AGENDA

Monday, August 18, 2014

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

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

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Previous Regular Meeting

August 4, 2014

5. Petitions, Communications, Remonstrance and Memorials

A letter from the Board of Zoning Appeals regarding recommendations from their August 12, 2014 meeting.

A letter from the City Plan Commission regarding recommendations from their August 12, 2014 meeting.

A public hearing on Vacation 2014-03 as required by State Statute on behalf of John Becker and the City of Mishawaka for vacation of the following described right of way in the City of Mishawaka - North Main Street and East Mishawaka Avenue 141.67 feet east-west alley

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2014-17 Vacation of Public Right of Way - North Main St and East Mishawaka Ave - City of Mishawaka and John Becker East/West Alley 141.67 ft

P.O. NO. 2014-18 Amend S-2 PUD the Michiana Tennis Association 5805, 5815 and 5905 Fir Rd Long Term Care Investments, LLC

P.O. NO. 2014-19 Rezone from C-1 General Com to C-4 Auto Oriented Com 3837 LWE

P.O. NO. 2014-20 Elected Officials Salary Ordinance for 2015

P.O. NO. 2014-21 Police and Fire Salary Ordinance for 2015

P.O. NO. 2014-22 City Employee Salary Ordinance for 2015

8. Resolutions

R2014-17 Bethany Galat - Penn High School Swimmer

R2014-18 Use Variance 2030 N Merrifield Ave to allow (2) Apartments on C-1 General Com Zoned Property

9. Ordinances on Second Reading

10. **Privilege of the Floor – Non-Agenda Items**
11. **Unfinished Business**
12. **New Business**
13. **Adjournment**

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

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
August 4, 2014

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday August 4, 2014 at 7:00 p.m. The meeting was called to order by President Matt Mammolenti all were asked to stand for the Pledge of Allegiance.

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

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

The minutes from the July 21, 2014 meeting were approved as received from the City Clerk's Office.

Clerk Block presented the following Petition to the Council, who referred it to the Board of Zoning Commission for their recommendation.

APPEAL NO. 2014-14	Use Variance 2030 North Merrifield Avenue to allow (2) Apartments on C-1 General Commercial Zoned Property
PETITION NO. 2014-14	Vacation of Public Right of Way – North Main Street and East Mishawaka Avenue – City of Mishawaka and John Becker.
PETITION NO. 2014-15	Amend S-2 PUD the Michiana Tennis Association 5805, 5815, and 5905 Fir Road Long Term Care Investments, LLC
PETITION NO. 2014-16	Rezone from C-1 General Commercial to C-4 Auto Oriented Commercial at 3837 Lincolnway East

Clerk Block read **PROPOSED ORDINANCE NO. 2014-14** opening it for public hearing.

PROPOSED ORDINANCE NO. 2014-14

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 Auto Oriented Commercial to C-7
Auto Restaurant Commercial –205 West Day Road

Mr. Banicki reported the Land Use Plan Committee recommended this proposed ordinance should be adopted and moved for acceptance of same upon a second by Mr. Reisdorf the motion carried.

Louis Schriber, Shorewood Development Group, Founding Partner and CEO 2150 East Lake Cook Road, Suite 820 Buffalo Grove, IL and Dan Angspatt, Vice President of Engineering introduced themselves. Mr. Schriber said they were looking forward to bringing Pot Belly Sandwich Work as their anchor tenant to Mishawaka and doing great business here.

Mr. Reisdorf asked if they have done a shared restaurant and retail before. Mr. Schriber said that was their primary business, this would be their ninth Pot Belly Sandwich Store. Mr. Reisdorf asked what kind of a retail business would go in that location with them. Mr. Schriber stated typically their best match was a less intense parking user, as Pot Belly does and extremely big business so Media Stores, Verizon, AT&T, Mattress Stores, hair cut place, etc. He said Pot Belly has a large following so a lot of tenants want to be next to them because of the traffic it brings.

Mr. Roggeman asked how many Pot Belly Stores were there. Mr. Schriber stated there were over 300 and they have recently gone public and Shorewood Development Group has become a trusted developer for them. Mr. Roggeman asked if the stores they have developed for them were a store they have taken over or was is mainly construction. Mr. Scriber said this would be their first development of an existing building mainly they go into an office building or vacant land and build ground up. Mr. Roggeman asked square footage wise how does, this store fit with their others. Mr. Schriber said this one would be 7,282 square feet and would be on the smaller end, typically they were anywhere from 7,000 to 12,000 square feet per building. Mr. Roggeman thanked them for their interest in Mishawaka.

Call for the question 7:08 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman. Thus it becomes **ORDINANCE NO. 5449**

Clerk Block read PROPOSED ORDIINANCE NO. 2014-16 opening it for public hearing.

PROPOSED ORDINANCE NO. 2014-16

AN ORDINANCE AMENDING ORDINANCE NUMBER 5377 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT THE MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEARS BEGINNING JANUARY 1, 2013 AND JANUARY 1, 2014

(Amending the Salary Ordinance – Law Department)

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

Dave Wood, Mayor said he wanted to request the Councils approval of the Salary Ordinance Amendment, he felt this consolidation in duties would result in not only an obvious budget savings but would also improve the service Mishawaka has come to expect here in the city. He said the budget savings to be realized immediately, not including benefits was $31,878.00 by consolidating the Corporate Council position with the Director of Human Resource position and there would be other savings associating with that as well. Mayor Wood said he has extended an offer to Geoff Spiess which he has accepted, to serve in the position should the Council approve this.

Mayor Wood said they anticipate hiring a staff attorney to replace Mr. Spiess, whether or not that would happen this year or next depends on the budget. He asked for the Council's support saying this allows the city to become more efficient than they already are and save tax payers money as well

Mr. Compton said looking at the ordinance for the Staff Attorney that he intends to hire, it appears this would be the 1st Deputy City Attorney. Mayor Wood said that was correct Mr. Compton said until then Mr. Spiess would be doing both duties. Mayor Wood said that was correct.

Question was called for at 7:13 p.m. **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mr. Reisdorf, Mr. Banicki, Mrs. Voelker, Mr. Compton, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman.

NEW BUSINESS

John Reisdorf announced the first Tuesday in August, which would be the 5th was National Night Out from 5:30 to 7:00 p.m. He said 2014 would be the 30th Anniversary of this event and it would be held at Hillis Hans Park and Twin Branch Park.

Matt Mammolenti stated because of the National Night Out at Twin Branch he would not be having his Neighborhood Watch Meeting.

There being no further business to come before the Council, President Mammolenti adjourned the meeting at 7:15 p.m.

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

Matt Mammolenti_____
Matt Mammolenti, Presiding Officer

City of Mishawaka

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

August 13, 2014

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Board of Zoning Appeals Recommendation
August 12, 2014, Public Hearing

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above referenced date at which time the following Use Variance was considered:

APPEAL #14-14 An appeal submitted by Dow Family Real Estate LLC requesting a Use Variance at **2030 North Merrifield Avenue** to allow two (2) apartments on C-1 General Commercial zoned property.

The Board, with a vote of 5-0, recommended approval.

Sincerely,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

cc: Cyndi Carper

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 13 2014
CITY CLERK
MISHAWAKA, IN

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: 2030 N. Merrifield Avenue Date: AUG 12 2014

Appeal: 14 14 Prepared By: PS

GENERAL INFORMATION

Applicant:	Carole S. Dow and John D. Dow
Status:	Property Owners
Request:	Use Variance to Permit Residential Use
Zoning Classification:	C-1 General Commercial District
Lot Size:	0.67 AC
Applicable Regulations:	Section 137-301 C-1 Uses Section 137-42 (4) USE VARIANCE

SPECIAL INFORMATION

Area Development Pattern:	North:	C-1 General Commercial/Precision Door
	South:	C-1 General Commercial/ State Farm
	East:	I-1 Light Industrial/ Asphalt Parking Lot
	West:	I-1 Light Industrial
Thoroughfare:	North Merrifield	
School District:	School City of Mishawaka	
Township:	Penn	
Public Utilities:	Available	
Comprehensive Plan:	General Commercial	

ANALYSIS

The Appellant, Dow Family Real Estate LLC, desires to create two apartment units in an existing commercial building located at 2030 N. Merrifield Avenue.

The property is located on the east side of North Merrifield Avenue between East McKinley Avenue and North Cedar Street. The small corridor has a mix of industrial and commercial uses. Per the Penn Township Assessor's office the structure was built in 1974. The building housed Northside Tavern from the time it was built and through the 1990's.

At the time the property was developed the Zoning Ordinance of 1966 was in effect. Residential uses were permitted in the C-1 General Commercial zoned properties. The Appellants have tried unsuccessfully to sell the property through the years to allow them to purchase a villa for their stays in Mishawaka.

Presently there is one upstairs apartment above the former restaurant/tavern that the Appellants use occasionally when they are in town five months of the year. Both owners are in their seventies, have difficulty with stairs, and now desire to occupy the main floor as their apartment. The second floor apartment would be used for guests to stay when visiting.

Off street parking would not be an issue. At least 75% of the .67 acre lot is paved with asphalt that was installed when the building was constructed. Four dry wells exist in the parking area.

Pertinent city departments have reviewed and approved of the request.

