. Pledge of Allegiance**

Boy Scout Pack 10 St. Pius X

- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

November 18th

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

Appeal No. 2013-49 Use Variance to allow (3) uses on C-1 zoned property - 1315 Milburn Blvd

Petition No. 2013-43 Annex and Zone S-2 PUD Northwest Gumwood Rd and Cleveland Rd

Petition No. 2013-44 Amend S-2 PUD River Crest Southwest Jefferson Blvd and N Byrkit Ave - 1625 E. Jefferson Blvd

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

P.O. NO. 2013-50 Transfer Funds - Police Dept. - \$8,000.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2013-51 Rezone from C-7 Automobile Oriented Restaurant Commercial to R-1 Single Family Residential - 1019 W Marion St. (Assigned to Land Use Planning Committee)

P.O. NO. 2013-52 Amend the PUD to allow a Members-Only Retail Warehouse 500-700 Block E University Drive (Assigned to Land Use Planning Committee)

P.O. NO. 2013-53 Transfer Funds - Street Dept. - \$34,700.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2013-54 Additional Funds - Controller - \$633,000.00 (Assigned to Budget and Finance Committee)

- 10. Privilege of the Floor - Non-Agenda Items**

11. Unfinished Business

12. New Business

13. Adjournment

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
November 18, 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 November 18, 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.

Clerk Block's roll call showed the following:  **Roll Call.**

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

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

The minutes from the November 6, 2013 meeting were approved as received from the Clerk's Office.

A letter from the City Plan Commission was read regarding recommendations from their November 12, 2013 meeting.

PETITION #13-39 A petition submitted by 5 Star Investment Group II, LLC, requesting to rezone **1019 West Marion Street** from C-7 Automobile Oriented Restaurant Commercial District to R-1 Single Family Residential District.

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

PETITION #13-40 A petition submitted by Memorial Health System, Inc., requesting to amend the Cass Road/East University Drive Planned Unit Development, **500-700 Block of East University Drive** to allow a members-only retail warehouse, fueling station, and tire center.

The Commission, with a vote of 8-0, **recommended approval subject to the following conditions of approval:**

Uses:

1. Permitted uses for the site shall be limited to those uses identified in the C-1 General Commercial zoning district based on City of Mishawaka Zoning classification defined in and in effect on the date of approved by the Mishawaka Common Council. In addition, a fueling center and tire service and sales center shall be permitted as an accessory use; to a members only retail warehouse. The uses permitted on the outlot shall be limited to the C-1 General Commercial Zoning District.

2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering.
2. The number and/or type of curb cuts on University Drive shall be evaluated and approved as part of the final site plan approval process, and shall be revised as may be determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. An access easement(s) shall be provided to the shopping center located to the west, the location and number of connections shall be reviewed as part of the final planned unit development site plan approval process.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with any required improvements to University Drive that are required as a result of the proposed development as may be directed by the City Director of Engineering.
3. A 20' wide north/south utility easement shall be provided along the East property line of the site for a City sanitary sewer forcemain. The location of this easement shall be coordinated with and separate from required landscaping/buffer plantings. The sanitary sewer forcemain will be installed by the City and is intended to be placed before or concurrent with the proposed development.
4. All costs associated with the extension of utilities required for the proposed development shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by applicable codes and the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 35 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent final planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.
4. Canopy lighting within the proposed fueling center shall be recessed in the canopy or otherwise designed so that the light source is not visible from the perimeter of the fueling station development area/University Drive.

Signage:

1. No greater than three freestanding signs may be permitted within the Development. One sign shall be permitted for the fueling station, one for the members only retail warehouse, and one for the outlot. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic readerboard. All freestanding signs shall be separated from each other by a minimum of 150 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

Building Limitations/Architecture:

1. All proposed buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal Code as amended. In addition to approved materials, the developer may use textured architectural metal panels for up to 2/3 of the north, west, and south sides of the members only retail warehouse building. Metal panels may be placed on 100% of the east side of the building. The coating and textures of the metal panels shall be varied to provide architectural interest. A minimum of 1/3 of the surface area of the facades of the west, north, and south side of the building shall be a stone veneer or other high quality visually appealing masonry deemed appropriate by the developer. Final building elevations and colors shall be reviewed by the Planning Commission as part of any final planned unit development site plan submission.
2. For all developmental parcels – there shall be a minimum building setback of 75' from the public right-of-way of University Drive. A minimum side and rear building setback of 50' shall be provided along exterior lot/property lines. For the outlot, the internal side and rear building setback lines shall be 25'.
3. The maximum building height for the entire development shall be 48'.

Parking/Landscaping:

1. A minimum pavement setback of 10' in width shall be provided between developmental parcels and to the west property line. A minimum 25' pavement setback shall be provided along University Drive and the Indiana Toll Road.
2. For large shopping areas where shopping carts are utilized, cart corrals shall be provided. Corrals shall be identified and removed from total number of parking spaces provided. Curbed landscape islands shall be provided to break up large pavement areas as determined by the Planning Commission as part of the review of any final planned unit development site plan.
3. All development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principal building. Dumpster locations shall be located away from any roads behind principal buildings and located away from internal collector drives.

5. A 15' wide (minimum) landscape buffer yard shall be provided between the adjacent apartments to the East and the proposed development. The buffer yard shall run continuously from the Indiana Toll Road right-of-way to the University Drive right-of-way. The buffer yard shall include 65 evergreen trees planted at a 10'-12' height, 17 shade trees, 2 ½ inch caliper or greater, and 20 ornamental trees 2" caliper or greater. Plantings shall be clustered for aesthetics and to maximize the desired buffer. This shall also fulfill the C-1 landscape requirement for planting along the East property line. This buffer shall be installed in the first phase of the development and shall include the area within the outlot.
6. In addition to the C-1 Commercial Landscaping requirements, three evergreen trees planted at a 10'-12' height shall be provided between University Drive and the proposed fueling station canopy intended to visually buffer the view between the church and the fueling area. These trees shall be planted in a single cluster of three.

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.

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

PROPOSED ORDINANCE NO. 2013-50

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

(Transfer Funds Police Dept. \$8,000.00)

Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2013-51

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

(Rezone from C-7 Automobile Oriented Restaurant Commercial to R-1 Single Family

Residential – 1019 West Marion Street)

Assigned to Land Use Planning

PROPOSED ORDINANCE NO. 2013-52

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

(Amend the PUD to allow a Members-only Retail Warehouse –

500-700 Block East University Drive)

Assigned to Land Use Planning

PROPOSED ORDINANCE NO. 2013-53

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

(Transfer Funds Street Department \$34,700.00)

Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2013-54

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

(Additional Funds controller \$633,000.00)

Assigned to Budget and Finance Committee

Clerk Block read **RESOLUTION NO. R2013** opening for public hearing.

RESOLUTION NO. 2013-23

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, AUTHORIZING THE PARTICIPATION OF SAID CITY IN THE MOTOR
FUEL BUDGETING PROGRAM OF THE INDIANA BOND BANK
FOR THE 2014 BUDGET YEAR, THE EXECUTION
OF THE QUALIFIED ENTITY REIMBURSEMENT AGREEMENT IN
CONNECTION THEREWITH AND OTHER RELATED MATTERS**

(Motor Fuel Hedge Fund for 2014)

Rebecca Miller, City Controller said, the City of Mishawaka has been in the Hedge Fund since 2010 to guard against rising prices of gasoline. She said it was a budgeting tool to guard against rising fuel prices it is insurance so to say, so far in 2013 the city has been within the collar almost the entire time with small reimbursements in February and March. Ms. Miller said all the city has been required to pay through September of 2013 was the administration fees; of which have been going down each year she recommends we continue with this program.

Mr. Mammolenti asked if she could recollect how much we have saved or lost in the years past. Ms. Miller stated it was not so much to make money it was basically to help stay within the budget, in 2011 the costs were volatile and we received money which allowed us to keep within our budget.

Mr. Emmons asked if this was for all fuel. Ms. Miller said yes, we hedge 50% and are allowed to hedge up to 80%.

Question was called for at 7:10 p.m. on **RESOLUTION 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.

Clerk Block read **PROPOSED ORDINANCE NO. 2013-49 opening it for public hearing**

PROPOSED ORDINANCE NO. 2013-49

**AN ORDINANCE ESTABLISHING A SECHEDULE OF RATES AND CHARGES FOR
ELECTRIC ENERGY AND SERVICES RENDERED BY THE MISHAWAKA
UTILITIES ELECTRIC DEPARTMENT
(Revised Electric Rate and Charges)**

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

John Julien, Umbaugh and Associates 122 Ironworks Drive said this was a recommendation made by them due to the analysis they did on the Utilities financial position. He said they believe for the city to continue to operate in a solid business fashion they need to generate an additional 6.3 million dollars in additional revenue and this ordinance reflects that. Mr. Julien said in addition to that due to some of the difficulties the electric tracking facture has presented for both the rate payers, and the utilities as it tries to function as a business. He said, Umbaugh and Associates has recommended along with the additional 6.3 million dollars that the tracker be eliminated and no longer appear on the rates and charges. He said the final recommendation was; beginning with the June of 2014 adjustment of I & M wholesale power costs there be an implementation, which was being called an I & M Power adjustment factor that would reflect the change power cost from 2013 to 2014. Mr. Julien said that adjustment factor would remain the same for the next 12 months until I & M modifies the rates and charges in 2015.

Mr. Julian said with those modifications the impact to the rate payers in Mishawaka would be approximately a 13.08% increase for the residential class.

Mr. Compton said the “tracker” name itself would be going away but the cost would remain in the bill but easier to calculate in the future instead of adjusted quarterly it would be adjusted annually and eliminate the wild fluctuations in the billing statement. Mr. Julien said that was correct it was not going away it would be calculated into the energy charge and remain unchanged until next July when I & M changes their rates in June. Mr. Compton said the up and down would go away but the tracker would be adjusted annually instead of quarterly. Mr. Julien said it would be rolled into the energy charge and remain unchanged until I & M charges their rate in June and remain the same for one year.

