

AGENDA

Monday, January 6, 2014

**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**

Election of Officers

- 4. Approval of the Minutes of the Previous Regular Meeting**

December 16, 2013

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

Petition No. 2014-01 Amend the PUD to allow an Assisted Health Care Facility and (8) Villa Units
- Northeast East Fulmer Rd and Falling Oak Drive

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

P.O. NO. 2014-01 Additional Funds - Clerk's Office - \$12,000.00

- 8. Resolutions**

R2014-01 Declaratory Resolution Wellpet LLC, 1121 West 11th Street

R2014-02 Consent Decree Concerning C.S.O. Controls

- 9. Ordinances on Second Reading**

P.O. NO. 2013-55 Annex and Zone S-2 PUD Northwest Gumwood Rd and Cleveland Rd **NO
VOTE**

P.O> NO. 2013-56 Amend S-2 PUD River Crest Southwest Jefferson Blvd and N Byrkit Ave -
1625 e. Jefferson Blvd. (Assigned to Land Use Planning Committee)

- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**

R2013-24 Use Variance to allow Outside Storage - 1216 W. 8th Street

- 12. New Business**

Appointment of Council Attorney
Two Appointments to the Redevelopment Commission
Council Committees
Council Representation on Various Boards
Council Acceptance of Conflict of Interest Forms

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

December 16, 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 December 16, 2013 at 7:00 p.m. The meeting was called to order by President Mike Compton and all were asked to stand for the Pledge of Allegiance. President Compton asked for a moment of silence for George Lane who recently past.

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 December 2, 2013 meeting were approved as received from the Clerk's Office.

A letter from the Board of Zoning Appeals was read regarding recommendations from their December 10, meeting.

APPEAL 2013-47

An appeal submitted by Ylonda Demske requesting a Use Variance for 1216 West Eighth Street to permit the outside storage of portable restrooms on I-1 Light Industrial Zoned property located at 1315 Milburn Boulevard

This recommendation passed with a vote of 3-2, and was forwarded to the Council with and unfavorable recommendation, but had the following conditions attached if it should be approved by the Council.

1. Storage shall be limited to the current paved portion of the rear yard.
2. The units shall maintain a 5 foot setback at all times from the rear property line.
3. The units must be cleaned and disinfected prior to storage at 1216 West Eighth Street.
4. Chemicals may not be stored at the site.
5. Privacy slats shall be fitted to the existing fence.
6. The units shall not be taller in height than the fence.
7. All improvements to 1215 West Eighth Street, as documented on Administrative Site Plan 05-F, dated 10/6/2005, and Recording Number 05549958, shall be completed by June 1, 2014.

APPEAL 2013-49

An appeal submitted by LTR LLC requesting a Use Variance for 1315 Milburn Boulevard to allow three (3) uses on a C-1 General commercial zoned property.

RECOMMENDED APPROVAL subject to the following conditions:

1. Third tenant use shall be limited to general retail or office use.
2. Three commercial tenants are permitted on the site based on the current building and site layout. If any of these uses change to a more intensive use, a final site plan shall be filed and any site deficiencies for the property shall be brought up to meet all current City ordinances and engineering standards.

A letter from the Plan Commission was read regarding recommendations from their December 10, 2013 meeting.

PETITION 2013-43 A request submitted by Gumwood Acquisitions, LLC, requesting to annex and zone approximately 45 acres at the northwest corner of Gumwood Road and Cleveland Road to S-2 Planned Unit Development. **RECOMMENDED APPROVAL.**

PETITION 2013-44 A request submitted by Mishawaka Property, L.L.C., requesting to amend the River Crest Planned Unit Development located at 1625 East Jefferson Boulevard to allow for reduced parking at the facility. **RECOMMENDED APPROVAL** with the following condition:

1. Parking shall be provided at a minimum of one (1) parking space per bed and one (1) parking space per employee during peak shift.

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. 2013-55

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

(Annex and Zone S-2 PUD Northwest Gumwood Road and Cleveland Road)
(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2013-56

**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 S-2 PUD River Crest Southwest Jefferson Boulevard and
North Byrkit Avenue 1625 East Jefferson Blvd)

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2013-57

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL #1392**

(IBEW Local 1392 Collective Bargaining Agreement with the City of Mishawaka
January 1, 2014-December 31, 2017)

Mr. Roggeman made a motion to suspend Council Rules to hear second reading under new business per request of the petitioner with a second by Mr. Banicki the motion carried.

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

RESOLUTION NO. 2013-24

**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:**

(1216 West Eighth Street, Mishawaka)

Ken Prince, City Planner asked, since the petitioner was not in attendance at the meeting to continue this until he could speak with Councilman Emmons regarding issues with the site.. Mr. Emmons stated there was an ordinance against outside storage and that the subject should be dropped. Mr. Banicki made a motion to table this to see if the petitioner wants to continue. With a second by Mr. Reisdorf the motion carried.

Mr. Emmons asked Mr. Trippel, Council Attorney if the petitioner does show up at the next meeting; since he has not been present for the last several, would it be a forfeit. Mr. Trippel said yes, if the petitioner does not show up the next meeting it would be done

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

RESOLUTION NO. 2013-25

**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:**

(1315 Milburn Boulevard, Mishawaka)

Keith Haza, Regional Director of Family Video said they purchased this property in 2006 and at that time the building was built for housing three stores, recently Marco Pizza moved in at the far west end of the building and his request here was to add Metro PCS which was a cell phone business in the middle store, there would be no additional signage except on the side of the building. Ms. Voelker asked if this property was zoned a C-1 why did was a third

store option in when only two were approved at the time. Mr. Haza stated he was thinking at the time of adding sandwich stores the City has made a huge investment on Milburn Boulevard and an empty store front would not be appealing.

Mr. Mammolenti asked what the current hours were for Family Video. Mr. Haza said it opened at 10 a.m. to 12:00 p.m., Marco pizza was open from 11:00 a.m. until 12:00 p.m. and Metro PCS cell phone hours were 9 am and would not be open any later so no extra lighting would be necessary and there was plenty of parking. Mr. Emmons said they have been good tenants maintaining the property and have addressed every issue that was presented to them they have been a good addition to the community. Mr. Haza stated his phone number was posted on the door of the building and he could be reach anytime at that number. He said Mishawaka was a great community and they have been very good to him.

Question called for at 7:21 p.m. on **RESOLUTION NO. R2013-25** 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.

PRIVILEGE OF THE FLOOR

Jamie Elliott, President of the Mishawaka Fire Department Local 360 said they feel it was time to start honoring their members for going above and beyond the call of duty. He said they also named the award after Fire Fighter Bob Saros who was the former President of Local 360 for 16 years and has since retired. President Elliott said he would like to announce the 2013 Firefighter of the year and the first recipient of the Fire Fighter of the year was Brian “Bucky” Linson. President Compton thanked Brian for his contributions and service to the City of Mishawaka and congratulated him.

Mr. Linson said he was speechless and that anyone of his brother fire fighters could have gotten this award and he was more then honored to receive it.

Mr. Emmons stated Bucky went above and beyond by donating his time to Mishawaka Food Pantry, helping out at local schools. He said a selfless person like him was what makes Mishawaka a great place to live.

Mr. Mammolenti extended his congratulations and said he was not at all surprised. President Compton also extended his congratulations.

NEW BUSINESS

Mr. Banicki made a motion to change dates for meetings in 2014, May 5 to May 7, Nov 3 to November 5th with a second by Reisdorf the motion carried.

Mr. Mammolenti said there would not a Twin Branch Neighborhood Watch meeting in December and would resume in January 2014.

Mr. Emmons said there would be no Neighborhood Watch Meeting in his district at St. Bavo in December and he would resume on January 16, 2014.

□ UNFINISHED BUSINESS

Clerk Block read Proposed Ordinance No. 2013-57 opening it for public hearing.

PROPOSED ORDINANCE NO. 2013-57

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL #1392**

(IBEW Local 1392 Collective Bargaining Agreement with the City of Mishawaka
January 1, 2014-December 31, 2017)

Geoff Spiess, Staff Attorney thanked the Council for allowing first and second reading on this proposed ordinance at this meeting, which would allow it to become effective on January 1, 2014 should it pass. He also extended his appreciation to Bill Scully Electrical Workers Local 1992, Ms. Wallace, Ms. Bonham, and Mr. Schrader for their help in this matter.

Mr. Reisdorf thanked Mr. Pies for the summary which helped a lot.

President Compton stated he was an IBEW employee and has no ties with Local 1392; he has signed a conflict of interest form. He said he spoke with Mr. Scully regarding the meetings who told him the negotiations were pleasant + -and that he himself was pleased with the results.

Mr. Reisdorf thanked Spies for interpretation making it easy to understand.

Question was called for at 7:32 p.m. on **PROPOSED ORDINANCE NO. 2013-57** 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. 5432.**

There being no further business to come before the Council, President Compton adjourned the meeting at 7:33 p.m.

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

□ S. Michael Compton
S. Michael Compton
Presiding Officer

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 02 2014

Date: December 16, 2013

CITY CLERK
MISHAWAKA, IN

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

RE: Target Leasing Corp. Petition for an Amended PUD:

The undersigned, Robert Urbanski, for Target Leasing Corp., the Petitioners, respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, Penn Township, St. Joseph County, Indiana:

A part of the East Half of the Northwest Quarter of Section 27, Township 37 North, Range 3 East situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows: Beginning at a point of intersection of the North Right-of-way line of Fulmer Road and the East line of the Northwest Quarter of said Section 27, which point is North 00 Degrees 13 Minutes 23 Seconds West, a distance of 60.00 feet from the Southeast corner of said Northwest Quarter; thence North 89 Degrees 59 Minutes 52 Seconds West, a distance of 493.99 feet to the point of curvature of a tangent curve, concave Southeast, having a radius of 380.00 feet, being subtended by a chord length 54.45 feet bearing South 85 Degrees 53 Minutes 38 Seconds West; thence along said curve a distance of 54.50 feet; thence North 11 Degrees 46 Minutes 53 Seconds West, a distance of 96.83 feet to the point of curvature of a tangent curve, concave to the Southwest, having a radius of 180.00 feet, being subtended by a chord length of 199.53 feet bearing North 45 Degrees 26 Minutes 24 Seconds West; thence Northwesterly along said curve, a distance of 211.48 feet to the point of curvature of a reverse curve, concave to the Northeast, having a radius of 120.00 feet, being subtended by a chord length of 34.28 feet bearing North 70 Degrees 53 Minutes 14 Seconds West; thence Northwesterly along said curve, a distance of 34.40 feet; thence North 41 Degrees 44 Minutes 24 Seconds East, a distance of 92.26 feet; thence North 00 Degrees 13 Minutes 23 Seconds West, a distance of 291.83 feet; thence North 89 Degrees 46 Minutes 37 Seconds East, a distance of 679.99 feet to the East line of the Northwest Quarter of said Section 27; thence South 00 Degrees 13 Minutes 23 Seconds East along said East line a distance of 605.45 feet to the Point of Beginning.

Said described tract containing an area of 9 acres, more less, subject to all rights-of-way, and restrictions of record.

Pet 14-01

Also commonly known as vacant ground in the 700 Block of East Fulmer Road and also being the Northeasterly corner of East Fulmer Road and Falling Oaks Drive, Mishawaka, Indiana 46544.

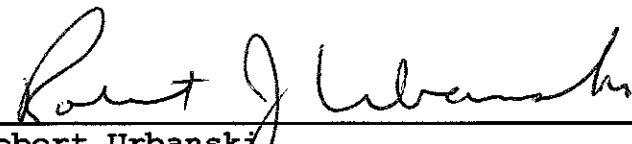
The above described parcel of land is presently zoned "S-2" Planned Unit Development District under the city of Mishawaka zoning development codes.

The Petitioners desire to amend the existing Planned Unit Development for said real estate, to be allowed to construct an Assisted Health Care facility which will include units for Assisted Care, units for Independent Living and for Eight (8) Villa units. The guidelines for the proposed development are shown on the attached preliminary site plan.

Wherefore, the Petitioners prays 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 the rezoning the above described parcel of real estate located in the City of Mishawaka, Indiana.

Contact person:

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



Robert Urbanski
for Target Leasing Corp.
21533 Golden Maple Court
South Bend, Indiana 46637
(574) 272-1131

LEGAL DESCRIPTION

A part of the East Half of the Northwest Quarter of Section 27, Township 37 North, Range 3 East situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows: Beginning at a point of intersection of the North Right-of-way line of Fulmer Road and the East line of the Northwest Quarter of said Section 27, which point is North 00 Degrees 13 Minutes 23 Seconds West, a distance of 60.00 feet from the Southeast corner of said Northwest Quarter; thence North 89 Degrees 59 Minutes 52 Seconds West, a distance of 493.99 feet to the point of curvature of a tangent curve, concave Southeast, having a radius of 380.00 feet, being subtended by a chord length 54.45 feet bearing South 85 Degrees 53 Minutes 38 Seconds West; thence along said curve a distance of 54.50 feet; thence North 11 Degrees 46 Minutes 53 Seconds West, a distance of 96.83 feet to the point of curvature of a tangent curve, concave to the Southwest, having a radius of 180.00 feet, being subtended by a chord length of 199.53 feet bearing North 45 Degrees 26 Minutes 24 Seconds West; thence Northwesterly along said curve, a distance of 211.48 feet to the point of curvature of a reverse curve, concave to the Northeast, having a radius of 120.00 feet, being subtended by a chord length of 34.28 feet bearing North 70 Degrees 53 Minutes 14 Seconds West; thence Northwesterly along said curve, a distance of 34.40 feet; thence North 41 Degrees 44 Minutes 24 Seconds East, a distance of 92.26 feet; thence North 00 Degrees 13 Minutes 23 Seconds West, a distance of 291.83 feet; thence North 89 Degrees 46 Minutes 37 Seconds East, a distance of 679.99 feet to the East line of the Northwest Quarter of said Section 27; thence South 00 Degrees 13 Minutes 23 Seconds East along said East line a distance of 605.45 feet to the Point of Beginning.

Said described tract containing an area of 9 acres, more or less, subject to all rights-of-way, and restrictions of record.

PET 14-G

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

December 16, 2013

RE: Target leasing Corp.
Amended PUD Request:

Dear Council Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Amended PUD Request will be heard.

If you have any questions concerning this matter, please feel free to give me a call at 272-1131.

Sincerely,

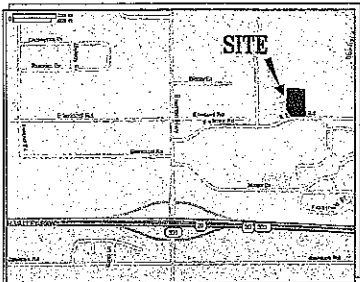


Robert Urbanski for Target Leasing Corp.

File No. 130267 "C" Md.