RECOMMENDATION

The Staff recommends in favor of Appeal #14-14 allowing one apartment on the main floor and one apartment on the second floor at 2030 North Merrifield. The recommendation is based upon the following Findings of Fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all required permits will be secured and codes adhered to;

2. The use and value of the area adjacent to the property included in the variance will not have an adverse impact on the surrounding neighborhood because the commercial zoned property is surrounded by commercial and industrial uses;

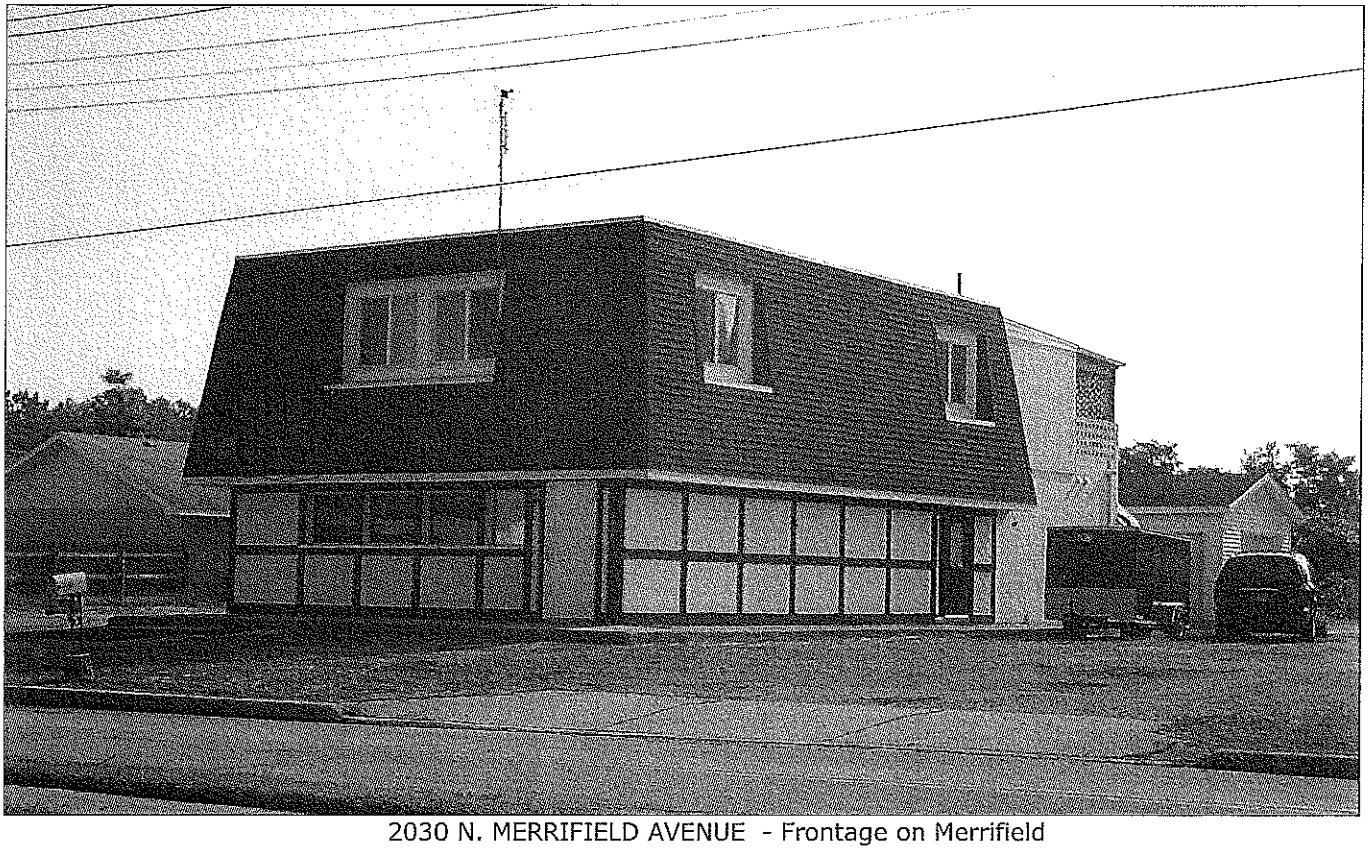
3. The need for the variance arises from some condition peculiar to the property involved in that the property is zoned C-1, which does not allow a multi-family use;

4. The strict application of the terms of this chapter will result in practical difficulties in that the historical use of the property has been a commercial and residential use and the second living unit cannot be implemented until the property is rezoned appropriately or a use variance is granted; and

5. Granting the use variance will not compromise the integrity of the Mishawaka 2000 Comprehensive Plan because the parcel will continue to be zoned C-1 General Commercial District.

ATTACHMENTS

PHOTOGRAPHS, VARIANCE REQUEST, INTERIOR BUILDING PLAN, AERIAL, LOCATION MAP



2030 N. MERRIFIELD AVENUE - Frontage on Merrifield

City of Mishawaka

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

August 13, 2014

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 13 2014
CITY CLERK
MISHAWAKA, IN

Honorable Members of the Common Council
City of Mishawaka, Indiana

RE: Plan Commission Recommendation
August 12, 2014, Public Hearing
Certification of Proposed Ordinances

Honorable Members:

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

PETITION #14-14 A request submitted by John Becker and the City of Mishawaka to vacate an ingress/egress easement and public right of way(s) being a portion of the East-West Alley South of 101 East Mishawaka Avenue.

The Commission, with a vote of 5-2, recommended approval.

PETITION #14-15 A request submitted by Michiana Tennis Association, LLC, requesting a PUD Amendment for 5805 Fir Road, 5815 Fir Road, and 5905 Fir Road to allow a reduction in the number of parking spaces and revised architectural materials.

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

1. Allow a minimum of 0.8 parking spaces per bed for the proposed nursing facility.
2. To allow for vinyl siding/trim and fiber cement board/trim to be acceptable materials for the exterior building façade.
3. To allow the building facades facing public right-of-way and internal private collector drive to have a minimum of 1/3 masonry materials and the remaining materials to include vinyl siding/trim. Masonry materials may include a combination of stone, brick, rock, fiber cement board/trim, doors, windows, louvers, and glass.

PETITION #14-16 A request submitted by RKG Holdings L.L.C. requesting to rezone 3837 Lincolnway East from C-1 General Commercial District to C-4 Automobile Oriented Commercial District.

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

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

Respectfully,

Kari Myers

Kari Myers, Administrative Planner
Secretary, Mishawaka Plan Commission

cc: Greg Kil
Brad Mosness
Karen Gerver

STAFF REPORT

Location: Portion of alley south of 101 E Mishawaka Ave Date: August 12, 2014

Petition: ~~13-17~~ 14-14 Prepared By: GGS

GENERAL INFORMATION

Applicant:	John Becker and City of Mishawaka
Status:	Adjacent Property Owners
Request:	Vacate Public Right of Way
Zoning Classification:	Public Right of Way
Applicable Regulations:	IC 36-7-3-12 and 13

SPECIAL INFORMATION

Area Development Pattern:	North:	C-1 General Commercial
	South:	R-1 Single Family Residential
	East:	C-1 General Commercial
	West:	C-3 City Center Commercial
Thoroughfare:	Main Street & Mishawaka Avenue	
School District:	School City of Mishawaka	
Public Utilities:	Yes	
Comprehensive Plan:	Public Right-of-way	

ANALYSIS

The Petitioner, John Becker and the City of Mishawaka, are requesting to vacate a portion of alley running east and west located just south of 101 E Mishawaka Avenue, the old bank building at the southeast corner of Main Street and Mishawaka Avenue. The portion of alley to be vacated is currently accessed off of Main Street and measures 16.5′ in width by 141.67′ in length. The vacated alley portion is requested because the owner of 101 E Mishawaka Avenue would like to construct a balcony along the southern portion of the building. This balcony will extend into the alley.

Because access to the alley will be thwarted off of Main Street if the alley portion is vacated, an ingress/egress easement will be created through the parking lot located just east of 101 E Mishawaka Avenue. This ingress/egress easement will be 20′ in width and 70′ in length and will provide access to and from the non-vacated portion of the east/west alley off of Mishawaka Avenue

RECOMMENDATION

Staff recommends in favor of Petition 14-14 to vacate a 16.5'x141.67' portion of alley running east/west located south of 101 E Mishawaka Avenue. This recommendation is based upon the following findings of fact:

1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.

2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.

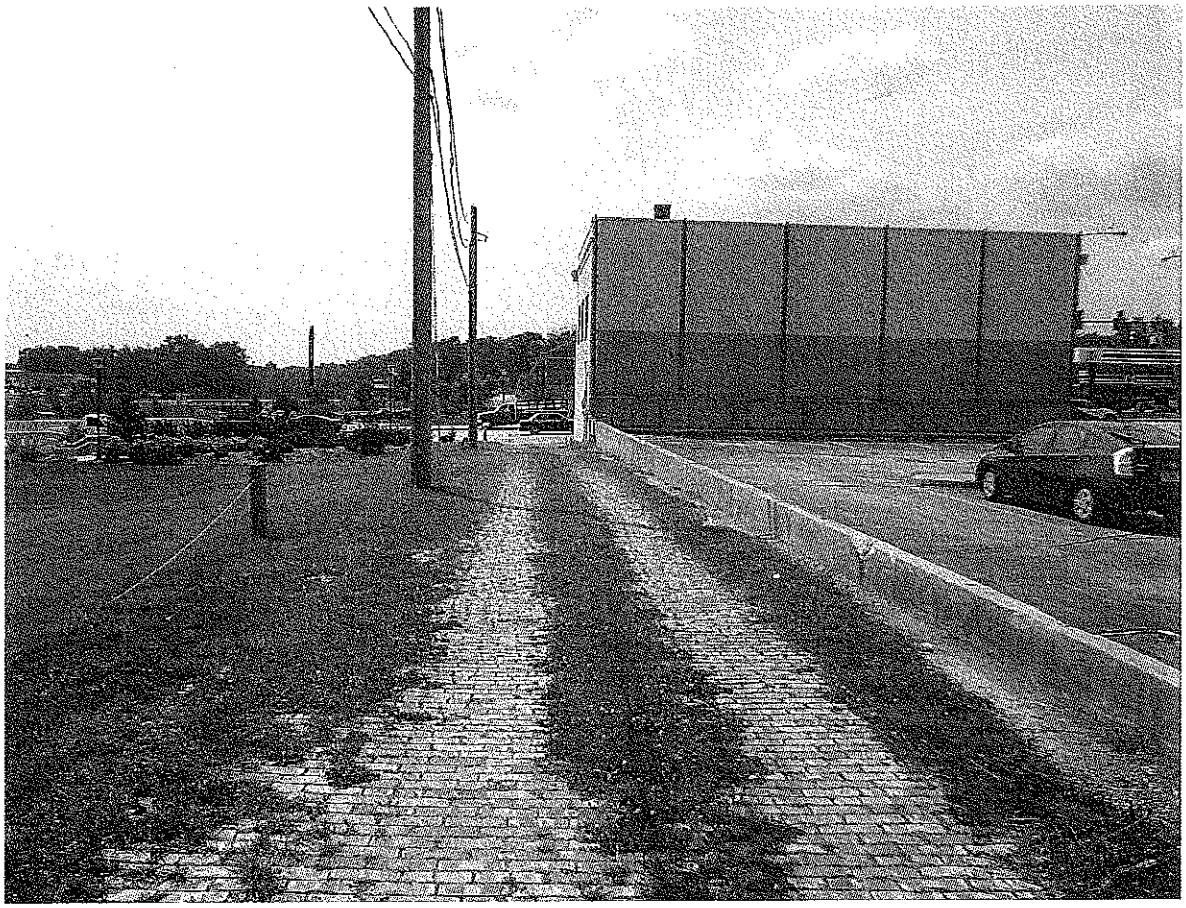
3) The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;

4) With the establishment of proposed ingress/egress easement, the proposed vacation will not hinder the use of any public way, utility or place.