Mr. Julien said there would be three lines for billing electric charge kilowatt hours, customer charge, and the electric tracking factor would happen with passing of this rate ordinance. Mr. Roggeman said the customer charge was the same for every resident and the other two were according to the kilowatt usage. He went on to explain the kilowatts are what was used and the tracking charge was the rate times the percentage of kilowatt hours.

Mr. Julien said with the passage of this Resolution the Utility Bill would be modified into two lines on being the charge for kilowatt hours times the base the base rate, and a second line would be the customer charge that has been increased 13.08% up to \$6.36 until next July at that time a third line would be added called an I & M adjustment factor and would represent the change in cost from 2013 to 2014, that tracking factor would be substantially lower then the 21/2 cents we see currently and would remain the same per kilowatt hour for the next 12 months and revisited based upon any rates and changes I & M has in their charges for 2015.

Mr. Mammolenti said there would be a very slight increase. Mr. Julien stated that was correct, the average homeowner would be using on average around 700 kilowatts or less.

Mr. Emmons said seniors cost would be less because of their low usage. Mr. Julien said yes it was calculated by usage.

Mr. Roggeman said he was just in Champaign, Illinois and they were raising their rates 17%.

Mayor Wood went on to say Electric rates have stayed the same for 20 years and it has come to the time when need to raise them, we have cut as much as we could cut and still provide the kind of service we have, this rate hike is absolutely necessary. He thanked the team for the way they responded.

Mayor Wood said there were 3,000 residents without power and lots of damage from the tornados that hit the mid west, Benton Avenue was hit hard and the north side received a lot of wind and fallen tree damage. Mayor Wood said we never know how bad weather will affect us but when it does come our Utility Department provides world class service, we were up and running the same day. He said that tells you two things when we get a storm like that 1) we can never predict it and we are only one storm away from having to spend a lot of money. 2) When it does come the Utility team responds with world class service. Mayor Wood said this affects rates with overtime money the city has to spend during those storms we take a big hit, and we are not prepared to take a lot of those hits in our current state. He said electric rates have stayed the same and 20 years ago they were reduced through efficiency, city growth and negotiating our contract with wholesale providers, it has actually been 22 years since there has been an increase in the rate. Mayor Wood stated we have slowed down in our growth and are at a point where we have to do this but to provide the kind of service that was provided during this storm it was necessary. He said having only 3,000 customers out of power also shows the maintenance in tree trimming and taking care of city equipment. Mayor Wood said they wouldn't be asking for this increase unless it was necessary.

Mr. Compton said he lives in the hood where the power was out and he appreciates the hard work done to restore their electric.

Jim Schrader General Manager Mishawaka Utilities said it was important to understand the amount they have asked for need to be outlined.

- 1 Capital improvements, they are looking at things to prevent any outages hoping to prevent any outages.

- 2 Cash balances they need to be prepared when this type of outage happens fast quick response is absolutely necessary.

Mr. Schrader asked the Council to support this increase so the city can remain prepared for these types of interruptions as rapidly and efficiently as possible. He said we have been very prudent in our spending but the time has come to prepare to avoid any these types of outages. Mr. Schrader said he was very proud of his staff. As a utility they need to be prepared they have the ways and means to provide the best service, he asked the Council for their approval of this ordinance.

Banicki thanked the utility workers for all their hard work and asked if they helped out other communities at times. Mr. Schrader said they belong to Indiana Municipal Electric Association and if they are called upon their first priority was Mishawaka but yes there are times they do go to help other utilities' like ours.

Mr. Emmons asked if we lost any valuable equipment during this storm. Mr. Schrader said we are able to transfer loads from one station to the other which helps us get up quickly no large ticket items were lost. Tim Erickson, Electric Manager said they lost wire but no transformers, and six 65 foot poles on Benton 12 broken poles due to trees. Mr. Schrader said they would be correcting problems due to this storm for weeks to come, there are switches that can be put in place but they are expensive.

Mr. Mammolenti thanked utilities and said the three neighborhood meetings discussing this topic were well attended and helped to get the message out with good questions being asked, and additional questions asked by the Council were also answered very quickly.

Question was called for at 7:39  **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. Belovich, Mr. Bilancio, Mr. Roggeman.

PRIVILEGE OF THE FLOOR

Mayor Wood said there was quiet a few trees downed residents need to put them to the curb and the city would pick them up and there would be an additional leaf pick up.

Mr. Emmons asked if the trees and brush needed to be cut up. Mayor Wood said yes.

Mr. Emmons said his last Neighborhood Watch Meeting of the year would be on Nov 21, 2013 at 7:00 p.m. at St. Bavo School with the Penn Assessor speaking on tax appeals.

There being no further business to come before the Council, President Compton adjourned the meeting at 7:43 p.m.

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

Michael S. Compton
Michael S. Compton
Presiding Officer

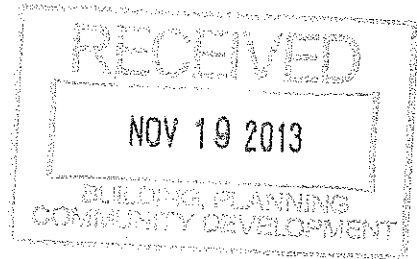
RECEIVED
DEBORAH S. BLOCK, MMC

NOV 25 2013

CITY CLERK
MISHAWAKA, IN

November 19, 2013

City of Mishawaka
Board of Zoning Appeals
600 East Third Street
Mishawaka, IN 46544



AP 13-49

Re: 1315 Milburn Boulevard

Dear Board of Zoning Appeals:

I, Keith Haza, acting on behalf of LTR LLC, the owner of the property described as:

Lots 31-37 & 49 Morgan Park & Vac Alley S & Adj & Vac Alley Btwn Lots 37 and 49
Sec 17-37-3E.

commonly known as 1315 Milburn Boulevard, in the city of Mishawaka, request a
use variance of the property to allow a third use of the property.

Currently the property is zoned Commercial C-1 District and has the maximum
allowed, two uses. Family Video operates in approximately 5900 square feet with
Marco's Pizza occupying an adjacent space approximately 1200 square feet. There is
an additional existing 1200 square foot space that has been unoccupied since the
buildings construction in 2006.

Metro PCS, a cell phone service provider has agreed to lease the unoccupied,
existing space on the end of the building, adjacent to Marco's Pizza. I am requesting
a use variance to allow three uses; Family Video, Marco's Pizza and Metro PCS to
occupy the site.

The additional use would occupy existing space and not require any changes to the
building structure or site plan. As a cell phone service provider, Metro PCS will be a
low impact use, without excessive traffic or trash. Community welfare and value of
the adjacent neighborhood would not be impacted adversely by the additional
business. Local residents will benefit from the convenience of three businesses with
broad appeal: video, pizza and cell phones in an efficient and architecturally
pleasing location.

Strict application of the existing code would prohibit the owner of the property the
efficient use and benefit of the building as the space would remain unappealing and
vacant. It would also deny members of the community the convenience of additional
services provided by a third use.

Thank you for your consideration.

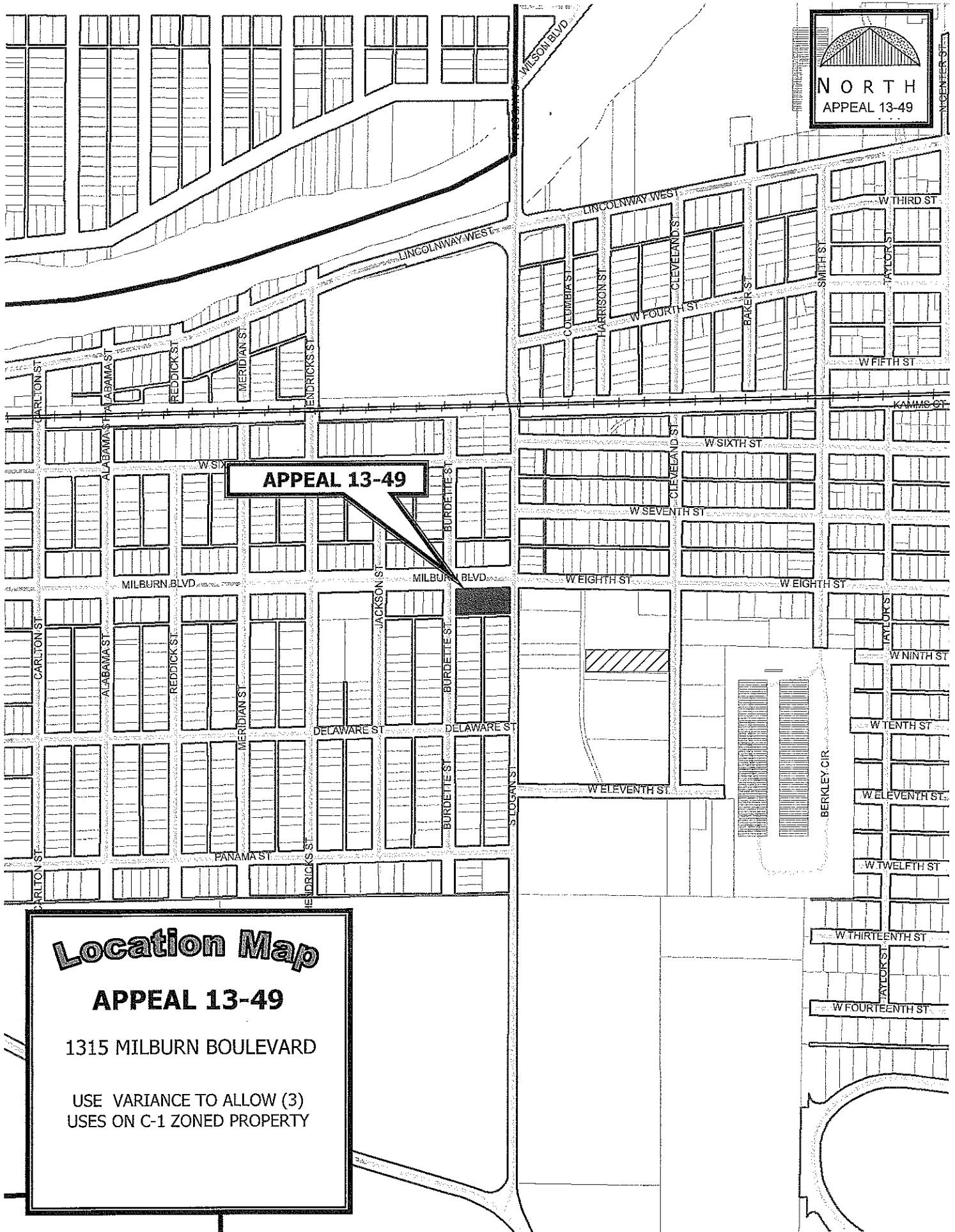
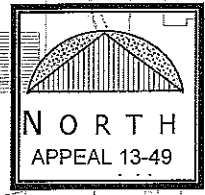
Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'K Haza', written over the printed name 'Keith Haza'.

