

AGENDA

September 08, 2020

AS ORDERED BY GOVERNOR HOLCOMB'S

EXECUTIVE ORDER 20-37 FACEMASK ARE REQUIRED !

Meetings of Standing Committees
Council Conference Room
6:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM

WebEx Telephone Number: 1-408-418-9388
WebEx Access Code: 173 851 5179
Meeting password: mhP2MVzQB43

Livestream #1: <https://www.facebook.com/cityofmishawaka/>
Livestream #2: @MichianaAccessTV on Facebook
Livestream #3: Michiana Access TV
(Comcast and AT&T U-Verse Channel 99)

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial: 1738515179.mishawaka@lync.webex.com

Members of the public will be asked to place their microphone on mute during the Meeting, with the exception of any public hearing. At the appropriate point in the public hearing, the Council President will invite the public to unmute their microphone for purposes of submitting such comments, one person at a time. All persons wishing to make public comments will be asked to first state their name and address for the record. After completing his/her public comments, members of the public will once again be asked to place their microphone on mute. Thank you for your cooperation.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of August 17, 2020

5. Petitions, Communications, Remonstrance and Memorials

- Appeal No. 20-43 Use Variance to allow microblading inside existing
Rootz Salon - 3602 Grape Road, Suite 11
- Petition No. 20-18 Rezone from C-1 General Commercial District to C-4
Auto Oriented Commercial for an Auto sales - 4211 N.
Grape Road
- Petition No. 20-19 Deer Run PUD Amendment to Permit I-1 Light Industrial
Uses- Vacant Property at SW corner of Deer Run Drive
(South Leg) & Fir Road.
- Petition No. 20-20 Annexation and Rezoning for a Proposed Multi-Family
Townhome Development - 15165, 15195 & 15201 Cleveland
Road

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

9. Ordinances on Second Reading

- P.O. NO. 2020-24 PUD Amendment to allow for mixed Use Development to
allow Residential, Commercial, and Industrial Uses -
Vacant land S. of Vistula Rd. & W. of Cedar Rd.
(Assigned to Land Use Planning Committee)
Petitioner requesting postponement
- P.O. NO. 2020-25 Rezone from R-1 Single Family Residential to C-3
City Center Commercial - 619 Lincoln Way East
(Assigned to Land Use Planning Committee)
- P.O. NO. 2020-26 Rezone from R-1 Single Family Residential to R-2
Two Family Residential - 613 W. Third St.
(Assigned to Land Use Planning Committee)
- P.O. NO. 2020-27 PUD Amendment to allow Assisted Living Facility -
North west corner or Deer Run Dr. and Fir Rd.
(Assigned to Land Use Planning Committee)
- P.O. NO. 2020-28 Annex adjacent property to be included in
subdivision - South & East of 1141 & 1241 E. Twelfth
St. **PUBLIC HEARING - NO VOTE**

P.O. NO. 2020-29 Grandview PUD Amendment to allow dumpster enclosures
in the 25' front setback only if gate is not visible
from Gumwood or S.R. 23/Cleveland Rd
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

Mayor Wood COVID-19 Update

13. Adjournment - This meeting will be aired Wednesday at 9:00AM on the
Public Access Channel

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

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

Note: The Mishawaka Common Council has instituted changes in the way in which its meetings will be conducted during the current public health emergency. These changes are consistent with the terms of multiple Executive Orders issued by Governor Holcomb, as well as related legal guidance. It is anticipated that the Council's normal meeting procedures will be reinstituted at the conclusion of the public health emergency. In the meantime, physical attendance at Council meetings will continue to be restricted in accordance with relevant guidance related to limitations on public gatherings and social distancing. During the public health emergency, Council members, as well as members of the public and media, will continue to be afforded the opportunity to remotely access Council meetings. Recordings of Council meetings (if applicable) and the minutes of the meetings will also be made available to the public and the media as soon as is possible.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 17, 2020

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall and via telephone on Monday, August 17, 2020 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, followed by a moment of silence to remember the lives lost due to COVID-19.



Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Others present; Mike Trippel, Council Attorney and Clerk Block.

Minutes for the Regular meeting of August 3, 2020 were approved as received from the Clerk's Office.

Clerk Block read the following letters to the council from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their August 11, 2020 meeting.

APPEAL #20-35 An appeal submitted by JADET LLC requesting a Use Variance for **1035 East McKinley Avenue** to allow sale of tires and automotive mechanical work.

The Board, with a vote of 3-1, recommended approval subject to the following conditions:

1. Submittal of an Administrative Site Plan
2. Installation of a grit/oil/water separator if any work containing fluids such as brake jobs or oil changes are going to occur at this site.

APPEAL #20-38 An appeal submitted by A & E Management LLC, requesting a Use Variance for **3025 Grape Road** to allow a six (6) unit senior care facility.

The Board, with a vote of 4-0, recommended approval.

APPEAL #20-39 An appeal submitted by South Bend Real Estate 3 LLC requesting a Use Variance for **539 West Sixth Street** to allow the continuing use of a four-unit apartment in R-1 Single Family Residential zoning district.

The Board, with a vote of 4-0, recommended approval.

PETITION #20-12 A petition submitted by Mervin D. Lung Revocable Trust requesting to amend the Bercado Planned Unit Development, to allow for a mixed-use development to allow residential, commercial, and industrial uses, at vacant land **south of Vistula Road and west of Cedar Road.**

The Commission, with a vote of 4-3, forwarded no recommendation. If approved, the staff has prepared the ordinance and findings for approval which includes the conditions recommended by staff.

PETITION #20-13 A petition submitted by Michael R. Portolese, Executor of the Estate of Antonio D. Portolese, requesting to rezone **619 Lincolnway East** from R-1 Single Family Residential District to C-3 City Center Commercial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #20-14 A petition submitted by Michael R. Portolese, Executor of the Estate of Antonio D. Portolese, requesting to rezone **613 West Third Street** from R-1 Single Family Residential District to R-2 Two Family Residential District.

The Commission, with a vote of 6-1, recommended approval.

PETITION #20-15 A petition submitted by Richard LaFree requesting to amend the Deer Run Planned Unit Development to allow an assisted living facility on lots 7 and 8.

The Commission, with a vote of 7-0, recommended approval subject to the attached conditions of approval.

PETITION #20-16 A petition submitted by AWT, Inc. seeking to annex and zone one (1) one-acre parcel and one two (2) acre parcel adjacent to **1141 and 1241 East Twelfth Street** to I-1 Light Industrial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #20-17 A request submitted by Great Lakes Capital Management, LLC, requesting to amend the Grandview Phase II Planned Unit Development to allow a dumpster enclosure between a principal building and street only if the gate is not visible from Gumwood Road or SR 23/Cleveland Road; and reduce the minimum setback of the dumpster enclosure from 50' to 25' from Gumwood Road and SR 23/Cleveland Road.

The Commission, with a vote of 7-0, recommended approval subject to the following conditions:

1. All loading docks, dumpsters, and ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall primarily constructed with materials matching the building materials of the principal building. Wood, including cedar, is permitted as a secondary material used in construction of the dumpster. One dumpster enclosure may be located between a principal building and street only if the gate is not visible from Gumwood Road.
2. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road. A dumpster enclosure may be located a minimum 25' setback from Gumwood Road.

Clerk Block read the following proposed ordinances by title and assigned committee.

PROPOSED ORDINANCE NO. 2020-24

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

**PUD Amendment to allow for mixed Use Development to allow Residential, Commercial, and Industrial Uses – Vacant Land S. of Vistula Rd. & W. of Cedar Rd.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-25

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

Rezone from R-1 Single Family Residential to C-3 City Center Commercial – 619 Lincolnway East

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2020-26

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

Rezone from R-1 Single Family Residential to R-2 Two Family Residential – 613 W. Third St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO, 2020-27

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

PUD Amendment to allow Assisted Living Facility – North West corner of Deer Run Dr. and Fir Rd.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2020-28

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATION THEREFORE Annex adjacent property to be included in subdivision – South & East of 1141 & 1241 E. Twelfth St.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2020-29

**AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.
Grandview PUD Amendment to allow dumpster enclosures in the 25’ front setback only if gate is not visible from Gumwood or S.R. 23/Cleveland Rd.
(Assigned to Land Use Planning Committee)**

Clerk Block read the following resolutions by title and opened the public hearing.

RESOLUTION NO. 2020-15

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA ADDING PARCELS TO THE CITY’S PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING A CERTAIN DECLARATORY RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE NORTHWEST IMPROVEMENT PROJECT INTO ONE CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION
Adding Parcels to the City’s Acquisition List**

Mr. Prince, City Planner, spoke in favor of **RESOLUTION NO. 2020-15**. Mr. Prince began stating in 2014, when they added areas to the TIF district, they said at that time they would bring back the individual properties rather than to bring many properties and hit 20 properties at one time. He explained in the proposal, they also budgeted money to acquire property that was a strategic acquisition to be able to acquire to redevelop as the statute intends for the Redevelopment Commission. Mr. Prince stated the properties they were discussing tonight, were properties on Mishawaka Avenue firmly associated with Burns Rental, which was the main rental building on Mishawaka Avenue and also two properties located immediately to the North

on the north side of the alley fronting Grove Street. Mr. Prince stated they were approached by Burns Rental a year ago for their interest in acquisition and at the time they were hoping the private market could take care of it. Mr. Prince stated they recently contacted the Planning Department had an offer on the property with the buyer being interested in the property as is. Mr. Prince stated their need was for parking in the Battell Park, which is the oldest city park and the conclusion has been to not add parking. Mr. Prince also stated the purchase agreement they have drafted has the property at \$535,000 which is \$30,000 less than the appraised value proposed, and they have ordered another appraisal. Mr. Prince noted he has provided a diagram showing how the property and rear could be configured into parking. Mr. Prince stated the end result would add 36 parking spaces on the rear of the property and the intent of the Mishawaka Avenue property would be to redevelop. Mr. Prince concluded stating there was not a definitive plan set, but they were reviewing it with Mayor Wood, and they were adamant the property would keep rising in value, making it a prudent acquisition.

Mrs. Voelker asked what the plan would be for the properties on Liberty and Grove, since they were still occupied. Mr. Prince stated they require the properties to be empty, so the current owner would have to deal with terminating the leases on the properties. Mr. Prince noted in the purchase agreement, it allows them to close immediately on the commercial property while extending the time of closing for the residential properties.

Mr. Mammolenti asked what kind of property taxes Burns Rental payed. Mr. Prince stated normally the assessed evaluation is less than the appraised value, but they were paying close to \$10,000 a year in property taxes but has not looked that information up. Mr. Mammolenti also asked if we knew what type of business would be replacing Burns Rental. Mr. Prince stated their communications have only been with the owners of the business and have indicated the potential purchaser were primarily interested in the residential properties. Mr. Prince stated they will also take the commercial property along with the residential properties which is why the city feels this is a good opportunity with the all the improvements made in Battell Park and Veterans Plaza. Mr. Mammolenti asked if they would convert the Northside into a parking lot and then market the Southside. Mr. Prince stated that would be the plan, but once they would acquire it the plan would definitively be to demolish everything on the Northside of the alley and the Southside of the alley could pose a commercial opportunity and they would attempt to sell it if possible. Mr. Prince stated if that did not play out, then they would move to redevelop the section of the property. Mr. Mammolenti asked if the north and south of the alley were demolished, what would be the all-in price for the city. Mr. Prince stated they currently did not have a plan for a parking lot on the Southside of the alley and the costs would roughly be in the 3 quarters of a million-dollar range.

Mrs. DeMaegd asked if there would be a no-fee parking for the citizens. Mr. Prince stated most spaces are free for 2 hours or the citizens are able to buy a permit and these spots will offer free parking.

Mr. Compton questioned the financial proposal given to Burns Rental. Mr. Prince stated this was a matching price and they have an offer on the table but thought it would be inappropriate to ask what the offer was.

Mr. Hixenbaugh asked Mr. Prince to expand on the funding source for the purchase price and it was his understanding the TIF funds would be the source as opposed to the general fund. Mr. Prince stated the TIF district collects the difference between the current assessed valuation and the assessed valuation after development. Mr. Prince also stated it was connected to property taxes, but instead of a general fund it was put into an infrastructure fund and could only be used for that purpose. He continued to say with that fund, they have done a plethora of different projects including the recent improvements to Beutter Park. Mr. Prince stated in terms of financial impact, they were looking at half a million dollars to push another project down the line and there were a number of projects downtown in motion as well. Mr. Hixenbaugh asked if this causes them to walk away from any of the planned expenditures. Mr. Prince stated they would be postponed. Mr. Hixenbaugh asked how long it will realistically take to redevelop the properties in regard to the neighbors adjacent. Mr. Prince stated it would take about a year to make a demolition decision. Mr. Hixenbaugh asked what type of commercial uses might be appropriate for that spot. Mr. Prince stated something along the lines of a Café that could feed the public and serve the park would be ideal.

Mrs. Voelker asked if the corner lot would be redeveloped would the assessed value increase and would the money go back into the TIF district. Mr. Prince stated it is adjacent to the TIF district, so it gives them legal ability to acquire the property and any tax revenue would go directly to the general fund.

Mr. Hixenbaugh thanked Ken Prince and the administration for their work on this project. Mr. Hixenbaugh stated he would be supporting this resolution for multiple reasons. Mr. Hixenbaugh stated he was concerned with pedestrians trying to get to Battell Park and the traffic hazards this could represent. He believed it was in the best interest of the homeowners for the city to maintain control of this property until appropriate uses are identified and the addition of the parking was a benefit for the neighborhood in his opinion.

Question was called for a 7:35 PM for **RESOLUTION NO. 2020-15**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

RESOLUTION NO. 2020-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 1035 EAST MCKINLEY AVENUE, MISHAWAKA, INDIANA

Use Variance to allow Automobile Repair in I-1 Light Industrial – 1035 E. McKinley

Jerry DeTurk, 294 E 350 North Warsaw, Indiana was the owner of the property along with Darlene Dieter 294 E 350 North Warsaw, Indiana spoke in favor of **RESOLUTION NO. 2020-16.**

Mr. Banicki questioned incoming and outgoing traffic, what kind of parking there will be and what was the general plan. Mr. DeTurk stated there was space for 9 parking spots outside of the fence and parking spots inside of the fence if needed. He continued to say they have allowed for expansion of McKinley on the Northside so no one will be backing onto McKinley. Mr. Banicki expressed concern for the safety of citizens around the area, due to the constant amount of traffic. Mr. Banicki also asked if this will be a change of ownership or rental situation. Ms. Dieter answered it will be rental. Mr. Banicki stated there have been problems with people in the past as far as business goes. Mr. Banicki asked how big the inside of the building was to store tires. Mr. DeTurk stated there are two 30x50 storage sheds there that will be moved and there will be nothing stored outside of the building. Mr. Banicki asked how many cars will be put in the building to service at one time. Mr. DeTurk stated two cars.

Jesus Navarro, 1622 S Jackson Street South Bend, Indiana and the renter of the property, stated tires will be the business model without mechanical. Mr. Banicki stated it could happen where mechanical uses are asked of the business. Mr. Navarro stated it is not worth the money to do mechanical work, he gave the council his word his main focus was in tires.

Mr. Banicki went on to ask how many employees they will have. Mr. Navarro stated there will be two more tire workers and they will stay away from outside work. Mr. Banicki asked would they sell new or used tires. Mr. Navarro stated they will be selling both and he will store the new ones inside and possibly using the sheds in the back to store new and old tires. Mr. Banicki also asked where store scraped tires. Mr. Navarro stated they will be held in the back as well. Mr. Banicki questioned the back-parking lot, whether it was locked or fenced in. Mr. Navarro showed an image of fencing around the back to Mr. Banicki. Mr. Banicki asked if there will be issues with traffic flow. Mr. Navarro stated he did not feel it would be a problem.

Mr. Mammolenti expressed concern in the piling up of used tires on the property which would become an eye sore for the business. Mr. Navarro stated they would like to get the tires recycled every couple week to hopefully solve the problem.

Mr. Emmons stated during the Plan Commission meeting, Mr. Navarro made a statement that there will be no oil changing and if they did, they would put in an oil separator. Mr. Navarro stated he does not plan to do oil changes but would add it if it were necessary in the future.

Mr. Compton asked Mr. Hixenbaugh if the oil separator would be part of the resolution currently. Mr. Hixenbaugh stated the second condition built into the resolution reads 'installation of a grit/oil/water separator if any work containing fluids such as brake jobs or oil changes are going to occur at this site.' Mr. Compton stated he would like to make the oil separator a requirement before business is conducted that way, he is able to do the work properly and would have a hard time supporting this without the requirement. Mr. Navarro stated he cannot put in an oil separator as of right now because he would not be able to afford it and understands Mr. Compton's concerns. Mr. Navarro also explained he was not a mechanic and would have to hire one to conduct that business which would cost him even more money that he does not have. Mr. Compton followed up stating he understood the position and respects his word, but they have had instances in the past where businesses have not kept past promises. Mr. Compton concluded stating his concern.

Mr. Emmons asked was there a lift in the building. Mr. Navarro stated there was not. Mr. Emmons asked Mr. Banicki if it was awkward to have oil changes without a lift. Mr. Banicki stated it would be tougher to conduct oil changes without a lift but would be absolutely doable.

Mr. Mammolenti asked how much an installation of equipment would cost. Mr. Navarro stated an above ground machine would start at \$4,500 but an in-ground machine would cost more. Mr. Navarro mentioned he spoke on the phone with someone and would have to receive a quote and has not been given on yet. Mr. Mammolenti asked if there were no interest in changing oil, why he would reach out to get a quotation from someone. Mr. Navarro stated a woman in Planning needed some type of decision whether he wanted to continue to get mechanical equipment or to just work with tires before he came before the council.

Mrs. Voelker asked what the \$4500 would be for. Mr. Navarro stated that money would be for the oil separator machine. Mrs. Voelker also asked if there is an investment, he has to make to do the tires. Mr. Navarro stated he will have to purchase separate equipment for the tire work. Mrs. Voelker asked if he had the equipment in his prior business in South Bend. Mr. Navarro stated the equipment came with the building he was renting. Mrs. Voelker asked what caused Mr. Navarro to move to Mishawaka. Mr. Navarro stated he had issues with the landlord. Mrs. Voelker asked what the investment would be to purchase the equipment for tires. Mr. Navarro stated it would cost around \$6,000-\$7,000. Mrs. Voelker asked if he will have a customer base that will follow him to the new business. Mr. Navarro stated his old clients still call him currently. Mrs. Voelker asked how long he had been out of business. Mr. Navarro stated it has been 4 months. Mrs. Voelker asked how long he had been working in tires specifically. Mr. Navarro stated he had been in the business for 3 to 4 years. Mrs. Voelker asked how someone gets into the tire business and if someone needs training/certification or if he simply developed a reputation and got a business. Mr. Navarro stated there is no training or certification needed and she was correct.

Mr. Hixenbaugh asked if he had worked for any other owners of a similar business prior to having his own shop. Mr. Navarro stated he has not. Mr. Hixenbaugh asked if at any point in time he did brake work or oil change work. Mr. Navarro stated he had done that work in the past. Mr. Hixenbaugh stated he is hesitant to remove the oil separator wording out of the resolution and would not vote for the resolution if the language were not in there. Mr. Hixenbaugh stated a possible probationary period could be appropriate to review the business and see what the activity in it is like. Mr. Hixenbaugh stated there is significant concern on the council not because of Mr. Navarro, but because of past experiences with businesses going back on their word in certain discussions. Mr. Hixenbaugh asked if there is anything else Mr. Navarro would like to share that would make the council feel better prior to voting on the resolution. Mr. Navarro stated he had no further information.

Mr. Mammolenti asked how long the lease would be if he were to sign. Mr. Navarro stated he had not determined that yet and was waiting for the council's approval to receive that information. Mr. Mammolenti asked if he would be willing to put a yearlong probationary period on the business. Mr. Navarro stated he would be okay with that. Mr. Mammolenti also asked if the landlord would be willing to do that as well. Ms. Dieter also stated they would be okay with that as well.

Mr. Hixenbaugh asked for Mr. Trippel's opinion on his suggestion if it is within the council's authority to enact a temporary component onto the resolution. Mr. Trippel, Council Attorney, stated if the petitioner consents to it, then it is allowed and agreed with Mr. Hixenbaugh.

Mrs. Voelker asked how long the business will take to develop clientele and conduct services. Mr. Navarro stated the time could vary and hoped to have a successful business. Mrs. Voelker asked if in 6 months the business will be up and running. Mr. Navarro stated he believes it will be. Mrs. Voelker also asked at the 1-year mark if he will know if he would want to take a leap to purchase the oil separator. Mr. Navarro stated that would be a good time frame.

Mr. Banicki asked the council if the resolution only applies to the renter or to the property itself. Mr. Trippel stated variances would follow with the petitioner and the property.

Ms. Dieter asked if the property use is only for one year. Mr. Hixenbaugh stated it is a talking point but has not been finalized.

Mr. Hazen asked if Mr. Compton would feel better if there would be a limitation of one year. Mr. Compton stated he would and has concern what will happen with the business, given the area is a few miles from his home and he was glad to see someone making good use of the building. Mr. Compton expressed appreciation for Mr. Navarro's patience with the council and stated he would support the resolution with the one-year period included.

Mr. Compton moved to make an amendment to add a sunset of one year (12 months) to the resolution which would expire on 9/1/2021, with a second from Mrs. Voelker the motion carried.

Mr. Bellovich asked what exactly would happen on the sunset day. Mr. Hixenbaugh stated this would give an opportunity for the city departments to pay a visit to Mr. Navarro's business to see what kind of business he has engaged in and another hearing would be held soon after to consider an extension if it were necessary for the council to do so. Mr. Hixenbaugh again stated there will have to be a physical visit to the property that would confirm or deny the activity on the site.

Mr. Compton stated Mr. Navarro would come back in a year and at that point, they would make the decision to extend the period or not while discovering if the business conducted was an issue at that point.

Mrs. Voelker asked if they will need Mr. Navarro to appear in front of the council in August of 2021. Mr. Compton stated that was correct.

Mr. Hixenbaugh Called for roll call vote.



Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The amendment passed

Mr. Banicki stated Mr. Navarro admitted he conducted mechanical work in the past and moved to make an oil separator mandatory with a passage of the resolution, without a second, the motion dies.

Mr. Mammolenti thanked Mr. Hixenbaugh, the council, Mr. Navarro, and the landlords for their work on patience through this process. Mr. Mammolenti stated they have been burned in the past and the council is hoping they do not put them in a bad spot. Mr. Mammolenti concluded by welcoming them to Mishawaka.

Mr. Hazen agreed with Mr. Mammolenti and stated this is a new precedent.

Mr. Hixenbaugh thanked everyone and asked Mr. Navarro to contact the Planning Department at some time before August of 2021 to check on the status of the operation and hoped all goes well. Mr. Hixenbaugh concluded stating he should be aware the city has remedies to take a look at the business if it were necessary to do so before the deadline.

Question was called for 8:19 PM for **RESOLUTION NO. 2020-16**  **Vote: Motion passed (summary: Yes = 8, No = 1, Abstain = 0).**

Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

No: Mr. Banicki.

RESOLUTION NO. 2020-17

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: 3205 GRAPE ROAD, MISHAWAKA INDIANA

Use Variance for 6-Unit Senior Care Facility – 3025 Grape Rd.

Mike Huber, Abonmarche Consultants, spoke in favor of **RESOLUTION NO. 2020-17**. Mr. Huber stated the intent of the project is to have a 6-bedroom residential facility on the lot immediately west of the existing Homestead Senior Care on Grape Road. He said the staff will be from the Homestead Senior Care facility and there will not be a need for additional parking. Mr. Huber concluded stating they are asking for the permission to have the use variance granted.

Mr. Banicki asked where the cars will be placed with the addition of this facility. Mr. Huber stated they will have 2 parking spots in the garage and 3 additional spots off of the driveway and will be able to accommodate the 5 required parking spaces the ordinance requires. Mr. Huber stated the staff will already be parking in the Homestead Senior care existing parking spots. Mr. Banicki expressed concern about parking on Eisenhower Drive, he drives down the road frequently and believed it could be an issue. Mr. Banicki asked what they will do regarding storm water retention. Mr. Huber stated they are preparing a storm water retention plan and also expanded on the parking issue by stating they would be open to installing no parking signs along the street to enforce no parking on Eisenhower. Mr. Huber stated they are utilizing a series of storm water retention ponds and they have just finished a plan that day which will be sent to

Planning. Mr. Banicki stated the retention pond overflows as it is now. Mr. Huber stated they are building 2 more retention ponds on the property. Mr. Banicki asked if they met with the neighbors. Mr. Huber stated he had not personally met with them, but assumed his client had some conversation with them. Mr. Huber also pointed out this was not a commercial use, and this is why they have to receive a use variance to allow for the residential use in the district. Mr. Banicki asked what kind of clients they are looking to bring in. Mr. Huber stated it could be folks that need full time care, but it was not necessarily Hospice Care.

Mr. Compton asked would this be rehabilitation facility and also will be secure enough for the busy area. Mr. Huber stated it was to his understanding the facility was for patients who need more than in-home care. Mr. Huber also stated the facility was secured and staffed at the regulatory need required through state guidelines.

Mrs. Voelker asked was this business coming because there are not enough facilities. Mr. Huber replied correct, their client indicated they were in the home care business and there was demand for this kind of facility. Mr. Huber also stated they operate one facility in Goshen and plan to have another one in the area in addition to the Mishawaka facility. Mrs. Voelker questioned the time frame for the project. Mr. Huber stated the existing garage would be demolished, along with a drainage plan and final site plan submitted to the city. He continued to say at that point, the building process would begin, within in a year they expect to be fully up and running. Mrs. Voelker asked was this a skilled nursing or assisted nursing facility. Mr. Huber stated he believed it will be a skilled nursing facility and apologized for not having all of the details.

Mr. Emmons asked Mr. Prince if the use variance covers all kinds of care. Mr. Prince stated they left it generic and this was not a registered nurse giving the care, but nursing assistants who provide care. Mr. Prince also stated there was a different level of nursing required when giving medications and this was more of an assistant type of care, giving general function type of care such as cooking being provided, changing of clothes, bathing, etc. Mr. Emmons also asked if they wanted a higher level of care, would the variance need to be changed. Mr. Prince said it would not need to be changed as worded.

Mrs. Voelker hoped the business owner had been on the call to get their questions clarified.

Mr. Banicki asked if the parking on the street a no parking zone. Mr. Prince stated the Board of Zoning Appeals denied the variance they were requesting on parking. Mr. Prince stated the Traffic Commission will study what restrictions needed when the point was reached to do so. He recommended the council to request review of the parking situation, despite the petitioner stating they would go along with no parking. Mr. Banicki stated the street was too narrow for sidewalks in the past and he did not believe it was as wide as it was supposed to be. Mr. Prince stated his concern was well noted.

Mr. Huber stated if needed, he would have the petitioner at the next meeting to answer questions. Mr. Hixenbaugh stated he appreciates that offer and will move to a vote.

Question was called for at 8:39PM for **RESOLUTION NO. 2020-17**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

RESOLUTION NO. 2020-18

**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: 539 WEST SIXTH STREET
MISHAWAKA, INDIANA**

Use Variance for a 4-Unit Apartment in R-1 Single Family Residential – 539 W. Sixth St.

Suzanne Plugis, Pear Tree Management, spoke in favor of RESOLUTION NO. 2020-18. Ms. Plugis stated they are having difficult time making the transaction work. Ms. Plugis stated she has been with the company 9 years and this property has always been a rental property. She stated they have not had any issues with parking, and they were trying to sell and move on with the process.

Mr. Compton asked was this currently operating as a 4-unit apartment. Ms. Plugis replied correct.

Mr. Mammolenti asked was the plan to keep it as a 4-unit apartment. Ms. Plugis stated it was current plan.

Mr. Emmons expressed concern if she knew neighbors were upset with the parking and the way the neighborhood was changing to single family homes. Mr. Emmons added the parking in the area was not the greatest and neighbors had concerns about the parking as well. Mr. Emmons concluded stating he would like to see the single homes continue and not have multi-unit properties.

Mrs. Voelker stated after looking at the photos of the area, parking looks difficult and asked if parking in the alley poses a problem of individuals getting parked in. Ms. Plugis stated they have never had a problem and all the residents get along. Mrs. Voelker questioned the big structure in the back. Ms. Plugis stated there was a two-stall garage being used for storage, but the new owner could use it for tenant parking.

Mr. Hixenbaugh asked was professional property management purchasing the unit or selling it to a private individual. Ms. Plugis stated she would not know until closing but they have sold many properties recently. Mr. Hixenbaugh stated there were some issues regarding HVAC problems not being quite up to code, he asked Ms. Plugis to expand on those issues. Ms. Plugis stated those issues have never been brought to her attention. She said when they bought the property it was set up the same way and they carried on with it. Ms. Plugis stated there was 1 meter for water and split the price up amongst the tenants. Mr. Hixenbaugh asked was she aware of any mechanical problems. Ms. Plugis stated she was not. Mr. Hixenbaugh asked if she was the individual to take calls if neighbors had a concern. Ms. Plugis stated she takes all calls and she reaches out to one of the owners if she could not help. Mr. Hixenbaugh asked has she received

calls in the last year from residents in the neighborhood. Ms. Plugis stated she has not received one call on the property.