DEC 19 2013

HERITAGE WOODS AMENDED P.U.D. PRELIMINARY SITE PLAN
PART OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 37 NORTH, RANGE 3 EAST,
CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



SITE LOCATION MAP

LEGAL DESCRIPTION:

A part of the East Half of the Northwest Quarter of Section 27, Township 37 North, Range 3 East situated in Penn Township, St. Joseph County, State of Indiana, and being more particularly described as follows: Beginning at a point of intersection of the North Right-of-way line of Fulmer Road and the East line of the Northwest Quarter of said Section 27, which point is North 00 Degrees 13 Minutes 23 Seconds West, a distance of 80.00 feet from the Southeast corner of said Northwest Quarter; thence North 89 Degrees 59 Minutes 52 Seconds West, a distance of 493.99 feet to the point of curvature of a tangent curve, concave Southeast, having a radius of 380.00 feet, being subtended by a chord length 54.45 feet bearing South 85 Degrees 53 Minutes 38 Seconds West; thence along said curve a distance of 54.50 feet; thence North 11 Degrees 46 Minutes 53 Seconds West, a distance of 16.83 feet to the point of curvature of a tangent curve, concave to the Southwest, having a radius of 180.00 feet, being subtended by a chord length of 199.53 feet bearing North 45 Degrees 26 Minutes 24 Seconds West; thence Northwest along said curve, a distance of 211.49 feet to the point of curvature of a reverse curve, concave to the Northeast, having a radius of 120.00 feet, being subtended by a chord length of 34.28 feet bearing North 70 Degrees 53 Minutes 14 Seconds West; thence Northwest along said curve, a distance of 34.40 feet; thence North 41 Degrees 44 Minutes 24 Seconds East, a distance of 92.26 feet; thence North 00 Degrees 13 Minutes 23 Seconds West, a distance of 291.83 feet; thence North 89 Degrees 46 Minutes 37 Seconds East, a distance of 679.99 feet to the East line of the Northwest Quarter of said Section 27; thence South 00 Degrees 13 Minutes 23 Seconds East along said East line a distance of 605.45 feet to the Point of Beginning.

Said described tract containing an area of 9 acres, more or less, subject to all rights-of-way, and restrictions of record.

FLOOD HAZARD NOTE:

THIS PARCEL OF GROUND DOES NOT FALL WITHIN THE FLOOD HAZARD AREA AS DETERMINED ON AND SCALED FROM THE COMMUNITY PANEL MAPS ESTABLISHED BY FEMA FOR FLOOD INSURANCE. THIS PARCEL FALLS WITHIN A "X" ZONE AREA AS SHOWN ON COMMUNITY PANEL NO. 1814100218D, DATED 0/06/11.

STREET CLASSIFICATION NOTE:

NAME	CLASSIFICATION	WIDTH
1. FULMER ROAD	MINOR	AS SHOWN

GENERAL AMENDED P.U.D. NOTES FOR SITE DEVELOPMENT:

BUILDING SETBACKS:

- 40 FT. FRONT-YARD BUILDING SETBACK ALONG PUBLIC RIGHT-OF-WAYS.
- 20 FT. SIDE-YARD BUILDING SETBACK.
- 30 FT. REAR-YARD SETBACK.

GREEN BUFFER AREAS/INTER-YARDS:

- MINIMUM 15 FT. WIDE GREEN BUFFER AREA ALONG PUBLIC RIGHT-OF-WAYS.
- 20 FT. WIDE EVERGREEN BUFFER AREA ALONG WESTERN PROJECT BOUNDARY.
- 15 FT. WIDE EVERGREEN BUFFER AREA ALONG NORTHERN PROJECT BOUNDARY.
- 15 FT. WIDE GREEN BUFFER AREA ALONG EAST PROJECT BOUNDARY.

PERMANENT SOFTEN PLANTINGS:

- EVERGREEN TREES SHALL BE PROVIDED ALONG WEST AND NORTH BUFFER-YARDS AS SHOWN. EVERGREEN TREES SHALL HAVE A MINIMUM OF 6 FT. AT TIME OF PLANTING.
- PLANTINGS SUBJECT TO STAFF REVIEW AND APPROVAL.
- PLANTINGS AROUND BUILDINGS SUBJECT TO STAFF REVIEW AND APPROVAL.
- NO PLANTINGS SHALL BE REQUIRED ALONG EAST PROJECT BOUNDARY.

CURVE TABLE:

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	380.00'	54.50'	54.45'	S 85°53'38" W	8°13'01"
C2	180.00'	211.49'	199.53'	N 45°26'24" W	67°19'02"
C3	120.00'	34.40'	34.28'	N 70°53'14" W	18°25'25"

GENERAL SURVEY DISCLAIMER NOTES:

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

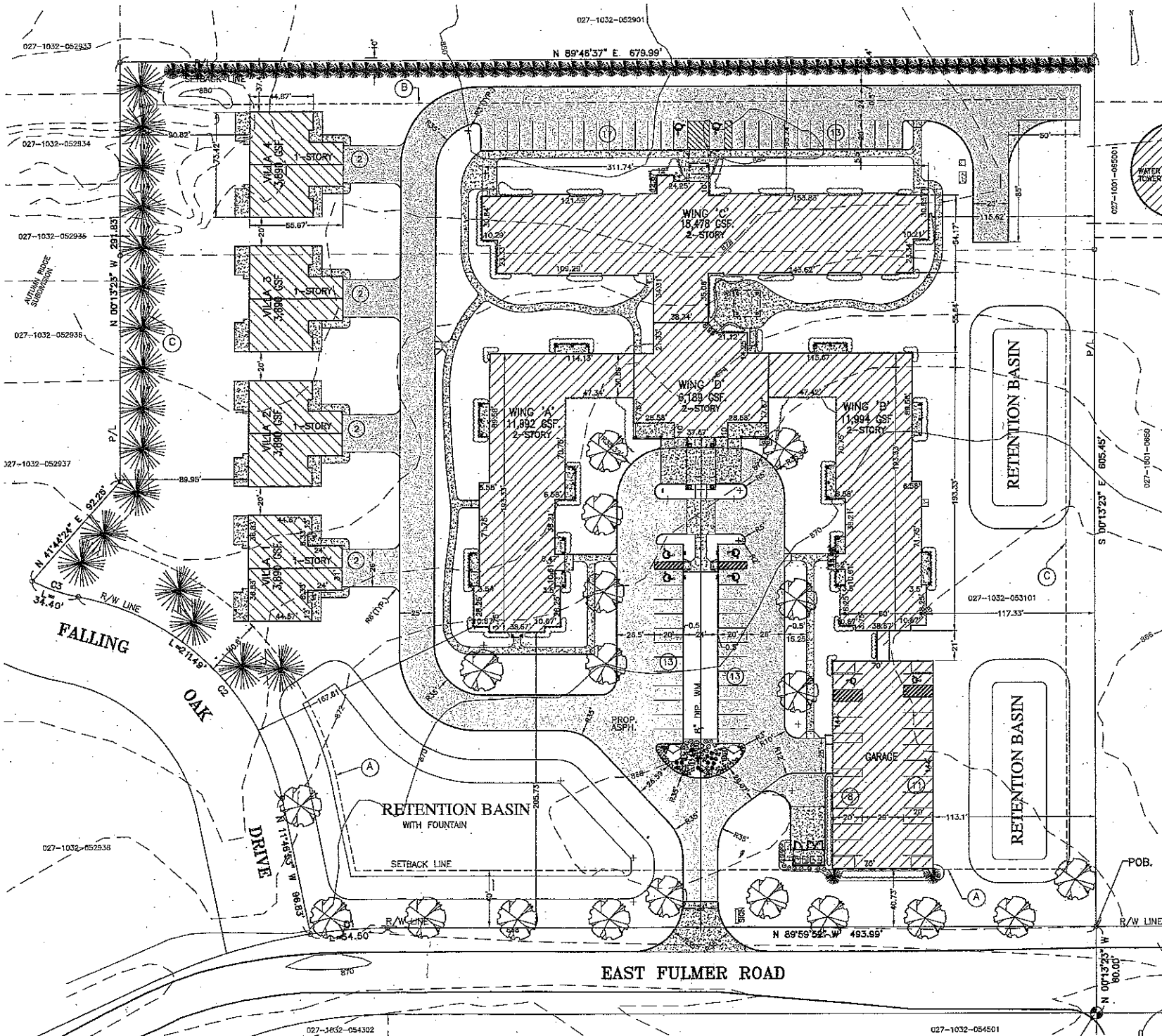
ANY UTILITY OR EASEMENT LOCATIONS, IF SHOWN, ARE APPROXIMATE. THE CLIENT MUST FIELD VERIFY UTILITY LOCATIONS WITH THE RESPECTIVE UTILITY COMPANY. THIS LAND SURVEYOR ASSUMES NO LIABILITY FOR THE ACCURACY OF THE LOCATION OR SIZE OF EXISTING UTILITIES OR THE EXISTENCE OR NONEXISTENCE OF ADDITIONAL UNDERGROUND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

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

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

ANY INFORMATION ON THIS DRAWING IS NOT INTENDED TO BE SUITABLE FOR REUSE BY ANY PERSON, FIRM OR CORPORATION OR ANY OTHERS ON EVIDENCE OF THIS PROJECT OR FOR ANY USE ON ANY OTHER PROJECT. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE ENGINEER, ARCHITECT OR SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE ENGINEER, ARCHITECT OR SURVEYOR.

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



BUILDING SETBACKS:

- 40' FRONT-YARD SETBACK
- 30' REAR-YARD SETBACK
- 20' SIDE-YARD SETBACK

PETITIONER:

TARGET LEASING CORP.
21533 GOLDEN MAPLE COURT
SOUTH BEND, INDIANA 46628
(574) 234-4003
ATTN: SCOTT KOSTER

SURVEYORS & ENGINEERS:

DANCH, HARNER & ASSOCIATES, INC.
1643 CONMERCE DRIVE
SOUTH BEND, IN. 46628
(574) 234-4003
ATTN: MICHAEL DANCH

DATE	12/13/13
SCALE	1" = 40'
FILE #	130267

DRAWN BY:

DSH

CHECKED BY:

MJD

PROJ. MGR:

MJD

REVISIONS

DATE	BY	REVISION

AMENDED P.U.D.



SCALE 1" = 40'

AMENDED P.U.D.

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION

REVISIONS

DATE	BY	REVISION
------	----	----------

JAN 02 2014

1st Reading 1-6-14
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2014-01

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2014

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, 2014 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 \$12,000.00 for assignment as follows:
General Fund

Clerk

Personal Services

101.03.411.03 Temporary Help \$ 12,000.00

Total \$ 12,000.00

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 _____, 2014 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 _____, 2014 at _____ o'clock, ____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ____ day of _____, 2014 at _____ o'clock, ____ M.

David A. Wood, Mayor



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

January 3, 2014

Mishawaka Common Council
Mishawaka City Hall
Mishawaka, Indiana

Dear Councilmembers:

I am respectfully requesting an additional appropriation of funds. As I stated in my letter to the Council last September I would like to make this a permanent part time position. This appropriation will pay our part time employee to continue working on the project of scanning and categorizing Council documents.

In addition to these duties Ms. Boston continues training to help with other duties in the Clerk's Office including answering phones, ordinance/resolution research and helping citizens at the counter. I am attaching a progress sheet with this letter.

Please call or email me with any questions. Thank you for your consideration.

Sincerely,

Deborah S. Block, IAMC, MMC
Mishawaka City Clerk

PART TIME EMPLOYEE
PROGRESS REPORT

The following documents dating back to the 1900's
have been scanned and categorized:

Ordinances
Resolutions
Minutes (Council and Board of Public Works and Safety)
Easements
Oaths of Office
 Elected Officials
 Department Heads
 Commissions
 Police and Fire (currently working on)
School Board Applications

Here is a list of projects that Ms. Boston will be working
on:

Scanning and Categorizing the following

Vacations
Storage Boxes
Misc. files



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

BUILDING - COMMUNITY DEVELOPMENT - PLANNING

January 2, 2014

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. John Reisdorf, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Dan Bilancio, At-Large City Council
Mr. Matt Mamolenti, At-Large City Council
Mr. John Roggeman, At-Large City Council
Mrs. Deborah Block, City Clerk

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 02 2014

CITY CLERK
MISHAWAKA, IN

Re: Declaratory Resolution 2014-1, Tax Abatement- WellPet LLC, 1121 West 11th Street

Dear Council Members and Clerk:

Attached is Declaratory Resolution 2014-1 for a tax abatement request that has been filed for consideration at your Monday January 6th Meeting. The request is for WellPet LLC which is proposing to add equipment to their manufacturing facility at 1121 West 11th Street, in the City of Mishawaka. WellPet is looking to invest approximately \$2,000,000 in a pneumatic regrind system that will reduce waste from the facility by approximately 1.5 million pounds per year. They are looking to retain their current 91 employees and add an additional 6 jobs as a result of the investment. In working with staff, they are requesting a standard five -year abatement on the proposed equipment. A copy of their application and relevant materials has been attached for your review and information with the staff prepared resolution.

As you are aware, Tax Abatement requests before the Common Council are considered in two steps. The first step is the Declaratory Resolution where the abatement is essentially accepted for consideration. Once the Declaratory Resolution is approved, the Clerk's Office has specific advertising requirements to notify other taxing entities within the jurisdiction that could be impacted by the abatement. This allows for input from those other taxing units prior to the Council's consideration and vote on the request. The second step is the hearing and consideration of a confirming resolution where the merits of the request are considered. The only item being considered at the January 6th meeting is the declaratory resolution, which staff is recommending approval of to allow the appropriate advertising to take place. If approved, staff will prepare a more detailed analysis of the request as part of your consideration of the confirming resolution.

Please do not hesitate to contact me with any questions.

Sincerely,

Kenneth B. Prince, ASLA, AICP
City Planner

Cc: David A. Wood, Mayor

PLANNING • COMMUNITY DEVELOPMENT • REDEVELOPMENT • ECONOMIC DEVELOPMENT • HISTORIC PRESERVATION

City Hall • 600 East Third Street • Mishawaka IN • 46544-2241

Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999

Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999

E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

RECEIVED
DEBORAH S. BLOCK, MMC

JAN 02 2014

RESOLUTION NO. R 2014- 1

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, DECLARING A CERTAIN AREA IN
THE CITY OF MISHAWAKA, INDIANA, TO BE AN
ECONOMIC REVITALIZATION AREA

CITY CLERK
MISHAWAKA, IN

WellPet L.L.C .

DECLARATORY RESOLUTION

WHEREAS, the Common Council of the City of Mishawaka, Indiana, has pursuant to the “Deduction for Rehabilitation or Redevelopment of Real Property in Economic Revitalization Area Act” (Indiana Code 6-1.1-12.1-1 et. seq.) as amended hereinafter referred to as the “Act”, determined and declared that the following described area in the City of Mishawaka, County of St. Joseph, State of Indiana, is an “Economic Revitalization Area”:

A lot or parcels of land described as follows:

Tax Key #16-1161-6468; also legally described as:

A part of the southwest quarter of section 16, Township 37 North, Range 3 East, now within and part of the City of Mishawaka, which part is bounded by a line running as follows, viz:

Beginning at a point on the South line of said Section 16, 20 feet East of the Southwest corner thereof; thence East along the South line of said Section 16, 679.97 feet more or less, to the west line of Cleveland Street in the City of Mishawaka, if extended South; thence North along the west line of said Cleveland Street, if extended south 440.57 feet, more or less to the South line of Eleventh Street in the City of Mishawaka; thence West along the South line of said Eleventh Street 681.15 feet more or less to the East line of Logan Street, in the City of Mishawaka; thence South along the East line of said Logan Street 443.32 feet, more or less to the place of beginning.

