AGENDA

March 15, 2021

CONSISTENT WITH TERMS OF GOVERNOR HOLCOMB'S EXECUTIVE ORDER 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
Meeting Number (access code):129 250 3926
Meeting Password:ETwapJ8pt52

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: 1292503926.mishawaka@lync.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of March 01, 2021

5. Petitions, Communications, Remonstrance and Memorials

A letter from the City Plan Commission regarding their recommendations from their March 09, 2021 meeting.

6. Report of Special Committee

7. Ordinances on First Reading

P.O NO. 2021-12	Penn PUD Amendment to allow an 8' High Anti-Climb Screening Fence to Surround the new Juday Creek Water Treatment Plant – Lot 2 of Juday Creek Business Park – Vacant Land

8. Resolutions

R2021-04	Approving an Agreement to extend the St. Joseph County Housing Consortium
R2021-05	Declaratory Resolution for Tax Abatement for WellPet, LLC – 1121 W. 11TH Street
R2021-06	Approving the SBOA Audit of GAAP

9. Ordinances on Second Reading

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

Reminder the regular meeting for April 5th is changed to April 12th

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.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

March 1, 2021

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, March 1, 2021 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 March 1, 2021 were approved as received from the Clerk's Office.

Clerk Block read the following petition by title.

PETITION #21-02 Penn PUD Amendment to allow an 8' High Anti-Climb Screening Fence to Surround the new Juday Creek Water Treatment Plant – Lot 2 of Juday Creek Business Park – Vacant Land

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

PROPOSED ORDINANCE NO. 2021-10

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 C-4 Automobile Oriented Commercial District to C-1 General Commercial District – 1333 Lincoln way East

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried via voice vote with all members of the council present.

Mike Huber, Abonmarche Consultants, spoke in favor of **PROPOSED ORDINANCE NO. 2021-10**. Mr. Huber stated the owner acquired the parcel secondary to acquiring the parcel that would allow him to expand the site for the development project at 1335 Lincoln way East. He explained their goal was to combine the two parcels. Mr. Huber stated the proposed use would be for his client to build a laundromat and possibly have a small office component to it as well, in the 2,000 to 2,400 square foot building. Mr. Huber stated they would be preventing future gas station or auto uses on the property to keep it consistent with the other four corners with three of them being C-1 General Commercial as well. Mr. Huber stated they understood they would have to have a buffer yard for the residents to use and they appreciated the council for their consideration.

Mr. Hixenbaugh asked although they were not at the site plan point in the process, if he had any information to share with the council on how the future development will be screened. Mr. Huber stated the bunker yard against the residential component would be to the west and they would be screening with fencing and trees for the buffer requirements in the ordinance. Mr. Huber stated they would be making sure it was nice landscapes and fence buffer to provide enough screening to the residential.

Question was called for at 7:09PM for **PROPOSED ORDINANCE NO. 2021-10** **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 proposed ordinance passed, thus it became **ORDINANCE NO. 5738.**

PROPOSED ORDINANCE 2021-11

AN ORDINANCE ESTABLISHING THE MISHAWAKA REDEVELOPMENT AUTHORITY

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried via voice vote with all members of the council present.

Ken Prince, City Planner, spoke in favor of **PROPOSED ORDINANCE 2021-11**. Mr. Prince began stating he wanted to take a step back before proceeding with his presentation. Mr. Prince referred to Mayor Wood directing the staff to prepare a 3-tier approach to the recovery of COVID the previous summer. Mr. Prince stated the first step of the process was the immediate allocation of special funding they received from statements regarding funding programs such as real services, Mishawaka Food Pantry and Boys and Girls Club all to support their social safety net from the impacts of COVID. Mr. Prince stated the second tier was their small business loan program. Mr. Prince stated although they only had moderate success with this program, it was a $10,000 loan that could be attained at 0 interest and no payments for 6 months to allow small businesses to have a way to stay in business. Mr. Prince stated they had funded 50 potential loans and of that 6 were ultimately approved and they believed that because of the grants that were afforded from the federal government and if you would get a grant rather than a loan, you would take the grant instead of the loan. Mr. Prince stated the third leg was identified as a potential bond issue for the stimulus. Mr. Prince stated they knew as a part of the recovery that construction trades would slow and businesses would be adversely impacted. Mr. Prince stated when you looked at the way local government could assist, providing construction jobs into the economy was one of those ways. Mr. Prince stated essentially at that point of time, they started developing the construction documents necessary and they had to prepare detailed plans and specifications. Mr. Prince stated they did not make up new project as part of the proposed stimulus and what they did do was they took projects already on the capital improvements plan and basically attempted to move those forward. Mr. Prince stated they met and after following the direction of the Redevelopment Commission, they engaged legal counsel for assistance in the process. Since that time, they afforded multiple pieces of information to the council regarding the step by step process needed to undertake a $45 million assistance bond. Mr. Prince stated they believed $45 million was a good bite of the apple and it put a significant amount of work on the streets, but yet still reserved a bonding capacity within the tax income finance district when other projects came along. Mr. Prince stated he wanted to reiterate that Catherine Fanello was attending the meeting virtually and she would be presenting the specifics on the resolution. Mr. Prince stated the only thing the council would be acting on that evening was creating the Redevelopment Authority and not actually approving the bond issued that evening. Mr. Prince stated that would not occur until May 30th and they respectfully asked for their favorable consideration of the ordinance, because it would allow them to continue to move forward.

Catherine Fanello, 18441 Summer Wind Lane, spoke in favor of **PROPOSED ORDINANCE 2021-11**. Ms. Fanello stated the Redevelopment Authority is required to use as a financing mechanism for the projects being discussed. Mrs. Fanello stated the statute itself, all of the parameters for the Redevelopment Authority, and all of the components in the ordinance before the council were in strict conformance of the statute. Mrs. Fanello stated it provided the number of board members, who would appoint those board members, and exactly what the purpose of the Redevelopment Authority was. Mrs. Fanello stated this was simply to establish the authority, to provide them with the financing mechanism and there would be several improvements on the way as they got closer to the bond approvals. Ms. Fanello stated she would answer any questions they had.

Mr. Hixenbaugh stated he appreciated the work she and her firm had done on this and it was a creative way to fund the projects they were looking to fund and an exciting opportunity for them. Mr. Hixenbaugh referred to paragraph 2B and subparagraph 3 in the document Mrs. Fanello gave out, which talked about at the end of the lease, the leased asset would become the property of the Redevelopment Commission and asked if there would be a formal transfer of title back to the Redevelopment Commission at that time. Mrs. Fanello stated that was correct and the Redevelopment Commission could then transfer it back to the city. Mr. Hixenbaugh referred to paragraph C in that same section which talked about the maintenance and repair of the leased asset during the term of the bond and there was a reference to the relationship between the Redevelopment Authority, the Redevelopment Commission and the city. Mr. Hixenbaugh asked if title to the asset would be held initially by the Redevelopment Commission after the transfer took place from the Board of Public Works and then it would be held by the Redevelopment Authority during the pendency of the bonds and asked what would be the involvement of the city in making repairs to an asset it no longer had titles to. Mrs. Fanello stated the Commission could enter into an agency agreement to arrive a city to make the repairs, because it would be in lease and the Redevelopment Commission would lease the asset from the authority. Mrs. Fanello stated the city would want to make repairs to the road and it was simply a matter of affecting a paper transaction and where they would allow the Commission and City to enter into the agency agreement allowing the city to make improvements, as long as there was an understanding to continue to hold and increase the value of the asset to support the bond. Mr. Hixenbaugh asked if repairs were necessary during the pendency of the bond, would the funding source for the repairs be TIF funds or the general funds of the city of Mishawaka. Mrs. Fanello stated it could be funded from either dependent on the project. Mr. Hixenbaugh asked if there would be anything, if he were so inclined, that would preclude the Mayor from appointing a member of the council to the RDA if that were his pleasure. Mrs. Fanello stated not that she was aware of. Mr. Hixenbaugh referred to the date Monday June 7, 2021 which would be the last day for 50 or more taxpayers to object to the execution of the lease or file an action to contest the validity of the lease. Mr. Hixenbaugh asked what the start date would be for the objection period. Mrs. Fanello stated it would be May 6th and 7th in the publish notice of an execution of lease. Mr. Hixenbaugh asked, with regard to an action to contest, would that be subject to the jurisdiction of court in St. Joseph County or more kin to an administrative proceeding before a body of state government. Mrs. Fanello stated it could be both and she was not aware of one that had ever been filed. Mr. Hixenbaugh asked, referring to Indiana Code 36-7-14.5, if this same type of funding mechanism would have been available for the funding of the purchase of the Liberty Mutual building if they had chosen that route as opposed to utility bonding. Mrs. Fanello stated she could not answer that without further information, but this would be available for public improvement projects that would be usually more high dollar and there were other ways to fund those projects as well. Mr. Hixenbaugh stated there was a reference in the ordinance to the potential of a special benefits tax and asked Mrs. Fanello to explain how that would work and what the likelihood was that a special benefit tax would come into the mix. Mrs. Fanello stated this would be covered by tax increment and in some projects, they were funded by tax increment and when that would be unavailable, a special benefits tax would be available and that was a different way of calling it a property tax under the code. Mr. Hixenbaugh stated he read the documents as making no reference to additional pledges of security on the part of the city, Redevelopment Commission, or any other Mishawaka entity to secure the bonds and asked if that were correct. Ms. Fanello stated it was correct and any type of security would not be in any document except for the documents approved by the council and that security right now was the tax increment. Mr. Hixenbaugh appreciated Ms. Fanello's patience and thanked her for the information.

Mayor Wood spoke in favor and encouraged the council's support of **PROPOSED ORDINANCE 2021-11**. Mayor Wood stated this was one of the formalities they needed to accomplish while working toward the ultimate goal of passing their bond. Mayor Wood stated they started and presented to the Mishawaka Redevelopment Commission and had a special meeting for the council to discuss what their goals and intent were. Mayor Wood stated as their City Planner communicated, they had come up with a plan and this was but one leg of the plan. Mayor Wood stated more specifically, they believed the time was right for a program such as this, because they were seeing a great opportunity to bid out projects. Mayor Wood stated they had bid out a couple recently where they had saved just in bids alone several hundred dollars on each project and that told them companies were hungry to get their work. Mayor Wood stated these were projects they were going to build anyway and they may not get to them paying cash until 6, 8, 10 years down the line and they would certainly build them cheaper now then years down the line. Mayor Wood stated they also wanted to take advantage of the favorable interest rates that they were going to be receiving in the current climate. Mayor Wood stated if they could get projects done now rather than pay more later, they thought that was a good sound plan financially. Mayor Wood stated he was a person who did not like debt but if there were ever a case to do it, this may be it. Mayor Wood stated they did know there were companies out there which translated to workers out there who were also citizens of Mishawaka looking for the work for their long-term liability. Mayor Wood encouraged the council to support this and stated once again this was just one of the formalities and only pick 50 people to serve on their boards who only have the best interest in the city of Mishawaka at heart.

Mr. Hixenbaugh thanked Mayor Wood, Mr. Prince and everyone involved for the creativity they showed to bring the ordinance to the council.

Question was called for at 7:30PM for **PROPOSED ORDINANCE 2021-11** **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 Proposed Ordinance passed thus it became **ORDINANCE NO. 5739**

PRIVILEGE OF THE FLOOR

Gina Perzuski, 519 W Edgar Ave, spoke before the council. Mrs. Perzuski began stating she moved from Michigan about 4 years ago and she was new to the area. Mrs. Perzuski wanted to know if there could be a council meeting with the health department to go over questions and concerns their constituents had for the Moderna and Pfizer bio-technology gene therapy shot being given out, because she stated that was not a vaccine. Mrs. Perzuski stated this was new technology along with an experiment and she thought there needed to be more questions answered by the health department. Mr. Hixenbaugh stated he would be happy to engage in that conversation and have that conversation with the Mayor as well. Mr. Hixenbaugh stated they certainly could not commit to the health department participating in any such meeting, although they were a very valuable partner in the community in the effort to address the pandemic. Mr. Hixenbaugh stated his one bit of additional hesitation was that in regard to vaccination, the vaccine was heavily regulated by the federal government and while there undoubtedly could be good information shared at the local level, there was a big piece of the puzzle that laid at the federal level as well as the state level. Mr. Hixenbaugh stated they would consider her request and consult with the Mayor along with the health department and any other relevant players to see if there was such an opportunity to put a meeting together. Mrs. Perzuski stated she had done a lot of research to what this was and if it was right for her. Mrs. Perzuski stated Moderna had never produced a successful mrna before and they had one they tried in 2017 that was scrapped, because it was killing animals. Mrs. Perzuski stated Moderna created the COVID bio technology gene therapy in 40 days and they could skip the main trials, because it was under the Emergency Use Authority Act. Mrs. Perzuski stated they did not know what the long-term effects were, how fragile the mrna was which was important because when mutated it could cause cancer along with neurological issues and you could not get that out of your system. Mrs. Perzuski stated it was not like a wild virus that was weakened or dead that your own immune system could get out and this was created to get into your immune system and she stated that was the difference. Mrs. Perzuski stated they needed to start having this dialogue and the concern was that there were tons of HR bills coming out of their federal government and other state governments about vaccines. Mrs. Perzuski stated there was a lot coming down and she did not believe they were being vigilant in using their critical thinking on what was going on. Mrs. Perzuski stated she believed because this was new and experimental, things had been rushed and were going too fast. Mrs. Perzuski began stating Washington D.C. passed a law and Mr. Hixenbaugh intervened stating when they would start to talk about other municipalities and the laws they had enacted, that was outside of the scope of a local governmental entity in Mishawaka. Mrs. Perzuski stated she believed it was relevant and Mr. Hixenbaugh stated he appreciated her passion for the issue and suggested she submit documents she wanted to be reviewed to the Clerk's Office and it would be more valuable to them if she did that. Mr. Hixenbaugh stated if there would be follow up conversation, it would make more sense to him to defer on the information she was sharing until the proper time. Mrs. Perzuski stated this was relevant, because of what the federal government stated for all children where eleven year olds could make their own decisions and this was a city, so she believed other municipalities could do the same thing. Mr. Hixenbaugh stated he appreciated her concern, but there were various bodies of government the council did not have control over and ultimately, it was a voluntary vaccination system. Mr. Hixenbaugh stated he would speak on behalf of his colleagues by saying they would be happy to consider any information she had and they would take a look at working with other entities to put together information sharing for the community. Mr. Hixenbaugh asked for Mrs. Perzuski to wrap up at that time with any additional final points she wished to make and invited her to submit any more information to them that she would like them to consider. Mrs. Perzuski stated this was under the Emergency Act so it was not mandatory and they needed to be proactive and find out when it would be proactive. Mrs. Perzuski asked if they would legislate prophylactics or other alternatives other than a gene therapy that a lot are not going to take at this time. Mr. Hixenbaugh thanked her for her comments.

Mr. Hazen stated the Health Department was overseen by St. Joseph County and if she had not been one of their council meetings, that could be helpful for her. Mr. Hazen stated he could meet with her after the meeting and give her names of individuals who could help her. Mr. Hazen stated like Mr. Hixenbaugh said, they would not vote on it but it was interesting and he could give her names of people she could call. Mrs. Perzuski stated this was a concern because it was getting passed in local cities and she stated the council had the power to do the same thing if they wanted. Mr. Hixenbaugh stated he might question that as a matter of law, but he could tell her they had not received any such proposal nor did he believe they would entertain it. Mr. Hixenbaugh stated Mr. Hazen's suggestion was a good one and there was, at the local level, an entire additional layer of government at the county level that directly oversaw the day-to-day work of the health department and they report to the County Council and the Board of Commissioners. Mr. Hixenbaugh concluded stating any written information she wanted to share with them, they would happy to consider and would be happy to put her in touch with any entities who might be able to chime in on the concerns she had.

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2021-02

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 Fuel Pumps & Convenience Store with parking reduction – 520 Bittersweet – SE. Corner of Bittersweet & Vistula

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried via voice vote with all members of the council present.