Keith Haza
Regional Manager
Family Video/Hoogland Foods

Contact Person:

Keith Haza
2571 W 900 N
Columbia City, IN 46725
(765) 748-5530 (cell)
(309) 670-1305 (fax)
keith.haza@familyvideo.com



APPEAL 13-49

Location Map

APPEAL 13-49

1315 MILBURN BOULEVARD

USE VARIANCE TO ALLOW (3)
USES ON C-1 ZONED PROPERTY

November 15, 2013

City of Mishawaka
600 East Third Street
Mishawaka, IN 46544

To Whom it May Concern:

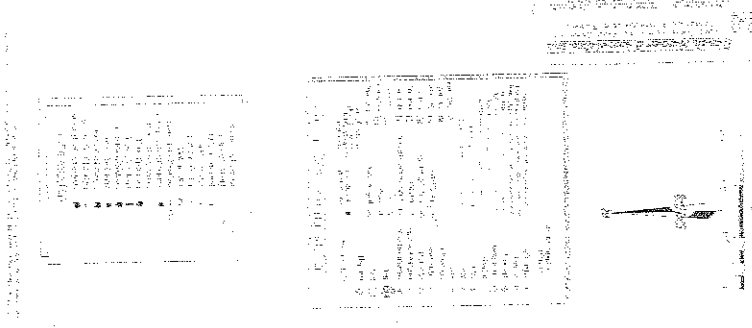
Please consider this letter as evidence that authority has been granted to Keith Haza and his designee to act on behalf of LTR LLC, with respect to certain property owned by LTR LLC in Mishawaka, IN (the "Property"). Such authority includes, but is not limited to, conducting an appeal of zoning or other related matters with respect to the Property. Should there be any questions regarding the foregoing, please contact Sam Stilp at 847-904-9013.

Sincerely,

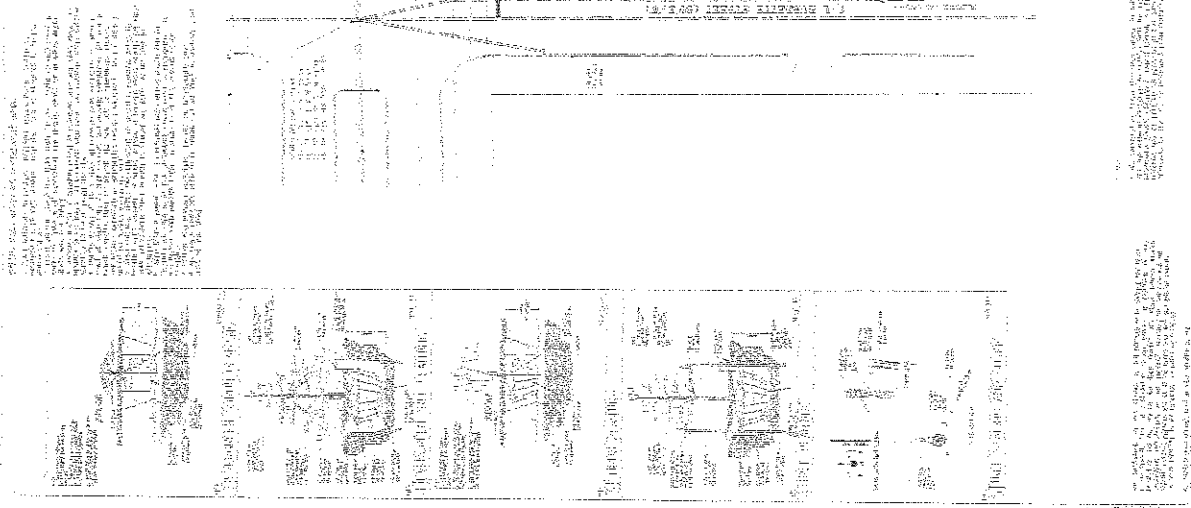
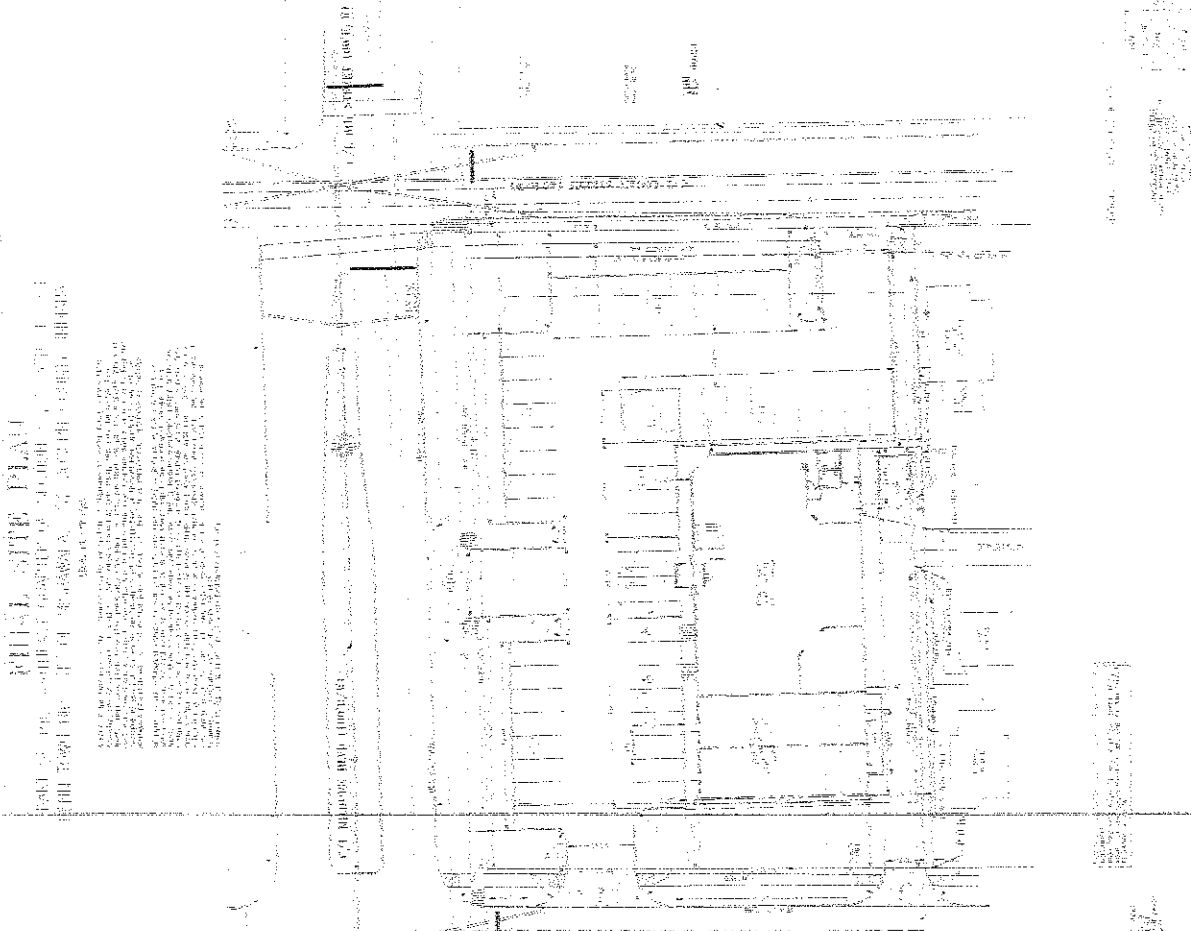
A handwritten signature in black ink, appearing to read "T.C. Reynolds". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Tim Reynolds
LTR LLC

GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. THE PROPOSED IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE CITY ENGINEER'S REQUIREMENTS.
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LANDSCAPE PLAN
 REVISIONS

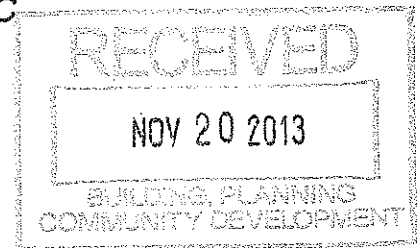


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RECEIVED
DEBORAH S. BLOCK, MMC

NOV 25 2013

CITY CLERK
MISHAWAKA, IN



Pet 13-43

DATE: November 18, 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 ANNEXATION AND ZONING CLASSIFICATION**

The undersigned, Gumwood Acquisitions, LLC, respectfully show that they are the owner of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

A PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, ALSO BEING PARTS OF LOTS 1 THRU 8 AND 11 OF THE UNRECORDED BAUER AND GEISSLER'S PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, SAID POINT BEING MARKED WITH A HARRISON MONUMENT; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°27'41" WEST ALONG SAID SOUTH LINE, 1304.19 FEET TO THE SOUTHWEST CORNER OF SAID EAST HALF; THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID EAST HALF, 662.90 FEET; THENCE NORTH 89°27'41" EAST, 782.47 FEET TO A FOUND IRON PIPE; THENCE NORTH 00°28'12" WEST, 989.50 FEET TO A 5/8" FOUND IRON ROD; THENCE SOUTH 89°36'27" WEST, 261.68 FEET TO A 5/8" FOUND IRON ROD; THENCE NORTH 00°25'14" WEST, 332.54 FEET; THENCE SOUTH 89°27'41" WEST, 260.76 FEET; THENCE NORTH 00°30'31" WEST, 331.56 FEET TO A 5/8" FOUND IRON ROD, ALSO BEING A POINT ON THE SOUTH LINE OF GUMWOOD CROSSING SUBDIVISION, BEING RECORDED AS INSTRUMENT NUMBER 0652676 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE NORTH 89°53'39" EAST ALONG THE SOUTH LINE OF SAID GUMWOOD CROSSING, 1042.63 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF GUMWOOD ROAD; THENCE SOUTH 00°31'05" EAST ALONG SAID WEST RIGHT-OF-WAY, 2309.30 FEET TO THE POINT OF BEGINNING, SAID DESCRIBED TRACT CONTAINING 45.5 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS, RIGHT-OF-WAYS, COVENANTS AND RESTRICTIONS OF RECORD.