Mr. Compton asked was the property currently filled. Ms. Plugis stated it was 100% occupied. Mr. Compton asked what would happen if the sale does not go through. Ms. Plugis said she was not sure. Ms. Plugis stated the apartments were all 1 bedroom with two people in each one.

Mr. Emmons asked was she were aware a number of neighbors called the council requesting the property to stay R-1. Ms. Plugis stated it was not brought to her attention. Mr. Emmons stated it was brought to the Plan Commission.

Mr. Mammolenti asked how long the owner has owned the home. Ms. Plugis stated they purchased it in 2011. Mr. Mammolenti asked at that time was the property zoned R-1. Ms. Plugis stated they bought it from someone who purchased it in 2004.

Mr. Emmons stated he will be voting to keep it R-1 and will vote against the petition.

Mr. Mammolenti stated he had not received any calls directly but have heard in passing that residents shared Mr. Emmons concerns. Mr. Mammolenti also stated he will be voting no.

Mrs. DeMaegd stated she sends out the agenda on social media when she receives it and got feedback stating they would prefer this property remain R-1. Mrs. DeMaegd also stated she will be voting against this.

Mr. Hazen stated some owners want zoning changed to be able to sell them. Mr. Hazen wished the owners would not wait until the last minute to come before the council. Mr. Hazen also stated he agreed with Mr. Emmons and now was the time to correct these issues.

Mr. Banicki stated property taxes are a factor as well and the investment property would be higher if rezoned. Mr. Banicki stated he does not know if he cannot support the petition.

Mr. Prince stated there are 4 units in a non-conforming situation and they cannot write a letter that would grandfather the units. Mr. Prince also stated the 4 units will continue to be there even if the council decides against the petition. Mr. Prince concluded stating there is no enforcement action and they have no documentation it was illegally created.

Mrs. Voelker asked if financing was not necessary, the zoning would not need to be changed. Mr. Prince stated that would be correct.

Mr. Hixenbaugh stated if the resolution is not passed, the zoning remains R-1 and the use will not change into single family with four residents continuing to reside there.

Mrs. Voelker stated the residential market is very strong and the potential for someone to purchase the property and convert it was much higher as of now. She expressed she will vote to retain it as an R-1.

Mr. Mammolenti asked if the petition fails, the tenants will be able to stay. Mr. Prince stated that is correct and it would not have to come back to the council, as long as the bank does not require it.

Question was called for at 9:01PM for **RESOLUTION NO. 2020-18**  **Vote: Motion failed (summary: Yes = 0, No = 9, Abstain = 0).**

No: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

NEW BUSINESS

Mayor Wood attended the meeting via Webex, he was experiencing technical difficulties, he was unable to provide the COVID-19 update. Mr. Prince stated he was unaware of new updates to be shared and has had very little discussion with the Mayor. Mr. Hixenbaugh asked for a written update at the Mayors convenience.

ADJOURNMENT 9:04PM

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

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President

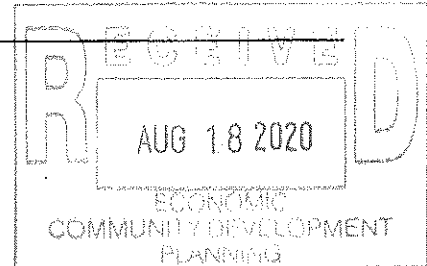
RECEIVED
DEBORAH S. BLOCK, MMC

DATE: August 10, 2020

AUG 27 2020

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

CITY CLERK
MISHAWAKA, IN



The undersigned appellant respectfully shows the Board:

1. **I, JV and Sue Peacock C/O Outpost Sports**, 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:

DEED

2. The above-described real estate presently has a zoning classification of C-2 Shopping Center Commercial District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property in the following manner: Hair Salon (**Business Name: Rootz Salon, 3602 Grape Rd #11, Mishawaka, IN 46545**)
4. Appellant desires to add microblading service to the already existing hair salon that resides in the complex. Microblading is semi-permanent tattoo technique that enhances the visual look of eyebrows and is considered more of a cosmetic service than a tattoo in the beauty industry because it is not permanent. It is semi-permanent and lasts on the skin for approximately 1-2 years.
5. The Zoning Ordinance of the City of Mishawaka requires 137-326
6. The strict adherence to the ordinance requirements creates an unusual hardship because it doesn't list microblading as a use in the zoning area. Microblading involves hand drawing small hair strokes using a needle under the top layer of the skin and not with a tattoo machine. The microblading is a semi-permanent procedure, and requires a touch up every 12 to 24 months, due to fading of the hair strokes. The focus is only to enhance the natural eyebrows.
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 will not be injurious to the public health, safety, morals or general welfare of the community. Vittoria Giannetto has had training in the field of microblading and will be in continuous training for her career in permanent cosmetics. Microblading is a semi-permanent makeup technique that visually enhances the look of the eyebrows. Vittoria Giannetto is certified in bloodborne pathogens and is fully aware of the importance of safety during a microblading procedure

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

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 business will be located in a building that is surrounded by various commercial uses.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the need for the variance arises from some condition peculiar to the property involved. The current zoning does not permit microblading/ semi-permanent cosmetic/ tattoo services, but does allow the salon where the process is taking place, thus requiring the use variance for the proposed use.

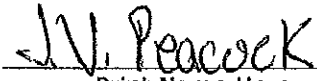
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes, this constitutes as an unnecessary hardship because the current zoning does not permit microblading/ semi permanent cosmetics/ tattoo services, but does allow the salon where the process is taking place.

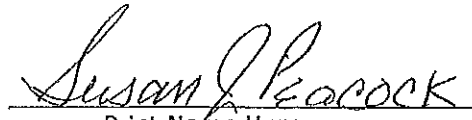
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? .

No, this approval will not interfere substantially with the Mishawaka 2000 Comprehensive plan. This is a personal/cosmetic service similar to the hair/beauty salon that currently resides in the complex. Microblading is considered a tattoo due to it being a new cosmetic process and is a specialized very high end cosmetic service that visually enhances the look of the face and has emerged as a popular beauty service within the last 5 years.

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



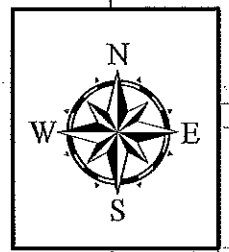
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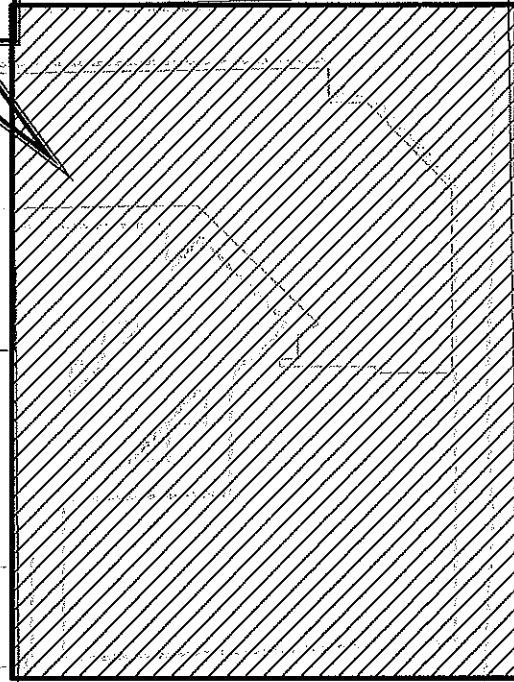
CONTACT PERSON:

Name: Vittoria Giannetto
Address: 51633 Trallwood Court, Granger IN 46530
Day Phone Number: 574-850-7926
Fax Number:
Email: v.giannetto@gmail.com



AP 20-43

GRAPE RD



Location Map

AP 20-43

OWNERS:

JV and SUE PEACOCK

3602 GRAPE RD

SUITE 11

**USE VARIANCE
TO ALLOW MICROBLADING
INSIDE EXISTING ROOTZ SALON**

W CATALPA DR

Edward W. Hardig

Michael J. Anderson

Peter J. Agostino

Scott M. Keller

Michael P. Misch**

Frank J. Agostino, of Counsel

James E. Burke, of Counsel

Gaylen W. Allsop, Retired



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DEBORAH S. BLOCK, MMC

AUG 27 2020

CITY CLERK
MISHAWAKA, IN

Bernard E. Edwards, Jr.

Loris P. Zappia

Mark F. James

Bradley P. Colborn

Tracey S. Schafer

Stephanie L. Nemeth*

Eli A. Wax

Rachel Luken

Shanon A. Buari

Myra R. Reid

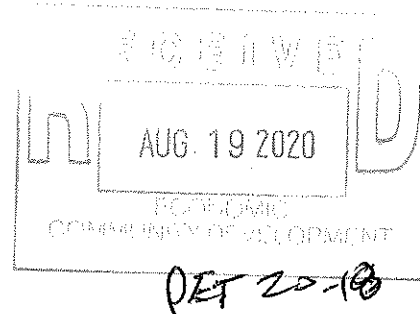
Alexandra K. Keller

* Also Licensed in IL
+ Also Licensed in MI

August 19, 2020

Honorable Members of the Common Council
City of Mishawaka, Indiana
and Mishawaka City Plan Commission
600 East Third Street
Mishawaka, Indiana 46544

RE: *Petition to Rezone*
4211 Grape Road from C1 to C4



The undersigned attorney represents the petitioners with respect to the request to rezone property located at 4211 Grape Road, Mishawaka, Indiana from C1 to C4. The petitioners are BFR and RFJ Auto-T Properties, LLC, and its assigns. BFR, an Indiana partnership, is the owner of the real estate. The property's legal description is as follows:

PARCEL I

Part of the Northeast Quarter of the Southwest Quarter of Section 33, Township 38 North, Range 3 East, in St. Joseph County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said quarter quarter section, thence south 89 degree 51 minutes 57 seconds west along the south quarter quarter section line, 240.00 feet; thence north parallel with the east section line (assumed bearing north 00°00'00" East), 220.00 feet, then north 89 degree, 51 minutes 57 seconds east and parallel to the south line of said quarter Quarter section, 240.00 feet to the east line of said quarter quarter section; thence south 00 degree 00 minutes 00 seconds west along said east quarter quarter section line, 220.00 feet to the place of beginning

PARCEL II

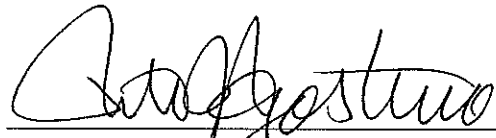
A non-exclusive easement for ingress and egress for the benefit of Parcel I as set forth in a warranty deed by and between Mishawaka Development Company, an Indiana Limited Partnership, and Steven Ross recorded August 14, 1978 as instrument number 7818982 in the Office of the Recorder of St.

Anderson • Agostino & Keller, P.C.

Joseph County, Indiana

Petitioner, BFR, owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 District. Several retail shops (including vacant ones) are currently located on the property. Petitioner desires said real estate to be rezoned to C4 District. Petitioners further state the property is the subject of a purchase agreement with RFJ Auto-T Properties, LLC, and its assigns, and the property would be intended for use by the Lexus Dealership located at 4325 Grape Road, Mishawaka, IN.

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



Peter J. Agostino (#10765-71)

ANDERSON, AGOSTINO & KELLER

131 South Taylor

South Bend, Indiana 46601

Telephone: (574) 288-1510

Facsimile: (574) 288-1650

EMAIL: AGOSTINO@AAKUTW.COM

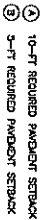
*Attorney for BFR (including BFR, LLP) and
RFJ Auto-T Properties, LLC (and its assigns)*

CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

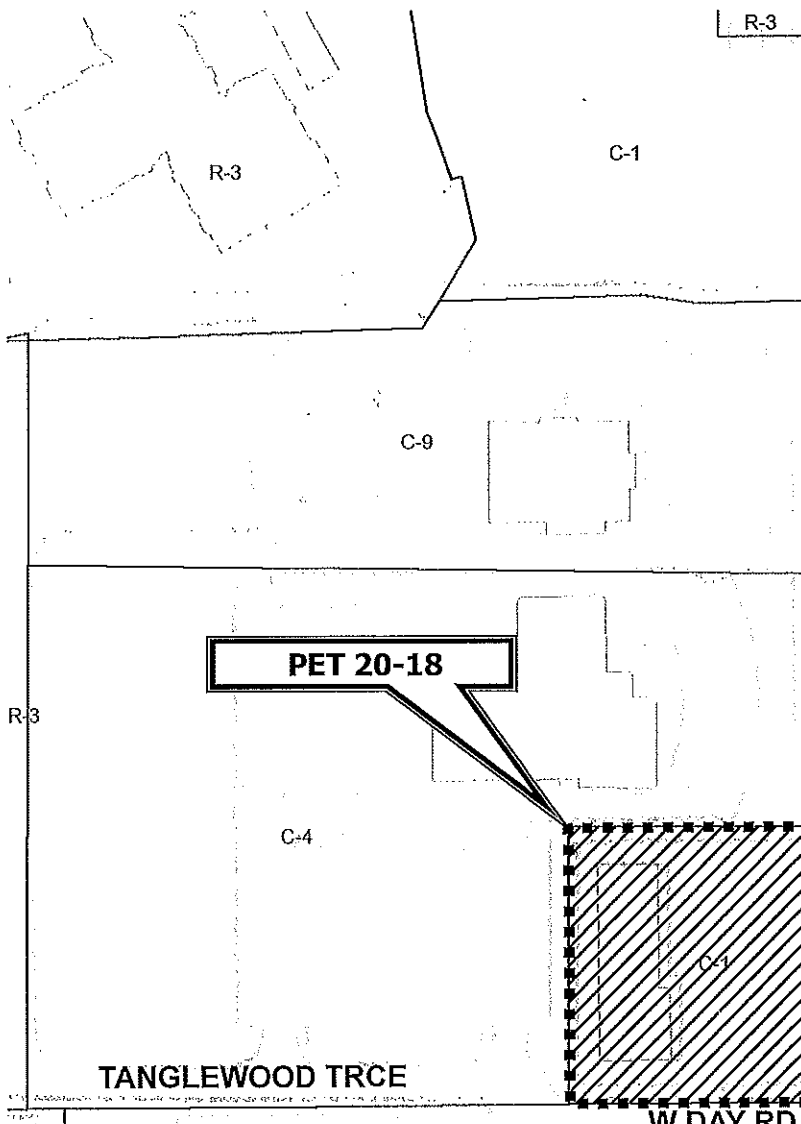
[illegible]

TABLE A.1. DATA:

- ### ESTABLISHING REPUTATION



DHA **Dorch, Hamer & Associates, Inc.**
Land Surveyors • Professional Engineers
Landscape Architects • Land Planners
Office: (513) 434-4003 • (607) 864-4003 • Fax: (513) 434-4119
1643 Sycamore Drive • South Bend, IN 46708



W DAY RD

Location Map

PET 20-18

BFR (OWNER) & RFJ AUTO-T
PROPERTIES LLC (CONT. OWNER)

4211 N. GRAPE ROAD

REZONING FROM C-1 GENERAL
COMMERCIAL DISTRICT TO C-4
AUTO ORIENTED COMMERCIAL
FOR AN AUTO SALES LOT

GRAPE RD

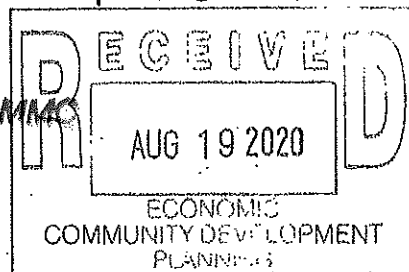
August 19, 2020

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

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 27 2020

CITY CLERK
MISHAWAKA, IN

**Re: PETITION FOR PUD AMENDMENT**

The Undersigned, Richard LaFree respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

Part of the Southeast Quarter of Section 3, Township 37 North, Range 3 East, Penn Township, St. Joseph County, Indiana and being that 1.63 acre parcel described by Lang, Feeney & Associates, Inc. Terance D. Lang, Indiana Professional Surveyor No. 80040523 and shown on site plan of that survey certified on August 18, 2020 as 140-04, being more particularly described as follows: Beginning at the southeast corner of Lot 2 as shown on the recorded plat of Deer Run Subdivision (Section One) in the Office of the Recorder of St. Joseph County, Indiana as Instrument No. 0539422; thence South 89°46'46" West along the south line of said Lot 2 and the south line of Lot 3A as shown on the recorded plat of Deer Run Subdivision, Section Three in said Recorder's Office as Instrument No. 1105126, a distance of 300.60 feet; thence North 00°00'00" East, a distance of 240.00 feet to a point on the north line of said Lot 3A; thence North 89°46'45" East along said north line of Lot 3a and the north line of said Lot 2, a distance of 291.13 feet to the northeast corner of said Lot 2; thence South 02°15'39" East along the east line of said Lot 2, a distance of 240.15 feet to the point of beginning. Subject to the legal rights of a public highway, any easements, covenants or restrictions of record.

SEE
ATTACHED
REVISED
LEGAL
EXHIBIT A

Vacant land located in the 1400 block of Deer Run Drive, Mishawaka, Indiana 46545 area.

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

Petitioner desire said real estate to be amended to allow for a product I-1 Light Industrial uses. A product packaging facility is proposed for part of said real estate. This facility shall have 25 employees at maximum shift. The developmental regulations for I-1 Industrial District shall be followed. The parking requirements shall be based on 1 space per 1 employee based on maximum shift.

Wherefore, the petitioner 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.

DocuSigned by:

Bonnie LaFree Suttor

Richard LaFree

By: 8/18/2020

Contact Person
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 S. Michigan Street
South Bend, Indiana 46601
Phone: 574-233-1841
Terry@LangFeeney.com

EXHIBIT A

A part of the Southeast Quarter of Section 3, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as Lot 2, Lot 3 and Lot 4 as shown on the recorded plat of Deer Run Subdivision (Section One) in the Office of the Recorder of St. Joseph County, Indiana as Instrument No. 0539422.

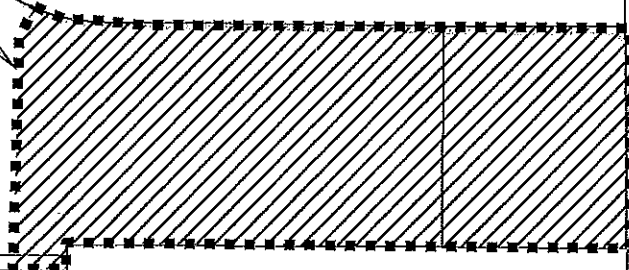
S-2



DEER RUN DR

PET 20-19

S-2



FIR RD

Location Map

PET 20-19

RICHARD LAFREE (OWNER)

VACANT PROPERTY AT SW
CORNER OF DEER RUN DR.
(SOUTH LEG) & FIR ROAD

DEER RUN PUD AMENDMENT
TO PERMIT I-1 LIGHT
INDUSTRIAL USES

HEMMER LN

SPINN LN

SPICER LN

STEELE LN



Engineering • Architecture • Land Surveying

DATE: August 19, 2020

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

FROM: Mike Huber
Abonmarhce Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 347-4610
mhuber@abonmarhce.com

RE: Petition for Annexation and Zoning Classification

The undersigned Lionshead Development, LLC respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

Lots A, B, & C of Wally Boochers Replat of Lots 1, 2, & 3 of Richard C Boocher Cleveland Road Subdivision, including the adjacent 40' south to the centerline of Cleveland Road.

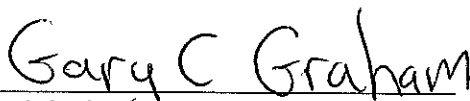
Petitioners own one-hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana and that petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a R-3 Multi-family Residential District. Petitioners further state they intend to utilize said land for a townhome style multifamily development.

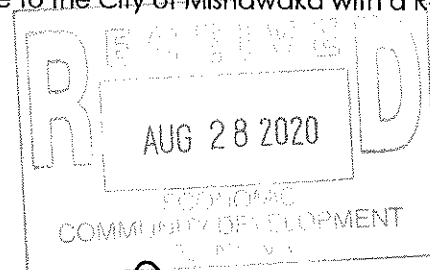
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and the location of the proposed building structures.

Petitioners further show 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, Petitioners 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 annexing the above described parcel of real estate to the City of Mishawaka with a R-3 Multi-family Residential District zoning classification.


Lionshead Development, LLC

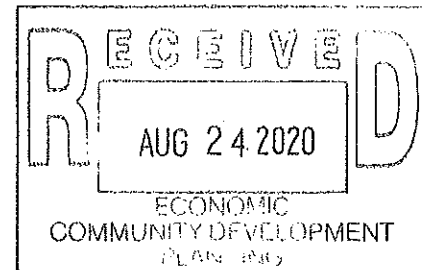

Printed



**WALLY BOOCHER'S REPLAT OF LOTS 1, 2 and 3 OF
RICHARD C. BOOCHER CLEVELAND ROAD SUBDIVISION
LEGAL DESCRIPTION**

A part of the East Half of the Southeast Quarter of Section 22, Township 38 North, Range 3 East, Harris Township, St Joseph County, Indiana, described as follows:

Beginning at the Southwest corner of Lot 3 of Richard C Boocher Cleveland Road Subdivision as recorded on May 8, 1968 in Plat Book 23, page B, in the office of the Recorder of St. Joseph County, Indiana; thence North 00°00'00" East 345.32 feet; thence North 90°00'00" East 421.65 feet; thence South 00°00'00" West 345.32 feet, thence South 90°00'00" West 421.65 feet, along the North right-of-way line of Cleveland Road to the Point of beginning and containing 3.34 acres, more or less. The tract described above contains 3 lots lettered A, B and C, along with the adjacent 40' South to the Centerline of Cleveland Road.



GRANDE VISTA DR



PET 20-20

EXISTING CITY
LIMITS

R-3

R-3

R-3

CLEVELAND RD

CLEVELAND RD.

EXISTING CITY LIMITS

C-6

C-6

S-2

N FIR RD

Location Map

PET 20-20

LIONSHEAD DEVELOPMENT LLC
(OWNER)

15165, 15195 & 15201
CLEVELAND ROAD

ANNEXATION AND REZONING
FOR A PROPOSED MULTI-FAMILY
TOWNHOME DEVELOPMENT

1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-24

ORDINANCE NO. _____

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has made no recommendation of the zoning as herein set forth of the real estate hereinafter described.

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

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

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

A PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION" DOCUMENT NO. 0425385 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE WEST ALONG NORTH LINE OF SAID LOT #1, 17.00 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-090502; THENCE NORTH ALONG SAID EAST LOT LINE, 722.10 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF VISTULA ROAD; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1701.16 FEET MORE OR LESS TO THE WEST LOT LINE OF A PARCEL IDENTIFIED AS PARCEL COUNTY ID NUMBER 027-1001-0906; THENCE SOUTH ALONG SAID WEST LOT LINE, 949.46 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE EAST ALONG THE SOUTH LINE OF SAID PARCEL, 303.58 FEET MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF CEDAR ROAD; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY LINE, 1007.89 FEET MORE OR LESS TO THE NORTH LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091604; THENCE WEST ALONG SAID NORTH LOT LINE, 308.00 FEET MORE OR LESS TO THE WEST LINE OF SAID PARCEL; THENCE SOUTH ALONG SAID WEST LOT LINE OF SAID PARCEL, 420.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF LINCOLNWAY EAST; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 306.93 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091602; THENCE NORTH ALONG SAID EAST LINE, 900.00 FEET MORE OR LESS TO THE NORTH LOT LINE OF SAID PARCEL; THENCE WEST ALONG SAID NORTH LOT LINE, 1280.00 FEET MORE OR LESS TO THE EAST LOT LINE OF SAID LOT

Proposed Ordinance No: 20-24

Ordinance No: _____

#1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION"; THENCE NORTH ALONG SAID EAST LOT LINE, 174.00 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 57.16 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant Land South of Vistula Road, West of Cedar Road, and North of Lincolnway East

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a mixed-use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage as follows:

Uses:

Parcel A

1. Multi-Family Residential (Apartment Complex) with a maximum of 162 units

Parcel B

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches

Parcel C

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches
4. I-1 Light Industrial Uses
5. C-1 General Commercial Uses

Separation Requirements:

1. Any self-storage facility (mini-storage) located within Parcel "C" shall have a minimum separation of 30' between any storage buildings and adjacent school, park, church, hospital, and/or residentially-zoned property.

Utilities:

1. The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

Proposed Ordinance No: 20-24

Ordinance No: _____

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. Landscaping/screening for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall be provided as required by the standards of the C-1 General Commercial Zoning District.
2. Any self-service storage facility located within Parcel "C" shall be screened from the adjacent residential property with a combination of a 7' high screen fence and evergreen screening as approved by the Planning Staff.

Signage:

1. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for Parcel "A".
2. Signage for Parcels "B" and "C" shall conform to the sign standards of the most restrictive zoning district in which the land use would otherwise be permitted.

Road Improvements/Right-of-Way Dedication:

1. Road improvements along Vistula Road and Cedar Road shall be installed as determined by the Department of Engineering.
2. Additional right-of-way shall be required along Vistula Road, Cedar Road, and the connector road to Lincolnway East as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of each subdivision plat or separate deed of dedication document, if deemed appropriate.

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. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.

Architectural Requirements:

1. Building materials and colors for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall comply with the C-1 General Commercial Zoning District.

Pedestrian Access/Circulation

1. A sidewalk shall be installed along the south side of Vistula Road within the dedicated right-of-way and along the entire property frontage with each phase of the development.

Proposed Ordinance No: 20-24

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Other:

1. All other developmental standards not identified shall comply with height, area, and developmental regulations of the most restrictive zoning district in which the land use would be otherwise permitted.

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

1. Existing Conditions – The subject parcel is vacant agricultural land located within an area of varying land uses including multi-family and single-family residential, commercial, industrial, and agricultural.
2. Character of Buildings – The character of the buildings within the surrounding area is mixed with multi-family and single-family residential buildings to the north, west, and east; a multi-tenant commercial strip center to the southwest; and industrial and medical offices to the south.
3. The most desirable/highest and best use – Because of the parcel's proximity to existing multi-family and single-family residential uses to the north, west, and east; commercial uses to the southwest; and industrial and medical uses to the south; the most desirable use for the property is for mixed uses as proposed. Furthermore, the Bercado Farms PUD shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor and outdoor facilities), and area shopping center (clothing, shoes, furniture, restaurants, etc).
4. Conservation of property values - The proposed PUD amendment should not be injurious to property values in the surrounding area. The proposed mix of land uses are compatible with and a logical extension of the adjacent existing uses. A majority of the property and proposed land uses are subject to landscaping/screening requirements.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identified medium density residential (apartment complexes & nursing Facilities) and industrial (manufacturing, warehousing, and distribution) as the preferred land use.

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 _____, 2020, at _____ o'clock ____ M.

Presiding Officer

Proposed Ordinance No: 20-24

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2020, at _____ o'clock _____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____M.

David A. Wood, Mayor

STAFF REPORT

Location: Vacant Land South of Vistula Road, West of Cedar Road &
North of Lincolnway East

AUG 11, 2020
Date: June 9, 2020

Petition: 20- 12

Prepared By: DJS

GENERAL INFORMATION

Applicant: Mervin D. Lung Revocable Trust / In Good Company / Danch Harner & Associates

Status: Property Owner / Contingent Developer of Parcel "A" / Site Design Consultant

Request: Amend a part of the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage

Zoning Classification: S-2 Planned Unit Development

Lot Size: 57.16 acres

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District; Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Medical Offices/Beacon Medical Group, Multi-Family Residential/River Pointe Apartments, and Single-Family Residential)

South: S-2 Planned Unit Development (Light Industrial/Patrick Metals & Elixir Industries, and Medical/Osceola Clinic)

East: S-2 Planned Unit Development (Church/Cedar Road Missionary & Single Family Residential) & Unincorporated St. Joseph County (Residential)

West: S-2 Planned Unit Development (Multi-Family Residential/Reflections Apartments & Multi-Tenant Commercial/Bittersweet Plaza)

Thoroughfare: Vistula Road, Cedar Road & Lincolnway East

School District: Penn-Harris-Madison School Corporation

Township: Penn

Public Utilities: All public utilities are available and/or will be extended to/throughout the site at the developer's expense

Comprehensive Plan: Medium Density Residential (Apartment Complexes & Nursing Facilities) & Industrial (Manufacturing, Warehousing and Distribution)

ANALYSIS

The Petitioner is requesting to amend part of the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage. The property is generally bound by Vistula Road to the north, Cedar Street to the east, Lincolnway East to the south, and multi-family residential and commercial development to the west. The property is currently vacant agricultural land.

Parcel "A" – First Phase of the Development - In Good Company, Contingent Developer

As indicated on the Preliminary Planned Unit Development site plan, the property will include three separate parcels with specific land uses identified for each parcel.

Parcel "A", which is an approximate 20.75 acre area within the west part of the site, is proposed for multi-family residential development (apartment complex) with a maximum of 162 units. *This parcel will be the first phase of the development and is the primarily reason the PUD amendment is being requested.* A prior PUD amendment (Petition 18-09) was considered for this parcel in 2018 when proposed for development by the same contingent purchaser as a 205 unit multi-family residential complex. The amendment request was withdrawn by the petitioner prior to consideration by the Common Council.