5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

ATTACHMENTS

Petition, Vacation Diagram



View looking west down alley to be vacated

STAFF REPORT

Location: 5805, 5815, 5905 Fir Road Date: August 12, 2014

Petition: 14 15 Prepared By: GGS

GENERAL INFORMATION

Applicant:	Michiana Tennis Association LLC
Status:	Property Owner
Request:	Amend PUD to allow for parking reduction and revised architectural materials
Zoning Classification:	S-2 Planned Unit Developments
Lot Size:	Approximately 6.0 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
	South:	Unincorporated St. Joseph County
	East:	Unincorporated St. Joseph County
	West:	S-2 Planned Unit Development
Thoroughfare:	Fir Road	
School District:	Penn-Harris-Madison School Corporation	
Township:	Harris	
Public Utilities:	All utilities are available or will be available to the site	
Comprehensive Plan:	Low Density Residential	

ANALYSIS

The petitioner is requesting to amend the Michiana Tennis Association PUD to allow for a parking reduction ratio and revised architectural materials. Last year, the PUD was amended to allow for a skilled care nursing facility. At that time, the proposed facility was designed to house approximately 84 beds and required to have a parking ratio of 1 parking space per bed, as indicated in the PUD Ordinance. The facility has since been redesigned to now accommodate 100 beds. As a result in the increase in beds, the parking ratio has been decreased. The petitioner is requesting to amend the PUD to allow for a parking ration of 0.8 parking spaces per the proposed nursing facility. The proposed parking ratio will be sufficient and consistent within the range of other parking ratio for similar facilities that have been approved.

The proposed building will consist of architectural materials including masonry materials, stone veneer, fiber cement board, and vinyl siding. The Design Review Ordinance requires that a minimum 2/3 of the façade visible from public right-of-way utilize appropriate architectural materials and colors. The proposed fiber cement board is not specified as appropriate architectural materials and the vinyl siding/trim is list listed as inappropriate architectural materials. Therefore, the petitioner is requesting an amendment to PUD to allow the fiber cement board and the vinyl siding to be utilized as appropriate materials.

Furthermore, the petitioner is requesting to amend the PUD to allow the building facades facing public right-of-way and the internal private collector drive to have a minimum of 1/3 masonry materials and the remaining materials to include vinyl siding/trim. The amendment of the architectural materials are appropriate given that the use of the property is residential in nature.

RECOMMENDATION

Staff recommends in favor of amending the Michiana Tennis Association PUD to allow the following in regards to the skilled care nursing facility:

1. To allow a minimum of 0.8 parking spaces per bed for the proposed nursing facility.
2. To allow for vinyl siding/trim and fiber cement board/trim to be acceptable materials for the exterior building façade.
3. To allow the building facades facing public right-of-way and the internal private collector drive to have a minimum of 1/3 masonry materials and the remaining materials to include vinyl siding/trim. Masonry materials may include a combination of stone, brick, rock, fiber cement board/trim, doors, windows, louvers, and glass.

This recommendation is based on the following findings of fact:

1. Existing Conditions- The area along this portion of Fir Road consists of low density residential uses on large acre lots. The proposal is in keeping with the existing area by maintaining a low to medium density residential use within the area.
2. Character of Buildings in Area- The character of many of the buildings located along Fir Road is residential. The proposed facility will be residential in nature.
3. The most desirable/highest and best use- Due to the presence of the commercial activity to the north, south and west of the area, the traffic along this Fir corridor has been increased significantly in recent years. With the new hospital and development along Douglas Road, which is located just south of this area, this corridor will become even more heavily utilized and most likely will be developed for commercial type uses. However, there is currently a large presence of low density residential uses in the area. The proposed care facility is an appropriated transitional use between the existing residential uses in the area and the likely future commercial development of the area.
4. Conservation of property values- The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding area.
5. Comprehensive Plan- The proposed amendment is consistent with the Comprehensive Plan has identified this area for low density residential.

ATTACHMENTS

Photographs, Petition, Plan, Building Elevations, Location Map

STAFF REPORT

Location: 3837 Lincolnway East Date: August 12, 2014

PET 14 16 Prepared By: GGS

GENERAL INFORMATION

Applicant:	RKG Holdings LLC
Status:	Property Owners/Contingent Owner
Request:	To rezone from C-1 General Commercial to C-4 Automobile Oriented Commercial
Zoning Classification:	C-1 General Commercial (Existing) C-4 Automobile Oriented Commercial (Proposed)
Lot Size:	0.18 acres
Applicable Regulations:	Sec. 137-40 Plan Commission Section 137-41 Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern:	North:	R-1 Single Family Residential (Twin Branch School)
	South:	C-4 Automobile Oriented Commercial
	East:	C-4 Automobile Oriented Commercial
	West:	C-1 General Commercial
Thoroughfare:	Lincolnway East	
School District:	School City of Mishawaka	
Public Utilities:	All utilities are available to the site	
Comprehensive Plan:	General Commercial	

ANALYSIS

The petitioner, RKG Holdings LLC, is requesting to rezone a portion of property located at 3837 Lincolnway East from C-1 General Commercial to C-4 Automobile Oriented Commercial to allow for the sale of used cars. The portion of land to be rezoned is 0.18 acres in size and located at the northwest corner of 3837 Lincolnway East property, approximately the front 125-ft.

This property currently has split zoning. The C-1 zoned property requested to be rezoned consists of a main structure and a portion of the adjacent parking to the east. The remainder of this parking lot on site is zoned C-4 Automobile Oriented Commercial. The C-4 zoning portion also includes two smaller buildings that are located just south of the parking area and the portion zoned C-1. These smaller two buildings and the portion of parking lot zoned C-4 have previously being utilized for automotive uses such as sales and auto repair.

Given that half of the property is zoned for C-4 uses, the rezoning of the property and use appropriate. However, there are some site issues that will need to be addressed. For instance, the access drive off of Lincolnway may need to relocated, and how cars will be able to maneuver through the site. A meeting between the petitioner and the Staff will be set up within the next couple of weeks to discuss these issues

and determine what will need to be done on the site. If improvements are determined to be necessary, then improvements or commitments will need to be made prior to occupancy of the property.

RECOMMENDATION

The Planning Department recommends approval of Petition 14-16 to rezone the north 125' of Lot #2 Ward's Subdivision Property south of LWE located at 3837 Lincolnway East from C-1 General Commercial to C-4 Automobile Oriented Commercial. This recommendation is based upon the following findings of fact:

1. Given the property's close proximity to commercially zoned property and adjacent to C-4 zoned property, the C-4 zoning would be compatible with the surrounding commercial properties uses in the area.

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-4 Automobile Oriented Commercial

3. Because the parcel is located adjacent to commercial properties and along heavily traveled corridors, the C-4 zoning classification would be compatible and is a desirable use for this property;

4. C-4 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding the automobile commercial use that currently exists on the property.

5. The proposed C-4 Automobile Oriented Restaurant Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along the Lincolnway East corridor.

ATTACHMENTS

Photograph, Petition

CITY OF MISHAWAKA

OFFICE OF THE CITY CLERK

DEBORAH S. BLOCK, IAMC, MMC, CITY CLERK

NOTICE OF HEARING

Vacation No. 2014-03

Date of Hearing: August 18, 2014

Time of Hearing: 7:00 PM

PLEASE TAKE NOTICE:

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

Vacation No. 2014-03 Petition No. 2014-14

Part of the Southeast quarter of Section 9, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows:

The West 141.67 feet of the East-West alley shown on the plat of Mishawaka Hydraulic Company's Addition, recorded on May 24, 1881 in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 4, page 15, which lies South of and adjacent to Lots Numbered Thirteen (13) and Fourteen (14) and part of Lot Lettered A as shown on said plat.

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

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

Mary Ellen Hazen, Chief Deputy • Linda Dotson, Chief Deputy
City Hall • 600 East Third Street • Mishawaka, Indiana 46544-2241
Telephone: (574) 258-1616 • Facsimile: (574) 258-1728 • E-Mail: dblock@Mishawaka.in.gov • Website: Mishawaka.in.gov

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 13 2014
CITY CLERK
MISHAWAKA, IN

1st Reading 8-18-14
2nd Reading
Passed
Failed
Continued To

PETITION #14-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2014-17

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, John Becker and the City of Mishawaka have filed a petition for vacation of the public right-of-way described in Section 1 below;

WHEREAS, the Petitioners own all land that abuts the public right-of-way sought to be vacated;

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

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

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

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

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

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

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the vacation of the public right-of-way including the imposition of reasonable conditions, to-wit, the recommendation of the department of City Planning, as hereinafter described.

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

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

Part of the Southeast Quarter of Section 9, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows:

The West 141.67 feet of the East-West Alley shown on the plat of Mishawaka Hydraulic Company's Addition, recorded on May 24, 1881 in the Office of the

PROPOSED ORDINANCE NO. 14-17

ORDINANCE NO.__
Recorder of St. Joseph County, Indiana in Plat Book 4, page 15, which lies South of and adjacent to Lots Numbered Thirteen (13) and Fourteen (14) and part of Lot Lettered A as shown on said plat.

INGRESS/EGRESS EASEMENT:

Part of the Southeast Quarter of Section 9, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows:

Commencing at the Northwest corner of Lot Numbered Fourteen (14) as shown on the plat of Mishawaka Hydraulic Company's Addition, recorded on May 24, 1881 in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 4, page 15; thence East on the South right of way line of Mishawaka Avenue and the North line of said Lot Numbered Fourteen (14), Lot Numbered Thirteen (13) and Lot Lettered A in said Mishawaka Hydraulic Company's Addition, a distance of 141.67 feet to the point of beginning; thence continuing East on the South right of way of Mishawaka Avenue and the North line of said Lot Lettered A and the North line of Lot Numbered Twelve (12) in said Addition, a distance of 20 feet; thence South parallel to the East line of Main Street and the West line of said Lot Numbered Fourteen (14) a distance of 70 feet to the South line of said Lot Numbered Twelve (12) and the North line of an East-West alley; thence West on the South line of said Lot Numbered Twelve (12), the South line of Lot Lettered A and the North line of said East-West alley, a distance of 20 feet; thence North parallel to the East line of Main Street and the West line of said Lot Numbered Fourteen (14), a distance of 70 feet to the South right of way line of Mishawaka Avenue, the North line of said Lot Lettered A and the point of beginning.

COMMONLY KNOWN AS: The West 141.67 feet of the East-West Alley behind 101 East Mishawaka Avenue

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

1) The vacation will not hinder the growth or orderly development of the neighborhood. The vacation will allow for improved growth and orderly development of the neighborhood.

2) The vacation of the established right-of-way will not make access to any adjacent property difficult or inconvenient.

3) The alley does not provide access to any church, school, public building or place and thus will not hinder the public's access to any of the aforementioned destination;

4) With the establishment of proposed ingress/egress easement, the proposed vacation will not hinder the use of any public way, utility or place.

5) This petition is not in specific conflict with the goals, objectives, and policies of the Comprehensive Plan.

PROPOSED ORDINANCE NO. 14-17

ORDINANCE NO._

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2014.