George Lepeniotis, Kreig Devault LLP Suite 100, spoke on behalf one of the petitioners Dave & Sons Properties, LLC. Mr. Lepeniotis stated Dave & Sons was an owner and operator of various convenience stores and gas stations throughout the state of Indiana. Mr. Lepeniotis stated one of their markets was taking bankrupt and vacated family video stores and converting them to convenience stores and gas stations. Mr. Lepeniotis stated they had found large success in this and that the convenience stores were often located in high traffic commercial zones, much like the one at the corner of Bittersweet and Vistula. Mr. Lepeniotis stated the project had brought more concern than he had originally thought when he took on the assignment and thought it would be beneficial if the council had it in front of you, so they could see more about his client, but also more about the proposal for that particular station. Mr. Lepeniotis stated it was a vacant family video store and it was a PUD with an allowable zoning of C-2 commercial. Mr. Lepeniotis stated they were requesting a change to the amendment of the PUD to allow for fueling stations, that would be C-10. Mr. Lepeniotis stated the staff report was favorable in this and as a matter of fact, there was very few concerns on the staff comments and he believed on of the concerns was that a barrier be provided between the residential neighborhood to the east, which was the Reflections apartment complex. Mr. Lepeniotis stated on the back of the packet he provided, it showed that had been agreed to and it may have even been a little higher. Mr. Lepeniotis stated the station would be one of the highest investments and it was an interesting corner in the sense that there was a medical plaza to the north, a catholic school and church on the northwest corner and the Twin Branch residential neighborhood surrounding it, as well as the apartment complexes. Mr. Lepeniotis did not envision that this would be a destination gas station and it would truly be designed to serve the neighborhood and the needs of the residents in that neighborhood. Mr. Lepeniotis stated Mr. Pulsing was present on the phone as was Jeff Ballard from Danch, Harner and Associates. Mr. Lepeniotis stated this was not a new thing to them and under subsection C of his proposal, it stated this would be a nationally branded fueling station and his client was very adamant that his stations were very well lit and are nice places to be at. Mr. Lepeniotis stated he noted on page 3 of the proposal that this was not a 24-hour operation and his client would be willing to put that in writing and make that part of the PUD amendment. Mr. Lepeniotis stated Mr. Hazen and others with experience in that industry were present at the town hall meeting and a question arose regarding the fuel pumps and stated operators could keep an eye on their fueling pumps and there were alarming systems built in. Mr. Lepeniotis stated the fueling pumps would stay on and from what they understood, that was largely becoming universal. Mr. Lepeniotis stated it was almost an issue of safety and convenience, for instance his client's example was an employee shows up 30 minutes late and an individual accustomed to stopping at that gas station does so and the pumps were not working and this would alleviate some of this hassle. Mr. Lepeniotis stated he put down that the proposed hours would involve closing by midnight and he believed that would be every night with a flexible opening time. Mr. Lepeniotis stated the bigger concern was that it be open early enough to take advantage of the morning traffic and that was an important part of his client's business to serve those as they are getting up and going to work to get ready for their day. Mr. Lepeniotis stated they had a professionally engineer site plan considerate of the traffic flow and Danch, Harner spent a significant amount of time and expense on the site plan and looked at a truck flow pattern. Mr.

Lepeniotis stated during their town hall meeting, they spoke with the residents and their only concern really was the traffic. Mr. Lepeniotis stated they provided a truck movement study prepared by Danch, Harner that represented tire marks and where the trucks would be parked. Mr. Lepeniotis with the exception of one tree, there was no impact including what he considered a very hard left turn heading westbound either onto or off of Vistula. Mr. Lepeniotis stated the traffic flow showed there was ample room and some spaces where the flow was almost 40 to 50 feet wide for a truck to make it into and out of the site. Mr. Lepeniotis stated the site plan was created in response to concerns they heard at the town hall meeting. Mr. Lepeniotis stated they wanted to give the council assurance that they had looked at it scientifically. Mr. Lepeniotis stated Section D showed photographs of his client's most recent station that opened a month and a half ago in Brownsburg and it was one of the BP concepts with the store being well lit, well trafficked and well scoped for various code and safety provisions. Mr. Lepeniotis stated he wanted to note how focused the light was off of the canopy and that was important in an area in a residential neighborhood and they did not want light from the fueling station to flood a neighbor's yard. Mr. Lepeniotis stated also in Section E he gave the council an example of what the fuel tanks and systems would look like underground and just how many safety precautions were in there. Mr. Lepeniotis stated this was a double walled lined tank with part of it being fiberglass with an option for all of it to be fiberglass and it was controlled through a computer terminal in the station that would be constantly moderated locally and remotely. Mr. Lepeniotis stated there was no way nowadays there could be a fuel spill and not know about it. Mr. Lepeniotis stated his client was part of the town hall meeting and was very open to the community and made himself known. Mr. Lepeniotis stated they generally received a positive response other than the truck issue. Mr. Lepeniotis concluded stating he appreciated their time and their consideration and hoped they would vote for this change.

Mr. Banicki asked about lighting and stated he did not believe Mr. Lepeniotis when he stated the light would not reflect different ways. Mr. Lepeniotis stated there were no plans to put lights on the side of the establishment and there were only plans to put lights on the canopy pointing down. Mr. Banicki stated then that would be a security issue and at the drive entrances if they were to have cars coming and going at night, that could be an issue. Mr. Lepeniotis stated he did not think they needed lights at those entrances especially with light population being a big deal. Mr. Lepeniotis stated when they run into situations where commercial and residential sometimes coincide, light pollution is a big deal and his clients were cognizant of it and would do everything they could to limit that, including the fence and the fact that on this particular site there was only one house bordering it on the west. Mr. Banicki questioned the ingress and egress of the store in general, because onto Vistula if you had one car wanting to turn left and another wanting to turn right, there would not be enough room for three cars in the drive entrance, more or less a truck. Mr. Lepeniotis stated Jeff Ballard was on the phone and referred that question to him. Mr. Hixenbaugh stated they would defer until he was done answering questions first. Mr. Banicki asked about traffic not only on the site, but also on both Bittersweet and Vistula. Mr. Banicki stated when talking about this traffic, one of the attractions was the traffic flow and part of it was the amount of school buses from the high school and middle school just to the north causing backed up traffic at certain times of the day. Mr. Lepeniotis stated it used to be a video store and the council approved it. Mr. Lepeniotis stated he believed any use would increase the traffic and a gas station would not increase it that much more than the family video. Mr. Lepeniotis stated any commercial use would create traffic and believed the site did plan for that. Mr. Banicki stated so when cars would be leaving onto Bittersweet, there would be cars wanting to turn left or south and with two lanes of traffic heading northbound, at times that could be an issue. Mr. Lepeniotis stated it absolutely could be and that was part of it but he believed the site had potential to handle the traffic it may generate. Mr. Lepeniotis stated he did not disagree with him and his experience on the fact that this wasn't the biggest gas station, but he did believe when looking at Danch, Harner's plan, it was a professional engineering project and not just something his client slapped onto a piece of paper. Mr. Lepeniotis stated his client hired a number of engineers to look at it and ensure it could happen and those engineers told him it could work. Mr. Banicki stated he thought they were just putting lipstick on this, make it look pretty and make it fit when in all reality if you had to buy that corner and tear down, would that site be big enough for a station in this day and age. Mr. Lepeniotis stated he asked that question and there are stations on less than 1 acre and this was about an acre. Mr. Banicki stated that was very tight and stated once you were to put the pumps in and by the time those are installed with parking, there was not enough room. Mr. Banicki stated there was not enough room on the west side for cars to pass if there were cars fueling up. Mr. Lepeniotis stated he appreciated Mr. Banicki's concern and stated he would he would defer the questions to Mr. Ballard, the engineer who could give him better answers.

Mr. Emmons stated when looking at the drawings, they had a horseshoe type of curve when you would exit onto Vistula. Mr. Emmons asked what that dimension was between the parking and the landscaping and what the distance was. Mr. Lepeniotis stated the scale of the drawing was one inch to twenty feet, so it was at least twenty feet and stated Jeff Ballard would be able to answer that. Mr. Emmons asked what the distance and spaced would be when you make the horseshoe curve and from the tire tracks to the tire tracks. Mr. Emmons stated the reason he was asking that was because from his experience in the transportation business for over 20 years, if you were to get a 60 to 65-foot tractor trailer, that would make it tough to make a turn like that. Mr. Lepeniotis stated Jeff Ballard would be able to tell him what kind of truck could fit and there were a couple of fuel deliveries his client utilized with specialty trucks for smaller sites. Mr. Lepeniotis stated his client did operate 50 sites in Indianapolis and Mr. Emmons then stated he was just asking from being in the trucking industry and making a turn like that would be almost impossible without jackknifing your trailer. Mr. Lepeniotis stated he believed the drawing and engineering showed it was possible and that they had to trust the numbers. Mr. Lepeniotis stated there was no question it was a tight turn, but asked if it was so tight that they needed to say no and scrap the project. Mr. Lepeniotis stated he believed the engineering studied showed them that it was no and that science showed it was not tight enough to operate. Mr. Lepeniotis also stated truck drivers were professionals and he lived in Chicago and he lived across from a truck stop and he had seen them do amazing things. Mr. Lepeniotis stated they would not have to do amazing, but was telling them he hoped that if the engineers said it could be done and the roads showed it could be done, that it would be. Mr. Lepeniotis stated there was currently a restaurant on site and a family video on site and they received deliveries which likely were large ones and would get out of there just fine. Mr. Lepeniotis stated that site was there, this was not a new development and they were very aware of its traffic pattern when the engineering was done. Mr. Emmons stated he would not dispute with him on that, but he doubted the Family Video had 60 foot trailers on the site. Mr. Lepeniotis stated he would agree with that. Mr. Emmons stated with it being a small area, they do have snow and when it starts to pile up that affect the turning radius of tractor trailers. Mr. Lepeniotis stated his client was cognizant of that and would admit that he would have to be more vigilant about making sure he moves the snow and takes it where it would need to go. Mr. Lepeniotis concluded stating his client was very aware of these concerns.

Mrs. DeMaged asked how many employees they anticipate being hired full time and part time. Mr. Lepeniotis stated he could not tell her that number yet, because the drawings had not been finished but he assumed that it would be dependent on the hour shift. Mr. Lepeniotis stated he could not give her an exact number and his client had not gotten to that point in the planning at that time. Mr. Hixenbaugh asked Mr. Lepeniotis to stay in range of the microphone to help those participating remotely to hear him.

Mr. Mammolenti thanked Mr. Lepeniotis for his time jumping onto the zoom call prior to the council meeting and asked if the canopy lights would remain on throughout the evening even when the convenience store is not open. Mr. Lepeniotis stated a few of them would remain on, but it would be lesser than the full amount of them. Mr. Lepeniotis stated there were regulations in that on how many are able to be left on and many will be turned off. Mr. Mammolenti revisited the truck traffic issue and he knew it could be done and he trusted the engineers, but the one thing he believed it may be missing was the human operator. Mr. Mammolenti stated he managed a fleet of trucks as well as semis. Mr. Mammolenti stated he reached out to convenience store owners, gas station owners, truck drivers, etc. and asked them to drive by the location. Mr. Mammolenti stated every single truck driver said it would be a tough one and he trusted that Mr. Ballard and his firm on design it looked as though this would work, but truck drivers were in high demand at that point. Mr. Mammolenti stated they had been passing the exams and put on the road, in some cases, with not many hours. Mr. Mammolenti stated his point was this did not take into account human air in his opinion and he thanked Mr. Lepeniotis for his time. Mr. Lepeniotis addressed Mr. Mammolenti's comments stating there were not only two options for this, being approve the gas station or shut it down and fence it up. Mr. Lepeniotis stated it was still zoned C-2 commercial and someone could still come in and put something in by writing without coming forward to the council and without doing everything his client had done. Mr. Lepeniotis stated there were many commercial businesses that got deliveries by their semi-trucks and he stated he respected what Mr. Mammolenti did and understood the site was not perfect, but it was built to handle C-2. Mr. Lepeniotis stated he did not think it was built just to handle a video store and he wanted to be cognizant of that, along with the fact that a gas station was not exactly a truck stop. Mr. Lepeniotis stated he did not think fuel came daily and they were talking about somewhat of a controllable situation. Mr. Lepeniotis stated his client had said he would request later hour deliveries of fuel and that would be always open to adjustment, but his client was adamant that if he requested a small truck, then it would show up and if it weren't to show up, he would switch vendors. Mr. Lepeniotis stated his client was adamant that he would be cognizant of the truck route and because it had been such an issue, he would be foolish not to be. Mr. Lepeniotis stated the council could trust in the fact that it would work. Mr. Mammolenti asked if his client owned or operated any convenience stores without gas station pumps. Mr. Lepeniotis stated he did not believe so and believed all fueling stations were also convenience stores. Mr. Mammolenti asked if this were to fail, would he go on with the convenience store only and scrap the fueling aspect. Mr. Lepeniotis stated he had not asked his client that but he did not believe so. Mr. Lepeniotis asked they do not hold him to that and that would need to be discussed.

Mr. Emmons asked where the proprietor lived. Mr. Lepeniotis stated he believed he lived in Indianapolis.

Jeff Ballard, Danch, Harner & Associates, spoke in favor of **PROPOSED ORDINANCE NO. 2021-02**. Mr. Ballard began giving information about the truck traffic. Mr. Ballard stated the truck they would run through there would be an average size tanker truck and not a box semi. Mr. Ballard stated they were designed to maneuver more than a normal semi-truck trailer setup. Mr. Ballard stated when they did the scenario, they brought the truck in coming north on Bittersweet coming into the entrance, heading north and then coming back around and lining up to the turn lane on Vistula. Mr. Ballard stated they checked Vistula to see if it was a truck route and did not see any signs that it was, but also if it were to allow trucks they could come in from the east and get through traffic to the site easier. Mr. Ballard stated that a tanker truck could come into the site easily, make the turns easily, and come back out onto Vistula easily. Mr. Ballard stated this would not be happening every day and it would not be happening during high traffic hours and it seemed to him the owner would arrange truck delivery and gas delivery at a time it made the most sense. Mr. Ballard stated he could only speak to the safety of a truck coming through the site and to the fact that it could be done easily with an average sized tanker truck. Mr. Ballard stated they had proven it and the proof was with the information in front of the council. Addressing the distance between the pumps and curb on Bittersweet, Mr. Ballard stated 24 feet was as wide as a residential road in Mishawaka and certainly there would be enough room for cars to park and pump gas. Mr. Ballard stated he had been a site designer for almost 30 years and saw no issues with circulation in this situation. Mr. Ballard stated drivers will make mistakes and truckers sometimes were pressured with tight schedules or are new or are veterans in the business and that was the way it works, but certainly was not a reason to stop a project. Mr. Ballard addressed the lighting stating they had not designed the lighting yet and could not speak on the canopy lighting, but they planned to design lighting that had shields so the lighting would not spread beyond the property line which was a requirement of the city. Mr. Ballard stated Ken Prince and his department had done a good job of holding them to the criteria of site design and knew exactly what had to be done. Mr. Ballard stated screening would be done as required and he was sure the owner would go above and beyond to do screening. Mr. Ballard concluded stating he would answer any questions the council had.

Mr. Banicki stated with the high school and middle school being just to the north of the intersection, there was a lot of bus traffic. Mr. Banicki asked if it concerned him that people might try to cut through and get in an accident in this area and stated they needed to do their due diligence so no one would get hurt whether it would be on the property or in the street. Mr. Ballard stated he could not answer to the traffic and stated there were several gas stations on Bittersweet and McKinley Highway that dealt with a lot more traffic than what they would coming off of Penn High School.

Mrs. Voelker asked if she understood Mr. Ballard correctly when he said the distance between the canopy and the curb on the west side towards Vistula was 24 feet. Mr. Ballard stated no, the distance between the pumps and the curb was 24 feet. Mr. Ballard stated he did not know for sure what the distance of the canopy was. Mrs. Voelker asked if what he was saying was there would be 24 feet for people to maneuver in when they would pull out of the site after fueling their vehicles. Mr. Ballard stated the space between the pumps and the curb was 24 feet and that was essentially two roadway widths of a standard residential road in Mishawaka. Mrs. Voelker asked if it was about the same on the east side between the pumps and the parking spaces up against the building. Mr. Ballard stated that was 36 feet and they had 24 foot width which was the standard drive isle in Mishawaka plus 12 feet for the alignment of people up against the pumps. Mrs. Voelker stated one of her concerns with pulling in and fueling up would be individuals that may be pulling boats or trailers and asked if he felt, as an engineer, that there would be enough room for someone to maneuver a vehicle pulling a boat with it. Mr. Ballard stated absolutely there would be enough room.

Mr. Emmons asked Mr. Banicki how many times in tenure of owning a gas station he got a small delivery truck come onto his site to use the fuel pumps. Mr. Banicki it would always be a standard size truck and it was always the same size. Mr. Emmons asked if it was basically a 40 foot with a tractor on it, basically totaling 55 feet. Mr. Emmons stated they were definitely large. Mr. Emmons stated he could not see how a small truck would be able to deliver 2,000 to 4,000 gallons of regular, high octane, and diesel fuel without making multiple trips back and forth. Mr. Emmons stated it was not economically feasible.

Mrs. Voelker asked where the fuel truck would go to fill the tanks and would the fuel truck be blocking traffic during that time. Mr. Ballard stated the fuel system itself was not designed yet at that time and wherever the fueling pad was would be where the trucks would stop. Mrs. Voelker followed up asking where that would be and if it would be blocking traffic in and out of the site. Mr. Ballard stated he had not seen a fuel plan so he could not answer the question.