More commonly known as 1121 West 11th Street

All of the above described property being located within the municipal corporation limits of the City of Mishawaka, Indiana, and

WHEREAS, this declaration of the above described area as an “Economic Revitalization Area” shall expire one (1) year from the effective date of the declaration unless officially extended by the Common Council of the City of Mishawaka, Indiana, and

WHEREAS, the area so described above, shall be eligible for a deduction from an increase in assessed valuation resulting from the redevelopment or rehabilitation of said property, and

WHEREAS, an owner or occupant of the area described above shall be eligible for a deduction from assessed valuation resulting from the acquisition of tangible personal property used within that area so described.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana:

1. That the area described hereinabove is hereby declared to be an "Economic Revitalization Area" within the meaning of the Act; and
2. That the City Clerk shall cause notice of the adoption of this Resolution to be published pursuant to I.C. 5-3-1, and shall file a copy of this Resolution with the St. Joseph County Assessor; and
3. That the City Clerk shall include in such notice the substance of this Resolution, a description of the affected area, that this Resolution may be inspected in the County Assessor's office or the office of the Mishawaka City Clerk, the date when the Common Council will receive and hear all remonstrance and objections from interested persons, and any other information required by Section 6-1.1-12.1-2.5 of the Act; and
4. That the City Clerk shall file a copy of the aforesaid public notice along with a copy of this Resolution and the Statement of Benefits (Form SB-1) with the officers of each taxing unit that has the authority to levy property taxes in the geographic area where the aforesaid economic revitalization area is located; and
5. That following the legal publication and on the date published in the public notice, a public hearing shall be held by the Common Council, at which time the Common Council shall receive and hear all remonstrance and objections from interested persons and shall then take final action determining whether the qualifications for an Economic Revitalization Area have been met and confirming, modifying and confirming, or rescinding this Resolution; and
6. That the determination of the Common Council shall be final except that an appeal may be taken and heard as provided by I.C. 6-1.1-12.1-2.5 (d) and (e).

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 6th day of January, 2014.

Matt Mammolenti, President

ATTEST:

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of _____, 2014.

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of _____, 2014, at _____ o'clock _____.M.

David A. Wood, Mayor



December 30, 2013

Ken Prince, City Planner
City of Mishawaka
600 E. 3rd Street
PO Box 363
Mishawaka, IN

Dear Ken,

WellPet is requesting a 5 year, Personal Property Abatement for new equipment we are proposing for our Mishawaka facility. It is a new Regrind System that provides us the ability to re-use our by-product/waste product within the manufacturing process. The project will be for approximately \$2 million dollars and is proposed for install in fall of 2013.

We recently upgraded our facility by investing \$20 million and the Regrind System is just one of many upcoming additional improvements we are planning. In 2013, due to the significant amount of additional property tax we incurred, we were unable to complete our planned capital investments. We previously did not apply for any abatement(s). This time, we are requesting an Abatement for the Regrind System as a means to provide available funds to continue our investment strategy.

With the 2012, \$20 million investment, we were able to more than double our workforce (from 35 to 90+). We also brought more business in to Mishawaka including increased vendor activity from local suppliers, hospitality services revenue from contractor stays, and transportation purchases due to increased customer shipments.

This capital investment, the Regrind System, will also provide similar benefits to Mishawaka including additional employment opportunities (from 91 to 97), and will include the elimination of landfill waste of approximately 1.5 million pounds per year.

Since this project would benefit us both, we would appreciate your consideration.

Thank you,

Michelle Tatgenhorst
Plant Controller



Mishawaka Manufacturing Facility • 1011 W Eleventh St • Mishawaka, IN 46544 • 574-259-7834



**STATEMENT OF BENEFITS
PERSONAL PROPERTY**

State Form 51764 (R3 / 12-13)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

INSTRUCTIONS

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between March 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between March 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved, must submit Form CF-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. For a Form SB-1/PP that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/PP that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. (IC 6-1.1-12.1-17)

SECTION 1 TAXPAYER INFORMATION											
Name of taxpayer WellPet LLC				Name of contact person Michelle Tatgenhorst							
Address of taxpayer (number and street, city, state, and ZIP code) 1011 West 11th Street							Telephone number (574) 259-7834				
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT											
Name of designating body Mishawaka Common Council				Resolution number (s)							
Location of property 1121 West 11th Street., Mishawaka, IN 46544				County St. Joseph		DLGF taxing district number 71-023					
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary.) SEE ATTACHED "REGRIND SYSTEM: An Overview - December 2013"				ESTIMATED							
						START DATE		COMPLETION DATE			
				Manufacturing Equipment		04/29/2014		11/25/2014			
				R & D Equipment							
				Logist Dist Equipment							
IT Equipment											
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT											
Current number 91		Salaries \$3,404,000		Number retained 91		Salaries \$3,404,000		Number additional 6		Salaries \$197,000	
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT											
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.		MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT			
		COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE		
Current values		14,705,633.0									
Plus estimated values of proposed project		2,000,000.00									
Less values of any property being replaced											
Net estimated values upon completion of project		16,705,633.0									
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER											
Estimated solid waste converted (pounds) 1,500,000				Estimated hazardous waste converted (pounds)							
Other benefits: Increases production capabilities by 1,500,000 pounds.											
SECTION 6 TAXPAYER CERTIFICATION											
I hereby certify that the representations in this statement are true.											
Signature of authorized representative 								Date signed (month, day, year) 12/18/2013			
Printed name of authorized representative Michelle Tatgenhorst								Title Controller			

FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

A. The designated area has been limited to a period of time not to exceed _____ calendar years * (*see below*). The date this designation expires is _____.

B. The type of deduction that is allowed in the designated area is limited to:

1. Installation of new manufacturing equipment;

2. Installation of new research and development equipment;

3. Installation of new logistical distribution equipment.

4. Installation of new information technology equipment;

☐ Yes

☐ No

☐ Yes

☐ No

☐ Yes

☐ No

☐ Yes

☐ No

C. The amount of deduction applicable to new manufacturing equipment is limited to \$ _____ cost with an assessed value of \$ _____.

D. The amount of deduction applicable to new research and development equipment is limited to \$ _____ cost with an assessed value of \$ _____.

E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ _____ cost with an assessed value of \$ _____.

F. The amount of deduction applicable to new information technology equipment is limited to \$ _____ cost with an assessed value of \$ _____.

G. Other limitations or conditions (*specify*) _____

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction is allowed for:

☐ Year 1

☐ Year 2

☐ Year 3

☐ Year 4

☐ Year 5

(see below *)

☐ Year 6

☐ Year 7

☐ Year 8

☐ Year 9

☐ Year 10

I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17? ☐ Yes ☐ No
If yes, attach a copy of the abatement schedule to this form.
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved by: (<i>signature and title of authorized member of designating body</i>)	Telephone number ()	Date signed (<i>month, day, year</i>)
Printed name of authorized member of designating body	Name of designating body	
Attested by: (<i>signature and title of attester</i>)	Printed name of attester	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

IC 6-1.1-12.1-17
Abatement schedules
Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:
(1) The total amount of the taxpayer's investment in real and personal property.
(2) The number of new full-time equivalent jobs created.
(3) The average wage of the new employees compared to the state minimum wage.
(4) The infrastructure requirements for the taxpayer's investment.
(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



REGRIND SYSTEM

An Overview – December 2013

The pneumatic convey system for regrind is actually five separate systems that can operate independently of one another. There are two pneumatic convey systems for each of our two processing lines, and a fifth pneumatic convey system for bag dump and trash handling.

The two convey systems for Line 1 are designed with different capacities. There is a low capacity system that will pick up fines from three places; the end of the dryer, the dryer cyclone discharge, and the coating system sifter. This system utilizes 3" convey pipe and is rated at 1,500 lbs per hour. It will run continuously any time Line 1 is operating. The same is true for Line 2.

In addition, there are two high capacity systems that will pick up kibble (and fines) from the end of the drag conveyors above the IS bins and also from the drag conveyors above the packaging surge hoppers. These systems utilize 4" convey piping and are rated at 10,000 lbs per hour. These systems only operate when needed.

The fifth system provides a means of dumping SuperSacks or consumer packages, and conveying that material to one of three places, namely, the regrind bins, a new SuperSack filling station, or the outdoor waste bin. This system utilizes 4" convey piping and is rated at 10,000 lbs per hour.

The low capacity systems require little if any operator input. They are completely automated and are initiated when the extruder is started.

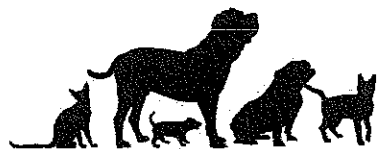
The high capacity systems are also highly automated, but they will need to be initiated by an operator when a batch is rejected. Otherwise, they will operate only when high level controls built into the new hoppers at the end of the drag conveyors are covered.

The fifth system is operator controlled. The operator will use an HMI panel to set up the system for a particular task. Task selection will be menu driven as follows;

- 1) Dump consumers bags – send to regrind bin
- 2) Dump consumer bags – send to trash
- 3) Dump consumer bags – send to SuperSack
- 4) Dump SuperSack – send to regrind bin
- 5) Dump SuperSack – send to trash

The pneumatic conveying equipment will be automatically controlled based on the menu choice.

Maintenance and Sanitation modes are in the planning stage.





City of Mishawaka

Building - Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

PERSONAL PROPERTY TAX ABATEMENT

Indiana State law requires that the designation application and statement of benefits form (SB-1/PP) be submitted prior to the initiation of the project. Additionally, **final approval of the Economic Revitalization Area designation must be obtained before starting the installation of the new manufacturing equipment for which tax abatement is being requested.**

Prior to submitting the attached application to the City's Department of Planning & Community Development, all questions must be answered as completely as possible and must be signed on the Statement of Benefits Form (SB-1/PP) and last page of the application. Incomplete or unsigned applications will not be accepted. A **non-refundable application fee** of \$300.00 is required when making an application for Economic Revitalization Area designation and is payable to the **City of Mishawaka** at the time of submission.

All firms requesting Economic Revitalization Area designation are required to conduct an initial site visit with city staff members prior to a public hearing on the tax abatement request. During that visit, the company shall reveal the capital investment levels, job creation and/or retention levels and hourly wage rates the applicant has committed to the City of Mishawaka in order to receive consideration for Economic Revitalization Area designation and tax abatement deduction.

Additionally, the City of Mishawaka, by and through the Common Council, reserves the right to rescind or "claw back" an Economic Revitalization Area designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, as well as the applicant's failure to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City rescinds the Economic Revitalization Area designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be determined at the time of the "claw back."

Questions, applications, and fees should be directed to the:
City of Mishawaka
Building - Community Development - Planning
600 East Third Street
Mishawaka, Indiana 46544
Attention: Kenneth B. Prince, City Planner
574-258-1625
kprince@mishawaka.in.gov

1. Name of the firm for which tax abatement is being requested:

WellPet LLC

2. State the name, title, address and telephone number of a company representative(s) who may be contacted concerning this application:

Name and Title: Michelle Tatgenhorst, Plant Controller

Address: 1011 W. 11th Street, Mishawaka, IN 46544

Telephone: 574-259-7834 ext. 243

3. State the name, title, address and telephone number of a company representative(s) who may be sent annual compliance forms. Please note that the **annual forms will determine if your company is compliant with the terms of the abatement and whether the abatement will continue or be terminated**, so the contact should be made aware of the form's importance.

Name and Title: Michelle Tatgenhorst, Plant Controller

Address: 1011 W. 11th Street, Mishawaka, IN 46544

Telephone: 574-259-7834 ext. 243

4. Location of property for which personal property tax abatement is being sought (this information is available through the Township Assessor's Office):

a) Street Address: 1121 W. 11th Street, Mishawaka, IN 46544

b) Township: 023-MISHAWAKA-PENN / 010-PENN

c) Taxing District Number: 71-023

d) Council District Number: 1st District

e) Tax Parcel Number(s): 71-09-16-355-001.000-023 (ID# 016-1161-6468)

5. What is the amount of the most recent assessment attributable to (this information is available on the most recent property tax form):

Land: \$115,800

Improvements: \$4,689,500

Inventory: \$0

Equipment: \$6,099,006

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? Yes X No

7. Does your firm currently conduct manufacturing operations at this location? If so, how long has your company been at this location? Yes. We purchased this existing facility 5 years ago.

a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. 311111

b) Please list any special certifications/designations.
AIB

8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.

There are no other manufacturing operations. Our headquarters in in Tewksbury, Massachusetts.

9. What is the size of the existing facility in which the equipment will be installed?

Approximately 100,000 sq ft

a) What is your facility currently zoned? I2 Heavy Industrial b) Do you need rezoning? no

10. Briefly describe the product(s) manufactured by your company. Dog & Cat Food

11. Briefly describe the equipment to be installed by your company. Regrind system, which is a unit that permits re-use of waste product to be reused in the manufacturing process.

12. Has new manufacturing equipment been installed (Please note that state statute requires petitioner to delay installation until after abatement has been granted)? Yes X No

13. What is the anticipated date for installation to begin? April 29, 2014

14. What is the anticipated date for project completion? November 25, 2014

*(If installation will occur over a multi-year/phased-in period or involve multiple pieces of equipment, please provide a separate detailed installation timetable and note when equipment will be ready to use in production and attach this information to the SB-1/PP.)

15. Does the equipment being installed serve the same function as the equipment currently in place at the facility? _____ Yes ☒ No

a) If no, please describe the new functions to be performed by the new manufacturing equipment:

Provides a fixed location for 'regrind' (product produced during manufacturing that does
meet spec for finished product) to be re-entered into the manufacturing process. Currently
our process does not provide this "regrind ability, instead, we dispose of the waste as waste
or manually dump back one bag of the 'regrind' material at a time.

b) What is the estimated value of the equipment to be purchased for which personal property tax abatement is being requested? (If possible, please provide a written quote or estimate attached to this application.) \$2.2 Million

16. Profile of firm that will occupy the property for which tax abatement is being requested:

a) Are your employees represented by a union? If so, by whom? No

b) Number of current full time permanent hourly employees by skill level (include average hourly wage rate **excluding benefits and overtime**)

Skilled	<u>2</u>	Average hourly wage rate for skilled positions	<u>\$21.33</u>
---------	----------	--	----------------

Semi-skilled	<u>74</u>	Average hourly wage rate for unskilled positions	<u>\$15.79</u>
--------------	-----------	--	----------------

Clerical	<u>2</u>	Average hourly wage rate for clerical positions	<u>\$14.50</u>
----------	----------	---	----------------

Salaried	<u>12</u>	Average salary (per hour) for salaried positions	<u>\$33.05</u>
----------	-----------	--	----------------

TOTAL NUMBER OF TEMPORARY/ON-CALL EMPLOYEES (if any)	<u>0</u>
--	----------

TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time)	<u>91</u>
--	-----------

c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.) 401(k), health, dental, & vision insurance, holidays, vacation, tuition reimbursement, life insurance, disability insurance

d) Approximate value of benefits for existing and new employees on a per hour basis (i.e. benefits are valued at an additional \$3.00 per hour, etc.) \$5.46/hr

e) What is the total dollar amount spent on retained salaries? \$3,404,000

f) Number of newly created full-time permanent hourly employees by skill level (include average hourly wage rate **excluding benefits and overtime**)

Skilled	_____	Average hourly wage rate for skilled positions	_____
Semi-skilled	<u> 6 </u>	Average hourly wage rate for unskilled positions	<u> \$15.79 </u>
Clerical	_____	Average hourly wage rate for clerical positions	_____
Salaried	_____	Average salary (per hour) for salaried positions	_____

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 6

g) What is the total dollar amount to be spent on new salaries? \$197,000

h) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for:

Current hourly employees	<u> \$15.90 </u>
Retained hourly employees	<u> \$15.90 </u>
New hourly employees	<u> \$15.79 </u>

f) What is the usual market for goods produced by the company? List the percentage of the company's product that reaches it:

Inside St. Joseph County:	<u> 0.1 </u> %
Outside St. Joseph County, but inside Indiana:	<u> 0.9 </u> %
Outside Indiana, but within 500 miles	<u> 9.2 </u> %
Outside of 500 miles	<u> 79.0 </u> %
Outside of the United States:	<u> 10.8 </u> %

g) Where do your company's raw materials/supplies come from? List the percentage of the supplies that are acquired from each category:

Inside St. Joseph County:	<u> 0.9 </u> %
Outside St. Joseph County, but inside Indiana:	<u> 0.9 </u> %
Outside Indiana, but within 500 miles:	<u> 40.7 </u> %
Outside 500 miles of Indiana:	<u> 47.8 </u> %
Outside of the United States:	<u> 9.7 </u> %

h) List the name and location (City and State) of your five largest vendors or suppliers:

1. Menu Food Inc – Detroit, MI
2. Hagan Pet Foods, Inc – Waverly, NY
3. Badger Ingredients, Inc – Carefree, AZ
4. Vita Line Products Inc – Hazel Township, PA
5. C.H. Robinson Worldwide, Inc. – Minneapolis, MN

17. Please give a detailed description of what the impact on your business will be if the new manufacturing equipment is not installed (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.). Currently our facility produces approximately 1.5 million pounds of waste product as part of normal production. Although it is technically possible to re-consume this waste, our current equipment does not make it possible without hand dumping the material back through our process. This regrind system will provide a systematic process that will allow us to consume the material in bulk and more efficiently. In the current process, the waste is disposed of as refuse and sent to a landfill. In addition, we are limited in our current equipment and ingredient input equipment which is a bottleneck in production. The regrind system will also provide additional ingredient input which is expected to increase our production capabilities by the reprocessed 1.5 million pounds.

