



AGENDA

April 17, 2023

**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): 2336 348 9612
Meeting password: NzUJeMUh762**

**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: 23363489612@mishawaka.webex.com

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Minutes of the Regular Meeting of March 20, 2023
5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2023-07

Use Variance to allow five Temporary
Sales Trailers through October 2023 -
4325 Grape Rd.

Appeal No. 2023-08	Use Variance to allow Automobile Repair in I-1 District - property East on 2014 E. McKinley
Petition NO. 2023-05	Annexing and Establishing Zoning as C-1 General Commercial District - West of 5996 State Rd. 23
Petition No. 2023-06	Rezone from C-1 General Commercial to R-3 Multi-Family Residential - 2406 Schumacher Dr. and Property adjacent vacant property
Petition NO. 2023-07	Annex and Rezone portions to I-1 Light Industrial - Property East of 2014 E. McKinley
Petition No. 2023-08	Rezone from C-1 General Commercial to R-1 Single Family Residential - 2009 W. Sixth St.

6. Report of Special Committee

7. Ordinances on First Reading

8. Resolutions

R2023-06	Tax Abatement Compliance Report 2023
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9. Ordinances on Second Reading

P.O. No. 2023-11	PUD Amendment to allow Drive-Thru Restaurant (Scooter's Coffee) - NW corner of 12 th Street/Harrison Road & Capital Avenue (Assigned to Land Use Planning Committee)
P.O. No. 2023-12	Mishawaka Sewage Works Bond (Assigned to Public Improvement Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, <https://www.facebook.com/cityofmishawaka/> and on the Michiana Access TV Facebook page, <https://www.facebook.com/MichianaAccessTV>

If technology is needed to present, please advise the Clerk's Office by 4:00pm the Friday before the meeting by emailing: dblock@mishawaka.in.gov or calling 574-258-1616.

Council Packet Link:

At this time, I know of no other business to come before the Council.

Deborah S. Block, IAMC, CMO, 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 20, 2023

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, March 20, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, led by Troop 122, one of the local scouting groups.

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Roll Call.

Present: Mr. Hazen (P), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (P), Mr. Emmons (P), Mrs. DeMaegd (P), Mr. Compton (A), Mrs. Voelker (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel, Council Attorney

Minutes for the Regular Meetings of March 6, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petition by title from the Board of Zoning Appeals and City Plan Commission meetings on March 14th.

Appeal No. 2023-04	An appeal submitted by Vineyard Church Inc requesting a Use Variance for 702 E Twelfth St, Mishawaka, Indiana, to allow provide educational, social and faith support services in the R-2 Two Family Residential District.
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The Board, with a vote of 4-0, recommended approval.

Appeal No. 2023-06	An appeal submitted by ALC Holdings requesting a Use Variance for 3607 Grape Road, Mishawaka, Indiana, to allow microblading as a use inside an existing salon.
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The Board, with a vote of 4-0, recommended approval.

Petition No. 2023-04

A petition submitted by 1635 Ironwood LLC requesting to amend the Northwest 12th & Capital Planned Unit Development to add drive thru restaurant as a permitted use.

The Commission, with a vote of 8-0, recommended approval subject to the attached conditions.

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.

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

PROPOSED ORDINANCE NO. 2023-11

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 Drive-Thru Restaurant (Scooter’s Coffee) – NW Corner of 12th Street/Harrison Road & Capital Avenue
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-12

**AN ORDINANCE CONCERNING THE CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SEWAGE WORKS OF THE CITY OF MISHAWAKA, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID WORKS, THE SAFEGUARDING OF THE INTEREST OF THE OWNERS OF SAID REVENUE BONDS, OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES, AN ANTICIPATION OF BONDS AND REPEALING ORDINANCES, INCONSISTENT HERewith
Mishawaka Sewage Works Bond
(Assigned to Public Improvements Committee)**

Mr. Hixenbaugh added for the benefit of the public and those in attendance that given that this proposed matter could lead to the issuance of some bonds on the part of the city of Mishawaka, in order to provide the council and the public with more information regarding the matter, the council would be conducting a special informational session on this topic on Wednesday, March 29th at 6PM in the Council Chambers and there would be a remote viewing capability for that meeting as well.

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

RESOLUTION R2023-04

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: 702 EAST 12TH STREET Use Variance to allow Educational, Social & Faith Support Services in R-2 Residential Zone Property – 702 E. 12th Street

The chair entertained a motion to postpone the public hearing on **RESOLUTION R2023-04** until their next regularly scheduled council meeting until the petitioner made it known she was in the crowd and apologized not knowing this was her matter. The council did not object to the reopening of the public hearing on **RESOLUTION R2023-04**.

Kathy Smarrella, Vineyard Church 16219 Jackson Road, spoke in favor of **RESOLUTION R2023-04**. Mrs. Smarrella stated they had a community center in the Barbie Creek neighborhood that they had been running for about 2 and a half years and that seemed to be going well, they had a lot of city support and this house would be an extension of that. Mrs. Smarrella stated they brought it before the Zoning Appeals Board to see if they could get the R-2 zoning status changed to a use variance and they planned to use it for social, educational and religious uses.

Mrs. Voelker stated she was curious about the work they were doing now and asked if it was a health clinic they were doing the work in. Mrs. Smarrella stated no, it was in Barbie Creek where they rented the building from the Mishawaka Housing Authority. Mrs. Voelker asked if they were doing what they wanted to so in the rented space. Mrs. Smarrella stated this would just be an extension of that, because they had run out of room and hoped to expand because they could not use their space for more than one thing at a time and they had the opportunity to do other things that they thought were helpful. Mrs. Voelker asked if she could tell them how many people they were currently serving and what she thought they would be able to do with the expansion. Mrs. Smarrella stated they served about 100 people weekly in that community and their hope was to use the house for smaller groups of 15 or so people, since it would not be very big. Mrs. Smarrella stated this group would be used for smaller group meetings, mentorships and those kinds of things. Mrs. Voelker asked if it was primarily religious activity. Mrs. Smarrella stated yes and they also helped with education, they provided food and things like that. Mrs. Smarrella stated they partnered with Health Link, Goodwill, Excel Program and associations like that.

Mr. Emmons asked if the property at 702 East 12th Street was residential. Mrs. Smarrella stated that was correct. Mr. Emmons asked if that person or people who lived in that house if it was sold to her or the church. Mrs. Smarrella stated there was a gentleman who owned it and he rented it out and so he contacted them to ask them if they wanted to purchase the house. Mr. Emmons asked if she talked to the neighbors about with the potential of many cars being there and potential parking issues with that. Mrs. Smarrella stated they had talked to the city about potential parking possibilities over there. Mr. Emmons again asked if she had talked to the neighbors about what they wanted to do in that space and if they were all in favor of what was planned on being done. Mrs. Smarrella stated they had shared it with the neighbors that were coming to their community center. Mr. Emmons stated he was talking about the neighbors next

to this house. Mrs. Smarrella stated she believed letters were sent out. Mr. Emmons stated she was kind of evading the question. Mrs. Smarrella stated she was not trying to. Mr. Emmons then asked if anybody had come to them and told them if they were in favor of what they were doing or not in favor of it. Mrs. Smarrella stated only the ones they knew in Barbie Creek had done that and not the next door neighbors. Mr. Emmons asked if anybody had objected to the potential 15 to 20 cars coming. Mrs. Smarrella stated there would not be that many cars, because everyone that came from the neighborhood walked and it was a walking neighborhood. Mrs. Smarrella stated the only cars would be their volunteers' which would just be two or three.

Mr. Bellovich asked if there would be anyone residing in the house. Mrs. Smarrella stated there would not be.

Mrs. Voelker commended Vineyard Church for their commitment to the community and for the work they had done over the last couple of years and she looked forward to hearing how it went as they expanded their services.

Question was called for at 7:14PM for **RESOLUTION R2023-04 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Banicki, Mrs. DeMaegd, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed 8-0.

RESOLUTION R2023-05

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: 3607 GRAPE ROAD Use Variance to allow Microblading inside existing salon – 3607 Grape Road

Monica Leg, 3607 Grape Road and permanent makeup artist, spoke in favor of **RESOLUTION R2023-05**. Mrs. Leg stated they were hoping to get their approval on this so they could properly move into the salon.

Mr. Banicki asked how long had the business been at this location. Christina Clark answered Mr. Banicki's question. Mrs. Clark stated they opened in early December, on December 12th to be exact. Mr. Banicki stated he owned a business across the street and noticed that it was new. Mr. Banicki asked now that they moved in there, did they come from somewhere else or was this a new start. Mrs. Clark stated she and her business partner both came from Sola Studios in Granger and they opened this up in December.

Mrs. Voelker welcomed them to the neighborhood.

Mr. Hixenbaugh thanked the two of them for being there that evening and they appreciated the information and wished them good luck with their new venture. Mr. Hixenbaugh stated as they discussed in the past in press of other business that they had to deal with in light of the frequency in which they had heard these type of requests, when they had an opportunity to comprehensively look at their zoning ordinances, he thought it made sense to try to incorporate

this within zoning itself so that what had never, in his opinion, been a controversial matter could be a recognized use without the special use variance process but they had a lot of things they were working on. Mr. Hixenbaugh stated hang tight and they would get to it when they could.

Question was called for at 7:18PM for **RESOLUTION R2023-05 Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mr. Hazen, Mr. Bellovich, Mr. Banicki, Mrs. DeMaegd, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed 8-0.

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

PROPOSED ORDINANCE NO. 2023-10

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA AMENDING TITLE III, CHAPTER 34 OF THE MISHAWAKA MUNICIPAL CODE

Amending the Municipal Code Personnel Policies – Call to Active Military Duty

Mr. Hixenbaugh stated based upon a meeting that he and Mr. Bellovich participated in that afternoon with members of the administration by agreement of all involved, at that time the chair entertained a motion to postpone second reading on **PROPOSED ORDINANCE NO. 2023-10** indefinitely in order to allow some further review of the ordinance to take place and then to add it to the agenda at a subsequent meeting. The motion was made and seconded, thus a voice vote was held. The matter was postponed indefinitely.

PRIVILEGE OF THE FLOOR

Brett McNeil, 2121 Wynn Place, spoke under **PRIVILEGE OF THE FLOOR**. Mr. McNeil stated he was there to speak about the incident with Joe Wood and he wanted to share a couple of thoughts with the council. Mr. McNeil stated he did not see Mayor Wood or Chief Witkowski in attendance that evening. Mr. McNeil stated he saw recently on one of the local TV stations said that this issue was now under administrative review and he wanted to share his concern about that as a citizen. Mr. McNeil stated the people that would be responsible for that administrative review had five months to take it up before the news broke about it. Mr. McNeil strongly encouraged the council as a body to contemplate asking that a third party, the Indiana State Police or somebody else, being a credible outside agency or authority investigate this. Mr. McNeil stated he thought it was important that whatever happened there passed the smell test publicly. Mr. McNeil stated rumors hovered over this and he really thought if he were sitting in their seats, he would really want other eyes on this and would want whatever happened here to be above board as possible. Mr. McNeil stated this episode suggested from the outside that there were problems or suggestions of problems inside of the police department. Mr. McNeil stated they were all actively negotiating with the FOP and they were short staffed and South Bend just recently got at full complement. Mr. McNeil stated they were offering signing bonuses and other things to get the Mishawaka police department up to full complement but under these circumstances, what qualified applicant would be interested in taking a job here. Mr. McNeil

stated that was a real concern of his and he had lived in the city now for 4 years from Illinois and they were there to stay. Mr. McNeil stated if they were looking to recruit the best, he believed they had to answer that question in a way to not only satisfy people like him, but the candidates they wanted representing them and the police department on the streets in Mishawaka.

Mr. Hixenbaugh stated for the record that Mr. McNeil was right in saying that it was not uncommon for Mayor Wood to attend the meetings but it was also not uncommon for both the Mayor and the Police Chief as their duties and responsibilities otherwise call for, for them not to be there as well so in fairness he just wanted to state that. Mr. Hixenbaugh appreciated the concerns and sensed that everybody on the council could appreciate the concerns, but he went on record to say he did have faith in their police department and he had faith in their ability to be able to look at issues in an even-handed manner. Mr. Hixenbaugh stated so while he appreciated the concerns, he wanted that to be on record as well and thanked him for his comments and his attendance that evening.

NEW BUSINESS

Mr. Hixenbaugh announced a need on the part of the council due to some scheduling conflicts to reschedule their meeting that was currently scheduled for April 10th, 2023 to a date where the maximum number of council people can participate and a suggestion had been made that a better date would be Monday, April 24th, 2023, which would then make their meeting schedule in April Monday, April 17th and Monday, April 24th. The chair entertained a motion to reschedule their meeting currently scheduled for April 10th, 2023 until Monday, April 24th, 2023 at 7PM in the council chambers. The motion was made and seconded, thus a voice vote was held. The motion passed and the meeting was rescheduled.

Mr. Hixenbaugh announced the West End Neighborhood Watch would once again be conducting their meeting at City Hall on April 5th, 2023 at 7PM in the Mayor's Youth Council area. Mr. Hixenbaugh stated they looked forward to that meeting and as he understood it, their guest speaker would be one or two representatives from Code Enforcement.

ADJOURNMENT 7:26PM

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

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



AP 23-07
Received
MAR 21 2023

March 20, 2023

Board of Zoning Appeals
City of Mishawaka, Indiana
100 Lincolnway West
Mishawaka, Indiana 46544

Deborah S. Block, MMC, MMC

MAR 23 2023

City Clerk
Mishawaka, IN

RE: Jordan Lexus of Mishawaka,

The undersigned appellant respectfully shows the Board:

1. Sonic Automotive is the owner of the following described real estate located within the City of Mishawaka, Clay Township, St. Joseph County, State of Indiana, to wit:

Jordan Lexus, 4325 Grape Road, Mishawaka, Indiana

(SEE ATTACHED LEGAL)

2. The above-described real estate presently has a zoning classification of **C-4 District** under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies the above-described property as a **Lexus Car Dealership**
4. Appellant desires to install a temporary building to utilize as a sales office during the remodeling of the facility starting on April 16, 2023 and expected to be complete in October 2023.
5. The Zoning Ordinance of the City of Mishawaka only permits one temporary building for a construction project, which will be used for the contractor on the project. We are requesting a second temporary building for our sales team during the construction period.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship – the remodeling of the facility will be disruptive to our customers and sales team, and significantly impede the construction team in the progress of their work. By moving the sales team into a temporary facility, we can best serve our customers, provide our sales team a safe and productive work environment and allow the construction team to best complete their work in a timely manner.



4401 Colwick Road • Charlotte, NC 28211

7. Answer the following necessary questions for a USE VARIANCE:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? NO, this is a temporary use that is consistent with the current use of the property
- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? NO, we are updating and improving the facility and thus overall producing a positive effect on the area.
- (3) Does the need for the variance arise from some condition peculiar to the property involved? YES, we cannot safely and productively occupy the facility while being remodeled.
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? YES, without temporary facilities we will not be able to provide quality service to our customers, a safe and productive environment for our team and complete the construction project in a timely manner.
- (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? NO, this is a temporary use that will be removed upon completion of the project and the land use will remain as it currently exists.

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

Signed:



Martin Walsh, Vice President Facilities Development
Sonic Automotive
4401 Colwick Road
Charlotte, NC 28211

We also hereby designate the following to represent us in this case:



4401 Colwick Road • Charlotte, NC 28211

CONTACT PERSON:

Name: Bennett Ratliff
Address: P.O. Box 860398, Plano, Texas 75086
Day Phone Number: 214-707-2924
Email: bennett@ratliffgroup.com

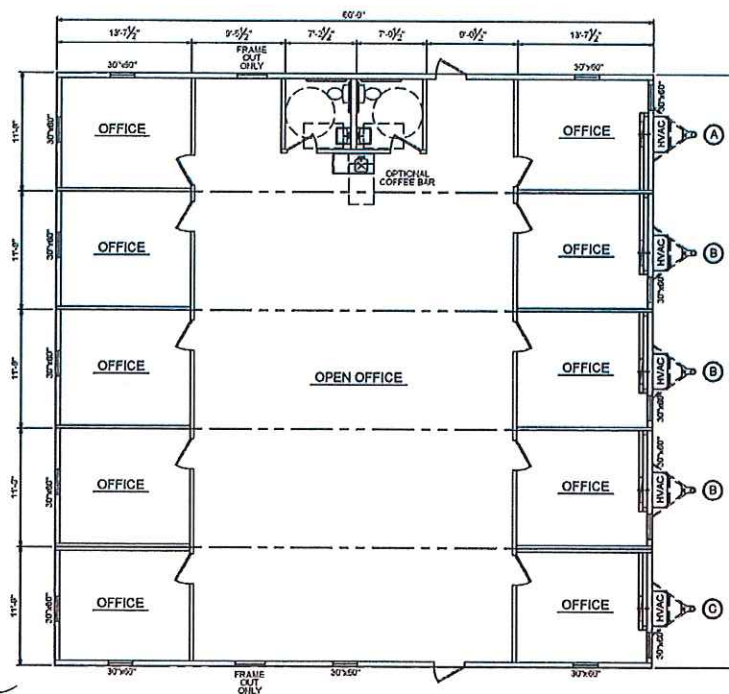


4401 Colwick Road • Charlotte, NC 28211

LEGAL DESCRIPTION:

Commencing at the Southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 33; thence N.00°05'50"W., 7.62 feet to a point on the historic south line of the North Half of the Southwest Quarter of said Section 33; thence s. 89°45'24" W., 240.16 feet to the true point of beginning; thence S.89°45'24" W. along said South line, 441.72 feet; thence N. 00°00'00" W., 442.90 feet; thence N. 89°45'19" E., 641.13 feet to the West right of way line of Grape Road; thence along said West line, S. 00°05'50" E., 220.68 feet; thence S. 89°51'50" W., 200.21 feet, (rec. S.89°54'03" W., 200.00 feet) along the North line of a parcel described in Document No. 7817228 in the records of the St. Joseph County, Indiana recorder's office; thence S. 00°06'39" E. along the west line of said parcel, 222.61 feet, (rec. South, 220.00 feet) to the point of beginning. Containing 5.50 acres more or less. Subject to all legal highways, easements and restrictions of record.

Also including Lot 1 of Lexus Minor Subdivision as recorded under Instrument #2022-12816 in the Office of Recorder of St. Joseph County, Indiana.



math

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CUSTOMER APPROVAL SIGNATURE:

[Signature]

DATE: 3/20/23

STANDARD FINISHES

EXTERIOR: ROOFING
FLOORING: INTERIOR:
LIGHTING: MISC. ADA RESTROOM
MATERIALS

60x60 ISU OFFICE COMPLEX
FLOOR PLAN
60' x 60' NOMINAL - 3600 SF

DRAWING SCALE: N.T.S.

DRAWN BY: DH

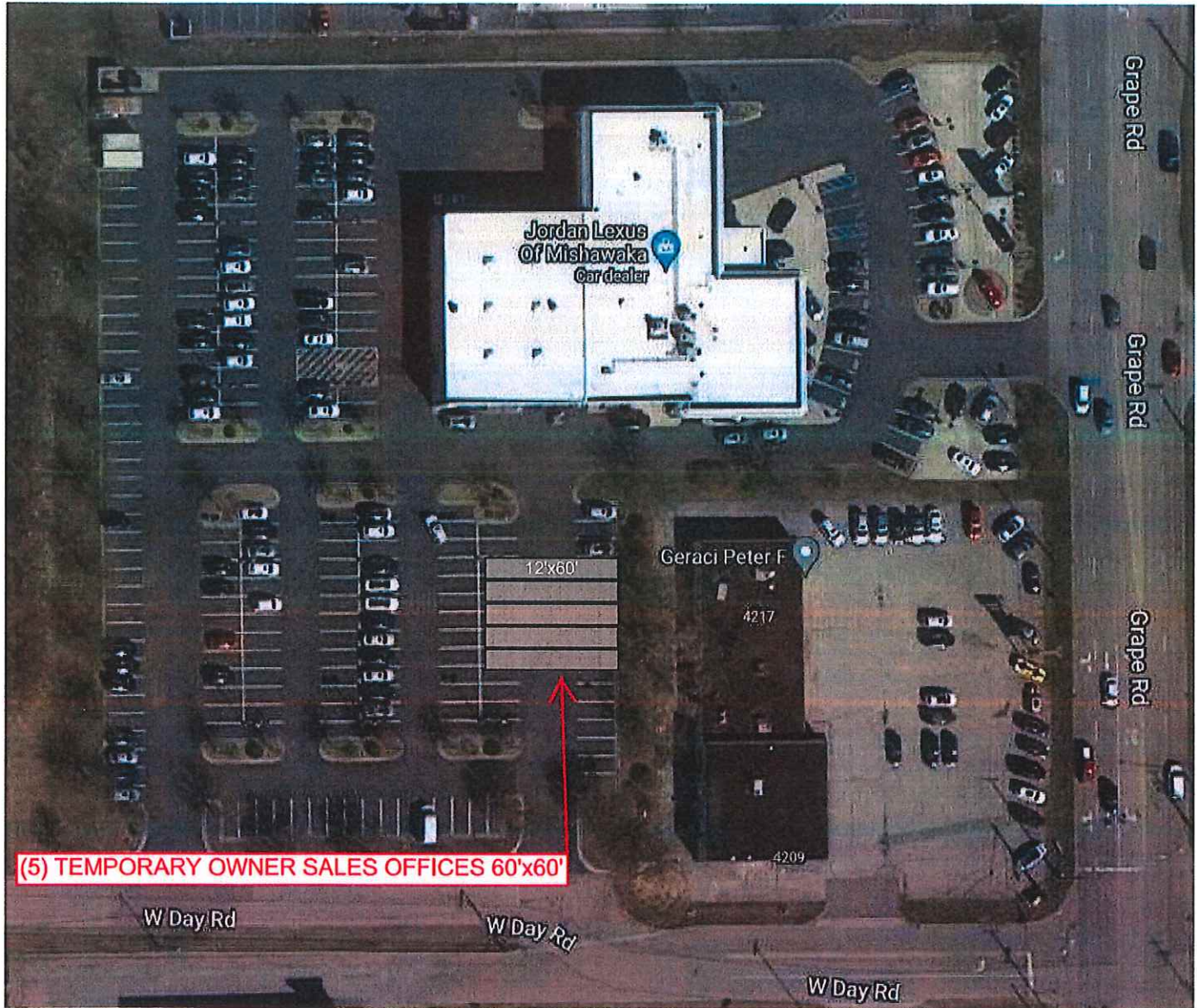
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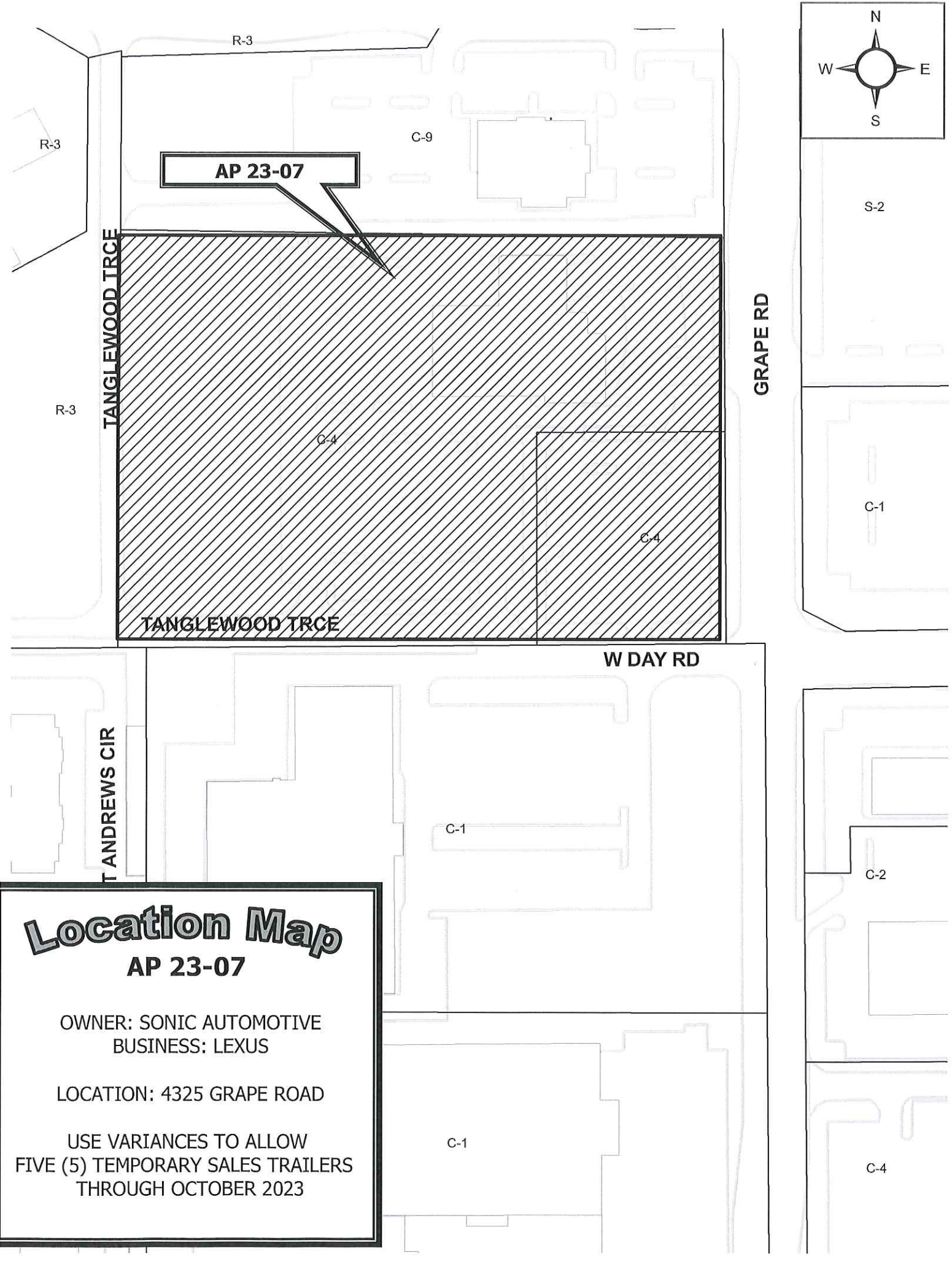
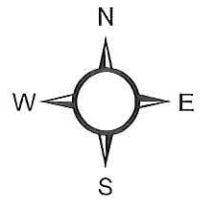
DATE: 01/19/2021

APP'D BY:

DRAWING NUMBER:
ISU 60-60

REV:
0





Location Map

AP 23-07

OWNER: SONIC AUTOMOTIVE
BUSINESS: LEXUS

LOCATION: 4325 GRAPE ROAD

USE VARIANCES TO ALLOW
FIVE (5) TEMPORARY SALES TRAILERS
THROUGH OCTOBER 2023

DATE: March 22, 2023

TO: Honorable Members of the Board of Zoning Appeals
City of Mishawaka, Indiana

FROM: Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 360-9804
sruby@abonmarhce.com

Deborah S. Block, AMC, MMC

MAR 23 2023

**City Clerk
Mishawaka, IN**

MP 23-03

Received

MAR 22 2023

**Planning and
Community Development**

RE: Petition for Use / Development Variance – 2014 E. McKinley Ave. Mishawaka, IN

The undersigned **Nate Zolman, Zolman Tire, Inc.** respectfully show they are 100% the owners of the following described real estate located in Penn Township, County of St. Joseph, State of Indiana, to-wit:

PROVIDED LEGAL DESCRIPTION: (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

(See Attached Legal)

The current property residing in St. Joseph County is currently zoned as R single Family and is planned to be rezoned to I-1 Light Industrial once annexed into the City of Mishawaka. There is a second parcel that is zone R-1 in the City of Mishawaka and will be rezoned as a part of the annexation and Rezoning process. This parcel too will be rezoned to I-1 Light Industrial under the Zoning Ordinance of The City of Mishawaka.