_____
Presiding Officer

ATTEST:

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

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

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

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

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 31 2014

CITY CLERK
MISHAWAKA, IN

July 23, 2014

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

Re: Petition for Vacation of Public Right of Way

The undersigned, John Becker and City of Mishawaka respectfully request the Mishawaka Common Council and the Mishawaka Planning Commission vacate the following described public right of way located in the City of Mishawaka, St Joseph County, IN:

LEGAL DESCRIPTION

Part of the Southeast Quarter of Section 9, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows:

The West 141.67 feet of the East-West alley shown on the plat of Mishawaka Hydraulic Company's Addition, recorded on May 24, 1881 in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 4, page 15, which lies South of and adjacent to Lots Numbered Thirteen (13) and Fourteen (14) and part of Lot Lettered A as shown on said plat.

INGRESS/EGRESS EASEMENT

Part of the Southeast Quarter of Section 9, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows:

Commencing at the Northwest corner of Lot Numbered Fourteen (14) as shown on the plat of Mishawaka Hydraulic Company's Addition, recorded on May 24, 1881 in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 4, page 15; thence East on the South right of way line of Mishawaka Avenue and the North line of said Lot Numbered Fourteen (14), Lot Numbered Thirteen (13) and Lot Lettered A in said Mishawaka Hydraulic Company's Addition, a distance of 141.67 feet to the point of beginning; thence continuing East on the South right of way of Mishawaka Avenue and the North line of said Lot Lettered A and the North line of Lot Numbered Twelve (12) in said Addition, a distance of 20 feet; thence South parallel to the East line of Main Street and the West line of said Lot Numbered Fourteen (14) a distance of 70 feet to the South line of said Lot Numbered Twelve (12) and the North line of an East-West alley; thence West on the South line of said Lot Numbered Twelve (12), the South line of Lot Lettered A and the North line of said East-West alley, a distance of 20 feet; thence North parallel to the East line of Main Street and the West line of said Lot Numbered Fourteen (14), a distance of 70 feet to the South right of way line of Mishawaka Avenue, the North line of said Lot Lettered A and the point of beginning.

Petitioners further state that they are the owners of the property immediately adjacent to the above described right-of-way

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

Pet 14-14

John Becker
MJ Investments, LLC
2400 Miracle Lane
Mishawaka, IN 46545
ADJACENT PROPERTY OWNER
016-2075-2536

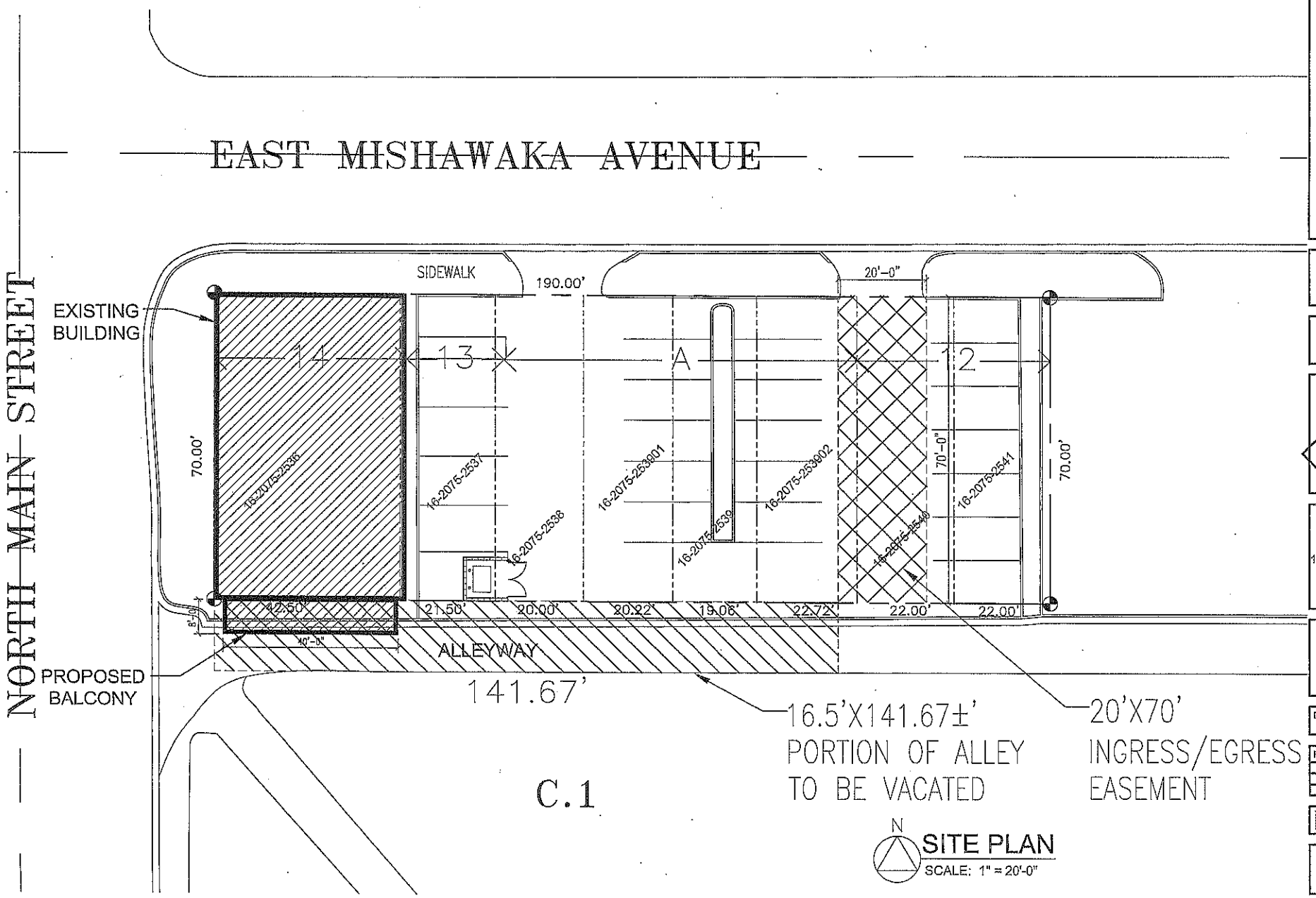
City of Mishawaka

ADJACENT PROPERTY OWNER
016-2075-2549

CONTACT PERSON:

Gregory A. Kil, NCARB, AIA
Architect
Kil Architecture/Planning
1126 Lincolnway East
South Bend, IN 46617

(574) 288-2654 phone
(574) 289-2420 fax
gkil@kilarchitecture.com email



KIL
ARCHITECTURE
PLANNING
1126 LINCOLNWAY EAST
SOUTH BEND, IN
46601
GREGORY A. KIL
NCARB AIA
ARCHITECT
574.288.2654
FAX.289.2426
www.kilarchitecture.com

PLANNING SUBMITTAL NOT FOR CONSTRUCTION

BECKER BANK
101 E. MISHAWAKA AVE
MISHAWAKA, IN
46545

SITE PLAN

DATE: 07.23.2014

REVISED:

C1.1

© COPYRIGHT 2007

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 13 2014
CITY CLERK
MISHAWAKA, IN

1st Reading 8-8-14
2nd Reading
Passed
Failed
Continued To

PETITION 14-15

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2014-18

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:

PARCEL I (5805 Fir Road)
A LOT OR PARCEL OF LAND TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE SOUTH SIDE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTERLINE OF A PUBLIC HIGHWAY KNOWN AS THE FIR ROAD WHERE SAID CENTERLINE INTERSECTS THE SOUTH EIGHTH SECTION LINE OF SAID SECTION 27; RUNNING THENCE NORTH ALONG THE CENTER OF SAID ROAD 20 RODS AND 7/10 OF A FOOT; THENCE WEST TO THE NORTH AND SOUTH CENTERLINE OF SAID SECTION; THENCE SOUTH 20 RODS AND 7/10 OF A FOOT TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 27; THENCE EAST ON SAID LINE TO THE PLACE OF BEGINNING; EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT THE NORTHEAST CORNER OF THE ABOVE DESCRIBED TRACT; RUNNING THENCE SOUTH ALONG THE CENTERLINE OF FIR ROAD, A DISTANCE OF 169.7 FEET; THENCE NORTHWESTERLY 316.55 FEET; THENCE NORTH 160 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER 315 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL II (5815 Fir Road)
A LOT OR PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT IN THE CENTER OF FIR ROAD, 161 FEET NORTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER OF SECTION 27, THENCE RUNNING NORTH ALONG THE CENTERLINE OF THE SAID FIR ROAD, 169.7 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 27, 315 FEET;

THENCE SOUTH 160 FEET; THENCE SOUTHEASTERLY 316.55 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL III (5905 Fir Road)
A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 506.55 FEET NORTH OF THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 89°45'50" EAST , A DISTANCE OF 528.00 FEET; THENCE SOUTH 0°07'28" EAST PARALLEL WITH THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 165.00 FEET; THENCE SOUTH 89°45'50" WEST, A DISTANCE OF 528.00 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 0°07'28" WEST, A DISTANCE OF 165.00 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow for parking reduction and revised architectural materials subject to the following:

1. To allow a minimum of 0.8 parking spaces per bed for the proposed nursing facility.

2. To allow for vinyl siding/trim and fiber cement board/trim to be acceptable materials for the exterior building façade.

3. To allow the building facades facing public right-of-way and the internal private collector drive to have a minim of 1/3 masonry materials and the remaining materials to include vinyl siding/trim. Masonry materials may include a combination of stone, brick, rock, fiber cement board/trim, doors, windows, louvers, and glass.

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

1. Existing Conditions - The area along this portion of Fir Road consists of low density residential uses on large acre lots. The proposal is in keeping with the existing area by maintaining a low to medium density residential use within the area.
2. Character of Buildings in Area - The character of many of the buildings located along Fir Road is residential. The proposed facility will be residential in nature.
3. The most desirable/highest and best use - Due to the presence of the commercial activity to the north, south and west of the area, the traffic along this Fir corridor has been increased significantly in recent years. With the new hospital and development along Douglas Road, which is located just south of this area, this corridor will become even more heavily utilized and most likely will be developed for commercial type uses. However, there is currently a large presence of low density residential uses in the area. The proposed care facility is an appropriated transitional use between the existing residential uses in the area and the likely future commercial development of the area.

ORDINANCE NO._____

PROP. ORD. NO 14-18

4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area, because the proposed use is compatible with the surrounding area.
5. Comprehensive Plan - The proposed amendment is consistent with the Comprehensive Plan has identified this area for low density residential.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this day of _____, 2014, at o'clock _____.M.