Petitioner owns One Hundred (100%) percent of the above described land, excluding the right-of-way of Cleveland Road, and is located within a part of the east half of Section 21, Township 38 North, Range 3 East, Harris Township, St. Joseph County, and that the Petitioner desires the same to be annexed to the City of Mishawaka, Indiana, with an "S-2" Planned Unit Development District zoning classification desired. Petitioner further states they intend to utilize said land for a mixed-use multi-family residential and commercial development.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate.

Petitioner further shows this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioner prays and respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with an "S-2" Planned Unit Development District zoning classification.



Ryan Rans, Managing Partner

CONTACT PERSON:

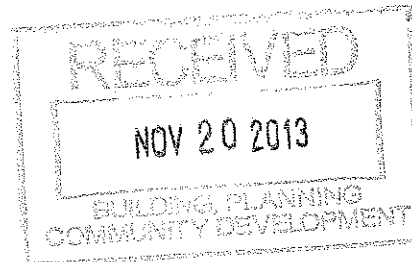
Daryl Knip, PE
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
(574) 232-8700
dknip@abonmarche.com



Engineering
Architecture
Land Surveying
Marina/Waterfront
Community Planning
Landscape Architecture
Development Services

November 19, 2013

Mr. Kenneth B. Prince, ASLA, AICP, City Planner
City of Mishawaka
600 East Third Street
Mishawaka, IN 46544



**RE: Gumwood & Cleveland Project
Petition for Annexation and Zoning Classification**

Dear Mr. Prince:

On behalf of the current property owners and contingent purchaser, Gumwood Acquisitions, LLC, we are submitting for your review and processing the annexation petition for twelve properties consisting of ± 44.5 acres. The remaining acreage of the petition, ± 1.0 acres, consists of part of Cleveland Road adjacent to the south end of this project.

These properties have tax identification numbers of 002-2017-037014, 002-2017-037018, 002-2017-037002, 002-2017-037017, 002-2017-037016, 002-2017-037012, 002-2017-037001, 002-2017-037021, 002-2017-037005, 002-2017-037008, 002-2017-037006, 002-2017-037007 and is bounded to the north by the Gumwood Crossing development, to the east by Gumwood Road, to the south by Cleveland Road and to the west by a commercial Shopping Plaza and the Mishawaka municipal well field.

In addition, we are requesting a zoning of "S-2" Planned Unit Development (PUD) District to allow for multi-family residential use, assisted living and nursing homes and uses within the Commercial "C-1" and "C-2" Zoning Districts and the development standards allowed in the Commercial "C-2" Zoning District. As part of this zoning, additional requests are identified on the attached preliminary site plan for setbacks and signage.

This mixed-use development is anticipated to include construction of public and private roadways and utilities, and a drainage detention system to provide storage for storm water runoff as it is released at a controlled rate into existing drainage facilities.

If you have any questions or require additional information, please do not hesitate to contact our office at (574) 232-8700.

Sincerely,
ABONMARCHE CONSULTANTS, INC.

Daryl Knip, PE
Vice President

cc: Mr. Ryan Rans, Great Lakes Capital Development, LLC

750 Lincoln Way East
South Bend, IN 46601
574.232.8700

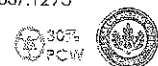
3177 Willowcreek Road
Portage, IN 46368
219.850.4624

95 West Main Street
Benton Harbor, MI 49022
269.927.2295

361 First Street
Manistee, MI 49660
231.723.1198

503 Quaker Street
South Haven, MI 49090
269.637.1293

www.abonmarche.com



[illegible]

DISPOSITION	SERVICES		BUILDING		MACHINE	
ALONG GILWOOD RD			67	67		
ALONG CLEVELAND RD			67	67		
NORTH PROPERTY LINE ADJACENT TO GILWOOD CROSSING			25	25		
WEST PROPERTY LINE ADJACENT TO CLEVELAND PLAZA			26	10		
PENETRATOR PROPERTY LINE ADJACENT TO CITY OF HAWAIIA OWNED PROPERTY			5	5		
INTERNAL LOCUS			10	0		

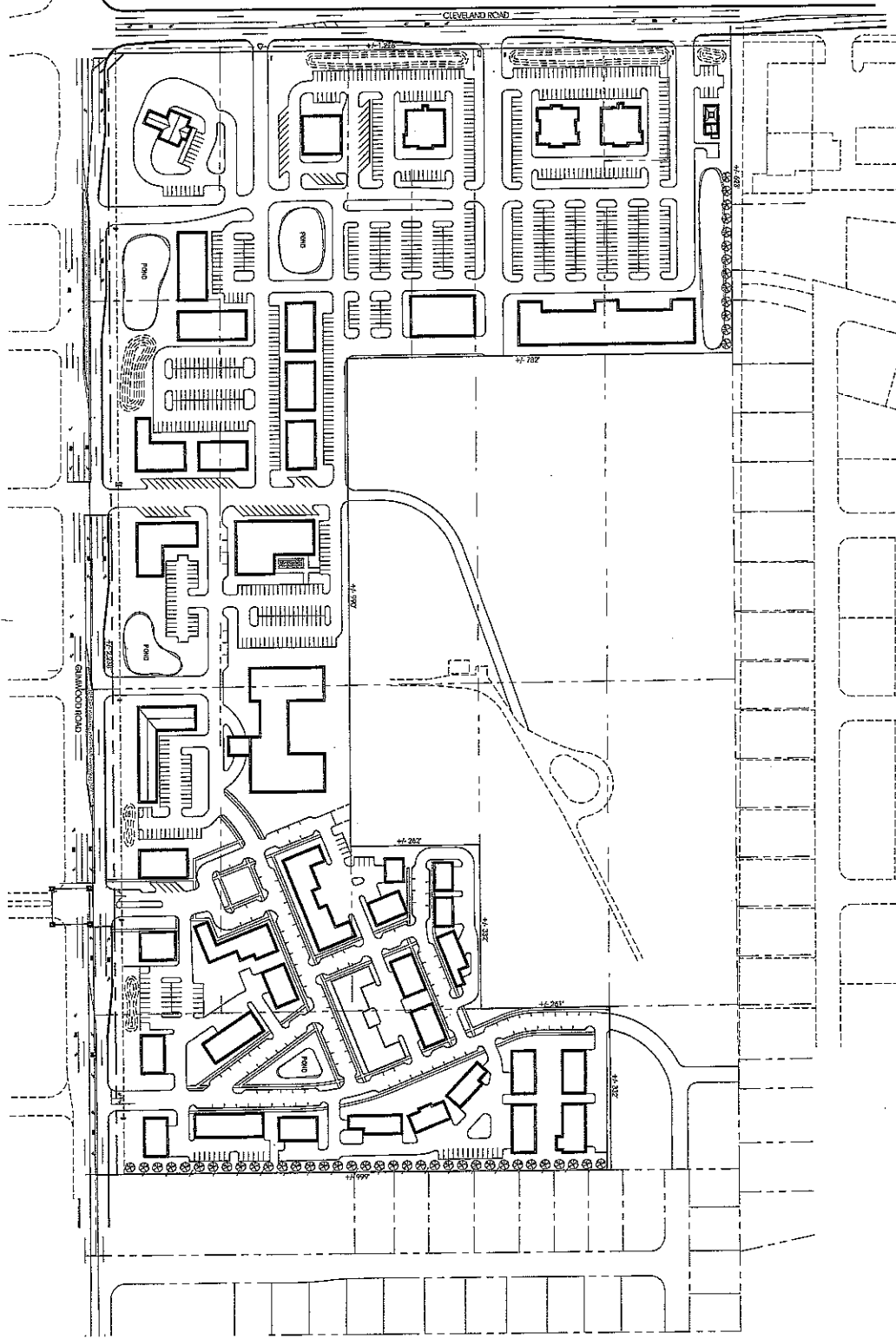
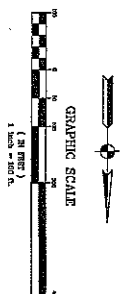
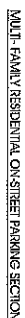
LEGEND