The Appellant occupies and the above-described property and utilizes it as overflow Semi Truck parking and semi-trailer storage when trucks are being services by the repair shop.

Use Variance

The petitioner is requesting a use variance for the newly annexed parcel and the existing Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022 to allow the expansion of the adjacent automotive repair and service facility and allow for semi-truck/trailer parking on the gravel and hard surfaces being proposed.

The petitioner is also seeking a developmental variance to allow for parking on the gravel on the northern portion of the site where it is anticipated to have a new structure built in the next 5 years for the future expansion of the Zolman Tire, Inc. operation. The petitioner is willing to pave the southern parking areas at this time but feels that having to pave the entire lot at this time would create an undue hardship related to cost when in the future this gravel area will

be developed with the future building and operational expansion. Several other businesses in the area use gravel on their Light Industrial zoning designations. The petitioner feels that this is an acceptable and reasonable request and would request a variance to allow for parking on this gravel area.

1. *Will the approval be injurious to the public health, safety, morals or general welfare of the community? Explain your reason why.*

The petitioner does not feel that this will be injurious to the public health, safety, morals, or general welfare of the community, because this proposed use is similar to the context of several business within the areas and are adjacent to the site. Both context and precedence has been established locally and the parking of these vehicles will not cause harm or change from what currently exists in the community.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Explain your reason why.*

Houses
The use and value of the area adjacent to the property and in the variance will not be affected in a substantially or adversely manner, because similar uses are currently adjacent or are in proximity to the site. The property has also been cleaned up from a previous blighted house and the property cleared of overgrown vegetation. Further code compliance will also introduce landscape and proper screening / fencing to the surrounding residential uses.

3. *Does the need for the variance arise from some condition peculiar to the property involved? Explain your reason why.*

The need for the use variance arises from the adjacent Zolman Tire facility and its current use variance. It is anticipated that similar uses will be utilized on the site because it is owned and operated by the same owner.

4. *Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? Explain your reason why.*

The strict application of the terms will create an unnecessary hardship because the property will not be allowed to support the adjacent business operations for the Zolman Tire facility.

5. *Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? Explain your reason why.*

The Approval will not interfere substantially with the Mishawaka 2000 Comprehensive Plan, because the proposed used is similar to adjacent uses within the immediate proximity of the site as well as it fits the general context of the Industrial businesses along McKinley Avenue.



Development Variance

An additional variance request would be to allow for a 6' high opaque fence instead of the 7' height requirement between residential and industrial zoning designations. A 7' High fence as required by the ordinance would be a custom ordered fence and will require a large amount of additional expense to purchase.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing an approximate size of the future building and the location of the proposed parking and drainage for the site.

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why*

The 6' High fence would not be injurious to the public health, safety, moral or general welfare because it is only a reduction height of a requirement that otherwise being met.

2. *Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Explain your reason why*

The use and the value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manor, because the addition of the fence will only provide an improved aesthetic for the site adjacent to the property. The reduction of the height is minimal in nature and will still achieve the intended affect for screening.

3. *Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? Explain your reason why*

The petitioner fees that strict adherence to the terms of the chapter will constitute a hardship related to the cost for the fence due to the 7' high fence being a custom ordered height and the industry norm is a 6' high fence. .



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

Nate Zolman

Nate Zolman

Zolman Tire, Inc. (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

Nate Zolman 3-16-2023

Printed

Date:



EXHIBIT A

UPDATED DESCRIPTION

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING ALL THAT TRACT OF LAND CONVEYED TO ZOLMAN TIRE, INC. AS DESCRIBED IN INSTRUMENT NUMBER 1432198, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS IN THIS DESCRIPTION ARE BASED ON INDIANA STATE PLANE COORDINATES-EAST ZONE, GPS DERIVED)

COMMENCING AT A 1" STEEL BAR IN CONCRETE MARKING THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 59' 57" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 1,993.97 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO STATE OF INDIANA AS DESCRIBED IN INSTRUMENT NUMBER 0527134, ST. JOSEPH COUNTY RECORDER; THENCE CONTINUING NORTH 89° 59' 57" WEST, ALONG SAID SOUTH LINE, 285.94 FEET TO THE SOUTHWEST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 00° 14' 51" WEST, ALONG THE WEST LINE OF SAID STATE OF INDIANA LAND, 49.21 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE SOUTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND AND BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00° 14' 51" WEST, ALONG THE EAST LINE OF A TRACT OF LAND CONVEYED TO BEPA, LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1808927, ST. JOSEPH COUNTY RECORDER, AND SAID LINE EXTENDED, 378.09 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE NORTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND; THENCE SOUTH 89° 59' 57" EAST, ALONG THE NORTH LINE OF SAID ZOLMAN TIRE, INC. LAND, 285.94 FEET TO A 3/4 INCH IRON PIPE MARKING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO MICHIANA MANAGEMENT LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1800769, PARCEL III, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE WEST LINE OF SAID MICHIANA MANAGEMENT LLC LAND, 371.53 FEET TO A CAPPED IRON ("LANG FEENEY AND ASSOCIATES") MARKING THE NORTHEAST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 21.54 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE NORTHERLY LINE OF SAID STATE OF INDIANA LAND, 6.56 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 264.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.48 ACRES, MORE OR LESS, AND SUBJECT TO ALL COVENANTS, RIGHTS OF WAY, AND EASEMENTS OF RECORD. (DESCRIPTION PREPARED BY HANS P. MUSSER, INDIANA PROFESSIONAL

SURVEYOR NO. LS29700002 FOR AN ALTA SURVEY CERTIFIED MARCH 15, 2023; ABONMARCHE PROJECT
NUMBER 23-0101).

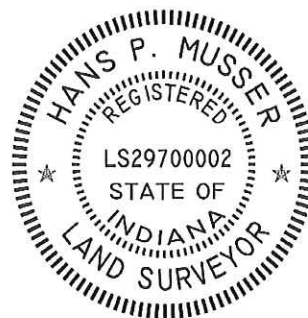


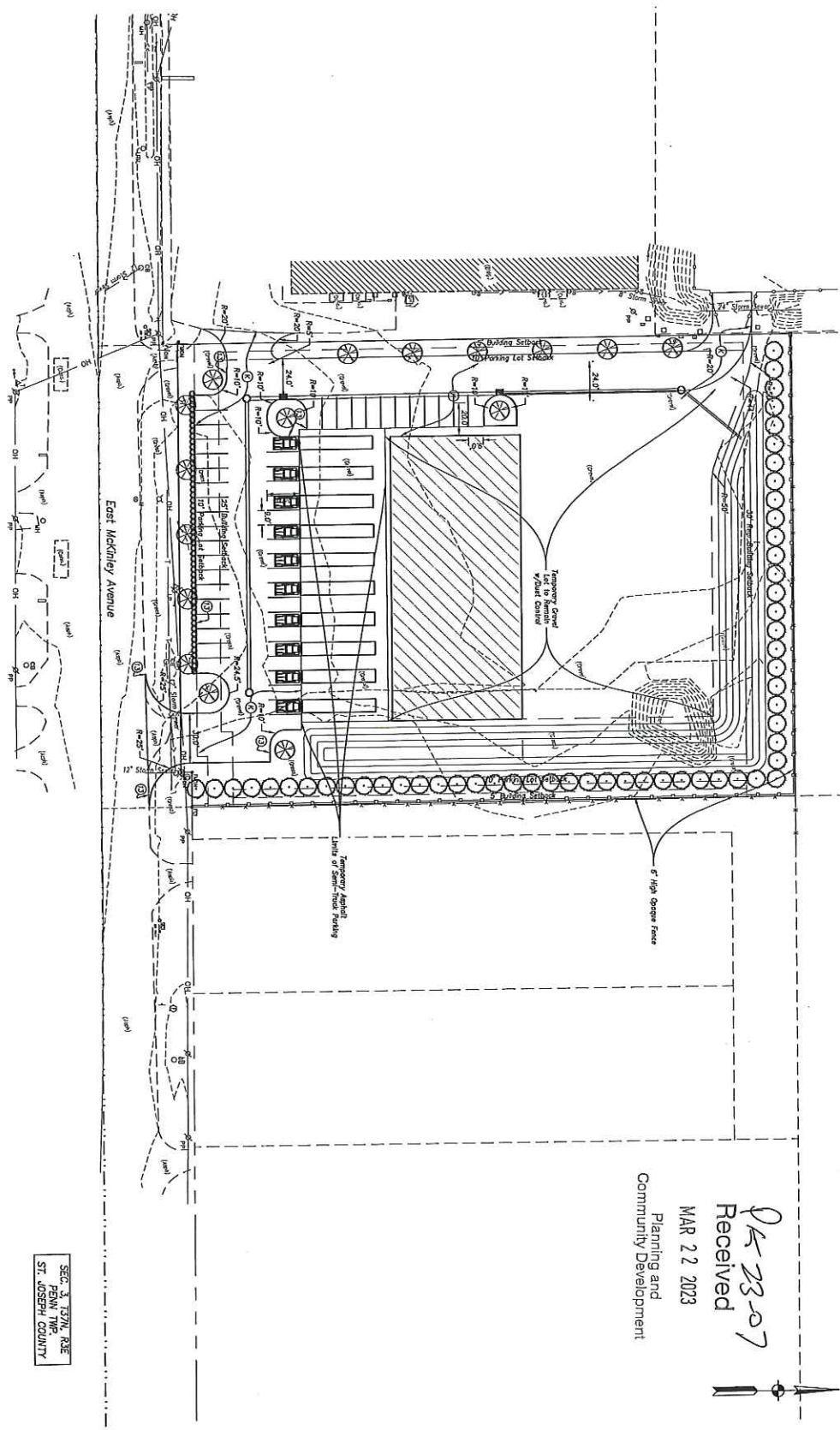
HANS P. MUSSER, PS

03/15/2023

DATE

JOB NO.: 23-0101





Received
 MAR 22 2023
 Planning and
 Community Development

15-23-07



SEC. 3, 13/4N, R3E
 PENN TWP.
 ST. JOSEPH COUNTY

- Legend:**
- ⊙ HMA Pavement, Full Depth
 - ⊙ Standard Concrete Curb
 - ▨ Future Building

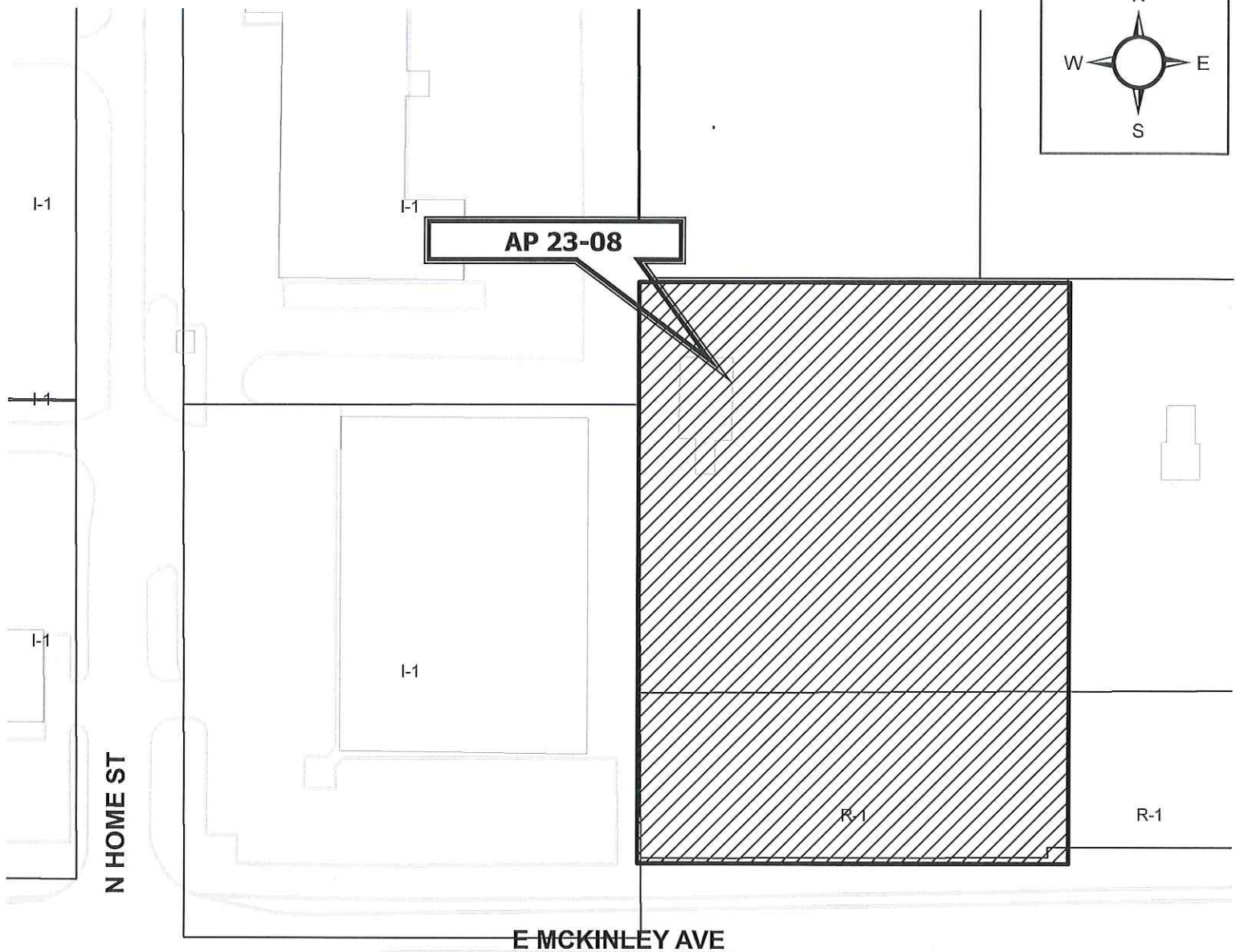
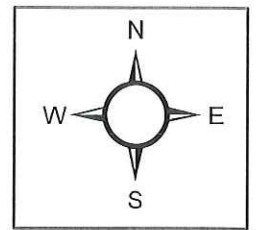


SITE PLAN

ZOLMAN TIRE PARKING
2028 E. MCKINLEY AVENUE
MISHAWAKA, IN 46545

ABONMARCHÉ
 313 W. Jefferson Blvd.
 South Bend, IN 46601
 219.233.8700
 219.233.4440
 abonmarche.com
 Services: Surveying, Engineering, Architecture, Land Surveying
 Locations: South Bend, Mishawaka, Elkhart, Grand Haven, Holland, Lafayette, Fort Wayne, South Bend, South Haven, Valparaiso

DATE:	6/27/2023
BY:	SSB
PROJECT:	23-0101
SCALE:	1" = 30'
DATE:	23-0101
BY:	1 of 1



Location Map

AP 23-08

OWNER:
NATE ZOLMAN/ZOLMAN TIRE, INC

LOCATION:
PROPERTY EAST OF 2014 E MCKINLEY
USE VARIANCE
AUTOMOBILE REPAIR IN THE I-1 DISTRICT

DEVELOPMENTAL VARIANCE
GRAVEL PARKING AND FENCE HEIGHT

March 16, 2023

Pet 23-05
Received

MAR 13 2023

Planning and
Community Development

TO THE:

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

Deborah S. Block, AMC, MMC

MAR 23 2023

City Clerk
Mishawaka, IN

RE: Petition for Annexation and Zoning Classification

The undersigned **ALL SECURE STORAGE – COUNTY ROAD 17, LLC** respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

For APN/Parcel ID(s): 71-04-29-429-001.000-003

WARRANTY DEED 2021-33034

A LOT OR PARCEL OF LAND IN THE NORTH EAST QUARTER OF THE SOUTH EAST QUARTER OF SECTION NUMBER 29, TOWNSHIP NUMBER 38 NORTH, RANGE NUMBER 3 EAST, DESCRIBED AS FOLLOWS, VIZ: BEGINNING AT A POINT 350.8 FEET NORTH OF THE SOUTH EAST CORNER OF THE NORTH EAST QUARTER OF THE SOUTH EAST QUARTER OF SAID SECTION NO. 29; THENCE NORTH 50 DEGREES WEST 354 FEET TO THE CENTER LINE OF SOUTH BEND AVENUE (STATE ROAD #23); THENCE NORTHEASTERLY ALONG THE CENTER LINE OF SAID AVENUE TO THE INTERSECTION WITH THE EAST LINE OF SAID SECTION NUMBER 29; THENCE SOUTH TO THE PLACE OF BEGINNING, EXCEPTING THAT PART TAKEN FOR SOUTH BEND AVENUE, CONTAINING 1.4 ACRES, MORE OR LESS.

S.R. 23 Right-of-Way for Purposes of Annexation Only
(Not Described in Warranty Deed 2021-33034)

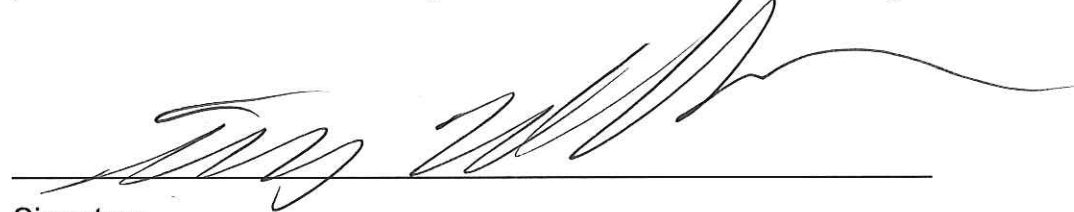
Including the adjacent South Bend Avenue (State Road #23) right-of-way between the southwest property line of the above described parcel projected northwesterly to the existing right-of-way line of State Road 23 and the State Road 23 right-of-way as described in the City of Mishawaka Ord. #5751 recorded in the Office of the St. Joseph County Recorder under Instrument #2021-30147.

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located at 17018 State Road 23, South Bend, Indiana and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a C-1 District. Petitioners further state they intend to utilize said land for future commercial development.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate. No information is currently available for the future development plan. Future development on the property will be submitted for the City of Mishawaka review process as required.

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

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

A handwritten signature in black ink, appearing to read 'Todd Veldman', is written over a horizontal line.

Signature

All Secure Storage-County Road 17, LLC
5222 W Western Ave.
South Bend IN 46619

Todd Veldman, Member
5222 W Western Ave.
South Bend IN 46619
574-287-7236
Email: tveldman@veldmans.net

Additional Contact:

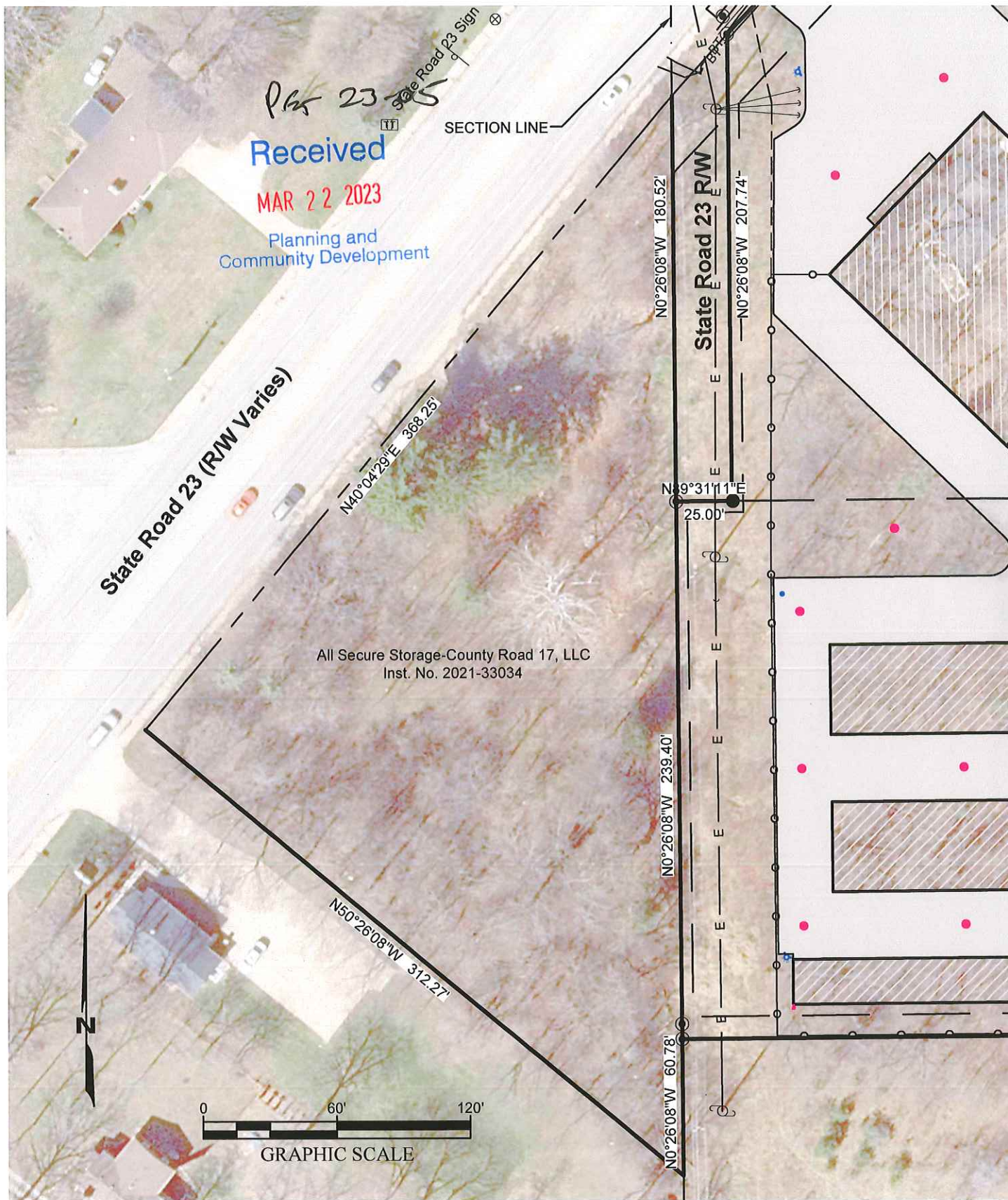
Tim McCollough, President

2112 Aeroplex Dr. Elkhart, IN 46516

574-294-2227

Email: McColloughTim@msn.com

PATH: \\SAM\PROJECTS\1023076031\100\SURVEY\11DESIGN.DWG\76031_DESIGN.DWG
PRINTED: Monday, February 13, 2023 3:59:11 PM



ALL SECURE STORAGE-COUNTY ROAD 17 LLC
17018 STATE ROAD 23
SOUTH BEND IN 46635



3220 Southview Drive
Elkhart, IN 46514
Phone: 574-266-1010
Email: info@sam.biz

EXHIBIT A

SHEET 1
OF 1

JOB NUMBER: 1023076031

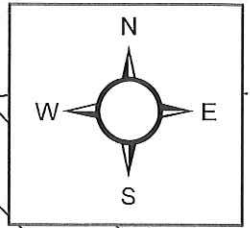
SCALE: 1"=60'

ENGINEER: DSH

TECHNICIAN: DSH

DRAWING: 76031_DESIGN.DWG

EB INDIANA TOLL RD (I-80/90)



PET 23-05

SR 23

I-1

BLUE DR

GOLD DR

S-2

S-2

S-2

IRISH WAY

Location Map

PET 23-05

OWNER: ALL SECURE STORAGE -
COUNTY ROAD 17

WEST OF 5996 STATE ROAD 23
(CURRENTLY 17018 STATE ROAD 23)

ANNEX INTO THE CITY OF MISHAWAKA
AND ESTABLISH ZONING AS
C-1 GENERAL COMMERCIAL

March 22, 2023

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

PKS 23-06
Received

MAR 22 2023

Planning and
Community Development

Deborah S. Block, MMC, MMC

MAR 23 2023

City Clerk
Mishawaka, IN

RE: PETITION TO REZONE

The undersigned, Freed Capital, LLC, respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

PARCEL I: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Beginning at a point on the East line of Schumacher Drive, 229.31 feet South 0°27'35" East of the Southwest corner of Lot Numbered 5 as shown on the recorded Plat of Town and Country Estates, Section "A", as recorded in Instrument No. 7705865 in the office of the Recorder of St. Joseph County, Indiana; thence North 0°27'35" West along said East line of Schumacher Drive, 229.31 feet to the Southwest corner of said Lot 5; thence North 89°32'25" East along the Southerly line of said Lot 5, 146.52 feet to the Southwest corner of Lot 4 in said recorded Plat; thence North 52°48'39" East along the Southerly line of said Lot 4, 142.47 feet to the Southwest corner of Lot 3 in said recorded Plat; thence North 47°10'54" East along the Southerly line of said Lot 3, 90.48 feet to the Southwest corner of Lot 2 in said recorded Plat; thence North 67°57'44" East along the Southerly line of said Lot 2, 83.03 feet to the Southeast corner of Lot 1 in said Plat, said corner being on the West line of the recorded Plat of Normain Heights, as recorded in Plat Book 16, Page N in Recorder's Office' thence South 0°51'43" East along said West line of Normain Heights, 408.67 feet; thence South 89°54'42" West, 407.65 feet to the point of beginning. EXCEPTING a parcel of property commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded in Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 89°32'25" East, 75.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.00 feet to the place of beginning.