Parcels "B" & "C" – Future Phases of the Development – No Immediate Development Plans

Although there are no immediate plans for developing Parcels "B" and "C", Planning Staff requested that all property currently owned by the applicant be included in the amendment request. The reason for including these parcels is to establish a range of permitted uses on the remaining land that are compatible with the adjacent land uses.

Parcel "B" is an approximate 13.95 acre area located south of Vistula Road within the northeast part of the property. Specific land uses proposed for this parcel include single-family residential, condominiums, rental or owner occupied senior cottages (not to exceed a density of 5 units per acre), nursing homes, assisted living, independent senior living apartments (no density requirements limited to 2 stories or 35' in height), and churches.

Parcel "C", which is an approximate 22.46 acre area, is located within the southeast part of the property with frontage on both Cedar Road and Lincolnway East. Specific land uses proposed for this parcel include single-family residential, condominiums, rental or owner occupied senior cottages, nursing homes, assisted living, independent senior living apartments, churches, I-1 Light Industrial District permitted uses, and C-1 General Commercial District permitted uses. The petitioner also seeks relief from the separation requirement for any self-service storage facility (mini-storage) located within this parcel. The I-1 District requires that such facilities shall be a minimum of 250' from any school, park, church, hospital, and/or residentially-zoned property. The minimum setback being requested is 30' between any storage facility building and such adjacent use.

A detailed landscape plan conforming to the C-1 General Commercial District requirements shall be submitted with all Final Planned Unit Development site plans for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses, and will subject to review and approval by the Planning Staff. Any self-service storage facility (mini-storage) located within Parcel "C" shall be adequately screened from all adjacent residential properties to the east of Cedar Road. The landscaping/screening shall include a combination of a 7' high solid screening fence and evergreen screening as approved by the Planning Staff.

The applicants are proposing one access off of Vistula Road to serve Parcel "A". As indicated in the Staff report for the prior PUD amendment, emergency access shall be provided along both Vistula Road and from the apartment complex to the west. All drives and parking lots interior to Parcel "A" will be privately owned and maintained. One access is proposed for Parcel "B" off of Vistula Road. Two points of access are proposed for Parcel "C" with one along Cedar Road and one connecting to an existing ingress/egress easement within the commercial property at the northwest corner of Cedar Road and Lincolnway East.

The streets and access drives within Parcels "B" and "C" will likely be a combination of public right-of-way and private drives dependent upon the specific land use.

Excluding the reduction in the separation requirement for a self-service storage facility, as referenced above, any land use specifically permitted shall adhere to the applicable height, area, and development regulations of the most restrictive zoning district in which the use would be otherwise permitted. If deviations from these standards are proposed as a part of the Final Planned Unit Development site plan, the proper variances will need to be submitted to and approved by the Board of Zoning Appeals.

Prior to filing the petition, Planning Staff met with the applicant's representatives and requested that a neighborhood meeting be held to discuss development plans with the nearby property owners. Due to COVID 19, this meeting did not occur. However, the attached letter was mailed or hand delivered to all property owners within 300' of the subject property and within the River Point Estates subdivision and River Isle Condominium development.

At this time, the applicants are only proposing to amend a previously approved PUD to allow for a range of permitted uses. *The Bercado Farms PUD, as attached, shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor & outdoor tennis courts, paddle tennis courts, and handball), and an area shopping center (clothing, shoes, furniture, restaurants, etc).*

If approved, a detailed Final Planned Unit Development site plan must be submitted for each phase of the development to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements. Multiple subdivision plats will also be required to establish legal lots of record and separate ownership for each phase of the development.

All pertinent City Departments have reviewed and approved the Preliminary Planned Unit Development site plan.

The Engineering Department provided several comments that shall be addressed with all Final Planned Unit Development site plans and subdivision plats.

RECOMMENDATION

Staff recommends **approval** of Petition 20-12 to amend a part the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage subject to the following conditions:

Uses:

Parcel A

1. Multi-Family Residential (Apartment Complex) with a maximum of 162 units

Parcel B

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches

Parcel C

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)

2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches
4. I-1 Light Industrial Uses
5. C-1 General Commercial Uses

Separation Requirements:

1. Any self-storage facility (mini-storage) located within Parcel "C" shall have a minimum separation of 30' between any storage buildings and adjacent school, park, church, hospital, and/or residentially-zoned property.

Utilities:

1. The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. Landscaping/screening for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall be provided as required by the standards of the C-1 General Commercial Zoning District.
2. Any self-service storage facility located within Parcel "C" shall be screened from the adjacent residential property with a combination of a 7' high screen fence and evergreen screening as approved by the Planning Staff.

Signage:

1. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for Parcel "A".
2. Signage for Parcels "B" and "C" shall conform to the sign standards of the most restrictive zoning district in which the land use would otherwise be permitted.

Road Improvements/Right-of-Way Dedication:

1. Road improvements along Vistula Road and Cedar Road shall be installed as determined by the Department of Engineering.
2. Additional right-of-way shall be required along Vistula Road, Cedar Road, and the connector road to Lincolnway East as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of each subdivision plat or separate deed of dedication document, if deemed appropriate.

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. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.

Architectural Requirements:

1. Building materials and colors for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall comply with the C-1 General Commercial Zoning District.

Pedestrian Access/Circulation

1. A sidewalk shall be installed along the south side of Vistula Road within the dedicated right-of-way and along the entire property frontage with each phase of the development.

Other:

1. All other developmental standards not identified shall comply with height, area, and developmental regulations of the most restrictive zoning district in which the land use would be otherwise permitted.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject parcel is vacant agricultural land located within an area of varying land uses including multi-family and single-family residential, commercial, industrial, and agricultural.
2. Character of Buildings – The character of the buildings within the surrounding area is mixed with multi-family and single-family residential buildings to the north, west, and east; a multi-tenant commercial strip center to the southwest; and industrial and medical offices to the south.
3. The most desirable/highest and best use – Because of the parcel's proximity to existing multi-family and single-family residential uses to the north, west, and east; commercial uses to the southwest; and industrial and medical uses to the south; the most desirable use for the property is for mixed uses as proposed. Furthermore, the Bercado Farms PUD shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor and outdoor facilities), and area shopping center (clothing, shoes, furniture, restaurants, etc).
4. Conservation of property values - The proposed PUD amendment should not be injurious to property values in the surrounding area. The proposed mix of land uses are compatible with and a logical extension of the adjacent existing uses. A majority of the property and proposed land uses are subject to landscaping/screening requirements.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identified medium density residential (apartment complexes & nursing Facilities) and industrial (manufacturing, warehousing, and distribution) as the preferred land use.

ATTACHMENTS

Aerial, Photograph(s), Petition, Preliminary Planned Unit Development Site Plan, Original Approved Bercado Farms PUD (9/12/72), Letter to Adjacent Property Owners from Applicant (Dated 6/3/2020), Location Map



Aerial Photograph
 Proposed Mixed Use Development
 South of Vistula Road, East of Cedar Road, and North of Lincolnway East



P1. Looking northeasterly along Vistula Road from the northwest corner of Parcel "A".



P3. Looking easterly toward Parcel "A" from the Reflections Apartment complex to the east.



P3. Looking southwesterly along Vistula Road toward the northern part of Parcel "A".



P4. Looking northeasterly along Vistula Road toward the northern part of Parcel "B".



P5. Looking southwesterly from Cedar Street and the northeast corner of Parcel "C".



P6. Looking westerly along Lincolnway East toward the southern part of Parcel "C".



P7. Looking northerly from Lincolnway East along an east property line of Parcel "C" and an access drive for the adjacent medical offices.

RECEIVED
DEBORAH S. BLOCK, MMC

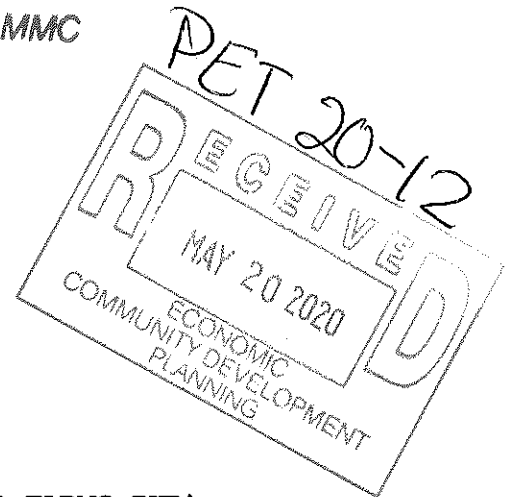
MAY 26 2020

CITY CLERK
MISHAWAKA, IN

DATE: MARCH 20, 2020

TO THE:

HONORABLE MEMBERS OF THE COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA



RE: PETITION FOR AN AMENDED PUD (BERCADO FARMS PUD):

THE UNDERSIGNED MERVIN D. LUNG REVOCABLE TRUST, RESPECTFULLY SHOW THAT HE IS THE OWNER OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA:

A PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION" DOCUMENT NO. 0425385 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE WEST ALONG NORTH LINE OF SAID LOT #1, 17.00 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-090502; THENCE NORTH ALONG SAID EAST LOT LINE, 722.10 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF VISTULA ROAD; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1701.16 FEET MORE OR LESS TO THE WEST LOT LINE OF A PARCEL IDENTIFIED AS PARCEL COUNTY ID NUMBER 027-1001-0906; THENCE SOUTH ALONG SAID WEST LOT LINE, 949.46 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE EAST ALONG THE SOUTH LINE OF SAID PARCEL, 303.58 FEET MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF CEDAR ROAD; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY LINE, 1007.89 FEET MORE OR LESS TO THE NORTH LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091604; THENCE WEST ALONG SAID NORTH LOT LINE, 308.00 FEET MORE OR LESS TO THE WEST LINE OF SAID PARCEL; THENCE SOUTH ALONG SAID WEST LOT LINE OF SAID PARCEL, 420.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF LINCOLNWAY EAST; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 306.93 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091602; THENCE NORTH ALONG SAID EAST LINE, 900.00 FEET MORE OR LESS TO THE NORTH LOT LINE OF SAID PARCEL; THENCE WEST ALONG SAID NORTH LOT LINE, 1280.00 FEET MORE OR LESS TO THE EAST LOT LINE OF SAID LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION"; THENCE

NORTH ALONG SAID EAST LOT LINE, 174.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 57.16 ACRES MORE OR LESS.

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

THE ABOVE DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "S-2" PLANNED UNIT DEVELOPMENT DISTRICT AND CONSISTS OF VACANT LAND WITH AGRICULTURAL USE.

THE PETITIONER DESIRES TO AMEND THE EXISTING PLANNED UNIT DEVELOPMENT FOR SAID REAL ESTATE TO BE ALLOWED THE FOLLOWING USES:

A. PARCEL 'A'

- 1) MULTI-FAMILY RESIDENTIAL (162 UNITS)

B. PARCEL 'B'

- 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 5 UNITS PER ACRE)
- 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS. LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
- 3) CHURCHES

C. PARCEL 'C'

- 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES
- 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
- 3) CHURCHES
- 4) I-1 LIGHT INDUSTRIAL USES
- 5) C-1 GENERAL COMMERCIAL USES
- 6) SPECIFIC ALLOWED SETBACK REQUIREMENT FLEXIBILITY: SELF-SERVICE STORAGE FACILITY, MINI STORAGE SHALL BE ALLOWED TO HAVE A MINIMUM SEPARATION OF STORAGE BUILDINGS FROM A SCHOOL, PARK, CHURCH, HOSPITAL, AND/OR RESIDENTIALLY-ZONED PROPERTY OF AT LEAST 30 FEET, WITH SCREENING IN THE 30 FEET CONTAINING A MIX OF A MINIMUM 7 FT. HIGH SOLID SCREENING FENCE AND EVERGREEN SCREENING AS APPROVED BY THE CITY PLANNING STAFF.

WHEREFORE, THE PETITIONER 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

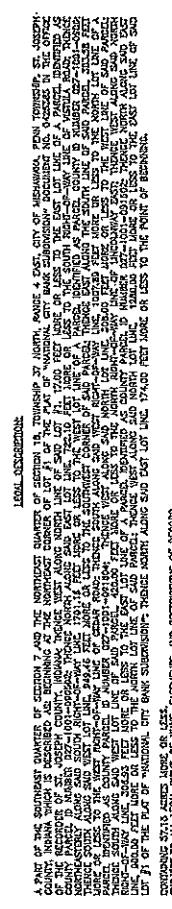
CONTACT PERSON:

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

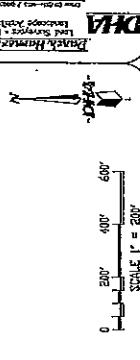
LAKE CITY BANK
BY: *Quinn King* VICE PRESIDENT/TRUST OFFICER

MERVIN D. LUNG REVOCABLE TRUST
707 RIVER POINTE PLACE
MISHAWAKA, INDIANA 46544

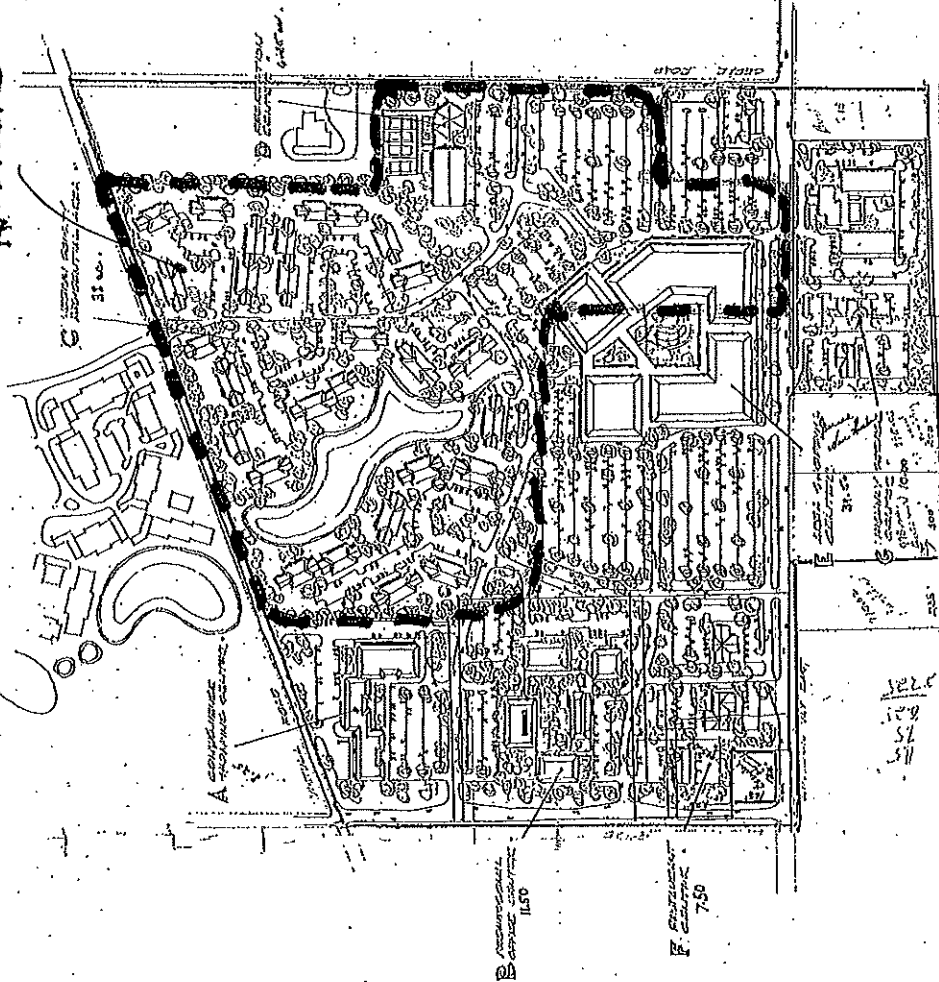
PRELIMINARY PUD SITE PLAN
PART OF THE SOUTHEAST QUARTER OF SECTION 7 & NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST,
CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.



- [illegible]

[illegible][illegible]

AREA TO BE
AMENDED



- A - CONVENIENCE SHOPPING CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- PROFESSIONAL OFFICE CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- B - PROFESSIONAL OFFICE CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- C - MEDIUM DENSITY RESIDENTIAL AREA - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- D - RECREATION CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- E - LARGE SHOPPING CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- F - RESTAURANT CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)
- G - LIBRARY SERVICE CENTER - 10,000 sq. ft. (100) 315,370 sq. ft. (315)

BERCARDO FARMS PLANNED UNIT DEVELOPMENT

DEVELOPERS - WILLIAM EISLER, RAY L. EISLER & JAMES LOCKER

ORIGINAL APPROVED PUD (9/15/72) SHOWS MEDIUM DENSITY RESIDENTIAL CAPARTMENTS AND CONDOMINIUMS, A RECREATIONAL CENTER, AND A SHOPPING CENTER IN THE AREA TO BE AMENDED

LETTER TO ADJACENT PROPERTY OWNERS FROM APPLICANT

June 3, 2020

RE: Planned Unit Development Amendment of the Bercado Farms Planned Unit Development

Good day,

In light of the unique times we are currently navigating (COVID19) and in deference to our collective well-being we wanted to send an informational letter instead of inviting each of you, or neighborhood representatives for that matter, to a meeting. The purpose of this letter is to update you on the proposed amendment to the Bercado Farms Planned Unit Development (a.k.a. PUD). This PUD was initially created in the 1970's (See "Exhibit A – Bercado Farms Original 1970's PUD Plan") which is one of the oldest PUDs in the City of Mishawaka and due to that nuance and at the request of the City we are working to update and therefore amend the PUD. We know we had the chance to meet many of you at the Penn Harris Library months ago to discuss modification to this PUD and have since taken all feedback from that meeting into account in proposing a modified PUD as follows.

Enclosed you will find a preliminary PUD Amendment (See "Exhibit B – Bercado Farms Preliminary PUD Amendment"). This preliminary PUD Amendment is a result of solicited feedback from you and a subsequent meeting of the owner's representatives, the proposed and respected apartment community developer (In Good Company – IGC – www.igcre.com) and Ken Price at Mishawaka City Planning. Prior to the meeting with City Planning and following the meeting with neighbors, held at Penn Harris Library, the proposed purchasers of the northwest portion of the Bercado Farms PUD, IGC, and the owners of the remaining ground within the Bercado Farms PUD (the Dorothy Lung Estate) have proposed to voluntarily make the following modifications...

Density:

The original density allowed per the 1970's PUD is 15 units per acre (See area **C – Medium Density Residential** as defined and depicted in "Exhibit A"). To accommodate concerns voiced by neighbors relating to density of living in the area, the buyer IGC, has reduced the number of apartment units proposed to be built on the 20 acres in the northwest portion of the PUD. IGC has reduced the number of apartments from the original amount proposed of approximately 205 units (or roughly 10 units per acre) to 162 units or roughly 8 units per acre on 20 acres (See "Exhibit C – 162 Unit Residential Community Plan"). Thus this revised plan as depicted in Exhibit B reduced the density to 8.1 units per acre on 20 acres which is nearly half of the allowable units per acre as defined in the existing PUD from the 1970's of 15 units per acre which would allow 300 units on 20 acres instead of 162 as proposed in the PUD Amendment.

As per the City's request the remainder of the owner's property east and south of IGC's proposed apartment community is being brought in to up-date the PUD simultaneously and to clearly show the intended uses for the remainder of the property (See "Exhibit B"). Additionally to accommodate concerns voiced by neighbors relating to density of living in the area, and in the spirit of fostering goodwill, the owners of the land have offered voluntarily to modify the existing PUD by eliminating the ability to sell any remaining ground to future apartment communities, outside of the proposed 20 acres as shown in Exhibit C. Therefore, the northeast corner of the PUD site as shown in Exhibit B, across from River Pointe Estates, will be limited to lower density uses as listed in Exhibit B. In summary, the owners

have voluntarily offered to limit the amount of apartment units as currently allowed from 38 acres as shown in Exhibit A, the original PUD, to just the 20 acres as depicted in Exhibit B.

Safety/Traffic:

The access to the apartment community is from one driveway opening onto Vistula thus limiting all access/traffic to one drive. Per the City's request, to accommodate safety concerns, there is also a proposed de-acceleration lane to move vehicles entering the site from the eastbound travel lane on Vistula Road. After meeting with the neighbors IGC has decided to move the entry point to the new apartment community further to the west away from the single-family residential homes. As far as the remaining ground east of the new apartment community as shown in Exhibit B, the entry driveway for the lower density residential portion of the PUD was aligned with the driveway to the higher density residential (River Pointe Apartments) at Ventura Drive and west of and away from the existing single-family residential (River Pointe Estates) entry further to the east. The southern portion of the PUD will have a driveway to connect to Lincolnway East. The interior road in the PUD was designed to slow and therefore reduce traffic through the site.

Aesthetics:

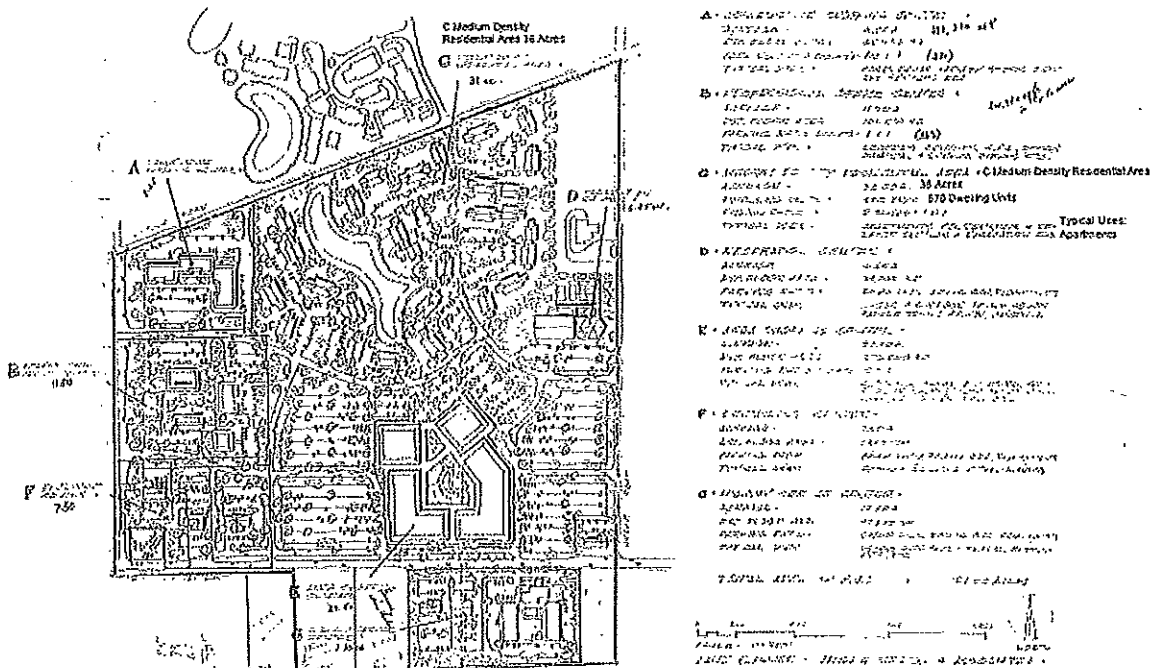
Following the meeting with the neighbors IGC decided to shift their buildings south to create more open space and a green buffer area along with retention ponds as shown in Exhibit C. Additionally, as the desire for walkability was voiced a sidewalk is still proposed along the south side of Vistula Road as shown in Exhibit C. Last enclosed (See "Exhibit D") you will find photographs that are representative of other upscale developments built by IGC showing the exterior design, craftsmanship and aesthetic harmony they employ when constructing new apartment home communities.

We appreciate the opportunity to bring all of you up to speed. Feel free to reach out to us by email with any questions to ndavey@cressy.com and mdanch@danchharner.com and we will do our best to answer any questions.

Sincerely,

Noah Davey (Cressy Commercial Real Estate) and Mike Danch (Danch Harner & Associates)
Representatives for Dorothy Lung Estate & Representatives for In Good Company Real Estate

EXHIBIT A



BERCADO FARMS PLANNED UNIT DEVELOPMENT

PREPARED BY: [Name] FOR: [Name]

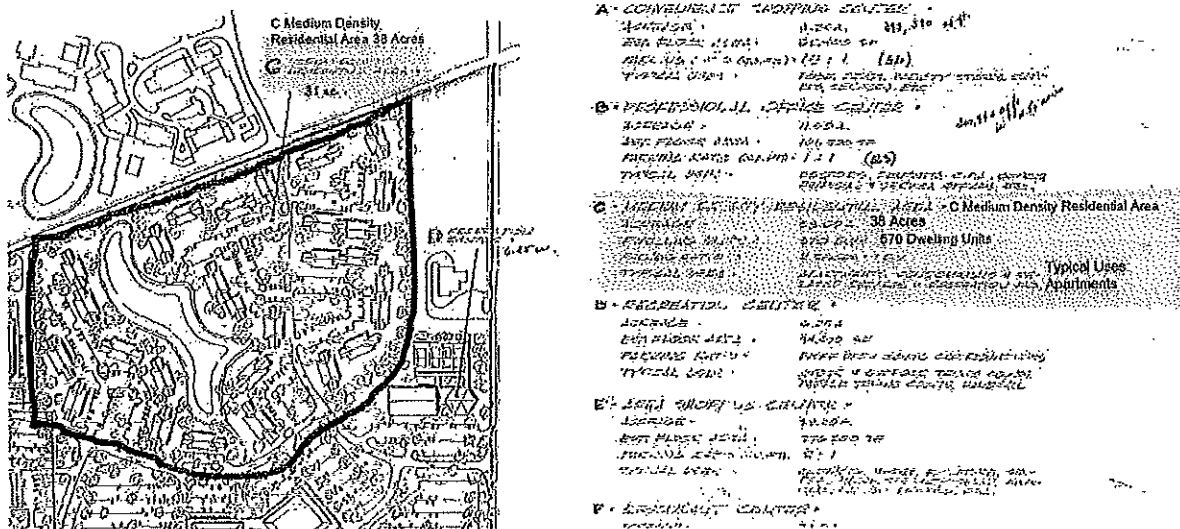
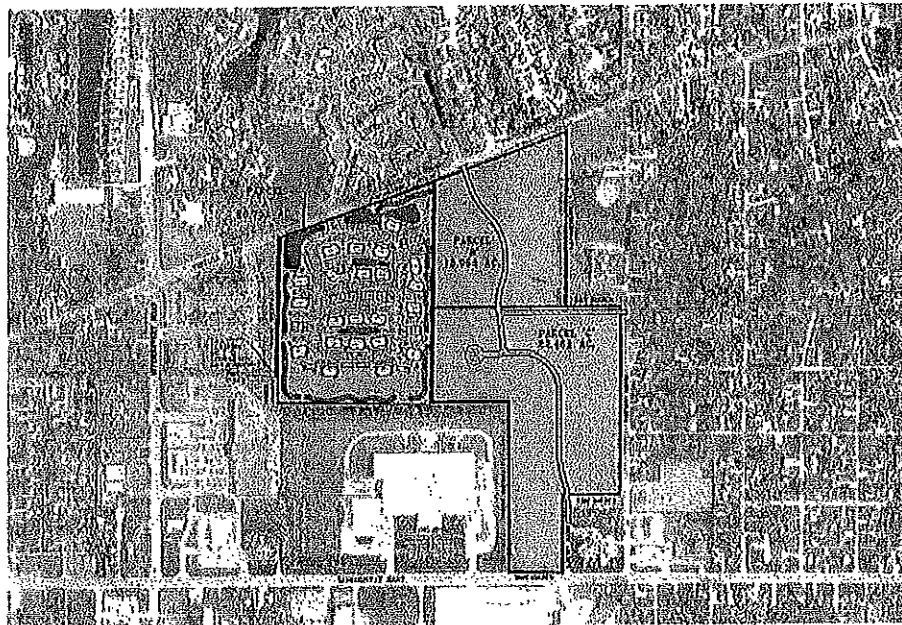


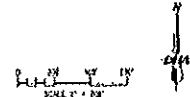
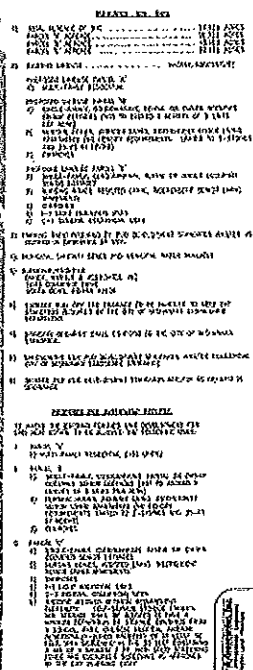
EXHIBIT B

PRELIMINARY PUD SITE PLAN

PART OF THE SOUTHEAST QUARTER OF SECTION 7 & NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST,
CITY OF INDIANAPOLIS, PERMITS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

[illegible]

(Continued on back of card)

[illegible]

SA SLOAN	WFO FBI	DIVISION	
WAS FBI	WFO FBI	Q1	Q2
WFO FBI	WFO FBI	Q3	Q4

EXHIBIT B (continued)

DEVELOPER'S DATA

- 1). TOTAL ACREAGE OF ONE 57.161 ACRES
 PARCEL 'A' ACREAGE 20.751 ACRES
 PARCEL 'B' ACREAGE 13.931 ACRES
 PARCEL 'C' ACREAGE 22.461 ACRES
- 2). EXISTING LANDUSE VACANT/AGRICULTURE
 PROPOSED LANDUSE PARCEL 'A'
 A) MULTI-FAMILY RESIDENTIAL
 PROPOSED LANDUSE PARCEL 'B'
 A) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 8 UNITS PER ACRE)
 B) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
 C) CHURCHES
 PROPOSED LANDUSE PARCEL 'C'
 A) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES
 B) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
 C) CHURCHES
 D) 1-3 LIGHT INDUSTRIAL USES
 E) C-1 GENERAL COMMERCIAL USES
- 3). PARKING RATIO REQUIRED BY PUD DEVELOPMENT STANDARDS AND/OR AS DEFINED IN ORDINANCE BY USE.
- 4). MUNICIPAL SANITARY SEWER AND MUNICIPAL WATER AVAILABLE.
- 5). SURVEYOR/ENGINEER
 DAWN J. HARTLEY & ASSOCIATES, INC.
 1643 COMMERCIAL DRIVE
 SOUTH BEND, INDIANA 46608
- 6). SURFACE RUN-OFF AND DRAINAGE TO BE HANDLED TO MEET THE STANDARDS REQUIRED BY THE CITY OF MISHAWAKA ENGINEERING DEPARTMENT.
- 7). DRIVEWAY OPENINGS SHALL CONFORM TO THE CITY OF MISHAWAKA STANDARDS.
- 8). LANDSCAPING PER PUD DEVELOPMENT STANDARDS AND/OR COMMERCIAL CITY OF MISHAWAKA LANDSCAPE ORDINANCE
- 9). SIGNAGE PER PUD DEVELOPMENT STANDARDS AND/OR AS DEFINED IN ORDINANCE.