Mr. Compton asked Mr. Banicki if he ever attempted to order a smaller truck from his fuel service. Mr. Banicki stated when he would order gas, they would send out through a jobber whatever would carry the amount of fuel he needed. Mr. Compton stated so he would be able to order a smaller truck if he decided to do so. Mr. Banicki stated there were other fuel companies than the one he was with that their goal was to have stores close by so they could deliver gas to multiple stores, because they did not want to make quick trips back and forth. Mr. Banicki stated when they delivered him gas it would be between 8,000 and 9,000 gallons at a time, so the average truck would be carrying 16,000 and 18,000 gallons of gas. Mr. Compton asked if he could order a smaller truck if he so desired, but he never attempted to. Mr. Banicki stated if the jobber had them and he did not know if certain jobbers had those trucks.

Surinder Singh, 6755 Robin Hood Ct. Indianapolis, IN, spoke in favor of **PROPOSED ORDINANCE NO. 2021-02**. Mr. Singh stated he was the owner and wanted to address some of the topics spoken about. Mr. Singh stated the first thing he wanted to address was the issue with the trucking getting in and out. Mr. Singh stated there was currently a Little Caesar's right next to them and two times a week they received deliveries from a full semi-truck without any problems getting in and out. Mr. Singh stated they will probably be in the same situation with their business with getting fueled likely twice a week and with deliveries in the nighttime, because that was the time the drivers preferred. Mr. Singh stated they had some smaller sites where if they needed 4,000-gallon tank wagons, they could order one. Mr. Singh stated if they were to request a certain situation where they needed a certain type of fuel, that would be able to happen. Mr. Singh stated they currently had smaller sites than this where trucks are entering and departing easily. Mr. Singh stated with regard to lighting, the lighting at the entrances already currently there would not be changed and he did not believe it would bother the neighbors at that time, nor would it in the future. Mr. Singh stated if adjustments were needed for the canopy lights, they could change them to abide to city requirements without bothering the customers or neighboring community. Mr. Singh stated he would let the neighbors and the city decide what kind of lighting they would want and he is fine with being that open throughout the project. Mr. Singh stated he was there to work with the city, work with the neighboring community, make friends and make good business. Mr. Singh stated they were still trying to get this going and change the zoning, so he did not have answers to questions such as how far the canopy will be from tanks, for example. Mr. Singh concluded stating he believed they could make the site work.

Mr. Mammolenti thanked Mr. Singh for his participation in the neighborhood watch meeting zoom. Mr. Mammolenti asked how long it would take to unload a full tanker of fuel once it was docked. Mr. Singh stated it would take 30 to 45 minutes. Mr. Mammolenti asked if he knew how long the Little Caesar's trucks were there each delivery. Mr. Singh stated he believed they were longer than the 30 to 45 minutes mentioned prior, because they had to park the truck and the driver would get out, take the delivery out and then put it back on the truck. Mr. Singh stated his drivers would be literally dumping the gas then leave, which would take much less time. Mr. Mammolenti asked if the estimation of 30 to 45 minutes to unload would apply to a full tanker or not. Mr. Singh stated that would be for a full tanker and it would carry from 8,000 to 9,000 gallons of gas and state requirements stated you could not have more than that.

Mr. Banicki asked what size tanks he proposed putting in. Mr. Singh stated he would put in a 10,0000-gallon tank and 6,000 gallon small tanks and 6,000-gallon premium tanks. Mr. Banicki asked how many gallons of gas he proposed to pump every month. Mr. Singh stated somewhere around 270,000 to 290,000 gallons, because there were several fueling stations throughout the community and it also depended on the brand they receive. Mr. Banicki stated based on if they would do about 100,000 a month, that would be roughly 3 tankers a week at 8,000 gallons and if he went to 4,000 that be about 6, with 1 a day. Mr. Singh stated the drivers usually deliver the fuel at night so they can be in and out and if they needed to put out 4,000 gallon tanks, he did not believe his company would say no to him. Mr. Singh stated he did not see a problem with bigger tankers coming in, because it would be the exact same process Little Caesar's was using.

Mr. Hixenbaugh asked about the hours of operation for the convenience store and if his suggestion was that they would close by no later than midnight each evening. Mr. Singh stated that was correct. Mr. Hixenbaugh stated there was a reference to reopening prior to the morning rushed and asked Mr. Singh to be a little bit more definitive in terms of time since the beginning of the morning rush hour was open to some interpretations. Mr. Singh stated they would around in the time frame of 4 or 4:30 in the morning and how he decided that time was they ran a report every day in the stores to see if the establishment did much business in the nighttime and come to found out they did not, so there was no point for them to be open. Mr. Singh stated they had seen in the 4:30AM to 5AM range was the timeframe when people begin to get out of the house to get ready for their job and stated 4:30AM was the time he was thinking to open the doors to the convenience store.

John Mosier, 15899 Cedar Ridge Ct. Granger, IN, spoke on of **PROPOSED ORDINANCE NO. 2021-02**. Mr. Mosier stated he was the Business Manager at Queen of Peace Church and School. Mr. Moiser stated after speaking with their pastor that day, they were indifferent and as one of the neighbors on the corner, they were not opposed to the gas station conversion and also not supportive. Mr. Moiser stated they were neutral and their one request was that folks would continue to remember that they were a school as well as a church, so if there were considerations of business and products sold certain distances from the school to remember that they did have a school in that area.

Mr. Hixenbaugh asked when he talked about the concerns he had, if there were any more specific details Mr. Moiser could provide to the council about the concerns he had, particularly involving the school children who would be in close proximity to the convenience store at times.

Mr. Moiser stated he did not have concerns with the operation of the convenience school given where the school and church was. Mr. Moiser stated his only reason of raising that was if there were rules that certain things must be so far from a school, that those laws would be followed. Mr. Hixenbaugh stated he appreciated that clarification and if this request were approved, all arms of city government would make sure all of their local ordinances as well as all provisions of state law would be followed.

Debbie Fox, 5117 Breezewood Drive, was present on behalf of the neighbors in Twin Branch and River Pointe Estates and she brought their concerns forward. Mrs. Fox read some of their responses stating there were too many gas stations in one area and they had 8 gas stations in a mile radius. Mrs. Fox stated the location was too small for fuel trucks to get in and out and questioned how they would be able to travel down Vistula, because it would be tough to go down Cedar Road which was barely a two lane road and would have to leave out to Bittersweet by leaving out of two lanes of traffic as well. Mrs. Fox stated one of the neighbors was concerned about the waterways and ponds with a possible fuel spillage hurting the geese they had. Mrs. Fox stated a lot of the neighbors stated there were too many stations in the area and did not see how the tankers would get in and out. Mrs. Fox asked his son, who was a semi-truck driver, how someone would be able to maneuver out of there and he said it would be very tight. Mrs. Fox stated someone wanted to know why the City Council thought this would be a good idea and if they were looking at the big picture at all with the neighbors. Mrs. Fox stated they would love to see a restaurant or a doctor’s office go into that spot. Mrs. Fox stated she called Penn High School to find out about buses and the buses pulled in there 3 times a day in the morning and 3 times at between 2 and 4 in the afternoon to drop off kids. Mrs. Fox stated kids hanging out around there could go into the convenience store, possibly spend their lunch money and not have lunch, miss their bus or just be out there when buses are present and that was a major concern to her. Mrs. Fox stated that would be a big safety issue and she was worried about the children. Mrs. Fox stated one neighbor stated they did not need more gas stations and they had enough around the neighborhood not directly in their neighborhood.

Mrs. Voelker asked if Mrs. Fox could tell her where the school bus pick up was in relation to this corner. Mrs. Fox stated they came in off of Bittersweet into the apartments where the trucks would come in, so it was the Reflections Apartments. Mrs. Fox stated they came in that way and one of the buses came in from Vistula and then would come out onto Bittersweet. Mrs. Voelker also asked if she had an idea on how many people participated in her survey. Mrs. Fox stated about 20 people chimed in on Facebook.

Mr. Hazen stated he asked Mrs. Fox to come by herself and he had about 25 to 30 people contact him with 3 emailing him and another 2 to 3 calls in opposing this ordinance. Mr. Hazen stated he asked Mrs. Fox to speak for all of the residents that evening.

Mr. Hixenbaugh asked her to go back to the point of her neighbors and her personal opinion, if not a gas station/convenience store what it was they would like to see on that corner. Mrs. Fox stated a lot of the neighbors suggested a restaurant and some brought up a doctor's office and it would be a great location for a doctor's office. Mr. Hixenbaugh stated he appreciated the summary she gave of all of the opinions of the neighbors and asked if there was anyone who expressed support at all of the people she polled. Mrs. Fox stated no, not at all. Mr. Hixenbaugh clarified in regard to the individual questioning why the council thought this was a good idea that the council had not stated any opinion on the issue at all and they did not go out and recruit petitioners and developers to purpose development out of a particular site. Mr. Hixenbaugh stated they do not state an opinion until they take vote the evening of the public hearing and the council had no stated an opinion in favor or against the proposed ordinance at that time. Mr. Hixenbaugh stated it was not the first time they had heard that, but asked Mrs. Fox to clarify that for the neighbors. Mr. Hixenbaugh continued stating it was understandable why people expressed their opinion frequently with regard to re-zonings that they have too many gas stations, too many drive-thru restaurants, too many car washes, etc. and it made sense why people express that opinion on behalf of their neighborhood, but that was not a factor the law empowers them to look at right or wrong. Mr. Hixenbaugh stated they live in a free market economy and the market determines whether businesses will be successful rather than government dictating that they have a set number of gas stations. Mr. Hixenbaugh stated it was a little beyond their scope to be able to say that the perfect number of gas stations was 8 as opposed to 7 or 9 and it would be arbitrary. Mrs. Fox expressed concern with the owner stating they would open up at 4:30 in the morning and she did not believe it was fair to the neighbors to have that much light shining at that time. Mrs. Fox stated if they shut down their lights when closing at midnight and you were to stop and get gas, that would not be safe either. Mr. Hixenbaugh thanked Mrs. Fox for the representation of her neighborhood.

Mr. Compton thanked Mrs. Fox for attending the meeting and speaking for all of the neighbors. Mr. Compton asked if any other the neighbors mentioned 'what if the property were to sit empty for years on hand?' and also asked if they cared if there were no establishment in that spot rather than a running business. Mrs. Fox stated they the neighbors seemed to think there was something better that could go there. Mr. Compton stated he understood what she was saying and he looked at the corner and there was not a lot of single family homes nearby and some apartments. Mr. Compton stated this concern was that very attractive to certain businesses and he believed it was a pretty expensive corner to be on. Mr. Compton stated a business like what was being proposed or a fast food store, that needs traffic, was the exact reason why they wanted to be there. Mr. Compton said certain businesses want and need traffic. Mr. Compton stated they heard this regularly that there had to be another place but he believed what was being proposed was the best use for the property. Mrs. Fox stated she did not believe it was big enough for a gas station or a drive-thru restaurant. Mrs. Fox stated it could be more of a sit-down restaurant, a doctor's office or an insurance agent. Mr. Compton presented the question of would they want to use their dollars for the busy intersection and pay for the busy intersection they don't need. Mrs. Fox stated it was a busy intersection that did not need to get busier with trucks. Mr. Compton believed that would not change regardless and thanked Mrs. Fox.

Richard and Kara Mullens, 4015 Pleasant Point, spoke in opposition to of **PROPOSED ORDINANCE NO. 2021-02**. Mr. Mullens stated they did not have much of a say so if the fuel pumps would go in or not, but he hoped there was a clause in the contract in the city if it were to fail that they would be responsible for taking the tanks out and putting it back to where it was currently. Mr. Mullens believed a donut shop would be perfect there. Mrs. Mullens stated they had seen all of the comments collected from neighbors and she understood they could not say they had too many gas stations, but on the corner of Bittersweet and McKinley there were 3 gas stations with 1 continually being shut down for lack of business. Mrs. Mullens stated with COVID going on in the last year, a lot of businesses had to go belly up in their neighborhood and for the remaining gas stations and convenience stores, she felt she needed to support them. Mrs. Mullens stated it was not that she was opposed to this being put in, but thought it was not the right time for a convenience store and gas station. Mrs. Mullens stated she had watched the Little Caesar's delivery truck come in off of Bittersweet at the Reflections entrance and they always unload on the side of the store not blocking any traffic and proceed right out the way they came in.

Mr. Hixenbaugh thanked them for their work done over many years with Mr. Mammolenti, Mr. Hazen and their predecessors in being the driving force behind the Twin Branch Neighborhood Watch. Mr. Mullens thanked Deb Fox for attending the meeting.

Mr. Mammolenti asked Mrs. Mullens if the Little Caesar's trucks were full semi-trucks. Mrs. Mullens stated there were not and they were box trucks that easily pull in and park on the side of the store. Mrs. Mullens also stated someone in the neighborhood asked where they will put the snow in the event of a snow storm and with the trucks trying to get in and out. Mr. Mammolenti asked if she took notice of how long the box trucks remained on site to unload. Mrs. Mullens stated she did not.

Mr. Banicki stated looking at the piece of property it was a tough piece of property for this business, because it was a little smaller than what a perfect newer gas station would be placed on. Mr. Banicki stated as far as lot size, that was up to the people there and they were trying to put 10 pounds of potatoes in a 5-pound bag and it would be tough. Mr. Banicki stated sometimes you had to trust your gut and use a little common sense and say for safety with the cars going in and out so close to the corner along with being close to the school, it just did not feel right. Mr. Banicki stated for that reason and the safety of traffic and possibly foot traffic in the future, he could not support the proposed ordinance that evening.

Mr. Hixenbaugh had a question for Mr. Prince. Mr. Hixenbaugh stated Mr. Banicki had just referenced the size of the parcel that was the subject of the proceeding and the staff report noted it was just under 1 acre at 0.95 acres. Mr. Hixenbaugh stated he was attempting to correlate that with other similar uses throughout the city and asked Mr. Prince, in his opinion, if there were other gas/convenience stores currently located on parcels roughly equivalent size of the parcel in question. Mr. Prince stated the 7-Eleven on the corner of Mishawaka Avenue and Main Street was a perfect example of a gas station where a tanker would come in and it was jammed right into the parking area they came in. Mr. Prince stated the Speedway was larger than the 7-Eleven but still was smaller than the parcel in question and the Citgo on Lincolnway between Twin Branch and Bittersweet was also a similar narrow site that had issues more severe than the parcel in question. Mr. Prince added the Family Video were looking at widening the pavement there and not using the existing pavement, which would give more room to allow the tankers to enter and exit. Mr. Hixenbaugh stated one of the other points made that evening was if the gas station/convenience store use was not approved, he believed it were accurate that there was any use that was approved in their C-2 shopping center uses that without further action of the council, would be eligible to be located at that site and asked if that was correct. Mr. Prince stated it was correct. Mr. Hixenbaugh stated after printing of a copy of the ordinance, it appeared there were about 55 potential uses that were appropriate within the C-2 district and asked Mr. Prince if that was correct. Mr. Prince stated it may have been larger than that, but were broken down into different zoning ordinance pyramids and referred to other zoning districts as part of that. Mr. Prince added some were not eligible, because they had different parking requirements so a typical restaurant would have trouble going next to Little Caesar's, because the parking would be deficient for it. Mr. Prince stated another carry-out business could be able to use the site, for example, but he was not sure. Mr. Prince continued stating a corner like this with the high volume, as referenced by the council, people would look at the location and stores like a vape shop, a Low Bob's or a liquor store could go in and all had permitted uses without any approval from the council and it was a permitted use in the zoning district. Mr. Prince asked the council to keep that in mind relative to the permitted uses.

Mr. Hixenbaugh invited Mr. Lepeniotis to address the concerns expressed by Mrs. Fox. Mr. Lepeniotis thanked Mrs. Fox for attending the meeting and organizing the neighbor's comments. Mr. Lepeniotis stated his client was eager to have a business in the community. Mr. Lepeniotis stated his client had a vested interest in making this a nice station and making it an easy place that would be easy to get in and out. Mr. Lepeniotis stated his client had a commercial vested interest in not having a commercial tanker truck out in front of the store at 5 in the afternoon, 7 in the morning or even when the school buses show up. Mr. Lepeniotis stated his client had done nothing but what they had been asked of, invited members of the community up to speak, made their lines open at the end of the town hall meeting, and things of that nature. Mr. Lepeniotis stated he had not heard Mrs. Fox's concerns prior to the meeting, but did not think they were concerns that were an odor or other things that could be very preclusive to creating a bad environment. Mr. Lepeniotis stated he believed the corner was best suited for this and he believed his client had a vested interest in it. Mr. Lepeniotis stated he did not want to debate on the truck traffic and he knew the council knew more about that than he did, especially Mr. Emmons, but he did think it was possible. Mr. Lepeniotis stated with what they presented, he believed his guy would be a great addition to the community and he believed he would take all of the thoughts and concerns into account. Mr. Lepeniotis stated they did not want to start the relationship with the neighbors acrimoniously, because his client simply identified a piece of property he believed would make a good business. Mr. Lepeniotis stated he did not think he was asking for something extraordinary or something that would hurt the community. Mr. Lepeniotis concluded stating he appreciated everyone's comments and knew his client did as well.