PARCEL II: A part of the Southeast Quarter of Section 4, Township 37 North, Range 3 East, Penn Township, City of Mishawaka, St. Joseph County, Indiana, described as follows: Commencing at the Southwest corner of Lot 5 as shown on the recorded Plat of Town and Country Estates, Section A, as recorded on Instrument No. 7705865 in the Office of the Recorder of St. Joseph County, Indiana; thence South 00°27'35" East, 139.31 feet to the true place of beginning; thence continuing South 00°27'35" East, 90.00 feet; thence North 00°27'35" West, 90.00 feet; thence South 89°32'25" West, 75.0 feet to the place of beginning.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of Commercial C-1 District. Said property is currently a vacant wooded lot.

Petitioner desire said real estate to be rezoned to Residential R-3 District.

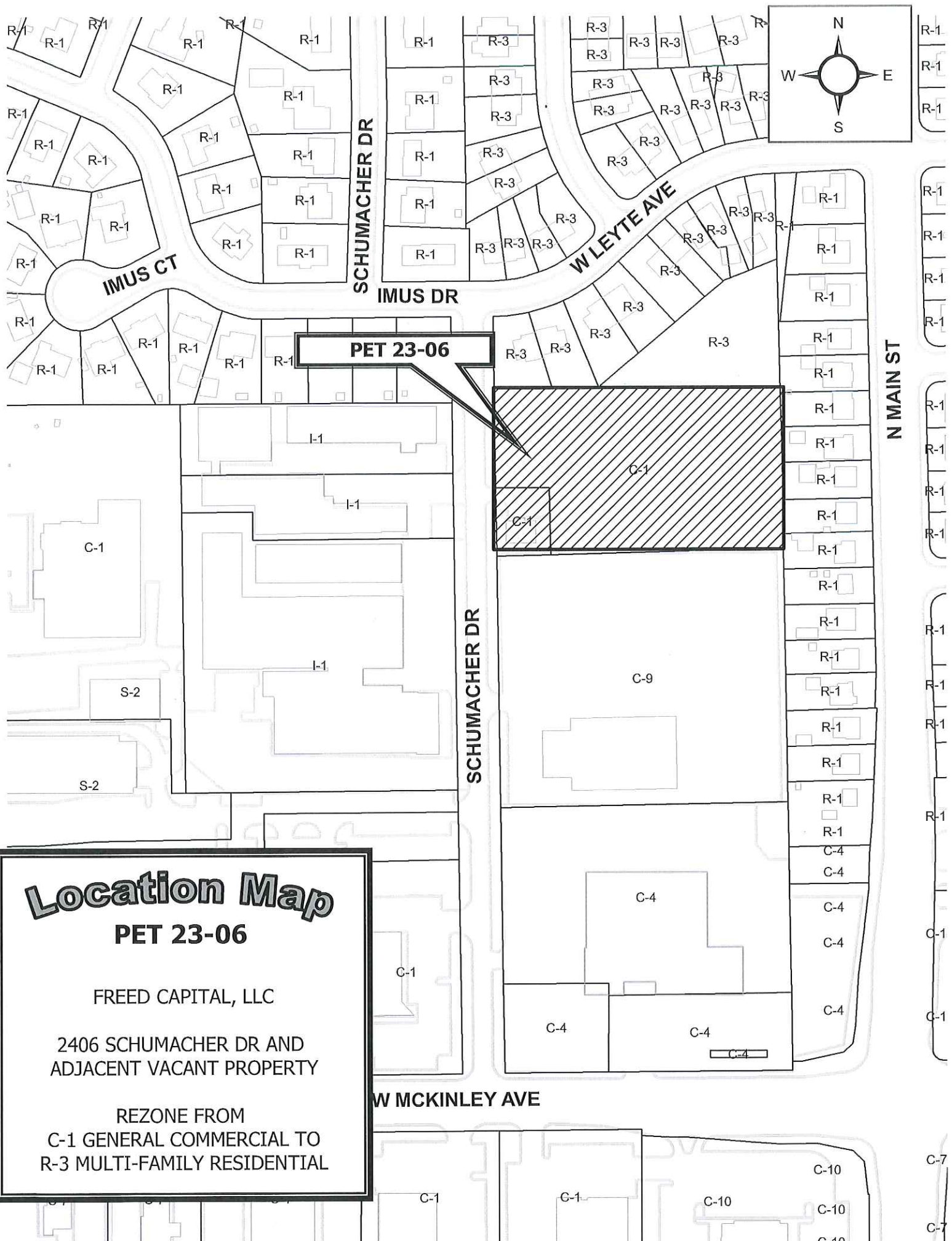
Petitioner further state that they intend to utilize said land for multi family units with access provided by a private street accessing Schumacher Drive.

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

A handwritten signature in black ink, appearing to read 'Seth Freed', is written over a horizontal line.

Freed Capital, LLC
Seth Freed, Member
131 E. Borley Avenue
Mishawaka, Indiana 46545
989-415-7607; 260-234-1965
sfreed@pellani.com

CONTACT PERSON:
Wightman c/o Terry Lang, PS
715 S. Michigan Street
South Bend, Indiana 46601
574-233-1841
tlang@gowightman.com



DATE: March 22, 2023

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

FROM: Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, Indiana 46601
(574) 360-9804
sruby@abonmarhce.com

Deborah S. Block, MMC, MMC

MAR 23 2023

**City Clerk
Mishawaka, IN**

Pls 23-07

Received

MAR 22 2023

**Planning and
Community Development**

RE: Petition for Annexation & Re-Zoning Classification – 2014 E. McKinley Ave. Mishawaka, IN

The undersigned **Nate Zolman, Zolman Tire, Inc.** respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

PROVIDED LEGAL DESCRIPTION: (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

(See Attached Legal)

Petitioners own one hundred (100%) percent of the above-described parcel of land which is located in the State of Indiana. The petitioners desire to have Parcel 71-09-02-477-008.000-031 Annexed into the City of Mishawaka as well have this parcel Rezoned to the I-1 Light Industrial zoning designation as a part of the annexation process.

The petition also desires to have the south parcel 71-09-02-477-009.000-022 rezoned respectively from the current R-1 Single Family Residential District to the I-1 Light Industrial Zoning district as currently defined for the existing Zolman Tire, Inc. Facility located at 2014 E. McKinley Avenue, Mishawaka, Indiana.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing an approximate size of the future building and the location of the proposed parking and drainage for the site.

Petitioners further show this proposed annexation and re-zoning to be in the best interest of the St. Joseph County and for the City of Mishawaka, Indiana.

Wherefore, Petitioners respectfully request that the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted for the annexation and rezoning the above-described parcels of real estate to the City of Mishawaka with a I-1 Light Industrial rezoning.



Nate Zolman

Zolman Tire, Inc. (Parcel: 71-09-02-477-008.000-031, 71-09-02-477-009.000-022)

Printed

Date:



EXHIBIT A

ST. JOSEPH COUNTY ANNEXATION AND REZONE DESCRIPTION

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING PART OF A TRACT OF LAND CONVEYED TO ZOLMAN TIRE, INC. AS DESCRIBED IN INSTRUMENT NUMBER 1432198, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS IN THIS DESCRIPTION ARE BASED ON INDIANA STATE PLANE COORDINATES-EAST ZONE, GPS DERIVED)

COMMENCING AT A 1" PIN IN CONCRETE MARKING THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 59' 57" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 1,993.97 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO STATE OF INDIANA AS DESCRIBED IN INSTRUMENT NUMBER 0527134, ST. JOSEPH COUNTY RECORDER; THENCE CONTINUING NORTH 89° 59' 57" WEST, ALONG SAID SOUTH LINE, 285.94 FEET TO THE SOUTHWEST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 00° 14' 51" WEST, ALONG THE WEST LINE OF SAID STATE OF INDIANA LAND, 49.21 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE SOUTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND; THENCE CONTINUING NORTH 00° 14' 51" WEST, ALONG THE EAST LINE OF A TRACT OF LAND CONVEYED TO BEPA, LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1808927, ST JOSEPH COUNTY RECORDER, 100.79 FEET TO A NORTHERLY LINE OF THE CITY OF MISHAWAKA BOUNDARY AS DESCRIBED IN CITY OF MISHAWAKA ORDINANCE NUMBER 1342, CAUSE NUMBER 9715286, DATED SEPTEMBER 27, 1965, AND BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00° 14' 51" WEST, ALONG THE EAST LINE OF SAID BEPA, LLC LAND, AND SAID LINE EXTENDED, 277.30 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE NORTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND; THENCE SOUTH 89° 59' 57" EAST, ALONG THE NORTH LINE OF SAID ZOLMAN TIRE, INC. LAND, 285.94 FEET TO A 3/4 INCH IRON PIPE MARKING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO MICHIANA MANAGEMENT LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1800769, PARCEL III; THENCE SOUTH 00° 14' 51" EAST, ALONG THE WEST LINE OF SAID MICHIANA MANAGEMENT LLC LAND, 277.30 FEET TO THE NORTHERLY LINE OF SAID CITY OF MISHAWAKA BOUNDARY; THENCE NORTH 89° 59' 57" WEST, ALONG SAID NORTHERLY LINE, 285.94 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.82 ACRES, MORE OR LESS, AND SUBJECT TO ALL COVENANTS, RIGHTS OF WAY, AND EASEMENTS OF RECORD. (DESCRIPTION PREPARED BY HANS P. MUSSER, INDIANA PROFESSIONAL SURVEYOR NO. LS29700002 BASED UPON AN ALTA SURVEY CERTIFIED MARCH 15, 2023; ABONMARCHE PROJECT NUMBER 23-0101).



HANS P. MUSSER, PS

03/15/2023

DATE

JOB NO.: 23-0101



O:\PROJECTS\2023\23-0101 ZOLMAN TIRE PARKING\WORKING-
DESIGN\SURVEY\LEGALS AND REPORTS\23-0101 ST. JOE CNTY ANNEX & REZONE
DESCRIPTION.DOCX

EXHIBIT A

CITY OF MISHAWAKA RE-ZONE DESCRIPTION

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING PART OF A TRACT OF LAND CONVEYED TO ZOLMAN TIRE, INC. AS DESCRIBED IN INSTRUMENT NUMBER 1432198, ST. JOSEPH COUNTY RECORDER, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(BEARINGS IN THIS DESCRIPTION ARE BASED ON INDIANA STATE PLANE COORDINATES-EAST ZONE, GPS DERIVED)

COMMENCING AT A 1" PIN IN CONCRETE MARKING THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 89° 59' 57" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, 1,993.97 FEET TO THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED TO STATE OF INDIANA AS DESCRIBED IN INSTRUMENT NUMBER 0527134, ST. JOSEPH COUNTY RECORDER; THENCE CONTINUING NORTH 89° 59' 57" WEST, ALONG SAID SOUTH LINE, 285.94 FEET TO THE SOUTHWEST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 00° 14' 51" WEST, ALONG THE WEST LINE OF SAID STATE OF INDIANA LAND, 49.21 FEET TO A 5/8" REBAR WITH CAP ("ABONMARCHE FIRM 0050") MARKING THE SOUTHWEST CORNER OF SAID ZOLMAN TIRE, INC. LAND AND BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00° 14' 51" WEST, ALONG THE EAST LINE OF A TRACT OF LAND CONVEYED TO BEPA, LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1808927, ST. JOSEPH COUNTY RECORDER, 100.79 FEET TO A NORTHERLY LINE OF THE CITY OF MISHAWAKA BOUNDARY AS DESCRIBED IN CITY OF MISHAWAKA ORDINANCE NUMBER 1342, CAUSE NUMBER 9715286, DATED SEPTEMBER 27, 1965; THENCE SOUTH 89° 59' 57" EAST, ALONG SAID NORTHERLY LINE, 285.94 FEET TO THE WEST LINE OF A TRACT OF LAND CONVEYED TO MICHIANA MANAGEMENT LLC, AS DESCRIBED IN INSTRUMENT NUMBER 1800769, PARCEL III, ST. JOSEPH COUNTY RECORDER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE WEST LINE OF SAID MICHIANA MANAGEMENT LLC LAND, 94.233 FEET TO A CAPPED IRON ("LANG FEENEY AND ASSOCIATES") MARKING THE NORTHEAST CORNER OF SAID STATE OF INDIANA LAND; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 21.54 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE SOUTH 00° 14' 51" EAST, ALONG THE NORTHERLY LINE OF SAID STATE OF INDIANA LAND, 6.56 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 89° 59' 57" WEST, ALONG THE NORTH LINE OF SAID STATE OF INDIANA LAND, 264.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.65 ACRES, MORE OR LESS, AND SUBJECT TO ALL COVENANTS, RIGHTS OF WAY, AND EASEMENTS OF RECORD. (DESCRIPTION PREPARED BY HANS P. MUSSER, INDIANA PROFESSIONAL SURVEYOR NO. LS29700002 AND BASED UPON AN ALTA SURVEY CERTIFIED MARCH 15, 2023; ABONMARCHE PROJECT NUMBER 23-0101).



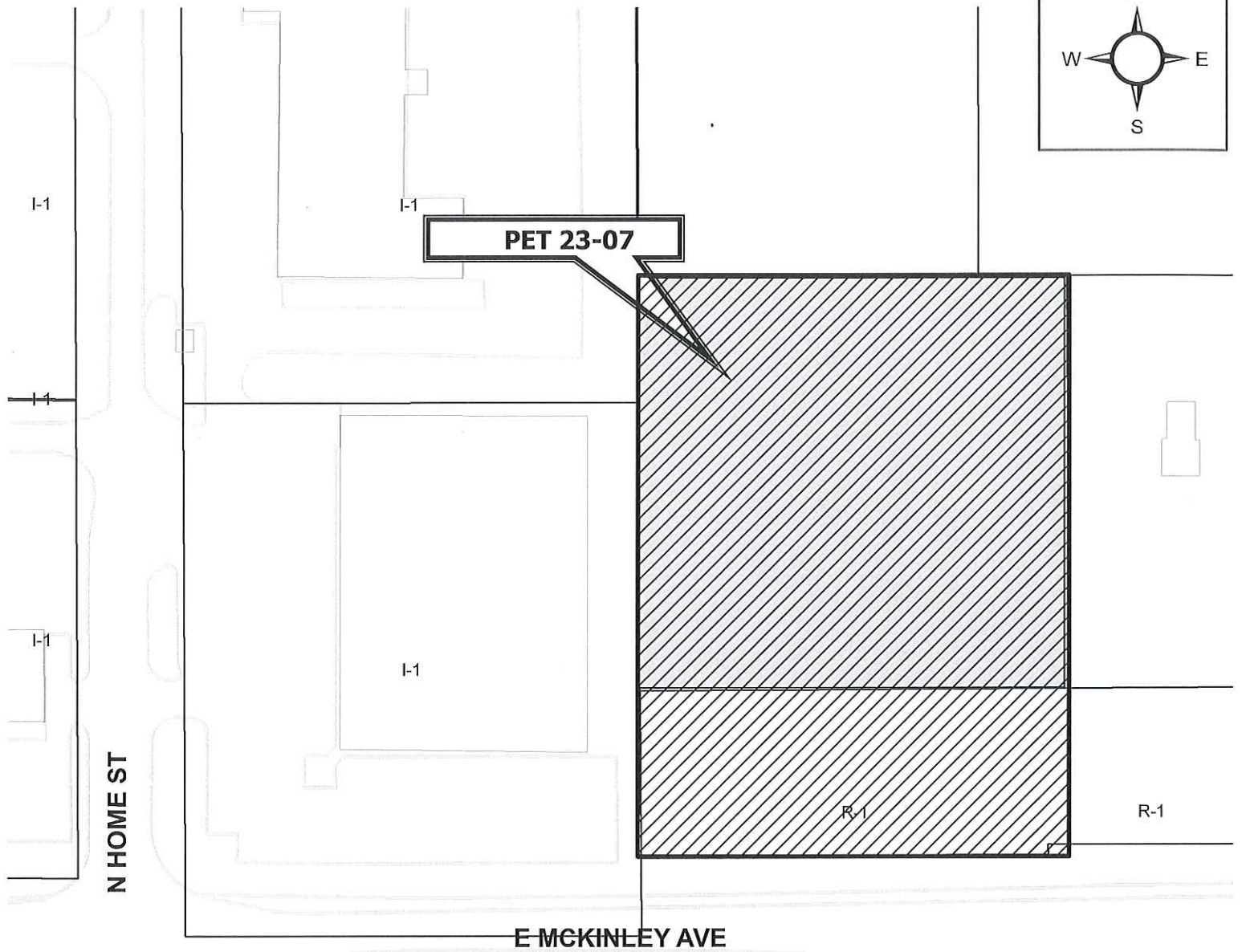
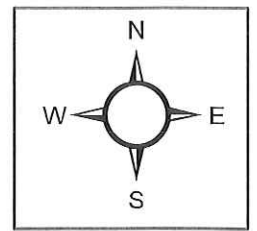
HANS P. MUSSER, PS

03/15/2023

DATE

JOB NO.: 23-0101





Location Map

PET 23-07

OWNER:

NATE ZOLMAN/ZOLMAN TIRE, INC

LOCATION:

PROPERTY EAST OF 2014 E MCKINLEY

ANNEX SHADED PORTION INTO THE CITY
REZONE HATCHED PORTION TO
I-1 LIGHT INDUSTRIAL DISTRICT

Deborah S. Block, IAMC, MMC

DATE:

MAR 23 2023

City Clerk
Mishawaka, IN

PET 23-08
Received

MAR 22 2023
Planning and
Community Development

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

RE: PETITION TO REZONE

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

*Lot 12 St. Joseph Park
Commonly known as 2009 W Sixth Street*

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. Said property is *a single family home, built in 1928.*

Petitioner(s) desire said real estate to be rezoned to R-1 Single Family District. Petitioner(s) further state that they intend to utilize said land for single family home being refinanced.

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

Signature(s) of Property Owner(s):

Jessica Bucher
Jessica Bucher

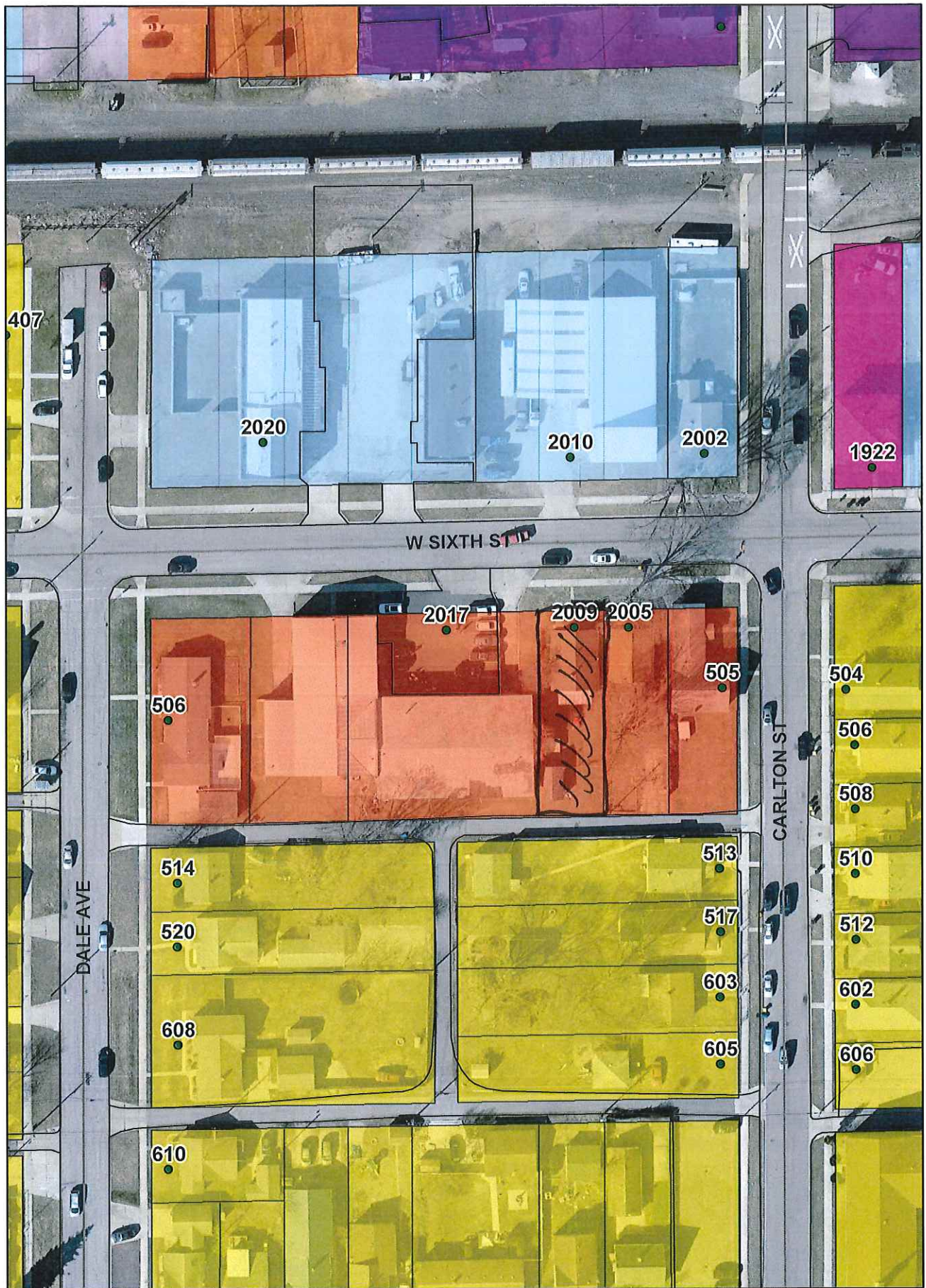
CONTACT PERSON:

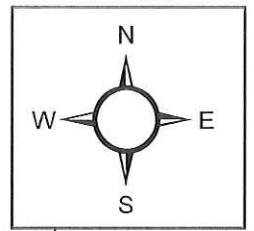
NAME: JESSICA BUCHER

ADDRESS: 2009 W SIXTH ST., MISHAWAKA, IN 46544

PHONE NUMBER: *574-347-0907*

EMAIL: *JTB.72.Bucher@gmail.com*





I-1

I-1

I-1

I-1

I-1

I-1

I-1

I-1

I-1

R-3

W SIXTH ST

PET 23-08

C-1

C-1

C-1

C-1

C-1

C-1

CARLTON ST

R-1

R-1

R-1

R-1

R-1

R-1

R-1

Location Map

PET 23-08

JESSICA BUCHER

2009 W SIXTH STREET

REZONE FROM
C-1 GENERAL COMMERCIAL TO
R-1 SINGLE FAMILY RESIDENTIAL

R-1

R-1

R-1

R-1

APR 11 2023

RESOLUTION NO. 2023-06

City Clerk
Mishawaka, IN

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY
OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH
STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS**

WHEREAS, property owners who have applied for and been granted a tax abatement for either real or personal property on and after July 1, 1991, must file a report with the Mishawaka Common Council and the County Auditor reporting the extent to which there has been compliance with the goals set forth in the Statement of Benefits filed at the time of the action granting the aforesaid abatement, and

WHEREAS, six (6) recipients of the nine (9) active tax abatements that require reporting have been found to be subject to this requirement, and each have submitted the proper reports, which have been reviewed and found to be in order.

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

1. That the "Compliance with Statement of Benefits" reports submitted by the following companies are found to be in order:
 - **Wellness Pet formerly WellPet, LLC (High Speed Packaging Line 2015)**
 - **Lippert Components Manufacturing Inc. (Building Expansion & New Racking/Logistics Distribution Equipment)**
 - **Wellness Pet formerly WellPet, LLC (Building Expansion 2021)**
 - **Wellness Pet formerly WellPet, LLC (New Production Line including dryers, odor control equipment, and conveyance systems 2021)**
 - **Barak Group LLC (Steelhead Apartments – Former Mishawaka Inn)**
 - **Front Street LLC (The Avalon – Mixed Use Building)**
 - **Helios Hydraulics Americas LLC (Building Expansion)**
 - **Helios Hydraulics Americas LLC (New Manufacturing Equipment)**
2. That the aforesaid property owners are hereby found to be in substantial compliance, and
3. That the President of the Mishawaka Common Council is hereby authorized to approve the aforementioned reports.

ADOPTED by the Common Council of the City of Mishawaka, St. Joseph County, Indiana, on this _____ day of _____, 2023.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of _____, 2023.