18. Please briefly describe how and why the manufacturing equipment to be replaced or the facility in which equipment will be added is currently technologically, economically, or energy obsolete and how and why that obsolescence may lead to a decline in employment and tax revenues.

There is no current equipment in place that can do what the new regrind system will provide. We are at an environmentally unfriendly position, as our current process is to dispose of the 1.5 million pounds of waste as refuse. Instead we will prevent the waste disposal and reduce the waste in the county.

19. Will you require any additional assistance from the City of Mishawaka?

No.

20. Have you applied for any assistance from the State of Indiana?

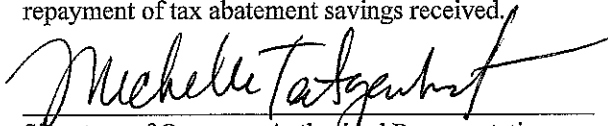
No.

21. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.
- Attach a map and/or a plan of the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Personal Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.



Signature of Owner or Authorized Representative

Controller
Title

12/18/13
Date

EXHIBIT A

Hold For Meridian Title Corp.
Commercial Department

SD rec'd

0904315
RECORDED AS PRESENTED ON
02/13/2009 12:36:10PM
PHILLIP G. DOTSON
ST. JOSEPH COUNTY
RECORDER
REC FEE: \$21.00
PAGES: 3

Transfer 794
Taxing Unit 7154
Date 2/13/09

Montee's Address:

1101 W. 11th St.

Mishawaka, Ind. 46544-16-1161-646304-Parcel IV

GENERAL WARRANTY DEED

16-1161-6468-Parcel I
16-1161-646603-Parcel II
16-1161-646602-Parcel III
16-1161-646306-Parcel V
16-1161-646309-Parcel VI

THIS INDENTURE WITNESSETH, that WellPet LLC, a Delaware limited liability company, as successor-by-merger of Eagle Pack Pet Foods LLC, a Delaware limited liability company, f/k/a Eagle Pack Pet Foods, Inc., a Delaware corporation ("Grantor"); CONVEYS AND WARRANTS to WellPet LLC, a Delaware limited liability company ("Grantee"), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged; the real estate in St. Joseph County, in the State of Indiana legally described as follows (the "Real Estate"):

Parcel I:

A tract of land in the Southwest Quarter of Section 16, Township 37 North, Range 3 East, in the City of Mishawaka, St. Joseph County, Indiana, described as beginning at the Northwest corner of Eleventh and Cleveland Streets in said City of Mishawaka; running thence North along the West line of said Cleveland Street 500 feet; thence left (West) 88 degrees 46 minutes and parallel with the North line of Eleventh Street 382.95 feet to a point 8.25 feet East of the centerline of a railroad tract thence left (South) 91 degrees 05 minutes 30 seconds and parallel with the centerline of said railroad tract, 169.33 feet to the point of a curvature of a curve to the left; thence Southerly on a curve having a radius of 508.78 feet and an intersecting angle of 20 degrees 49 minutes, an arc distance of 184.85 feet to the point of tangency of said curve; thence Southerly parallel with the center of said railroad tract and on a line 8.25 feet at right angles therefrom and also on the produced tangent line of said curve, a distance of 162.31 feet to a point on the North line of Eleventh Street; thence East along the North line of said Eleventh Street, 293.14 feet to the place of beginning.

Parcel II:

Part of the Southwest Quarter of Section 16, Township 37 North, Range 3 East, City of Mishawaka, Indiana, described as follows:

commencing at the Southeast corner Cleveland Street and West Eleventh Street; thence South 88 degrees 46 minutes 00 seconds East on the South right-of-way line of West Eleventh Street extended from the West, a distance of 40.00 feet to the point of beginning; thence continuing South 88 degrees 46 minutes 00 seconds East on the South right-of-way line of West Eleventh Street extended from the West, a distance of 73.00 feet; thence South 00 degrees 00 minutes 00 seconds West parallel with the East line of Cleveland Street, a distance of 135.335 feet thence North 89 + degrees 54 minutes 54 seconds West, a distance of 72.985 feet; thence North 00 degrees 00 minutes 00 seconds East parallel with the East line of Cleveland Street, a distance of 136.785 feet to the point of beginning.

Parcel III:

Part of the Southwest Quarter of the Southwest Quarter of Section 16, Township 37 North, Range 3 East, in the City of Mishawaka, described as follows:

Beginning at the junction of the South line of Eleventh Street extended and the West line of Cleveland Street extended; thence East along the South line of Eleventh Street extended, 100 feet; thence South

DULY ENTERED FOR TAXATION
PETER H. MULLEN
ST. JOSEPH CO. INDIANA

parallel with the West line of Cleveland Street extended, 435.4 feet to the South line of Section 16; thence West along said South line of said Section 16, 100 feet to the West line of Cleveland Street extended; thence North along the West line of Cleveland Street extended, 435.4 feet to the place of beginning.

Parcel IV:

A part of the Southwest Quarter of Section 16, Township 37 North, Range 3 East, now within and a part of the City of Mishawaka, which part is bounded by a line running as follows, viz:

Beginning at a point on the South line of said Section 16, 20 feet East of the Southwest corner thereof; thence East along the South line of said Section 16, 679.97 feet, more or less, to the West line of Cleveland Street in the City of Mishawaka, if extended South; thence North along the West line of said Cleveland Street, if extended South 440.57 feet, more or less, to the South line of Eleventh Street in the City of Mishawaka; thence West along the South line of said Eleventh Street 681.15 feet more or less to the East line of Logan Street in the City of Mishawaka; thence South along the East line of said Logan Street 443.32 feet, more or less, to the place of beginning.

The foregoing conveyance is made for the purposes of clarifying the record in relation to the conversion of Eagle Pack Pet Foods, Inc., a Delaware corporation into Eagle Pack Pet Foods LLC, a Delaware limited liability company, as filed with the Delaware Secretary of State on December 22, 2008 and, thereafter, the merger of Eagle Pack Pet Foods LLC into WellPet LLC, a Delaware limited liability company, as filed with the Delaware Secretary of State on December 23, 2008, and effective as of January 1, 2009.

The foregoing conveyance shall be subject to: (i) all real estate taxes and assessments due and payable in May, 2009 and thereafter and (ii) any and all easements, covenants, restrictions, rights-of-way and other matters of record (collectively, the "Encumbrances").

Grantor hereby represents and warrants to Grantee that at the time this General Warranty Deed is delivered to Grantee, the Real Estate was free from all liens or other title encumbrances other than the Encumbrances.

IN WITNESS WHEREOF, Grantor has executed this General Warranty Deed as of this 28th day of January, 2009.

WellPet LLC, a Delaware limited liability company,
as successor-by-merger of Eagle Pack Pet Foods LLC,
a Delaware limited liability company, f/k/a
Eagle Pack Pet Foods, Inc., a Delaware corporation

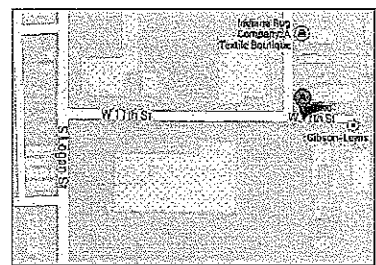
By: Nicholas Deller
Name: Nicholas Deller
Its: v.p.

--S. LOGAN ST.--

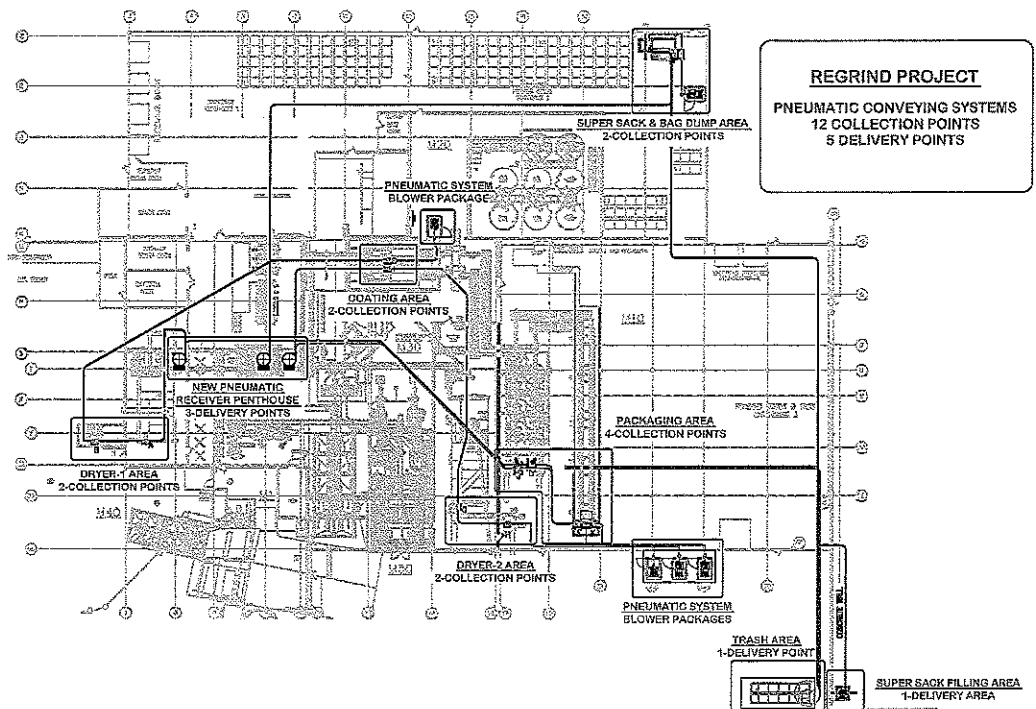
WEST 11TH STREET



--PANAMA ST.--



PARCEL# 71-09-16-355-001.000-023
ID# 016-1161-6468



REGRIND-NEW PNEUMATIC CONVEYING SYSTEM
REGRIND SCALE: NTS

EXHIBIT B

REGRIND PROJECT NEW PNEUMATIC CONVEYING SYSTEM			
WellPet WellPet LLC 1121 West 11th Street Mishawaka, IN 46544			
DATE SHR	REV 848	DATE 12/17/2013	SCALE 0100