_____
Presiding Officer

ATTEST:

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

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

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

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

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 31 2014

CITY CLERK
MISHAWAKA, IN

DATE: July 23, 2014

RECEIVED
JUL 23 2014
PLANNING
COMMUNITY DEVELOPMENT

Pet 14-15

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

RE: **PETITION FOR PUD AMENDMENT**

Michiana Tennis Association PUD
5805, 5815, and 5905 Fir Road

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

PARCEL I (5805 Fir Road)

A LOT OR PARCEL OF LAND TAKEN OFF OF AND FROM THE ENTIRE LENGTH OF THE SOUTH SIDE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTERLINE OF A PUBLIC HIGHWAY KNOWN AS THE FIR ROAD WHERE SAID CENTERLINE INTERSECTS THE SOUTH EIGHTH SECTION LINE OF SAID SECTION 27; RUNNING THENCE NORTH ALONG THE CENTER OF SAID ROAD 20 RODS AND 7/10 OF A FOOT; THENCE WEST TO THE NORTH AND SOUTH CENTERLINE OF SAID SECTION; THENCE SOUTH 20 RODS AND 7/10 OF A FOOT TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 27; THENCE EAST ON SAID LINE TO THE PLACE OF BEGINNING; EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL: BEGINNING AT THE NORTHEAST CORNER OF THE ABOVE DESCRIBED TRACT; RUNNING THENCE SOUTH ALONG THE CENTERLINE OF FIR ROAD, A DISTANCE OF 169.7 FEET; THENCE NORTHWESTERLY 316.55 FEET; THENCE NORTH 160 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER 315 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL II (5815 Fir Road)

A LOT OR PARCEL OF LAND IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT IN THE CENTER OF FIR ROAD, 161 FEET NORTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER OF SECTION 27, THENCE RUNNING NORTH ALONG THE CENTERLINE OF THE SAID FIR ROAD, 169.7 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 27, 315 FEET; THENCE SOUTH 160 FEET; THENCE SOUTHEASTERLY 316.55 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

PARCEL III (5905 Fir Road)

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 3 EAST, HARRIS TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 506.55 FEET NORTH OF THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 89°45'50" EAST , A DISTANCE OF 528.00 FEET; THENCE SOUTH 0°07'28" EAST PARALLEL WITH THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 165.00 FEET; THENCE SOUTH 89°45'50" WEST, A DISTANCE OF 528.00 FEET TO THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 0°07'28" WEST, A DISTANCE OF 165.00 FEET TO THE PLACE OF BEGINNING. SUBJECT TO LEGAL HIGHWAYS.

The above described parcel of land contains the following properties: 5805, 5815 and 5905 Fir Road, Mishawaka, Indiana.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for a tennis/fitness center, office uses, and nursing facility.

Petitioner desires said real estate to be amended as follows:

1. To allow a minimum of 0.8 parking spaces per bed for the proposed nursing facility.

2. To allow for vinyl siding/trim and fiber cement board/trim to be acceptable materials for the exterior building facade.

3. To allow the building facades facing public right-of-way and the internal private collector drive to have a minimum of 1/3 masonry materials and the remaining materials to include vinyl siding/trim. Masonry materials may include a combination of stone, brick, rock, fiber cement board/trim, doors, windows, louvers, and glass.

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

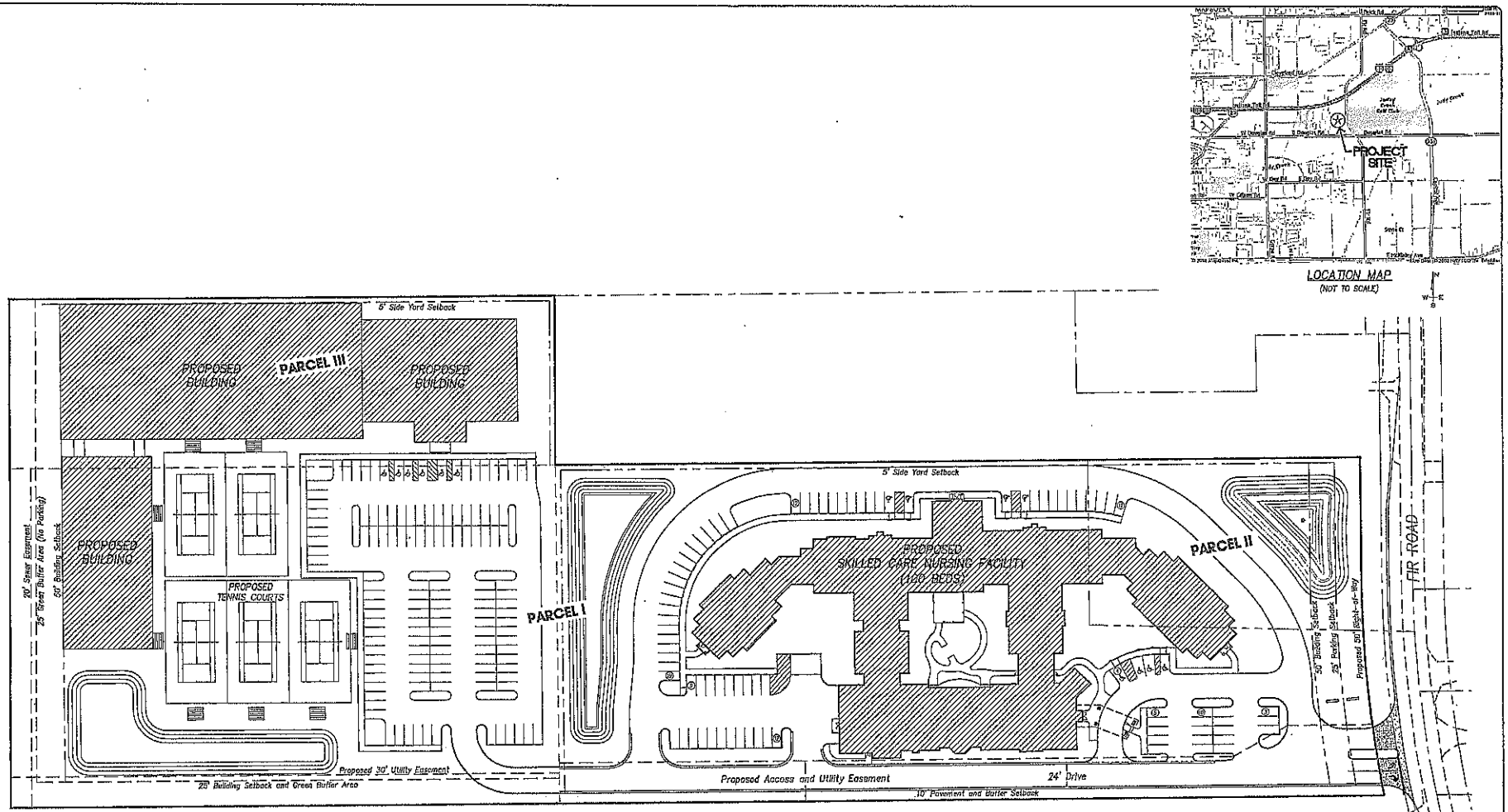
Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate and preliminary site plan of the project.

Steve Caurro

Michiana Tennis Association, LLC
17517 Starlite Drive
South Bend, IN 46614

CONTIGENT PURCHASER OF PROPOSED LOT 1
AND DEVELOPER OF NURSING FACILITY
Long Term Care Investments, LLC
1620 North Ironwood Drive
South Bend, IN 46617

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



ABONMARCHE

PUD AMENDMENT
MICHIANA TENNIS ASSOCIATION, PUD
FIR ROAD
MISHAWAKA, INDIANA

PRELIMINARY SITE PLAN

DRAWN BY: BGM
DESIGNED BY:
PM REVIEW: BJM
QA/QC REVIEW:
DATE: 07-23-14
SCALE:
SIGNATURE:
DATE:

HARD COPY IS INTENDED TO BE 24"x 36" WHEN PLOTTED, SCALES INDICATED AND GRAPHIC QUALITY MAY NOT BE ACCURATE FOR ANY OTHER SIZE

SCALES:
HORZ: 1"=100'
VERT:
ACUAD #: 13-0370
SHEET NO.: 1 of 1

RECEIVED
DEBORAH S. BLOCK, MMC
AUG 13 2014
CITY CLERK
MISHAWAKA, IN

1st Reading 8-8-14
2nd Reading
Passed
Failed
Continued To

PETITION 14-16

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2014-19

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:

North 125' of Lot #3, Ward's Subdivision property south of Lincolnway East, City of Mishawaka, Penn Township, St. Joseph County, State of Indiana

COMMON ADDRESS: 3837 Lincolnway East

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-4 Automobile Oriented Commercial District designated in "The Zoning Ordinance of 1966" as amended.

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

1. Given the property's close proximity to commercially zoned property and adjacent to C-4 zoned property, the C-4 zoning would be compatible with the surrounding commercial properties uses in the area.

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, staff feels that the most desirable use for this property is the C-4 Automobile Oriented Commercial.

3. Because the parcel is located adjacent to commercial properties and along heavily traveled corridors, the C-4 zoning classification would be compatible and is a desirable use for this property.

Proposed Ordinance No: 14-19

Ordinance No: _____

4. C-4 zoning classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding commercial area by further expanding the automobile commercial use that currently exists on the property.

5. The proposed C-4 Automobile Oriented Restaurant Commercial zoning is consistent with the City's Comprehensive Plan which indicated general commercial uses along the Lincolnway East corridor.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____day of _____, 2014, at _____ o'clock ___.M.

_____
Presiding Officer

ATTEST:

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

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

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

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

_____
David A. Wood, Mayor

July23,2014

RECEIVED
DEBORAH S. BLOCK, MMC

JUL 31 2014

CITY CLERK
MISHAWAKA, IN

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

Re: Petition to Rezone

The undersigned RKG Holdings L.L.C. 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:

Parcel Number
3837 Lincolnway East
Mishawaka, Indiana 46544

RKG Holdings own one hundred (100%) percent of the above described parcel of land which carries a zoning classification C.1 District. Said property is vacant .

RKG Holdings desire said real estate to be rezoned to C.4 District. RKG Holdings further state that they intend to utilize said land for a used car lot.