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me on this _____ day of _____, 2023 at _____ o'clock, _____.m.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

April 17, 2023

Deborah S. Block, IAC, MMC

Mr. Woody Emmons, 1st District City Council
Mr. Mike Belovich, 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
Mrs. Maggie DeMaegd, At-Large City Council
Mrs. Deborah Block, City Clerk

APR 11 2023

City Clerk
Mishawaka, IN

**RE: Resolution 2023-06
2023 Tax Abatement Compliance Reports**

Dear Council Members and Clerk:

Property owners who have applied for and been granted a tax abatement for either real or personal property on or after July 1, 1991, must file a report with the Mishawaka Common Council and the St. Joseph County Auditor's Office reporting the extent of compliance with the goals set forth in the Statement of Benefits filed when granting the aforesaid abatement. The Department of Local Government Finance requires one compliance form per project, thus where applicable, there are separate compliance forms for Real Estate (CF-1/Real Property) and Personal Property (CF-1/PP).

There are currently six projects with nine active tax abatements in the City of Mishawaka of which all eight require reporting for calendar year 2023. All property owners/companies have responded to our request to complete the Compliance with Statement of Benefits form. CF-1 forms/responses have been attached to this letter for your use and reference for the active tax abatement recipients that require reporting.

In summary, all six of the projects with eight active abatements which require reporting are in compliance and have exceeded, nearly met, or are working toward expectations.

Since the prior reporting period for calendar year 2022, three of the previously approved tax abatements have expired, and therefore, no longer require annual compliance reports. The expired abatements include a real property abatement for the completed River Rock Apartments granted to Barak River Rock LLC, a real property abatement for a proposed multi-family residential apartment project to be located north of the river walk and east of N. Main Street granted to River Walk Development Group LLC (construction never began), and a personal property abatement for manufacturing equipment granted to Jamil Packaging Corporation.

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

As you are aware, the CF-1 Compliance Forms for Real Estate and Personal Property are due to the County Auditor's Office by May 15th of each year. A copy of the history of the City's tax abatements from 1986 to present has been attached for your use. This summary identifies the current and recently closed abatements and is a beneficial reference tool.

Staff has reviewed the information submitted by all companies. The abatements are listed by the age/date of approval of the abatement oldest to newest.

- **WellPet LLC (High Speed Packaging Line 2015)** – The CF-1 attached is for the abatement approved in 2015 for equipment associated with a high speed packaging line at WellPet's facility at 1121 W. 11th Street. WellPet, now known as Wellness Pet, is a manufacturer of pet food. Installation of the new equipment included within this abatement request began in 2016 and is in operation. This abatement was limited to 5 years for personal property. According to the County Assessor, annual reporting is required through year 2023. The net values upon completion of the project were estimated at \$17,370,388 on the SB-1 when the abatement was filed. The actual net values upon completion of the project is \$25,613,556, exceeding the estimated values by \$8,243,168. The total employment at the facility has increased beyond what was projected on the SB-1. When the abatement was filed, the total existing employment was listed at 115 with an additional 4 jobs to be added. The total employment reported was 121. Total payroll was listed at \$7,032,945, which is 80% higher than the \$3,898,000 listed on the SB-1. Given that the investment, employment, and payroll is higher than the projected amounts, this abatement should be considered in substantial compliance.
- **Lippert Components (Building Expansion & New Racking/Logistics Equipment)** – The attached correspondence, which provides an update on the project, and CF-1s are for both real and personal property abatements approved in 2017 for the renovation and improvements of the former AM General Warehousing facility located at 400 S. Byrkit Avenue. Lippert Components occupies the building as a distribution facility, a service center for recreational vehicles, and a call center. The proposed real estate improvements included in this abatement request, originally estimated as a \$7.4 million investment, have been completed. These improvements included renovation of the existing building, a 48,000 sq. ft. building addition (less than the anticipated 79,200 sq. ft. addition as identified in the abatement request), and other site improvements such as access drives, drainage, and additional employee and semi-truck parking areas. Actual real estate investment per the CF-1 is \$13,324,225. The amount of the deduction applicable to real estate improvements is limited to \$7,400,000 per the approved SB-1. The personal property improvements included in this abatement request, originally estimated as a \$1.625 million investment, have been purchased. The personal property investment includes new racking and general logistics distribution equipment, and new furniture and fixtures. Actual personal property investment per the CF-1 is \$9,795,957. The amount of the deduction applicable to personal property improvements is limited to \$1.8 million per the approved SB-1. *In addition to limiting the amount of deductions, the approved abatement request designated the area as an Economic Revitalization Area through July 5, 2018. Therefore, only the additional real and personal property investment completed by this date is applicable.* Since the abatement was approved for 10 years for both the real and personal property, annual reporting will be required through 2028. When the abatement was filed, the total existing employment was listed at 247 with an additional 200 jobs to be added. At present, there are 406 employees, which is a substantial increase from 21 employees in 2017, and a 14 employee increase from the 392 employees reported last year. The company continues to explore opportunities to expand their headcount at this facility, including but not limited to, expanding their 2nd shift operations and increasing the number of call center employees. Total payroll was listed at \$21,944,469 which is more than the \$10,354,808 listed on the SB-1 and an increase from \$20,583,576 reported last year. Given that the total investment and payroll exceeds the projected amounts with employment levels increasing annually and anticipated to increase this year, this abatement should be considered in substantial compliance.

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- WellPet LLC (Building Expansion & Equipment for New Production Line 2021)** – The attached correspondence which provides an update on the project, and CF-1s are for both real and personal property abatements approved in 2021 for a new dryer building and manufacturing equipment at WellPet's facility at 1121 W. 11th Street. Construction on the proposed real estate improvements included in this abatement request, which are estimated at \$14.7 million began in September 2021. The proposed improvements were to include an 8,100 sq. ft. new dryer building, receiving building improvements, a new electrical system, a meat room expansion, and warehouse modifications. After the preliminary engineering and design were completed, a decision was made to put a majority of the building construction on hold. To date, actual real estate investment is listed at \$410,425 on the CF-1 which includes two small building additions to house odor abatement equipment and a meat room expansion. A majority of the personal property improvements included in this abatement request, originally estimated at \$27.9 million, are also on hold with the exception of the new odor mitigation system, coatiers, conveyance systems, and plant-in bins. *The odor mitigation system and other improvements listed above were purchased, installed, and became operational in mid-March 2023.* A complete list of itemized costs are included follow the attached CF-1. Actual personal property investment to date, per the attached correspondence and CF-1, is \$5,670,798. The approved abatement request designated the area as an Economic Revitalization Area for a three year period. Therefore, additional real and personal property investment completed prior to April 2024 will be covered under the approved abatements. Since the abatements were approved for 5 years for both real and personal property, annual reporting will likely be required through 2029 if additional improvements are completed through 2024. When the abatement was filed, the total existing employment was listed at 125 with an additional 5 jobs to be added. The current employment level was listed at 121 which is a slight decrease from the 125 positions when the abatement was filed and less than the total 130 positions as projected. Per the company's website, there are currently 19 open positions that the company is actively recruiting. If all positions are filled, full employment will be 140 positions which is higher than the 130 positions per the SB-1. Although the current employment level has slightly declined, total payroll has increased to \$7,032,945, which is 15% higher than the \$6,131,000 listed on the SB-1. Although additional investment is currently on hold, excluding the recent installation of the odor abatement equipment and sifting machines, and with an anticipated increase in employment, this abatement should be considered in substantial compliance.
- Barak Group LLC (Steelhead Apartments – Former Mishawaka Inn)** – The attached CF-1 is for the abatement approved in September 2022 for the proposed renovation and conversion of the former Mishawaka Inn into a 47-60 unit multi-family residential apartment building. A second phase is anticipated to include a new building with an additional 46-50 units. As indicated in the attached correspondence, the owner began interior demolition in December 2022 with the project put on hold by the end of January due to unanticipated significant cost overruns that may not allow the project to be profitable with the proposed 47 units. At this time, the developer is looking at several alternatives to allow for the successful redevelopment of the property. Given that the project did commence and is anticipated to continue after reevaluation, the completion of improvements, employment and salary cannot be evaluated at this time. Since the improvements started for the project as envisioned on the SB-1, this abatement should currently be considered in substantial compliance for this year. The project will be re-evaluated next year.
- Front Street LLC (The Avalon - Mixed Use Building)** – The CF-1 attached is for the abatement approved in October 2022 for a new mixed use building, including apartments and first floor retail space, in the downtown block bound by W. Front Street, N. Hill Street, W. First Street, and N. Spring Street. Construction began in November 2022 and is currently on-going. As indicated on the CF-1, the project is anticipated to be complete by November 2023. Given the on-going construction, the completion of improvements, employment and salary cannot be evaluated at this time. Since the improvements have been started for the project as envisioned on the SB-1, this abatement should be

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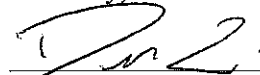
considered in substantial compliance noting that a more detailed analysis will occur in future years following completion and occupancy of the building.

- **Helios Hydraulics Americas LLC (Building Expansion & New Manufacturing Equipment)** – The attached correspondence, which provides an update on the project, and CF-1s are for both real and personal property abatements approved in October 2022 for a building expansion and installation of new manufacturing equipment at Helios Hydraulics. Last year, Helios Technologies acquired Daman Products, a manufacturer of hydraulic manifolds, located at 1811 N. Home Street. The real property improvements include an estimated \$4.8 million building addition, expanded parking areas, new access drives and loading/unloading areas, and expanded and new stormwater retention basins. Construction began in December last year and is currently on-going. As indicated on the CF-1, the project is anticipated to be complete by the end of 2026. Actual real estate investment by the end of last year was \$100,600 with construction-in-progress totals equaling \$1,924,000 by February 28, 2023. The personal property improvements include an estimated \$11.5 million for new manufacturing equipment and a very limited investment in IT equipment. Actual personal property investment by the end of last year was \$504,036 with construction-in-progress totals equaling \$927,000 by February 28, 2023. When the abatement was filed in mid-October last year, the total existing employment was listed at 139 with an additional 73 jobs to be added over the life of the project. By the end of last year, the company had already hired an additional 21 employees. Additional employees are anticipated once the expanded and new product lines are operational. Given the on-going construction, the completion of real and property improvements, employment and salary cannot be fully evaluated at this time. Since the improvements have been started for the project as envisioned on the SB-1, this abatement should be considered in substantial compliance noting that a more detailed analysis will occur in future years.

This compliance review is required to be received by the Auditor no later than May 15th. If additional information is desired, or if the Council would like to review any individual abatement by committee, please contact our office at your earliest convenience so that we can arrange for the necessary participants to attend.

Thank you. Please contact me if you have any questions.

Sincerely,



Derek J. Spier, AICP
City Planner

cc: Kenneth B. Prince, ASLA, AICP, Executive Director of Planning & Community Development
David A. Wood, Mayor

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HISTORY OF ALL TAX ABATEMENTS 1986-CURRENT

Name	Common Council Approval Date	No. of Years Real Estate	No. of Years Machinery	No. of Retained Jobs (Proposed)	No. of New Jobs (Proposed)	No. of Retained Jobs (Actual)	No. of New Jobs (Actual)	Date of Latest CF-1 Found	Capital Investment**	Abated Through CF-1s***	Pay	Abatement Complete
1 Patrick Industries	October 20, 1986	10 Years	0	0	52			(-)	\$ 8,627,846.00	1987	1988	YES
2 Former Baby Place	June 7, 1988	6 Years	0	0	38.5			(-)	\$ 2,000,000.00	1986	1986	YES
3 Wheelabrator Area	December 19, 1988	10 Years	0	338	246			(-)	\$ 2,500,000.00	1989	2000	YES
4 National Standard	February 21, 1989	6 Years	5 Years	75	180			(-)	\$ 10,000,000.00	1986	1986	YES
5 Thermoplastics Phase I	November 20, 1989	6 Years	5 Years	151	13			(-)	\$ 2,500,000.00	1996	1996	YES
6 Thermoplastics Phase II	November 20, 1989	3 Years	5 Years	155	20			(-)	\$ 3,200,000.00	1993	1994	YES
7 Contech Division I	July 2, 1990	6 Years	0	75	14			(-)	\$ 10,982,433.00	1996	1997	YES
8 Hilti Steel	September 13, 1990	0	5 Years	n/a	10			(-)	\$ 578,000.00	1996	1997	YES
9 Pent Products Inc.	September 24, 1990	3	0	76	10			(-)	\$ 475,000.00	1994	1996	YES
10 Dodge Reliance Electrical I	January 7, 1991	0	5 Years	10	15			(-)	\$ 1,050,000.00	1996	1997	YES
11 Janco Products, Inc.	May 6, 1991	0	5 Years	10	20			(-)	\$ 220,000.00	1996	1997	YES
12 Thermoplastics Phase III	November 4, 1991	0	5 Years	180	18	150	51	Feb-93	\$ 2,250,000.00	1996	1997	YES
13 National Steel Corporation	December 16, 1991	10 Years	0	250	130	250	32	Mar-01	\$ 10,546,342.00	2002	2003	YES
14 Maron Products, Inc.	February 3, 1992	0	5 Years	38	10	41	11	Feb-95	\$ 617,500.00	1988	1989	YES
15 Dodge Reliance Electrical II	July 6, 1992	0	5 Years	30+	0	30+	0	Mar-96	\$ 3,000,000.00	1986	1989	YES
16 Thermoplastics Phase IV	October 19, 1992	6 Years	5 Years	210	50	210	148	Mar-98	\$ 6,812,932.00	1999	2000	YES
17 Contech Division II	April 19, 1993	10 Years	5 Years	10	15	108	108	Mar-99	\$ 1,205,461.00	1989	2000	YES
18 Dunbar/Standard Corp/Standard Motor Products - Wire and Cable Div.	January 3, 1994	6 Years	5 Years	80	60	42	88	Mar-05	\$ 6,067,453.00	2004	2005	YES
19 United Lingo	September 6, 1994	10 Years	5 Years	77	8	77	8	Jan-01	\$ 1,282,200.00	2001	2002	YES
20 Dearborn Crane	December 6, 1994	10 Years	5 Years	26	4	26	7	May-99	\$ 812,841.00	2005	2006	YES
21 Steel Brass II	December 18, 1995	8 Years	5 Years	73	31	73	13	Mar-06, Apr-01	\$ 11,934,000.00	2006	2007	YES
22 Federal Window (Fedcor)	December 18, 1995	8 Years	5 Years	8	8	26	8	Apr-02, Mar-01	\$ 1,018,181.00	2002	2003	YES
23 Maron Products, Inc. II	December 18, 1995	10 Years	5 Years	6	4	2	3	Apr-01	\$ 250,000.00	2001	2002	YES
24 Quality Products	April 15, 1996	10 Years	5 Years	73	109	73	70	Mar-06	\$ 5,087,402.00	2006	2007	YES
25 Baycoke Metal Finishing	January 6, 1997	6 Years	5 Years	225	20	225	20	Jul-00	\$ 1,800,000.00	2003	2004	YES
26 Kitzman International	January 3, 1997	6 Years	5 Years	60	40	341	58	Feb-02	\$ 1,590,000.00	2001	2002	YES
27 Towner	May 19, 1997	6 Years	5 Years	378	40	378	0	(-)	\$ 1,100,000.00	2004	2005	YES
28 Nyoncraft Incorporated	October 20, 1997	6 Years	5 Years	139	18	62	40	(-)	\$ 3,800,000.00	2004	2005	YES
29 Distance Corporation	October 20, 1997	6 Years	5 Years	82	15	82	19	Mar-05	\$ 1,842,533.00	2004	2005	YES
30 Davidland Marine, Inc./Power Gear/Engineered Solutions	December 1, 1997	8 Years	5 Years	299	70	299	19	Mar-00	\$ 3,181,910.00	2003	2004	YES
31 Thermoplastics Phase V	December 1, 1999	5 Years	5 Years	325	50	230	5	Feb-01	\$ 2,000,000.00	2006	2007	YES
32 Ashbison Dodge	March 6, 2000	3 Years	5 Years	15	20	15	5	Feb-01	\$ 375,000.00	2004	2005	YES
33 Samson Fiberglass	March 6, 2000	5 Years	5 Years	325	50	202	0	Feb-06	\$ 2,000,000.00	2006	2007	YES
34 RIG Foundry LLC	November 19, 2001	10 Years	5 Years	285	15	234	0	Apr-11	\$ 2,650,000.00	2011	2012	YES
35 WF Associates (AIG Bryk Facility)	March 20, 2003	5 Years	5 Years	369	16	320	9	May-08	\$ 1,168,054.00	2009	2010	YES
36 Nyoncraft Incorporated	November 6, 2003	3 Years	3 Years	405	13	329	27	May-08	\$ 2,730,304.00	2009	2010	YES
37 Nyoncraft Incorporated	August 18, 2004	5 Years	3 Years	31	4	31	16	May-09	\$ 1,480,290.00	2007	2008	YES
38 Plastimatics Arts Corporation	September 8, 2005	5 Years	3 Years	14	49	27	34	May-09	\$ 6,000,000.00	2010	2011	YES
39 Ironwood Enterprises, LLC	October 17, 2005	3 Years	3 Years	95	6	82	23	Feb-07	\$ 1,138,980.00	2007	2008	YES
40 Dunham Products Company	December 15, 2005	3 Years	3 Years	12	25	12	2	May-09	\$ 1,200,000.00	2009	2010	YES
41 Culture Systems, Inc.	June 19, 2006	5 Years	5 Years	172	5	51	5	Apr-10	\$ 4,600,000.00	2010	2012	YES
42 Patrick Industries (Matis Div)	August 21, 2006	5 Years	3 Years	51	5	51	5	May-10	\$ 1,250,000.00	2010	2011	YES
43 Jamil Packaging Corporation	December 6, 2007	10 Years	5 Years	340	50	291	12	Apr-13	\$ 2,185,000.00	2012	2013	YES
44 Nyoncraft Incorporated	February 4, 2008	3 Years	3 Years	64	5	370	403	Feb-21	\$ 44,000,000.00	2020	2021	YES
45 BD Maritaka Development LLC	May 1, 2008	3 Years	3 Years	0	120	82	11	Apr-12	\$ 1,650,000.00	2011	2012	YES
46 Jamil Packaging Corporation	June 1, 2009	3 Years	3 Years	73	10	73	29	Apr-12	\$ 18,000,000.00	2012	2013	YES
47 Long Term Care Investments, LLC (Douglas)	May 19, 2011	3 Years	3 Years	0	6	0	29	Apr-15	\$ 900,000.00	2014	2015	YES
48 Jamil Packaging Corporation	March 5, 2012	4 Years	3 Years	0	10	0	20	Mar-19	\$ 1,577,000.00	2018	2019	YES
49 North American Composites (NAC)	October 7, 2013	5 Years	5 Years	0	61	0	72	Feb-21	\$ 14,850,000.00	2020	2021	YES
50 Long Term Care Investments, LLC (Ftr)	November 8, 2013	5 Years	5 Years	0	5 to 6	0	14	Feb-21	\$ 14,595,000.00	2021	2022	YES
51 Bank River Rock LLC	May 19, 2014	3 Years	5 Years	24	3	24	33	Mar-20	\$ 1,470,500.00	2019	2020	YES
52 Walpert LLC	April 20, 2015	5 Years	5 Years	115	4	115	5	Mar-22	\$ 1,800,000.00	2023	2024	NO
53 Dearborn Crane	September 24, 2015	5 Years	5 Years	28 to 40	202	TBD	TBD	Apr-16	\$ 459,000.00	2020	2024	NO
54 Walpert LLC	October 24, 2015	40 Years	3 Years	424	84	178	178	Mar-18	\$ 12,600,000.00	2026	2026	NO
55 Bank Group LLC (Sheehin Road Condominiums)	October 24, 2015	5 Years	5 Years	28 to 40	202	TBD	TBD	Apr-16	\$ 10,000,000.00	2020	2024	NO
56 Bank Group LLC (Sheehin Road Condominiums)	February 16, 2016	3 Years	3 Years	0	2	0	2	Feb-20	\$ 12,600,000.00	2020	2021	YES
57 Patrick Industries	June 5, 2017	5 Years	10 Years	0	2	0	2	Mar-22	\$ 13,600,000.00	2026	2027	NO
58 Riverbank Development Group LLC (Malt Family Residential)	July 24, 2017	10 Years	247 (Relocated)	200	247	146	146	Mar-22	\$ 28,132,182.00	2026	2027	NO
59 Libpert Components	July 24, 2017	3 Years	3 Years	112	8	112	28	Mar-20	\$ 376,000.00	2020	2021	YES
60 Jamil Packaging Corporation	February 18, 2019	5 Years	5 Years	139	12	112	0	Mar-22	\$ 1,058,000.00	2022	2023	YES
61 Walpert LLC	April 13, 2021	5 Years	5 Years	128	5	120	0	Apr-22	\$ 4,952,985.00	2027	2028	NO
62 Jamil Packaging Corporation	September 19, 2022	5 Years	5 Years	0	2	TBD	TBD		\$ 7,800,000.00	2030	2030	NO
63 Bank Group LLC (Mixed Use Building)	October 17, 2022	5 Years	5 Years	0	3	TBD	TBD		\$ 25,000,000.00	2030	2031	NO
64 Bank Group LLC (Mixed Use Building)	October 17, 2022	5 Years	5 Years	139	73	TBD	TBD		\$ 16,300,000.00	2031	2032	NO
65 Helios Hydraulics Americas LLC (formerly Damon Products)	October 17, 2022	5 Years	5 Years	139	73	TBD	TBD					

The tax abatement information above is active regarding the completion of annual compliance forms (CF-1s).
 The capital investment may be the proposed or actual level of investment based on the current project status.
 The abated through date was determined by the St. Joseph County Auditor's Office on March 30, 2023, and revised on March 16, 2021.
 According to the applicants, #38 and #50 have expired so the CF-1s were not collected for 2020 abatement compliance reporting year.



COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R7 / 12-22)

Prescribed by the Department of Local Government Finance

PRIVACY NOTICE

This form contains confidential
information pursuant to
IC 6-1.1-35-9 and IC 6-1.1-12.1-5.6.

FORM CF-1 / PP

2023 PAY 2024

- INSTRUCTIONS:**
1. Property owners whose Statement of Benefits was approved must file this form with the local Designating Body to show the extent to which there has been compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
 2. This form must be filed with the Form 103-ERA Schedule of Deduction from Assessed Value between January 1 and May 15, unless a filing extension under IC 6-1.1-3.7 has been granted. A person who obtains a filing extension must file between January 1 and the extended due date of each year.
 3. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (CF-1).

SECTION 1 TAXPAYER INFORMATION		
Name of taxpayer WELLNESS PET		County ST. JOSEPH
Address of Taxpayer (street and number, city, state and ZIP code) 1011 WEST 11TH ST MISHAWAKA IN 46544		DLGF Taxing District Number 71-023
Name of Contact Person KATHRYN RODELA	Telephone Number 574-259-7834	Email Address krodela@wellnesspet.com

SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY		
Name of Designating Body MISHAWAKA COMMON COUNCIL	Resolution Number R2015-14	Estimated Start Date (month, day, year) 07/01/2015
Location of Property 1121 WEST 11TH STREET MISHAWAKA IN 46544		Actual Start Date (month, day, year) / /
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired. SEE ATTACHED "High Speed Packaging Line Overview 2015"		Estimated Completion Date (month, day, year) 11/01/2015
		Actual Completion Date (month, day, year) / /

SECTION 3 EMPLOYEES AND SALARIES		
EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current Number of Employees	115	121
Salaries	3,898,000	5,543,977
Number of Employees Retained	115	121
Salaries	3,898,000	2,898,000
Number of Additional Employees	4	
Salaries	200,000	1,645,977

SECTION 4 COST AND VALUES								
	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	15,570,388							
Plus: Values of Proposed Project	1,800,000							
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	17,370,388							
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	23,812,485	7,141,570						
Plus: Values of Proposed Project	1,801,071	540,321						
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	25,613,556	7,681,891						

NOTE: The COST of the property is confidential pursuant to IC 6-1.1-12.1-5.6 (c).

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER		
WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of Solid Waste Converted		
Amount of Hazardous Waste Converted		
Other Benefits:		

SECTION 6 TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.		
Signature of Authorized Representative <i>Terry Petersen</i>	Title Controller	Date Signed (month, day, year) 3/3/23

Prepared by: BADEN TAX MANAGEMENT • 6920 POINTE INVERNESS WAY, SUITE 301, FORT WAYNE, IN 46804 • 260-969-2584

INSTRUCTIONS: (IC 6-1.1-12-5.9)

1. Within forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits.
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. If a notice is mailed to a property owner, a copy of the written notice will be sent to the county assessor and the county auditor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable effort to substantially comply with the Statement of Benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable effort to comply, then the designating body shall adopt a resolution terminating the deduction. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:			
☐	The property owner IS in substantial compliance		
☐	The property owner IS NOT in substantial compliance		
☐	Other (specify) _____		
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By:		Designating Body	
If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance.			
Time of Hearing	☐ AM ☐ PM	Date of Hearing (month, day, year)	Location of Hearing
HEARING RESULTS (to be completed after the hearing)			
☐ Approved ☐ Denied (see instruction 5 above)			
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By:		Designating Body	
APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]			
A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the clerk of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.			