HISTORY OF ALL TAX ABATEMENTS 1986-CURRENT

Name	Common Council Approval Date	No. of Years Real Estate	No. of Years Machinery	No. of Retained Jobs (Proposed)	No. of New Jobs (Proposed)	No. of Retained Jobs (Actual)	No. of New Jobs (Actual)	Date of Latest CF1 Found	Capital Investment	Abated Through Collect CF-1s	Pay	Abatement Complete
1 Patrick Industries	October 20, 1986	10 Years			52			(-)	\$ 3,622,345.00	1997	1998	YES
2 Former Baby Place	June 7, 1988	5 Years	0	0	38.5			(-)	\$ 2,000,000.00	1995	1996	YES
3 Wheelabrator Area	December 19, 1988	10 Years		338	246			(-)	\$ 2,500,000.00	1999	2000	YES
4 National Steel Corporation	February 21, 1989	5 Years	5 Years	15	30			(-)	\$ 10,400,000.00	1995	1996	YES
5 Thermoplastics Phase I	November 20, 1989	6 Years	5 Years	151	13			(-)	\$ 2,500,000.00	1995	1996	YES
6 Thermoplastics Phase II	November 20, 1989	3 Years	5 Years	165	20			(-)	\$ 3,200,000.00	1993	1994	YES
7 Contech Division I	July 22, 1990	6 Years			75			(-)	\$ 1,962,483.00	1996	1997	YES
8 Hilti Steel	September 13, 1990	0	5 Years	n/a	14			(-)	\$ 578,000.00	1996	1997	YES
9 Penz Products Inc.	September 24, 1990	3	0	76	10			(-)	\$ 478,000.00	1994	1995	YES
10 Dodge Reliance Electrical I	January 7, 1991	0	5 Years	10	15			(-)	\$ 1,050,000.00	1996	1997	YES
11 Janco Products, Inc.	May 6, 1991		5 Years	10	20			(-)	\$ 220,000.00	1996	1997	YES
12 Thermoplastics Phase III	November 4, 1991	0	5 Years	150	19	150	51	Feb-93	\$ 2,750,000.00	1996	1997	YES
13 National Steel Corporation	December 10, 1991	10 Years		250	130	250	32	Mar-94	\$ 10,246,394.00	2002	2003	YES
14 Maron Products, Inc.	February 3, 1992	0	5 Years	38	10	41	11	Feb-95	\$ 610,794.00	1998	1999	YES
15 Dodge Reliance Electrical II	July 6, 1992	0	5 Years	300+	0	300+	0	Mar-96	\$ 3,000,000.00	1998	1999	YES
16 Thermoplastic Phase IV	October 19, 1992	6 Years		210	50	210	148	Mar-98	\$ 6,812,832.00	1999	2000	YES
17 Contech Division II	April 19, 1993		5 Years	10		15	108	Mar-99	\$ 1,206,481.00	1999	2000	YES
18 Dana/Ristance Corp./Standard Motor Prodt	January 3, 1994	10 Years		80	50	42	88	Mar-05	\$ 6,067,253.00	2004	2005	YES
19 United Limo	September 5, 1994	6 Years		77	8	77	3	Jan-01	\$ 1,262,200.00	2001	2002	YES
20 Dearborn Crane	December 5, 1994	10 Years	5 Years	26	4	26	7	May-99	\$ 612,841.00	2005	2006	YES
21 Scotts Brass II	December 12, 1995	10 Years		73	21	73	13	Mar-05/Apr-01	\$ 1,934,000.00	2006	2007	YES
22 Federal Window (Fedori)	December 18, 1995	6 Years	5 Years	8	8	8	26	Apr-02, Mar-01	\$ 1,018,181.00	2002	2003	YES
23 Maron Products, Inc. II	December 18, 1995		5 Years	6	4	2	8	Apr-01	\$ 250,000.00	2001	2002	YES
24 Quality Dining	April 15, 1996	10 Years		73	109	73	70	Mar-06	\$ 5,087,402.00	2006	2007	YES
25 Baycote Metal Finishing	January 6, 1997	6 Years	5 Years	70	15	79	7	Jul-90	\$ 1,800,909.00	2003	2004	YES
26 Krizman International	January 6, 1997	6 Years		225	20	225	20	Jul-90	\$ 1,500,000.00	2003	2004	YES
27 Troyer	March 3, 1997	3 Years		60	40		0	(-)	\$ 1,100,000.00	2001	2002	YES
28 Nyloncraft Incorporated	May 19, 1997	6 Years	5 Years	378	40	341	58	Feb-02	\$ 7,593,531.00	2004	2005	YES
29 Ristance Corporation	October 20, 1997	6 Years	5 Years	139	18		0	(-)	\$ 3,600,000.00	2004	2005	YES
30 DeWald Manufac. Inc./Power Gear/Enginee	October 20, 1997	6 Years	5 Years	62	15	62	40	Mar-05	\$ 1,842,833.00	2004	2005	YES
31 Thermoplastic Phase V	December 1, 1997	6 Years	5 Years	299	70	299	19	Mar-00	\$ 3,181,310.00	2003	2004	YES
32 Atchison/Dodge	December 1, 1999	5 Years		325	50	230		Mar-05	\$ 2,000,000.00	2006	2007	YES
33 Sampson Fiberglass	March 6, 2000	3 Years		15	20	15	5	Feb-01	\$ 375,000.00	2004	2005	YES
34 RMG Foundry LLC	March 6, 2000		5 Years	325	50	202	0	Feb-06	\$ 2,000,000.00	2006	2007	YES
35 WF Associates (AMG Byrkit Facility)	November 19, 2001	10 Years		285	15	234	0	Apr-11	\$ 2,650,000.00	2011	2012	YES
36 Nyloncraft Incorporated	March 20, 2003		5 Years	396	16	320	9	May-09	\$ 1,168,064.00	2009	2010	YES
37 Nyloncraft Incorporated	November 6, 2003		5 Years	405	13	329	27	May-09	\$ 2,730,304.00	2009	2010	YES
38 Plastimatics Arts Corporation	August 18, 2004		3 Years	31	4	31	16	May-06	\$ 1,450,290.00	2007	2008	YES
39 Ironwood Enterprises, LLC	September 6, 2005	5 Years		14	49	27	34	May-09	\$ 6,000,000.00	2010	2011	YES
40 Daman Products Company	October 17, 2005		3 Years	95	6	82	23	Feb-07	\$ 1,118,980.00	2007	2008	YES
41 Culture Systems, Inc.	December 18, 2006	3 Years	3 Years	12	7	12	2	May-09	\$ 1,200,000.00	2009	2010	YES
42 Patrick Industries (Metals Div)	June 19, 2006	5 Years	5 Years	172	26			Apr-10	\$ 4,600,000.00	2011	2012	YES
43 Jamil Packaging Corporation	August 21, 2006		3 Years	51	5	51	5	May-10	\$ 1,250,000.00	2010	2011	YES
44 Nyloncraft Incorporated	December 6, 2007		5 Years	340	50	291	12	Apr-13	\$ 2,185,000.00	2012	2013	NO
45 BD Mishawaka Development LLC	February 4, 2008	10 Years		0	370	0	243	Mar-13	\$ 46,000,000.00	2018	2018	NO
46 Jamil Packaging Corporation	May 1, 2008		3 Years	64	5	62	11	Apr-12	\$ 1,650,000.00	2011	2012	YES
47 Long Term Care Investments, LLC (Douglas)	June 1, 2009	3 Years		0	120	0	67	4/1/2012	\$ 18,000,000.00	2012	2013	NO
48 Jamil Packaging Corporation	16-May-11		3 Years	0	0	73	5	Apr-13	900,000	2014	2015	NO
49 North American Composites (NAC)	5-Mar-12		3 Years	0.0	10.0	7.0	5.0	Apr-13	\$1,241,000	2015	2016	NO
50 Long Term Care Investments, LLC (Fir)	Oct-7-2013	4 Years		0	81			N/A	\$15,000,000	2017	2018	NO
51 Barak Group Mixed Use	Nov-6-2013	5 Years		0	5			N/A	\$17,000,000	2018	2019	NO

JAN 02 2014

RESOLUTION NO. 2014-02

CITY CLERK
MISHAWAKA, IN

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING ENTRY INTO A CONSENT DECREE AMONG THE CITY OF MISHAWAKA, THE STATE OF INDIANA, AND THE UNITED STATES GOVERNING THE IMPLEMENTATION OF COMBINED SEWER OVERFLOW CONTROLS.

WHEREAS, the City holds a wastewater discharge permit under the National Pollution Discharge Elimination System (NPDES), Permit No. IN0025640, which governs Combined Sewer Overflow (CSO) discharges to the St. Joseph River; and

WHEREAS, the federal Clean Water Act (33 U.S.C. § 1251, *et seq.*), Title 13 of the Indiana Code, and Title 327 of the Indiana Administrative Code require such CSO discharges to comply with water quality standards applicable to the St. Joseph River; and

WHEREAS, since the baseline year of 1990 the City of Mishawaka has proactively spent over \$100 million dollars to cost effectively reduce annual CSO volume by over 86 percent (357 million gallons per year down to less than 50 million gallons per year) through sewer separation; upgrading the sanitary sewer system, enhanced sewer maintenance, and two wastewater treatment plant expansions; and

WHEREAS, the State of Indiana and the United States have alleged that the City's remaining CSO discharges have violated Sections 301 and 309 of the Clean Water Act (33 U.S.C. §§ 1311 and 1321), Title 13 of the Indiana Code, and Title 327 of the Indiana Administrative Code by causing or contributing to exceedances of applicable water quality standards in the St. Joseph River; and

WHEREAS, the State of Indiana and the United States plan to file a Complaint in Federal District Court concerning such alleged violations; and

WHEREAS, the federal Clean Water Act provides for the assessment of civil penalties up to \$37,500 per day for such violations; and

WHEREAS, the City has negotiated the terms of a Consent Decree with the State of Indiana and United States to address the alleged violations; and

WHEREAS, the negotiated Consent Decree requires the City to pay civil penalties in the amount of \$14,000 to the State of Indiana and \$14,000 to the United States, which amounts are significantly less than the maximum penalties authorized by the federal Clean Water Act; and

WHEREAS, the negotiated Consent Decree requires the City to implement the Combined Sewer Overflow Long Term Control Plan (LTCP), as approved by the Indiana Department of Environmental Management and the United States Environmental Protection Agency; and

WHEREAS, implementation of the LTCP is currently estimated to involve expenditures of approximately \$132,067,000 in total capital and \$1,410,000 in annual operation and maintenance costs over a period of twenty (20) years; and

WHEREAS, the City's proposed Long Term Control Plan provides an exceptional level of control, resulting in zero combined sewer overflows in a year with typical rainfall; and

WHEREAS, the Common Council believes that these expenditures are necessary both to meet the City's obligations under federal and state law and to avoid prolonged and costly litigation in Federal District Court,

WHEREAS, On July 27, 2010 the Utility Board adopted Resolution NO. 2010-03 authorizing the Mayor to enter into a Consent Decree on among the City, the State of Indiana, and the United States governing the implementation of combined sewer overflow controls,

NOW THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council hereby authorizes the Mayor to enter into a Consent Decree among the City, the State of Indiana, and the United States governing the implementation of combined sewer overflow controls.

Section II. The scope of improvements included under this resolution are as provided in the City CSO Long Term Control Plan and as attached as Exhibit A.

Section III. The City of Mishawaka and Mishawaka Utilities are authorized to obtain the funding necessary to implement the Combined Sewer Overflow Long Term Control Plan through rate increases, bond issuance, or any combination thereof, consistent with the normal budget process of both the City of Mishawaka and Mishawaka Utilities.

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 _____, 2014, at _____ o'clock ____m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED to me by the Mayor this _____ day of _____, 2014, at
_____ o'clock _____.m.

Deborah S. Block, MMC, City Clerk

APPROVED by me this _____ day of _____, 2014, at _____ o'clock
_____.m.

David A. Wood, Mayor

APPENDIX A

Appendix A: Section 1

Summary of CSO Control Measures

Introduction

The following section summarizes the CSO Control Measures that Mishawaka has committed to construct, operate, and otherwise implement, and includes the deadlines by which Mishawaka must complete construction and implementation of, and begin operating each CSO Control Measure.

Brief Description of CSO Control Measures

Milburn Area

For the Milburn Area, Mishawaka shall perform sewer separation and rehabilitation as defined in the Milburn Boulevard Sewer Master Plan (Lawson-Fisher, 2005). Mishawaka shall increase the size of the Middleboro Lift Station to the size specified in Table 1 of this Appendix unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree. As a result of completing the work in the Milburn Area, Mishawaka shall eliminate discharges from CSO outfalls 002 and 003.

Wilson Boulevard Area

For the Wilson Boulevard Area, Mishawaka shall transport all sewage and precipitation flows from the sewers feeding CSO outfalls 004 and 005 with an interceptor east toward RC-4, and shall transport all sewage and precipitation flows from the sewers feeding CSO outfalls 006, 007, and 008 with an interceptor west toward RC-4. Mishawaka shall close CSO outfalls 005, 007, and 008 and, in the near term, divert and consolidate the sewage and precipitation flows to CSO outfalls 004 and 006. After Mishawaka successfully diverts all of the sewage and precipitation flow to RC-4, Mishawaka shall discontinue use of RC-3 and eliminate discharges from CSO Outfalls 004 and 006.

Central Park Area

In the Central Park Area, Mishawaka shall eliminate discharges from CSO outfalls 011, 016, and 019. Currently, flows from the northeast portion of Mishawaka are directed towards the Central Park Area. Mishawaka shall re-direct sewage and precipitation flow from the Central Park Area to the East Area by constructing the Daisy Road Lift Station and force main, and RC-5, discontinuing use of RC-1, and constructing a conveyance sewer from RC-5 to Merrifield Park to the capacity (for the LS) and sizes (for the FM, RC, and sewer) specified in Table 1 of this Appendix unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree. After completing that redirection, Mishawaka shall expand the capacity of the interceptor between CSO outfall 016 and the tail works of RC-1 to the size specified in Table 1 unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree. Mishawaka also shall construct a storage and conveyance sewer between CSO outfalls 019 and 011 and shall expand the size of RC-2 to transport flow from the Central Park Area to the additional Front Street sewer on the south side of the St. Joseph River.

Mishawaka shall construct the sewer between CSO outfalls 019 and 011, RC-2, and the Front Street Sewer to the size specified in Table 1 of this Appendix unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree.

East Area

In the East Area, Mishawaka shall separate the sewers and rehabilitate the area south of the St. Joseph River roughly bounded by Merrifield Avenue, Eller Ditch, and East 4th Street. Mishawaka shall construct sewer improvements to transport flows from CSO outfalls 014, 015, 018, 020, 021, 022, 023, 023A, and 024 to the storage and conveyance tunnel to the WWTP (River Center/CSO 009 Area). Mishawaka shall eliminate discharges from CSO outfalls 015, 018, 020, 021, 022, 023, 023A, and 024 by: (1) constructing a storage and conveyance sewer from Capital Avenue to Merrifield Avenue; and (2) constructing the US 331 underpass (Mariellen) lift station and sewer improvements east of Capital Avenue. Mishawaka shall construct the US 331 underpass (Mariellen) lift station, the storage and conveyance sewer between Capital Avenue and Merrifield Avenue, and the storage and conveyance sewer east of Capital Avenue to the capacity and sizes specified in Table 1 of this Appendix unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree. During wet weather events larger than the Typical Year, Mishawaka will discharge excess flow through an outfall located at or near CSO outfall 014 (downstream of Merrifield Park). Given the projected infrequency of such a discharge, Mishawaka will not be required to disinfect the discharge from CSO outfall 014.

River Center/CSO 009 Area

In the River Center/CSO 009 Area, Mishawaka shall construct a storage and conveyance sewer/tunnel from Main Street to the Wastewater Treatment Plant. Additionally, Mishawaka shall construct a storage and conveyance sewer/tunnel from Merrifield Avenue to Main Street. Finally, Mishawaka shall construct a storage and conveyance tunnel from Merrifield Park (Linden Avenue) to 4th Street. Mishawaka shall construct the storage and conveyance sewers/tunnels between Main Street and the Wastewater Treatment Plant, Merrifield Avenue and Main Street, and Merrifield Park (Linden Avenue) and 4th Street to the sizes specified in Table 1 of this Appendix unless Mishawaka Submits a size reconsideration request to EPA and IDEM, EPA and IDEM concur with Mishawaka's proposal, and the parties reduce the agreement to a written document signed by an authorized representative of each party and filed with the Court, pursuant to Section XIX of the Consent Decree. The three storage and conveyance sewers/tunnels in the River Center/CSO 009 area were designed to be of sufficient size to capture excess wet weather flows during a Typical Year, and allow these flows to be diverted to the WWTP for treatment once the wet weather event has ended. CSO outfall 009 will serve as an overflow during wet weather events that exceed those experienced during a Typical Year. Given the projected infrequency of this discharge, disinfection will not be required.

In conclusion, the CSO Control Measures consist of the following:

- Milburn Area: sewer separation and rehabilitation of the Middleboro Lift Station;
- Wilson Boulevard Area: parallel sewer to RC-4, and discontinue use of RC-3;
- Central Park Area: re-direct flow from Central Park Area to East Area;
- East Area: Sewer separation, and sewer and Mariellen lift station improvements; and
- River Center/CSO 009 Area: conveyance and storage sewers/tunnels.

The CSO Control Measures were designed to result in meeting the Performance Criteria of zero CSO Discharges during a Typical Year.

The CSO Control Measures are shown on Figure 1. A brief description of each CSO Control Measure that Mishawaka is required to construct or otherwise implement, the required size of each Facility that Mishawaka is required to construct for each CSO Control Measure, and the deadlines by which Mishawaka must complete construction of, and otherwise implement each CSO Control Measure are shown in Table 1. The total estimated capital cost of the CSO Control Measures is \$132,067,000 as shown in Table 1.