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

Signature of Property Owner

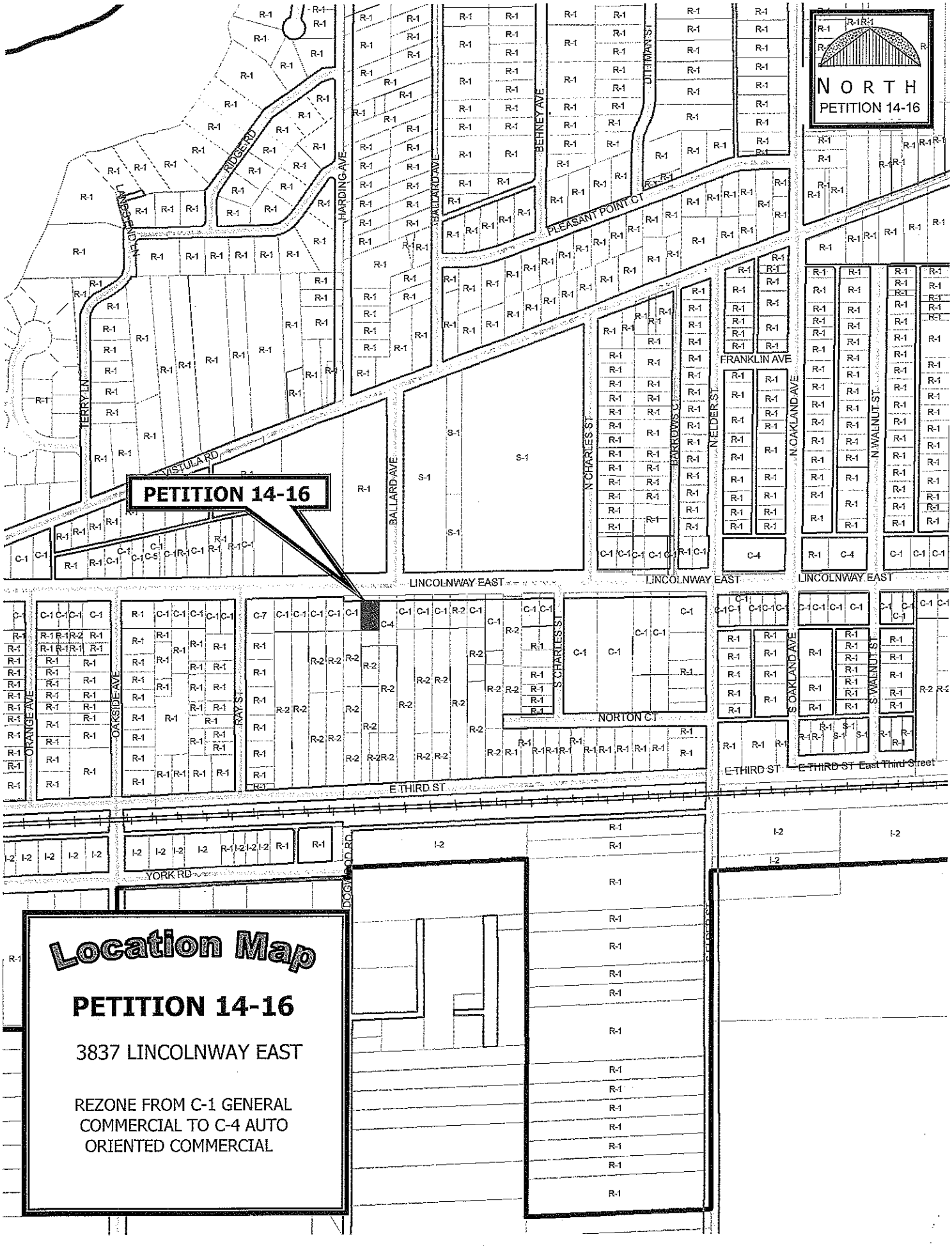
Richard D. Gerver

Signature of Property Owner

Karen M. Gerver

Contact Person:
Karen Gerver
1504 Lincolnway West, Osceola, Indiana 46561
547-679-9101
574-679-9241
gerversgarage@att.net

Pet 14-16



Location Map

PETITION 14-16

3837 LINCOLNWAY EAST

REZONE FROM C-1 GENERAL COMMERCIAL TO C-4 AUTO ORIENTED COMMERCIAL

PROPOSED ORDINANCE NO. 2014-**20**

ORDINANCE NO. - ____

AN ORDINANCE FIXING THE SALARIES
OF CERTAIN ELECTED OFFICIALS OF THE CITY OF MISHAWAKA
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015

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

Section 1. The annual salaries of the following elected officials of the City of Mishawaka, Indiana, for the fiscal year beginning January 1, 2015 shall be payable in **27** equal biweekly pay periods beginning January 2, 2015 in the following amounts:

	2015 Annualized	Per biweekly pay period Beginning January 2, 2015
Mayor	$ 74,587.00	$ 2,762.45
Clerk	52,390.00	1,940.34
Council member	9,424.00	349.01

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

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

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this _____ day of _____ , 2014, at _____ o'clock, _____.m.

_____
Presiding Officer

ATTEST:

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

PRESENTED BY ME to the Mayor this _____day of _____,

2014, at _____o'clock, ____.m.

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

APPROVED BY ME this _____day of _____, 2014, at

_____ o'clock,___.m

_____
David A. Wood, Mayor

PROPOSED ORDINANCE NO. 2014-**21**

ORDINANCE NO._____

AN ORDINANCE FIXING THE SALARIES OF ALL SWORN FIRE AND POLICE EMPLOYEES OF THE CITY OF MISHAWAKA FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2015.

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

Section 1. The annual salaries of all sworn fire and police employees of the City of Mishawaka for the year beginning January 1, 2015 and shall be payable in **27** bi-weekly pay periods commencing on January 2, 2015.

SALARIES	2015	Bi-Weekly Salary Beginning Jan 2, 2015
FIRE CHIEF	$67,064	2,483.87
ASSISTANT CHIEF	$61,820	2,289.63
CHIEF FIRE PREVENTION	$58,171	2,154.49
BATTALION CHIEF	$58,446	2,164.66
CAPTAINS	$56,481	2,091.88
SHIFT SUPERVISOR	$55,934	2,071.62
LIEUTENANTS	$55,386	2,051.33
FIRE INSPECTORS	$55,386	2,051.33
PARAMEDICS	$55,386	2,051.33
DRIVER OPERATOR	$54,325	2,012.03
MASTER FIREFIGHTER	$53,603	1,985.28
1ST FIREFIGHTERS	$51,603	1,911.22
PROBATION - FF/EMT	$46,920	1,737.76

UNIFORM ALLOWANCE	$1,250 PER YR
SPECIALTY PAY:	
ADVANCED EMT	$700 PER YR
WATER RESCUE/RECOVERY LEADER	$1,000 PER YR
WATER DIVE/RESCUE TEAM MEMBER	$900 PER YR
SELF-CONTAINED BREATHING APPARATUS TEAM TECHNICIAN	$1,000 PER YR
MECHANIC	$2,500 PER YR
EMS TRAINING INSTRUCTOR	$1,000 PER YR
FIREFIGHTER/PARAMEDIC RESERVE	$5,000 PER YR
FIREFIGHTER/PARAMEDIC CIVILIAN	$1,000 PER YR
FIREFIGHTER/PARAMEDIC	$1,000 PER YR

I OR II CERTIFICATION	$500 PER YR	
INFORMATION TECHNOLOGY	$1,500 PER YR	
OUT OF RANK PAY:	PER OCCURRENCE:	
Firefighter to Driver	$10.00	
Driver to Officer	$25.00	
Officer to Higher Ranking Officer	$25.00	
Firefighter to Officer	$25.00	
Fire Apparatus assigned to Ambo	$30.00	
POLICE CHIEF	$67,496	2,499.84
ASSISTANT CHIEF	$62,249	2,305.53
CAPTAINS	$56,913	2,107.89
LIEUTENANTS	$55,817	2,067.30
SERGEANTS	$54,756	2,028.00
CORPORAL	$54,033	2,001.24
PATROLMAN	$52,033	1,927.15
PROBATION	$47,320	1,752.59
UNIFORM ALLOWANCE	$1,650 PER YR	

Section 2. The City will contribute the employee portion of 3% to the Public Employees Retirement fund for all employees eligible for participation in the Public Employees Retirement Fund.

Section 3. The City will contribute 3% of the employee portion to the 1977 Police and Fire Pension for all employees eligible for participation in the 1977 Police and Fire Pension Fund.

Section 4. For those current employees who do not qualify or elect to become members of the 1977 Fire Pension fund following the merger January 1, 2002 with the Fire Department, the Pension Equalization Pay (PEP) will be offered to employees as additional wages. The PEP shall be payable in bi-weekly payments with the regular payroll. The annual PEP will be a combination of a base of $3,300.00 (starting January 1, 2006) and an additional $100.00 for every full year of continuous EMS service completed by January 1st of each year.

Section 5. The Administration may pay up to 15% less than annual salaries listed to new employees during the first twelve month period, except for those public safety salaries which have been negotiated by the Common Council and all other salaries negotiated as part of a Collective Bargaining Agreement.

Section 6. This ordinance shall be in full force and effect from and after its signing and attestation.

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

this _____ day of _____2014, at _____o'clock, p.m.

_____
Presiding Officer

ATTEST:

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

PRESENTED BY ME, to the Mayor on this _____ day of _____, 2014,

at_____o'clock, _____..m.

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

APPROVED BY ME this _____ day of_____, 2014, at _____o'clock, ____.m.

_____
David A. Wood, Mayor

PROPOSED ORDINANCE NO. 2014-**22**

ORDINANCE NO._____

AN ORDINANCE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT THE SWORN FIRE AND POLICE, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2015.

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

Section 1. The annual salaries of all employees of the City of Mishawaka except the Sworn Fire and Police, Mishawaka Park Department, Elected Officials and the Mishawaka Utilities for the year beginning January 1, 2015 and shall be payable in **27** bi-weekly pay periods commencing on January 2, 2015.