Mrs. Voelker had a question for Mr. Prince and asked if in the future the business was no longer there, would the owner be responsible for removing the tanks. Mr. Prince stated the city was put in a position when acquiring historically old gas stations to clean up the property but in his tenure with the city, they never experienced that with a newer station. Mr. Prince stated that would be a better question for the operator, but he did not believe that burden would fall to the city. Mr. Lepeniotis answered Mrs. Voelker's question stating what's in the tanks was valuable so the fuel would always be removed from the site if the station ceased to exist and someone would come and pump the fuel out instantaneously. Mr. Lepeniotis stated modern tanks were designed to hold fuel a lot better than old tanks and also were monitored not only by the owner but the state of Indiana and are eyed routinely. Mr. Lepeniotis stated if the station were to close, it would be highly unlikely that a fuel spill would go unnoticed by the time a station closed. Mr. Lepeniotis stated if closed, the tanks in the ground would be largely innocuous and would have nothing in them, so there would be no reason to pull them out and the site could be operated on with them still there. Mr. Lepeniotis stated the reason tanks were removed in the past was because they were leaky and had other issues with contamination on the site. Mr. Lepeniotis stated the tanks would be secured and would not be an obstacle.

Mr. Compton asked Mr. Lepeniotis if the tanks would be owned by Mr. Singh. Mr. Lepeniotis stated it may be a better question posed to him, but his understanding was the owner of the station owned the fueling system and paid for the system.

Mr. Compton stated he believed this was the best use for this property even though people in the proximity did not want to see another gas station in the neighborhood. Mr. Compton stated he believed there was a lot of businesses that could go into that spot that would be more objectionable to him. Mr. Compton stated he would support this and thought that the school and church across the street did not have a concern about what was on the corner and stated it made sense to put the gas station/convenience store there.

Mr. Hixenbaugh added that he also appreciated the passion and concerns voiced by neighbors in close proximity to any of the projects. Mr. Hixenbaugh stated on the other side, he was concerned about some of the potential downsides to the building not being used as proposed. Mr. Hixenbaugh stated the potential of it to sit vacant for a long period of time and the specter of some of the uses that could be enacted at the site without further action from the council being much worse with the location of schools in the area. Mr. Hixenbaugh stated he was torn on the merits of the proposal and one component of the community dialogue that bothered him was that there was some refrain that this was a done deal and the council would do what they wanted. Mr. Hixenbaugh stated that concept of it being a done deal was concerning to him, because he defied them to say this was a done deal given the conversations held during the public hearing that evening. Mr. Hixenbaugh stated he took some offense at it and hoped however this were to turn out, there was a thoughtful analysis on the part of the council who worry about what's best in the best interest of the community. Mr. Hixenbaugh stated they focused on that neighborhood and they were making a decision for the rest of the community and asked rhetorically how it was fair that there was a gas station on a much smaller parcel in his neighborhood, but suddenly it was a monumental problem in other neighborhoods. Mr. Hixenbaugh concluded stating he was torn by the equities and merits of this and he would take the proper time to process his decision.

Question was called for at 9:21PM for **PROPOSED ORDINANCE NO. 2021-02 Vote: Motion failed (summary: Yes = 3, No = 6, Abstain = 0). Yes: Mrs. DeMaegd, Mr. Compton, Mrs. Voelker. No: Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Hixenbaugh.** The proposed ordinance failed 6 to 3.

ADJOURNMENT 9:22PM

Deborah S. Block /s/	Gregg A. Hixenbaugh /s/
Deborah S. Block, IAMC, MMC, City Clerk	Gregg A. Hixenbaugh, President

City of Mishawaka

DAVID A. WOOD, MAYOR **DEPARTMENT OF CITY PLANNING**

Deborah S. Block, IAMC, MMC
MAR 1 1 2032
City Clerk
Mishawaka, IN

March 10, 2021

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
March 9, 2021, Public Hearing
Certification of Proposed Ordinance

Honorable Members:

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

PETITION #21-02 A petition submitted by City of Mishawaka Redevelopment Commission requesting to amend the Penn Planned Unit Development to allow an 8' tall anti-climb screening fence to surround the new Juday Creek Water Treatment Plant.

The Commission, with a vote of 8-0, recommended approval. All other previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

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

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

City Hall, 600 East Third Street, Mishawaka, IN 46544-2241 (574) 258-1625 FAX (574) 968-6999
E-mail planning @ Mishawaka.in.gov

STAFF REPORT

Location: West of the Northern Terminus of Veteran's Parkway
Lot 2 of Juday Creek Business Park Subdivision (Plat 18-08)

Date: March 9, 2021

Petition: 21- 02

Prepared By: DJS

GENERAL INFORMATION

Applicant:	City of Mishawaka, Department of Redevelopment
Status:	Property Owner
Request:	Amend part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high anti-climb security fence to surround the Juday Creek Water Treatment Plant
Zoning Classification:	S-2 Planned Unit Development
Lot Size:	43.75 acres (Amendment only applicable to the south 10.63 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 (Agricultural/Approved for a Regional Recreational Center & Juday Creek Golf Course)
	South:	S-2 Planned Unit Development (Agricultural/Approved for Commercial & Office Use)
	East:	S-2 Planned Unit Development (Agricultural/Approved for Commercial, Office, and Single-Family Residential Use)
	West:	S-2 Planned Unit Development (Juday Creek Golf Course & Future Municipal Wellfield)

Thoroughfare:	Veteran's Parkway
School District:	Penn-Harris-Madison School Corporation
Township:	Harris
Public Utilities:	All public utilities are available and will be extended to/throughout the site at the owner's expense.
Comprehensive Plan:	Property is not located within the boundaries of the Mishawaka 2000 Comprehensive Plan

ANALYSIS

The petitioner, the City of Mishawaka, is requesting to amend a part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high security fence at the Juday Creek municipal wellfield and drinking water production facilities.

The water treatment plant will be located within a part of Lot 2 in the Juday Creek Business Park subdivision (Plat 18-02). The lot is north of Douglas Road at northern terminus of Veteran's Parkway adjacent to Juday Creek. A prior PUD amendment approved in April 2018 (Petition 18-07/Ord. 5613) expanded the permitted uses for Lot 2 to include a municipal wellfield and water production facilities. The amendment being requested is only applicable to the south 10.83 acres of the property. Currently, the lot is agricultural land. Construction on the wellfield and water treatment plant is expected to begin this spring.

Neither the original PUD, approved in May 2012 (Petitions 11-29 & 11-30/Ord. 5341 & 5342), or the prior PUD amendment (Petition 18-07) included a maximum height for fences in the conditions and development regulations. As a result, the fence height is limited to 7' which is the maximum height allowed in the S-1 Extensive Open Space/Public District. This is only zoning district which specifically identifies "water pumping plants" as a permitted use. Therefore, all development regulations not specified in the PUD ordinance shall adhere to the S-1 District.

The proposed 8' high fence will completely enclose the water production facility to provide enhanced public safety and security. The fence will be constructed with anti-climb welded wire and will not include barbed or razor wire. A security gate will be provided at the entrance drive along Veteran's Parkway.

Staff supports the amendment request to allow for the increase in the permitted fence height. The fence will only be 1' higher than currently allowed while providing for increased security.

A detailed Final PUD Site Plan (SP 20-11) was submitted concurrently with the PUD amendment. The location of the fence and detail is shown on the attached plan.

All previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

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

RECOMMENDATION

Staff recommends approval of Petition 21-02 for amending a part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high anti-climb security fence to surround the Juday Creek Water Treatment Plant.

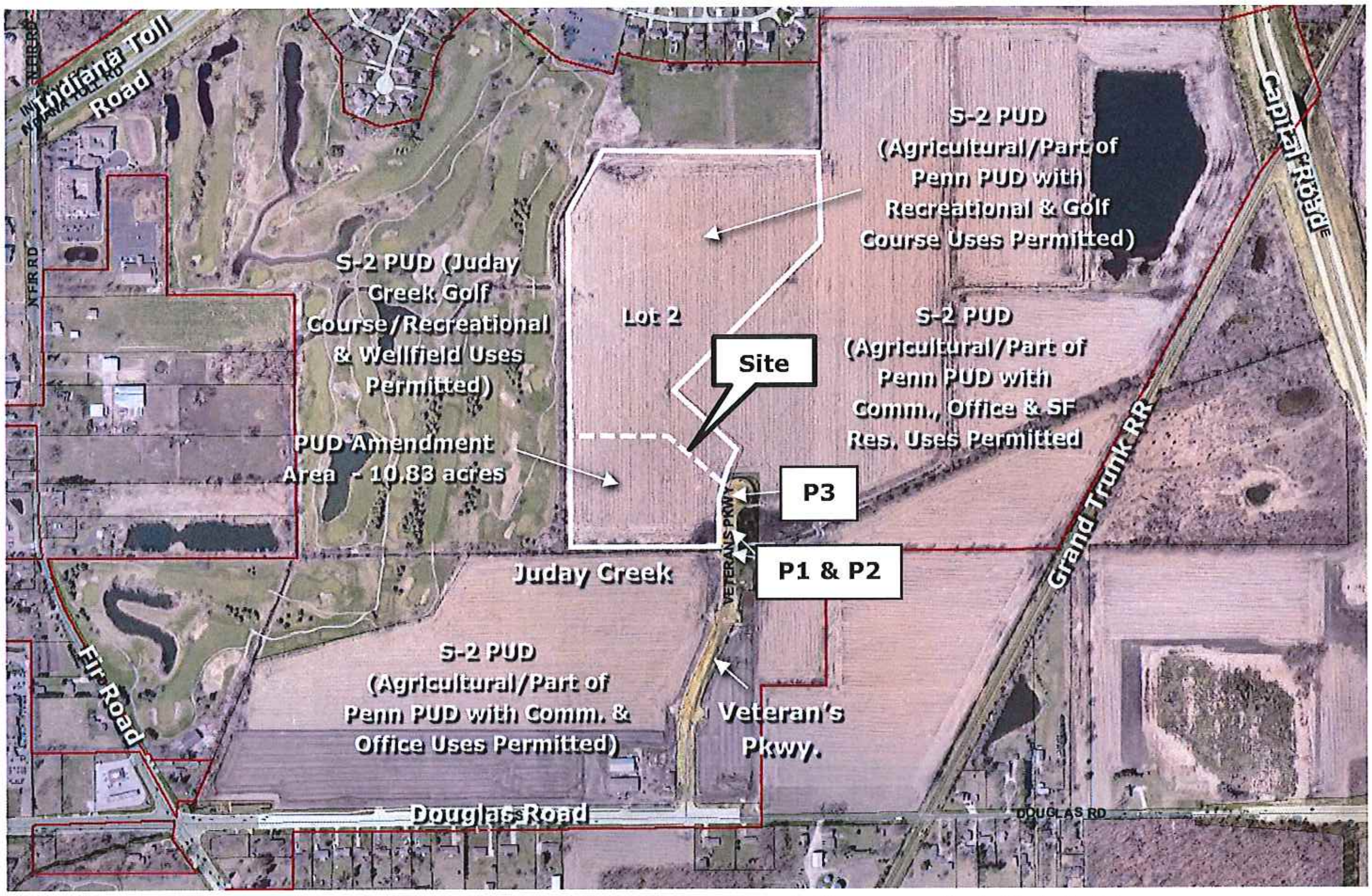
All other previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property, located north of Douglas Road at the northern terminus of Veteran's Parkway, is currently undeveloped agricultural land. Adjacent land uses include agricultural land, approved for various commercial, office, residential, and recreational uses, and the Juday Creek Golf Course, approved for recreational and wellfield use.
2. Character of Buildings in Area – There are very few buildings within the immediate area. Low density single-family residential homes are located along the south side of Douglas Road more than a quarter mile from the subject property.
3. The most desirable/highest and best use – The water production facility and municipal wellfield within the PUD is not inconsistent with the surrounding existing or permitted land uses. The increased height of the fence does not affect the permitted use of the property.
4. Conservation of property values – The proposed amendment will not be injurious to property values in the surrounding area. The fence will only be 1' higher then currently allowed, but will enhance safety and security. An earthen berm and landscaping will also be provided outside and along the entire perimeter of the fence.
5. Comprehensive Plan – The parcel is not located within the boundaries of the City of Mishawaka Comprehensive Plan. However, the proposed land use is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan.

ATTACHMENTS

Aerial Map, Photographs, Petition, Final PUD Site Plan (SP 20-11), Fence Detail, Manufacturing Spec Sheets, Location Map



Aerial Photograph – Lot 2 of the Juday Creek Business Park Subdivision
Undeveloped Agricultural Land proposed for partial development with a new water production facility

P1. Looking westerly from the southeast corner of the property toward Juday Creek. The water production facility is to be located to the north.

P2. Looking northwesterly from the southeast corner of the property.

P3. Looking westerly toward the property from the Veteran's Parkway terminus.
Juday Creek is at the base of the tree row to the left (south.)

PETITION 21-02

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-12

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, Harris Township, St. Joseph County, State of Indiana, to-wit:

LOT 2 OF THE JUDAY CREEK BUSINESS PARK AS RECORDED UNDER INSTRUMENT NUMBER 1811362 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA

COMMON ADDRESS: West of Northern Terminus of Veteran's Parkway

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow an 8' high security fence at the Juday Creek Municipal Wellfield and Drinking Water Production Facilities. All other previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

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

1. Existing Conditions – The subject property, located north of Douglas Road at the northern terminus of Veteran's Parkway, is currently undeveloped agricultural land. Adjacent land uses include agricultural land, approved for various commercial, office, residential, and recreational uses, and the Juday Creek Golf Course, approved for recreational and wellfield use.

2. Character of Buildings in Area – There are very few buildings within the immediate area. Low density single-family residential homes are located along the south side of Douglas Road more than a quarter mile from the subject property.

3. The Most Desirable/highest and Best use – The water production facility and municipal wellfield within the PUD is not inconsistent with the surrounding existing or permitted land uses. The increased height of the fence does not affect the permitted use of the property.

4. Conservation of Property Values – The proposed amendment will not be injurious to property values in the surrounding area. The fence will only be 1' higher then currently allowed, but will enhance safety and security. An earthen berm and landscaping will also be provided outside and along the entire perimeter of the fence.

5. Comprehensive Plan – The parcel is not located within the boundaries of the City of Mishawaka Comprehensive Plan. However, the proposed land use is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this __________day of _____________________, 2021, at _________ o'clock ___.M.

____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this ________ day of __________________, 2021, at _________ o'clock ____.M.

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

APPROVED by me this __________ day of _________________, 2021, at ________o'clock ____.M.

____
David A. Wood, Mayor

STAFF REPORT

Location: West of the Northern Terminus of Veteran's Parkway
Lot 2 of Juday Creek Business Park Subdivision (Plat 18-08)

Date: March 9, 2021

Petition: 21- 02

Prepared By: DJS

GENERAL INFORMATION

Applicant:	City of Mishawaka, Department of Redevelopment
Status:	Property Owner
Request:	Amend part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high anti-climb security fence to surround the Juday Creek Water Treatment Plant
Zoning Classification:	S-2 Planned Unit Development
Lot Size:	43.75 acres (Amendment only applicable to the south 10.63 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 (Agricultural/Approved for a Regional Recreational Center & Juday Creek Golf Course)
	South:	S-2 Planned Unit Development (Agricultural/Approved for Commercial & Office Use)
	East:	S-2 Planned Unit Development (Agricultural/Approved for Commercial, Office, and Single-Family Residential Use)
	West:	S-2 Planned Unit Development (Juday Creek Golf Course & Future Municipal Wellfield)

Thoroughfare:	Veteran's Parkway
School District:	Penn-Harris-Madison School Corporation
Township:	Harris
Public Utilities:	All public utilities are available and will be extended to/throughout the site at the owner's expense.
Comprehensive Plan:	Property is not located within the boundaries of the Mishawaka 2000 Comprehensive Plan

ANALYSIS

The petitioner, the City of Mishawaka, is requesting to amend a part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high security fence at the Juday Creek municipal wellfield and drinking water production facilities.

The water treatment plant will be located within a part of Lot 2 in the Juday Creek Business Park subdivision (Plat 18-02). The lot is north of Douglas Road at northern terminus of Veteran's Parkway adjacent to Juday Creek. A prior PUD amendment approved in April 2018 (Petition 18-07/Ord. 5613) expanded the permitted uses for Lot 2 to include a municipal wellfield and water production facilities. The amendment being requested is only applicable to the south 10.83 acres of the property. Currently, the lot is agricultural land. Construction on the wellfield and water treatment plant is expected to begin this spring.