□ DEVELOPMENT SIGN

— MONUMENT SIGN

PARKING REQUIREMENTS
MULTI-FAMILY RES: 1 SPACE/UNIT
INCLUDES GARAGES, PARKING LOTS &
ON-STREET PARKING

OFFICE PER ORDINANCE
RENTAL PER ORDINANCE



**GUMWOOD &
CLEVELAND PROJECT**

ABONMARCHE
Confidence By Design

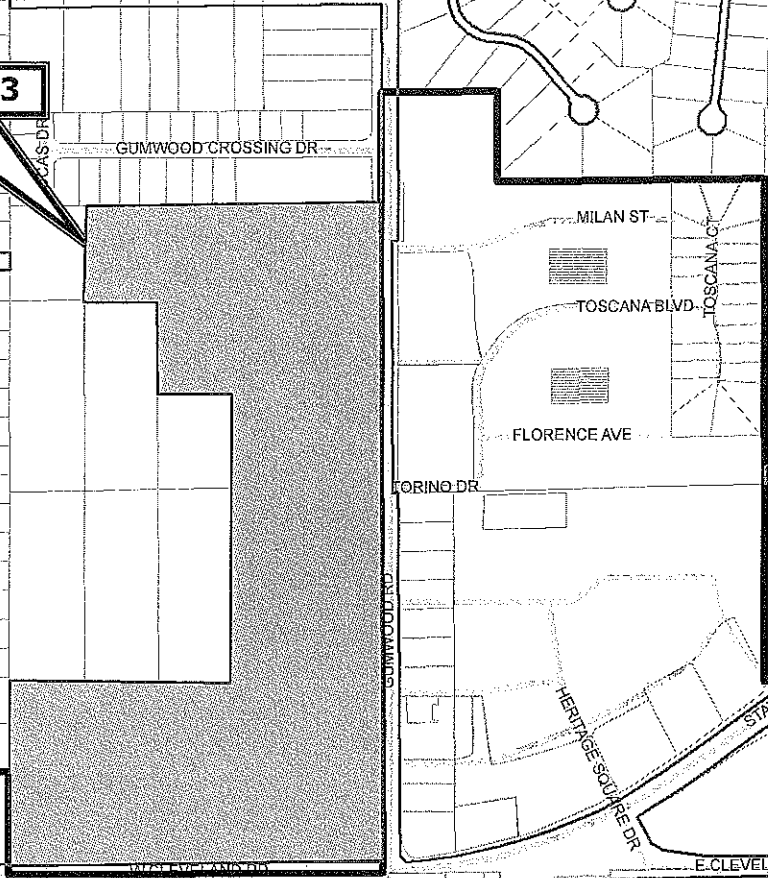
750 Lincoln Hwy East
South Bend, IN 46601
T 574.232.5200
F 574.381.4440

Engineering
Architecture
Land Surveying
Mapping/Photogrammetry
Community Planning
Landscape Architecture
Development Services

Portage, IN
Savoy Harbor, ME
Savoy, IL
South Bend, IN



PETITION 13-43



GUMWOOD CROSSING DR

MILAN ST

TOSCANA BLVD

FLORENCE AVE

FORINO DR

HERITAGE SQUARE DR

STATE RD 23

E CLEVELAND RD

W CLEVELAND RD

W 174 E CLEVELAND RD

GUMWOOD RD

THRUSH ST

RUE ST

EO ST

UNIVERSITY GARDEN LN

LEADER LN

SPRING LAKE BLVD

N MAIN ST

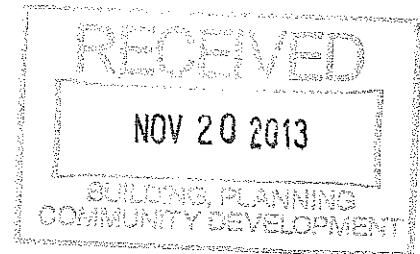
TE UNIV

Location Map

PETITION 13-43

NORTHWEST GUMWOOD ROAD
& CLEVELAND ROAD

ANNEX AND ZONE TO S-2
PLANNED UNIT DEVELOPMENT



DATE: November 20, 2013

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

Pet 13-44

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 25 2013

CITY CLERK
MISHAWAKA, IN

RE: **PETITION FOR PUD AMENDMENT**
River Crest PUD

The undersigned Mishawaka Property, L.L.C., 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: See below.

The legal descriptions included in this document are from record information.

Petitioner(s) own one hundred (100%) percent of the below described parcel of land which carries a zoning classification of S-2 Planned Unit Development (PUD) specifically for a medical facility.

The purpose of this petition is to revise the approved preliminary site plan and its associated conditions to allow for a reduced parking requirement. Accompanying this petition is a drawing showing the described parcel of real estate, preliminary site plan, and supporting documentation.

Petitioner desires said real estate to be amended as follows:

1. To allow for 1 parking space per bed, and 1 space per employee during peak shift;

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.

Mishawaka Property, L.L.C.

a Delaware limited liability company

By: AVIV FINANCING I, L.L.C.,

a Delaware limited liability company,

By: AVIV HEALTHCARE PROPERTIES OPERATING
PARTNERSHIP I, L.P.,

a Delaware limited partnership,

By: AVIV HEALTHCARE PROPERTIES
LIMITED PARTNERSHIP,

a Delaware limited partnership,

By: AVIV REIT, INC.,

a Maryland corporation,

By:

Name: Samuel H. Kovitz

Its: Executive Vice-President and
General Counsel

303 West Madison Street

Suite 2400

Chicago, IL 60606

CONTACT PERSON:

Daryl Knip, PE

Abonmarche Consultants, Inc.

750 Lincoln Way East

South Bend, Indiana 46601

(574) 232-8700

dknip@abonmarche.com

LEGAL DESCRIPTION

PARCEL I

A parcel of land located in the Southeast Quarter of Section 10, Township 37 North, Range 3 East of the Second Principal Meridian, in the City of Mishawaka, St. Joseph County, Indiana, more particularly described as follows:

Beginning at a point on the East line of the Southeast Quarter of Section 10, being the point of intersection of said Section line and a line drawn 33.0 feet by radial measurement, Southerly of and parallel with the centerline of Mishawaka Branch of the New York Central Railroad Company (formerly the Elkhart and Western Railroad Company); thence South along the said East line of said Southeast quarter of Section 10 to the center of the St. Joseph River; thence Westerly along the centerline of the St. Joseph River to its intersection with a line drawn parallel with and 445.0 feet West of said East line of said Southeast Quarter; thence North along said parallel line and 445.0 feet distance line to its intersection with the aforementioned line 33 feet by radial measurement, parallel and Southerly from the centerline of the Mishawaka Branch of the New York Central Railroad Company (formerly the Elkhart and Western Railroad Company; thence Northeasterly along said 33.0 foot southerly line to the point of beginning.

EXCEPTING THEREFROM THE FOLLOWING TRACTS OF LAND:

TRACT A: Part of the Southeast quarter of Section 10, Township 37 North, Range 3 East, City of Mishawaka, Indiana, described as follows:

Commencing at the Northeast corner of the Southeast Quarter of Section 10, Township 37 North, Range 3 East; thence South on the East line of the Southeast Quarter of Section 10, a distance of 19.69 feet to the point of intersection of said line with the Southerly right of way line of the New York Central Railroad; thence Southwesterly on the Southerly right of way line of said Railroad, a distance of 68.30 feet to the point of beginning; thence continue Southwesterly, on said Railroad right of way line, a distance of 54.68 feet to the point of curvature in the Railroad right of way line; thence Southwesterly on said right of way line and on said curve to the right, with radius of 5634.28 feet, a distance of 357.29 feet to the point of intersection with a line parallel with and 445 feet West of the East line of the Southeast Quarter Section 10; thence South parallel with the East line of the Southeast Quarter of Section 10, a distance of 286.10 feet; thence left (Northerly) 166 degrees 28 minutes 45 seconds a distance of 215.90 feet to a point of curvature; thence Northerly on a curve to the right with a radius of 87.84 feet, a distance of 39.33 feet; thence Northerly on the extended tangent of said curve a distance of 29.79 feet to the point of curvature of another curve; thence Northerly, on a curve to the right with radius of 208.40 feet, a distance of 98.15 feet; thence Northeasterly, on the extended tangent of the last mentioned curve a distance of 226.08 feet; thence left 59 degrees 45 minutes 30 seconds, a distance of 23.93 feet to the point of beginning.

TRACT B: A part of the Southeast Quarter of Section 10, Township 37 North, Range 3 East, St. Joseph County, Indiana, described as follows:

Beginning at a point on the East line of said Section South 0 degrees 12 minutes 12 seconds West 19.76 feet (19.69 feet by instrument number 0300911) from the Northeast corner of said Quarter Section, which point of beginning is on the Southeastern line of the former Mishawaka Branch of the New York Central Railroad Company; thence South 0 degrees 12 minutes 12 seconds West 10.72 feet along said East line; thence South 83 degrees 19 minutes 02 seconds West 34.69 feet to the Southeastern line of the former

Mishawaka Branch of the New York Central Railroad Company; thence North 66 degrees 50 minutes 12 seconds East 37.52 feet along said Southeastern line to the point of beginning.

TRACT C: A parcel of land being a part of the East Half of the Southeast Quarter of section 10 and the West Half of the Southwest Quarter of Section 11, Township 37 North Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 10; thence South 0 degrees 00 minutes 00 seconds East along the East line of said Southeast Quarter, a distance of 335.77 feet to the place of beginning; thence South 44 degrees 59 minutes 08 seconds East, a distance of 83.00 feet; thence South 41 degrees 25 minutes 20 seconds West a distance of 149.29 feet; thence North 44 degrees 59 minutes 08 seconds West, a distance of 151.78 feet; thence North 38 degrees 28 minutes 01 seconds East, a distance of 149.98 feet; thence south 44 degrees 59 minutes 08 seconds East a distance of 76.52 feet to the place of beginning.

TRACT D: A part of land being a part of the Southeast Quarter of section 10, Township 37 North, Range 3 East, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the Northeast corner of said Southeast Quarter; thence South 0 degrees 00 minutes 00 seconds West along the east line of said Southeast Quarter a distance of 335.77 feet; thence North 44 degrees 59 minutes 08 seconds West, a distance of 76.52 feet to the place of beginning for this description; thence South 38 degrees 28 minutes 01 seconds West a distance of 149.98 feet; thence North 44 degrees 59 minutes 08 seconds West, a distance of 1.19 feet; thence North 32 degrees 45 minutes 07 seconds East, a distance of 58.62 feet; thence North 57 degrees 25 minutes 41 seconds West, a distance of 19.88 feet; thence along a curve to the right having a radius of 5.36 feet and limited in length by a chord which bears North 12 degrees 14 minutes 45 seconds East, a distance of 10.43 feet; thence along a curve to the left having a radius of 109.18 feet and limited in length by a chord which bears North 58 degrees 36 minutes 13 seconds East a distance of 89.75 feet; thence South 44 degrees 59 minutes 08 seconds East, a distance of 0.51 feet to the place of beginning.