		Bi-Weekly Salary Beginning Jan 2, 2015
MAYOR'S ADMINISTRATIVE ASSISTANT	$38,102	1,411.15
MAYOR'S SECRETARY	$31,809	1,178.09
CONTROLLER	$72,701	2,692.59
DEPUTY CONTROLLER	$49,424	1,830.49
ACCOUNTANT	$39,037	1,445.79
PAYROLL CLERK	$35,463	1,313.42
BOOKKEEPER A	$36,346	1,346.15
BOOKKEEPER B	$31,370	1,161.84
BOOKKEEPER C	$29,279	1,084.38
PURCHASING AGENT	$36,739	1,360.67
TEMPORARY HELP	$7.25-$25.00 PER HR	
CPA CERTIFICATION FT	$5,000	185.19
CHIEF DEPUTY CLERK I	$37,673	1,395.28
CHIEF DEPUTY CLERK II	$36,497	1,351.71
HR DIRECTOR	$52,977	1,962.11
ASST DIRECTOR	$36,722	1,360.04
HR OFFICE MANAGER	$31,809	1,178.09
TEMPORARY HELP	$7.25- $25.00 PER HR	
DIRECTOR OF IT	$60,095	2,225.74
SYSTEM SPECIALIST IV SERVER ADMIN.	$49,385	1,829.06
SYSTEM SPECIALIST IV NETWORK ENG.	$41,205	1,526.10
SYSTEM SPECIALIST III WEB	$41,747	1,546.15
SYSTEM SPECIALIST II DESKTOP ENG.	$39,710	1,470.72
GIS COORDINATOR	$48,165	1,783.86
CORPORATE COUNSEL/HR DIRECTOR	$54,779	2,028.83

1ST DEPUTY CITY ATTORNEY	$49,996	1,851.67
2ND DEPUTY ASST CITY ATTORNEY	$16,000	592.59
STAFF ATTORNEY	$58,970	2,184.07
STENOGRAPHIC SERVICE	$7,500	227.78
JD CERTIFICATION FT	$5,000	185.19
COUNCIL ATTORNEY	$16,000	592.59
DIRECTOR OF ENGINEERING	$72,701	2,692.59
ASSISTANT DIRECTOR	$60,117	2,226.54
TRAFFIC MANAGER	$49,436	1,830.93
PROJECT MANAGER	$50,735	1,879.07
CONSTRUCTION COORDINATOR	$44,315	1,641.29
TECHNICIAN	$44,018	1,630.29
PROJECT COORDINATOR	$36,477	1,350.97
LOCATOR/INSPECTOR	$37,470	1,387.77
OFFICE MANAGER	$31,809	1,178.09
PE BONUS FT	$5,000	185.19
IDEM REVIEW BOARD BONUS	$4,000	153.85
DIRECTOR OF CODE ENFORCEMENT	$54,606	2,022.42
OFFICE MANAGER	$31,809	1,178.09
CODE ENF OFFICER A	$44,198	1,636.96
CODE ENF OFFICER B	$36,876	1,365.74
BUILDING COMMISSIONER	$55,903	2,070.46
ASSISTANT BUILDING COMMISSIONER	$52,603	1,948.25
ADMINISTRATOR	$32,291	1,195.95
OFFICE MANAGER	$31,809	1,178.09
INSPECTOR A	$53,504	1,981.61
INSPECTOR B	$48,469	1,795.13
PART-TIME INSPECTOR A	$7.25-$25.00 PER HR	
FIRE EXECUTIVE SECRETARY	$32,084	1,188.27
FIRE OFFICE MANAGER	$31,809	1,178.09
POLICE RECRUIT	$41,760	1,546.68
IDACS SPECIALIST ANNUAL	$370.00 PER YR	
PROPERTY MANAGER	$35,367	1,309.88
EXEC SECRETARY	$32,084	1,188.27
ADMIN SECRETARY	$31,809	1,178.09
SERVICES ADMINISTRATOR	$36,555	1,353.86
PROPERTY CLERK	$31,032	1,149.33
SECRETARY	$31,374	1,161.99
PARKING PERSONNEL	$31,374	1,161.99
PART-TIME HELP	$7.25 -$25.00 PER HR	
PARKING PERSONNEL CLOTHING	$500 PER YR	
CROSSING GUARDS	$7,102	21 pays@ 338.19
CROSSING GUARD SUBSTITUTE	$20.00 PER DAY	
SUMMER SCHOOL CROSS GUARD	$20.00 PER DAY	
CITY PLANNER	$69,459	2,572.53
SENIOR PLANNER	$37,993	1,407.15

Redevelopment pays 15%	$6,705	248.32
ASSOCIATE PLANNER	$42,365	1,569.07
ADMINISTRATIVE PLANNER	$30,144	1,116.44
Redevelopment pays 20%	$7,537	279.11
OFFICE MANAGER	$31,809	1,178.09
PLAN COMMISSON	$600.00 PER YR	
BZA MEMBER	$375.00 PER YR	
CENTRAL SERVICES ASSISTANT	$49,454	1,831.63
FLEET MAINTENANCE TECHNICIAN	$19.71	
Group 1	$18.70	
Group 2	$17.69	
Group 3	$16.94	
NIGHT BONUS/Shift differential	.55/.60 PER HR	
PART TIME	$7.25-$25.00 PER HR	
PROJECT COORDINATOR	1.00 PER HR	
STREET COMMISSIONER	$58,864	2,180.12
OFFICE MANAGER	$31,809	1,178.09
SECRETARY	$31,374	1,161.99
Group 1	$18.70	
Group 2	$17.69	
Group 3	$16.94	
NIGHT BONUS/SHIFT DIFFERENTIAL	.55/.60	
PART-TIME HELP	$7.25-$25.00 PER HR	
PROJECT COORDINATOR	$1.00 PER HR	
DIRECTOR COMMUNITY DEVELOPMENT	$61,511	2,278.18
TIF CONSTRUCTION MANAGER	$58,219	2,156.24
PROGRAM CONSTRUCTION MANAGER	$52,723	1,952.68
PROGRAM COORDINATOR	$36,929	1,367.74
NSP COORDINATOR	$48,231	1,786.32
GRANT SPECIALIST	$32,412	1,200.41
PART-TIME HELP	$7.25-$25.00 PER HR	

Section 2. The City will contribute the employee portion of 3% to the Public Employees Retirement fund for all employees eligible for participation in the Public Employees Retirement Fund.

Section 3. Longevity Bonus will be provided annually to the Central Service and Motor Vehicle Highway Teamster employees (as amended). The Longevity Bonus will be offered to the employees as additional pay. The Longevity Bonus shall be payable annually on the first paycheck following each employees anniversary date with the regular payroll. The annual Longevity Bonus will be based on the following schedule. Said schedule is based upon completed years of service.

Years of Service	Annual Increments	Bonus
1	$10.00	$10.00
2	$20.00	$30.00
3	$30.00	$60.00
4	$40.00	$100.00
5	$50.00	$150.00
6	$75.00	$225.00

An additional $75.00 will be added for each year of service after the 5th year.

Section 4. The Administration may pay up to 15% less than annual salaries listed to new employees during the first twelve month period, except for those public safety salaries which have been negotiated by the Common Council and all other salaries negotiated as part of a Collective Bargaining Agreement.

Section 5. This ordinance shall be in full force and effect from and after its signing and attestation.

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

this _____ day of _____2014, at _____o'clock, p.m.

_____
Presiding Officer

ATTEST:

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

PRESENTED BY ME, to the Mayor on this _____ day of _____, 2014,

at_____o'clock, .m.

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

APPROVED BY ME this ___ day of_____, 2014, at _____o'clock, p.m.

_____
David A. Wood, Mayor

City of Mishawaka

RESOLUTION 2014-17

WHEREAS, Penn High School Senior Bethany Galat won two State Championships Saturday February 15, 2014 at the IHSAA State Swimming and Diving Championships at the Indiana University Natatorium in Indianapolis, and

WHEREAS, Bethany defended her title in the 200 IM and the 100 Breaststroke, giving her five State Championships in her career

WHEREAS, Bethany Galat has been named Swimmer of the Year for 2013-2014 by Indiana High School Swimming Coaches Association, and

WHEREAS, these awards honor the finest Athletes in the State of Indiana and are based on performances at the IHSAA state championship meet, and.

WHEREAS, Bethany Galat, A Texas A&M signee, swam a 1:57.52 beating out her opponent in the 200 IM it was her third straight State Title in the event, and

WHEREAS, In the 100 Breaststroke finals, Bethany posted a record time of 59.66, which according to the IHSAA was the fifth fastest time recorded in national high school history, and

WHEREAS, the outstanding season brings honor to Bethany Galat her team, her Coach Jess Preston, her team, Penn High School, her family and to our Community; and such efforts and achievements deserve recognition and commendation from the City of Mishawaka:

NOW THEREFORE, Let it be known and Resolved by the City of Mishawaka's Common Council, Mayor and Clerk, that August 18, 2014 is hereby proclaimed

BETHANY GALAT DAY

in our community and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable young lady thanking her for her efforts on behalf of her school, the community and the citizens of Mishawaka, and the State of Indiana.

Dale "Woody" Emmons	Ron Banicki
Mike Bellovich	Dan Bilancio
John Reisdorf	S Michael Compton
Kate Voelker	John Roggeman
Matt Mammolenti, President	
Deborah S. Block, IAMC, MMC City Clerk	David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2014

CITY CLERK
MISHAWAKA, IN

APPEAL #14-14

RESOLUTION NO. 2014- 18

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

2030 North Merrifield Avenue, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made a favorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

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

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **2030 North Merrifield Avenue, Mishawaka, Indiana**, more particularly known and described as follows:

A lot or parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: commencing at the Northwest corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South 1°23'35" East, to the point of beginning; thence continuing South 1°23'35" East 150.00 feet; thence North 89°45'05" East 197.82 feet; thence North 1°19'03" West 150.00 feet; thence North 89°45'49.5" East 198.01 feet to the point of beginning.

The Use Variance will allow two (2) apartments on C-1 General Commercial zoned property.

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

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because all required permits will be secured and codes adhered to;

2. The use and value of the area adjacent to the property included in the variance will not have an adverse impact on the surrounding neighborhood because the commercial zoned property is surrounded by commercial and industrial uses;

3. The need for the variance arises from some condition peculiar to the property involved in that the property is zoned C-1, which does not allow a multi-family use;

4. The strict application of the terms of this chapter will result in practical difficulties in that the historical use of the property has been a commercial and residential use and the second living unit cannot be implemented until the property is rezoned appropriately or a use variance is granted; and

5. Granting the use variance will not compromise the integrity of the Mishawaka 2000 Comprehensive Plan because the parcel will continue to be zoned C-1 General Commercial District.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of_____, 2014, at _____o'clock _____ .m.

_____
Presiding Officer

ATTEST:

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

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

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

APPROVED by me this _____ day of_____, 2014, at _____o'clock _____.m.

_____
David A. Wood, Mayor

RECEIVED
DEBORAH S. BLOCK, MMC
JUL 31 2014
CITY CLERK
MISHAWAKA, IN

RECEIVED
JUL 15 2014
PLANNING & ECONOMIC DEVELOPMENT

AP 14-14

DATE: July 10, 2014

FROM: Dow Family Real Estate LLC

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board: We, the Dow Family Real Estate LLC (John and Carole Dow), are the owners of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

> A lot or parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: commencing at the Northwest corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South 1° 23' 35" East, to the point of beginning; thence continuing South 1° 23' 35" East 150.0 feet; thence North 89° 45' 05" East 197.82 feet; thence North 1° 19' 03" West 150.0 feet; thence North 89° 45' 49.5" East 198.01 feet to the point of beginning.

The common address is: 2030 North Merrifield, Mishawaka, IN 46545.

The above-described real estate presently has a zoning classification of C-1 General Commercial District under the Zoning Ordinance of the City of Mishawaka. We presently occupy the above-described property in the following manner: use the apartment which is on the second floor as our residence when we are in town. Typically we are in Mishawaka in the spring for approximately two months and in the fall for three-four months. The first floor currently does not have a tenant and so we have placed a number of file cabinets with papers that Mr. Dow has generated over the years.

We desire to occupy the first floor of the building as our apartment and leave the second floor apartment as an area where guests could stay when they visit. Currently the C-1 General Commercial District requires a freestanding commercial (either retail or service) business to occupy the first floor (Section 137-300 and Section 137-301).