PROPOSED PUD AND DEVELOPER'S REQUEST

TO APPROVE THE EXISTING PLANNED UNIT DEVELOPMENT FOR SAID REAL ESTATE TO BE ALLOWED THE FOLLOWING USES:

- A. PARCEL 'A'
 1) MULTI-FAMILY RESIDENTIAL (160 UNITS)
- B. PARCEL 'B'
 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 8 UNITS PER ACRE)
 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
 3) CHURCHES
- C. PARCEL 'C'
 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES
 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
 3) CHURCHES
 4) 1-3 LIGHT INDUSTRIAL USES
 5) C-1 GENERAL COMMERCIAL USES
 6) SPECIFIC ALLOWED STORAGE REQUIREMENT FLEXIBILITY: SELF-SERVE STORAGE FACILITY. THIS STORAGE SHALL BE ALLOWED TO HAVE A LIMITED SEPARATION OF STORAGE UNITS FROM A SCHOOL, PARK, CHURCH, HOSPITAL, AND/OR RESIDENTIALLY-ZONED PROPERTY OF AT LEAST 30 FEET, WITH SCREENING IN THE 30 FEET CORRESPONDING A MIN OF A MINIMUM 7 FT. HIGH SOLID SCREENING FENCE AND EXTENDED SCREENING AS APPROVED BY THE CITY PLANNING STAFF.

Dawn J. Hartley, Inc.
 Professional Engineer
 License No. 10000
 State of Indiana

EXHIBIT C

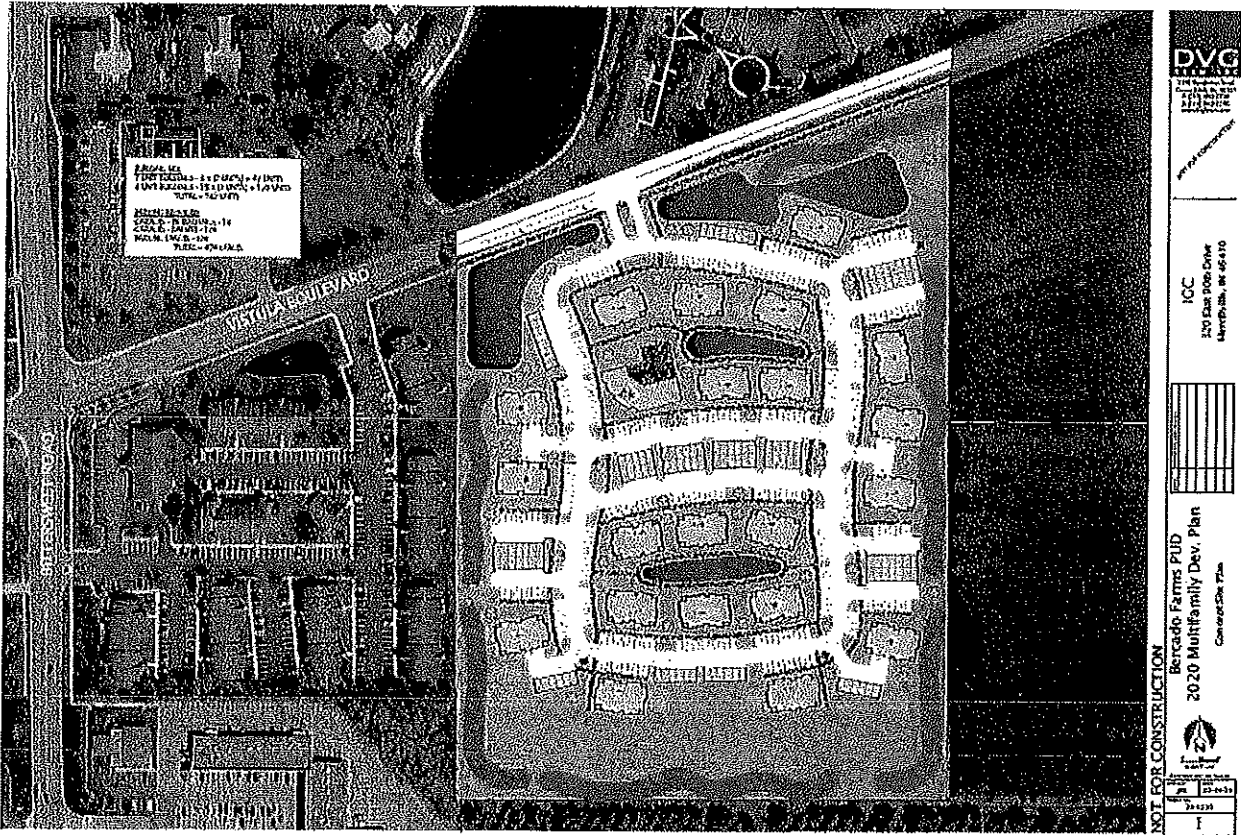
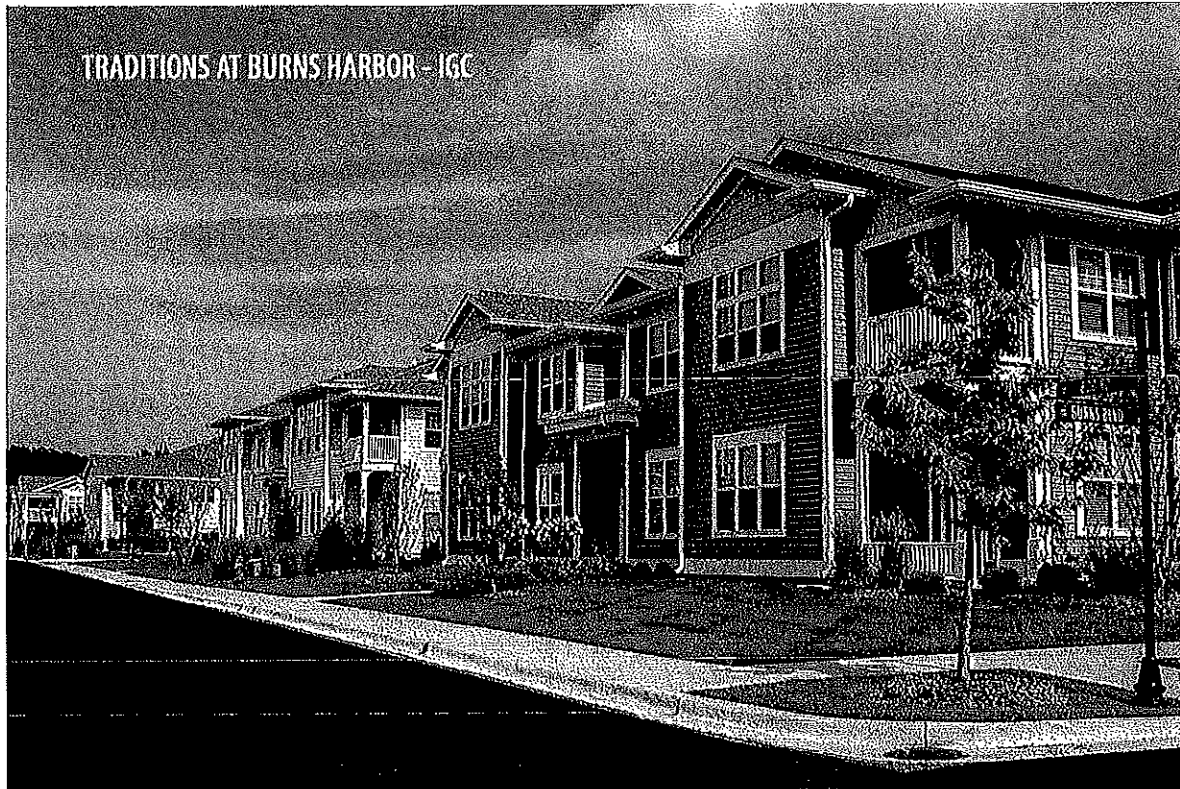
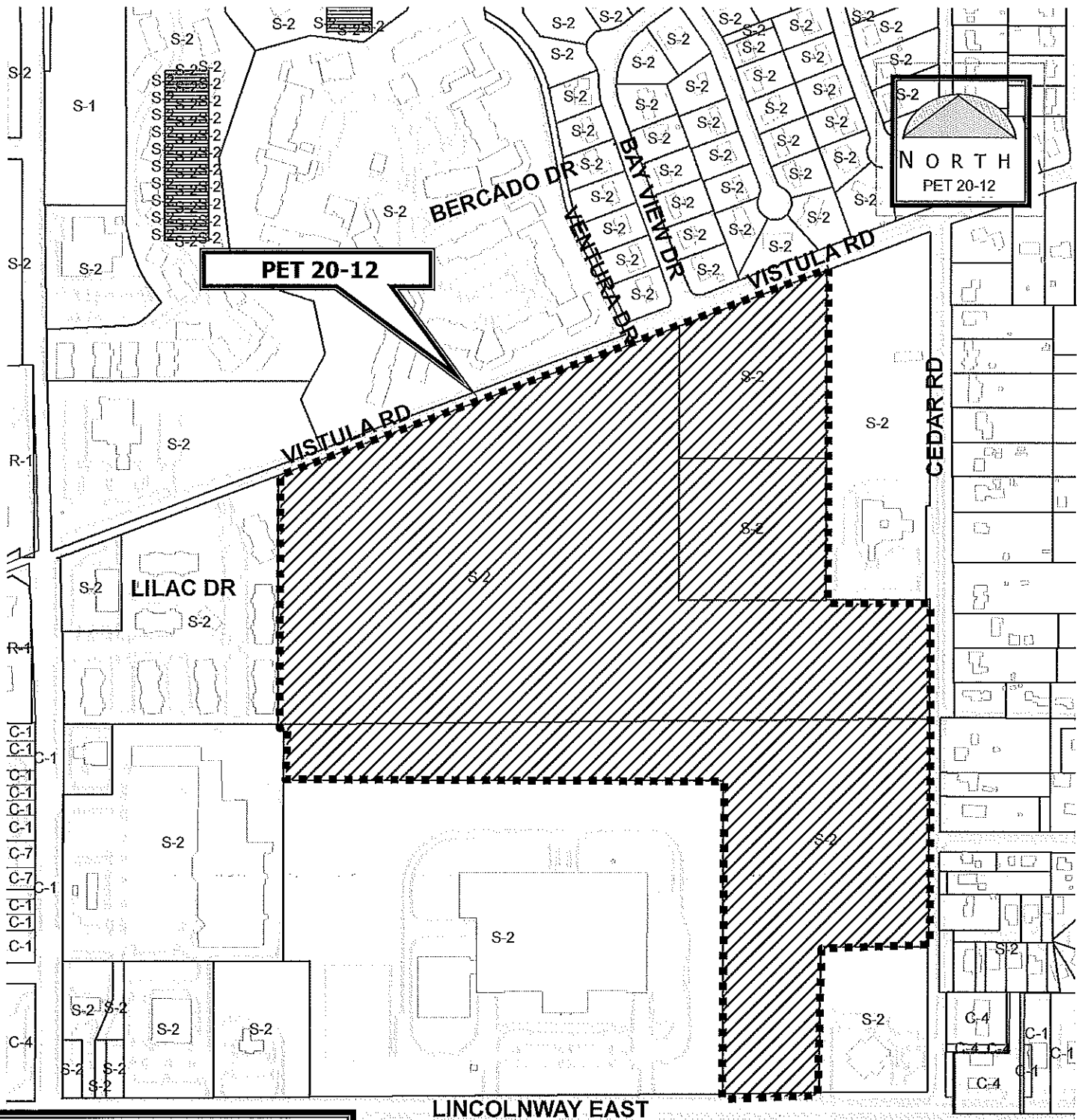


EXHIBIT D



EXHIBIT D (continued)





Location Map

PET 20-12

MERVIN D. LUNG REVOCABLE TRUST

VACANT LAND S. OF VISTULA
ROAD & W. OF CEDAR ROAD

PUD AMENDMENT TO ALLOW
FOR A MIXED USE DEVELOPMENT TO
ALLOW RESIDENTIAL, COMMERCIAL,
AND INDUSTRIAL USES

AUG 19 2020

CITY CLERK
MISHAWAKA, IN

1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

PETITION 20-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-25

ORDINANCE NO. _____

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

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

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

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

The following described real estate in the City of Mishawaka, Penn Township,
St. Joseph County, State of Indiana, to-wit:

Lot 26, Barbees Sub, City of Mishawaka, Penn Township, St. Joseph County,
State of Indiana

COMMON ADDRESS: 619 Lincolnway East

which real estate is now classified as R-1 Single Family Residential District shall
hereafter be within and a part of that District known as C-3 City Center Commercial
District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The City Center Commercial zoning matches other properties in the
immediate vicinity and the use would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning
will not be affected in a substantially adverse manner because given the
context of its location, its relationship to surrounding properties, staff feels
that the most desirable use for this property is its historical multi-family use;
3. Because the parcel is located in a transitional area, the rezoning to C-3 City
Center Commercial is a desirable use for this property;

Proposed Ordinance No: 20-25

Ordinance No: _____

4. Extending the zoning one more parcel east, providing a compatible zoning to the historic multi-family use will not have an unfavorable and destabilizing impact on the neighborhood; and,
5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a multi-family home is compatible and consistent with the higher density residential uses in the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: 619 Lincolnway East

Date: August 11, 2020

Petition: 20 13

Prepared By: CH

GENERAL INFORMATION

Applicant: Antonio D Portolese Estate

Status: Property Owner

Request: Rezone from R-1 Single Family Residential to C-3 City Center Commercial

Zoning Classification: R-1 Single Family Residential

Lot Size: 60' X 132'

Applicable Regulations: Sec. 137-358 Commercial C-3 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: C-3 City Center Commercial
East: R-1 Single Family Residential
West: C-3 City Center Commercial

Thoroughfare: Lincolnway East

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioner's Estate is requesting to rezone 619 Lincolnway East from R-1 Single Family Residential to C-3 City Center Commercial. The property is located on Lincolnway East between Cedar Street and Laurel Street.

The building is currently being used as a 5-unit apartment. The home was built between 1940 (tax records) and 1946 (historical sites survey). In the 1976 Polk Directory, there are 5 apartments, but we have no documentation as to when this conversion occurred. C-3 City Center Commercial allows a range of uses including single and multi-family residential, offices, retail, and restaurants.

This block of Lincolnway contains an axillary parking lot for City Hall and a multi-tenant building zoned C-3, three single family homes zoned R-1 Single Family Residential, and a duplex zoned R-2 Two Family Residential.

The Petitioner's Estate is in the process of selling the property and learned the use did not match the zoning. According to tax records, Antonio Portolese has owned the property since 1978.

The Petitioner's Estate has indicated willingness to apply for a parking variance from 1.5 spaces per unit to 1 space per unit.

Pertinent City Departments have reviewed and approved the request.

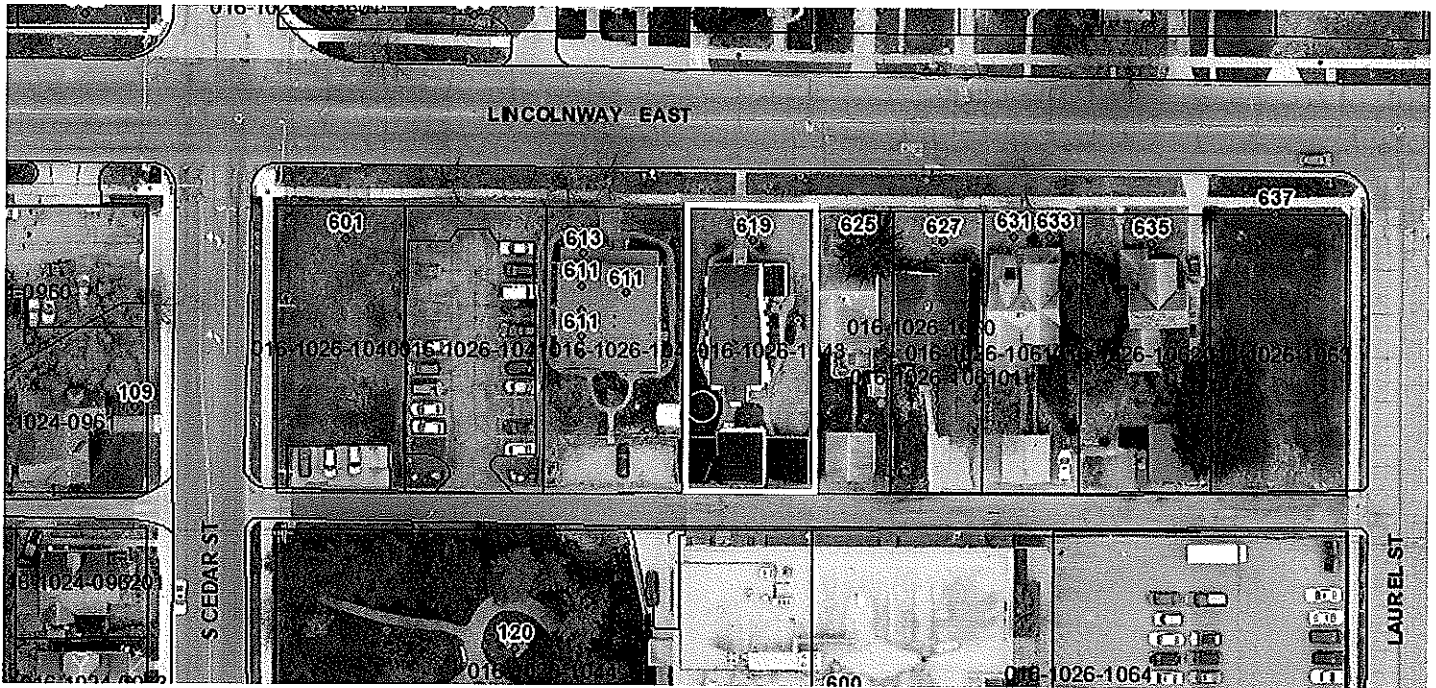
RECOMMENDATION

The Planning Department recommends **approval** of Petition 20-13 to rezone 619 Lincolnway East from R-1 Single Family Residential District to C-3 City Center Commercial District. This recommendation is based upon the following findings of fact:

1. The City Center Commercial zoning matches other properties in the immediate vicinity and the use would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is its historical multi-family use;
3. Because the parcel is located in a transitional area, the rezoning to C-3 City Center Commercial is a desirable use for this property;
4. Extending the zoning one more parcel east, providing a compatible zoning to the historic multi-family use will not have an unfavorable and destabilizing impact on the neighborhood; and,
5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a multi-family home is compatible and consistent with the higher density residential uses in the area.

ATTACHMENTS

PETITION, AERIAL, LOCATION MAP





619 Lincolnway East

Michael R. Portolese
Executor for the Estate of Antonio D Portolese
434 Calhoun St.
Mishawaka IN 46545

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 24 2020

CITY CLERK
MISHAWAKA, IN



June 26, 2020

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

Re: Petition to Rezone 619 Lincolnway East, Mishawaka IN

In my capacity as Personal Representative/Executor of the estate of Antonio D Portolese (deceased) hereby certify that the estate is the legal and rightful owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana to-wit:

Parcel ID: 71-09-15-154-004.000-023
Tax ID: 016-1026-1043
Legal Description: Lot 26 BARBEES Sub
Common Address: 619 Lincolnway East, Mishawaka IN 46544

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-1 Single Family Residential District. Said property is a five-unit rental property.

Petitioner desires said real estate to be rezoned to C-3 Commercial District. Petitioner further states that they intend to utilize said land for multi-family residential use.

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

A handwritten signature in cursive script, appearing to read 'Michael R. Portolese', written over a solid horizontal line.

Michael R Portolese, Personal Representative
For the estate of Antonio D Portolese (deceased)

Cell Phone: (574) 532-5965
Email: mike@rci-products.com

June 26, 2020

Additional Information concerning Rezoning of 619 LWE Mishawaka from R-1 to C-3

The property is a 5 unit rental property that was purchase by Antonio D Portolese for use as housing of teachers. He was a teacher at Penn High School and originally used it to house fellow teachers.

The building was built as a 5 unit rental property and has been used as such for as long as I can remember. The building has 3/5 units rented and the other 2 are available.

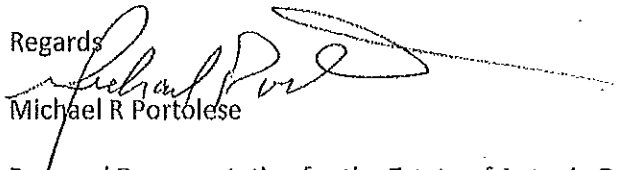
In addition, we request a variance from the required 1.5 parking spaces per unit to 1 per unit. There are 5 dedicated parking spaces located off of the alley.

Should additional information be needed, please feel free to contact me

Email: mike@rci-products.com

Cell Phone: (574) 532-5965

Regards



Michael R Portolese

Personal Representative for the Estate of Antonio D Portolese



The First National Bank of Mishawaka

MEMBER FDIC - MEMBER FEDERAL RESERVE SYSTEM



Our Convenient Locations

Phone 259-3711

105

COLIN WAY E (M)—Contd

- 4 Dene Delbert
- 5★Waldron Richd
- 6 Andrzejewski Richd
- 7★Coy Coray L
- 8★Fitterling Susan
- 9★Hoover Ryan
- 10★Langhe Clarice
- 11★Herrmann Brad
- 12 Arnold Dorane Mrs 259-0607
- 8½ Lodge Apartments
- 1 May Thos T 255-0085
- 2 Maroney Mertie 259-4932
- 3 Vacant
- 4★Banks Danny
- UNION ST INTERSECTS
- 0 Bingham Loughlin Means Mick & Myers Iwys 255-9616
- 1 First Presbyterian Church 259-7874
- 0 Children's Museum 259-3475
- 5 Claes Evelyn M Mrs @ 255-3357
- 5 Apartments
- 1 Levey Freda Mrs @ 259-4400
- 2 Vacant
- 3 Chaetain Flora L 255-3915
- 4 Myron Ruth 255-5979
- 5 Young Men's Christian Association 259-5685
- 7 Spalding David L phys 255-3231
- Maori Paul A phys 259-1134
- 7½★Costa Anita L 259-4891
- 7 Buitter Robt C Iwyr 255-1155
- 7½ Names Dorothy V Mrs 255-0398
- 8 PINE ST BEGINS
- 0 Five Hundred Lincoln East Apartments 255-4705
- G1 De Kever Elsie Mrs 259-1624
- G2 Vacant
- G3 Norris Vora 255-2548
- G4 Vols Jennie 259-3887
- G5 Mitchell Mary 255-1804
- G6 Morgan Charlotte M Mrs
- 103 Cryderman Alice L Mrs 255-9160
- 104 Etherton Dollie 259-1876
- 105 Bagwell Zella 255-3290
- 106 Mayor Ethel
- 107 Whittaker M K 255-1482
- 108 Planned Parenthood Association 259-0500
- 109 Renner Grace
- 110 Quick Saml
- 111 Knightlinger Mary W 255-9293
- 112 Hurst Leona 255-7873
- 113 Rittenhouse Gertrude 255-7013
- 114 Rohrer Ellen M 255-8232
- 115 Hertoghe Elz 255-5725
- 116 Grise Kathryn 259-2886
- 201 Winstead Elmer 259-2369
- 202 Geisler Martha Mrs 259-8744
- 203 Kent Edna 255-3109
- 204 Paulson Irene 259-3144
- 205 Schmitt Mary 259-8749
- 208★Hull Sylvia
- 207 Shinton Sylvia 259-1012
- 208 Horvath Wm J
- 209 De Laurelle Martha 255-3000
- 210 Michaleki Rose 255-1977
- 211 Mc Paul Freda 255-1980
- 212 Goss Inez 255-7326
- 213 Finkelstein Betty 255-9874
- 214 Masters Eva 259-3129
- 215 Wallace Ellen 255-4308
- 216 Mitchell Janet 255-5305
- 301 Dill Beale Mrs 259-6987
- 302 Geint Ayia 259-4662
- 303 Meuninck Mary 255-9989
- 304 Everly Sylvia
- 305 Seal Mabel B 255-3939
- 306 Stine Josephine 255-3918
- 307 Yoder Irene Mrs
- 308 Williams W Earl 259-1293
- 309 Freeze Helen M 255-3027
- 310 Johnson Sallie N 259-1792
- 311 Mast Peggy