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

Commencing at the East Quarter corner of said Section 10; thence South 0 degrees 00 minutes 00 seconds East along the East line of said Southeast Quarter a distance of 335.77 feet; thence South 44 degrees 59 minutes 08 seconds east a distance of 83.00 feet; thence South 41 degrees 25 minutes 20 seconds West, a distance of 149.29 feet; thence South 36 degrees 58 minutes 01 seconds West a distance of 204.51 feet to the place of beginning; thence South 39 degrees 57 minutes 11 seconds West a distance of 181.08 feet; thence South 56 degrees 33 minutes 32 seconds West a distance of 122.24 feet; thence south 82 degrees 50 minutes 19 seconds West a distance of 130.75 feet; thence North 9 degrees 13 minutes 45 seconds East, a distance of 411.66 feet; thence North 13 degrees 26 minutes 45 seconds East, a distance of 18.38 feet; thence South 76 degrees 28 minutes 15 seconds East, a distance of 206.79 feet; thence South 26 degrees 32 minutes 32 seconds East, a distance of 171.52 feet to the place of beginning.

PARCEL II:

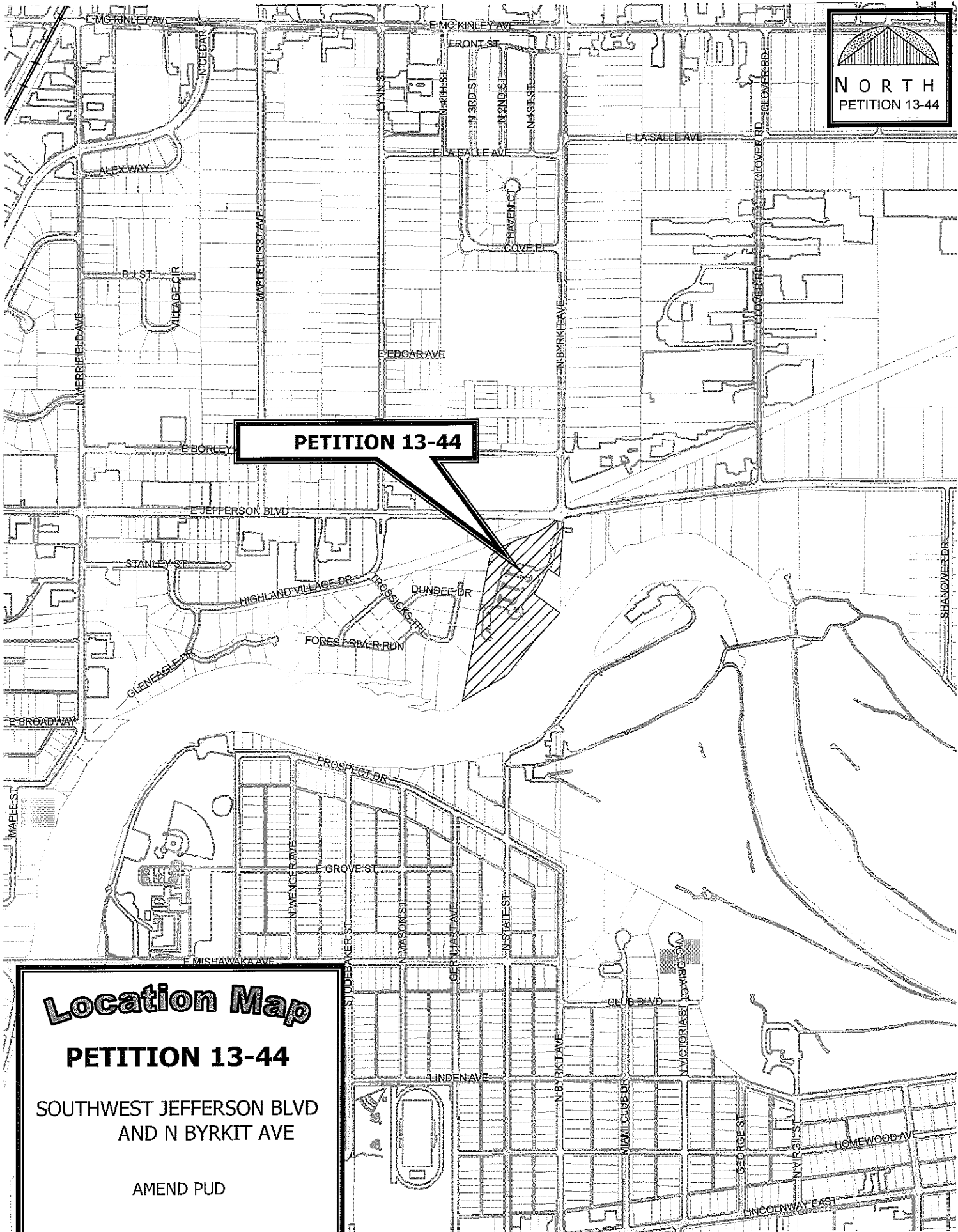
A parcel of land being a part of the East Half of the Southeast Quarter of Section 10, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 10; thence South 0 degrees 00 minutes 00 seconds East along the East line of said Southeast Quarter a distance of 335.77 feet; thence South 44 degrees 59 minutes 08 seconds East, a distance of 83.00 feet; thence South 41 degrees 25 minutes 20 seconds West a distance of 149.29 feet; thence South 36 degrees 58 minutes 01 second West, a distance of 204.51 feet to the place of beginning; thence South 39 degrees 57 minutes 11 seconds West a distance of 181.08 feet; thence South 56 degrees 33 minutes 32 seconds West, a distance of 122.24 feet; thence South 82 degrees 50 minutes 19 seconds West, a distance of 130.75 feet; thence North 9 degrees 13 minutes 45 seconds East, a distance of 411.66 feet; thence North 13 degrees 26 minutes 45 seconds East, a distance of 18.38 feet; thence South 76 degrees 28 minutes 15 seconds East, a distance of 206.79 feet; thence South 26 degrees 33 minutes 45 seconds East, a distance of 171.45 feet to the place of beginning.

PARCEL III: Rights and benefits of easements for the purposes of ingress and egress as set out in a Warranty Deed recorded August 30, 1993 as Instrument Number 9334708, in the Office of the Recorder of St. Joseph County, Indiana.

PARCEL IV: Rights and benefits of easements for ingress and egress as set out in a Warranty Deed Recorded January 7, 2003 as Instrument Number 0300911 in the Office of the Recorder of St. Joseph County, Indiana.

Property Address 1625 E Jefferson, Mishawaka, IN 46545



PETITION 13-44

AMEND PUD

NOV 13 2013

CITY CLERK
MISHAWAKA, IN

1st Reading 11-18-13 PROPOSED ORDINANCE NO. 2013-50

2nd Reading ORDINANCE NO. _____

Passed

Failed

Continued To

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR 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 transfer and reappropriation of funds within the budget for the Police 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 \$8,000.00 as follows:

General Fund

From: Police Department

Other Services and Charges

101-20-431-09 Health Services \$ 8,000.00

Total \$ 8,000.00

To: Police Department

Services Personal

101-20-411-03 Temporary \$ 1,500.00

Other Services and Charges

101-20-436-01 Repairs & Maintenance \$ 6,500.00

Total: \$ 8,000.00

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



P.O. Box 902
200 N. Church St.
Mishawaka, IN 46544

Police Department

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

RECEIVED
DEBORAH S. BLOCK, MMC

November 18, 2013

NOV 12 2013

**CITY CLERK
MISHAWAKA, IN**

Mishawaka Common Council
Mayor David Wood
Rebecca Miller, Controller
Budget/Finance Committee

Dear Honorable Members:

An emergency exists which requires the transfer and re-appropriation of funds within the budget for the Police Department. No additional funds are needed at this time.

From:	101-20-431.09	Health Services	<u>\$ 8,000.00</u>
		TOTAL	<u>\$ 8,000.00</u>

To:	101-20-436-01	Bldg/Equip Repair & Maint	\$6,500.00
	101-20-411.03	Temporary	<u>\$1,500.00</u>
		TOTAL	<u>\$8,000.00</u>

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

Respectfully,

Kenneth L. Witkowski
Chief, Mishawaka Police Department

KLW:dcs

EMERGENCY 911
FRONT DESK (574) 258-1678
DETECTIVE BUREAU (574) 258-1684
RECORDS (574) 258-1681

CHIEF (574) 258-1683
UNIFORM CHIEF (574) 258-1688
TRAFFIC DIVISION (574) 259-2966
FAX (574) 258-1690

NOV 14 2013

PETITION 13-39

CITY OF MISHAWAKA, INDIANA

CITY CLERK
MISHAWAKA, IN

1st Reading 11-18-13
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-51

ORDINANCE NO. _____

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

Lot numbered Thirty-one (31), as shown on the recorded Plat of Northern Indiana Realty Company's First Addition to the City of Mishawaka, recorded in the Office of the Recorder of St. Joseph County, Indiana, in Plat Book 9, page 166.

COMMON ADDRESS: 1019 West Marion Street

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

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

1. There are a few commercial zonings in the neighborhood, but the neighborhood surrounding the property are used as single family dwellings, and its historic use as a single family dwelling would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as an commercial project, staff feels that the most desirable use for this property is its historical single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

Proposed Ordinance No: 2013-51

Ordinance No: _____

4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,
5. The City's Comprehensive Plan calls for low density residential and its historic use as a single family home is compatible and consistent with the historic residential uses in the area.