Because both owners of the property are in their seventies and Mrs. Dow fell down the upstairs outside steps last winter (2013) and Mr. Dow has difficulties with stairs we feel it is dangerous for us to live in the upstairs apartment.

We do not feel that approval for this change would be injurious to the public health, safety, morals or general welfare of the community. Nor do we believe that the use and value of the area adjacent to the property included in the variance would be affected in a substantially adverse manner. Currently there is a State Farm business on the South side of the property which was at one time a home that fronts Cedar. On the North side of the property there is now a garage door business. On the corner of N. Merrifield and McKinley is a pawn shop. Across the street and South there is an auto-mobile parts store which faces Cedar. Then across the street on North Merrifield there is a vacant building, an automobile repair shop, a tool & die operation, and a screen printing business. The residential area is across Cedar and so we believe the street serves as a buffer between our property and this area.

The enclosed diagram indicates that we would leave the outside appearance of the building as is. The first floor would leave the front of the building as a living room but we would add two bedrooms and an additional bathroom behind the living area. There already is a kitchen area in the back of the building as well as one bathroom. The storage area behind the bathroom would be made into a laundry area so we would not have to use stairs to use the washer and dryer on the second floor.

The need for the variance arises because of the age and physical limitations of both Mr. and Mrs. Dow. If a strict application of the terms of this ordinance were applied we would be limited in our ability to stay in Mishawaka to see family and friends. We have attempted to sell this property and then purchase a villa for ourselves but to date we have not found someone to purchase our commercial property.

We do believe that a strict application of the terms of this zoning classification constitutes an unnecessary hardship if applied to the property for which the variance is sought. The two bedrooms on the first floor could be used as offices or rooms that a day care facility could use. The building itself would not be changed, just the first floor if our variance request is granted. That would mean that we could use the facility for quite a few more years. We do not believe that approval of our variance request would substantially interfere with the Mishawaka 2000 Comprehensive Plan.

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

Carole S. Dow

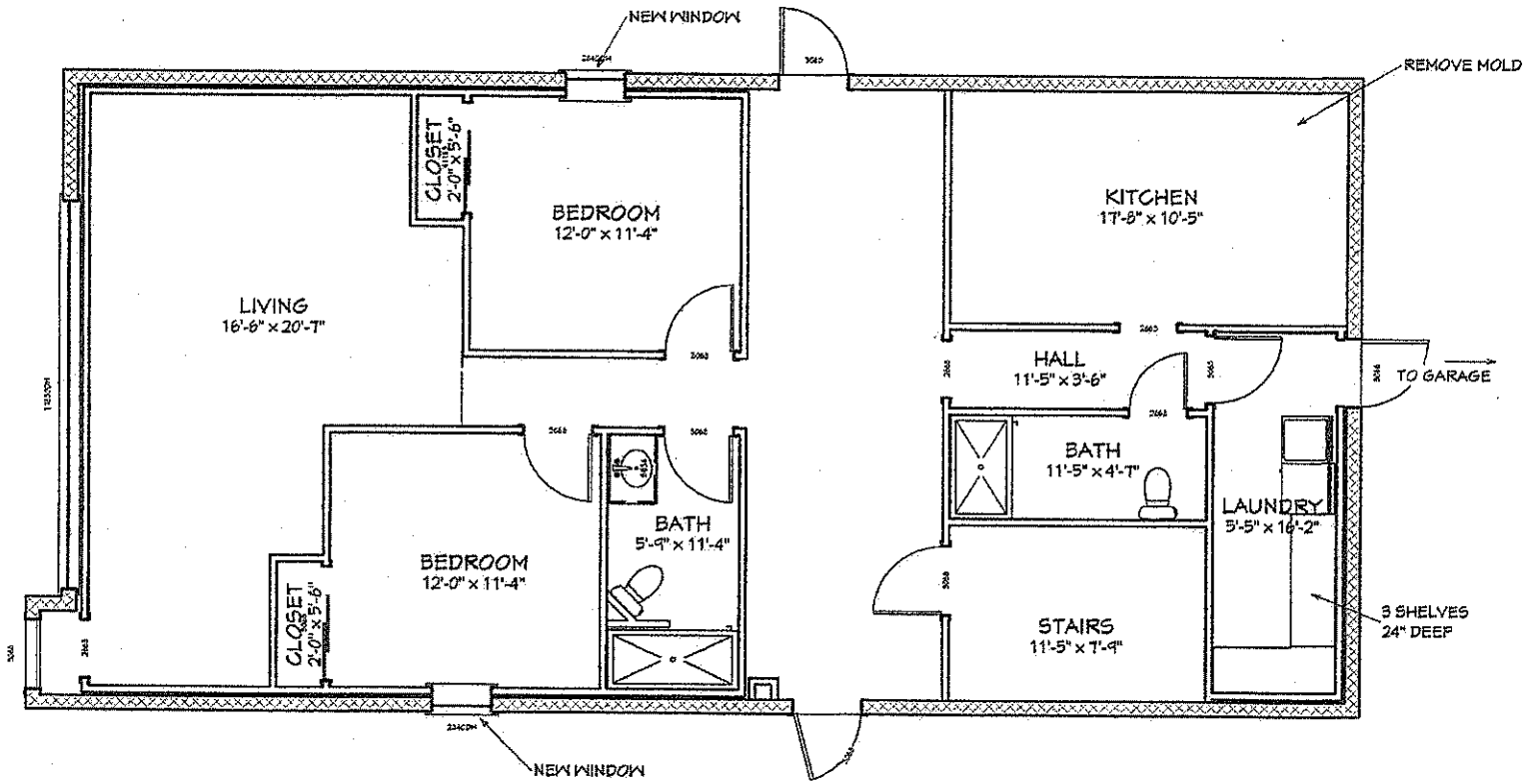
Carole S. Dow
Signature of Property Owner
President, Dow Family Real Estate LLC

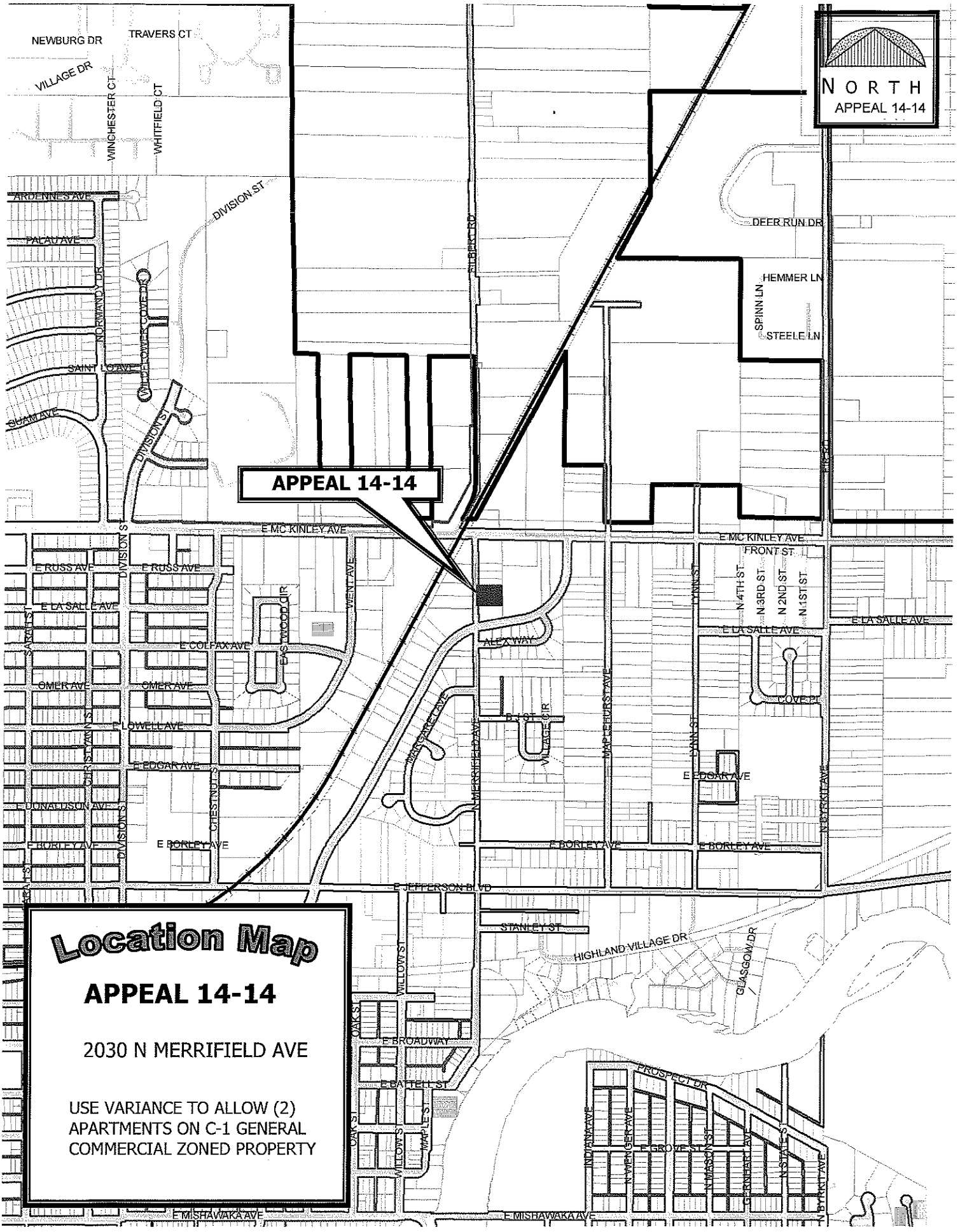
John D. Dow

John D. Dow
Signature of Property Owner
Dow Family Real Estate LLC

Contact Person:

Name:	Cyndi Carper
Address:	14008 Day Road
Day Phone Number:	574-532-7515
Email:	cyn68@comcast.net


NEW WINDOW
REMOVE MOLD
CLOSET
2'-0" x 5'-6"
BEDROOM
12'-0" x 11'-4"
KITCHEN
17'-8" x 10'-5"
LIVING
16'-6" x 20'-7"
HALL
11'-5" x 3'-6"
TO GARAGE
BATH
11'-5" x 4'-7"
LAUNDRY
5'-5" x 16'-2"
BATH
5'-9" x 11'-4"
BEDROOM
12'-0" x 11'-4"
CLOSET
2'-0" x 5'-6"
STAIRS
11'-5" x 7'-9"
3 SHELVES
24" DEEP
NEW WINDOW



Location Map

APPEAL 14-14

2030 N MERRIFIELD AVE

USE VARIANCE TO ALLOW (2) APARTMENTS ON C-1 GENERAL COMMERCIAL ZONED PROPERTY