**STATEMENT OF BENEFITS
PERSONAL PROPERTY**

State Form 51784 (R3 / 12-13)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP**PRIVACY NOTICE**

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

INSTRUCTIONS

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

SECTION 1 TAXPAYER INFORMATION									
Name of taxpayer WellPet LLC					Name of contact person Michelle Tatgenhorst				
Address of taxpayer (number and street, city, state, and ZIP code) 1011 West 11th Street							Telephone number (574) 259-7834		
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT									
Name of designating body Mishawaka Common Council					Resolution number (s)				
Location of property 1121 West 11th Street, Mishawaka, IN 46544				County St. Joseph		DLGF taxing district number 71-023			
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary.) SEE ATTACHED "High Speed Packaging Line Overview 2015"					ESTIMATED				
							START DATE	COMPLETION DATE	
					Manufacturing Equipment		07/01/2015	11/01/2015	
					R & D Equipment				
					Logist Dist Equipment				
IT Equipment									
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT									
Current number 115	Salaries \$3,898,000	Number retained 115	Salaries \$3,898,000	Number additional 4	Salaries \$200,000				
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT									
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.		MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
		COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Current values		15,570,388.1							
Plus estimated values of proposed project		1,800,000.00							
Less values of any property being replaced									
Net estimated values upon completion of project		16,705,633.1							
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 <i>Michelle Tatgenhorst</i>					Date signed (month, day, year) 03/17/2015				
Printed name of authorized representative Michelle Tatgenhorst					Title Controller				

FOR USE OF THE DESIGNATING BODY

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

A. The designated area has been limited to a period of time not to exceed (5) five calendar years * (see below). The date this designation expires is 12-31-2019.

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

- | | |
|--|---|
| 1. Installation of new manufacturing equipment; | ☒ Yes ☐ No |
| 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 \$ 1,800,000 cost with an assessed value of \$1,800,000 or is determined by the assessor

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

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

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

G. Other limitations or conditions (specify) None

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

- | | | | | | |
|--|--|--|---------------------------------|----------------------------------|---------------|
| ☒ Year 1 | ☒ Year 2 | ☒ Year 3 | ☐ Year 4 | ☐ Year 5 | (see below *) |
| ☐ Year 6 | ☐ Year 7 | ☐ Year 8 | ☐ Year 9 | ☐ Year 10 | |

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

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

Approved by: (signature and title of authorized member of designating body) <i>Dale "Woody" Emmons</i>	Telephone number (574) 258-1616	Date signed (month, day, year) 04-20-2015
Printed name of authorized member of designating body Dale "Woody" Emmons, President	Name of designating body Mishawaka Common Council	
Attested by: (signature and title of attester) <i>Deborah S. Block</i>	Printed name of attester Deborah S. Block, City Clerk	

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

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



Received

FEB 21 2023

Planning and
Community Development

February 22, 2023

Derek J. Spier, Senior Planner & Economic Development Specialist
City of Mishawaka
100 Lincolnway West
Mishawaka, IN 46544

RE: Tax Abatement Compliance
Lippert Components Manufacturing, Inc.
400 S. Byrkit Avenue, Mishawaka, IN

Dear Mr. Spier:

Enclosed are the completed Real Property and Personal Property CF-1s for compliance with the existing tax abatements with the City of Mishawaka.

Included on the CF-1s, you will see a total headcount of 406 employees earning total salaries of \$21,944,469. Last year we reported 392 total employees earning \$20,583,576. Thus, we have 14 more employees and have increased total wages by \$1.4M compared to last year. We continue to explore opportunities to expand headcount at this facility, including but not limited to expanding our 2nd shift operation and increasing the number of call center employees at this facility.

Lippert's total fixed asset investment at the facility has greatly exceeded the commitments. Through the end of the investment window, we invested \$23,120,182 in real and personal property improvements compared to our commitment of \$9,025,000. We continue to make more investments as needed to grow the facility and make it a great place to work.

While we understand that we are still slightly short on our employment commitments, we have made great strides to attaining this goal and remain fully committed to our investment in Mishawaka and our continued partnership with the city as we continue to grow.

Upon review, please let me know if you would like to discuss any of the information contained within these reports.

Sincerely,

Joseph M Salsbury, CPA
Tax Director

Enclosures

**COMPLIANCE WITH STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 51766 (R5 / 12-21)

Prescribed by the Department of Local Government Finance

20 23 PAY 20 24

FORM CF-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.3 (k) and (l).

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 16, 2022, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.3(j))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

SECTION 1 TAXPAYER INFORMATION			
Name of taxpayer Lippert Components Manufacturing, Inc.		County St. Joseph	
Address of taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6E, Elkhart, IN 46514		DLGF taxing district number 023	
Name of contact person Joe Salisbury		Telephone number (574) 312-6360	
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY			
Name of designating body City of Mishawaka		Resolution number 2017-17	Estimated start date (month, day, year) 08/01/2017
Location of property 400 S Byrkit Ave, Mishawaka, IN 46544		Actual start date (month, day, year) 08/01/2017	
Description of real property improvements Remodeling of existing building, adding new addition, adding paved parking lot.		Estimated completion date (month, day, year) 08/01/2019	
		Actual completion date (month, day, year) 08/01/2019	
SECTION 3 EMPLOYEES AND SALARIES			
EMPLOYEES AND SALARIES		AS ESTIMATED ON SB-1	ACTUAL
Current number of employees		247	406
Salaries		10,354,808	21,944,469
Number of employees retained		247	247
Salaries		10,354,808	10,354,808
Number of additional employees		200	159
Salaries		7,800,000	11,589,661
SECTION 4 COST AND VALUES			
COST AND VALUES		REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	
Values before project	1,760,341		
Plus: Values of proposed project	7,400,000		
Less: Values of any property being replaced	0		
Net values upon completion of project	9,160,341		
ACTUAL	COST	ASSESSED VALUE	
Values before project	1,760,341		
Plus: Values of proposed project	13,324,225		
Less: Values of any property being replaced	0		
Net values upon completion of project	15,084,566		
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER			
WASTE CONVERTED AND OTHER BENEFITS		AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted			
Amount of hazardous waste converted			
Other benefits:			
SECTION 6 TAXPAYER CERTIFICATION			
I hereby certify that the representations in this statement are true.			
Signature of authorized representative Joe Salisbury, CPA	Title Tax Director	Date signed (month, day, year) 02/21/2023	

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991**

INSTRUCTIONS: (IC 6-1.1-12.1-5.3 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination, including the date, time, and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property), and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:			
☐ the property owner IS in substantial compliance ☐ the property owner IS NOT in substantial compliance ☐ other (specify) _____			
Reasons for the determination (attach additional sheets if necessary)			
Signature of authorized member			Date signed (month, day, year)
Attested by:		Designating body	
If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)			
Time of hearing	☐ AM ☐ PM	Date of hearing (month, day, year)	Location of hearing
HEARING RESULTS (to be completed after the hearing)			
☐ Approved ☐ Denied (see instruction 4 above)			
Reasons for the determination (attach additional sheets if necessary)			
Signature of authorized member			Date signed (month, day, year)
Attested by:		Designating body	
APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]			
A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.			



STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R8 / 10-14)

Prescribed by the Department of Local Government Finance

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)

20__ PAY 20__
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.

INSTRUCTIONS:

- 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.
- 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.
- 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 March 1 and May 10 of a subsequent year.
- 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)
- 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 Lippert Components Manufacturing, Inc.					
Address of taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6 East, Elkhart, IN 46514					
Name of contact person Tom Bauters		Telephone number (574) 312-6159		E-mail address tbauters@lci1.com	
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT			
Name of designating body City of Mishawaka		Resolution number			
Location of property 400 South Byrkit Avenue, Mishawaka, IN 46544		County St. Joseph		DLGF (existing district number) 023 - Mish	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Remodel existing facility 347,000 sq. ft. \$3,000,000 Construct new 79,200 sq. ft. building addition: \$3,200,000 Asphalt parking lot for 380 parking spaces and 40 semi truck spaces: \$1,200,000				Estimated start date (month, day, year) August 1, 2017	
				Estimated completion date (month, day, year) August 1, 2019	
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT			
Current number 247.00	Salaries \$10,354,808.00	Number retained 247.00	Salaries \$10,354,808.00	Number additional 200.00	Salaries \$7,800,000.00
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT			
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values		1,780,341.00		4,485,000.00	
Plus estimated values of proposed project		7,400,000.00			
Less values of any property being replaced		0.00			
Net estimated values upon completion of project		9,160,341.00			
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 Tom Bauters, CPA				Date signed (month, day, year) 08/12/2017	
Printed name of authorized representative Tom Bauters				Title Assistant Treasurer & Tax Director	

TO 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 1 calendar years* (see below). The date this designation expires is July 5, 2018.

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 \$7,400,000.

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

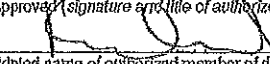
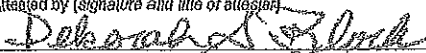
F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?

☒ 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 (574) 258-1616	Date signed (month, day, year) 7-05-2017
Printed name of authorized member of designating body Ross Deal, President	Name of designating body Mishawaka Common Council	
Attested by (signature and title of attester) 	Printed name of attester Deborah S. Block, City Clerk	

* 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. 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. 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.



COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R7 / 12-22)

Prescribed by the Department of Local Government Finance

PRIVACY NOTICE
This form contains confidential
information pursuant to
IC 6-1.1-35-9 and IC 6-1.1-12.1-5.6.

FORM CF-1 / PP

2023 Pay 2024

- INSTRUCTIONS:**
1. Property owners whose Statement of Benefits was approved must file this form with the local designating body to show the extent to which there has been compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
 2. This form must be filed with the Form 103-ERA Schedule of Deduction from Assessed Value between January 1 and May 15, unless a filing extension under IC 6-1.1-3.7 has been granted. A person who obtains a filing extension must file between January 1 and the extended due date of each year.
 3. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (CF-1).

SECTION 1 TAXPAYER INFORMATION								
Name of Taxpayer Lippert Components Manufacturing, Inc.						County St. Joseph		
Address of Taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6E, Elkhart, IN 46514						DLGF Taxing District Number 023		
Name of Contact Person Joe Salsbury				Telephone Number (574) 312-6360		Email Address jsalsbury@LCI1.COM		
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY								
Name of Designating Body City of Mishawaka				Resolution Number 2017-16		Estimated State Date (month, day, year) 08/01/2017		
Location of Property 400 S Byrkit Ave, Mishawaka, IN 46544						Actual Start Date (month, day, year) 08/01/2017		
Description of new manufacturing equipment, new research and development equipment, new information technology equipment, or new logistical distribution equipment to be acquired. Racking, Equipment, Furniture & Fixtures						Estimated Completion Date (month, day, year) 08/01/2019		
						Actual Completion Date (month, day, year) 08/01/2019		
SECTION 3 EMPLOYEES AND SALARIES								
EMPLOYEES AND SALARIES			AS ESTIMATED ON SB-1			ACTUAL		
Current Number of Employees			247			406		
Salaries			10,354,808			21,944,469		
Number of Employees Retained			247			247		
Salaries			10,354,808			10,354,808		
Number of Additional Employees			200			159		
Salaries			7,800,000			11,589,661		
SECTION 4 COST AND VALUES								
	MANUFACTURING EQUIPMENT		RESEARCH & DEVELOPMENT EQUIPMENT		LOGISTICAL DISTRIBUTION EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	\$	\$	\$	\$	\$ 109,605	\$	\$	\$
Plus: Values of Proposed Project	\$	\$	\$	\$	\$ 1,625,000	\$	\$	\$
Less: Values of Any Property Being Replaced	\$	\$	\$	\$	\$	\$	\$	\$
Net Values Upon Completion of Project	\$	\$	\$	\$	\$ 1,734,605	\$	\$	\$
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	\$	\$	\$	\$	\$ 109,605	\$	\$	\$
Plus: Values of Proposed Project	\$	\$	\$	\$	\$ 9,795,957	\$	\$	\$
Less: Values of Any Property Being Replaced	\$	\$	\$	\$	\$	\$	\$	\$
Net Values Upon Completion of Project	\$	\$	\$	\$	\$ 9,905,562	\$	\$	\$
NOTE: The COST of the property is confidential pursuant to IC 6-1.1-12.1-5.6(c).								
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER								
WASTE CONVERTED AND OTHER BENEFITS					AS ESTIMATED ON SB-1		ACTUAL	
Amount of Solid Waste Converted								
Amount of Hazardous Waste Converted								
Other Benefits:								
SECTION 6 TAXPAYER CERTIFICATION								
I hereby certify that the representations in this statement are true.								
Signature of Authorized Representative Joe Salsbury, CPA				Title TAX DIRECTOR			Date Signed (month, day, year) 02/21/23	

OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)

INSTRUCTIONS: (IC 6-1.1-12.1-5.9)

1. Within forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits.
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination, including the date, time, and place of a hearing to be conducted by the designating body. If a notice is mailed to a property owner, a copy of the written notice will be sent to the county assessor and the county auditor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made a reasonable effort to substantially comply with the Statement of Benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made a reasonable effort to comply, the designating body shall adopt a resolution terminating the deduction. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:			
☐	The property owner IS in substantial compliance		
☐	The property owner IS NOT in substantial compliance		
☐	Other (specify) _____		
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By		Designating Body	
If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance.			
Time of Hearing	☐ AM ☐ PM	Date of Hearing (month, day, year)	Location of Hearing

HEARING RESULTS (to be completed after the hearing)			
☐ Approved		☐ Denied (see Instruction 5 above)	
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By		Designating Body	
APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]			
A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the clerk of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.			



STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51784 (R4 / 11-15)

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 8-1.1-12.1-5.1.

INSTRUCTIONS

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body BEFORE a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
- 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.
- 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.
- Property owners whose Statement of Benefits was approved, must submit Form SB-1/PP annually to show compliance with the Statement of Benefits. (IC 8-1.1-12.1-5.6).
- 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 8-1.1-12.1-17)

SECTION 1: TAXPAYER INFORMATION									
Name of taxpayer Lippert Components Manufacturing, Inc.	Name of contact person Tom Bauters								
Address of taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6 East, Elkhart, IN 46514	Telephone number (574) 312-6159								
SECTION 2: LOCATION AND DESCRIPTION OF PROPOSED PROJECT									
Name of designating body City of Mishawaka	Resolution number (s)								
Location of property 400 South Byrkit, Mishawaka, IN 46544	County St. Joseph								
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.)									
ESTIMATED									
START DATE									
COMPLETION DATE									
Manufacturing Equipment									
R & D Equipment									
Logist Dist Equipment									
IT Equipment									
Racking for distribution facility - \$500,000									
Equipment - \$800,000									
Furniture & Fixtures - \$325,000									
SECTION 3: ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT									
Current number 247	Salaries 10,354,808	Number retained 247	Salaries 10,354,808	Number additional 200	Salaries 7,800,000				
SECTION 4: ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT									
NOTE: Pursuant to IC 8-1.1-12.1-5.1 (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	
Current values						109,805		43,840	
Plus estimated values of proposed project						1,625,000			
Less values of any property being replaced									
Net estimated values upon completion of project						1,734,805			
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 Tom Bauters, CPA								Date signed (month, day, year) 6/12/2017	
Printed name of authorized representative Tom Bauters								Title Assistant Treasurer & Tax Director	

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 6-1.1-12.1-2.6, 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 1 calendar years * (see below). The date this designation expires is July 5, 2018. 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 \$ 1,800,000 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 \$ 1,800,000 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 \$ 1,800,000 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 \$ 1,800,000 cost with an assessed value of \$ _____. (One or both lines may be filled out to establish a limit, if desired.)

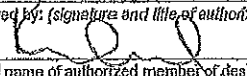
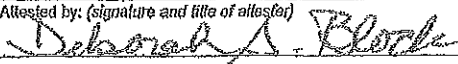
G. Other limitations or conditions (specify) The total abatement not to exceed \$1,800,000

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
Number of years approved: _____
(Enter one to twenty (1-20) years; may not exceed twenty (20) years.) |
| ☐ Year 6 | ☐ Year 7 | ☐ Year 8 | ☐ Year 9 | ☒ Year 10 | |

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

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

Approved by: (signature and title of authorized member of designating body)  Ross Deal	Telephone number 574 258-1616	Date signed (month, day, year) 7-05-2017
Printed name of authorized member of designating body Ross Deal, President	Name of designating body Mishawaka Common Council	
Attested by: (signature and title of attester)  Deborah S. Block	Printed name of attester Deborah S. Block, City Clerk	

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

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

Derek Spier

From: Amanda Turnwald <ATurnwald@wellnesspet.com>
Sent: Wednesday, April 12, 2023 12:51 PM
To: Derek Spier; Kathryn Rodela
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024, Wellpet
Attachments: Abatement Summary listing.xlsx; Corrected CF-1 PP R-2021-09.pdf

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Derek,

I apologize for the delay on this. I was out on vacation last week. I have attached a corrected CF-1 as well as a summary for charges. Our tax consultant had sent us an incorrect amount originally.

Regards,

Amanda Turnwald

Director of Plant Operations

(c) 574.350.7489 | aturnwald@wellnesspet.com



1011 W. 11th Street, Mishawaka, IN 46544
www.wellnesspet.com | [LinkedIn](#)

From: Derek Spier <dspier@mishawaka.in.gov>
Sent: Thursday, April 6, 2023 12:12 PM
To: Amanda Turnwald <ATurnwald@wellnesspet.com>; Kathryn Rodela <krodela@wellnesspet.com>
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024, Wellpet

Hello Amanda-

I just called and left a voice mail message.

Can you please provide an itemized list of the investment to date in both real and personal property improvements as indicated in the CF-1s?

If I am reading the forms correctly, it appears that \$410,425 was invested in real property improvements while \$3,758,139 was invested in personal property. Is this correct?

Thanks, and hope all is well!

Derek Spier

From: Amanda Turnwald <ATurnwald@wellnesspet.com>
Sent: Thursday, March 30, 2023 10:11 AM
To: Derek Spier; Kathryn Rodela
Cc: Ken Prince
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024, Wellpet

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Derek,

The expansion is still on hold as we reported last year. The money that was invested in 2022 was for the odor mitigation system update as well as sifting machines that were included in the submission. The odor mitigation system investment included the build of two buildings to house the equipment as well as the installation of the equipment itself. I am happy to report that the system is up and running as of last week.

Please let us know if you need additional information. If you would like to discuss via a phone call, please feel free to reach out. My direct number is listed below.

Amanda Turnwald

Director of Plant Operations

(c) 574.350.7489 | aturnwald@wellnesspet.com



1011 W. 11th Street, Mishawaka, IN 46544
www.wellnesspet.com | [LinkedIn](#)

From: Derek Spier <dspier@mishawaka.in.gov>
Sent: Thursday, March 30, 2023 9:46 AM
To: Kathryn Rodela <krodela@wellnesspet.com>
Cc: Amanda Turnwald <ATurnwald@wellnesspet.com>; Ken Prince <kprince@mishawaka.in.gov>
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024, Wellpet

Good morning Kathryn & Amanda-

I still need some additional information and clarification on the attached compliance forms (CF-1s) provided for this year.

When the abatement was approved in 2021, the project included an estimated \$14.7 million in real property improvements and \$27.9 million in personal property improvements as outlined into the attachment. The real

improvements were to include an 8,100 sq. ft. building expansion on the south side of the building. The personal property improvements were to include a new packaging line, dryers, odor control equipment, and conveyance systems.

The provided CF-1 compliance forms show that only \$410,425 was invested in real improvements and \$3,758,139 was invested in personal property improvements. Is this correct? If so, can you provide a detail on what this investment covers for both the real and personal property. I assume that the building expansion is still on hold as reported last year?

If you feel a phone call would be more productive, please call me at the below number as I do not have your direct numbers.

Thanks, and I look forward to hearing from you.

Best,

Derek J. Spier, AICP
City Planner



City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, Indiana 46544
p: (574) 258-1625
f: (574) 968-6999
www.mishawaka.in.gov
e: dspier@mishawaka.in.gov

From: Kathryn Rodela <krodela@wellnesspet.com>
Sent: Wednesday, March 29, 2023 2:43 PM
To: Derek Spier <dspier@mishawaka.in.gov>
Cc: Amanda Turnwald <ATurnwald@wellnesspet.com>
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024, Wellpet

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon Derek,

I looked through the files, and I believe that last year was an overstatement. There was an item that we reviewed and decided it did not belong as part of the abatement.

Thank you for your patience and for supplying a copy of the resolution for reference.

Just so you know, Terry is out on leave for the next few months, so until she returns, Amanda Turnwald our plant director will also be part of all correspondence.

Thank you and let me know if there is anything else you need.

Kathryn

From: Derek Spier <dspier@mishawaka.in.gov>
Sent: Tuesday, March 21, 2023 8:57 AM
To: Terry Peterson <tpeterson@wellnesspet.com>
Cc: Kathryn Rodela <krodela@wellnesspet.com>
Subject: RE: Tax Abatement Compliance Forms - 2023 pay 2024

Good morning Terry & Kathryn-

For reference, please find attached a copy of last year's tax abatement compliance report that was provided to the Council for approval. The Staff written analysis is in the letter (page 4) with the supporting documentation and CF-1s located on pages 43-47.

I thought this help in answering the below questions.

If possible, please reply by the end of the week.

Let me know if anything else is needed.

Best,

Derek

From: Derek Spier
Sent: Monday, March 20, 2023 9:43 AM
To: Terry Peterson <tpeterson@wellnesspet.com>
Cc: krodela@wellnesspet.com
Subject: Tax Abatement Compliance Forms - 2023 pay 2024

Good morning-

I am reviewing the CF-1s provided for both the Real and Personal Property tax abatements for the proposed building expansion and new production line/odor control equipment approved in 2021 and need more clarification.

The Statement of Benefits approved in 2021 when the abatement was filed had an estimated \$14,705,700 for the real estate improvements and \$27,887,290 for the personal property improvements. For last year's CF-1 for real improvements, you stated that the building construction was on hold and only \$719,621 was spent. This year's CF-1 for

real estate shows only \$410,425 was spent? Is this plus the estimated \$14,705,700 already invested? For the person property improvements, this year's CF-1 shows \$15,325,513 plus \$3,758,139. Is the first number what has already been invested with the second being future investment.

Please provide more information on the above numbers.

Thanks.

Best,

Derek J. Spier, AICP
City Planner



City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, Indiana 46544
p: (574) 258-1625
f: (574) 968-6999
www.mishawaka.in.gov
e: dspier@mishawaka.in.gov



COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51766 (R5 / 12-21)

Prescribed by the Department of Local Government Finance

2023 PAY 2024

FORM CF-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.3 (k) and (l).

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 16, 2022, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.3(j))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

SECTION 1 TAXPAYER INFORMATION		
Name of taxpayer WELLNESS PET	County ST. JOSEPH	
Address of taxpayer (number and street, city, state and ZIP code) 1011 WEST 11TH ST MISHAWAKA IN 46544	DLGF taxing district number 71-023	
Name of contact person KATHRYN RODELA	Telephone number 574-259-7834	

SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY		
Name of designating body MISHAWAKA COMMON COUNCIL	Resolution number R2021-08	Estimated start date (month, day, year) 04/01/2021
Location of property 1121 WEST 11TH ST MISHAWAKA IN 46544	Actual start date (month, day, year)	
Description of real property improvements: SEE ATTACHED	Estimated completion date (month, day, year) 09/30/2022	
	Actual completion date (month, day, year)	

SECTION 3 EMPLOYEES AND SALARIES			
EMPLOYEES AND SALARIES		AS ESTIMATED ON SB-1	ACTUAL
Current number of employees		125	121 110
Salaries		6,131,000	5,543,977 7,032,945
Number of employees retained		125	121 110
Salaries		6,131,000	5,543,977 7,032,945
Number of additional employees		5	
Salaries		244,800	

SECTION 4 COST AND VALUES		
COST AND VALUES	REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE
Values before project	15,998,566	2,181,500
Plus: Values of proposed project	14,705,700	13,235,130
Less: Values of any property being replaced		
Net values upon completion of project	30,704,266	15,416,630
ACTUAL	COST	ASSESSED VALUE
Values before project	30,704,266	15,416,630
Plus: Values of proposed project	410,425	
Less: Values of any property being replaced		
Net values upon completion of project	31,114,691	15,416,630

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER		
WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted		
Amount of hazardous waste converted		
Other benefits:		

SECTION 6 TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.		
Signature of authorized representative Terry Peterson	Title Controller	Date signed (month, day, year) 3/3/23

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991**

INSTRUCTIONS: (IC 6-1.1-12.1-5.3 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property) and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, then the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner (2) the county auditor, and (3) the county assessor.

We have reviewed the CF-1 and find that:

- ☐ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)

Time of hearing

- ☐ AM
☐ PM

Date of hearing (month, day, year)

Location of hearing

HEARING RESULTS (to be completed after the hearing)

- ☐ Approved ☐ Denied (see instruction 4 above)

Reasons for determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.



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 R2021-08	
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 125.00	Salaries \$6,131,000.00	Number Retained 125.00	Salaries \$6,131,000.00	Number Additional 5.00	Salaries \$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) <i>M.C. H. President</i>	Telephone number <i>(574) 258-1616</i>	Date signed (month, day, year) <i>04/12/21</i>
Printed name of authorized member of designating body <i>Gregg A. Wixenbaugh</i>	Name of designating body <i>Mishawaka Common Council</i>	
Attested by (signature and title of attester) <i>Deborah A. Block</i>	Printed name of attester <i>Deborah S. Block</i>	

* 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.



COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R7 / 12-22)

Prescribed by the Department of Local Government Finance

PRIVACY NOTICE

This form contains confidential
information pursuant to
IC 6-1.1-35-9 and IC 6-1.1-12.1-5.6.

FORM CF-1 / PP

2023 PAY 2024

- INSTRUCTIONS:
1. Property owners whose Statement of Benefits was approved must file this form with the local Designating Body to show the extent to which there has been compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
 2. This form must be filed with the Form 103-ERA Schedule of Deduction from Assessed Value between January 1 and May 15, unless a filing extension under IC 6-1.1-3.7 has been granted. A person who obtains a filing extension must file between January 1 and the extended due date of each year.
 3. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (CF-1).