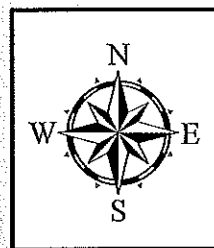
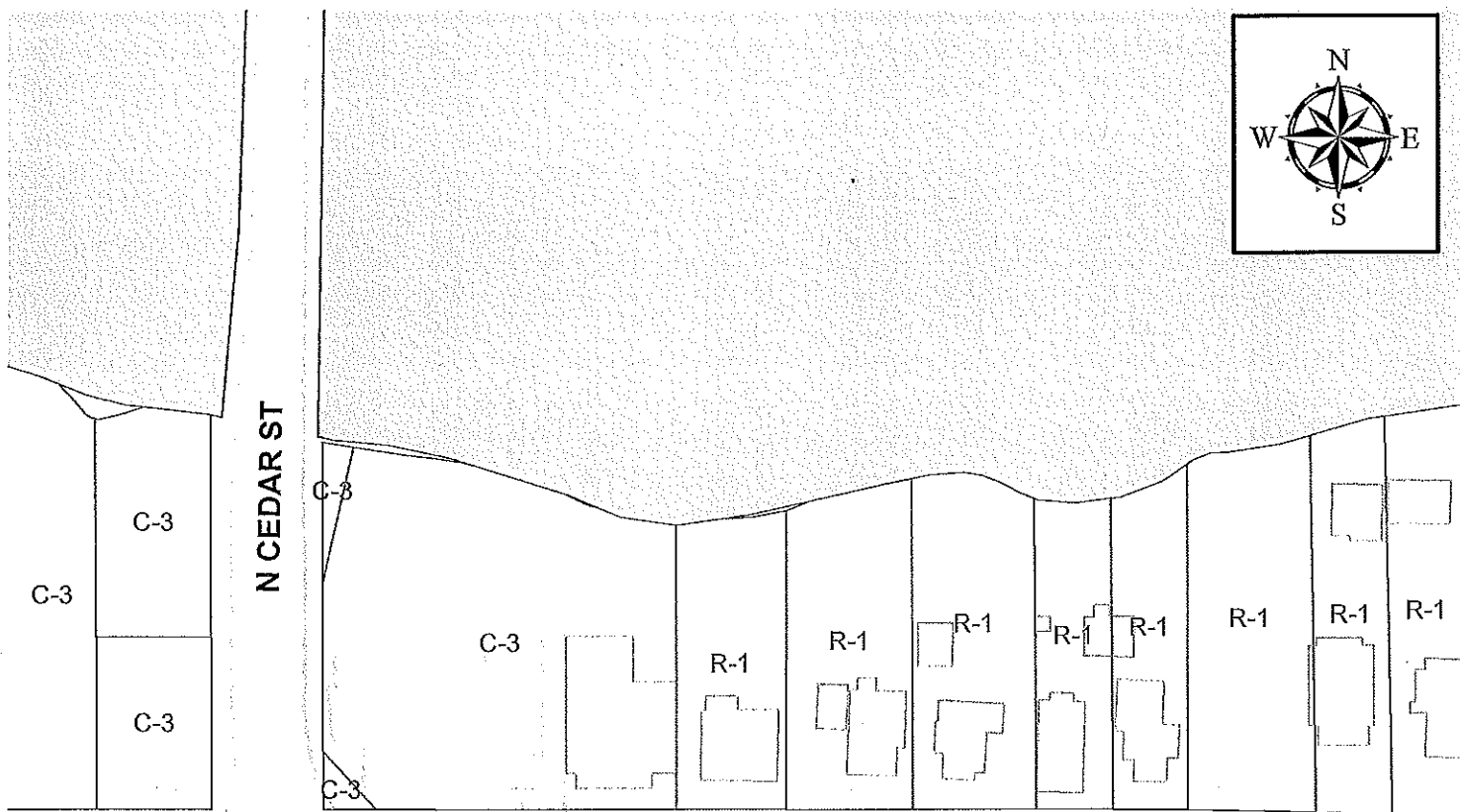
- 313 Lanson Dorothy
- 314 Hawkins Clara
- 315 Snyder Martha B
- 316 Mohn Amelia 259-8934
- 401 Coddens Danna 259-8184
- 402 Kindy Estella C 255-0358
- 403 Lyon Clifford 255-4006
- 404 Murphy Sarah M
- 405 Boozer Zula 259-9317
- 406 Boyd Yeva
- 407 Schweser Carl 255-1376
- 408 Smith Mary C
- 409 Vacant
- 410 Veraprilie Juliana
- 411 Crisler Margt 255-9274
- 412 Plant Eva S
- 413★Biggs Bert 255-4946
- 414 Trimboli Eugenia
- 415 De Witt Agnes
- 416 Holiday Velea
- 501 Hart Imo
- 502 De Wolf Martha 255-8606
- 503 Kuhrtz Lena 255-3953
- 504 Butler Myrtle J
- 505 Zeak Seldon
- 506 Harman Grace 259-8431
- 507★Eichenberg John
- 508 Wolfe Dorothy M
- 509 Murphy Marie
- 510 Mackiewicz Petronela 255-4403
- 511 Schulz Martha 259-2134
- 512 Gaillard Madeleine 255-5922
- 513 Busfield Addie 255-7627
- 514 Wittner Addie
- 515 Hopper Zula 255-8467
- 516 Grucela Violet 259-7382
- 601 Hatfield Thelma 255-1104
- 602 Groff Gladys 255-4574
- 603 Swayzee Stella 259-3116
- 604 Bauters Celina 255-7798
- 605★Beery Dollie 259-8950
- 606 Benner Ona 255-4207
- 607 Smith Devotta
- 608★Middleton Louise
- 609 Shearer Minnie 259-7072
- 610★Valentine Mary E
- 611 Dubbs Olive 255-7588
- 612★Gausser Francos
- 613 Bassett Lola
- 614 Montellh Mary 259-7286
- 615 Hughley Gerald M 259-8003
- 616 Ruffner Esther
- 701 Hutchinson Earl 255-8457
- 702★Smith Olgi I
- 703 Sturdivant Ruth M
- 704 Kanoff Mildred L 255-1516
- 705 Porter Hester
- 706 Conrad Gladys
- 707 Wallace Geo H 259-5973
- 708 Norris Hilda 255-3884
- 709 Miller Blanche
- 710 Coleman Vesta
- 711 Gruenoch Laura 255-5704
- 712 Vacant
- 713 Ashburn Margt 255-0486
- 714 Hoffman Emma 259-7057
- 715 Dowell Florence
- 716 Pollack Hazel 259-3542
- 801 Holland Home Improvement 259-4725
- 807 No Return
- 807½ No Return
- 808 Brazenau Dolores Mrs @ 255-0368
- 810 Welsh Benedice & Bolles Inc adv agoy 259-7801
- 814★Huml Malcom @
- 814½ Thleme Richd
- 817 Kintner Kenneth E optom 255-3188
- Kintner Jonathan E optom 255-3188
- 818 Boggs Paul L @ 259-1934
- 828 Riverview Manor
- 829 Kronewitter's Service Station 255-0414
- CEDAR ST INTERSECTS

- 601 Freidline John Painting & Decorating contr 259-8705
- Freidline John @ 259-8705
- 601½ Durr Mary L Mrs 259-1407
- 611 Wilson Roberta J 259-2757
- 611½ Kabold Mary Mrs 259-1419
- Stinos Russell
- 613 Borsell Wilfred C 259-7545
- 614 Saint Paul's Episcopal Church 255-2458
- 619 Apartments
- 1 Falcetta Edw L 255-2805
- 2★Miller Bill
- 3 No Return
- 4 No Return
- 5 Snyder Marie E 259-9254
- 619½ No Return
- 620 Barons Allota @ 255-7167
- 625 Crook Virginia Mrs @ 259-3367
- 627 Pasko Lynetta L @ 255-1245
- 628 Goss Genevieve M Mrs @ 255-6980
- 631 Bishop Loretta C Mrs 255-2445
- 632 Bauerlein Edith J @ 255-3905
- 633★Watkins Bradford
- 635 Cokewood Maurice B @ 255-7815
- ★Yoder Melinda
- Ettline Inga Mrs 259-0696
- 636 Melxel Gary J @ 259-7829
- 640 Melxel Robt T @ 255-0163
- 646 Klotz Harley J @ 255-9260
- 646½★Sirugo Michela
- Loski Harry J 259-8712
- Griffith Ralph 259-7791
- Buscoe Donna Mrs
- LAUREL ST BEGINS
- 701 Mc Intee Danl J @ 259-3985
- 702★Staszewski Joseph
- 706 Trippel Victor J @ 255-2494
- 707 Bortorff Robt L @ 255-7870
- 710 Stamm Veryl C @ 255-7556
- ★Gray Wendi
- Sharp Dennis 255-6087
- 715★Kohlmeier John L @ 259-3250
- 716 Doyle Albert L @ 255-3952
- 721 Hildebrand Ida M Mrs @ 255-7171
- ★Smith Esther I 255-5262
- 722 Crawford Donald W @ 255-1028
- 723 Vacant
- 723½ Vacant
- 727 No Return
- 732 Major Marlo @ 255-2687
- 733 Moore M Claudia Mrs 259-2728
- 735 Apartments
- 1★Teague Roxie E
- 2 Koch Kath I 255-8094
- 3 Melxel Leo J Jr 255-5829
- 4★Durkin Doris
- 739★Bluhm John E @
- 803 Nevel Mauries M @ 255-5449
- 805 Beehler Richd J @ 255-3746
- 807 Oline Donald E @ 259-2576
- 810 Schindler Isabel B Mrs @ 255-3686
- 816 Stroup Garth @ 255-1521
- 817 Morin Velma Mrs @ 255-8082
- 821 Gronning Roy S @ 259-5980
- 824 Hilschman Melvin L @ 255-3318
- 833 First Church Of Christ Scientist 255-5844
- 834 Rosenwasser Jacob @ 255-3912
- 836 Riggs J Arch @ 255-3092
- 843 Bonk Leonard @ 255-2027
- 850 Apartments
- 1 Beehler Charles @ 255-3724
- 2★Spilgga Myrna K Mrs 255-9123
- 3★Saint Germain Marlan 255-0345
- 4★Dixon Sharyn
- 5 Brower Steven P
- 851 Merrifield Park Apartments
- 1 No Return
- 2 Vacant
- 3 Vacant
- 4 Vacant
- 5 No Return
- 6 Vacant
- 7 No Return

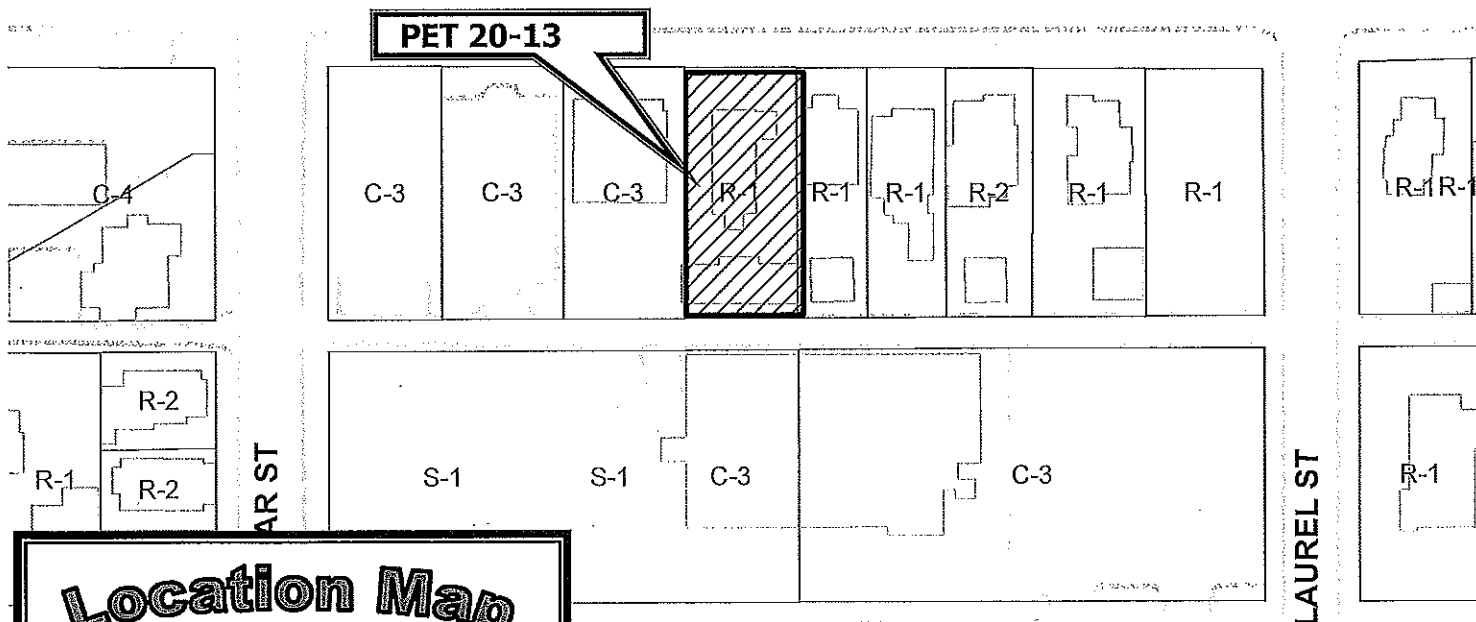
NEELY'S CERAMIC STUDIO
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 1006 Lincoln Hwy. W. S. 20. Decatur, Ind. 46561
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If You
 Would Find
 What You
 Wish to
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LINCOLNWAY EAST

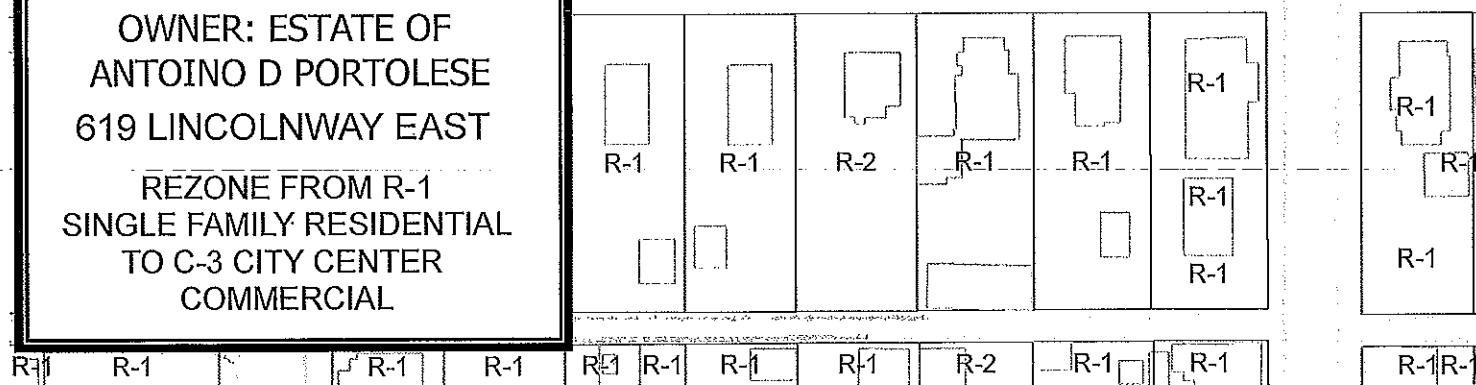


Location Map

PET 20-13

OWNER: ESTATE OF
ANTOINO D PORTOLESE
619 LINCOLNWAY EAST

REZONE FROM R-1
SINGLE FAMILY RESIDENTIAL
TO C-3 CITY CENTER
COMMERCIAL



1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-26

ORDINANCE NO. _____

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

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

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

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

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 15, Taylors Add to St. Jos Iron Works, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

COMMON ADDRESS: 613 West Third Street

which real estate is now classified as R-1 Single Family Residential District shall hereafter be within and a part of that District known as R-2 Two-Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The R-2 Two Family zoning matches other properties in the immediate vicinity and the use would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is its historical multi-family use;
3. Because the parcel is located in a varied area, the rezoning to R-2 Two Family District is a desirable use for this property;

Proposed Ordinance No: 20-26

Ordinance No: _____

4. Rezoning to R-2 Two Family District will have a favorable and stabilizing impact on the neighborhood as the use is not changing and,
5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a multi-family home is compatible and consistent with the higher density residential uses in the area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: 613 W Third

Date: August 11, 2020

Petition: 20 14

Prepared By: CH

GENERAL INFORMATION

Applicant: Antonio D Portolese Estate

Status: Property Owner

Request: Rezone from R-1 Single Family Residential to R-2 Two Family Residential

Zoning Classification: R-1 Single Family Residential

Lot Size: 50' X 142'

Applicable Regulations: Sec. 137-186 Residential R-2 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-1 Single Family Residential
South: R-1 Single Family Residential
East: R-2 Two Family Residential
West: R-1 Single Family Residential

Thoroughfare: Third Street

School District: School City of Mishawaka

Public Utilities: Available

Comprehensive Plan: Low Density Residential

ANALYSIS

The Petitioner's Estate is requesting to rezone 613 W Third from R-1 Single Family Residential to R-2 Two Family Residential. The property is located on Third Street between Center St. and Wells St.

The building is currently being used as a duplex. The home was built between 1897 (tax records) and 1900 (historical sites survey). The current address layer lists 607 and 613 as the addresses associated with this parcel. The 1953 Polk Directory, found online, lists 607 and 613. In the 1976 Polk Directory, the addresses listed are 607, 613 and 613½. We have no documentation as to when this conversion occurred.

This block between Center and Wells contains three single family homes, and two duplexes. The surrounding blocks contain single and two family dwellings. Parking should not become an issue because there is a one car garage and a long (80'+) driveway.

The Petitioner's Estate is in the process of selling the property and learned the use did not match the zoning.

Pertinent City Departments have reviewed and approved the request. We have received one letter of remonstrance.

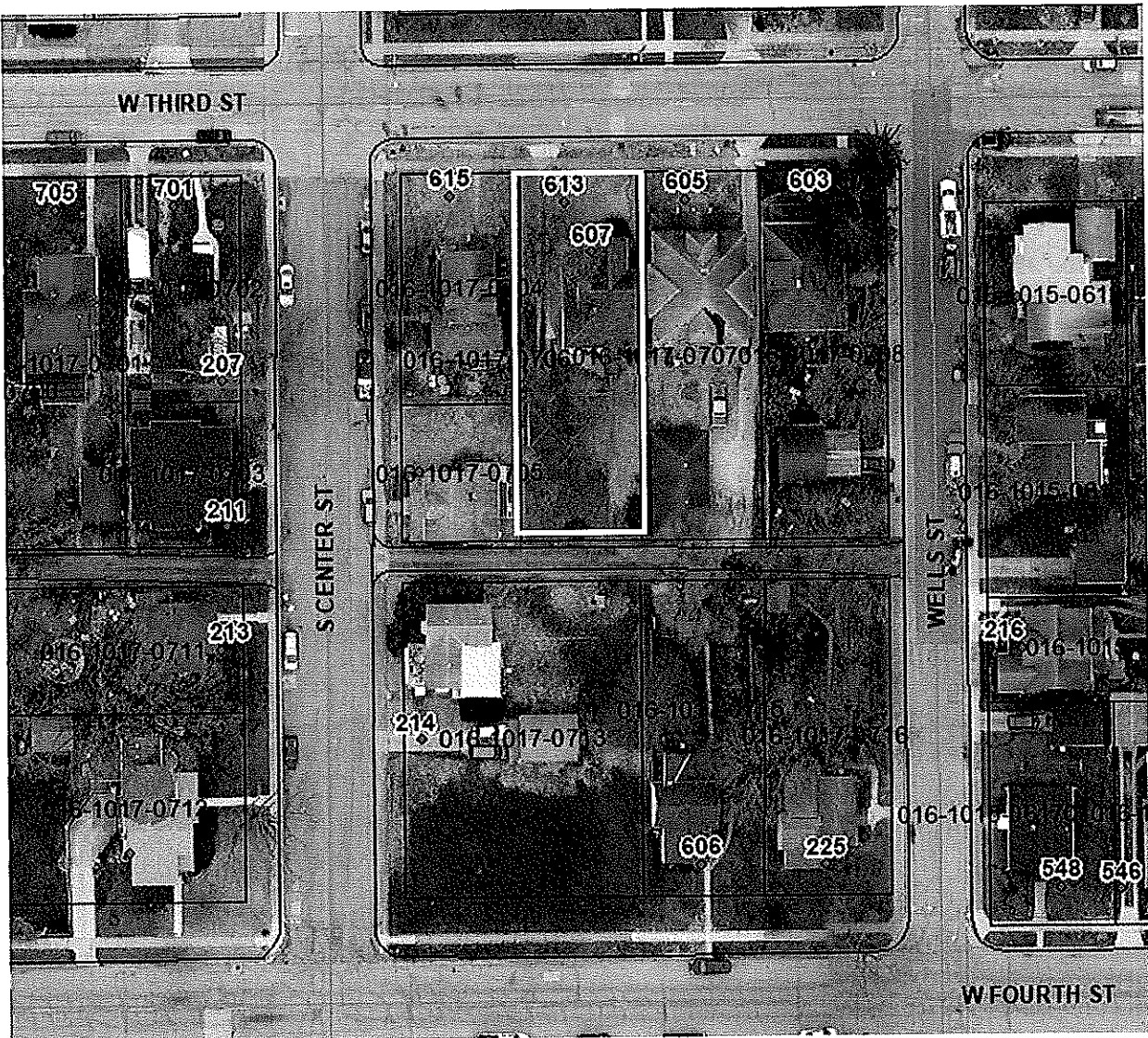
RECOMMENDATION

The Planning Department recommends **approval** of Petition 20-14 to rezone 613 W Third from R-1 Single Family Residential District to R-2 Two Family District. This recommendation is based upon the following findings of fact:

1. The R-2 Two Family zoning matches other properties in the immediate vicinity and the use would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is its historical multi-family use;
3. Because the parcel is located in a varied area, the rezoning to R-2 Two Family District is a desirable use for this property;
4. Rezoning to R-2 Two Family District will have a favorable and stabilizing impact on the neighborhood as the use is not changing and,
5. The City's Comprehensive Plan calls for low intensity residential use, and its historic use as a multi-family home is compatible and consistent with the higher density residential uses in the area.

ATTACHMENTS

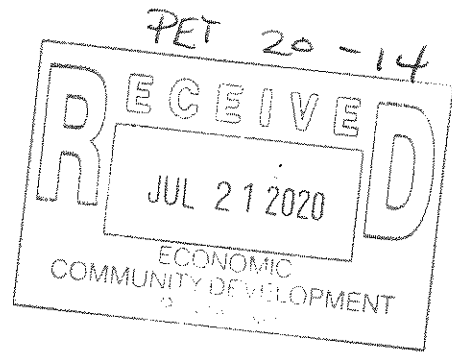
AERIAL, PHOTOGRAPHS, PETITION, LOCATION MAP





613 W Third

Michael R. Portolese
Executor for the Estate of Antonio D Portolese
434 Calhoun St.
Mishawaka IN 46545



July 20, 2020

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

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 24 2020

CITY CLERK
MISHAWAKA, IN

Re: Petition to Rezone 613 W. 3rd St, Mishawaka IN

In my capacity as Personal Representative/Executor of the estate of Antonio D Portolese (deceased), I hereby certify that the estate is the legal and rightful owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana to-wit:

Parcel ID: 71-09-16-185-002.000-023

Tax ID: 016-1017-0706

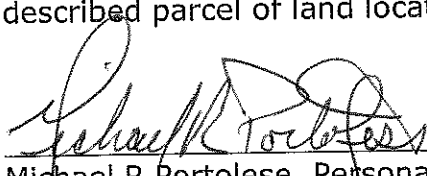
Legal Description: Lot 15 TAYLORS ADD TO ST JOS IRON WORKS

Common Address: 613 W. 3rd St., Mishawaka IN

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of R-1 Single Family Residential District. Said property is a duplex rental property.

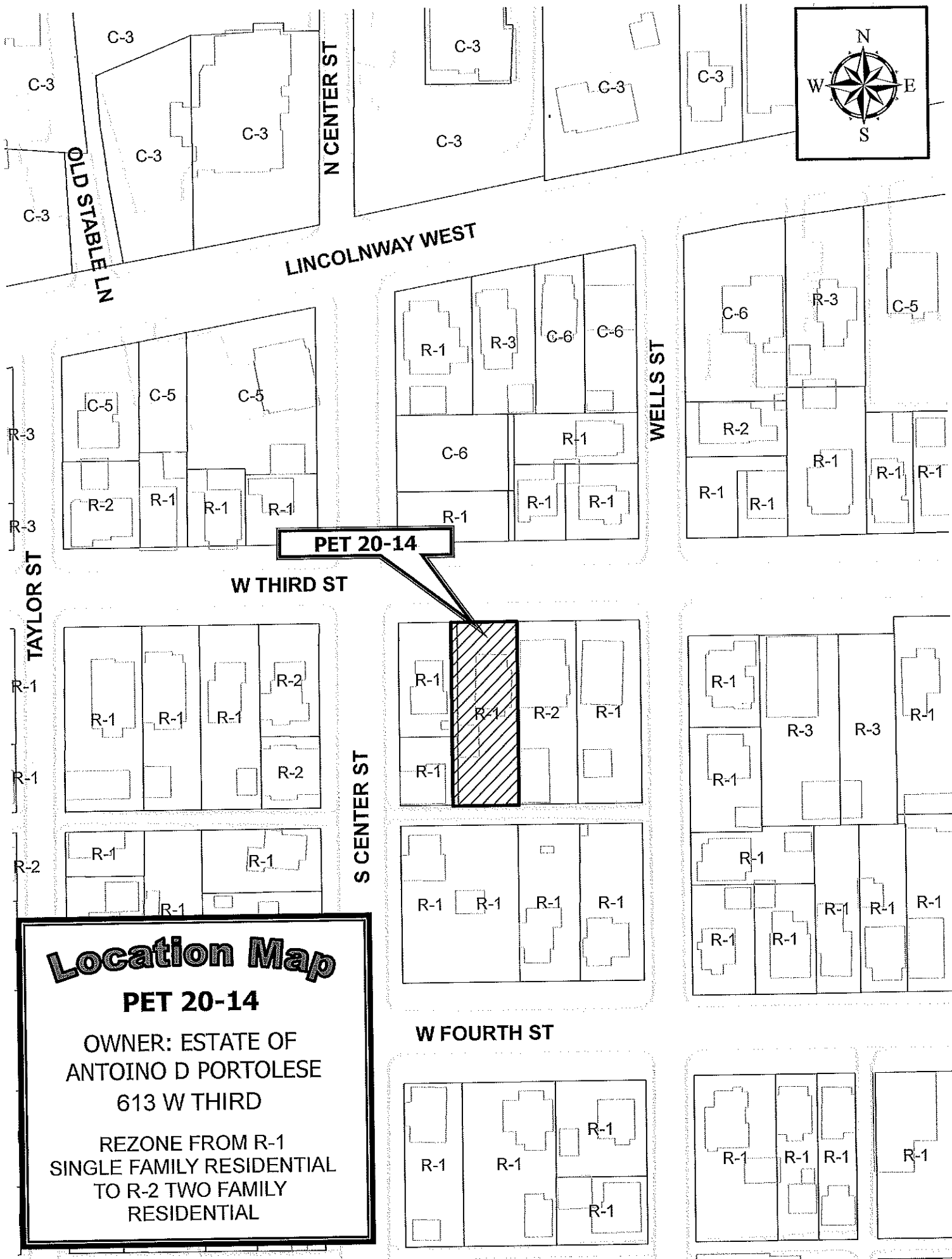
Petitioner desires said real estate to be rezoned to R-2 Two Family Residential. Petitioner further states that they intend to continue to utilize said land for two-family residential use.

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 rezoning the above described parcel of land located in the City of Mishawaka.



Michael R Portolese, Personal Representative
for the estate of Antonio D Portolese (deceased)

Cell Phone: (574) 532-5965
Email: mike@rci-products.com



AUG 13 2020

CITY CLERK
MISHAWAKA, IN

1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

PETITION 20-15

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-27

ORDINANCE NO. _____

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

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

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

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

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Lot 7 and Lot 8 as shown on the recorded plat of Deer Run Subdivision, Section Three in the Office of the Recorder of St. Joseph County, Indiana, as Instrument No. 1105126

COMMON ADDRESS: Northwest Corner of Fir Road and Deer Run Drive

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow for the development of a one-story assisted living facility subject to the following conditions:

1. Permitted uses shall be amended to include a one-story assisted living facility and other accessory uses including but not limited to common dining, activity rooms, family rooms, and recreation spaces.
2. Parking spaces shall be provided at a ratio of 1 space per 6 residential units, plus 1 space per employee at peak employment level, and 20 spaces for visitors.
3. Overstory or understory trees shall be provided along Fir Road at a rate compliant with the C-1 General Commercial District.
4. An existing tree row located along the north property line shall be maintained if within the property.
5. Parking lot screening per the C-1 General Commercial District shall be provided along the east side of the parking area adjacent to Fir Road.
6. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for the site.

Proposed Ordinance No: 20-27

Ordinance No: _____

7. The extension of all utilities to the site shall be at the developer's cost and expense.
8. 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. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.
9. Building setbacks shall be a minimum of 25' from the east property line along Fir Road, the south property line along Deer Run Drive, and the south property line, and 5' from the west property line.
10. Pavement setbacks shall be a minimum of 10' from the east and south property lines, and 5' from the north and west property lines.
11. Building materials and colors shall comply with the C-1 General Commercial District with the exception of allowing fiber cement board siding and trim materials on all buildings.

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

1. Existing Conditions - The amendment will not alter or negatively impact the existing conditions of the surrounding area. Commercial and industrial uses more intensive than the proposed assisted living facility are currently permitted both within the portion of the PUD being amended and within vacant property in the PUD to the west and south.
2. Character of Buildings in Area - Very few buildings are located within the immediate area. A vacant athletic facility and the Preserve at Fir Road Road apartment complex are within the boundaries of the Deer Road PUD to the south. Low density single-family residential homes and undeveloped property are located predominantly along the east side of Fir Road.
3. The Most Desirable/Highest and Best Use - The proposed S-2 Planned Unit Development amendment for an assisted living facility is consistent with surrounding zoning classifications. The proposed use will be compatible with the existing and permitted land uses within the PUD.
4. Conservation of Property Values - The proposed zoning will not be injurious to property values in the surrounding area. A majority of the adjacent property is undeveloped with only a vacant athletic facility to the south and low-density residential homes to the east. Higher intensive uses for the undeveloped portions of the Deer Run PUD are currently permitted.
5. Comprehensive Plan - The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential development. However, the presence of the existing apartments and the vacant athletic facility has profoundly changed the character of the area where low density residential development is no longer appropriate.

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

Proposed Ordinance No: 20-27

Ordinance No: _____

PASSED by the Common Council of the City of Mishawaka, Indiana, this
_____ day of _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2020, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at
_____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: Northwest corner of Fir Road & Deer Run Drive
Part of the Deer Run PUD including Lots 7 & 8 of the
Deer Run Subdivision, Section Three

Date: August 11, 2020

Petition: 20- 15

Prepared By: DJS

GENERAL INFORMATION

Applicant: Richard LaFree / Lang, Feeney & Associates, Inc.

Status: Property Owner / Surveyor & Site Design Consultant

Request: Amend the Deer Run Planned Unit Development (PUD) to allow for a one-story assisted living facility with 24 units

Zoning Classification: S-2 Planned Unit Development (Permitted Uses on the portion of the PUD to be amended include commercial uses subject to the C-8 Commercial development regulations)

Lot Size: 4.15 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: R Single Family District - Unincorporated St. Joseph County (Equestrian & Western tack store / Al-Bar Ranch)
South: S-2 Planned Unit Development (Vacant Land within the Deer Run PUD approved for Commercial Use & Vacant Athletic Facility)
East: R Single Family District - Unincorporated St. Joseph County (Residential)
West: S-2 Planned Unit Development (Vacant Land within the Deer Run PUD approved for Industrial Uses subject to the I-1 District development regulations)

Thoroughfare: Fir Road & Deer Run Drive

School District: Penn-Harris-Madison School Corporation

Township: Penn

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's expense

Comprehensive Plan: Low Density Residential

ANALYSIS

The petitioner, Richard LaFree, is requesting to amend a part of the Deer Run Planned Unit Development, originally approved in 2003 (Petition 03-42/Ord. 4818AA & 4819AA), to allow for the development of an

assisted living facility. At the direction of the Planning Staff, the request also states that the R-3 Multi-Family Residential development regulations shall be applicable except for the parking requirements. After review of similar PUD amendment requests, Staff is requesting that other development conditions be placed on the property. These conditions have been included in the staff recommendation.