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

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

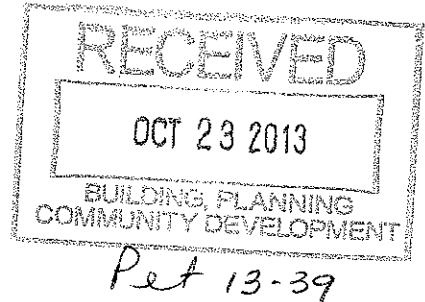
Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

DATE: October 23rd, 2013

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



RE: PETITION TO REZONE

The undersigned 5 Star Investment Group II, LLC respectfully shows they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Legal Description: Lot numbered Thirty-one (31), as shown on the recorded Plat of Northern Indiana Realty Company's First Addition to the City of Mishawaka, recorded in the Office of the Recorder of St. Joseph County, Indiana, in Plat Book 9, page 166.

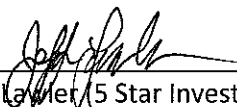
Tax Key Numbers: 16-2034-1069 1019

Common Location: Marion St., Mishawaka, IN 46545.
1019 W.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-7 District. Said property is Residential.

Petitioner desires said real estate to be rezoned to R-1 District. Petitioner further states that they intend to utilize said land for Residential.

Wherefore, the petitioner prays and respectfully requests that the common council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.



Jeff Lawler (5 Star Investment Group II, LLC)

Contact Person:
5 Star Investment Group / Jeff Lawler
426 W. 7th St.
Mishawaka, IN 46544
Phone: 574-855-1423
Fax: 574-855-1092
Email: jefflawler@5starhouses.com

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2013

CITY CLERK
MISHAWAKA, IN



PETITION 13-39

1019 WEST MARION STREET

REZONE FROM C-7 AUTOMOBILE
ORIENTED RESTAURANT COMMERCIAL
TO R-1 SINGLE-FAMILY RESIDENTIAL

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2013

1st Reading 11-18-13
2nd Reading
Passed
Failed
Continued To

PETITION 13-40
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2013-52
ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

A PARCEL OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, 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 THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE SOUTH 89°31'38" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 564.94 FEET; THENCE SOUTH 00°07'27" EAST, A DISTANCE OF 40.00 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 00°07'27" EAST, A DISTANCE OF 1027.47 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE INDIANA EAST-WEST TOLL ROAD (INTERSTATE 80-90); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 7489.44 FEET AND A CENTRAL ANGLE OF 5°55'08" AND LIMITED IN LENGTH BY A CHORD WHICH BEARS SOUTH 77°54'46" WEST, A DISTANCE OF 773.33 FEET; THENCE NORTH 00°16'37" WEST, A DISTANCE OF 1183.15 FEET; THENCE NORTH 89°31'38" EAST, A DISTANCE OF 759.70 FEET TO THE PLACE OF BEGINNING.

COMMON ADDRESS: 500-700 Block East University Drive

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a members only retail warehouse, fueling station, and tire center subject to the following PUD developmental standards/conditions:

Uses:

1. Permitted uses for the site shall be limited to those uses identified in the C-1 General Commercial zoning district based on City of Mishawaka Zoning classification defined in and in effect on the date of approved by the

ORDINANCE NO. _____

PROP. ORD. NO. 2013-52

Mishawaka Common Council. In addition, a fueling center and tire service and sales center shall be permitted as an accessory use to a members only retail warehouse. The uses permitted on the outlot shall be limited to the C-1 General Commercial Zoning District.

2. Outside sale display for loose items shall be prohibited unless specifically approved by the Planning Commission as part of a final planned unit development site plan submission.
3. Off-premise signs/billboards shall be prohibited.

Traffic Impact:

1. All traffic/transportation improvements required for the completion of this project shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering.
2. The number and/or type of curb cuts on University Drive shall be evaluated and approved as part of the final site plan approval process, and shall be revised as may be determined appropriate by the City Director of Engineering.

Internal Road Connections:

1. An access easement(s) shall be provided to the shopping center located to the west, the location and number of connections shall be reviewed as part of the final planned unit development site plan approval process.

Stormwater Run-off/Utilities:

1. The type of stormwater facilities proposed on the site shall be limited/restricted as directed by the City Director of Engineering.
2. Proposed stormwater retention areas shall specifically include the volumes associated with any required improvements to University Drive that are required as a result of the proposed development as may be directed by the City Director of Engineering.
3. A 20' wide north/south utility easement shall be provided along the East property line of the site for a City sanitary sewer forcemain. The location of this easement shall be coordinated with and separate from required landscaping/buffer plantings. The sanitary sewer forcemain will be installed by the City and is intended to be placed before or concurrent with the proposed development.
4. All costs associated with the extension of utilities required for the proposed development shall be the responsibility of the applicant/developer. Extension of utilities shall occur in a location and size as directed by applicable codes and the City Director of Engineering.

Lighting:

ORDINANCE NO. _____

PROP. ORD. NO. 2013-52

1. All site lighting shall be limited to 35 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with each subsequent final planned unit development plan submission.
3. Ornamental fixtures matching the current City standard may be utilized in addition or instead of the lighting noted above.
4. Canopy lighting within the proposed fueling center shall be recessed in the canopy or otherwise designed so that the light source is not visible from the perimeter of the fueling station development area/University Drive.

Signage:

1. No greater than three freestanding signs may be permitted within the Development. One sign shall be permitted for the fueling station, one for the members only retail warehouse, and one for the outlot. These signs shall be limited to 8' in height and contain a display area of no more than 60 square feet. Each shall include a masonry base (to match the architecture of the building) no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic readerboard. All freestanding signs shall be separated from each other by a minimum of 150 lineal feet.
2. Temporary banners, flush mounted to a building shall be limited to one per building/use, and shall not exceed 80 square feet. These banners shall also be subject to any future more restrictive regulation that may be passed by the City.

Building Limitations/Architecture:

1. All proposed buildings shall be constructed of 100% approved materials as identified within Section 161.41 of the City of Mishawaka Municipal Code as amended. In addition to approved materials, the developer may use textured architectural metal panels for up to 2/3 of the north, west, and south sides of the members only retail warehouse building. Metal panels may be placed on 100% of the east side of the building. The coating and textures of the metal panels shall be varied to provide architectural interest. A minimum of 1/3 of the surface area of the facades of the west, north, and south side of the building shall be a stone veneer or other high quality visually appealing masonry deemed appropriate by the developer. Final building elevations and colors shall be reviewed by the Planning Commission as part of any final planned unit development site plan submission.
2. For all developmental parcels – there shall be a minimum building setback of 75' from the public right-of-way of University Drive. A minimum side and rear building setback of 50' shall be provided along exterior lot/property lines. For the outlot, the internal side and rear building setback lines shall be 25'.
3. The maximum building height for the entire development shall be 48'.

ORDINANCE NO. _____

PROP. ORD. NO. 2013-52

Parking/Landscaping:

1. A minimum pavement setback of 10' in width shall be provided between developmental parcels and to the west property line. A minimum 25' pavement setback shall be provided along University Drive and the Indiana Toll Road.
2. For large shopping areas where shopping carts are utilized, cart corrals shall be provided. Corrals shall be identified and removed from total number of parking spaces provided. Curbed landscape islands shall be provided to break up large pavement areas as determined by the Planning Commission as part of the review of any final planned unit development site plan.
3. All development parcels shall comply with the landscape requirements of the C-1 General Commercial zoning district.
4. All loading docks, dumpsters, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principal building. Dumpster locations shall be located away from any roads behind principal buildings and located away from internal collector drives.
5. A 15' wide (minimum) landscape buffer yard shall be provided between the adjacent apartments to the East and the proposed development. The buffer yard shall run continuously from the Indiana Toll Road right-of-way to the University Drive right-of-way. The buffer yard shall include 65 evergreen trees planted at a 10'-12' height, 17 shade trees, 2 ½ inch caliper or greater, and 20 ornamental trees 2" caliper or greater. Plantings shall be clustered for aesthetics and to maximize the desired buffer. This shall also fulfill the C-1 landscape requirement for planting along the East property line. This buffer shall be installed in the first phase of the development and shall include the area within the outlot.
6. In addition to the C-1 Commercial Landscaping requirements, three evergreen trees planted at a 10'-12' height shall be provided between University Drive and the proposed fueling station canopy intended to visually buffer the view between the church and the fueling area. These trees shall be planted in a single cluster of three.

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

1. Existing Conditions - The subject parcel is located adjacent to the existing Target Shopping Center on University Drive which is a 5-lane road. Significant retail shopping areas have been proposed and developed on the north side of the City in reasonable proximity to the site. The site has been marketed and directed by multiple government entities to commercial oriented development for many years.
2. Character of Buildings in Area - The area is predominantly commercial. The existing apartment complex to the east should not be adversely impacted based on the proposed building separation and landscaping requirements that should help provide a buffer between the two uses. Granger Community

ORDINANCE NO. _____

PROP. ORD. NO. 2013-52

Church located to the north has a very large congregation and encourages the public to visit the eatery and bookstore they have on site in a commercial way. The character of many of the buildings on the north side of the City are commercial.

3. The most desirable/highest and best use - Because of the parcels' location and the significant commercial development on the north side of the City, serving as a regional area of commerce, combined with the proximity of the Indiana Toll Road, Capital Avenue, Fir Road, University Drive, Main Street, and SR 23, makes the most desirable use for the property a heavy mix of intensive commercial and professional office and service uses.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the vast majority of adjacent property is compatible or will be buffered with the proposed conditions.
5. Comprehensive Plan - This specific property was not guided by the Mishawaka 2000 Comprehensive Plan, however, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The continued change and expansion of the commercial areas of the City are commensurate to the City's status as a regional area of commerce. The substantial residential growth that occurred in the unincorporated County (the unincorporated area of Granger) also contributes to the need/demand for services.