SECTION 1 TAXPAYER INFORMATION		
Name of taxpayer WELLNESS PET	County ST. JOSEPH	
Address of Taxpayer (street and number, city, state and ZIP code) 1011 WEST 11TH ST MISHAWAKA IN 46544	DLGF Taxing District Number 71-023	
Name of Contact Person KATHRYN RODELA	Telephone Number 574-259-7834	Email Address krodela@wellnesspet.com

SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY		
Name of Designating Body MISHAWAKA COMMON COUNCIL	Resolution Number R-2021-09	Estimated Start Date (month, day, year) 04/01/2021
Location of Property 1121 WEST 11TH STREET MISHAWAKA IN 46544	Actual Start Date (month, day, year) / /	
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired. SEE ATTACHED	Estimated Completion Date (month, day, year) 09/30/2022	
	Actual Completion Date (month, day, year) / /	

SECTION 3 EMPLOYEES AND SALARIES		
EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1	ACTUAL
Current Number of Employees	125	121
Salaries	6,131,000	5,543,945
Number of Employees Retained	125	121
Salaries	6,131,000	5,543,945
Number of Additional Employees	5	
Salaries	244,800	

SECTION 4 COST AND VALUES								
	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	24,988,362	7,468,427						
Plus: Values of Proposed Project	23,085,200	16,155,640						
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	48,073,562	23,628,067						
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	15,375,513	4,595,656						
Plus: Values of Proposed Project	3,758,139	1,127,442						
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	19,083,652	5,723,098						

NOTE: The COST of the property is confidential pursuant to IC 6-1.1-12.1-5.6 (c).

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER		
WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of Solid Waste Converted		
Amount of Hazardous Waste Converted		
Other Benefits:		

SECTION 6 TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.		
Signature of Authorized Representative Terry Petersen	Title Controller	Date Signed (month, day, year) 3/3/23

Prepared by: BADEN TAX MANAGEMENT • 6920 POINTE INVERNESS WAY, SUITE 301, FORT WAYNE, IN 46804 • 260-969-2584

SEE FOLLOWING
UPDATED SHEET



COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R7 / 12-22)

Prescribed by the Department of Local Government Finance

PRIVACY NOTICE

This form contains confidential
information pursuant to
IC 6-1.1-35-9 and IC 6-1.1-12.1-5.6.

FORM CF-1/PP

2023 PAY 2024

INSTRUCTIONS:

1. Property owners whose Statement of Benefits was approved must file this form with the local Designating Body to show the extent to which there has been compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
2. This form must be filed with the Form 103-ERA Schedule of Deduction from Assessed Value between January 1 and May 15, unless a filing extension under IC 6-1.1-3.7 has been granted. A person who obtains a filing extension must file between January 1 and the extended due date of each year.
3. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (CF-1).

SECTION 1 TAXPAYER INFORMATION								
Name of taxpayer WELLNESS PET						County ST. JOSEPH		
Address of Taxpayer (street and number, city, state and ZIP code) 1011 WEST 11TH ST MISHAWAKA IN 46544						DLGF Taxing District Number 71-023		
Name of Contact Person KATHRYN RODELA				Telephone Number 574-259-7834		Email Address krodela@wellnesspet.com		
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY								
Name of Designating Body MISHAWAKA COMMON COUNCIL				Resolution Number R-2021-09		Estimated Start Date (month, day, year) 04/01/2021		
Location of Property 1121 WEST 11TH STREET MISHAWAKA IN 46544						Actual Start Date (month, day, year) / /		
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired. SEE ATTACHED						Estimated Completion Date (month, day, year) 09/30/2022		
						Actual Completion Date (month, day, year) / /		
SECTION 3 EMPLOYEES AND SALARIES								
EMPLOYEES AND SALARIES						AS ESTIMATED ON SB-1		ACTUAL
Current Number of Employees						125		121
Salaries						6,131,000		7,032,945
Number of Employees Retained						125		121
Salaries						6,131,000		6,131,000
Number of Additional Employees						5		
Salaries						244,800		901,945
SECTION 4 COST AND VALUES								
	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	24,988,362	7,468,427						
Plus: Values of Proposed Project	23,085,200	16,159,640						
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	48,073,562	23,628,067						
ACTUAL	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values Before Project	15,331,804	4,597,543						
Plus: Values of Proposed Project	5,670,798	1,701,240						
Less: Values of Any Property Being Replaced								
Net Values Upon Completion of Project	21,002,602	6,298,783						
NOTE: The COST of the property is confidential pursuant to IC 6-1.1-12.1-5.6 (c).								
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER								
WASTE CONVERTED AND OTHER BENEFITS						AS ESTIMATED ON SB-1		ACTUAL
Amount of Solid Waste Converted								
Amount of Hazardous Waste Converted								
Other Benefits:								
SECTION 6 TAXPAYER CERTIFICATION								
I hereby certify that the representations in this statement are true.								
Signature of Authorized Representative				Title		Date Signed (month, day, year)		

Prepared by: BADEN TAX MANAGEMENT • 6920 POINTE INVERNESS WAY, SUITE 301, FORT WAYNE, IN 46804 • 260-969-2584

INSTRUCTIONS: (IC 6-1.1-12-5.9)

1. Within forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits.
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. If a notice is mailed to a property owner, a copy of the written notice will be sent to the county assessor and the county auditor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable effort to substantially comply with the Statement of Benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable effort to comply, then the designating body shall adopt a resolution terminating the deduction. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:			
☐	The property owner IS in substantial compliance		
☐	The property owner IS NOT in substantial compliance		
☐	Other (specify) _____		
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By:		Designating Body	
If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance.			
Time of Hearing	☐ AM ☐ PM	Date of Hearing (month, day, year)	Location of Hearing
HEARING RESULTS (to be completed after the hearing)			
☐ Approved		☐ Denied (see instruction 5 above)	
Reasons for the Determination (attach additional sheets if necessary)			
Signature of Authorized Member			Date Signed (month, day, year)
Attested By:		Designating Body	
APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]			
A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the clerk of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.			

Wellness Pet
Mishawaka IN

R2021-08

Meat Room Expansion	14,200.00
New Electrical System Process	396,224.75
	410,424.75

R2021-09

Coaters	17,791.63
Conveyance Systems	83,996.31
Odor Equipment	1,918,949.50
Plant-In Bins	3,451,953.21
Auxiliary Misc. Equip	147,646.93
Final Screeners	50,460.80
	5,670,798.38



STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51764 (R6 / 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:

- 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.
- 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.
- 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.
- Property owners whose Statement of Benefits was approved, must submit Form SB-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
- 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) 2021-09	
Location of property 1121 West 11th Street MISHAWAKA IN 46544		County St. Joseph	
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	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 125	Salaries 6,131,000	Number retained 125	Salaries 6,131,000
		Number additional 5	Salaries 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
	Cost	Assessed Value	Cost
Current values	24,446,362	7,466,452	
Plus estimated values of proposed project	27,887,250	19,521,103	
Less values of any property being replaced			
Net estimated values upon completion of project	52,825,652	26,987,555	
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 6-1.1-12.1-10
 2. Installation of new research and development equipment; ☐ Yes ☐ No *Check box if an enhanced abatement was approved for one or more of these types.*
 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 6-1.1-12.1-10
- ☐ 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)	Telephone number	Date signed (month, day, year)
<i>[Signature]</i> President	574-258-1616	04/12/11
Printed name of authorized member of designating body	Name of designating body	
Gross A. Hixsonburg	Mishawaka Comm Council	
Attested by: (signature and title of attester)	Printed name of attester	
<i>[Signature]</i> Deborah S. Block	Deborah S. Block	

* 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.

Derek Spier

From: Derek Spier
Sent: Wednesday, March 15, 2023 9:21 AM
To: Nir Davison - *BARAK GROUP LLC*
Cc: Brian Moore; Ken Prince; Steven Ruby; Josh Kibel
Subject: RE: Tax Abatement Form - *STEELHEAD APARTMENTS
(FORMER MISHAWAKA INN)*

Good morning-

Thank you for the follow up.

Presently for this year's tax abatement compliance, the report will state that you are in compliance as you continue to work through the construction and design.

Once it is decided what materials and colors will be used, please forward so we can review and comment to ensure that you will remain in compliance in future years and be close to what was presented and approved with the tax abatement petition.

Let me know if you have any questions.

Best,

Derek J. Spier, AICP
City Planner



City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, Indiana 46544
p: (574) 258-1625
f: (574) 968-6999
www.mishawaka.in.gov
e: dspier@mishawaka.in.gov

Derek Spier

From: Derek Spier
Sent: Tuesday, March 7, 2023 5:01 PM
To: 'Nir Davison'
Cc: nir@barak-group.com; 'Steven Ruby'; Ken Prince
Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms
Attachments: Steelhead Apts - CF-1 Required.pdf; Steelhead Apt - Facade for Tax Abatement - Oct 2022.pdf; Steelhead Apt - Revised Facade - Dec 2022.pdf

Good afternoon-

Thanks for the update. Was there supposed to be an attachment to this email? If so, it was not received.

Also, the signed CF-1 is what was requested and needed for the compliance reporting. Please complete the attached, sign, and return as soon as possible.

It is understood that there have been unforeseen costs after the building was purchased. Regarding the exterior façade improvements, we've have had prior conversations at the end of last year with Tony Leininger, from The Carmi Design Group, on the façade and the new EIFS for the exterior. Hopefully, the plans are to utilize something more aesthetically appealing as was demonstrated when the tax abatement was approved over the latest exterior façades / renderings received from Carmi. Will this be the case?

Thanks again, and let us know if you have any questions.

Best,

Derek J. Spier, AICP
City Planner



City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, Indiana 46544
p: (574) 258-1625
f: (574) 968-6999
www.mishawaka.in.gov

From: Nir Davison <nirdavison@gmail.com>
Sent: Wednesday, March 15, 2023 8:49 AM
To: Derek Spier <dspier@mishawaka.in.gov>
Cc: Brian Moore <brianmoore@barak-group.com>; Ken Prince <kprince@mishawaka.in.gov>; Steven Ruby <sruby@abonmarche.com>; Josh Kibel <josh@kibelhomes.com>
Subject: Re: Tax Abatement Form

>>> **FROM EXTERNAL SENDER** <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Derek,

I hope this email find you well .

I enclosed the clarification to your concern

regarding the exterior façade on the Steelhead Building.

When Carmi Design initially met with the City to discuss the permitting process, the city was shown a rendering highlighting the Steelhead structure with EIFS cladding. This drawing was by no means a final rendering of the proposed exterior. In fact, that rendering was for internal purposes only – with the sole purpose of demonstrating potential color schemes. It was not meant to serve as any formal representation.

The only major difference to the original rendering proposed by AbonMarche, is that this building will not have exterior multi-story decking. The solid glass wall system beneath the EIFS (as explained below and in our previous letter), makes this structurally impossible. However, we do intent to have decking on the second building.

In any event, as our previous correspondence has indicated, the discovered original glass façade enveloped by the poor EIFS remodel of the 1990's, will require us to remove over 50% of the existing EIFS siding. At this time, it is only the EIFS on the superstructure (the protrusions surrounding each unit) that *might* remain. We are also considering cementitious or steel cladding faux wood siding options on the North and South ends. When all is said and done, the building will most likely retain no more than 25% EIFS.

It is our desire that Steelhead will become a popular destination. Exterior & interior aesthetics as well as functionality are important factors. The Barak Group takes its investments seriously and we will by no means develop anything that is not commercially viable and esthetically designed .

Best Regards,

Nir Davison

UK +44 734 000 1040

USA +1 574 258 4155

www.barak-group.com



On 10 Mar 2023, at 20:07, Derek Spier <dspier@mishawaka.in.gov> wrote:

Brian-

Thanks for the filing.

Once these go through our Council, we will file the SB-1 with the Auditor.

Let me review and we'll be in touch if anything else is needed or have any questions.

Best,

Derek

From: Brian Moore <brianmoore@barak-group.com>

Sent: Friday, March 10, 2023 3:01 PM

To: Nir Davison <nirdavison@gmail.com>; Brian Moore <brianmoore@barak-group.com>

Cc: Derek Spier <dspier@mishawaka.in.gov>; Ken Prince <kprince@mishawaka.in.gov>; Steven Ruby <sruby@abonmarche.com>; Josh Kibel <josh@kibelhomes.com>

Subject: Re: Tax Abatement Form

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Derek,

Attached please find our Form 51766 Compliance with Statement of Benefits - Real Estate Improvements for our project the Steelhead Apartments in Mishawaka, IN.



Brian Moore <brianmoore@barak-group.com>

Hotel

1 message

Brian Moore <brianmoore@barak-group.com>
To: Brian Moore <brianmoore@barak-group.com>

Fri, Mar 10, 2023 at 11:34 AM

Dear Derek ,

I hope you are having a peaceful weekend.

Following our discussion on Friday please find enclosed our report .

Should you have any further questions please don't hesitate to ask .

March 1, 2023

Re: The Barak Group – Steelhead Apartments – Mishawaka Inn Project

Received

MAR 10 2023

Planning and
Community Development

On June 2, 2022, the Barak Group contracted with The Carmi Design Group, an architectural firm based in Michigan, to assess the existing Mishawaka Inn, and plan for the eventual rehabilitation. This study included on-site facility documentation, facility structural documentation, Life Safety code review, Building spatial planning, Exterior finishes building model, and Roof & wall composite core samples. The cost for this study was \$22,410.

The study yielded several important items that were not known at the time of the purchase:

The Exterior EIFS siding, which was apparently installed during the 1990's over the original window and wall panel units (90) was NOT installed with any drainage cavity system or flashing around the middle Vinyl replacement window. Furthermore, an EIFS parapet was also installed along the roof perimeter at the same time, but without any metal or aluminum roofing cap to protect the exterior of the EIFS wall structure. This resulted in 30 plus years of extensive but hidden water damage. The results of the Study concluded that the entire EIFS façade adjacent to each unit (with the exception of the EIFS along the superstructure protrusions) including the exterior wall framing, sheathing and window unit, would need to be completely demolished, and rebuilt in its entirety. This same study, revealing solid glass behind the EIFS and no solid wall, something that was NOT known during the purchase of the building, negated the possibility of installing any sort of balcony system as originally proposed.

After careful review, it was decided that the optimal layout for the existing building would be to provide 13 Studios (1 existing unit), 23 One-Bedroom Apartments (2 existing units), and 11 Two-Bedroom Apartments (3 existing units). Terracon was hired to perform a wall scan on the interior structure. The results showed that the concrete walls dividing each room were double 2-1/2" precast units with rebar spaced every 6 inches both vertically and horizontally. It was determined that an engineer would need to be hired to see if a viable cost effective plan could be implemented to enable the necessary cut throughs in the wall. This would be critical to combine the Units per the proposed design.

On November 11, 2022, the Barak Group formally hired Carmi Design Group to begin the full architectural design of the Steelhead Apartment Complex. As of February 13, 2023 Carmi Design Group has been paid a total of \$44,766 (\$22,410 for the original study and \$22,356 for Architectural Services). Please see the proposed architectural layout and 3D renderings at the end of this letter.

On December 1, 2023, Kibel Homes LLC was hired to provide preconstruction administration and to begin clean-up and demo of the facility.

The residents of the Hotel were offer support and assistance by Elite Estate Management and the building was vacated despite the loss of revenue in order to keep safety while renovations begin.

Trash, furnishings, and carpeting from all resident rooms were disposed in 30 yard containers. All Third Floor, Second Floor, and half of first floor bathrooms are demoed to stud, plumbing fixtures removed (except tub), and the drywall (mold) demoed from the window / exterior walls. Demo work was suspended as of January 27, 2023. As of February 13, 2023, Kibel Homes has been paid \$76,400.

During this two month period, Kibel Homes, utilizing the designs developed by the Carmi Design Group, met with multiple Subcontractors and Vendors, in an effort to develop a Capital Budget for the project. After thorough research, including the required Building Code upgrades from Hotel to Multi-Family (requiring a new electrical layout and wider apartment door openings), a failing plumbing system that was only discovered after the bathroom drywall was demoed, the structural precast wall and rebar engineering challenges, together with the exterior EIFS and window replacement with newly built exterior walls, new roof, etc., the Capital Budget climbed to an excess of \$6,500,000 to match Barak Group renovations standards.

These figures simply do not allow for a project of this magnitude to be profitable - not at least with 47 units. At this time, we are looking at several alternatives for the successful development of this property.

Barak group has invested so far over a million dollars of its own funds on the purchase, due diligence, facility operation, etc. all to the effect of making its project succeed.

We do not back down from challenges! We value our relationship with the City of Mishawaka and are looking forward to continued cooperation with the City to successfully develop this high profile location.



COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51766 (R5 / 12-21)

Prescribed by the Department of Local Government Finance

2022 PAY 2023

FORM CF-1 / Real Property

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 16, 2022, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.3(j))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.3 (k) and (l).

SECTION 1 TAXPAYER INFORMATION	
Name of taxpayer SIGNATURE HOTEL GROUP LLC C/O BARAK GROUP LLC	County ST JOSEPH
Address of taxpayer (number and street, city, state, and ZIP code) 12455 ADAMS RD SUITE C GRANGER, IN 46530	DLGF taxing district number 023-MISHAWAKA -PENN
Name of contact person NIR DAVISON	Telephone number (574) 258-4155

SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY		
Name of designating body COMMON COUNCIL OF THE CITY OF MISHAWAKA	Resolution number	Estimated start date (month, day, year) MARCH 2023
Location of property 2754 LINCOLNWAY EAST MISHAWAKA, IN 46544		Actual start date (month, day, year) DECEMBER 2022
Description of real property improvements HOTEL CONVERSION TO RESIDENTIAL & NEW CONSTRUCTION		Estimated completion date (month, day, year) MAY 2024
		Actual completion date (month, day, year) TBD

SECTION 3 EMPLOYEES AND SALARIES			
EMPLOYEES AND SALARIES		AS ESTIMATED ON SB-1	ACTUAL
Current number of employees	0	0	2
Salaries	90,000	90,000	90,000
Number of employees retained	0	0	0
Salaries	0	0	0
Number of additional employees	2	2	2
Salaries	90,000	90,000	90,000

SECTION 4 COST AND VALUES		
COST AND VALUES	REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE
Values before project	750,000	635,000
Plus: Values of proposed project	7,800,000	7,800,000
Less: Values of any property being replaced	0	0
Net values upon completion of project	8,550,000	8,435,000
ACTUAL	COST	ASSESSED VALUE
Values before project	750,000	635,000
Plus: Values of proposed project	16,500,000 ESTIMATED/PROJECTED	16,500,000
Less: Values of any property being replaced		
Net values upon completion of project	17,250,000 ESTIMATED/PROJECTED	17,135,000

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER		
WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted	0	0
Amount of hazardous waste converted	0	0
Other benefits:	0	0

SECTION 6 TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.		
Signature of authorized representative BRIAN MOORE	Title ACCOUNTANT/CONTROLLER	Date signed (month, day, year) 3/10/2023

OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991

INSTRUCTIONS: (IC 6-1.1-12.1-5.3 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination, including the date, time, and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property), and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:

- ☐ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)

Time of hearing

☐ AM
☐ PM

Date of hearing (month, day, year)

Location of hearing

HEARING RESULTS (to be completed after the hearing)

☐ Approved

☐ Denied (see instruction 4 above)

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.



STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R7 / 1-2-1)

Prescribed by the Department of Local Government Finance

20__ PAY 20__
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 Barak Group																	
Address of taxpayer (number and street, city, state, and ZIP code) 12455 Adams Road, Suite C, Granger, IN 46530																	
Name of contact person Nir Davison, President	Telephone number (574) 258-4155																
E-mail address nirdavison@gmail.com																	
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT																	
Name of designating body Common Council of the City of Mishawaka	Resolution number																
Location of property 2754 Lincolnway Avenue East	County St. Joseph																
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Investment of \$1.6-1.8 million in the renovation and conversion of the former Mishawaka Inn hotel into 60 market rate apartments, along with overall site improvements related to the development. This is Phase 1 of a project that is intended to include new construction of an additional 40+ units in a second building.																	
Estimated start date (month, day, year) March 2023 (Phase 1)/June 2024 (Phase 2)																	
Estimated completion date (month, day, year) May 2024 (Phase 1)/November 2025 (Phase 2)																	
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT																	
Current Number 0.00	Salaries \$0.00																
Number Retained 0.00	Salaries \$0.00																
Number Additional 2.00	Salaries \$90,000.00																
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT																	
	<table border="1"><thead><tr><th colspan="2">REAL ESTATE IMPROVEMENTS</th></tr><tr><th>COST</th><th>ASSESSED VALUE</th></tr></thead><tbody><tr><td>Current values</td><td>750,000.00</td></tr><tr><td>Plus estimated values of proposed project</td><td>635,000.00</td></tr><tr><td>Less values of any property being replaced</td><td>7,800,000.00</td></tr><tr><td>Net estimated values upon completion of project</td><td>0.00</td></tr><tr><td></td><td>8,650,000.00</td></tr><tr><td></td><td>8,435,000.00</td></tr></tbody></table>	REAL ESTATE IMPROVEMENTS		COST	ASSESSED VALUE	Current values	750,000.00	Plus estimated values of proposed project	635,000.00	Less values of any property being replaced	7,800,000.00	Net estimated values upon completion of project	0.00		8,650,000.00		8,435,000.00
REAL ESTATE IMPROVEMENTS																	
COST	ASSESSED VALUE																
Current values	750,000.00																
Plus estimated values of proposed project	635,000.00																
Less values of any property being replaced	7,800,000.00																
Net estimated values upon completion of project	0.00																
	8,650,000.00																
	8,435,000.00																
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 	Date signed (month, day, year) 08/23/22																
Printed name of authorized representative NIR DAVISON	Title Member																

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 2 calendar years* (see below). The date this designation expires is 12/31/2024. 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 \$ 7,300,000

D. Other limitations or conditions (specify) _____

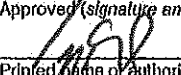
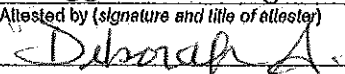
E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☒ Year 5 (* see below)
☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10

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)  President	Telephone number ()	Date signed (month, day, year)
Printed name of authorized member of designating body Gregg Hixenbaugh	Name of designating body Common Council	
Attested by (signature and title of attester)  Deborah S. Block	Printed name of attester Deborah S. Block	

* 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.



COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51766 (R5 / 12-21)

Prescribed by the Department of Local Government Finance

2023 PAY 2024

FORM CF-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.3 (k) and (l).

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 16, 2022, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.3(j))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

SECTION 1 TAXPAYER INFORMATION	
Name of taxpayer Front St. LLC	County St. Joseph
Address of taxpayer (number and street, city, state, and ZIP code) 1130 S. Bend Ave Ste. 350 So. Bend, IN 46617	DLGF taxing district number 71-091
Name of contact person JP Wroblewski	Telephone number (574) 329-0743
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY	
Name of designating body Common Council of the City of Mishawaka	Resolution number 2022-025
Location of property 365 Front St. Mishawaka, IN 46544	Estimated start date (month, day, year) Nov. 2022
Description of real property improvements Development + Construction of Approx 79,000 square feet of mixed-use retail and residential including 108 residential and 3 commercial units.	Actual start date (month, day, year) Dec. 2022
	Estimated completion date (month, day, year) Nov 2023
	Actual completion date (month, day, year) TBD
SECTION 3 EMPLOYEES AND SALARIES	
EMPLOYEES AND SALARIES	AS ESTIMATED ON SB-1
Current number of employees	0
Salaries	0
Number of employees retained	0
Salaries	0
Number of additional employees	3
Salaries	\$130,000.00
SECTION 4 COST AND VALUES	
COST AND VALUES	REAL ESTATE IMPROVEMENTS
AS ESTIMATED ON SB-1	ASSESSED VALUE
Values before project	\$337,500.00
Plus: Values of proposed project	TBD
Less: Values of any property being replaced	\$337,500.00
Net values upon completion of project	\$25,000,000.00
ACTUAL	ASSESSED VALUE
Values before project	
Plus: Values of proposed project	
Less: Values of any property being replaced	
Net values upon completion of project	
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER	
WASTE CONVERTED AND OTHER BENEFITS	AS ESTIMATED ON SB-1
Amount of solid waste converted	0
Amount of hazardous waste converted	0
Other benefits:	
SECTION 6 TAXPAYER CERTIFICATION	
I hereby certify that the representations in this statement are true.	
Signature of authorized representative 	Title Manager
	Date signed (month, day, year) Feb. 14, 2023

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991**

INSTRUCTIONS: (IC 6-1.1-12.1-5.3 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination, including the date, time, and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property), and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:

- ☐ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)

Time of hearing

☐ AM
☐ PM

Date of hearing (month, day, year)

Location of hearing

HEARING RESULTS (to be completed after the hearing)

☐ Approved

☐ Denied (see instruction 4 above)

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.



STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R7 / 1-21)

Prescribed by the Department of Local Government Finance

20 22 PAY 20 23

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 additon 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

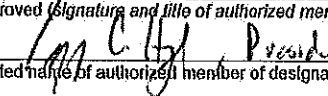
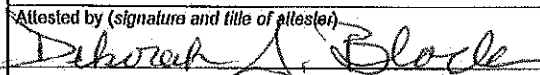
SECTION 1		TAXPAYER INFORMATION			
Name of taxpayer Front Street LLC					
Address of taxpayer (number and street, city, state, and ZIP code) 1130 South Bend Ave. Ste. 350 South Bend, IN 46617					
Name of contact person J. Patrick Matthews		Telephone number (574) 315-9668		E-mail address Pat@7.Diamonds	
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT			
Name of designating body Common Council of the City of Mishawaka		Resolution number			
Location of property Block of Front, Spring, Hill, and 1st Streets		County St. Joseph		DLGF taxing district number 71-091	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Development and construction of approx. 79,000 square feet of mixed use retail and residential including 108 residential units and 3 commercial units.		Estimated start date (month, day, year) November, 2022		Estimated completion date (month, day, year) November, 2023	
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT			
Current Number 0.00	Salaries \$0.00	Number Retained 0.00	Salaries \$0.00	Number Additional 3.00	Salaries \$130,000.00
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT			
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values				337,500.00	
Plus estimated values of proposed project		25,000,000.00		25,000,000.00	
Less values of any property being replaced				337,500.00	
Net estimated values upon completion of project		25,000,000.00		25,000,000.00	
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER			
Estimated solid waste converted (pounds) _____		Estimated hazardous waste converted (pounds) _____			
Other benefits Tax payer estimates that 2-3 new positions will be created within 1-year after project/building completion. This will also help the shortage of housing Downtown Mishawaka and drive additional retail and restaurants.					
SECTION 6		TAXPAYER CERTIFICATION			
I hereby certify that the representations in this statement are true.					
Signature of authorized representative 				Date signed (month, day, year) September 13, 2022	
Printed name of authorized representative J. Patrick Matthews				Title Manager	

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)  President	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)  Deborah A. Block	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.