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The proposed 8' high fence will completely enclose the water production facility to provide enhanced public safety and security. The fence will be constructed with anti-climb welded wire and will not include barbed or razor wire. A security gate will be provided at the entrance drive along Veteran's Parkway.

Staff supports the amendment request to allow for the increase in the permitted fence height. The fence will only be 1' higher than currently allowed while providing for increased security.

A detailed Final PUD Site Plan (SP 20-11) was submitted concurrently with the PUD amendment. The location of the fence and detail is shown on the attached plan.

All previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

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

RECOMMENDATION

Staff recommends approval of Petition 21-02 for amending a part of a Planned Unit Development, known as the Penn PUD, to allow an 8' high anti-climb security fence to surround the Juday Creek Water Treatment Plant.

All other previously approved conditions and development regulations per Ordinances 5341, 5342, and 5613 remain applicable to the property.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject property, located north of Douglas Road at the northern terminus of Veteran's Parkway, is currently undeveloped agricultural land. Adjacent land uses include agricultural land, approved for various commercial, office, residential, and recreational uses, and the Juday Creek Golf Course, approved for recreational and wellfield use.
2. Character of Buildings in Area – There are very few buildings within the immediate area. Low density single-family residential homes are located along the south side of Douglas Road more than a quarter mile from the subject property.
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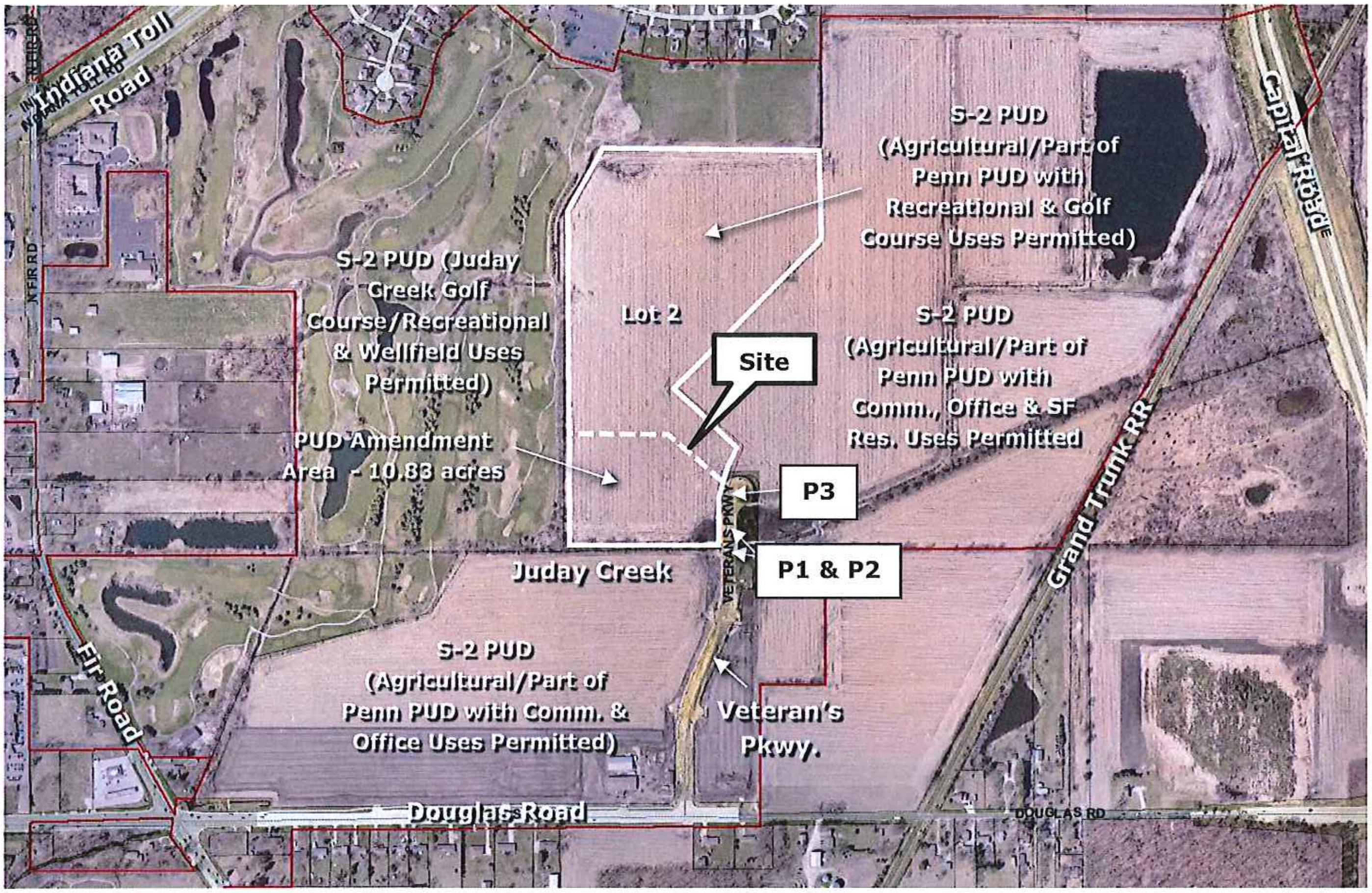
ATTACHMENTS

Aerial Map, Photographs, Petition, Final PUD Site Plan (SP 20-11), Fence Detail, Manufacturing Spec Sheets, Location Map



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Undeveloped Agricultural Land proposed for partial development with a new water production facility

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P2. Looking northwesterly from the southeast corner of the property.

P3. Looking westerly toward the property from the Veteran's Parkway terminus.
Juday Creek is at the base of the tree row to the left (south.)

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR | BUILDING - COMMUNITY DEVELOPMENT - PLANNING

RECEIVED
DEBORAH S. BLOCK, MMC
FEB 26 2021
CITY CLERK
MISHAWAKA, IN

RECEIVED
FEB 17 2021
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING
PET 21-02

February 17, 2021

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

RE: PETITION FOR PUD AMENDMENT

The undersigned City of Mishawaka Redevelopment Commission 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:

See attached.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for Business & Commercial Uses including golf course, golf maintenance, municipal wellfield and water production facilities and a regional recreational facility. The property is currently vacant agricultural land.

Petitioner(s) desire said real estate to be amended to allow for use of 8' height fence at the municipal wellfield and drinking water production facilities for enhanced public safety and security. This facility will be the primary source of drinking water for the northside of Mishawaka. This 8' height fence will have anti-climb features and will serve as a greater deterrent than a 7' height fence.

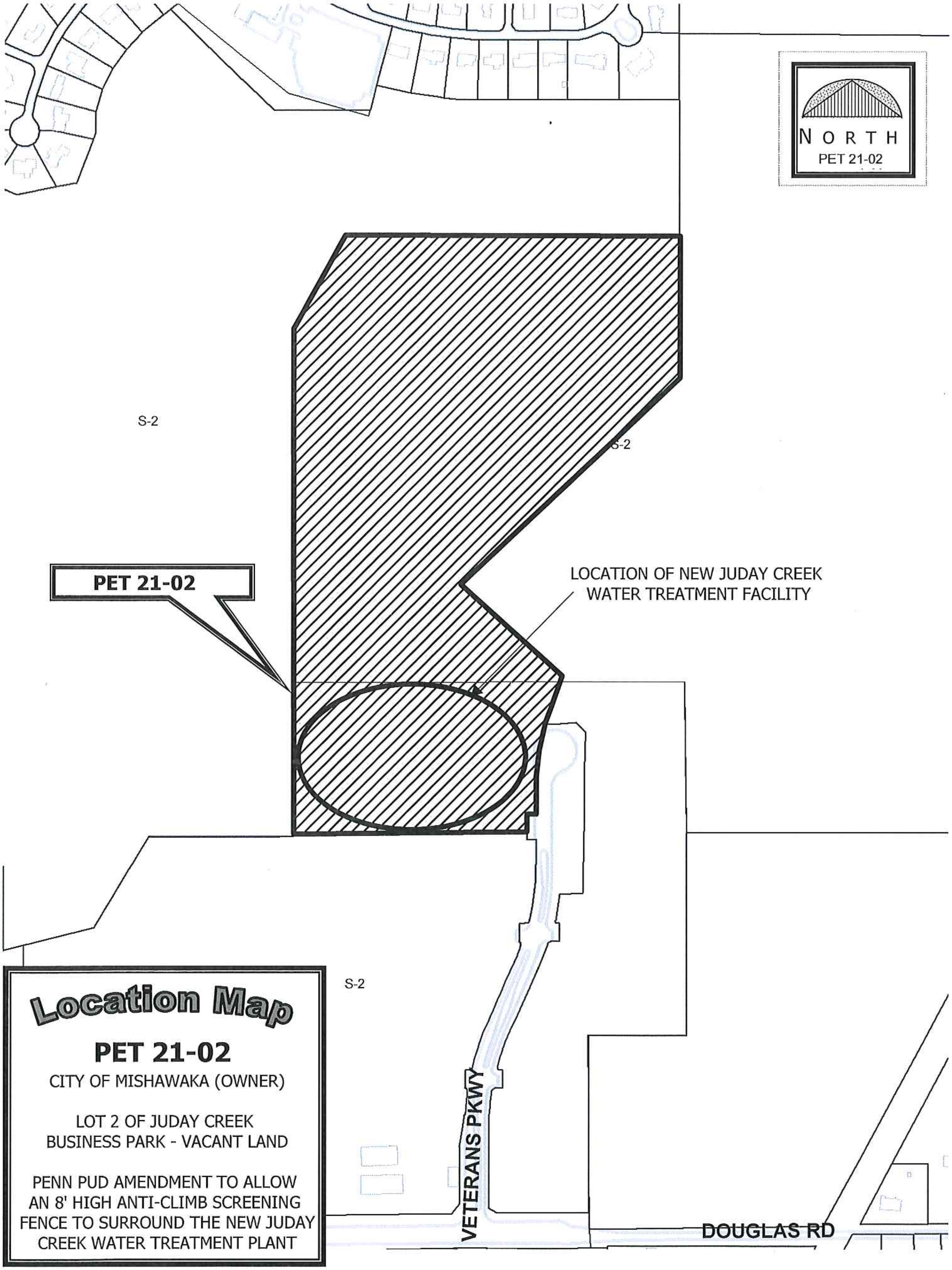
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of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

Kenneth B. Prince, ASLA, AICP
City Planner

CONTACT PERSON:
Derek J. Spier, AICP
Senior Planner & Economic Development Specialist
City of Mishawaka
600 E. Third Street
Mishawaka, IN 46544
dspier@mishawaka.in.gov

LEGAL DESCRIPTION:

LOT 2 OF THE JUDAY CREEK BUSINESS PARK AS RECORDED UNDER INSTRUMENT NUMBER 1811362 IN THE OFFICE OF THE RECORDER OF ST. JOSPEH COUNTY, INDIANA.


NORTH
PET 21-02
S-2
S-2
PET 21-02
LOCATION OF NEW JUDAY CREEK
WATER TREATMENT FACILITY
S-2
VETERANS PKWY
DOUGLAS RD
Location Map
PET 21-02
CITY OF MISHAWAKA (OWNER)
LOT 2 OF JUDAY CREEK
BUSINESS PARK - VACANT LAND
PENN PUD AMENDMENT TO ALLOW
AN 8' HIGH ANTI-CLIMB SCREENING
FENCE TO SURROUND THE NEW JUDAY
CREEK WATER TREATMENT PLANT

RESOLUTION NO. 2021-04

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING AN AGREEMENT EXTENDING THE ST. JOSEPH COUNTY HOUSING CONSORTIUM AND AUTHORIZING THE EXECUTION THEREOF

WHEREAS, On November 28, 1990, the National Affordable Housing Act (NAHA) of 1990, also known as the Cranston-Gonzales Act, became law, to implement its stated goal that every American family be able to afford a decent home; and

WHEREAS, NAHA requires any governmental unit to formulate and submit appropriate plans in order to be eligible to receive funds from several existing federal programs, including Community Development Block Grant (CDBG), the HOME Investment Partnership Program (HOME), Emergency Solutions Grant (ESG), as well as to be eligible to receive funds from new housing assistance programs created by NAHA; and

WHEREAS, NAHA provides for the designation of geographically contiguous units of general local government to participate as consortia in, and thereby be considered a single Unit of general local government, for purposes of HOME; and

WHEREAS, I. C. 36-1-7, the Interlocal Cooperation Act, authorizes one or more governmental entities to exercise, jointly or by one entity on behalf of the others, powers that may be exercised by such units severally; and

WHEREAS, pursuant to the Interlocal Cooperation Act, the Cities of South Bend and Mishawaka, and the County of St. Joseph, being contiguous units of general local government have formed the St. Joseph Housing Consortium, which, by agreement of the member entities, is to terminate on **December 31, 2024**; and

WHEREAS, the Cities of South Bend, Mishawaka, and St. Joseph County are desirous of re-establishing the Consortium for the purposes of receiving an allocation and participating in HOME, and all other housing programs administered by HUD for which they may be eligible, and for the purpose of cooperating to undertake or to assist in the undertaking of housing assistance activities for HOME and other HUD programs, including using a January 1st program year; and

WHEREAS, substantially similar resolutions will be approved by the St. Joseph County Council and the South Bend Common Council.

NOW, THEREFORE, AND PURSUANT TO THE AUTHORITY GRANTED THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA UNDER I.C. 36-1-7, THE INDIANA INTERLOCAL COOPERATION ACT, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AS FOLLOWS:

Section I. THAT The Common Council of the City of Mishawaka, Indiana has considered and hereby approves the extension of and participation in the St. Joseph County Housing Consortium for purposes of the formulation, update, submission and implementation of applicable plans and programs and the implementation of the HOME Investment Partnerships Program (HOME), Emergency Solutions Grant (ESG) and other housing assistance programs funded by the Department of Housing and Urban Development (HUD) under the National Affordable Housing Act of 1990 (NAHA).

Section II. THAT The Common Council of the City of Mishawaka, Indiana hereby authorizes the Mayor to enter into an Agreement extending the St. Joseph County Housing Consortium, in form and substance the same as or similar to that of the Agreement attached hereto.

Section III. THAT The Common Council of the City of South Bend, Indiana hereby confirms its commitment to the goals and the reality of fair housing within the City of South Bend.

Section IV. This resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of ____________, 2021 at ___________ o'clock ____ .M.

____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this ____ day of ______________, 2021, at __________o'clock __.M

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

APPROVED by me this ______day of ____________, 2021 at ______ o'clock ____ .M.

____
David Wood, Mayor
City of Mishawaka

Resolution No. ( ) Explanation

The Resolution of the common Council is to approve an agreement to extend the ST. Joseph County Housing Consortium. The Consortium was created in 1991 as a cooperative effort among three jurisdiction South Bend, Mishawaka and the County. The consortiums offers a way where HOME funds are provided for housing assistance to low-mod income individuals. A formal renewal process is required every three years. This Resolution will allow the City of Mishawaka to continue and Agreement covering the period of 2022-2024.

Resolution No. ( ) Explanation

The Resolution of the common Council is to approve an agreement to extend the ST. Joseph County Housing Consortium. The Consortium was created in 1991 as a cooperative effort among three jurisdiction South Bend, Mishawaka and the County. The consortiums offers a way where HOME funds are provided for housing assistance to low-mod income individuals. A formal renewal process is required every three years. This Resolution will allow the City of Mishawaka to continue and Agreement covering the period of 2022-2024.