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

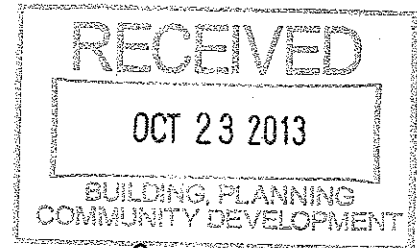
ORDINANCE NO. _____

PROP. ORD. NO. 2013-52

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

David A. Wood, Mayor

Memorial
Health SystemSM
Quality of Life



Pet 13-40

October 21, 2013

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

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2013

CITY CLERK
MISHAWAKA, IN

RE: Petition for PUD Amendment

The undersigned Memorial Health System, Inc. respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

A PARCEL OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, 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 THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27; THENCE SOUTH 89°31'38" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER A DISTANCE OF 564.94 FEET; THENCE SOUTH 00°07'27" EAST, A DISTANCE OF 40.00 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 00°07'27" EAST, A DISTANCE OF 1027.47 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE INDIANA EAST-WEST TOLL ROAD (INTERSTATE 80-90); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 7489.44 FEET AND A CENTRAL ANGLE OF 5°55'08" AND LIMITED IN LENGTH BY A CHORD WHICH BEARS SOUTH 77°54'46" WEST, A DISTANCE OF 773.33 FEET; THENCE NORTH 00°16'37" WEST, A DISTANCE OF 1183.15 FEET; THENCE NORTH 89°31'38" EAST, A DISTANCE OF 759.70 FEET TO THE PLACE OF BEGINNING.

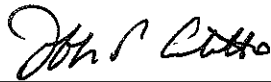
PARCEL NOS: 30-1012-0155, 30-1012-015503

Page Two
October 23, 2013

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for currently vacant land.

Petitioner desires said real estate to be amended to allow for the construction and operation of an approximately 160,000 square foot members-only retail warehouse with accessory uses to include a free-standing fueling facility and an attached tire center. In addition, a parcel of approximately 1.12 acres will be created for an end-user that has yet to be determined.

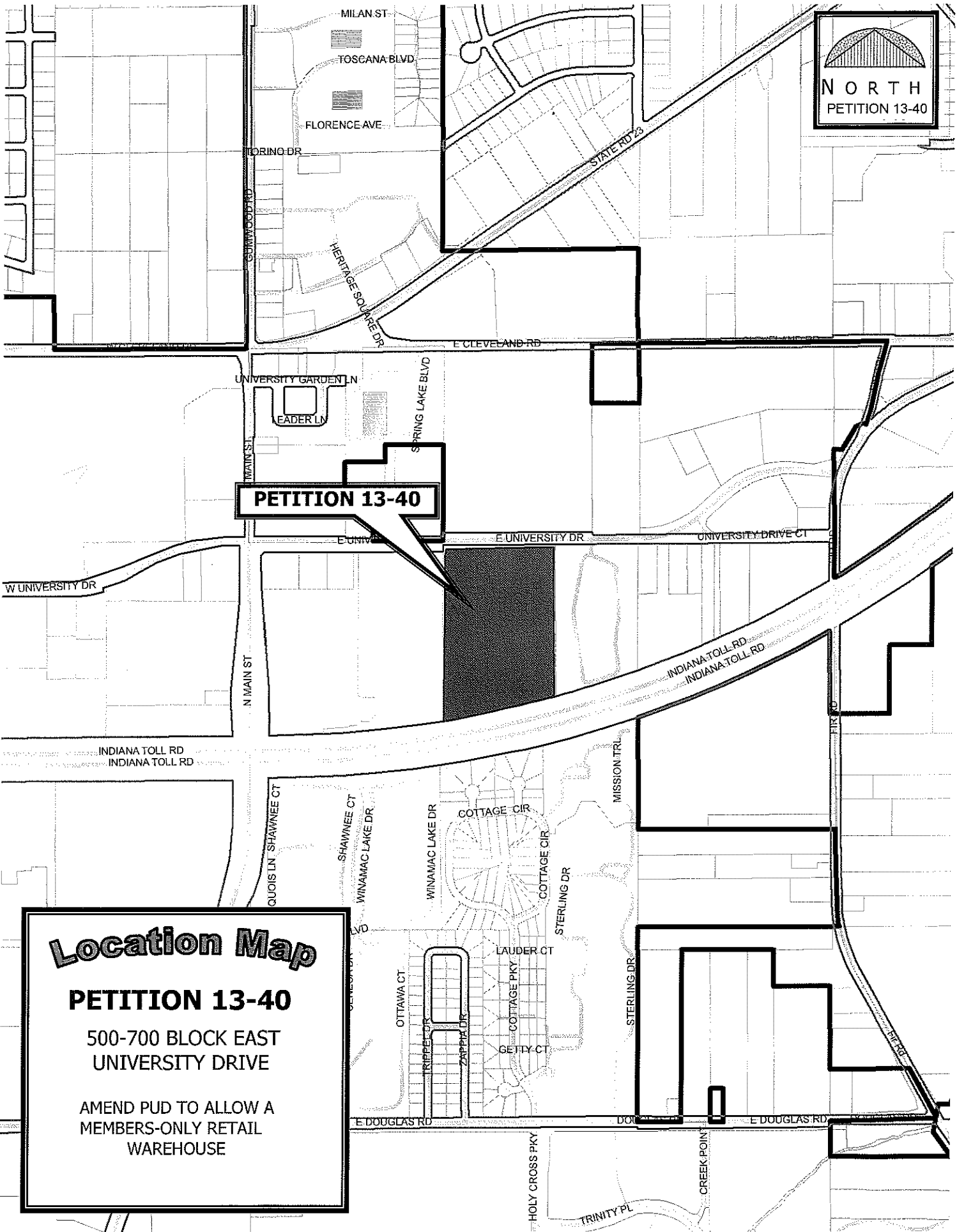
Wherefore, the petitioner respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of Mishawaka.



Jeffrey P. Costello
Chief Financial Officer
Memorial Health System, Inc.

CONTACT PERSON:

Theodore R. Johnson
Costco Wholesale Corporation
c/o TJ Design Strategies, Ltd.
2311 W 22nd Street, Suite 208
Oak Brook, IL 60523
Phone: 630-368-0840 Fax: 630-368-0845
Email: tjohnson@tjdesignltd.com



Location Map

PETITION 13-40

500-700 BLOCK EAST
UNIVERSITY DRIVE

AMEND PUD TO ALLOW A
MEMBERS-ONLY RETAIL
WAREHOUSE

NOV 13 2013

1st Reading 11-18-13
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-53

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 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 Motor Vehicle Highway Fund budget adopted for the fiscal year ending December 31, 2013

Section 2. There is hereby transferred and reappropriated the sum of \$34,700.00 as follows:

Motor Vehicle Highway Fund

From: Street Department
Personal Services

201-50-411-02 Regular Employees \$ 34,700.00

Total \$ 34,700.00

To: Street Department
Supplies

201-50-423-01 Street Materials \$ 15,000.00

201-50-423-03 Equip, Parts, Supplies 10,000.00

Other Services and Charges

201-50-432-04 Telephone 3,000.00

201-50-433-02 Publications 200.00

201-50-436-01 Building/Equip Repair 5,000.00

201-50-437-05 Uniforms 1,500.00

Total \$ 34,700.00

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, IAMAC, MMC, City Clerk

APPROVED BY ME this ____ day of , _____ 2013 at _____ o'clock, _M.

David A. Wood, Mayor



CITY OF MISHAWAKA

Ronald (Mike) Watson
Street Commissioner

David A. Wood, Mayor

November 13, 2013

Mishawaka Common Council
City Hall
600 East Third Street
Mishawaka, IN 46544

RE: Proposed Ordinance 2013-53

Honorable Council Members:

At this time, we find the need to request a transfer of \$34,700 from our *Personal Services/Regular Employees* line #201-50-411-02 to be distributed as follows:

FROM: Street Department

Personal Services

201-50-411-02

Regular Employees \$34,700

TO: Street Department

201-50-423-01

Street Materials \$15,000

201-50-423-03

Equipment/Parts, Supplies \$10,000

201-50-432-04

Telephone/Paging \$ 3,000

201-50-433-02

Publications \$ 200

201-50-436-01

Bldg/Equipment Repair \$ 5000

201-50-437-05

Uniforms \$ 1,500

TOTAL - \$34,700

If you have any questions concerning this transfer, please call or visit my office.

Sincerely,

Ronald E. (Mike) Watson
Street Commissioner

NOV 14 2013

CITY CLERK
MISHAWAKA, IN

1st Reading 11-18-13
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2013-54

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 \$633,000.00 for assignment as follows:
General Fund

Controller

Personal Services

101.02.413.05 Employee Health Insurance \$116,000.00

Other Services and Charges

101.02.434.90 Insurance, Claims 50,000.00

Law

Other Services and Charges

101.06.434.90 Insurance, Claims 50,000.00

Fire

Personal Services

101.19.411.60 Overtime 135,000.00

101.19.413.05 Employee Health Insurance 252,000.00

Police

Personal Services

101.20.413.05 Employee Health Insurance 30,000.00

Total \$633,000.00

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, 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: November 14, 2013
To: Members of the Common Council
From: Becky
Re: Additional Appropriation

RECEIVED
DEBORAH S. BLOCK, MMC
NOV 14 2013
CITY CLERK
MISHAWAKA, IN

In reviewing the account lines prior to year end, I would like to request additional funds in the employee health insurance lines for the general fund, the insurance claims line in both the Controller's budget and the Law budget, and Overtime in the Fire budget.

Concerning health insurance: new employees have been added, employees have shifted from employee only to family and employee/spouse, and the full cost of the medical insurance increase was not known at the time the 2013 budget was prepared.

For the insurance claims line: the Worker's Comp audit came in higher than estimated, and we have received over \$115,000 in bills through October for Law since the prior \$100,000 additional.

Fire OT: I've attached a spreadsheet showing the various reasons for the OT.

Please contact me if you have any questions or would like additional information.

c: David A. Wood
Geoff Spiess
Dale Freeman