City of Mishawaka, Indiana
Appendix A
Table 1
CSO Control Measures

Project		Description	Design Criteria	Performance Criteria	Capital Cost Estimate ¹	Size	Start Date ²	End Date ³
Wilburn Area	1	Sewer separation and rehabilitation improvements and rehabilitation of the Middleboro Lift Station in the area south of the St. Joseph River bounded by Logan Street, Panama Street, Dragon Trail and Ironwood Drive.	Designed based upon accepted engineering practice taking into account the Ten State Standards	Facilities will achieve 0 Overflow Events during the Typical Year	\$19,460,000	1.3 MGD Middleboro Lift Station	Started 2007	December 2026
Wilson Boulevard Area	2	Parallel Interceptor to redirect flows from CSO 004, 005, 006, 007, and 008 to River Crossing RC-4.	Designed based upon accepted engineering practice taking into account the Ten State Standards	Facilities will achieve 0 Overflow Events during the Typical Year	\$5,000,000	East Interceptor 24-inch diameter West Interceptor 36-inch diameter	December 2011	December 2020
Central Park Area	3	Main Street Underpass Sewer Improvements	Designed based upon accepted engineering practice taking into account the Ten State Standards	Facilities will achieve 0 Overflow Events during the Typical Year	\$5,000,000	N/A	Started 2008	December 2013
	4	Daisy Road Lift Station Foremain RC-5 Conveyance from RC-5 to Merrifield Park			\$9,301,000	2.9 mgd Daisy Road LS 18-inch diameter FM 18 & 24-inch diameter dual RC-5 18 inch diameter sewer	December 2021	December 2029
	5	Front Street Sewer			\$2,250,000	48-inch diameter parallel sewer	Started 2008	December 2014
	6	CSO 016 sewer improvements CSO 019 sewer improvements CSO 011 sewer improvements RC-2 improvements			\$9,200,000	CSO 016 - 0-inch diameter ⁴ CSO 019 - 36-inch diameter CSO 011 - 48-inch diameter RC-2 three 24-inch diameter	Started 2008	December 2031
East Area	7	Sewer separation and rehabilitation improvements in the area south of the St. Joseph River roughly bounded by Merrifield Ave., Elter Ditch, and East 4th Street.	Designed based upon accepted engineering practice taking into account the Ten State Standards	Facilities will achieve 0 Overflow Events during the Typical Year	\$19,168,000	N/A	December 2016	December 2028
	8	Storage and conveyance from Capital Avenue to Merrifield Avenue.			\$5,765,000	30 inch diameter	December 2017	December 2028
	9	Sewer improvements east of Capital Avenue (upstream of Mariellen Lift Station) U.S. 331 underpass (Mariellen) lift station improvements.			\$9,900,000	18 inch diameter 4.8 mgd Mariellen Lift Station	Started 2011	December 2031
River Center/CSO 009 Area	10	Storage and conveyance tunnel from Merrifield Park (Linden Avenue) to 4th Street.	Designed based upon accepted engineering practice taking into account the Ten State Standards	Facilities will achieve 0 Overflow Events during the Typical Year	\$5,730,000	54 inch diameter	December 2015	December 2023
	11	Storage and conveyance tunnel from Merrifield Avenue to Main Street.			\$18,730,000	72 inch diameter	December 2014	December 2022
	12	Storage and conveyance tunnel from Main Street to WWTP.			\$22,663,000	96 inch diameter	December 2012	December 2020
TOTAL ESTIMATED CAPITAL COST					\$132,067,000			

¹ Capital costs are based on the Engineering News Record Construction Cost Index of 8000 (2007). Capital cost including 25% contingency and 20% engineering, administrative, and legal costs.

² Engineer under contract to design the initial facility within grouping.

³ All facilities within grouping operational.

⁴ Improvements to the Interceptor from CSO 015 to the tail works of RC-1 may not be required to achieve zero overflows based on the results of redirection of the flow to RC-5 by means of the Daisy Road Lift Station.

Appendix A: Section 2

Post-Construction Monitoring Program

2.1 Purpose of Post-Construction Monitoring Program and Deadline for Completion

The purpose of Mishawaka's Post-Construction Monitoring Program is to determine whether the CSO Control Measures implemented pursuant to section 1 of this Appendix have achieved the Design Criteria and Performance Criteria specified in Table 1 of this Appendix. Mishawaka shall complete all requirements of section 2 of this Appendix A, including the requirement in section 2.4 of this Appendix A to Submit to the United States and Indiana a Final Post-Construction Monitoring Report, as follows:

- Collection System Re-calibration Report: On or before August 31, 2033
- Final Post-construction Monitoring Report: Within 12 months after EPA and IDEM approval of Collection System Re-calibration Report

2.2 Data Collection

After fully constructing and implementing the CSO Control Measures described in Table 1 of this Appendix, Mishawaka shall monitor rainfall volume and intensity for a 12-month post-construction monitoring period as a component of Mishawaka's Post-Construction Monitoring Program. Mishawaka shall use this rainfall data to assess the simulated performance of each CSO Control Measure during the Typical Year after the CSO Control Measures are constructed and implemented.

After Mishawaka constructs and fully implements the CSO Control Measures, Mishawaka shall collect sewer response data for each CSO Control Measure location, and use such data, in conjunction with the rainfall data described above, to properly calibrate the Collection System Model.

During each precipitation event that occurs during the 12-month post-construction monitoring period, at a minimum, Mishawaka shall collect the following data: (1) 15-minute rainfall data for each event; (2) CSO Discharge volumes and frequency and duration at each CSO Outfall; and (3) water quality samples from the St. Joseph River as provided below.

During the 12-month post-construction monitoring period, Mishawaka shall collect weekly samples of the St. Joseph River at the following locations: Bittersweet Road Bridge (upstream of all of the Mishawaka's CSO outfalls) and the Logan Street Bridge (downstream of all of Mishawaka's CSO outfalls). Mishawaka shall analyze these weekly samples for *E. coli* to document the upstream and background *E. coli* concentration in the St. Joseph River before the impact of discharges from Mishawaka's CSO outfalls and the St. Joseph River's bacterial water quality downstream of Mishawaka's CSO outfalls.

After constructing and fully implementing the CSO Control Measures in Table 1 of this Appendix, during the 12-month post-construction monitoring period Mishawaka shall monitor

any remaining discharges from any remaining CSO Outfalls (including without limitation CSO Outfall 014 and CSO Outfall 009) for flow volume and duration to assist in the Collection System Model calibration and validation and ultimate assessment of system performance. As part of this Post-Construction Monitoring Plan, Mishawaka shall compare the Collection System Model output to the actual observed sewer system response to verify that the model is predicting the same overflows that actually are observed during the 12-month post-construction monitoring period, as more fully described in section 2.3.1 of this Appendix. Mishawaka shall modify the Collection System Model as necessary until the Collection System Model is calibrated and validated to predict the same sewer system response and CSO outfall activation frequency, duration, and volume as observed in the monitoring results.

After Mishawaka verifies that the Collection System Model incorporating all CSO Control Measures has been accurately calibrated and validated, writes all reports required by section 2.3.1 of this Appendix, and receives written approval to proceed from EPA and IDEM as described in section 2.3.1 of this Appendix, Mishawaka shall use the calibrated and validated Collection System Model to conduct a simulation based on the Typical Year to determine how many Overflow Events are predicted to occur. If the properly calibrated and validated model simulation predicts zero Overflow Events during the Typical Year, Mishawaka will be deemed to have met that performance objective.

2.3 Collection System Data Analysis

2.3.1 Collection System Model Calibration and Validation

Mishawaka shall update, calibrate, and validate the Collection System Model by performing the following steps:

1. Collect flow monitoring, rainfall, and CSO activation data, as described in greater detail in section 2.2 Data Collection of this Appendix, sufficient to re-calibrate the Collection System Model during a 12-month post-construction monitoring period that commences after Mishawaka finishes constructing and implementing all of the CSO Control Measures described in Section 1 of this Appendix.
2. Perform quality assurance and quality control of the data collected in Step 1, as described in Mishawaka's Quality Assurance Project Plan.
3. Update the Collection System Model to incorporate all completed CSO Control Measures and any other system improvements completed since the latest previous Collection System Model calibration or validation effort. Mishawaka also shall update the Collection System Model if the characteristics of the CSO Control Measures described in Section 1 of this Appendix have in any way changed since the last previous Collection System Model update. Mishawaka then shall use the updated Collection System Model and the rainfall data collected during the post-construction monitoring period to run a continuous simulation of CSO discharges for the 12-month post-construction monitoring period.
4. Compare CSO Discharge frequency in the continuous simulation outputs to the CSO monitoring data for the 12-month post-construction monitoring period to determine whether re-calibration of the Collection System Model is needed. For each CSO Outfall, the model-predicted CSO Discharges shall

be no fewer than the number of monitored CSO Discharges during the 12-month post-construction monitoring period. If these criteria are not met, Mishawaka shall recalibrate the Collection System Model in accordance with Steps 5-6 below. At the conclusion of Step 4, Mishawaka shall Submit an Initial Collection System Model Validation Report to EPA and IDEM for written authorization to proceed to the next step.

5. If re-calibration is needed, Mishawaka shall select two or more appropriate rainfall events from the 12-month post-construction monitoring period for Collection System Model re-calibration.

6. After Mishawaka re-calibrates the Collection System Model using sound engineering judgment in accordance with standard industry practices, Mishawaka shall run another continuous simulation for the entire monitoring period to verify that the re-calibrated Collection System Model has achieved the criteria described in Step 4, above. Thereafter, Mishawaka shall compare the continuous simulation outputs to the CSO monitoring data, as described in Step 4, to determine whether additional re-calibration is needed. If additional re-calibration is needed, Mishawaka shall re-calibrate in accordance with Steps 5-6 until the Collection System Model has achieved the criteria described in Step 4, above.

After completing Steps 1-6 in this section 2.3.1, Mishawaka shall Submit to EPA and IDEM a Collection System Model Re-calibration Report documenting the re-calibration and validation efforts. After receiving written authorization to proceed from EPA and IDEM, Mishawaka shall conduct the Performance Criteria analysis described in section 2.3.2 of this Appendix.

2.3.2 Collection System Performance Criteria Analysis

Mishawaka expects that Mishawaka's CSO Control Measures, when fully constructed and implemented, will result in eliminating all Overflow Events during the Typical Year. Overflow Events may occur when the volume or intensity of the rainfall event exceeds the volume or intensity of a rainfall event during the Typical Year. Nevertheless, the CSO Control Measures will capture for treatment the first part of each storm, known as the first flush.

After Submitting to EPA and IDEM the Collection System Model Re-calibration Report required by section 2.3.1 of this Appendix, and receiving written authorization to proceed from EPA and IDEM, Mishawaka shall use the validated Collection System Model to run a continuous simulation for the Typical Year to determine whether Mishawaka has achieved the Performance Criteria of zero Overflow Events during a Typical Year. Thereafter, Mishawaka shall include in the Final Post-Construction Monitoring Report required by section 2.4 of this Appendix any discussions, descriptions, analyses, plan, and schedule required by section 2.4(g) of this Appendix.

2.4 Final Post Construction Monitoring Report

On or before August 31, 2033, Mishawaka shall Submit to the United States and Indiana a Collection System Model Re-calibration Report. Within 12 months of EPA and IDEM approval of the Collection System Model Re-calibration Report Mishawaka shall Submit a final Post-Construction Monitoring Report. In the Final Post-Construction Monitoring Report, Mishawaka shall:

- (a) demonstrate that Mishawaka completed all of the requirements of the Post-Construction Monitoring Plan in section 2 of this Appendix A;
- (b) evaluate whether each CSO Control Measure implemented pursuant to section 1 of this Appendix was constructed as designed and in compliance with the Design Criteria described in, and required by, Table 1 of this Appendix, and is performing as designed and expected;
- (c) evaluate how well Mishawaka's entire Facility is performing as a whole, following completion of all CSO Control Measures, and shall include without limitation an assessment of whether the CSO Control Measures implemented pursuant to section 1 of this Appendix, as constructed, operated, or otherwise implemented, have achieved the Performance Criteria of zero Overflow Events during the Typical Year;
- (d) summarize the data collected during the entirety of the 12-month post-construction monitoring period and include any new data relevant to the evaluation that Mishawaka did not previously Submit to EPA or IDEM;
- (e) evaluate whether Mishawaka has any Unlisted Discharges;
- (f) evaluate whether Mishawaka's remaining CSO Discharges, if any, comply with all applicable requirements in this Appendix A, the Clean Water Act, State Law, and Mishawaka's NPDES Permit;
- (g) if model or monitoring results show that Mishawaka's CSO Control Measures did not meet the Performance Criteria of zero Overflow Events during the Typical Year,
 - (1) identify and describe in detail deficiencies or performance-limiting factors in system design, process, operations, and maintenance that may have limited the ability of the CSO Control Measures to achieve their intended performance; and (2) for review and approval by the United States and Indiana, Submit a plan and schedule for the construction or implementation of additional CSO Control Measures, alternative operating strategies, structural modifications, and additional processes necessary to meet the Performance Criteria of zero Overflow Events during the Typical Year.

RECEIVED
DEBORAH S. BLOCK, MMC

DEC 11 2013

CITY CLERK
MISHAWAKA, IN

1st Reading 12-16-13
2nd Reading
Passed
Failed
Continued To

PETITION #13-43

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2013-55

ORDINANCE NO. _____

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

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and the zoning as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

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 MARKET 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

Proposed Ordinance No. 13-55

Ordinance No. _____

OR LESS, AND SUBJECT TO ANY EASEMENTS, RIGHT-OF-WAYS, COVENANTS AND RESTRICTIONS OF RECORD.

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development to allow for the construction of a mixed use development consisting of commercial, multi-family residential, assisted living, and nursing homes. Conditions will be generally consistent with the development topics and will reflect some of the substantial concerns identified in the attached Exhibit A.

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

1. Existing Conditions - The subject parcel is located on Gumwood Road and S.R. 23 , both heavily traveled corridors. The site is located immediately across the street from existing similar multi-residential and commercial developments
2. Character of Buildings in Area - The character of many of the buildings located along Gumwood Road and S.R. 23 are commercial. The buildings north and west of the proposed site are predominantly residential, making the proposed transitional multi-family residential uses on the north side of the PUD property appropriate.
3. The most desirable/highest and best use - Because of the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor, combined with the surrounding single family residential subdivisions, makes the most desirable use for the property a mix of commercial and transitional office and residential uses. Although there are adjacent single family residential properties to the north and west, the lack of any internal road connection combined with required presence of City utilities, rather than the adjacent septic and well systems associated with the existing residential developments, warrants a higher more intense uses than single family residential.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the proposed/required blend of uses transitions the proposed uses from higher to lower intensities where the development is adjacent to existing neighborhoods. Furthermore, if approved, the adjacent residential parcels would be protected by the series of conditions placed on the planned unit development. These conditions include among other significant restrictions as requiring substantial screening and landscape "green" buffer yards between uses.
5. Comprehensive Plan - Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) Corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

Proposed Ordinance No. 13-55

Ordinance No. _____

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 _____, 2014, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2014, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2014, at _____ o'clock ____M.

David A. Wood, Mayor

**PETITION #13-43
EXHIBIT "A"**

Northwest Gumwood & S.R. 23 Conditions of Approval

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each final planned unit development plan submission. A Traffic Impact Study may be required as determined by the City Director of Engineering. All traffic/transportation improvements required for the completion of this project (including but not limited to Gumwood Road and State Road 23) shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering, subject to modification by any potential development agreement with the City should one or more be established. The intent is not to have the applicant build the road for additional function for pass-through traffic, rather that any required turn lanes, widening, access control required as a result of this project be provided to ensure that proposed levels of service (based on proposed improvements) are maintained.
 - a. Any additional right-of-way required for both Gumwood Road and State Road 23 improvements associated with the proposed development project shall be dedicated. There is a need to coordinate the timing of pending State and County improvements with the needed/required improvements of the development. Phasing of improvements associated with this project shall be as determined by the City Director of Engineering in coordination with other applicable jurisdictions.
 - b. The number and or type of curb cuts shall be limited as determined appropriate by the City Director of Engineering and the applicable road authority/jurisdictions.
 - c. All improvements required shall be paid for by the developer and shall be identified as part of the phasing plan for the project.