RESOLUTION NO. R 2021- 05

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

WellPet, LLC

DECLARATORY RESOLUTION

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

A lot or parcels of land described as follows:

> Tax Key #16-1161-6468; also legally described as:
>
> A part of the southwest quarter of section 16, Township 37 North, Range 3 East, now within and part of the City of Mishawaka, which part is bounded by a line running as follows, viz:
>
> Beginning at a point on the South line of said Section 16, 20 feet East of the Southwest corner thereof; thence East along the South line of said Section 16, 679.97 feet more or less, to the west line of Cleveland Street in the City of Mishawaka, if extended South; thence North along the west line of said Cleveland Street, if extended south 440.57 feet, more or less to the South line of Eleventh Street in the City of Mishawaka; thence West along the South line of said Eleventh Street 681.15 feet more or less to the East line of Logan Street, in the City of Mishawaka; thence South along the East line of said Logan Street 443.32 feet, more or less to the place of beginning.
>
> More commonly known as 1121 West 11th Street

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

WHEREAS, this declaration of the above described area as an "Economic Revitalization Area" shall expire three (3) years from the effective date of the declaration unless officially extended by the Common Council of the City of Mishawaka, Indiana, and

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

WHEREAS, an owner or occupant of the area described above shall be eligible for a deduction from assessed valuation resulting from the improvement of real property used within that area so described, and

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

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

1. That the area described hereinabove is hereby declared to be an "Economic Revitalization Area" within the meaning of the Act; and

2. That the City Clerk shall cause notice of the adoption of this Resolution to be published pursuant to I.C. 5-3-1, and shall file a copy of this Resolution with the St. Joseph County Assessor; and

3. That the City Clerk shall include in such notice the substance of this Resolution, a description of the affected area, that this Resolution may be inspected in the County Assessor's office or the office of the Mishawaka City Clerk, the date when the Common Council will receive and hear all remonstrance and objections from interested persons, and any other information required by Section 6-1.1-12.1-2.5 of the Act; and

4. That the City Clerk shall file a copy of the aforesaid public notice along with a copy of this Resolution and the Statement of Benefits (Form SB-1) with the officers of each taxing unit that has the authority to levy property taxes in the geographic area where the aforesaid economic revitalization area is located; and

5. That following the legal publication and on the date published in the public notice, a public hearing shall be held by the Common Council, at which time the Common Council shall receive and hear all remonstrance and objections from interested persons and shall then take final action determining whether the qualifications for an Economic Revitalization Area have been met and confirming, modifying and confirming, or rescinding this Resolution; and

6. That the determination of the Common Council shall be final except that an appeal may be taken and heard as provided by I.C. 6-1.1-12.1-2.5 (d) and (e).

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 15th day of March, 2021.

____

Gregg Hixenbaugh, President

ATTEST:

____

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this ______ day of __________, 2021.

____

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of _____________________, 2021, at _____ o'clock ____.M.

____

David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR **BUILDING - COMMUNITY DEVELOPMENT - PLANNING**

March 11, 2021

Deborah S. Block, IAMC, MMC
MAR 1 1 2032
City Clerk
Mishawaka, IN

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Anthony Hazen, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Gregg Hixenbaugh, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Maggie DeMaegd, At-Large City Council
Mrs. Deborah Block, City Clerk

Re: Declaratory Resolution 2021-05
Tax Abatement – WellPet LLC
Real and Personal Property Tax Abatements - 1121 W. 11th Street

Dear Council Members and Clerk:

Please find attached Declaratory Resolution 2021-05 pertaining to petitions for tax abatement that have been filed for consideration at the Monday, March 15th meeting. The requests have been submitted by WellPet LLC, a manufacturer of premium dog and cat food headquartered in Tewksbury, MA.

WellPet LLC is proposing to expand their current facility to include a new building addition that will contain drying and coating equipment along with advanced odor control equipment. The improvements will allow for the optimization of plant operations and increased production capacity with plans to add a third production line in the future. Food safety will also be enhanced as the addition will allow for a greater separation between raw ingredient processing areas and finished production packaging and storage areas. The total planned investment is approximately $42.6 million.

Specifically, two abatements have been filed, one for the real property improvements and one for the personal property improvements in equipment. The real property improvements include an estimated $14.7 million expansion adding an approximate 8,100 sq. ft. (90'x90') addition to the south side of the building. The addition will also require approval of a developmental variance from the Board of Zoning Appeals for the overall height of the structure. The personal property request includes nearly $27.9 million primarily for new dryers, odor control equipment, and conveyance systems. A detailed listing of the new equipment to be installed is included as an attachment to the personal property tax abatement application. Construction on the building addition is expected to begin during the 2nd quarter of 2021 with equipment installation beginning in the 4th quarter of 2021. Completion on the entire project is anticipated during the 3rd quarter of 2022.

WellPet LLC has received two prior personal property tax abatements approved by the Council in 2014 and 2015. The previous requests have allowed the company to purchase equipment it would not have had the

City Hall ◦ 600 East Third Street ◦ Mishawaka IN ◦ 46544-2241
Community Development ◦ Redevelopment ◦ Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning ◦ Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

capacity to do so, along with hiring more employees than projected, and at higher wage rates. Employment levels at the facility have increased over the years from 91 employees in 2014, to 115 employees in 2015, to 125 employees present day. Commensurate with the increase in employment, total payroll has significantly increased over these years.

With the current request, Wellpet LLC will retain 125 employees while adding 5 jobs as a result of the investment. The hourly wage for the four semi-skilled new positions, excluding benefits, is estimated at $15.00. Total annual salaries for the new jobs, including one salaried position, is estimated at $244,800. Benefits available to employees include sick, vacation, volunteer, and other paid time off; 401 (k) with company match; short and long term disability insurance; health insurance; paid holidays; and a quarterly bonus.

Similar to the two prior approved abatements, Staff is recommending a 5 year abatement for both the real and personal property tax abatement requests. However, the percentage of the abatement is recommended at one-hundred percent over the life of the abatement instead of the standard phase-in beginning at one-hundred percentage and decreasing twenty percent annually until the end of the abatement.

Copies of the tax abatement applications and Staff prepared declaratory resolution are attached for your review and information. The property is not located within the City's tax increment finance district.

As you are aware, tax abatement requests before the Common Council are considered in two steps. The first step is the declaratory resolution where the abatement is essentially accepted for consideration. Once the declaratory resolution is approved, the Clerk's Office has specific advertising requirements to notify other taxing entities within the jurisdiction that could be impacted by the abatement. This allows for input from those other taxing units prior to the Council's consideration and vote on the request. The second step is the hearing and consideration of a confirming resolution where the merits of the request are considered. The only item being considered at the March 15th meeting is the declaratory resolution, which staff is recommending approval of to allow the appropriate advertising to take place. If approved, staff will prepare a more detailed analysis of the request as part of your consideration of the confirming resolution.

Please do not hesitate to contact me with any questions.

Sincerely,

Derek J. Spier, AICP
Senior Planner & Economic Development Specialist

cc: David A. Wood, Mayor
Kenneth B. Prince, ASLA, AICP
City Planner

City Hall ∘ 600 East Third Street ∘ Mishawaka IN ∘ 46544-2241
Community Development ∘ Redevelopment ∘ Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
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E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

City of Mishawaka
Building – Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

REAL PROPERTY TAX ABATEMENT

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

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

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

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

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

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

1. Name of the company for which Economic Revitalization Area (ERA) designation is being requested:

WellPet LLC

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

Name and Title: Doug Mitchell, Director of Plant Operations

Address: 1011 West 11th Street Mishawaka IN 46544

Telephone: 574-304-7858

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

Name and Title: Terry Peterson, Site Controller

Address: 1011 West 11th Street Mishawaka IN 46544

Telephone: 574-303-9034

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

   a) Street Address: 1121 West 11th Street Mishawaka IN 46544

   b) Township: Penn

   c) Taxing District Number: 023

   d) Council District Number: District 1

   e) Tax Parcel Number(s): 71-09-16-355-001.000-023

   f) Current Zoning of the Property: Industrial 2

   g) Case/approval number of any variance, rezoning, or approval petition(s) which is/are required or have been obtained for this project: ______________________

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

Land: $119,600

Improvements: $2,181,500

Inventory:

Equipment: $7,468,427

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? _______Yes ____X__No

7. Does your company currently conduct manufacturing operations at this location? If so, how long has your company been at this location?

   Yes, there is manufacturing performed at this location. WellPet purchased the business in 2009.

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

   NAICS Code 311111

   b) Please list any special certifications/designations.

   ____

   ____

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

   Firm Headquarters is located at 200 Ames Pond Dr. Tewksbury MA 01876

   Additional manufacturing at Farm Fresh Kitchens located at 201 Armour Ave. Suite 500 South St. Paul MN 55073

9. What is the size of the real estate that will be developed? (in acres) 90' x 90'

10. What is the estimated construction or rehabilitation cost? $14,705,700

11. Have building permits been obtained? *(Please note that state statute requires petitioner to file abatement application **before** obtaining permits) _______Yes X______No

12. What is the anticipated date for construction to begin? Q2 2021

13. What is the anticipated date for project completion? Q3 2022

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

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

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

Skilled	70	Average hourly wage rate for skilled positions	$18.97
Semi-skilled	29	Average hourly wage rate for unskilled positions	$15.51
Clerical	0	Average hourly wage rate for clerical positions	0
Salaried	25	Average salary (per hour) for salaried positions	$39.29

TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time) 125

c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.)

Company employees receive sick time, vacation time, volunteer time off, other paid time off (bereavement, jury duty, etc.), 401 (k) with company match, short term and long term disability insurance (paid for by the company), health insurance (medical, dental, vision), 9 paid holidays, and a quarterly bonus.

d) Approximate value of benefits for existing and new employees on a per hour basis (e.g. benefits are valued at an additional $3.00 per hour, etc.) $8.39 / hour

e) What is the total dollar amount spent on retained salaries? $6,131,000

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

Skilled	0	Average hourly wage rate for skilled positions	
Semi-skilled	4	Average hourly wage rate for unskilled positions	$15.00
Clerical	0	Average hourly wage rate for clerical positions	
Salaried	1	Average salary (per hour) for salaried positions	$57.69

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 5
Note: New employees added is the total for both real and personal property

g) What is the total dollar amount to be spent on new salaries? $244,800

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

Current hourly employees	$17.95
Retained hourly employees	$17.95
New hourly employees	$15.00

h) (if applicable) What is the usual market for goods or services produced by the company? List the percentage of the company's product or service that reaches:

Inside St. Joseph County:	0.0%
Outside St. Joseph County, but inside Indiana:	7.3%
Outside Indiana, but within 500 miles	11.0%
Outside of 500 miles	73.6%
Outside of the United States:	8.1%

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

1. Diversified Ingredients – Fargo ND
2. Badger Ingredients – Carefree AZ
3. Anchor Ingredients – Fargo ND
4. Crete Core – Omaha NE
5. BHJ USA – Logansport, IN

17. Describe the project for which tax abatement is being requested. Include the types of improvements that will be made, and indicate whether improvement is freestanding or an expansion to existing facility. In addition, indicate whether your company will utilize the entire project space or lease a portion of it to an outside company.

WellPet is expanding the current facility to include a new section of the building that will contain drying and coating equipment along with advanced odor control equipment. The change to the plant will allow for future growth and increased production capacity. The new design will also provide enhanced food safety by improving segregation between the raw ingredient processing areas and the finished product packaging and storage areas.

18. Briefly describe the product or service of the company/business which will occupy the property for which tax abatement is being requested.

WellPet will continue to occupy the property and continue the manufacturing of premium dog and cat food on the premises.

19. What evidence can be provided to show the positive impact the abatement will have on the **project property and surrounding area**?

The abatement for the addition to the building (including the new manufacturing equipment) will allow WellPet to continue to operate the manufacturing facility in Mishawaka and continue to provide jobs for the community. The project will also allow for future expansion and the potential to add additional equipment and jobs in the future.

20. Please give a detailed description of what the impact on your business will be if the proposed project is not undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

If the project is not undertaken, then the plant would not have the capabilities to increase production and future new product launches and volume could be produced by contract manufacturers and the plant would not have the ability to increase production, investment in the community, or increase the workforce.

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

    WellPet will need assistance from the City for zoning approval for the height variance required for the new structure.

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

    We will be applying concurrently to the State of Indiana for any additional assistance.

23. Miscellaneous Attachments Required:

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

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

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

Signature of Owner or Authorized Representative

Director of Operation

Title

3/10/21

Date

Exhibit A

A lot or parcels of land described as follows:

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

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

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

More commonly known as 1121 West 11th Street

Exhibit B - 1

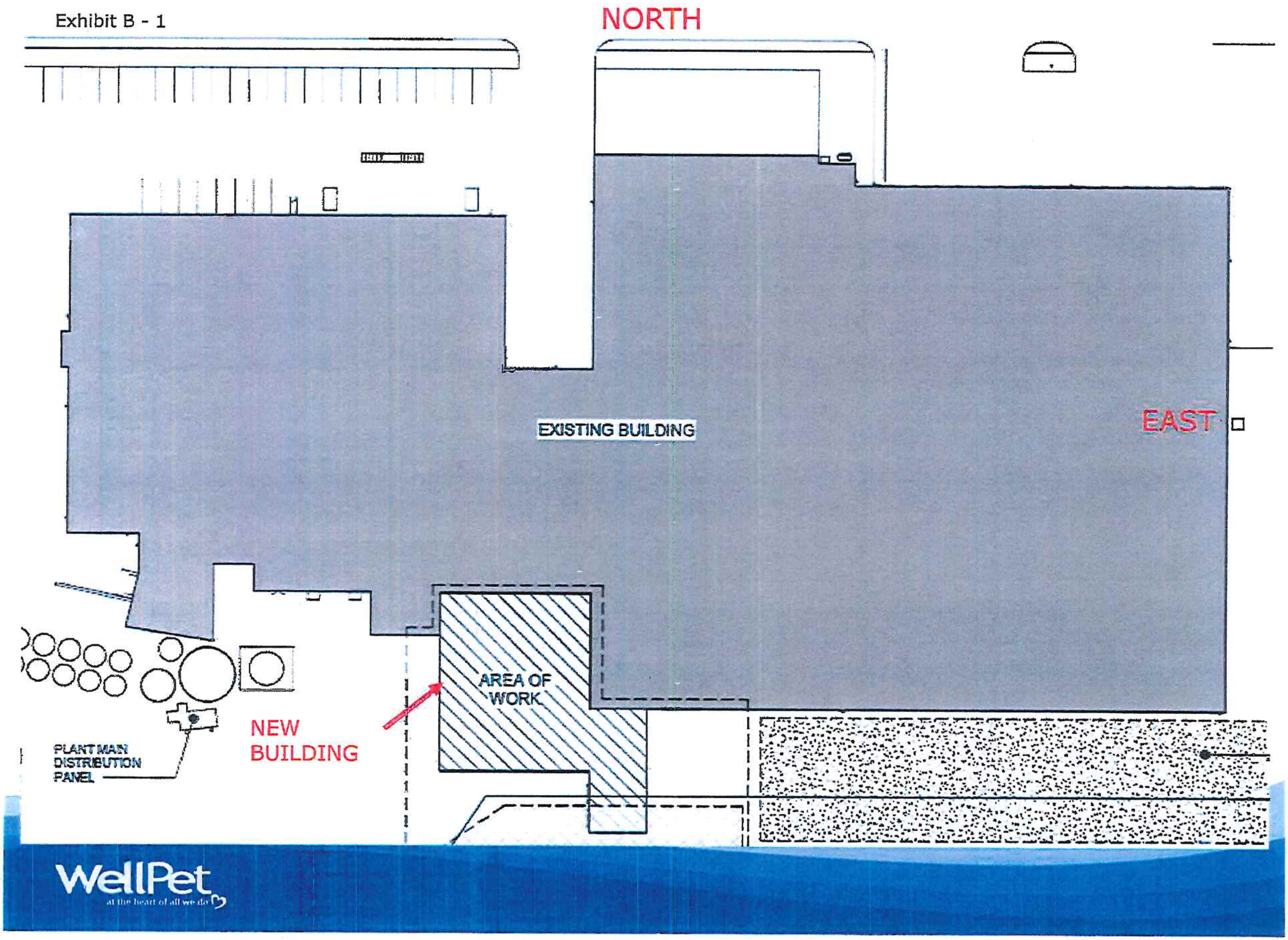

NORTH
EXISTING BUILDING
EAST
AREA OF WORK
NEW BUILDING
PLANT MAIN DISTRIBUTION PANEL
WellPet
at the heart of all we do