The Planned Unit Development is located on west side of Fir Road between McKinley Avenue and Day Road. The part of the PUD being amended is bound by an equestrian and tack store to the north in unincorporated St. Joseph County, vacant land to the west, vacant land and a vacant building formerly occupied by the ICE Athletic Center to the south, and single-family residential property to the east in unincorporated St. Joseph County.

The amendment is to allow an approximate 14,200 sq. ft. one-story assisted living facility with 24 units within Lots 7 & 8 in the Deer Run Subdivision, Section Three (Plat 10-17). The two lots, which are located at the northwest corner of Fir Road and northern part Deer Run Drive, includes 4.15 acres of undeveloped land filled with scrub vegetation. The preliminary PUD site plan identifies JRMC Properties, Inc. as the contingent purchaser and developer.

The original preliminary PUD site plan and ordinance permitted commercial uses subject to the C-8 High-Density Suburban Commercial District development standards within said Lots 7 & 8. The PUD amendment will allow an assisted living facility in addition to the previously approved uses.

Also at the direction of Staff, it was recommended that parking space requirements be amended based on other recently developed assisted living facilities in the City or the developer's anticipated need. Parking requirements identified in the petition are 1 space per 6 residential units, plus 1 space per employee at peak employment level, and 20 spaces for visitors. When applying these ratios to the proposed development, a total of 32 parking spaces will be required. The preliminary site plan shows 37 spaces will be provided. One access to the parking lot and site is proposed from Deer Run Drive.

The landscaping, as conceptually shown on the preliminary site plan, shows trees along Fir Road and within the parking area. The C-1 District standards for over-story or under-story trees shall be applicable to the property frontage along Fir Road. Parking screening shall also be required between the parking area and Fir Road. Perimeter trees will not be required along the north, west, or south property lines. However, the existing tree row located along the north property line shall be maintained if within the property. A more detailed landscape plan conforming to the PUD conditions shall be submitted with the final planned unit development site plan, and is subject to review and approval by the Planning Staff.

The architectural materials and colors of the building shall comply with the C-1 General Commercial design regulations with the exception of allowing fiber cement board siding and trim on all buildings.

Similar to when the original Planned Unit Development was approved, the petitioner is only proposing to establish, or in this case, amend the permitted uses and basic development requirements of the planned unit development. If approved, a detailed Final Planned Unit Development site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

All pertinent City Departments have reviewed and approved the PUD amendment request.

The Engineering Department provided several comments related to stormwater runoff, sanitary sewer, and erosion control. These comment shall be addressed with the final site plan.

RECOMMENDATION

Staff recommends **approval** of Petition 20-15 to amend a part of the Deer Run PUD, being more specifically Lots 7 & 8 in the Deer Run Subdivision, Section Three, to allow for the development of a one-story assisted living facility subject to the following conditions:

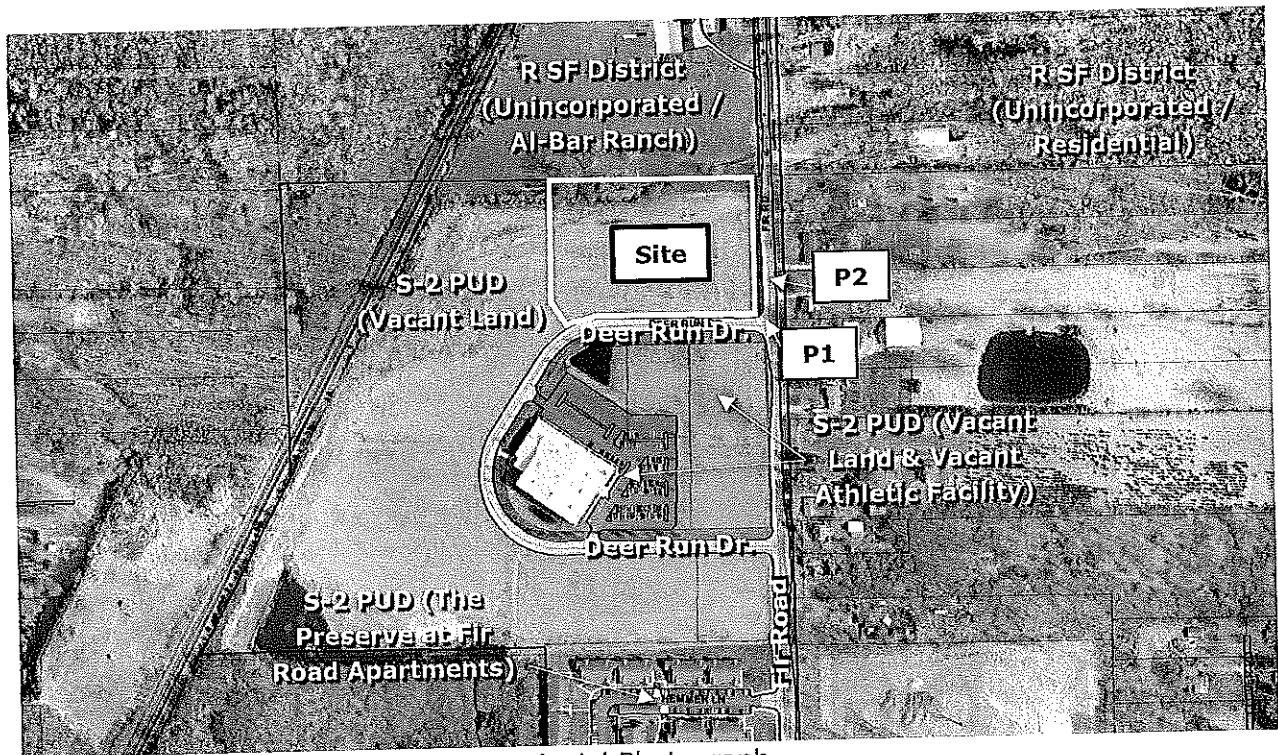
1. Permitted uses shall be amended to include a one-story assisted living facility and other accessory uses including but not limited to common dining, activity rooms, family rooms, and recreation spaces.
2. Parking spaces shall be provided at a ratio of 1 space per 6 residential units, plus 1 space per employee at peak employment level, and 20 spaces for visitors.
3. Overstory or understory trees shall be provided along Fir Road at a rate compliant with the C-1 General Commercial District.
4. An existing tree row located along the north property line shall be maintained if within the property.
5. Parking lot screening per the C-1 General Commercial District shall be provided along the east side of the parking area adjacent to Fir Road.
6. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for the site.
7. The extension of all utilities to the site shall be at the developer's cost and expense.
8. 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. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.
9. Building setbacks shall be a minimum of 25' from the east property line along Fir Road, the south property line along Deer Run Drive, and the south property line, and 5' from the west property line.
10. Pavement setbacks shall be a minimum of 10' from the east and south property lines, and 5' from the north and west property lines.
11. Building materials and colors shall comply with the C-1 General Commercial District with the exception of allowing fiber cement board siding and trim materials on all buildings.

The recommendation is based on the following findings of fact:

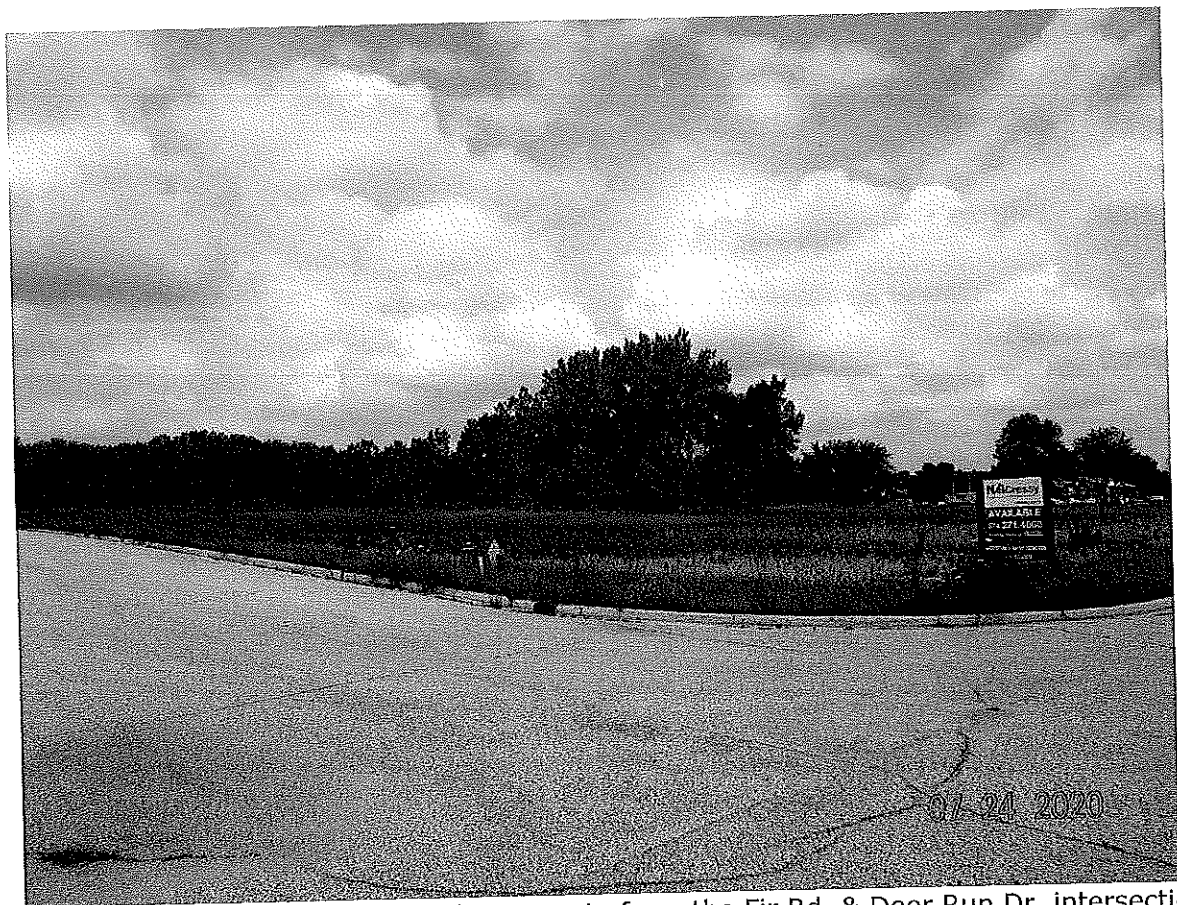
1. Existing Conditions- The amendment will not alter or negatively impact the existing conditions of the surrounding area. Commercial and industrial uses more intensive than the proposed assisted living facility are currently permitted both within the portion of the PUD being amended and within vacant property in the PUD to the west and south.
2. Character of Buildings in Area- Very few buildings are located within the immediate area. A vacant athletic facility and the Preserve at Fir Road Road apartment complex are within the boundaries of the Deer Road PUD to the south. Low density single-family residential homes and undeveloped property are located predominantly along the east side of Fir Road.
3. The Most Desirable/Highest and Best Use- The proposed S-2 Planned Unit Development amendment for an assisted living facility is consistent with surrounding zoning classifications. The proposed use will be compatible with the existing and permitted land uses within the PUD.
4. Conservation of Property Values- The proposed zoning will not be injurious to property values in the surrounding area. A majority of the adjacent property is undeveloped with only a vacant athletic facility to the south and low density residential homes to the east. Higher intensive uses for the undeveloped portions of the Deer Run PUD are currently permitted.
5. Comprehensive Plan- The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for low density residential development. However, the presence of the existing apartments and the vacant athletic facility has profoundly changed the character of the area where low density residential development is no longer appropriate.

ATTACHMENTS

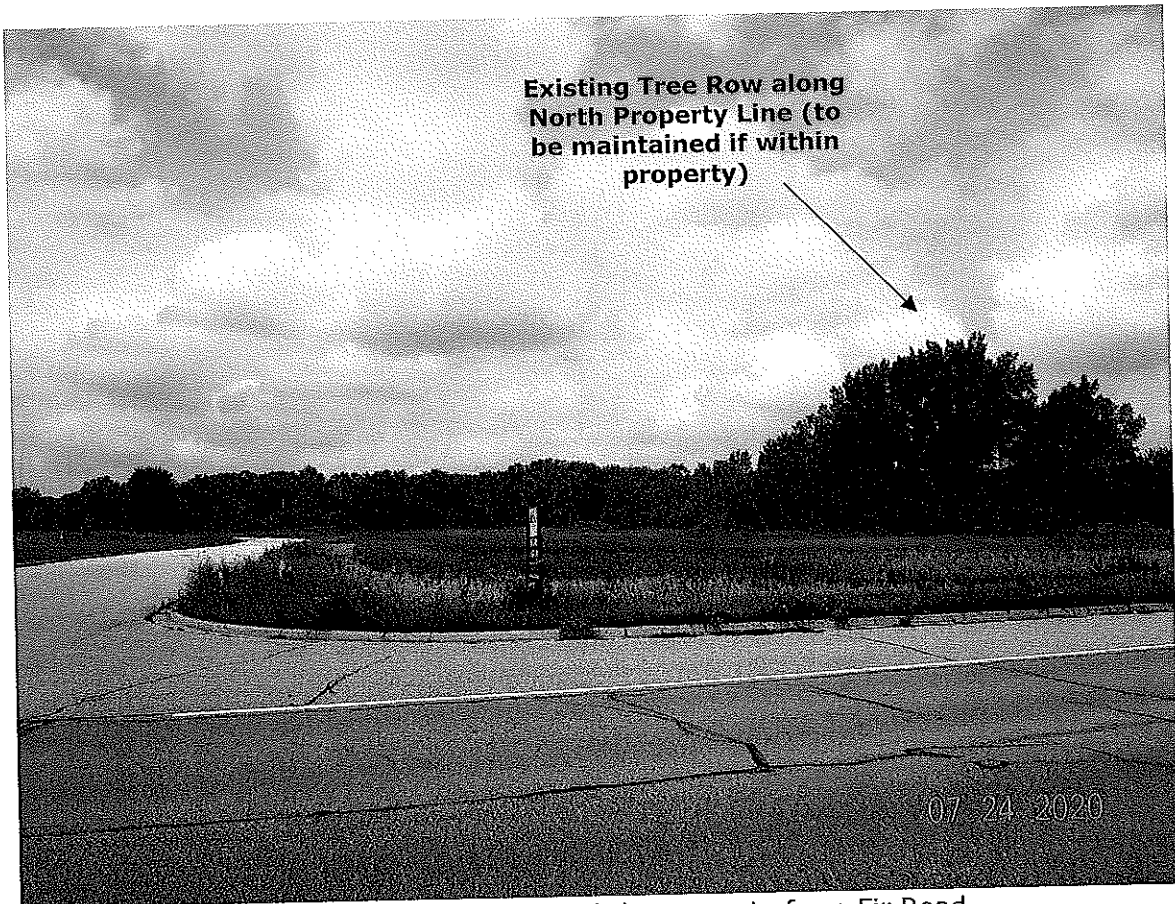
Photographs, Petition, Original Preliminary PUD Plan (Petition 03-42), Amended Preliminary PUD Plan, Location Map



Aerial Photograph
Deer Run Planned Unit Development
West of Fir Road between McKinley Avenue and Day Road



P1. Looking northwesterly toward the property from the Fir Rd. & Deer Run Dr. intersection.



Existing Tree Row along
North Property Line (to
be maintained if within
property)

P2. Looking westerly toward the property from Fir Road.

July 22, 2020

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

PET 20-15
RECEIVED
DEBORAH S. BLOCK, MMC

JUL 24 2020

CITY CLERK
MISHAWAKA, IN

Re: PETITION FOR PUD AMENDMENT

The Undersigned, Richard LaFree respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

A parcel of land being a part of the Northeast Quarter Section 3, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana and being more particularly described as Lot 7 and Lot 8 as shown on the recorded plat of Deer Run Subdivision, Section Three in the Office of the Recorder of St. Joseph County, Indiana as Instrument No. 1105126.

Vacant land located in the 1400 block of Deer Run Drive, Mishawaka, Indiana 46545 area.

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

Petitioner desire said real estate to be amended to allow for an assisted living facility. This facility shall have 24 rooms. The developmental regulations for R-3 Multi Family Residential District shall be used except for the parking requirement. The parking requirements shall be based on 1 space per 6 residential unit (rooms), plus 1 space per employee at peak employment level, and 15-20 spaces for visitors.

Wherefore, the petitioner 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.

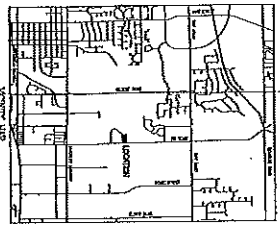
DocuSigned by:

Bonnie LaFree Suttor

Richard LaFree

By: Bonnie LaFree Suttor POA for Richard C. LaFree

Contact Person
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 S. Michigan Street
South Bend, Indiana 46601
Phone: 574-233-1841
Terry@LangFeeney.com



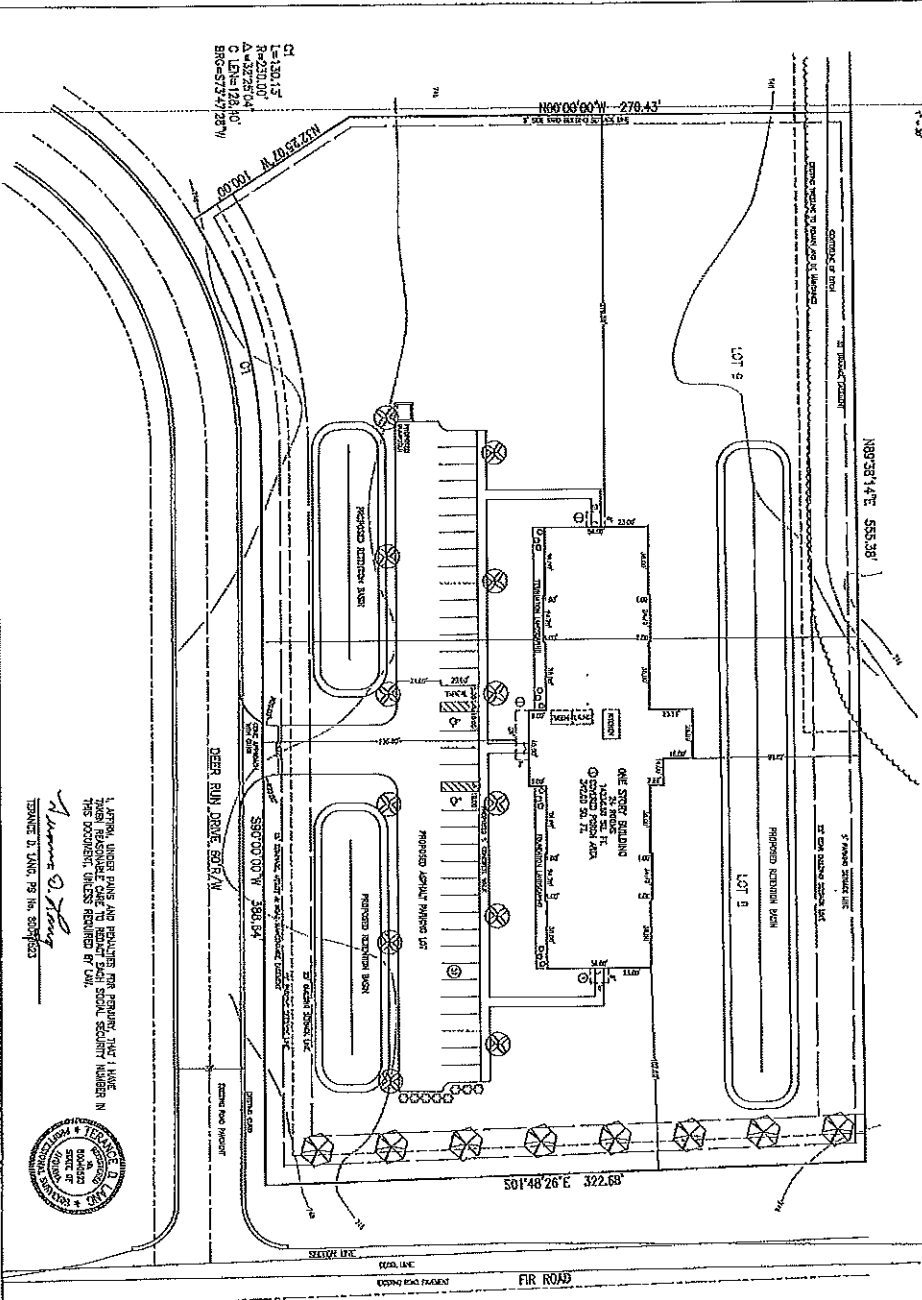
DEER RUN SUBDIVISION, SECTION THREE

BEING LOT 7 AND LOT 8 OF DEER RUN SUBDIVISION, SECTION THREE
 PART OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 37 NORTH,
 RANGE 3 EAST, PENN. TOWNSHIP, CITY OF KISHAWA, ST. JOSEPH COUNTY, INDIANA.

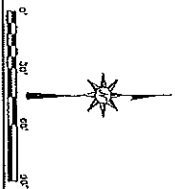
AMENDED PUD SITE PLAN

OWNER:
 CONSUMERS SUPERMARKET, INC.
 10000 N. 100TH AVENUE
 SUITE 100
 OVERLAND PARK, KS 66213

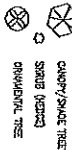
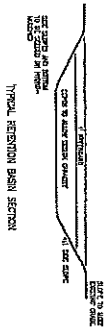
DESIGNER:
 LARRY J. HENRY & ASSOCIATES, INC.
 715 S. WILSON STREET
 INDIANAPOLIS, IN 46202



I, LARRY J. HENRY, DESIGNER, HEREBY CERTIFY THAT I HAVE
 PREPARED THIS PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF THE
 INDIANA SUBDIVISION ACT, AND THAT THE INFORMATION CONTAINED
 HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND
 BELIEF.



LARRY J. HENRY & ASSOCIATES, INC.	
715 S. WILSON STREET	INDIANAPOLIS, IN 46202
PHONE (317) 232-1941	FAX (317) 232-1942
DATE: 10/1/01	SCALE: AS SHOWN
BY: LARRY J. HENRY	CHECKED: LARRY J. HENRY
DATE: 10/1/01	DATE: 10/1/01



LANDSCAPE REQUIREMENTS

FRONT YARD - ONE DECIDUOUS SHOE EVERY 40'

REAR YARD - ONE DECIDUOUS SHOE EVERY 40'

LANDSCAPE LEGEND

CANOPY/SHADE TREE

SMALL TREE

DECIDUOUS TREE

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
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TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

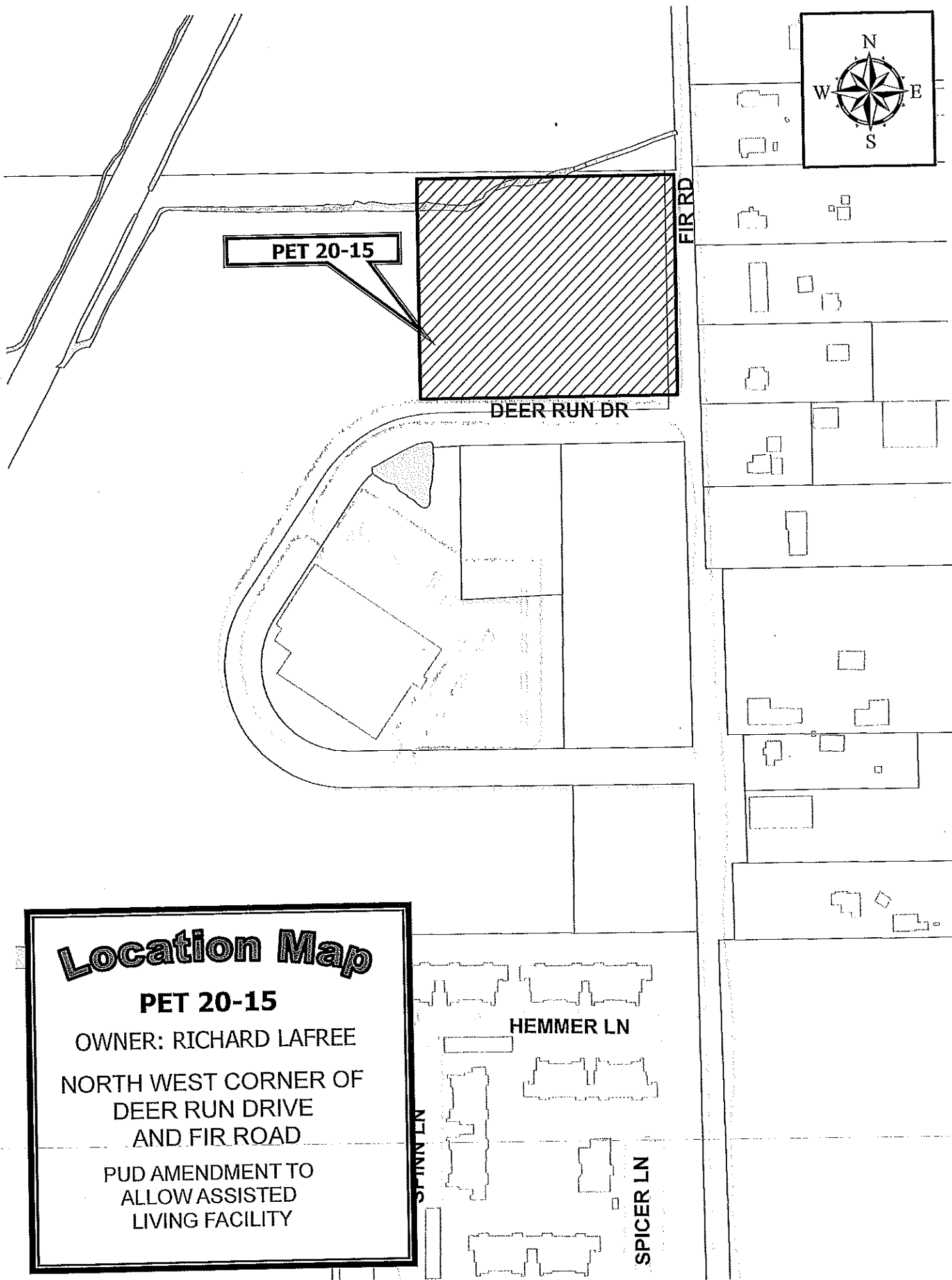
TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000

TYPE	LANDSCAPE	AREA
FRONT YARD	LANDSCAPE	10000
REAR YARD	LANDSCAPE	10000



1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION #20-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-28

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:

Parcels of land being a part of the Northeast Quarter of Section 22, Township 37 North, Range 3 East, Penn Township St. Joseph County, Indian and being more particularly described as follows:

Parcel 1: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00 feet to the point of beginning; thence continuing South 89°58'40" West, a distance of 165.65 feet; thence North 00°00'00" West, a distance of 263.87 feet; thence North 89°58'40" East, a distance of 165.65 feet; thence South 00°00'00" East, a distance of 263.87 feet to the point of beginning. Containing 1.00 acre.

Parcel 2: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 1047.66 feet to the point of beginning; thence continuing South 89°58'16" West, a distance of 405.58 feet; thence North 00°00'19" West, a distance of 264.00 feet; thence North 89°58'40" East, a distance of 405.62 feet; thence South 00°00'12" West, a distance of 263.95 feet to the point of beginning. Containing 2.46 acres more or less.

COMMON ADDRESSES: Property South of 1141 and 1241 East Twelfth Street

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 I-1 Light Industrial District.

Proposed Ordinance No. 20-28

Ordinance No. _____

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

1. Existing Conditions – The subject property is vacant industrial land in Unincorporated St. Joseph County, purchased by AWT, Inc. in 2016.
2. Character of Buildings in the Area – The character of buildings and land uses located along Twelfth Street, between Merrifield Ave and Byrkit Ave are primarily industrial, with a few other commercial land uses.
3. The most desirable/highest and best use – Because of the property's location adjacent existing industrial development, the most desirable use for the property is industrial.
4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The combining of all property owned with a possibility for expansion of the existing adjacent industrial use is compatible with industrial and commercial uses.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified this area as industrial, which is how it has developed.

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 _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No. 20-28

Ordinance No. _____

APPROVED by me this _____ day of _____, 2020, at _____ o'clock
_____, M.

David A. Wood, Mayor

STAFF REPORT

Location: Property south of 1141 and 1241 E Twelfth St.

Date: August 11, 2020

Petition: 20- 16

Prepared By: DJS

GENERAL INFORMATION

Applicant: AWT, Inc.