Proposed Uses:

1. Commercial uses shall be limited to those identified within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts. Multi-Family Residential uses along with assisted living and nursing home uses may be allowed. However, no commercial uses shall be located adjacent to the existing single-family residential development to the north. Multi-Family Residential uses, assisted living, and nursing home uses shall be located within the northern portion of PUD as to act as a transitional use between the existing single-family residential uses and the proposed commercial uses.
2. Off-premise signs/billboards shall be prohibited.
3. Outside storage and display shall be prohibited.

4. All loading docks, dumpsters, ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Road connections:

1. A hierarchy of the internal vehicular road network shall be provided. A minimum access throat/stacking area of 200 lineal feet on the site shall be provided at each proposed entrance point from its intersection with the public right-of-way. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected based on actual proposed uses as the planned unit development is built out. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
2. The City has not made a determination on whether or not the stub streets from the adjacent subdivisions shall be extended or connected over time. An appropriate connection and or turn-a-round shall be provided within the multi-family portion of the project that would allow for both potential situations, should this phase of the development be constructed prior to any changes or modifications to the City's well field property.
3. Access and utility easements shall be dedicated to adjacent properties, including the City Well Field and Centennial Plaza.

Stormwater run-off:

1. The type of stormwater facilities proposed within the PUD shall be limited/restricted as required by City well-head protection standards and as may be directed by the City Director of Engineering based on the close proximity of the City Well Field. The purpose is to limit potential groundwater infiltration in that area.
2. An emergency overflow outlet for proposed retention ponds into City storm sewers may be provided by the City if deemed appropriate by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 44+ acre site) and to otherwise further the intent of this chapter as

follows:

- a) A maximum of (4) monument type signs may be located along Cleveland Road/S.R. 23 and (6) monument signs may be located along Gumwood Road. The maximum standard for area and height calculations for monument signs shall be further restricted as follows: the maximum sign area shall be limited to a maximum of 60 square feet (rather than 75 square feet) with a maximum length of any sign not exceeding 12 feet.
 - b) Three freestanding identification/development signs for the entire planned unit development (not just for one tenant/occupant) shall be permitted in addition to the monument signage. One may be located along State Road 23. One may be located along Gumwood Road. And one may be located at the intersection of State Road 23 and Gumwood Road. The sign at the intersection of State Road 23 and Gumwood Road shall be limited to a maximum of 20 feet in height and 120 square feet in area. The Gumwood Road and State Road 23 signs shall be limited to a maximum of 12 feet in height and 96 square feet in area.
 - c) A sign easement shall be provided to the City of Mishawaka well field property, located at the proposed entrance opposite Heritage Square Drive. This sign shall be subject limited to a maximum of 60 square feet with a maximum length not exceeding 12 feet.
 - d) Signs shall be located a minimum of 200 feet apart from one another (including the sign easement) except that signs may be located closer where an entrance drive is located between them.
2. All freestanding signs shall have a masonry base.
 3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.
 4. Seasonal banners and general development identification banners may be allowed for decorative and parking lot light poles throughout the center.
 5. Temporary Construction fence coverings which may include information about the project, elevations, renderings, slogans, logos and coming soon info may be allowed.
 6. Directory Kiosks placed strategically around the center to help customers locate businesses with a directory map of the development and advertising for retailers and other businesses may be allowed.
 7. Freestanding sandwich boards may be placed internally in the development, but shall not be placed where readable from SR 23 or Gumwood Road.

Landscaping:

1. A 3-foot high earth mounding shall be provided along Gumwood Road and State Road 23. A minimum 25-foot green buffer area shall be required along both corridors. Each buffer area shall comply with the landscape requirements of the C-1 General Commercial zoning district.
2. Utility areas shall be provided separate from required landscaped areas. If utilities are located within the 25 foot green area, an additional 10 feet of green area shall be required for planting.
3. A 2-foot high earth mounding planted with evergreen trees, minimum 8' height, spaced 10'to12' max along with a 6' minimum height opaque fence shall be provided along the north property line and west property lines abutting existing residential property.
4. If decorative ponds with fountains are proposed along public roadways, the landscaping requirement shall be reduced to eliminate the need for the 2' berm and shrubbery/low planting between the road and building/parking areas and where the normal water elevation of the pond is located
5. All developments within the PUD, including the multi-family residential development, shall comply with the landscape requirements of the C-1 General Commercial zoning district. This shall be in addition to any required buffer planting.
6. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission. Phasing of installation shall occur concurrent with development, except that the Planning Commission may require the installation of screening and buffering along property lines prior to when adjacent developments are proposed when deemed necessary/appropriate.

Parking:

1. A minimum of (1.5) parking spaces per residential unit shall be provided for the multi-family residential use. Parking ratio may be reduced to a minimum of (1.25) per residential units for one bedroom apartments only. Garages, parking lots, and on-street parking may be utilized for required parking.
2. A minimum of (0.75) parking spaces per bed shall be provided for assisted living and nursing home uses.
3. All other uses shall comply with the corresponding parking requirements as identified in the City of Mishawaka Zoning Ordinance.

Building/Parking Setbacks

1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road.
2. A minimum 25' parking setback shall be provided along Gumwood Road, S.R. 23/Cleveland Road.
3. A minimum 35-ft building setback shall be provided along the north property line adjacent to Gumwood Crossings and along the west property line abutting existing residential property.
4. A minimum 25' building setback and a 10' parking setback shall be property along the west property line adjacent to Centennial Plaza.
5. A minimum 25' building and 10' parking setback shall be provided along property adjacent to City of Mishawaka owned property.
6. A minimum 10' building and parking setback shall be provided along internal roads and between outlot property lines within the Planned Unit Development, however, a 0' parking setbacks may be allowed to provide for shared parking bays at various locations within the development as deemed appropriate by the Planning Commission upon review as part of each subsequent final planned unit development site plan submission.

Phasing:

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

**PETITION #13-43
EXHIBIT "A"**

Northwest Gumwood & S.R. 23 Conditions of Approval

Traffic Impact:

1. The following general conditions shall apply. More specifics and refinements shall be made with each final planned unit development plan submission. A Traffic Impact Study may be required as determined by the City Director of Engineering. All traffic/transportation improvements required for the completion of this project (including but not limited to Gumwood Road and State Road 23) shall be paid for by the applicant/developer concurrent with development as directed by the City Director of Engineering, subject to modification by any potential development agreement with the City should one or more be established. The intent is not to have the applicant build the road for additional function for pass-through traffic, rather that any required turn lanes, widening, access control required as a result of this project be provided to ensure that proposed levels of service (based on proposed improvements) are maintained.
 - a. Any additional right-of-way required for both Gumwood Road and State Road 23 improvements associated with the proposed development project shall be dedicated. There is a need to coordinate the timing of pending State and County improvements with the needed/required improvements of the development. Phasing of improvements associated with this project shall be as determined by the City Director of Engineering in coordination with other applicable jurisdictions.
 - b. The number and or type of curb cuts shall be limited as determined appropriate by the City Director of Engineering and the applicable road authority/jurisdictions.
 - c. All improvements required shall be paid for by the developer and shall be identified as part of the phasing plan for the project.

Proposed Uses:

1. Commercial uses shall be limited to those identified within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts. Multi-Family Residential uses along with assisted living and nursing home uses may be allowed. However, no commercial uses shall be located adjacent to the existing single-family residential development to the north. Multi-Family Residential uses, assisted living, and nursing home uses shall be located within the northern portion of PUD as to act as a transitional use between the existing single-family residential uses and the proposed commercial uses.
2. Off-premise signs/billboards shall be prohibited.
3. Outside storage and display shall be prohibited.

4. All loading docks, dumpsters, ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall matching the building materials of the principle building. Dumpster locations shall be located away from any roads behind principle buildings and located away from internal collector drives.

Road connections:

1. A hierarchy of the internal vehicular road network shall be provided. A minimum access throat/stacking area of 200 lineal feet on the site shall be provided at each proposed entrance point from its intersection with the public right-of-way. Turning lanes within the site are a necessity. Internal stacking and turning movements at intersections shall be provided and protected based on actual proposed uses as the planned unit development is built out. This hierarchy shall be reviewed as part of each subsequent final planned unit development site plan submission.
2. The City has not made a determination on whether or not the stub streets from the adjacent subdivisions shall be extended or connected over time. An appropriate connection and or turn-a-round shall be provided within the multi-family portion of the project that would allow for both potential situations, should this phase of the development be constructed prior to any changes or modifications to the City's well field property.
3. Access and utility easements shall be dedicated to adjacent properties, including the City Well Field and Centennial Plaza.

Stormwater run-off:

1. The type of stormwater facilities proposed within the PUD shall be limited/restricted as required by City well-head protection standards and as may be directed by the City Director of Engineering based on the close proximity of the City Well Field. The purpose is to limit potential groundwater infiltration in that area.
2. An emergency overflow outlet for proposed retention ponds into City storm sewers may be provided by the City if deemed appropriate by the City Director of Engineering.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.

Signage:

1. Standard Mishawaka On-Premise Sign Standards shall be varied to allow for a hierarchy of signage (given the large 44+ acre site) and to otherwise further the intent of this chapter as

follows:

- a) A maximum of (4) monument type signs may be located along Cleveland Road/S.R. 23 and (6) monument signs may be located along Gumwood Road. The maximum standard for area and height calculations for monument signs shall be further restricted as follows: the maximum sign area shall be limited to a maximum of 60 square feet (rather than 75 square feet) with a maximum length of any sign not exceeding 12 feet.
 - b) Three freestanding identification/development signs for the entire planned unit development (not just for one tenant/occupant) shall be permitted in addition to the monument signage. One may be located along State Road 23. One may be located along Gumwood Road. And one may be located at the intersection of State Road 23 and Gumwood Road. The sign at the intersection of State Road 23 and Gumwood sign shall be limited to a maximum of 20 feet in height and 120 square feet in area. The Gumwood Road and State Road 23 signs shall be limited to a maximum of 12 feet in height and 96 square feet in area.
 - c) A sign easement shall be provided to the City of Mishawaka well field property, located at the proposed entrance opposite Heritage Square Drive. This sign shall be subject limited to a maximum of 60 square feet with a maximum length not exceeding 12 feet.
 - d) Signs shall be located a minimum of 200 feet apart from one another (including the sign easement) except that signs may be located closer where an entrance drive is located between them.
- 2. All freestanding signs shall have a masonry base.
 - 3. General façade and directional signage standards shall be submitted concurrently with the first final planned unit development plan submission. Limits on the height of letters/signage for façade signs shall be reviewed and evaluated by the Planning Commission at that time.
 - 4. Seasonal banners and general development identification banners may be allowed for decorative and parking lot light poles throughout the center.
 - 5. Temporary Construction fence coverings which may include information about the project, elevations, renderings, slogans, logos and coming soon info may be allowed.
 - 6. Directory Kiosks placed strategically around the center to help customers locate businesses with a directory map of the development and advertising for retailers and other businesses may be allowed.
 - 7. Freestanding sandwich boards may be placed internally in the development, but shall not be placed where readable from SR 23 or Gumwood Road.

Landscaping:

1. A 3-foot high earth mounding shall be provided along Gumwood Road and State Road 23. A minimum 25-foot green buffer area shall be required along both corridors. Each buffer area shall comply with the landscape requirements of the C-1 General Commercial zoning district.
2. Utility areas shall be provided separate from required landscaped areas. If utilities are located within the 25 foot green area, an additional 10 feet of green area shall be required for planting.
3. A 2-foot high earth mounding planted with evergreen trees, minimum 8' height, spaced 10'to12' max along with a 6' minimum height opaque fence shall be provided along the north property line and west property lines abutting existing residential property.
4. If decorative ponds with fountains are proposed along public roadways, the landscaping requirement shall be reduced to eliminate the need for the 2' berm and shrubbery/low planting between the road and building/parking areas and where the normal water elevation of the pond is located
5. All developments within the PUD, including the multi-family residential development, shall comply with the landscape requirements of the C-1 General Commercial zoning district. This shall be in addition to any required buffer planting.
6. Phasing of required landscaping shall be reviewed as part of every final planned unit development plan submission. Phasing of installation shall occur concurrent with development, except that the Planning Commission may require the installation of screening and buffering along property lines prior to when adjacent developments are proposed when deemed necessary/appropriate.

Parking:

1. A minimum of (1.5) parking spaces per residential unit shall be provided for the multi-family residential use. Parking ratio may be reduced to a minimum of (1.25) per residential units for one bedroom apartments only. Garages, parking lots, and on-street parking may be utilized for required parking.
2. A minimum of (0.75) parking spaces per bed shall be provided for assisted living and nursing home uses.
3. All other uses shall comply with the corresponding parking requirements as identified in the City of Mishawaka Zoning Ordinance.

Building/Parking Setbacks

1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road.
2. A minimum 25' parking setback shall be provided along Gumwood Road, S.R. 23/Cleveland Road.
3. A minimum 35-ft building setback shall be provided along the north property line adjacent to Gumwood Crossings and along the west property line abutting existing residential property.
4. A minimum 25' building setback and a 10' parking setback shall be property along the west property line adjacent to Centennial Plaza.
5. A minimum 25' building and 10' parking setback shall be provided along property adjacent to City of Mishawaka owned property.
6. A minimum 10' building and parking setback shall be provided along internal roads and between outlot property lines within the Planned Unit Development, however, a 0' parking setbacks may be allowed to provide for shared parking bays at various locations within the development as deemed appropriate by the Planning Commission upon review as part of each subsequent final planned unit development site plan submission.

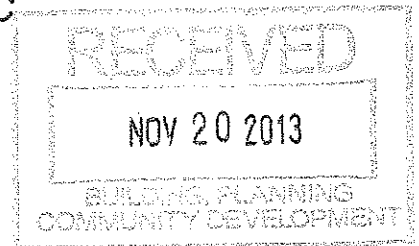
Phasing:

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

RECEIVED
DEBORAH S. BLOCK, MMC

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:

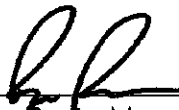
COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER, SAID POINT BEING MARKED WITH A HARRISON MONUMENT; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°27'41" WEST ALONG SAID SOUTH LINE, 1304.19 FEET 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.



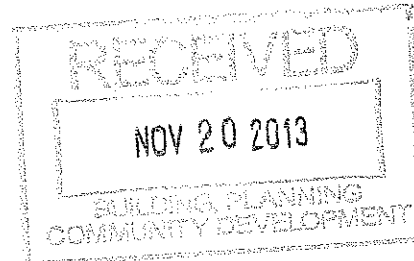
Ryan Rans, Managing Partner

CONTACT PERSON:

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

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.