Exhibit B - 2

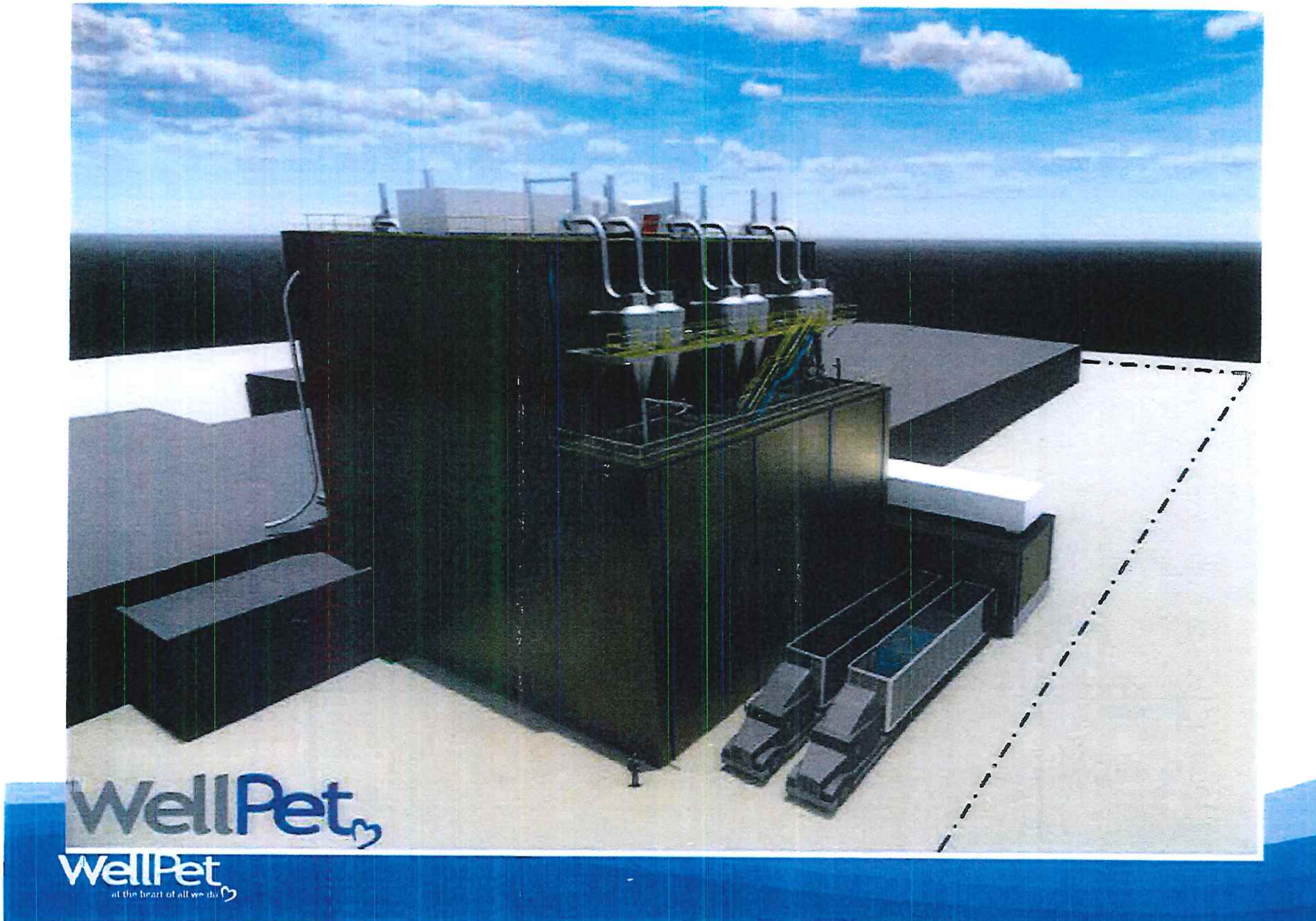
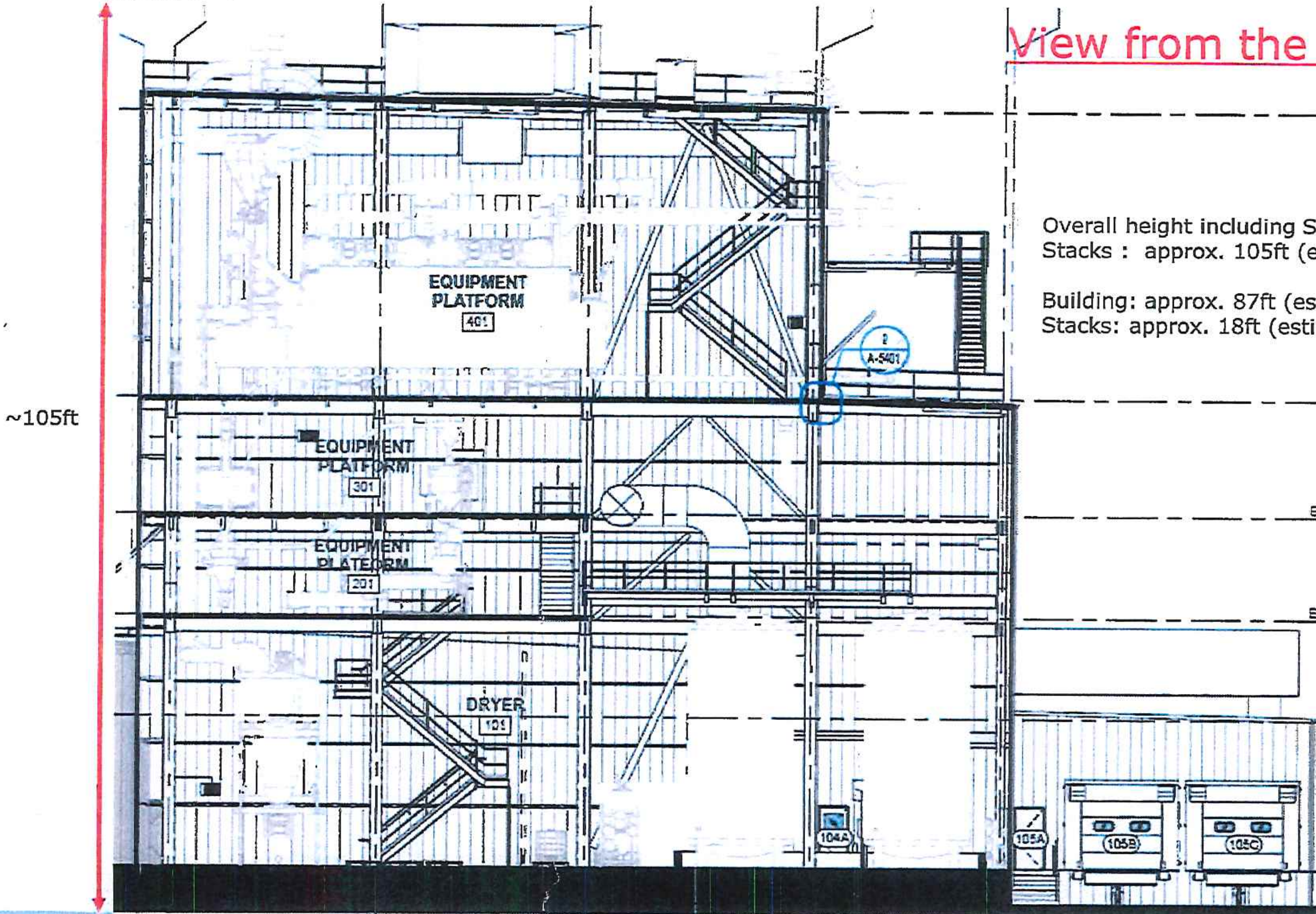


Exhibit B - 3

View from the West



Overall height including Steam Stacks : approx. 105ft (estimated)

Building: approx. 87ft (estimated)
Stacks: approx. 18ft (estimated)

BUILDING SECTION LOOKING EAST

WellPet
at the heart of all we do

STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS
State Form 51767 (R7 / 1-21)
Prescribed by the Department of Local Government Finance

20 21 PAY 20 22
FORM SB-1 / Real Property
PRIVACY NOTICE Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (*check one box*):
☐ Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
☐ Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

1. *This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.*
2. *The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.*
3. *To obtain a deduction, a Form 322/RE must be filed with the county auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between January 1 and May 10 of a subsequent year.*
4. *A property owner who files for the deduction must provide the county auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)*
5. *For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17*

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: Wellpet		
Address of taxpayer (*number and street, city, state, and ZIP code*): 1011 West 11th Street Mishawaka IN 46544		
Name of contact person: Terry Peterson	Telephone number: (574) 259-7834	E-mail address: tpeterson@wellpet.com

SECTION 2 — LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body: Mishawaka Common Council		Resolution number:
Location of property: 1121 West 11th Street Mishawaka IN 46544	County: St Joseph	DLGF taxing district number: 71-023
Description of real property improvements, redevelopment, or rehabilitation (*use additional sheets if necessary*): See Attached		Estimated start date (*month, day, year*): 04/01/2021
		Estimated completion date (*month, day, year*): 09/30/2022

SECTION 3 — ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current Number	Salaries	Number Retained	Salaries	Number Additional	Salaries
125.00	$6,131,000.00	125.00	$6,131,000.00	5.00	$244,800.00

SECTION 4 — ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	15,998,566.00	2,181,500.00
Plus estimated values of proposed project	14,705,700.00	13,235,130.00
Less values of any property being replaced		
Net estimated values upon completion of project	30,704,266.00	15,416,630.00

SECTION 5 — WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (*pounds*) ____________ Estimated hazardous waste converted (*pounds*) ____________

Other benefits

SECTION 6 — TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative: Terry Peterson	Date signed (*month, day, year*): 3/10/2021
Printed name of authorized representative: Terry Peterson	Title: Controller

FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

A. The designated area has been limited to a period of time not to exceed ___________ calendar years* *(see below)*. The date this designation expires is ____________________. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*

B. The type of deduction that is allowed in the designated area is limited to:
1. Redevelopment or rehabilitation of real estate improvements ☐ Yes ☐ No
2. Residentially distressed areas ☐ Yes ☐ No

C. The amount of the deduction applicable is limited to $ _______________.

D. Other limitations or conditions *(specify)*____

E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☐ Year 5 (* see below) ☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10

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

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

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

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

A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. Except as provided in IC 6-1.1-12.1-18, the deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

IC 6-1.1-12.1-17
Abatement schedules
Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:
(1) The total amount of the taxpayer's investment in real and personal property.
(2) The number of new full-time equivalent jobs created.
(3) The average wage of the new employees compared to the state minimum wage.
(4) The infrastructure requirements for the taxpayer's investment.
(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. Except as provided in IC 6-1.1-12.1-18, an abatement schedule may not exceed ten (10) years.
(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

WellPet

Real Estate Abatement Expense Listing

		2021		2022		Total Project
Dryer Building	$	5,400,000	$	4,500,000	$	9,900,000
Receiving Building Improvement	$	1,000,000	$	500,000	$	1,500,000
New Electrical System	$	500,000	$	-	$	500,000
Meat Room Expansion	$	-	$	715,000	$	715,000
Warehouse Modifications	$	-	$	550,000	$	550,000
Gutter between Coating and WHS3	$	-	$	475,000	$	475,000
Bulk Receiving Building Improvement	$	110,000	$	-	$	110,000
Positive Air Pressure from Packaging	$	-	$	600,000	$	600,000
Floor Improvements	$	118,125	$	237,570	$	355,695
Subtotal Building and Bldg Improvements	$	7,128,125	$	7,577,570	$	14,705,695

RECEIVED
MAR 10 2021
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

City of Mishawaka
Building - Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

PERSONAL PROPERTY TAX ABATEMENT

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

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

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

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

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

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

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

WellPet LLC

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

Name and Title: Doug Mitchell, Director of Plant Operations

Address: 1011 West 11th Street Mishawaka IN 46544

Telephone: 574-303-7858

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

Name and Title: Terry Peterson, Site Controller

Address: 1011 West 11th Street Mishawaka IN 46544

Telephone: 574-303-9034

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

   a) Street Address: 1121 West 11th Street Mishawaka IN 46544

   b) Township: Penn

   c) Taxing District Number: 023

   d) Council District Number: District 1

   e) Tax Parcel Number(s): 71-09-16-355-001.000-023

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

   Land: $119,600

   Improvements: $2,181,500

   Inventory:

Equipment: $7,468,427

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? ______Yes X______No

7. Does your firm currently conduct manufacturing operations at this location? If so, how long has your company been at this location?

   Yes, there is manufacturing performed at this location. WellPet purchased the business in 2009.

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

   NAICS Code 311111

   b) Please list any special certifications/designations.

   ____

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

   Firm Headquarters is located at 200 Ames Pond Dr. Tewksbury MA 01876

   Additional manufacturing at Farm Fresh Kitchens located at 201 Armour Ave. Suite 500 South St. Paul MN 55073

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

   Most of the equipment will be installed in a new addition to the building, which will be 90' x 90'.

   a) What is your facility currently zoned? Industrial 2 b) Do you need rezoning? No

10. Briefly describe the product(s) manufactured by your company.

    WellPet produces high quality, all natural, dry dog and cat food

11. Briefly describe the equipment to be installed by your company.

    WellPet will be expanding the existing facility to optimize plant operations with plans to add a third production line in the future. The company will be installing new dryers, odor control equipment, and conveyance systems. See attached listing for further details.

12. Has new manufacturing equipment been installed (Please note that state statute requires petitioner to delay installation until after abatement has been granted)? ______Yes X______No

13. What is the anticipated date for installation to begin? Q4 2021

14. What is the anticipated date for project completion? Q3 2022

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

15. Does the equipment being installed serve the same function as the equipment currently in place at the facility? X_____Yes _______No

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

    ____

    ____

    ____

    ____

    b) What is the estimated value of the equipment to be purchased for which personal property tax abatement is being requested? (If possible, please provide a written quote or estimate attached to this application.) $27,887,290

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

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

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

Skilled	70	Average hourly wage rate for skilled positions	$18.97
Semi-skilled	29	Average hourly wage rate for unskilled positions	$15.51
Clerical	0	Average hourly wage rate for clerical positions	0
Salaried	25	Average salary (per hour) for salaried positions	$39.29

    TOTAL NUMBER OF TEMPORARY/ON-CALL EMPLOYEES (if any) _______

    TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time) 125

    c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.)

    Company employees receive sick time, vacation time, volunteer time off, other paid time off (bereavement, jury duty, etc.), 401 (k) with company match, short term and long term disability insurance (paid for by the company), health insurance (medical, dental, vision) 9 paid holidays, and a quarterly bonus.

    d) Approximate value of benefits for existing and new employees on a per hour basis (i.e. benefits are valued at an additional $3.00 per hour, etc.) $8.39 / hour

e) What is the total dollar amount spent on retained salaries? $6,131,000

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

Skilled	0	Average hourly wage rate for skilled positions	
Semi-skilled	4	Average hourly wage rate for unskilled positions	$15.00
Clerical	0	Average hourly wage rate for clerical positions	
Salaried	1	Average salary (per hour) for salaried positions	$57.69

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 125
Note: New employees added is the total for both real and personal property

g) What is the total dollar amount to be spent on new salaries? $244.800

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

Current hourly employees	$17.95
Retained hourly employees	$17.95
New hourly employees	$15.00

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

Inside St. Joseph County:	0.0%
Outside St. Joseph County, but inside Indiana:	7.3%
Outside Indiana, but within 500 miles	11.0%
Outside of 500 miles	73.6%
Outside of the United States:	8.1%

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

Inside St. Joseph County:	0.0%
Outside St. Joseph County, but inside Indiana:	6.4 %
Outside Indiana, but within 500 miles:	10.0%
Outside 500 miles of Indiana:	22.6%
Outside of the United States:	6.2%

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

1. Diversified Ingredients – Fargo ND
2. Badger Ingredients – Carefree AZ
3. Anchor Ingredients – Fargo ND
4. Crete Core – Omaha NE
5. BHJ USA – Logansport IN

17. Please give a detailed description of what the impact on your business will be if the new manufacturing equipment is not installed (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

If the project is not undertaken, then the plant would not have the capabilities to increase production and future new product launches and volume could be produced by contract manufacturers and the plant would not have the ability to increase production, investment in the community, or increase the workforce.

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

The original parts of the building date back to the 1970s and are not optimal to comply with today's more stringent food safety regulations. Equipment in some parts of the production process are at least 20 years old. Advances in technology and energy usage will allow the company to produce food with less variability in the manufacturing process and provide the capability to adapt more quickly to the evolving pet food industry standards for quality and food safety. As stated above, if the investments are not made the plant will not have the ability to increase production, investment in the community or increase the workforce.

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

WellPet will need assistance from the City for zoning approval for the height variance required for the new structure.

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

We will be applying concurrently to the State of Indiana for any additional assistance.