Status: Property Owner

Request: To annex and establish zoning to the I-1 Light Industrial District for the expansion of an adjacent business

Existing Zoning: Unincorporated St. Joseph County (I Industrial District)

Proposed Zoning: I-1 Light Industrial District

Lot Size: 3.46 acres

Applicable Regulations: Section 137-585 to 137-587 / I-1 Light Industrial &
Section 137-41 / Amendments to Zoning Map &
Indiana Code 36-4-3-2.1 and 36-4-3-3.1

SPECIAL INFORMATION

Area Development Pattern: North: I-1 Light Industrial (AWT owned property)
South: Unincorporated St. Joseph County – I Industrial District
East: I-1 Light Industrial
West: I-1 Light Industrial

Thoroughfare: Twelfth Street

School District: Penn-Harris-Madison

Township: Penn

Public Utilities: All utilities are available and/or will be extended to/throughout the site at the developer's/owner's expense.

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies a preferred or planned use for this property as Industrial (Manufacturing, Warehousing, and Distribution).

ANALYSIS

Proposal:

The applicants are proposing to annex and establish zoning for part of a vacant parcel of land (Tax Parcel 014-1027-043614), located south of property located at 1141 and 1241 E Twelfth Street.

The 3.46 acre area, which is two separate pieces, is immediately adjacent to and south of Adorn, a manufacturing business at 1141 and 1241 E Twelfth Street. AWT, Inc, is the current property owner of all the property.

The purpose of the proposed annexation and required zoning to the I-1 Light Industrial District is allow for the future expansion of the Adorn business. A subdivision was also submitted to combine all property owned by AWT, Inc. into one lot. Normally when an annexation and zoning petition is filed, a preliminary site plan is required to conceptually show how the property will be developed. In this case, a preliminary site plan was not provided since there are no immediate development plans.

If the proposed annexation and rezoning request is approved, a detailed final site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm water drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements.

Annexation:

1141 E Twelfth was annexed in 1971. 1241 E Twelfth was annexed in 1973. The southern part of 1241 E Twelfth was annexed in 1996 prior to a building addition.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing City boundary in order to be annexed. Based on the existing city boundary, Parcel 1 has 527.76 feet, or %, of the total 859.06 feet of the perimeter of the property will be contiguous with the exiting city limits. Parcel 2 has 669.57 feet, or 61%, of the total 1339.15 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located on the south side of Twelfth Street, between Merrifield Ave and Byrkit Ave. It is bordered to the north by Toot & Tell'em in Unincorporated St. Joseph County and the existing Adorn business within the City; to the west by a vacant industrial building within the City and the existing Adorn business within the City; to the south by vacant land in Unincorporated St. Joseph County; and to the east an industrial business and the existing Adorn business both within the City. The area between Merrifield Avenue and Bykit Avenue is primarily industrial.

Zoning Change:

Staff believes that the proposed zoning of this property to the I-1 Industrial District is appropriate given that the property will be added to the adjacent business for possible future expansion. The subsequent subdivision will clean up the parcel layer by combining all property owned by AWT, Inc, currently three parcels, into one parcel.

Transportation/Roads:

According to the latest available traffic counts, there were 8,300 annual average daily trips (AADT) (June 2015) along Twelfth Street just east of Byrkit Ave. According to the latest available traffic counts, there were 7,897 annual average daily trips (AADT) (June 2015) along Twelfth Street just west of Industrial Dr. The counts at these locations have been relatively constant over the past 20, actually decreasing from a high of almost 12,000 AADT in 2000. Due to the widening of Twelfth Street, as outlined in the 2045 Transportation Plan below, traffic volumes are expected to increase after the project is completed.

The 2045 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, shows planned added travel lanes along Twelfth Street, from Dodge to Campbell. The projected completion year for this project is 2030. It should be noted that the plan may be amended in future years dependent on infrastructure priorities, projected travel demand, and available funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning.

RECOMMENDATION

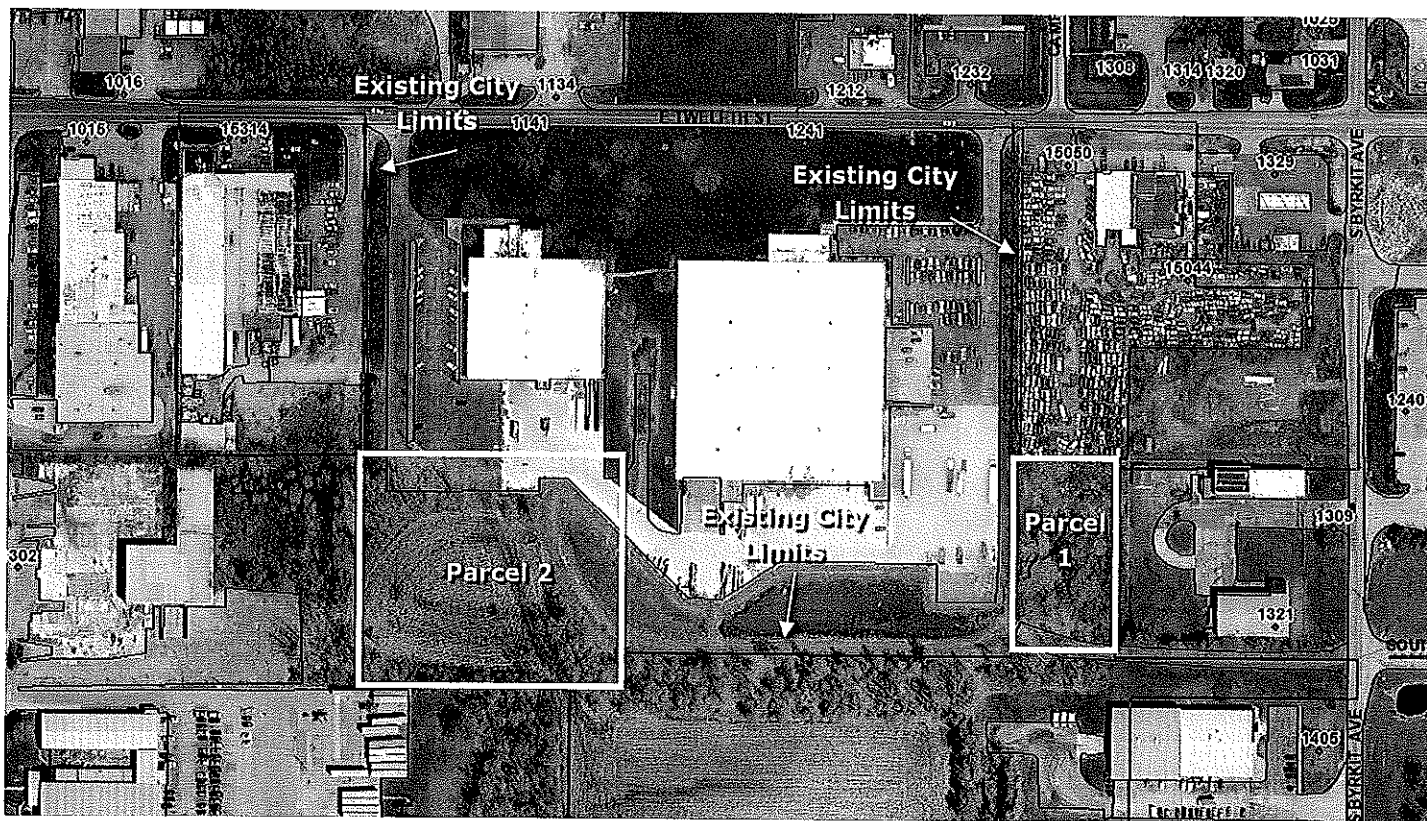
Staff recommends approval of Petition 20-16 to annex and establish zoning to the I-1 Light Industrial District for property south of and adjacent to 1141 and 1241 E Twelfth Street. The property will be combined with adjacent property owned by the same property owner to create one legal lot of record.

This recommendation is based on the following Findings of Fact:

1. Existing Conditions – The subject property is vacant industrial land in Unincorporated St. Joseph County, purchased by AWT, Inc. in 2016.
2. Character of Buildings in the Area – The character of buildings and land uses located along Twelfth Street, between Merrifield Ave and Byrkit Ave are primarily industrial, with a few other commercial land uses.
3. The most desirable/highest and best use – Because of the property's location adjacent existing industrial development, the most desirable use for the property is industrial.
4. Conservation of property values – The proposed zoning will not be injurious to the property values in the surrounding area. The combining of all property owned with a possibility for expansion of the existing adjacent industrial use is compatible with industrial and commercial uses.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan, created in 1990, identified this area as industrial, which is how it has developed.

ATTACHMENTS

Aerial Map, Photographs of the Annexation Area, Rezoning & Annexation Petition, and Location Maps



Aerial Photograph



The building at 1241 E Twelfth (annexation Parcel 1 east of parking lot).

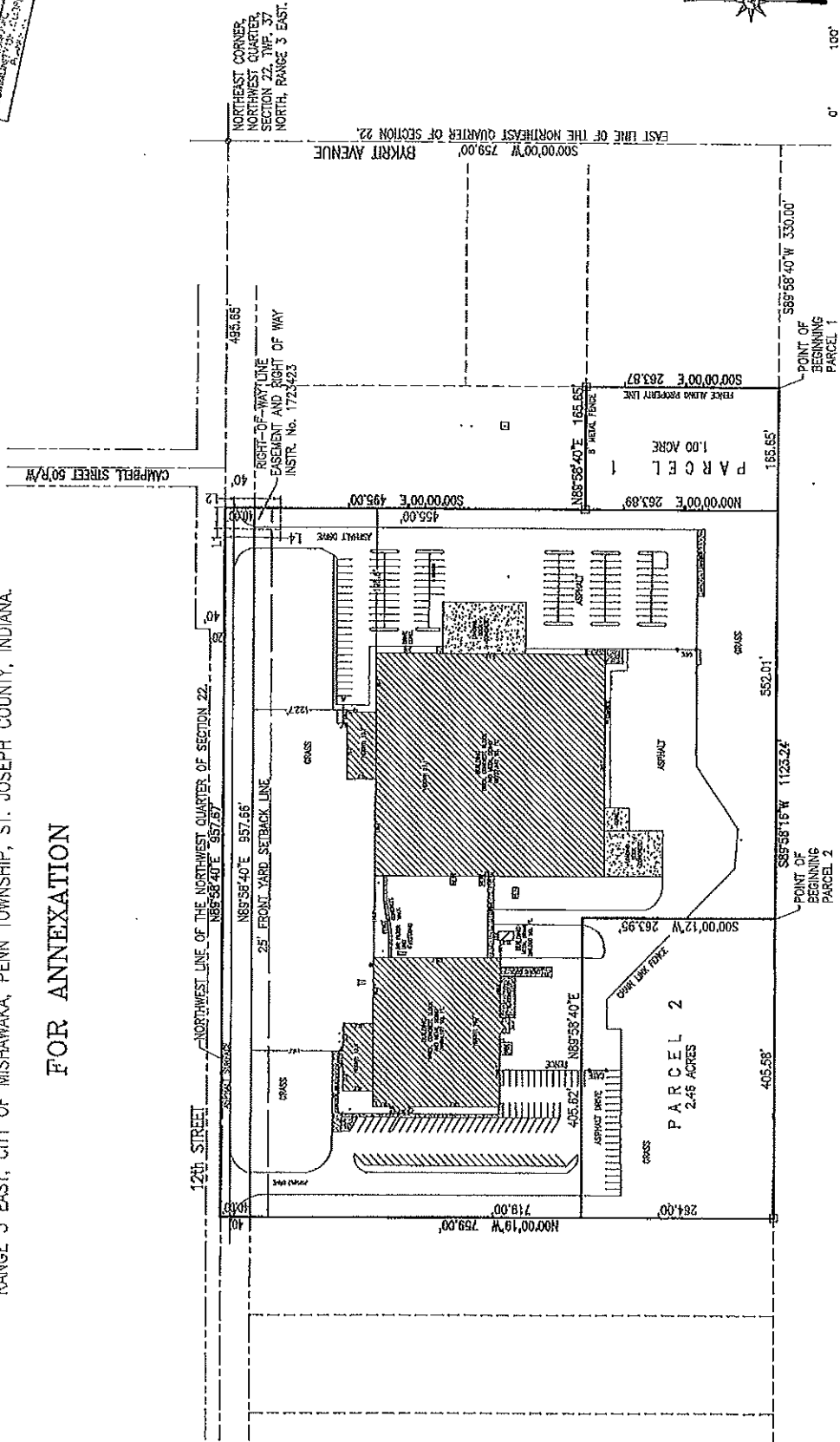
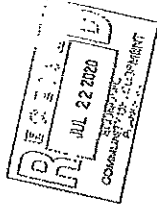


The Building at 1141 E Twelfth (annexation Parcel 2 south of parking lot).

SITE PLAN

PART OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 37 NORTH,
RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA.

FOR ANNEXATION



LINE	BEARING	DISTANCE
L1	N89°58'40"E	28.06'
L2	S00°00'00"E	75.60'
L3	N89°41'56"W	25.61'
L4	N01°09'32"E	76.45'



Long, Feeney & Associates, Inc.
715 S. Michigan Street
South Bend, Indiana 46601
Phone (574) 233-1841

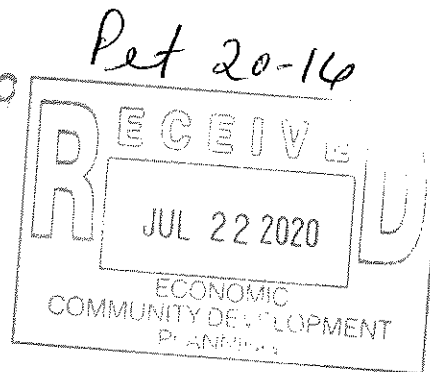
Land Surveyors	Soil Scientists
Scale 1" = 100'	Drawn JKS
Date 7-22-20	Job Number
Rev.	Job No.

July 22, 2020

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 24 2020

CITY CLERK
MISHAWAKA, IN



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 AWT, Inc. respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

Parcels of land being a part of the Northeast Quarter of Section 22, Township 37 North, Range 3 East, Penn Township St. Joseph County, Indian and being more particularly described as follows:

Parcel 1: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00 feet to the point of beginning; thence continuing South 89°58'40" West, a distance of 165.65 feet; thence North 00°00'00" West, a distance of 263.87 feet; thence North 89°58'40" East, a distance of 165.65 feet; thence South 00°00'00" East, a distance of 263.87 feet to the point of beginning. Containing 1.00 acre.

Parcel 2: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 1047.66 feet to the point of beginning; thence continuing South 89°58'16" West, a distance of 405.58 feet; thence North 00°00'19" West, a distance of 264.00 feet; thence North 89°58'40" East, a distance of 405.62 feet; thence South 00°00'12" West, a distance of 263.95 feet to the point of beginning. Containing 2.46 acres more or less.

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located adjacent to the rear of the property at 1141 and 1241 East 12th Street and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a I-1 Industrial District. Petitioners further state they intend to utilize said land for continued use of the adjacent, existing manufacturing site and it's expansion.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show 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.

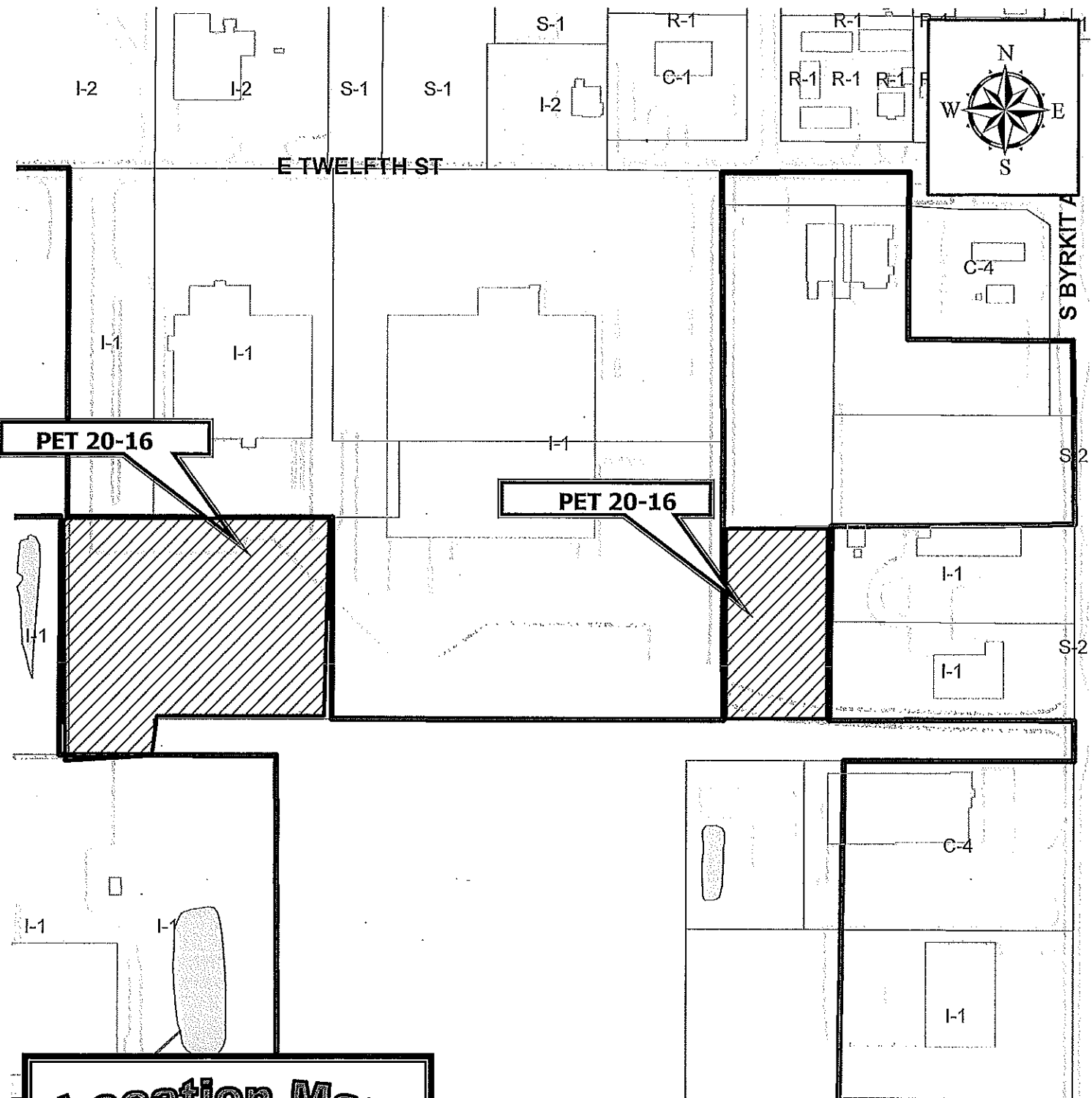
Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a I-1 Industrial District.



AWT, Inc.

By: ABBY THOMAS

Contact Person:
Lang, Feeney & Associates, Inc.
Terance D. Lang
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
Terry@LangFeeney.com



Location Map

PET 20-16

OWNER: AWT, INC

SOUTH AND EAST OF
1141 & 1241 E-TWELFTH ST

ANNEX ADJACENT PROPERTY
TO BE INCLUDED IN SUBDIVISION

S FIR RD



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

NOTICE OF HEARING

PROPOSED ORDINANCE NO.	<u>2020-28</u>
PETITION NO.	<u>2020-16</u>
DATE of HEARING	<u>9-08-20</u>
TIME of HEARING	<u>7:00PM</u>

An ordinance for annexation for the following property located;

Parcels of land being a part of the Northeast Quarter of Section 22, Township 37 North, Range 3 East, Penn Township St. Joseph County, Indian and being more particularly described as follows:

Parcel 1: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 330.00 feet to the point of beginning; thence continuing South 89°58'40" West, a distance of 165.65 feet; thence North 00°00'00" West, a distance of 263.87 feet; thence North 89°58'40" East, a distance of 165.65 feet; thence South 00°00'00" East, a distance of 263.87 feet to the point of beginning. Containing 1.00 acre.

Parcel 2: Commencing at the northeast corner of said Northeast Quarter, thence South 00°00'00" West along the east line of said quarter, a distance of 759.00 feet; thence South 89°58'40" West, a distance of 1047.66 feet to the point of beginning; thence continuing South 89°58'16" West, a distance of 405.58 feet; thence North 00°00'19" West, a distance of 264.00 feet; thence North 89°58'40" East, a distance of 405.62 feet; thence South 00°00'12" West, a distance of 263.95 feet to the point of beginning. Containing 2.46 acres more or less.

COMMON ADDRESSES: Property South of 1141 and 1241 East Twelfth Street

Subject to all legal highways, easements and restrictions of record. NOTICE IS HEREBY GIVEN that a regular meeting of the Mishawaka Common Council will be held on September 08, 2020 at 7:00 pm in the Council Chambers, City Hall, 600 East Third Street, Mishawaka, Indiana. Public hearing will be conducted on the proposed ordinance at which time any interested person may appear, be represented by agent or present in writing any reasons they may have for the granting or denying of a proposed ordinance. You are requested to prepare your case, in detail, and present all evidence relating to this proposed ordinance at the time of scheduled hearing.

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

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

Raven S. Boston, Chief Deputy Michael Hixenbaugh, Deputy
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@mishawaka.in.gov Website: Mishawaka.in.gov

1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-17

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-29

ORDINANCE NO. _____

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

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

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

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

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

LOT 2 AND A PART OF LOT 1 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION, RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 2; THENCE NORTH 00°28'12" WEST ALONG THE WEST LINE OF SAID LOT 2, 562.65 FEET; THENCE NORTH 68°36'22" EAST, 327.80 FEET; THENCE SOUTH 21°40'35" EAST, 37.48 FEET; THENCE NORTH 89°46'50" EAST, 171.07 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°31'05" EAST ALONG THE EAST LINE OF SAID LOTS 1 AND 2, 1531.34 FEET; THENCE SOUTH 44°28'18" WEST, 35.36 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID LOT 2, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 33.80 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHT OF WAY OF RECORD.

COMMON ADDRESS: Northwest Corner of Gumwood Road and West Cleveland Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow one dumpster enclosure between a principal building and public right-of-way only when the gate is not visible from Gumwood Road, to

Proposed Ordinance No: 20-29

Ordinance No: _____

permit wood as a secondary building material, and be setback a minimum of 25' from the right-of-way, subject to the following conditions:

1. All loading docks, dumpsters, and ATM machines, and mechanical equipment shall be screened from view. Dumpsters shall be screened by a wall primarily constructed with materials matching the building materials of the principal building. Wood, including cedar, is permitted as a secondary material used in construction of the dumpster. One dumpster enclosure may be located between a principal building and street only if the gate is not visible from Gumwood Road.
2. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road. A dumpster enclosure may be located a minimum 25' setback from Gumwood Road.

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

1. Existing Conditions – The subject property, located along Gumwood Road and Cleveland Road (S.R. 20), is partially developed with multi-family residential and commercial uses and with vacant land approved for the same uses. Existing similar multi-family residential and commercial developments are located to the north and across Gumwood Road to the east.
2. Character of Buildings in Area – The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. The buildings north and west of the property are predominantly multi-family and single-family residential.
3. The most desirable/highest and best use – Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, the most desirable use for the property is a transitional mix of commercial and residential uses. The additional proposed dumpster enclosure and location is appropriate to support the existing and future commercial development within the property.
4. Conservation of property values – The proposed amendment will not be injurious to property values in the surrounding area. The dumpster enclosure will be constructed with high quality aesthetically appealing materials to match the main building. The adjacent berm will be raised and additional landscaping provided to screen the dumpster from the public right-of-way.
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 proposed dumpster enclosure does not affect the permitted uses previously approved for the property.

Proposed Ordinance No: 20-29

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 _____, 2020, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORT

Location: Northwest corner of Gumwood Road &
W. Cleveland Road (S.R. 23)

Date: August 11, 2020

Petition: 20- 17

Prepared By: DJS

GENERAL INFORMATION

Applicant: Great Lakes Capital Management, LLC (a/k/a Grandview Flats II, LLC & Gumwood Acquisitions, LLC) / Abonmarche Consultants

Status: Property Owner / Engineer & Site Design Consultant

Request: Amend the Grandview Phase II Planned Unit Development to allow one dumpster enclosure between a principal building and public right-of-way only when the gate is not visible from Gumwood Road, to permit wood as a secondary building material, and to be setback a minimum of 25' from the right-of-way

Zoning Classification: S-2 Planned Unit Development (Permitted commercial and multi-family residential uses per Ord. 5434 & 5611)

Lot Size: 33.8 acres

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

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Grandview Mixed-Use Development including future commercial and existing multi-family residential uses & City of Mishawaka/Municipal Wellfield)

South: S-1 Extensive Open Space/Public (Cemetery/St. Joseph Valley Memorial Park)

East: S-2 Planned Unit Development (Heritage Square and Toscana Park Mixed-Use developments including commercial and residential uses)

West: C-2 Shopping Center Commercial (Multi-Tenant Commercial/Centennial Place) & Unincorporated St. Joseph County (Single-Family Residential)

Thoroughfare: Gumwood Road & W. Cleveland Road (S.R. 23)

School District: South Bend Community School Corporation

Public Utilities: All utilities are available and have been extended to/throughout the site at the developer's/owner's expense.

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan. However, the permitted uses per the PUD are generally consistent with the established policy and trend of encouraging retail and multiple family uses within the area.

ANALYSIS

The Petitioner is requesting to amend the Grandview Phase II Planned Unit Development pertaining only to the previously approved conditions and development regulations as outlined below:

Proposed Uses:

4. All loading docks, dumpsters, and ATM machines, and mechanical equipment shall be screened from view. *Dumpsters shall be screened by a wall primarily constructed with materials matching the building materials of the principal building. Wood, including cedar, is permitted as a secondary material used in construction of the dumpster. One dumpster enclosure may be located between a principal building and street only if the gate is not visible from Gumwood Road.*

Building/Parking Sebacks:

1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road. *A dumpster enclosure may be located a minimum 25' setback from Gumwood Road.*

When the Final PUD Site Plan for Grandview Phase II was submitted for review in 2018 (SP 18-B), the plan did not include any dumpsters locations within the site. The applicant's engineering and site design consultant stated that dumpsters were not required as all trash receptacles would be kept internal to the buildings. Though prior to approval and recording the plans, dumpsters were added to the site plan west of the buildings for the multi-family residential use. The location of the dumpsters behind the building complied with the development regulations.

In March, the applicant contacted Planning Staff to inquire on the possibility of placing an additional dumpster within the easternmost row of parking spaces along Gumwood Road. The dumpster is proposed to be located just north of the entrance drive and will serve Bar Louie, a new restaurant tenant. Planning Staff initially requested that the dumpster be placed in any location other than the first row of parking along Gumwood Road to minimize visibility. The applicant stated that the proposed location is the most ideal for access and reducing potential internal conflicts between the residents and patron's vehicles, and trash haulers.

Staff supports the amendment request to allow a dumpster enclosure where proposed. The dumpster enclosure will be constructed with a combination of brick and cedar to match the materials and design of the main building. A landscaping mound east of the enclosure will be raised and additional landscaping planted to screen the enclosure from Gumwood Road.

All other previously approved development standards and conditions of approval per Ordinance 5434 and 5611 are applicable.

All pertinent City Departments have reviewed and approved the request providing no comments.

RECOMMENDATION

Staff recommends approval of Petition 20-17 to amend the Grandview Phase II Planned Unit Development as follows:

Proposed Uses:

4. All loading docks, dumpsters, and ATM machines, and mechanical equipment shall be screened from view. *Dumpsters shall be screened by a wall primarily constructed with materials matching the building materials of the principal building. Wood, including cedar, is permitted as a secondary material used in construction of the dumpster. One dumpster enclosure may be located between a principal building and street only if the gate is not visible from Gumwood Road.*

Building/Parking Sebacks:

2. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23/Cleveland Road. *A dumpster enclosure may be located a minimum 25' setback from Gumwood Road.*

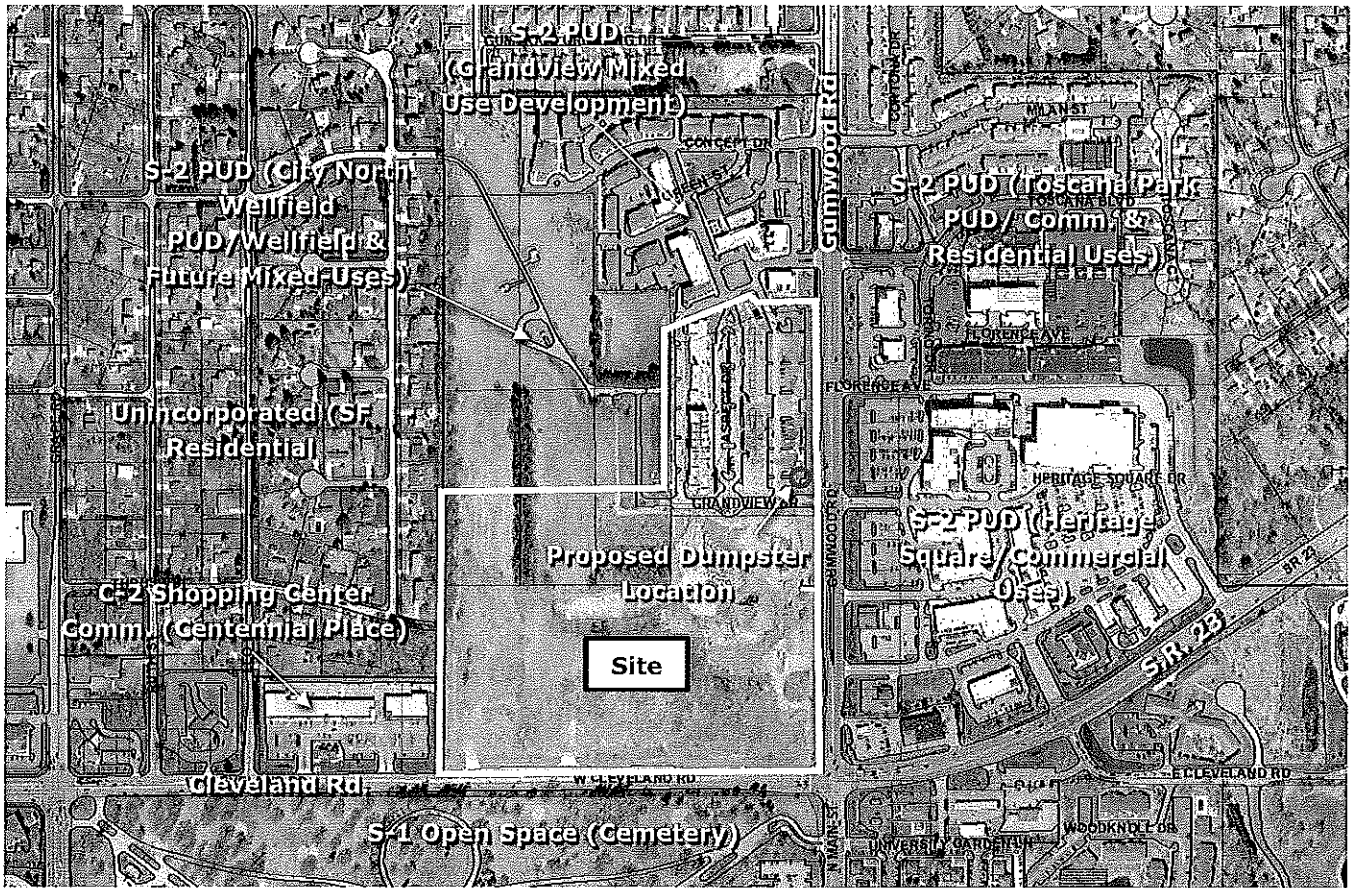
All other previously approved development standards and conditions of approval per Ordinance 5434 and 5611 shall be adhered to.