Derek Spier

From: Mark M. Hartman <Mark.Hartman@HeliosTechnologies.com>
Sent: Thursday, March 9, 2023 3:22 PM
To: Derek Spier; Lori Switzer
Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms
Attachments: HHAM CF-1-Personal-Property----Form-51765 - Signed.pdf; HHAM CF-1-Real-Property-----Form-51766 -Signed.pdf

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Derek,

Signed forms attached. Please let me know if you have any questions or need more information.

Thanks!

-Mark

From: Derek Spier <dspier@mishawaka.in.gov>
Sent: Monday, March 6, 2023 3:53 PM
To: Mark M. Hartman <Mark.Hartman@HeliosTechnologies.com>; Lori Switzer <Lori.Switzer@sunhydraulics.com>
Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms

[EXTERNAL]

Good afternoon-

See below answer to your questions.

Please call or email with questions.

Best,

Derek

Received

MAR 09 2023

Planning and
Community Development

From: Mark M. Hartman <Mark.Hartman@HeliosTechnologies.com>
Sent: Friday, March 3, 2023 5:10 PM
To: Derek Spier <dspier@mishawaka.in.gov>; Lori Switzer <Lori.Switzer@sunhydraulics.com>
Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Derek,

Thank you for sending! I did have a question about how the "Actual" values are reported. It looks like the purpose of the form is to ensure that we are on track to meet our goals, - **Correct**, but we won't know the actual total values until the project is completed and I don't see a place on the forms for CIP. - **After actual, you can insert year to date / CIP**. I can confirm that our projected totals for Personal and Real property have not changed since the initial abatement was granted but let me know which information we should present on the forms. Below you can see what was placed in service in 2022 and what we have in CIP so far for 2023. - **This email will also be included in the compliance packet that goes to Council along with the signed SB-1 so they will see your end of year 2022 numbers and 2023 numbers to date.**

Thanks!

-Mark

As of 12/31/2022

Number of Employees: 160

Total Salaries Paid: \$7,584,917

Personal Property Placed in Service: \$25,076

Real Property Placed in Service: \$0

Personal CIP: \$504,036

Real CIP: \$100,600

As of 2/28/2022

Personal Property Transferred In (Historical Cost): \$775,000

Personal CIP: \$927,000

Real CIP: \$1,924,000

From: Derek Spier <dspier@mishawaka.in.gov>

Sent: Friday, March 3, 2023 2:49 PM

To: Lori Switzer <Lori.Switzer@sunhydraulics.com>

Cc: Mark M. Hartman <Mark.Hartman@HeliosTechnologies.com>

Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms

[EXTERNAL]

Good afternoon Lori-

Please find attached the tax abatement compliance letter and forms that were mailed on January 23rd.

If possible, please have completed and file by the end of next week since these were lost in the mail.

Let me know if you have any questions.

Have a good weekend!

Best,

Derek

From: Lori Switzer <Lori.Switzer@sunhydraulics.com>

Sent: Friday, March 3, 2023 2:19 PM

To: Derek Spier <dspier@mishawaka.in.gov>

Cc: Mark M. Hartman <Mark.Hartman@HeliosTechnologies.com>

Subject: RE: Annual Real and/or Personal Tax Abatement Compliance Forms

>>> **FROM EXTERNAL SENDER** <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Derek,

I did not receive these in the mail, can you e-mail them to Mark and we'll get them to you asap.

Thank You,

Lori

From: Derek Spier <dspier@mishawaka.in.gov>

Sent: Friday, March 3, 2023 1:42 PM

To: tpeterson@wellpet.com; nir@barak-group.com; Steven Ruby <sruby@abonmarche.com>; Lori Switzer

<Lori.Switzer@sunhydraulics.com>

Subject: Annual Real and/or Personal Tax Abatement Compliance Forms

[EXTERNAL]

Good afternoon-

I am following on the request for completing the annual tax abatement compliance forms that were mailed on January 27th.

The filing deadline was today and we have yet to receive your filing.

Please call or email with questions.

Best,

Derek J. Spier, AICP
City Planner



COMPLIANCE WITH STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51766 (R3 / 2-13)

Prescribed by the Department of Local Government Finance

20__ PAY 20__

FORM CF-1 / Real Property

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.1 (c) and (d).

INSTRUCTIONS:

1. This form does not apply to property located in a residentially distressed area or any deduction for which the Statement of Benefits was approved before July 1, 1991.
2. Property owners must file this form with the county auditor and the designating body for their review regarding the compliance of the project with the Statement of Benefits (Form SB-1/Real Property).
3. This form must accompany the initial deduction application (Form 322/RE) that is filed with the county auditor.
4. This form must also be updated each year in which the deduction is applicable. It is filed with the county auditor and the designating body before May 15, or by the due date of the real property owner's personal property return that is filed in the township where the property is located. (IC 6-1.1-12.1-5.1(b))
5. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance form (Form CF-1/Real Property).

SECTION 1 TAXPAYER INFORMATION			
Name of taxpayer Helios Hydraulics Americas LLC		County St Joseph	
Address of taxpayer (number and street, city, state, and ZIP code) 7456 16th Street East, Sarasota, FL 34243		DLGF taxing district number 022	
Name of contact person Lori Switzer		Telephone number (248) 390-4882	
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY			
Name of designating body City of Mishawaka		Resolution number 2022-30	Estimated start date (month, day, year) 2022
Location of property 1811 Home Street		Actual start date (month, day, year) 11/1/2022	
Description of real property improvements Building and product line expansion.		Estimated completion date (month, day, year) 2026	
		Actual completion date (month, day, year) Ongoing	
SECTION 3 EMPLOYEES AND SALARIES			
EMPLOYEES AND SALARIES		AS ESTIMATED ON SB-1	ACTUAL Entire Year 2022
Current number of employees		139	139
Salaries		7,200,000.00	7,200,000.00
Number of employees retained		139	139
Salaries		7,200,000.00	7,200,000.00
Number of additional employees		73	21
Salaries		3,000,000.00	384,917.00
SECTION 4 COST AND VALUES			
COST AND VALUES		REAL ESTATE IMPROVEMENTS	
AS ESTIMATED ON SB-1	COST	ASSESSED VALUE	
Values before project	1,572,400.00	1,572,400.00	
Plus: Values of proposed project	4,800,000.00	4,800,000.00	
Less: Values of any property being replaced			
Net values upon completion of project	6,372,400.00	6,372,400.00	
ACTUAL	Placed in Service and CIP 11/1/2022-12/31/2022 COST	ASSESSED VALUE	
Values before project	1,572,400.00		
Plus: Values of proposed project	100,600.00 4,800,000.00		
Less: Values of any property being replaced			
Net values upon completion of project	6,372,400.00		
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER			
WASTE CONVERTED AND OTHER BENEFITS		AS ESTIMATED ON SB-1	ACTUAL
Amount of solid waste converted			
Amount of hazardous waste converted			
Other benefits:			
SECTION 6 TAXPAYER CERTIFICATION			
I hereby certify that the representations in this statement are true.			
Signature of authorized representative 		Title VP of Global Tax	Date signed (month, day, year) 3/9/2023

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991**

INSTRUCTIONS: (IC 6-1.1-12.1-5.1 and IC 6-1.1-12.1-5.9)

1. Not later than forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits (Form SB-1/Real Property).
2. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. The date of this hearing may not be more than thirty (30) days after the date this notice is mailed. A copy of the notice may be sent to the county auditor and the county assessor.
3. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable efforts to substantially comply with the Statement of Benefits (Form SB-1/Real Property) and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
4. If the designating body determines that the property owner has **NOT** made reasonable efforts to comply, then the designating body shall adopt a resolution terminating the property owner's deduction. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the county auditor; and (3) the county assessor.

We have reviewed the CF-1 and find that:

- ☐ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance. (Hearing must be held within thirty (30) days of the date of mailing of this notice.)

Time of hearing

- ☐ AM
☐ PM

Date of hearing (month, day, year)

Location of hearing

HEARING RESULTS (to be completed after the hearing)

☐ Approved

☐ Denied (see instruction 4 above)

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.



STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R7 / 1-21)

Prescribed by the Department of Local Government Finance

20 ____ PAY 20 ____

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 Helios Hydraulics Americas LLC					
Address of taxpayer (number and street, city, state, and ZIP code) 7456 16th Street East					
Name of contact person Lori Switzer		Telephone number (248) 390-4882		E-mail address lori.switzer@helios technologies.com	
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT			
Name of designating body City of Mishawaka		Resolution number			
Location of property 1811 Home Street		County St Joeseph		DLGF taxing district number	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Building and product line expansion.		Estimated start date (month, day, year) 2022		Estimated completion date (month, day, year) 2026	
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT			
Current Number 139.00	Salaries \$7,200,000.00	Number Retained 139.00	Salaries \$7,200,000.00	Number Additional 73.00	Salaries \$3,000,000.00
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT			
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values		1,572,400.00		1,572,400.00	
Plus estimated values of proposed project		4,800,000.00		4,800,000.00	
Less values of any property being replaced					
Net estimated values upon completion of project		6,372,400.00		6,372,400.00	
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 				Date signed (month, day, year) 9/23/2022	
Printed name of authorized representative Dave McCaffery				Title VP, Business Development and Treasury	

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) _____

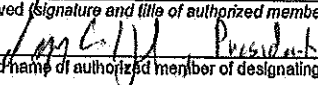
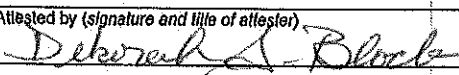
E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☐ Year 5 (* see below)
☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10

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 President	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.



COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51765 (R4 / 11-16)

Prescribed by the Department of Local Government Finance

FORM CF-1 / PP

PRIVACY NOTICE

This form contains information
confidential pursuant to
IC 6-1.1-35-9 and IC 6-1.1-12.1-5.6.

- INSTRUCTIONS:**
1. Property owners whose Statement of Benefits was approved must file this form with the local Designating Body to show the extent to which there has been compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
 2. This form must be filed with the Form 103-ERA Schedule of Deduction from Assessed Value between January 1 and May 15 of each year, unless a filing extension under IC 6-1.1-3.7 has been granted. A person who obtains a filing extension must file between January 1 and the extended due date of each year.
 3. With the approval of the designating body, compliance information for multiple projects may be consolidated on one (1) compliance (CF-1).

SECTION 1 TAXPAYER INFORMATION								
Name of taxpayer Helios Hydraulics Americas LLC						County St. Joseph		
Address of taxpayer (number and street, city, state, and ZIP code) 7456 16th St E, Sarasota, FL 34243						DLGF taxing district number 022		
Name of contact person Lori Switzer						Telephone number (248) 390-4882		
SECTION 2 LOCATION AND DESCRIPTION OF PROPERTY								
Name of designating body City of Mishawaka				Resolution number 2022-31		Estimated start date (month, day, year) 11/1/2022		
Location of property 1811 Home Street						Actual start date (month, day, year) 11/1/2022		
Description of new manufacturing equipment, or new research and development equipment, or new information technology equipment, or new logistical distribution equipment to be acquired. Misc Manufacturing equipment to expand current product lines and create new product lines.						Estimated completion date (month, day, year) 6/1/2026		
						Actual completion date (month, day, year) Ongoing		
SECTION 3 EMPLOYEES AND SALARIES								
EMPLOYEES AND SALARIES						AS ESTIMATED ON SB-1		ACTUAL
Current number of employees						139		139
Salaries						7,200,000.00		7,200,000.00
Number of employees retained						139		139
Salaries						7,200,000.00		7,200,000.00
Number of additional employees						73		21
Salaries						3,000,000.00		384,917.00
SECTION 4 COST AND VALUES								
AS ESTIMATED ON SB-1	MANUFACTURING EQUIPMENT		MANUFACTURING EQUIPMENT		IT EQUIPMENT		IT EQUIPMENT	
	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Values before project	11,824,604.00	3,547,381.00						
Plus: Values of proposed project	11,475,000.00	3,442,500.00					50,000.00	32,500.00
Less: Values of any property being replaced								
Net values upon completion of project	23,299,604.00	6,989,881.00					50,000.00	32,500.00
ACTUAL	COST	ASSESSED VALUE	Placed in Service and CIP 11/1/2022-12/31/2022		Placed in Service and CIP 11/1/2022-12/31/2022		COST	ASSESSED VALUE
Values before project	11,824,604.00	3,547,381.00						
Plus: Values of proposed project	11,475,000.00	3,442,500.00	504,036.00		25,076.00		50,000.00	32,500.00
Less: Values of any property being replaced								
Net values upon completion of project	23,299,604.00	6,989,881.00					50,000.00	32,500.00
NOTE: The COST of the property is confidential pursuant to IC 6-1.1-12.1-5.6(c).								
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER								
WASTE CONVERTED AND OTHER BENEFITS						AS ESTIMATED ON SB-1		ACTUAL
Amount of solid waste converted								
Amount of hazardous waste converted								
Other benefits:								
SECTION 6 TAXPAYER CERTIFICATION								
I hereby certify that the representations in this statement are true.								
Signature of authorized representative 			Title VP of Global Tax			Date signed (month, day, year) 3/9/2023		

**OPTIONAL: FOR USE BY A DESIGNATING BODY WHO ELECTS TO REVIEW THE COMPLIANCE WITH STATEMENT OF BENEFITS (FORM CF-1)
THAT WAS APPROVED AFTER JUNE 30, 1991.**

INSTRUCTIONS: (IC 6-1.1-12.1-5.9)

1. This page does not apply to a Statement of Benefits filed before July 1, 1991; that deduction may not be terminated for a failure to comply with the Statement of Benefits.
2. Within forty-five (45) days after receipt of this form, the designating body may determine whether or not the property owner has substantially complied with the Statement of Benefits.
3. If the property owner is found **NOT** to be in substantial compliance, the designating body shall send the property owner written notice. The notice must include the reasons for the determination and the date, time and place of a hearing to be conducted by the designating body. If a notice is mailed to a property owner, a copy of the written notice will be sent to the County Assessor and the County Auditor.
4. Based on the information presented at the hearing, the designating body shall determine whether or not the property owner has made reasonable effort to substantially comply with the Statement of Benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner.
5. If the designating body determines that the property owner has **NOT** made reasonable effort to comply, then the designating body shall adopt a resolution terminating the deduction. The designating body shall immediately mail a certified copy of the resolution to: (1) the property owner; (2) the County Auditor; and (3) the County Assessor.

We have reviewed the CF-1 and find that:

- ☐ the property owner **IS** in substantial compliance
- ☐ the property owner **IS NOT** in substantial compliance
- ☐ other (specify) _____

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

If the property owner is found not to be in substantial compliance, the property owner shall receive the opportunity for a hearing. The following date and time has been set aside for the purpose of considering compliance.

Time of hearing

- ☐ AM
☐ PM

Date of hearing (month, day, year)

Location of hearing

HEARING RESULTS (to be completed after the hearing)

☐ Approved

☐ Denied (see instruction 5 above)

Reasons for the determination (attach additional sheets if necessary)

Signature of authorized member

Date signed (month, day, year)

Attested by:

Designating body

APPEAL RIGHTS [IC 6-1.1-12.1-5.9(e)]

A property owner whose deduction is denied by the designating body may appeal the designating body's decision by filing a complaint in the office of the clerk of Circuit or Superior Court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner.



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 submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between 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)

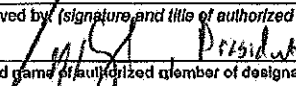
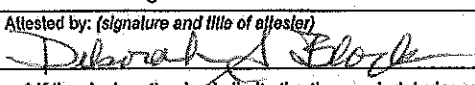
SECTION 1		TAXPAYER INFORMATION							
Name of taxpayer Hellos Hydraulics America LLC		Name of contact person Lori Switzer							
Address of taxpayer (number and street, city, state, and ZIP code) 7456 16th St E, Sarasota, FL 34243		Telephone number (248) 390-4882							
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT							
Name of designating body St. Joseph County		Resolution number (s)							
Location of property 1811 Home Street		County St. Joseph	DLGF taxing district number 022						
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.) Misc Manufacturing equipment to expand current product lines and create new product lines.		ESTIMATED							
		START DATE	COMPLETION DATE						
		Manufacturing Equipment	11/01/2022 06/01/2026						
		R & D Equipment							
		Logist Dist Equipment							
		IT Equipment	02/01/2023 06/01/2023						
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT							
Current Number 139	Salaries \$7.2mil	Number Retained 139	Salaries \$7.2mil	Number Additional 73	Salaries \$3mil				
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		11,824,604	3,547,381						
Plus estimated values of proposed project		11,476,000	3,442,600					50,000	32,600
Less values of any property being replaced									
Net estimated values upon completion of project		23,299,604	6,989,881					50,000	32,600
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER							
Estimated solid waste converted (pounds)		Estimated hazardous waste converted (pounds)							
Other benefits: This project will bring increased investment in local jobs, additional revenue to Indiana suppliers, and an increased tax base for the county and the state.									
SECTION 6		TAXPAYER CERTIFICATION							
I hereby certify that the representations in this statement are true.									
Signature of authorized representative 		Date signed (month, day, year) 9/23/2022							
Printed name of authorized representative Dave McCaffrey		Title VP, Business Development and Treasury							

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
Number of years approved: _____
(Enter one to twenty (1-20) years; may not exceed twenty (20) years.) |
| ☐ Year 6 | ☐ Year 7 | ☐ Year 8 | ☐ Year 9 | ☐ Year 10 | |
- I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17? ☐ Yes ☐ No
If yes, attach a copy of the abatement schedule to this form.
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

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

Approved by: (signature and title of authorized member of designating body)  President	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)  Deborah A. Block	Printed name of attester _____	
* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.		

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. 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.

1st Reading

2nd Reading

Passed

Failed

Continued **19**

PETITION 23-04

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2023-11

ORDINANCE NO. _____

Deborah S. Block, MMC, MMC

MAR 16 2023

**City Clerk
Mishawaka, IN**

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

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

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

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

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

A part of the Southeast Quarter (¼) of the Southeast Quarter (¼) of Section 14, Township 37 North, Range 3 East, in the City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Beginning at a point on the South line of Section 14, 261.50 feet on an assumed bearing of South 89° 48' 39" West of the Southeast corner of said Section 14; thence continuing South 89° 48' 39" West along said South line of Section 14, 624.50 feet; thence North 0° 00' 00" West a distance of 411.72 feet; thence North 89° 48' 09" East, a distance of 624.50 feet; thence South 0° 00' 00" West, a distance of 412.60 feet to the place of beginning.

COMMON ADDRESS: Vacant Property to the northwest corner of 12th Street and Capital Avenue.

which real estate is now classified as S-2 Planned Unit Development shall hereafter be amended as follows:

Uses:

1. Permitted uses shall be limited to uses identified in the C-1 General Commercial District including one (1) restaurant with drive through facilities only.
2. Multi-tenant commercial buildings shall be permitted.
3. Off-premise signs/billboards shall be prohibited.

Parking Spaces, Access, and Pavement Setbacks

Proposed Ordinance No: _____

Ordinance No: _____

1. Parking spaces for the one (1) restaurant with drive through facilities only shall be provided at a ratio of 13 spaces per 1,000 sq. ft. of gross floor area.
2. Parking spaces for multi-tenant commercial buildings exceeding more than two (2) tenants shall comply with the required ratios per the C-2 Shopping Center Commercial District.
3. Ingress-egress easements shall be provided on all future subdivision plats to permit cross access throughout the PUD and allow access to the adjacent parcels to the east. Such easements shall be reviewed and approved as directed by the City Planner.
4. A 0' pavement setback shall be permitted along the east property line to accommodate the required access drives to be constructed to the property line. All other pavement setbacks for each individual lot shall comply with the C-1 General Commercial District.

Utilities:

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

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. An opaque six-foot high fence shall be provided along the north and west property lines and along the southeast edge of the pond. The fence shall be installed with the development of each individual lot. The fence is not required along the north and west property lines where adjacent to an existing pond.
2. A 15' wide landscape buffer shall be provided between the property and the adjacent residentially zoned property to the north and west and along the southeast edge of the pond. The landscape buffer shall be planted with a continuous evergreen screen combined with required plantings as identified in minimum landscaping and screening regulations (Section 137-815). Minimum size of the evergreen plantings at the time of planting shall be 6 foot in height. The buffer shall be provided with the development of each individual lot.
3. All other landscaping shall comply with the minimum landscaping and screening regulations for commercial property (Section 137-815).

Signage:

1. All signage shall comply with the height and display area requirements for the C-1 General Commercial District, including but not limited to, all freestanding and directional signs.

Proposed Ordinance No: _____

Ordinance No: _____

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed one-half footcandles as measured along property lines abutting residentially zoned property.

Architectural Requirements:

1. Building materials for the proposed restaurant with drive through facilities shall be permitted to utilize fiber cement board, including HardiePlank CedarMill Lap Siding and a Hardie Reveal Panel System, as an appropriate exterior building material. Building colors shall comply with the C-1 General Commercial District.

Other:

1. All other developmental standards not identified shall comply with the height, area, and development regulations of the C-1 General Commercial District.

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

1. Existing Conditions – The subject property is currently a vacant parcel of land located at the northwest corner of E. 12th Street and Capital Avenue. These roads are highly to moderately travelled corridors providing major north-south access, and to a lesser extent east-west access, through the City and unincorporated parts of the county. Adjacent uses include multi-family residential apartment complexes to the north and west; a convenience store with fuel pumps and car wash, and stand-alone ATM to the south; and vacant INDOT-owned property to the east.
2. Character of Buildings in Area – The character of buildings within the surrounding area varies, and includes apartment complexes, a single-tenant commercial building, a stand-alone ATM, single-family residential houses, and several industrial buildings to the west along E. 12th Street.
3. The most desirable/highest and best use – The proposed amendment to allow various commercial uses, including a restaurant with drive through facilities only, is not inconsistent with the surrounding existing or permitted land uses. The property is currently zoned for an office and retail development containing a financial institution.
4. Conservation of property values – The proposed zoning should not be injurious to property values in the surrounding area based on the conditions included within this amendment. A solid fence and landscaping is required along a majority of the north and west property line to buffer the adjacent multifamily residential apartment

Proposed Ordinance No: _____

Ordinance No: _____

complexes. Currently, commercial uses, including similarly intensive uses than those proposed, are permitted within the PUD being amended.

5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for medium density residential development as existed to the north and west. However, the presence of existing commercial development to the south and currently permitted commercial uses within the PUD approved in the early 2003, reflect a change in land use patterns in the immediate area.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2023, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2023, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2023, at _____ o'clock ____M.

David A. Wood, Mayor

STAFF REPORTLocation: Northwest Corner of Capital Avenue & E. 12th Street

Date: March 14, 2023

Petition: 23- 04

Prepared By: DJS

GENERAL INFORMATION

Applicant: 1635 Ironwood, LLC / Scooter's Coffee / Abomarche Consultants, Inc.

Status: Property Owner / Contingent Developer & Owner / Site Design Consultant

Request: Amend the NW 12th and Capital Planned Unit Development to allow all C-1 General Commercial permitted uses, one (1) restaurant with drive through facilities only, and multi-tenant commercial buildings

Zoning Classification: S-2 Planned Unit Development District / Permitted for an office and retail developmental containing a financial institution

Lot Size: Approximately 4.76 acres excluded the right-of-way

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District (Ord. 4440) & Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: R-3 Multi-Family Residential (Multi-Family Residential / Eastgate Apartments)
South: S-2 Planned Unit Development (Convenience Store with Filling Station and Car Wash & Stand-Alone ATM / Charlie's Phillips 66 & 1st Source Bank)
East: R-3 Multi-Family Residential (Multi-Family Residential / Eastgate Apartments & Vacant / INDOT Owned) & C-1 General Commercial (Vacant / INDOT Owned)
West: R-3 Multi-Family Residential (Multi-Family Residential / Lake Side Apartments)

Thoroughfare: E. 12th Street

School District: School City of Mishawaka

Township: Penn

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

Comprehensive Plan: Medium Density Residential

ANALYSIS

The applicants, 1635 Ironwood, LLC (current owner), and Scooters Coffee (contingent developer/owner), are requesting to amend the Northwest 12th and Capital Planned Unit Development (PUD) to allow all C-1 General Commercial permitted uses, one (1) restaurant with drive through facilities only, and multi-tenant

commercial buildings. A virtual pre-application meeting, which was attended by the contingent developer, various representatives, and City Staff, was held in mid-January to discuss the proposed amendment prior to filing. After review of the preliminary site plan, Planning Staff recommended and drafted several development regulations and conditions to be placed on the property. These regulations and conditions were reviewed by the applicant's site design consultant prior to filing and were included in the petition. Minor amendments to the regulations were made to allow multi-tenant commercial buildings as a permitted use, further clarify the required parking space ratios for the entire PUD, provide additional screening for the adjacent apartment complex to the north and west, and require ingress-egress easements to permit cross access within the PUD and access to the adjoining INDOT parcels to the east.