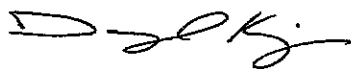
These properties have tax identification numbers of 002-2017-037014, 002-2017-037018, 002-2017-037002, 002-2017-037017, 002-2017-037016, 002-2017-037012, 002-2017-037001, 002-2017-037021, 002-2017-037005, 002-2017-037008, 002-2017-037006, 002-2017-037007 and is bounded to the north by the Gumwood Crossing 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

A PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 36 NORTH, RANGE 3 EAST, ST. JOSEPH COUNTY, INDIANA, ALSO BEING PARTS OF LOTS 1 THRU 8 AND 11 OF THE UNRECORDED DAUER AND GESSLER'S PLAT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

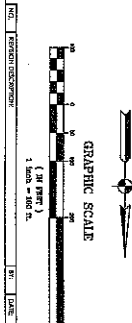
[illegible]

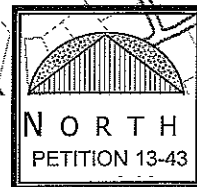
DESCRIPTION	BUILDING	PARKING
ALONG GILMWOOD RD	5/51	5/51
ALONG CLEVELAND RD	5/57	5/57
NORTH PROPERTY LINE, ADJACENT TO GILMWOOD CROSSING	25	25/
WEST PROPERTY LINE, ADJACENT TO CHEROKEE PLAZA	25	1/7
PROMISED PROPERTY LINE, ADJACENT TO CITY OF INDIANAPOLIS OWNED PROPERTY	6	6
INTERIOR ROADS	1/7	0

- ☐ DEVELOPMENT SIGN
- ☐ MONUMENT SIGN

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

MULTI-FAMILY RESIDENTIAL ON-STREET PARKING SECTION





PETITION 13-43

GUMWOOD CROSSING DR

MILAN ST

TOSCANA BLVD

FLORENCE AVE

FORINO DR

THRUSH ST

RUE ST

EO ST

W CLEVELAND RD

W CLEVELAND RD

E CLEVELAND RD

HERITAGE SQUARE DR

STATE RD 148

UNIVERSITY GARDEN LN

LEADER LN

SPRING LAKE BLVD

N MAIN ST

Location Map

PETITION 13-43

NORTHWEST GUMWOOD ROAD
& CLEVELAND ROAD

ANNEX AND ZONE TO S-2
PLANNED UNIT DEVELOPMENT

DEC 11 2013

CITY CLERK
MISHAWAKA, IN

PETITION 13-44

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2013-56**

ORDINANCE NO. _____

1st Reading 12-16-13
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:

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 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

ORDINANCE NO. _____

PROP. ORD. NO. 13-56

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 a 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 29 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

ORDINANCE NO. _____

PROP. ORD. NO. 13-56

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.

ORDINANCE NO. _____

PROP. ORD. NO. 13-56

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.

COMMON ADDRESS: 1625 East Jefferson Boulevard

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a reduction in parking subject to the following amended PUD developmental standards/condition:

1. Parking shall be provided at a minimum of one (1) parking space per bed and one (1) parking space per employee during peak shift.

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

1. Existing Conditions - The medical facility/office use is currently allowed as part of the PUD and exists on the property.
2. Character of Buildings in Area - The proposed addition will be architecturally appropriate with the existing structures currently located within the PUD.
3. The most desirable/highest and best use - Due to the presence of the existing hospital/medical use on the property, the most desirable/highest and best use of the property is the expansion of the existing use.
4. Conservation of property values - The proposed amendment will not be injurious to property values in the surrounding area, because the proposed use is existing within the PUD.
5. Comprehensive Plan - The proposed amendment is consistent with the Comprehensive Plan which has identified this area for Service Commercial, which includes medical facilities and offices.

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 _____, 2014, at o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

ORDINANCE NO. _____

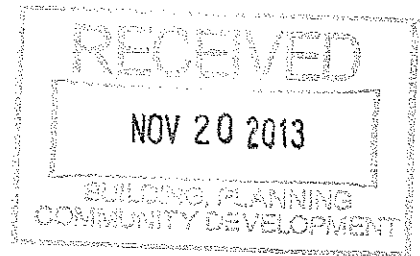
PROP. ORD. NO. 13-56

PRESENTED by me to the Mayor this _____ day of _____,
2014, at _____ o'clock _____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2014, at
o'clock _____ M.

David A. Wood, Mayor



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 20 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:

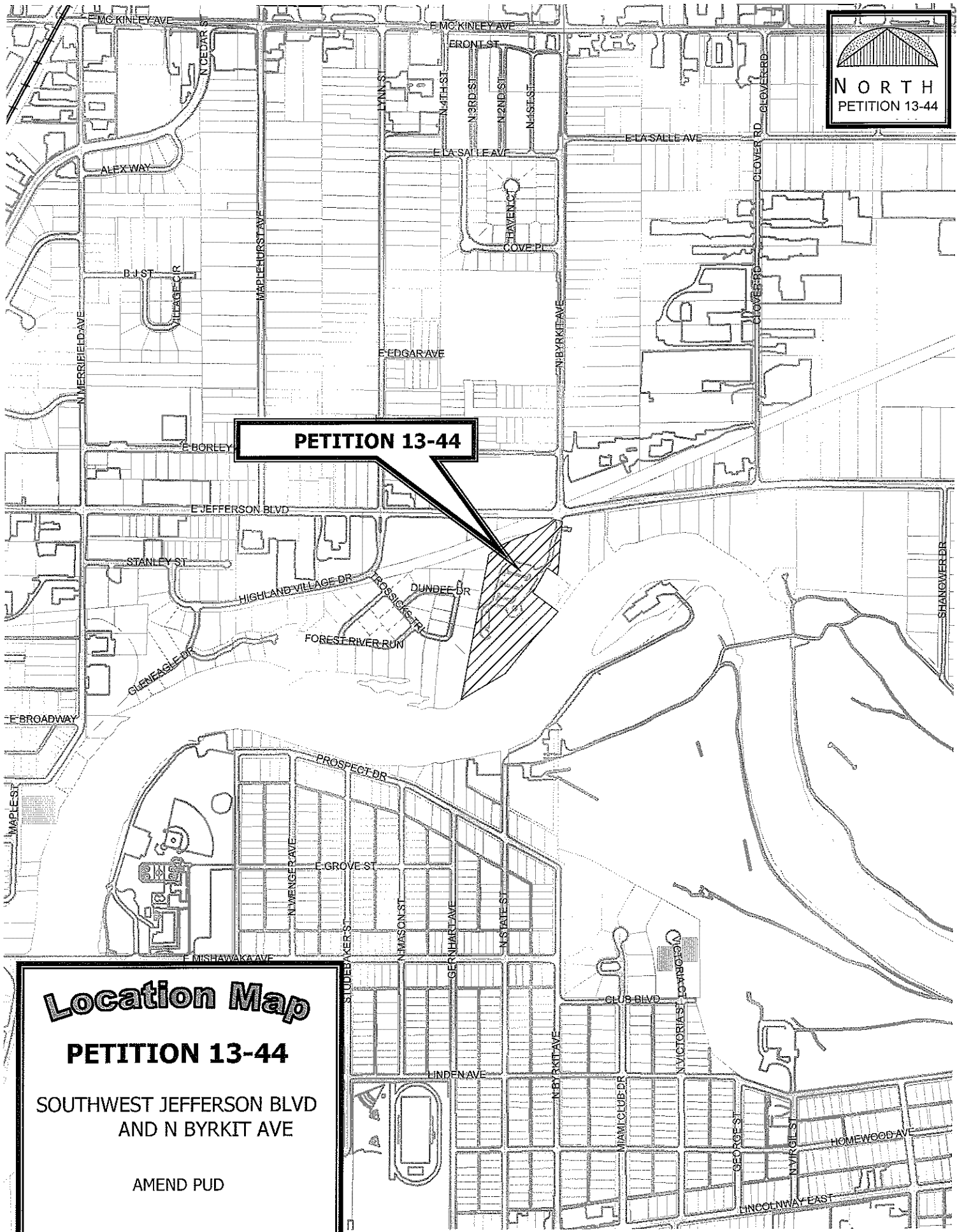
A parcel of land being a part of the East Half of the Southeast Quarter of Section 10, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being more particularly described as follows:

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

Location Map

PETITION 13-44

SOUTHWEST JEFFERSON BLVD
AND N BYRKIT AVE

AMEND PUD

DEC 11 2013

APPEAL #13-47

RESOLUTION NO. 2013-24

CITY CLERK
MISHAWAKA, IN

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

1216 West Eighth 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 an *unfavorable* 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 **1216 West Eighth Street, Mishawaka, Indiana**, more particularly known and described as follows:

Lot 134, Manoka Place, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

The Use Variance will permit outside storage of portable restrooms on I-1 Light Industrial zoned property subject to the following conditions:

1. Storage shall be limited to the current paved portion of the rear yard.
2. The units shall maintain a 5 foot setback at all times from the rear property line.
3. The units must be cleaned and disinfected prior to storage at 1216 West Eighth Street.
4. Chemicals may not be stored at the site.
5. Privacy slats shall be fitted to the existing fence.
6. The units shall not be taller in height than the fence.
7. All improvements to 1215 West Eighth Street, as documented on Administrative Site Plan 05-F, dated 10/6/2005, and Recording Number 05549958, shall be completed by June 1, 2014.

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

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

1. Approval will not be injurious to the public health, safety, morals and general welfare of the community because all state and local building codes will be adhered to during construction and/or improvements to the existing structure;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the adjacent properties to the east and west are zoned industrial;
3. The need for the variance arises from some condition peculiar to the property in that it is located in an industrial area and has very limited current industrial applications which has caused it to sit vacant for an extended period of time;
4. Strict application of the terms of this chapter will constitute an unnecessary hardship if applied to the property for which the variance is sought because the zoning does not allow for the proposed outside storage use. The only means by which to allow the proposed outside storage of portable restroom use and maintain the current industrial standards is through the use variance process;
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies the area as General Commercial. The approval is consistent with the goals and objectives of the Comprehensive Plan.

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- 24
1216 West Eighth 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.

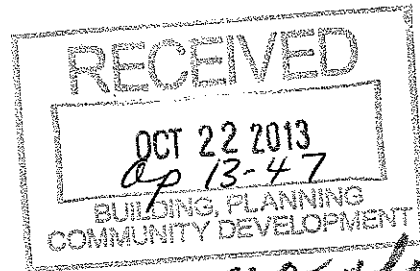
Deborah S. Block, IAMC, MMC, City Clerk

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

David A. Wood, Mayor

Date: October 18, 2013

To: Board of Zoning Appeals
City of Mishawaka, Indiana



The undersigned appellant respectfully shows the Board:

1. I, Yolanda Demske, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit: Lot 134 Manoka Place, common address of 1216 W 8th Street.
2. The above- described real estate presently has a zoning classification of I-Light Industrial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Storage of portable restrooms.
4. Appellant desires to store 50 portable restroom units outside in the rear half yard inside fenced lot.
5. The Zoning Ordinance of the City of Mishawaka requires per 137-586I-1 District, outside storage is not allowed.
6. Without the use of this outside storage space, we would have to take our restrooms 6 miles away and wouldn't have daily contact with the site to ensure they are not damaged or stolen. Part of the reason that we rent this facility from Mrs. Demske is the above stated. By us renting this facility we are able to keep an eye on the buildings inside and out for Mrs. Demke and have our equipment in close contact with our daily operations. In addition this outside storage is not visible from 8th Street and pending this approval we would add privacy slats to the rear fence so that nothing is visible from the alley.
7. Answer the following necessary questions for a USE VARIANCE:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? **No, it's just cold outside storage.**
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? **No, this area is kept neat and clean.**
 - (3) Does the need for the variance arise from some condition peculiar to the property involved?
Yes, the rented area has always been there, just not used by my company to store portable restrooms.

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 31 2013

CITY CLERK
MISHAWAKA, IN

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? **Yes, without the variance we will have to take our restrooms to a location 6 miles away and it would then not benefit us to rent from the current property owner.**

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? **No**

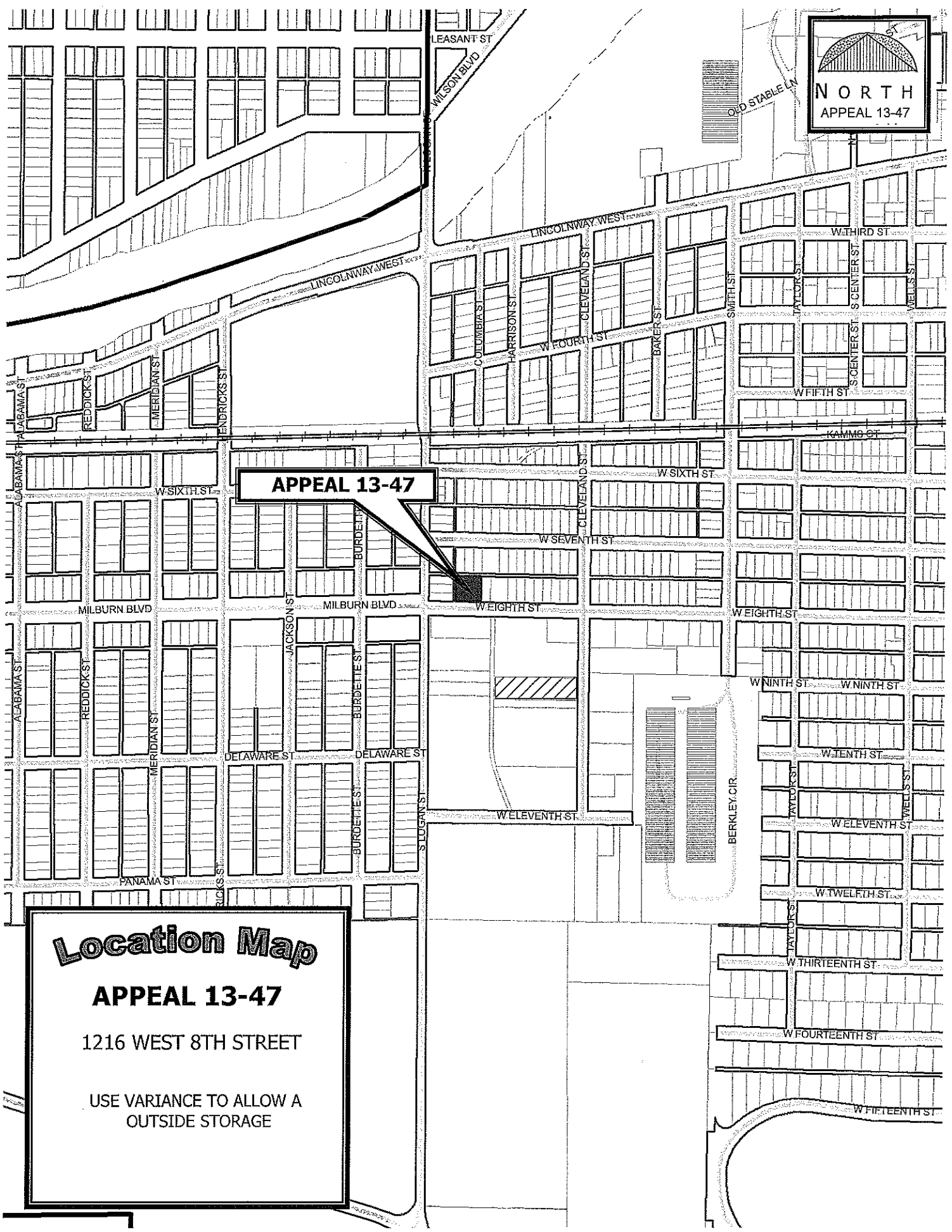
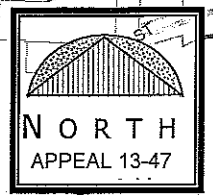
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

X Yolanda Demske
Yolanda Demske
Property Owner

X
Brian Rutherford
Property Rentor

CONTACT PERSON:

Brian Rutherford
332 W. Mishawaka Ave
Mishawaka, IN 46545
C.574 876-2229
F.574 257-2600
brian@burnsrentals.com



APPEAL 13-47

Location Map
APPEAL 13-47
1216 WEST 8TH STREET
USE VARIANCE TO ALLOW A
OUTSIDE STORAGE