This recommendation is based upon the following findings of fact:

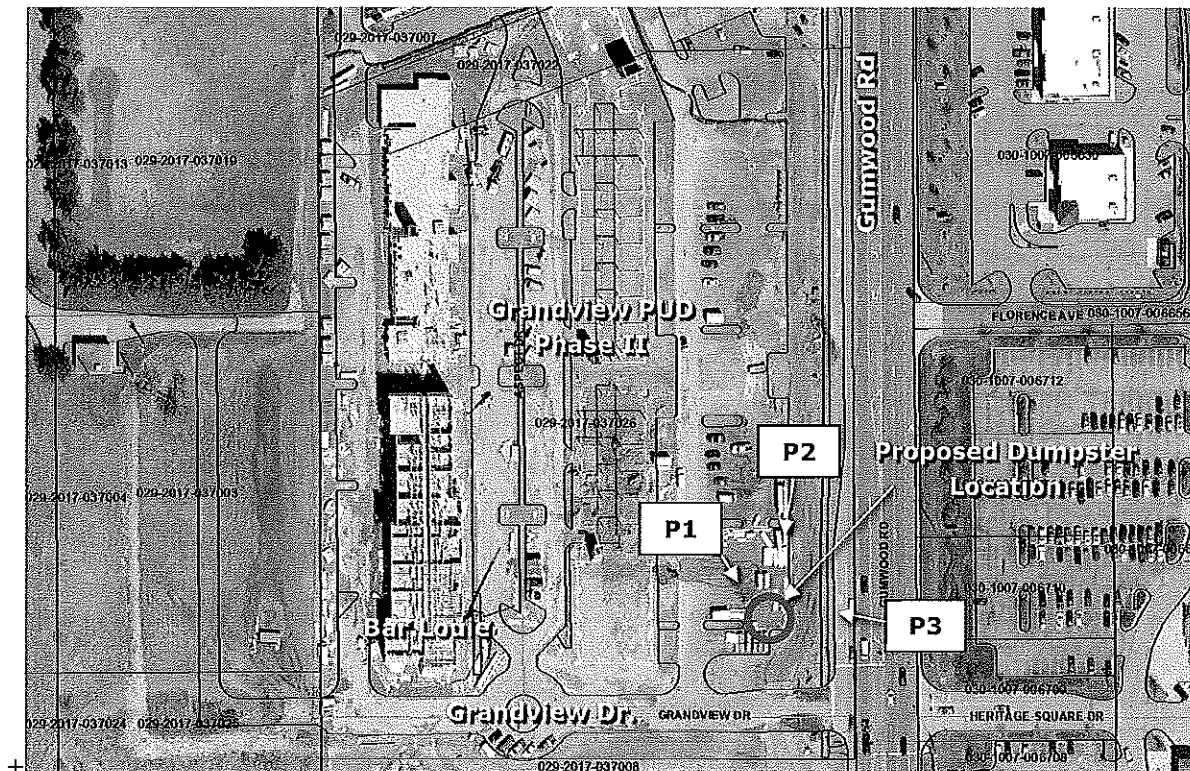
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2. Character of Buildings in Area – The character of a majority of the buildings along Gumwood Road and W. Cleveland Road (S.R. 23) are commercial. The buildings north and west of the property are predominantly multi-family and single-family residential.
3. The most desirable/highest and best use – Due to the parcels' location and the significant commercial development along the Main Street/Gumwood Road corridor combined with the adjacent multi-family and single-family residential uses, the most desirable use for the property is a transitional mix of commercial and residential uses. The additional proposed dumpster enclosure and location is appropriate to support the existing and future commercial development within the property.
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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 proposed dumpster enclosure does not affect the permitted uses previously approved for the property.

ATTACHMENTS

Aerials, Photographs, Petition, PUD Amendment Exhibit (Site Plan), Dumpster Enclosure Illustration, Location Map



Aerial Photograph
Grandview Planned Unit Development
Northwest Corner of Gumwood Road & Cleveland Road (S.R. 23)



Proposed Dumpster Location



P1. Looking southeast from within the existing parking lot toward the location of the proposed dumpster enclosure.



P2. Looking southerly along Gumwood Road toward the proposed dumpster location.

**Proposed Location for a
Dumpster Enclosure
behind Landscape Mound**



07 24 2020

P3. Looking westerly from Gumwood Road toward the proposed dumpster enclosure to be located behind an improved landscape mound.

Pet 20-17



Engineering • Architecture • Land Surveying

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 24 2020

CITY CLERK
MISHAWAKA, IN

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

RE: Grandview Phase II PUD Amendment

The undersigned, Ryan C. Rans, Member of Great Lakes Capital Management, LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LOT 2 AND PART OF LOT 1 IN GUMWOOD ROAD DEVELOPMENT P.U.D. SUBDIVISION, RECORDED AS INSTRUMENT NUMBER 1518561 IN THE RECORDER'S OFFICE OF ST. JOSEPH COUNTY, INDIANA AND ALSO BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE NORTH 00°30'31" WEST ALONG THE WEST LINE OF SAID LOT 2 EXTENDED, 912.90 FEET; THENCE NORTH 89°27'41" EAST, 782.68 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 2; THENCE NORTH 00°28'12" WEST ALONG THE WEST LINE OF SAID LOT 2, 562.65 FEET; THENCE NORTH 68°36'22" EAST, 327.80 FEET; THENCE SOUTH 21°40'35" EAST, 37.48 FEET; THENCE NORTH 89°46'50" EAST, 171.07 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°31'05" EAST ALONG THE EAST LINE OF SAID LOTS 1 AND 2, 1531.34 FEET; THENCE SOUTH 44°28'18" WEST, 35.36 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 2; THENCE SOUTH 89°27'41" WEST ALONG THE SOUTH LINE OF SAID LOT 2, 1249.18 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 33.80 ACRES, MORE OR LESS, AND SUBJECT TO EASEMENTS, COVENANTS, AND RIGHTS OF WAY OF RECORD.

COMMON ADDRESS: Northwest Corner of Gumwood Road and Cleveland Road

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for multifamily uses and commercial uses within the C-1 General Commercial and C-2 Shopping Center Commercial zoning districts. Dumpsters shall be located away from roads behind principal buildings.

Petitioner desires said real estate to be amended as follows:

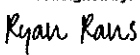
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2. Building / Parking Setbacks:

1. A minimum 50' building setback shall be provided along Gumwood Road and S.R. 23 / Cleveland Road. A dumpster enclosure may be located a minimum 25' setback from Gumwood Road and S.R. 23 / Cleveland Road.

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

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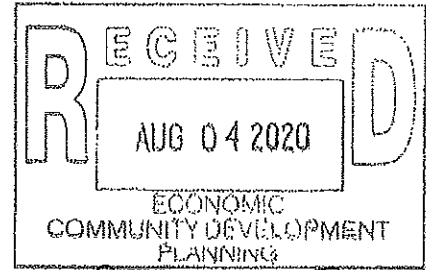
Ryan C. Rans, Member
Great Lakes Capital Management, LLC
(a/k/a Grandview Flats II, LLC)

CONTACT PERSON

Mike Huber
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 347-4610
mhuber@abonmarche.com



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



RE: **Grandview Phase II PUD Amendment**

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Ryan C. Rans
Great Lakes Capital Management, LLC
(a/k/a Grandview Flats II, LLC)

CONTACT PERSON

Mike Huber
Abonmarche Consultants
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mhuber@abonmarche.com



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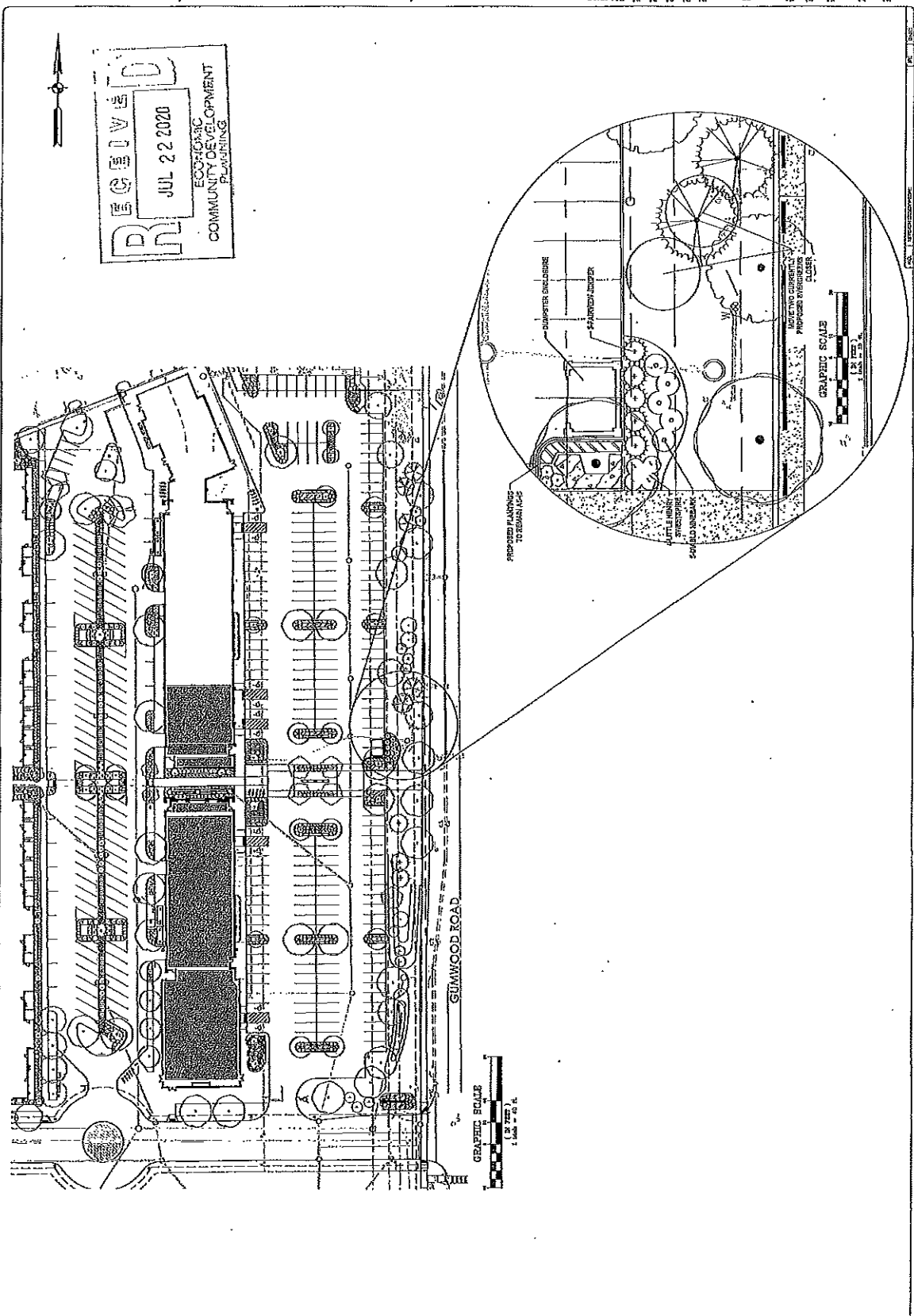
GRANDVIEW P.U.D. PHASE II
 CITY OF MISHAWAKA
 ST. JOSEPH COUNTY, IN

PUD AMENDMENT EXHIBIT

Abonmarche - July 22, 2020 - 9:15am

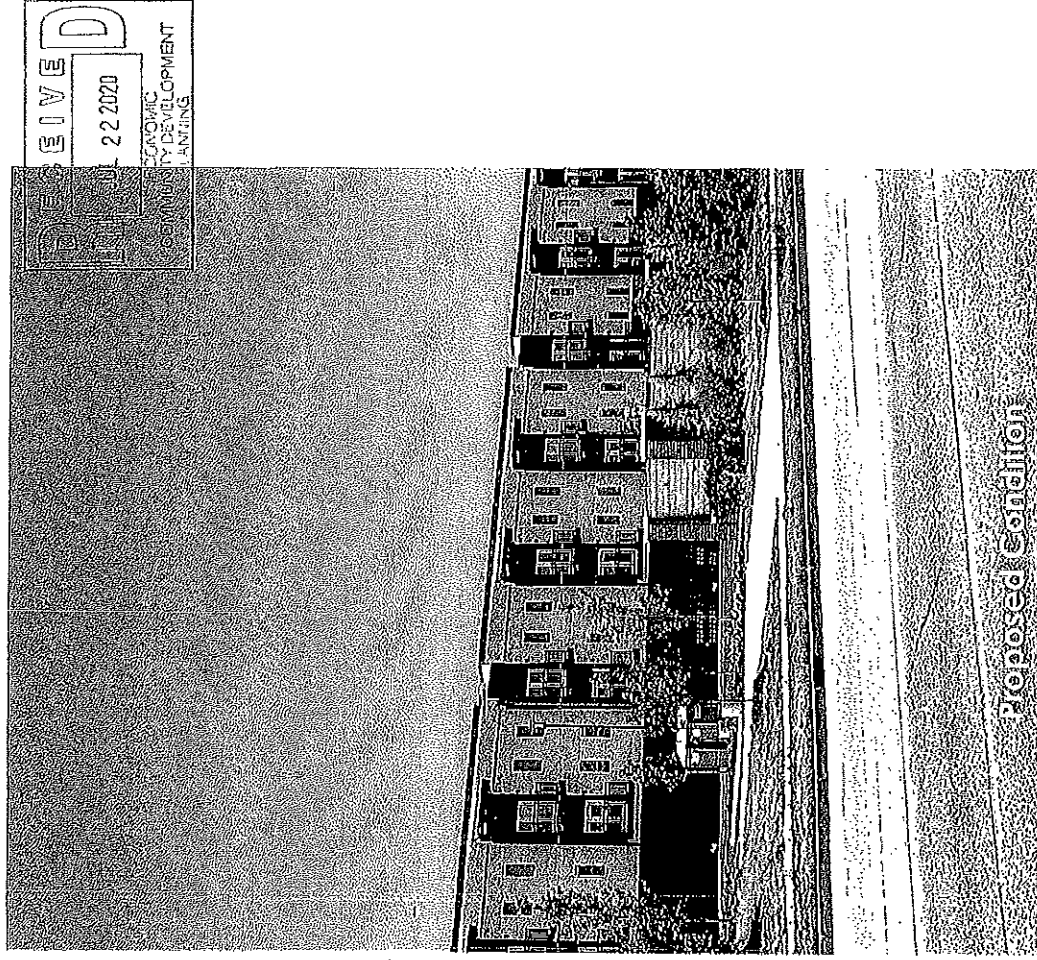
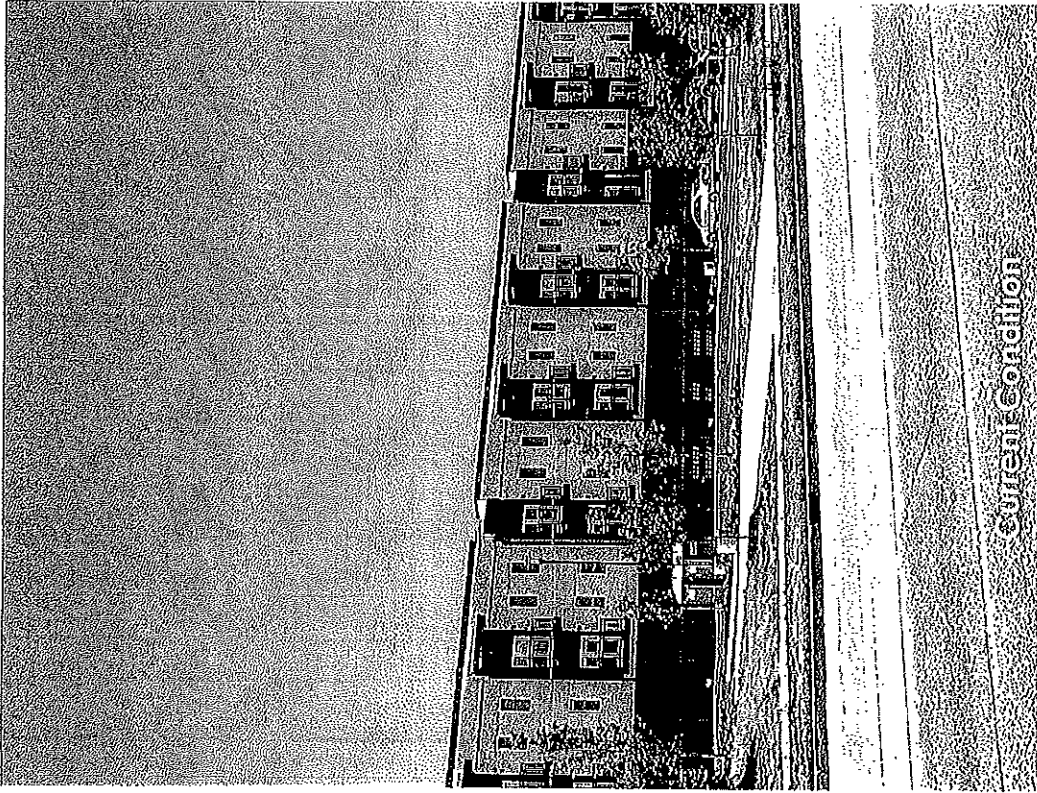


PROJECT NO. 17-1697
 DATE: 07/22/2020
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 SCALE: AS SHOWN
 SHEET NO. 1 OF 1



DUMPSTER ENCLOSURE ILLUSTRATION

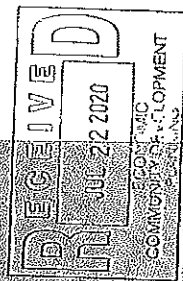
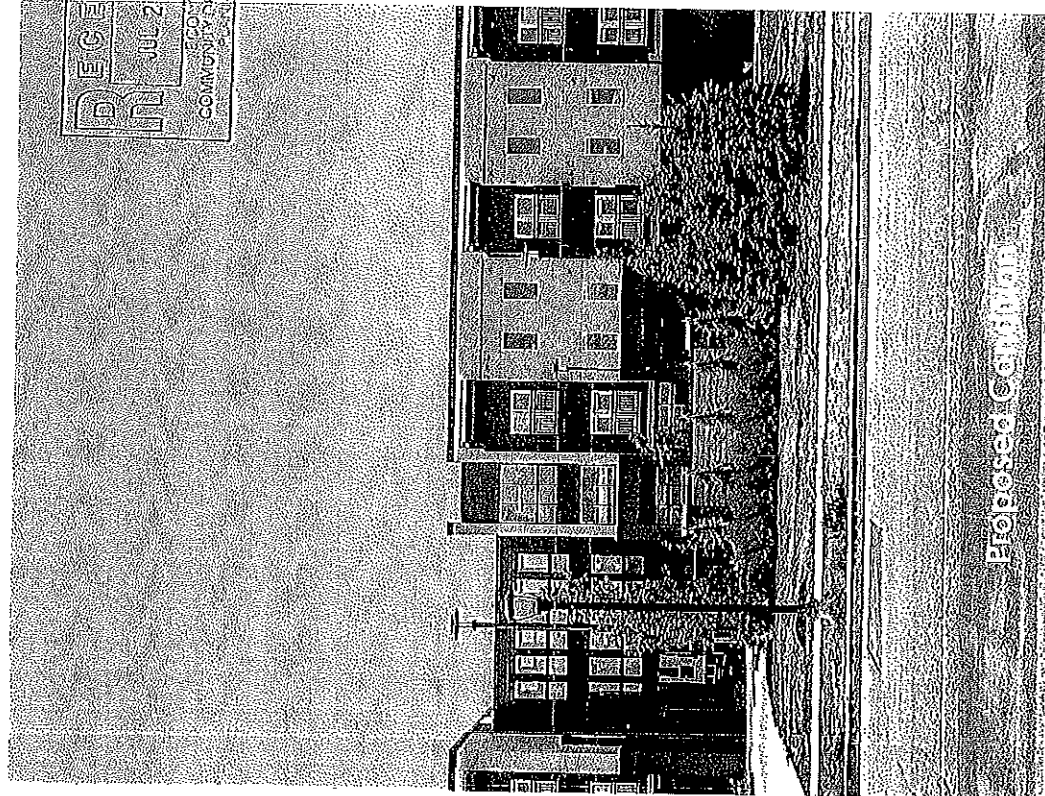
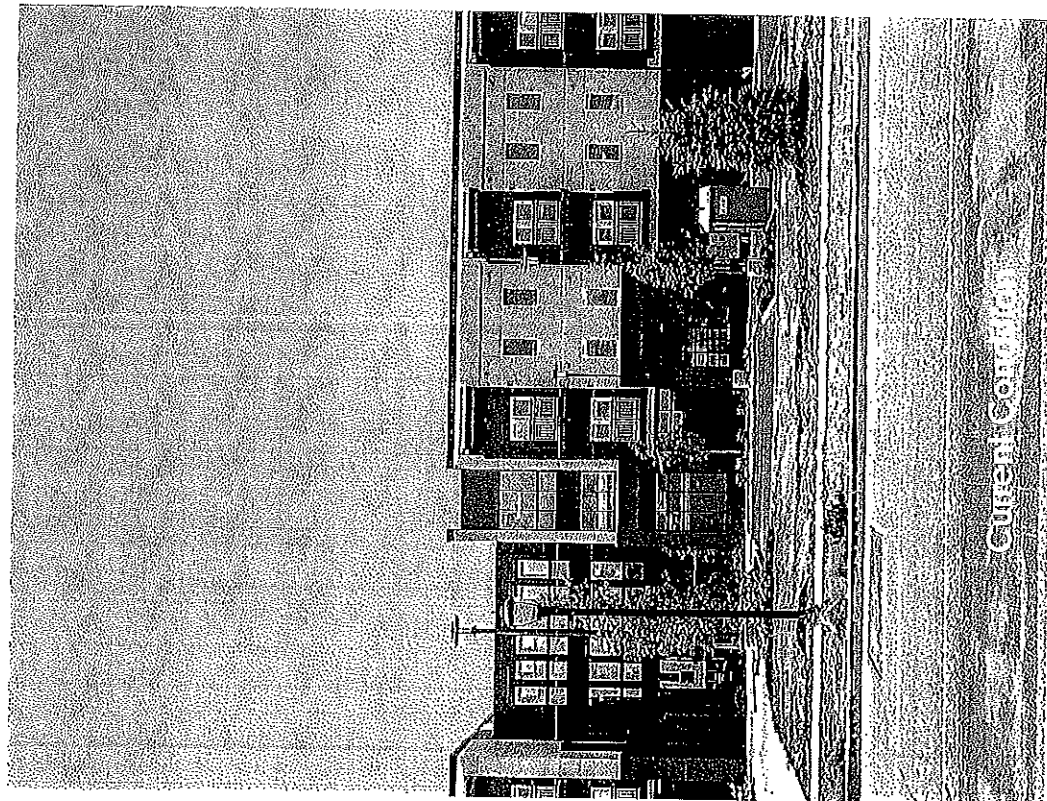
June 29, 2020

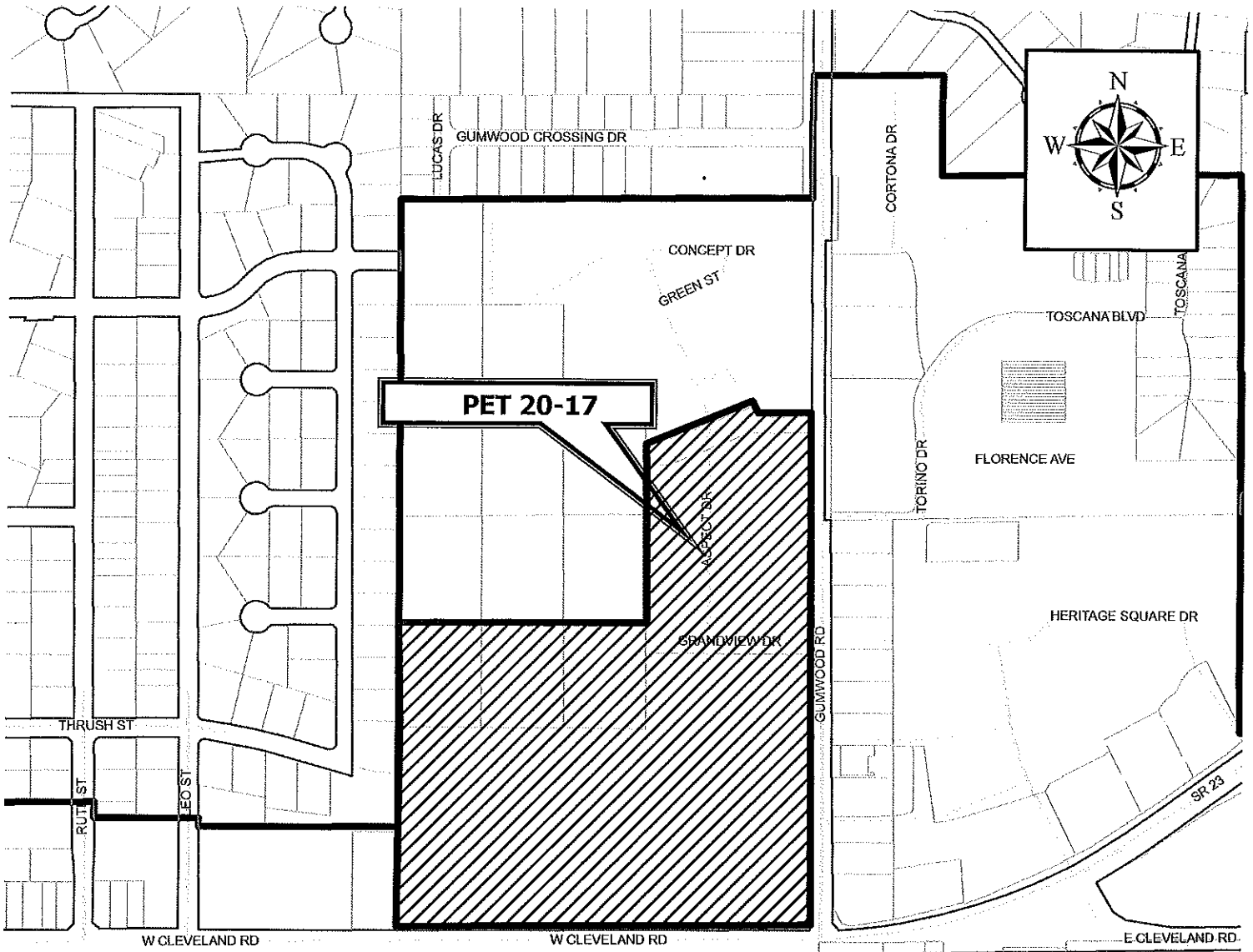


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JUN 22 2020
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

DUMPSTER ENCLOSURE ILLUSTRATION

June 29, 2020





Location Map

PET 20-17

GRANDVIEW PUD AMENDMENT

TO ALLOW DUMPSTER ENCLOSURES
IN THE 25' FRONT SETBACK
ONLY IF THE GATE IS NOT VISIBLE
FROM GUMWOOD OR
S.R. 23/CLEVELAND ROAD