21. Miscellaneous Attachments Required:

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

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

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

____
Signature of Owner or Authorized Representative

Director of Operation
Title

3/10/21
Date

WellPet
Abatement Equipment Expense Listing

	2021	2022	Total Project
New Packaging Line	$ 7,500,000	$ 500,000	$ 8,000,000
Dryers	$ 1,840,000	$ 1,610,000	$ 3,450,000
Odor Abatement Equipment	$ 880,000	$ 770,000	$ 1,650,000
Coaters (Liquid and Dry)	$ 579,040	$ 506,660	$ 1,085,700
Final Screeners	$ 152,480	$ 133,420	$ 285,900
Coolers	$ 520,000	$ 455,000	$ 975,000
Conveyance Systems	$ 627,200	$ 1,724,800	$ 2,352,000
Wonderware upgrades and enhancements	$ 155,000	$ 1,056,600	$ 1,211,600
Bulk Liquid Tank System	$ 220,000	$ 2,025,000	$ 2,245,000
Plant-In Bins	$ 610,000	$ 1,800,000	$ 2,410,000
MicroBin Upgrades	$ -	$ 200,000	$ 200,000
Multi Stage Boiler	$ -	$ 150,000	$ 150,000
Auxiliary Miscellaneous Equipment	$ 2,021,185	$ 1,850,905	$ 3,872,090
Total Equipment	$ 15,104,905	$ 12,782,385	$ 27,887,290

Exhibit A

A lot or parcels of land described as follows:

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

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

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

More commonly known as 1121 West 11^{th} Street

Exhibit B - 1

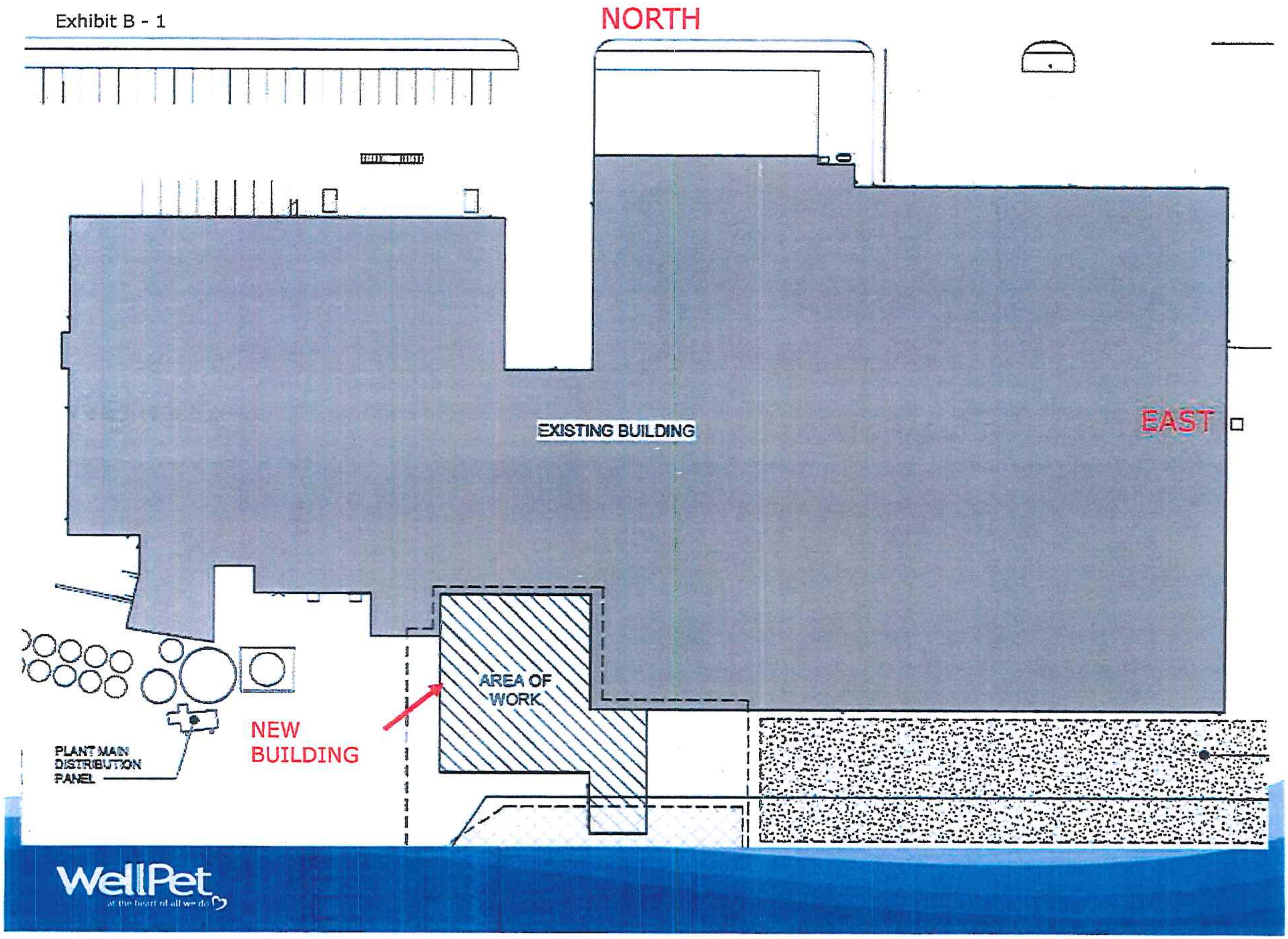
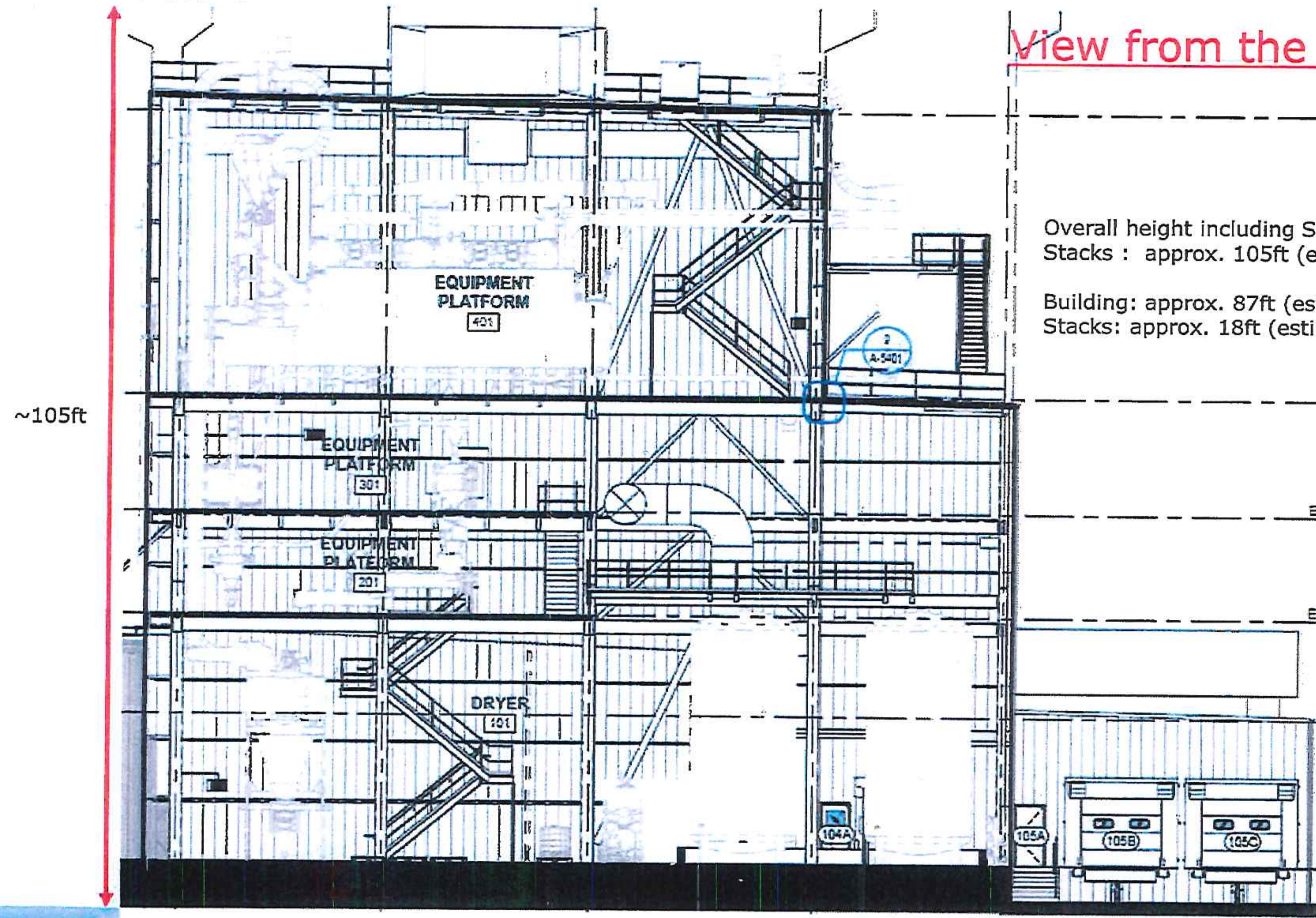

NORTH
EXISTING BUILDING
EAST
AREA OF WORK
NEW BUILDING
PLANT MAIN DISTRIBUTION PANEL
WellPet
at the heart of all we do

Exhibit B - 2

Exhibit B - 3

View from the West



Overall height including Steam
Stacks : approx. 105ft (estimated)

Building: approx. 87ft (estimated)
Stacks: approx. 18ft (estimated)

BUILDING SECTION LOOKING EAST

WellPet
at the heart of all we do

STATEMENT OF BENEFITS
PERSONAL PROPERTY

State Form 51764 (R5 / 1-21)
Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

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

INSTRUCTIONS:

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

SECTION 1 — TAXPAYER INFORMATION

Name of taxpayer: Wellpet	Name of contact person: Terry Peterson
Address of taxpayer (street and number, city, state, ZIP code): 1011 West 11th Street Mishawaka IN 46544	Telephone number: 574-259-7834

SECTION 2 — LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body: Mishawaka Common Council		Resolution number (s):
Location of property: 1121 West 11th Street MISHAWAKA IN 46544	County: St. Joseph	DLFG taxing district number: 71-023

Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment *(Use additional sheets if necessary)*

See Attached

	ESTIMATED Start Date	ESTIMATED Completion Date
Manufacturing Equipment	04/01/2021	09/30/2022
R & D Equipment		
Logist Dist Equipment *		
IT Equipment *		

SECTION 3 — ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
125	6,131,000	125	6,131,000	5	244,800

SECTION 4 — ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
	Cost	Assessed Value	Cost	Assessed Value	Cost	Assessed Value	Cost	Assessed Value
Current values	24,988,362	7,468,427						
Plus estimated values of proposed project	27,887,290	19,521,103						
Less values of any property being replaced								
Net estimated values upon completion of project	52,875,652	26,989,530						

SECTION 5 — WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted *(pounds)* ______________ Estimated hazardous waste converted *(pounds)* ______________

Other benefits:

SECTION 6 — TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative: Terry Peterson	Date signed *(month, day, year)*: 3/10/2021
Printed name of authorized representative: Terry Peterson	Title: Controller

FOR USE OF THE DESIGNATING BODY

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

A. The designated area has been limited to a period of time not to exceed ____________ calendar years * *(see below)*. The date this designation expires is ______________________. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*

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

1. Installation of new manufacturing equipment;	☐ Yes	☐ No	☐ Enhanced Abatement per IC 6-1.1-12.1-18 *Check box if an enhanced abatement was approved for one or more of these types.*
2. Installation of new research and development equipment;	☐ Yes	☐ No	
3. Installation of new logistical distribution equipment.	☐ Yes	☐ No	
4. Installation of new information technology equipment;	☐ Yes	☐ No	

C. The amount of deduction applicable to new manufacturing equipment is limited to $ ____________ cost with an assessed value of $ ____________. *(One or both lines may be filled out to establish a limit, if desired.)*

D. The amount of deduction applicable to new research and development equipment is limited to $ ____________ cost with an assessed value of $ ____________. *(One or both lines may be filled out to establish a limit, if desired.)*

E. The amount of deduction applicable to new logistical distribution equipment is limited to $ ____________ cost with an assessed value of $ ____________. *(One or both lines may be filled out to establish a limit, if desired.)*

F. The amount of deduction applicable to new information technology equipment is limited to $ ____________ cost with an assessed value of $ ____________. *(One or both lines may be filled out to establish a limit, if desired.)*

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

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

☐ Year 1	☐ Year 2	☐ Year 3	☐ Year 4	☐ Year 5	☐ Enhanced Abatement per IC 6-1.1-12.1-18
☐ Year 6	☐ Year 7	☐ Year 8	☐ Year 9	☐ Year 10	Number of years approved: ________ *(Enter one to twenty (1-20) years; may not exceed twenty (20) years.)*

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

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

Approved: *(signature and title of authorized member of designating body)*	Telphone number	Date signed *(month, day, year)*
Printed name of authorized member of designating body	Name of designating body	
Attested by: *(signature and title of attester)*	Printed name of attester	

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

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

WellPet

Abatement Equipment Expense Listing

	2021	2022	Total Project
New Packaging Line	$ 7,500,000	$ 500,000	$ 8,000,000
Dryers	$ 1,840,000	$ 1,610,000	$ 3,450,000
Odor Abatement Equipment	$ 880,000	$ 770,000	$ 1,650,000
Coaters (Liquid and Dry)	$ 579,040	$ 506,660	$ 1,085,700
Final Screeners	$ 152,480	$ 133,420	$ 285,900
Coolers	$ 520,000	$ 455,000	$ 975,000
Conveyance Systems	$ 627,200	$ 1,724,800	$ 2,352,000
Wonderware upgrades and enhancements	$ 155,000	$ 1,056,600	$ 1,211,600
Bulk Liquid Tank System	$ 220,000	$ 2,025,000	$ 2,245,000
Plant-In Bins	$ 610,000	$ 1,800,000	$ 2,410,000
MicroBin Upgrades	$ -	$ 200,000	$ 200,000
Multi Stage Boiler	$ -	$ 150,000	$ 150,000
Auxiliary Miscellaneous Equipment	$ 2,021,185	$ 1,850,905	$ 3,872,090
Total Equipment	$ 15,104,905	$ 12,782,385	$ 27,887,290

Deborah S. Block, IAMC, MMC

MAR 1 2 2032

City Clerk
Mishawaka, IN

RESOLUTION NO. 2021-06

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING THE REQUEST FOR THE INDIANA STATE BOARD OF ACCOUNTS TO EXAMINE THE FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GAAP (GENERALLY ACCEPTED ACCOUNTING PRINCIPLES)

WHEREAS, on January 20, 2021 the Indiana State Board of Accounts amended State Examiner Directive 2015-4;

WHEREAS, this directive applies to all audited entities subject to examination under IC 5- 11-1, except the States, Universities, and any audited entity required to present GAAP statements under IC 5-1-11.5;

WHEREAS, IC 5-1-11.5-4 requires municipalities with populations of more than 75,000 to prepare financial statements using the modified accrual basis of account in accordance with GAAP prior to issuing any bonds;

WHEREAS, the City of Mishawaka is not required to present GAAP financials and must adopt a resolution by the legislative body approving to request the State Board of Accounts to examine the financial statements prepared in accordance with GAAP;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana, approves the request of the State Board of Accounts to examine the City of Mishawaka 2020 GAAP Financial Statements.

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

__________ day of _________ 2021, at ____________o'clock ____. m.

____
Presiding Officer

ATTEST:

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

PRESENTED by me to the Mayor this _____day of ____________2021, at ______o'clock ___. m.

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

APPROVED by me this ______ day of______________, 2021, at

_______o'clock _____. m.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurt Vardaman, Deputy Controller

Date: March 11, 2021

To: Honorable Members of the Common Council

From: Rebecca Miller - Controller

Re: Resolution

For the council meeting Monday is a resolution requesting to have the State Board of Accounts audit our financials based on GAAP (Generally Accepted Accounting Principles).

Though we have always had this audit the SBOA is now requiring a resolution to request a GAAP audit.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor

City Hall • 600 East 3rd Street • Mishawaka, Indiana 46544
Telephone: (574) 258-1622 • FAX (574) 258-1724 • www.mishawaka.in.gov

STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

AMENDED STATE EXAMINER DIRECTIVE 2015-4

Effective Date:	January 20, 2021
General Subject:	Audits and Examinations of Financial Statements Prepared on the GAAP (Generally Accepted Accounting Principles) Basis
Authority:	IC 5-11-1; IC 5-11-1-30
Application:	This Directive applies to all audited entities subject to examination under IC 5- 11-1, except the State, Universities, and any audited entity required to present GAAP statements under IC 5-1-11.5
From:	Paul D. Joyce, CPA, State Examiner

Because the State Board of Accounts is dedicated to providing the audit and attest services needed by the taxpayers and local governments, it is and will remain our policy to audit or examine financial statements based on Generally Accepted Accounting Principles (GAAP) provided by the local government for that purpose.

We encourage those governments that foresee a benefit to GAAP statements to maintain their records in accordance with GAAP and prepare full GAAP statements for audit.

If an audited entity prefers financial reporting based on GAAP, the audited entity must adopt a resolution by the legislative body approving the request of the State Board of Accounts to examine the financial statements prepared in accordance with GAAP. The State Board of Accounts will approve the request and our opinion will be given on the GAAP statements presented, if all the following requirements are met:

1. The request is made to the State Board of Accounts within sixty (60) days after the effective date of this Directive for periods ending December 31, 2020, or sixty (60) days after the close of the fiscal year for any subsequent period, and

2. The audited entity presents the financial statements to the State Board of Accounts within five (5) months after the close of the last year covered in the financial statements.

The request may be made by forwarding the resolution to the following email address:

Counties – counties@sboa.in.gov
Cities or Towns – cities.towns@sboa.in.gov
Schools or Townships – schools.townships@sboa.in.gov
Libraries – libraries@sboa.in.gov
Other Special Districts – specialdistricts@sboa.in.gov

The State Board of Accounts will approve or disapprove the request within 60 days of receipt of the request.

Audited entities not approved will have an audit or examination of the regulatory statements presented through Gateway.

Paul D. Joyce

Paul D. Joyce, CPA
State Examiner