The PUD, located at the northwest corner of E. 12th Street and Capital Avenue, is bound by multi-family residential apartment complexes to the north and west; a convenience store with fuel pumps and car wash, and stand-alone ATM to the south; and vacant INDOT-owned property to the east.

The current PUD regulations applicable to the property, which were approved in 2003 (Petition 03-34/Ordinance #4794), limited permitted uses to "office and retail development containing a financial institution". Other than establishing these general permitted uses, there were no additional development regulations or conditions placed on the property.

The 4.76 acre area within the PUD boundary is currently vacant property with a large approximate 0.7 acre pond in the far northwest corner. The property has remained undeveloped since the PUD was approved nearly twenty years ago.

The applicant is proposing to develop a Scooters Coffee drive-thru within the far eastern part of the PUD. The 1.02 acre area to be purchased by the contingent owner is approximately 135' (E-W) x 330' (N-S). A future two lot plat will be required to establish the lot to split it off from the current 4.76 acre parent parcel and dedicated any required easements.

Per the preliminary site plan, the building will be approximately 660 sq. ft. circled by an access drive and drive-thru lane. Access to the Scooters lot will be provided from E. 12th Street via a shared common access drive. This drive, which will be constructed as a part of the Scooters development, shall be dedicated and recorded within an ingress-egress easement on the subdivision plat. Additional ingress-egress easements will be required within the Scooters lot to provide for cross access to the INDOT-owned properties to the east. Pavement for the access drives to the east shall be installed up to the property line. Although currently government owned, there appears to be adequate land within these parcels for a potential future commercial lot. Access to the entire PUD will be limited to the one curb cut where generally shown on the preliminary site plan. The access will allow for unrestricted turning movements to and from E. 12th Street. Travel lanes and pavement markings within E. 12th Street may have to be modified, and if required, are subject to review and approval by the Engineering Department. While the site plan includes several other commercial buildings and parking areas, the initial development will only consist of the future Scooters lot and the common access drive.

Based on 15 parking spaces per 1,000 sq. ft. of gross floor area, which is the applicable ratio for the C-7 Auto-Oriented Restaurant Commercial use, a total of ten (10) parking spaces would be required for the 660 sq. ft. building. The preliminary site plan shows a total of nine (9) parking spaces will be provided, including one (1) ADA compliant space. The one space reduction is reflected in the PUD regulations and conditions of approval. Minimal parking is required for the proposed use since it is a drive-thru only operation with no dine-in space. Parking is only needed for the employees and occasional visitor.

Landscaping is required per the minimum landscaping and screening regulations for commercial property (Section 137-815) and as identified in the PUD regulations and conditions of approval. Additional landscaping and screening required includes a 6' high opaque fence and 15' wide landscaped buffer along the north and west property line and along the southeast edge of the pond. The screening fence and landscape buffer is not required along the east property where adjacent to the multi-family residential apartment property.

The C-7 district design review regulations require that a minimum of 2/3 of each building façade visible from the public right-of-way or private collector road serving multiple properties be constructed with appropriate architectural materials. At this property, this requirement is applicable to all façades except

for the northern façade. Appropriate materials include natural brick, stone or other similar material; glass; exterior insulation and finish systems (EIFS); decorative concrete block or similar masonry units; painted/stained lap wood siding; and other high quality materials as deemed appropriate by the Plan Commission. The proposed building materials for Scooters include Hardie Plank lap siding, a Hardie Reveal panel system, and Hardie board trim exclusive of all windows and doors. Planning Staff supports the use of these fiber cement-based high quality materials regularly used in commercial construction. The proposed gray and black colors with red canopies will meet the color requirements.

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

The Engineering, Building, and Fire Departments have reviewed and approved the request without comment.

The Electric Department commented that an electric service plan needs to be submitted for review and approval, and utility easement provided, if necessary. This comment is applicable to the future subdivision plat and Final Site Plan and not specific to the proposed zoning amendment.

The Water Department commented that the property is within the Virgil 10-year time of travel wellhead protection area. This comment is applicable to the future Final Site Plan and not specific to the proposed zoning amendment.

RECOMMENDATION

Staff recommends **approval** to amend the Northwest 12th and Capital Planned Unit Development (PUD) to allow all C-1 General Commercial permitted uses, one (1) restaurant with drive through facilities only, and multi-tenant commercial buildings.

This recommendation includes the following conditions of approval:

Uses:

1. Permitted uses shall be limited to uses identified in the C-1 General Commercial District including one (1) restaurant with drive through facilities only.
2. Multi-tenant commercial buildings shall be permitted.
3. Off-premise signs/billboards shall be prohibited.

Parking Spaces, Access, and Pavement Setbacks

1. Parking spaces for the one (1) restaurant with drive through facilities only shall be provided at a ratio of 13 spaces per 1,000 sq. ft. of gross floor area.
2. Parking spaces for multi-tenant commercial buildings exceeding more than two (2) tenants shall comply with the required ratios per the C-2 Shopping Center Commercial District.
3. Ingress-egress easements shall be provided on all future subdivision plats to permit cross access throughout the PUD and allow access to the adjacent parcels to the east. Such easements shall be reviewed and approved as directed by the City Planner.
4. A 0' pavement setback shall be permitted along the east property line to accommodate the required access drives to be constructed to the property line. All other pavement setbacks for each individual lot shall comply with the C-1 General Commercial District.

Utilities:

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

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. An opaque six-foot high fence shall be provided along the north and west property lines and along the southeast edge of the pond. The fence shall be installed with the development of each individual lot. The fence is not required along the north and west property lines where adjacent to an existing pond.
2. A 15' wide landscape buffer shall be provided between the property and the adjacent residentially zoned property to the north and west and along the southeast edge of the pond. The landscape buffer shall be planted with a continuous evergreen screen combined with required plantings as identified in minimum landscaping and screening regulations (Section 137-815). Minimum size of the evergreen plantings at the time of planting shall be 6 foot in height. The buffer shall be provided with the development of each individual lot.
3. All other landscaping shall comply with the minimum landscaping and screening regulations for commercial property (Section 137-815).

Signage:

1. All signage shall comply with the height and display area requirements for the C-1 General Commercial District, including but not limited to, all freestanding and directional signs.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed one-half footcandles as measured along property lines abutting residentially zoned property.

Architectural Requirements:

1. Building materials for the proposed restaurant with drive through facilities shall be permitted to utilize fiber cement board, including HardiePlank CedarMill Lap Siding and a Hardie Reveal Panel System, as an appropriate exterior building material. Building colors shall comply with the C-1 General Commercial District.

Other:

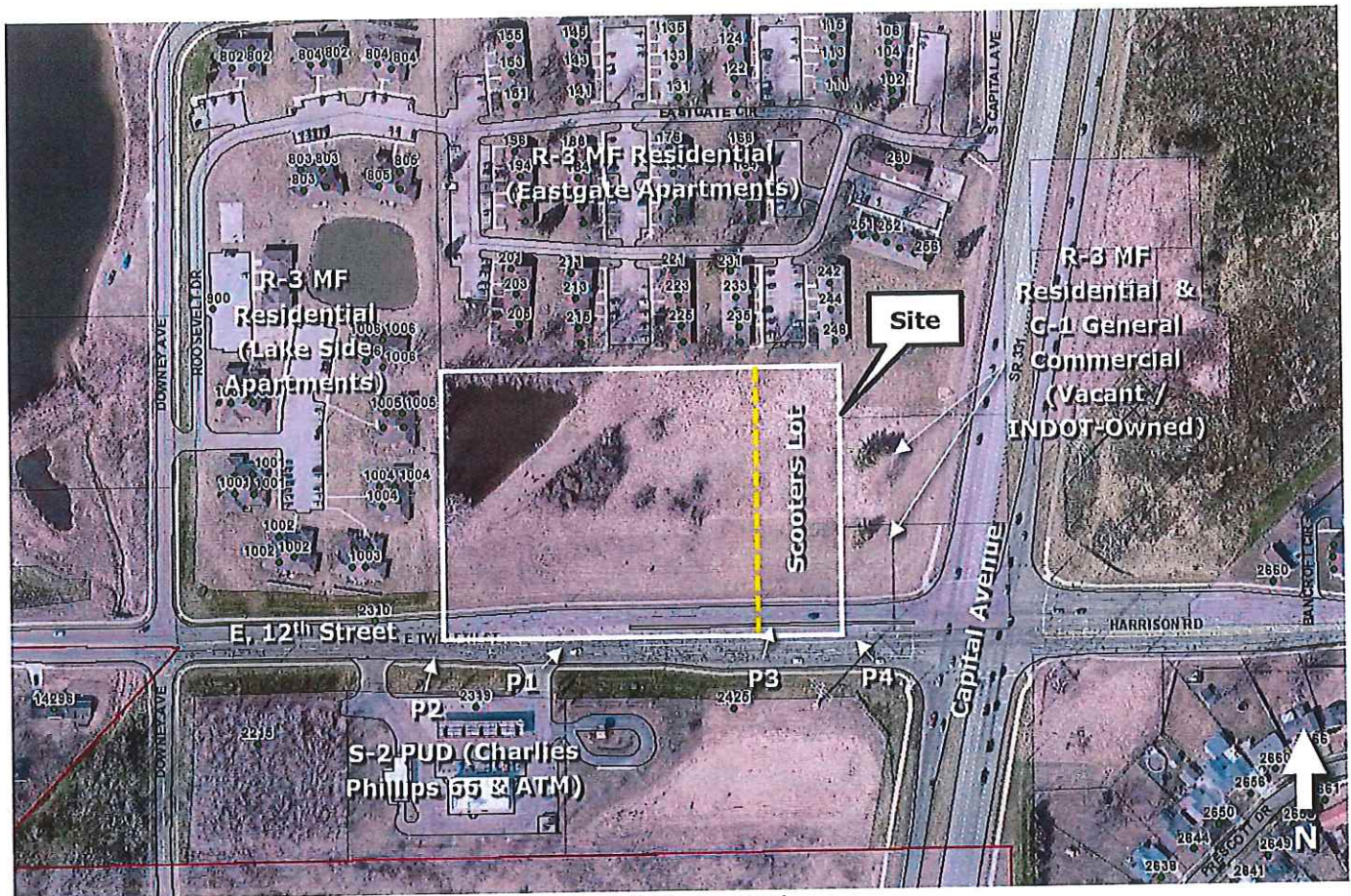
1. All other developmental standards not identified shall comply with the height, area, and development regulations of the C-1 General Commercial District.

This recommendation is based upon the following findings of fact:

1. Existing Conditions – The subject property is currently a vacant parcel of land located at the northwest corner of E. 12th Street and Capital Avenue. These roads are highly to moderately travelled corridors providing major north-south access, and to a lesser extent east-west access, through the City and unincorporated parts of the county. Adjacent uses include multi-family residential apartment complexes to the north and west; a convenience store with fuel pumps and car wash, and stand-alone ATM to the south; and vacant INDOT-owned property to the east.
2. Character of Buildings in Area – The character of buildings within the surrounding area varies, and includes apartment complexes, a single-tenant commercial building, a stand-alone ATM, single-family residential houses, and several industrial buildings to the west along E. 12th Street.
3. The most desirable/highest and best use – The proposed amendment to allow various commercial uses, including a restaurant with drive through facilities only, is not inconsistent with the surrounding existing or permitted land uses. The property is currently zoned for an office and retail development containing a financial institution.
4. Conservation of property values – The proposed zoning should not be injurious to property values in the surrounding area based on the conditions included within this amendment. A solid fence and landscaping is required along a majority of the north and west property line to buffer the adjacent multifamily residential apartment complexes. Currently, commercial uses, including similarly intensive uses than those proposed, are permitted within the PUD being amended.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, identified this area for medium density residential development as existed to the north and west. However, the presence of existing commercial development to the south and currently permitted commercial uses within the PUD approved in the early 2003, reflect a change in land use patterns in the immediate area.

ATTACHMENTS

Aerial, Photographs, Petition, Site Plan, Floor Plan, Building Elevations & Schematic, Location Map



Aerial Photograph
 NW 12th and Capital Planned Unit Development – Proposed Amendment Area
 Vacant Property currently permitted for commercial use



P1. Looking northeasterly toward the property from the Charlie's Phillips 66 access drive to the south.



P2. Looking northerly toward the west part of the property from the Charlie's Phillips 66 to the south.



P3. Looking northerly toward the east part of the site (proposed Scooters lot) from E. 12th Street.



P4. Looking northwesterly toward the property and Scooters lot from the southwest corner of E. 12th Street & Capital Avenue.

Date: 02/22/23

Honorable Members of the
Common Council

City of Mishawaka, Indiana

and

Mishawaka City Plan Commission

City of Mishawaka, Indiana

PET 23-04
Received**FEB 22 2023****Planning and
Community Development**RE: **NW 12TH & CAPITAL PUD AMENDMENT**
~~Grandview Phase III PUD Amendment~~

The undersigned, Owner, of 1635 IRONWOOD LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

LEGAL DESCRIPTION:

A part of the Southeast Quarter (1/4) of the Southeast Quarter (1/4) of Section 14, Township 37 North, Range 3 East, in the City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Beginning at a point on the South line of Section 14, 261.50 feet on an assumed bearing of South 89° 48' 39" West of the Southeast corner of said Section 14; thence continuing South 89° 48' 39" West along said South line of Section 14, 624.50 feet; thence North 0° 00' 00" West a distance of 411.72 feet; thence North 89° 48' 09" East, a distance of 624.50 feet; thence South 0° 00' 00" West, a distance of 412.60 feet to the place of beginning.

COMMON ADDRESS: Northwest Corner of Capital Avenue and 12th Street, Mishawaka

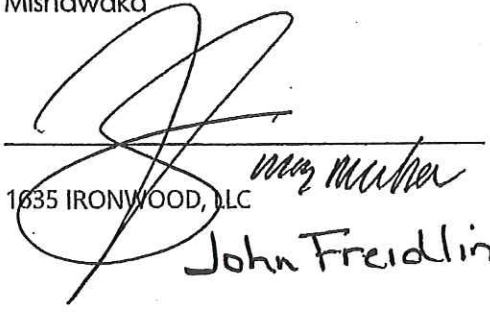
Petitioner owns one hundred percent (100%) of the above-described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for office and retail development containing a financial institution uses.

Petitioner desires said real estate to be amended as follows:

1. Additional Use:

1. To allow for the 1 Restaurant drive through Facility.
2. Allow for the proposed building materials presented by Scooters Coffee (See Attached Elevations)
 - Hardie Board Siding / and Hardie Reveal Panel materials.
 - Glazing as presented
 - No brick or stone Façade treatment.
3. Landscaping to follow the C-1 Commercial Zoning requirements.
4. Screening fence to be 6' in height.
5. Signage as presented in the building package will be acceptable with appropriate height and size requirements per C1-General Commercial Standards.
6. See Conditions of approval for remaining conformance regulations.

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


1635 IRONWOOD, LLC

John Freidline

CONTACT PERSON

Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 538-2201
sruby@abonmarche.com



Conditions of Approval

Northwest E. 12th Street & Capital Avenue PUD Amendment

Uses:

1. Permitted uses shall be limited to uses identified in the C-1 General Commercial District including one (1) restaurant with drive through facilities only.
2. Off-premise signs/billboards shall be prohibited.

Utilities:

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

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. An opaque six-foot high fence shall be provided along the entire northern property line. The fence shall be installed with the development of each individual lot. The fence is not required where adjacent to an existing pond.
2. A 15' wide landscape buffer shall be provided between the property and the adjacent residentially zoned property to the north. The landscape buffer shall be planted with a continuous evergreen screen combined with required plantings as identified in minimum landscaping and screening regulations (Section 137-815). Minimum size of the evergreen plantings at the time of planting shall be 6 foot in height. The buffer shall be provided with the development of each individual lot.
3. All other landscaping shall comply with the minimum landscaping and screening regulations for commercial property (Section 137-815).

Signage:

1. All signage shall comply with the height and display area requirements for the C-1 General Commercial District, including but not limited to, all freestanding and directional signs.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed one-half footcandles as measured along property lines abutting residentially zoned property.

Architectural Requirements:

1. Building materials for the proposed restaurant with drive through facilities shall be permitted to utilize fiber cement board, including HardiePlank CedarMill Lap Siding and a Hardie Reveal Panel System, as an appropriate exterior building material. Building colors shall comply with the C-1 General Commercial District.

Other:

1. All other developmental standards not identified shall comply with the height, area, and development regulations of the C-1 General Commercial District.

ABONMARCHÉ
 11111 Highway 401
 Suite 100
 Mississauga, ON L4W 4Y6
 Tel: (905) 876-1111
 Fax: (905) 876-1112
 Email: info@abonmarche.com

SCOOTERS COFFEE
 12TH STREET & CAPITAL
 MISHAWAKA, INDIANA

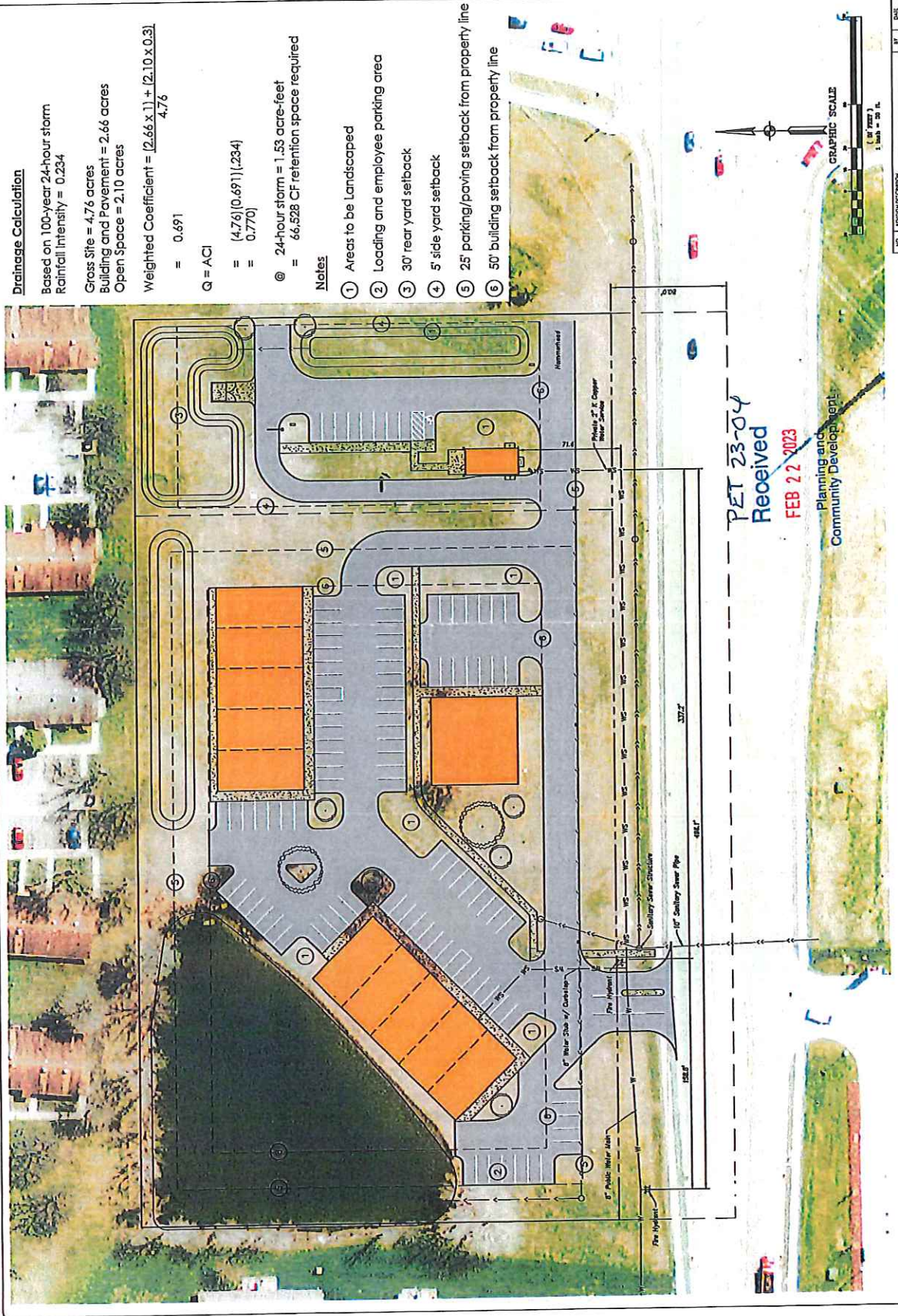
CONCEPTUAL SITE PLAN

DATE: 2/15/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: 22-1930
 SHEET NO: 1 of 1

Drainage Calculation
 Based on 100-year 24-hour storm
 Rainfall Intensity = 0.294
 Gross Site = 4.76 acres
 Building and Pavement = 2.66 acres
 Open Space = 2.10 acres
 Weighted Coefficient = $\frac{[2.66 \times 1] + [2.10 \times 0.3]}{4.76}$
 = 0.691
 $Q = ACI$
 = $(4.76)(0.691)(1.234)$
 = 0.770
 @ 24-hour storm = 1.53 acre-feet
 = 66,528 CF retention space required

Notes

- ① Areas to be Landscaped
- ② Loading and employee parking area
- ③ 30' rear yard setback
- ④ 5' side yard setback
- ⑤ 25' parking/paving setback from property line
- ⑥ 50' building setback from property line

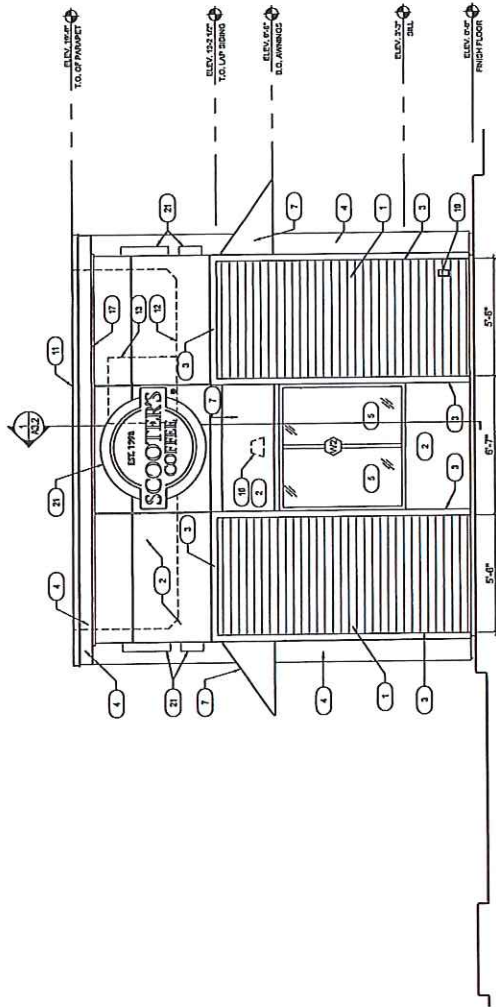


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 Planning and
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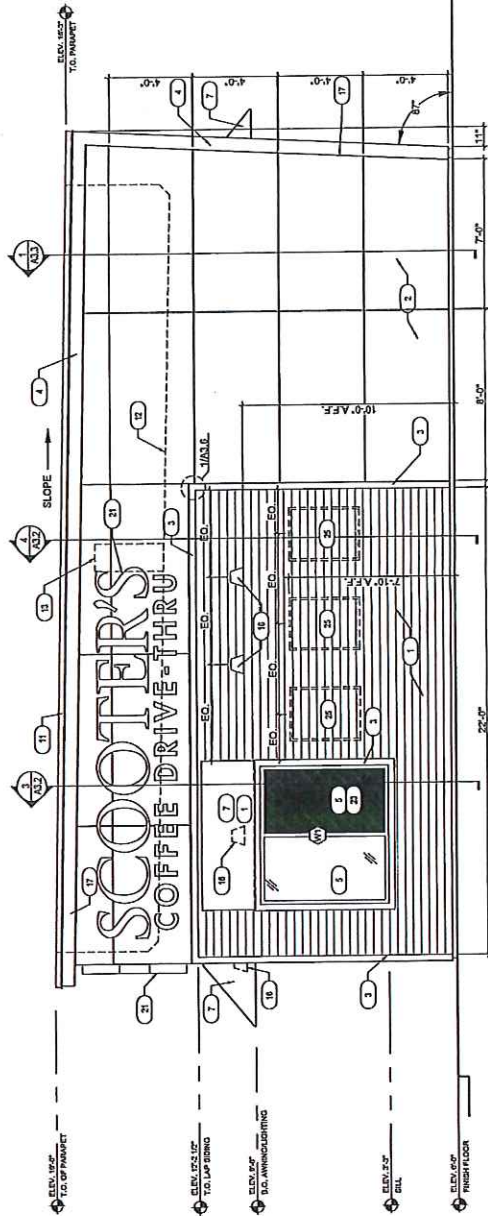
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KEYNOTES

- HARDIE PLANKS LAP SING CEDAR/MILL KAP. SEE HARDIE DETAIL SHEET.
- ASB - COLOR SHOWN WILL SING SHOWN MARVELL COGPELL FINISH.
- WALLS AND CEILING SHALL BE FINISHED WITH AN ALUMINUM FINISH. SEE MARVELL DETAIL SHEET ASB. COLOR SHOWN WILL SING SHOWN MARVELL COGPELL FINISH.
- 3 1/2" WIDE TRIM. SEE MARVELL DETAIL SHEET ASB - COLOR SHOWN WILL SING SHOWN MARVELL COGPELL FINISH.
- HARDIE BOARD TRIM ACCENTS AND JOINTS - COLOR: BLACK.
- INSULATED DARK SINK ALUMINUM WINDOWS WITH DUAL PANE TEMPERED GLASS.
- QUICKCURE 4048 WINDOW - COLOR: DARK BRONZE.
- AWNING BY OTHERS - COLOR: RED.
- INSULATED HOLLOW METAL DOOR AND FRAME - COLOR: SHOWN WILL SING SHOWN MARVELL COGPELL FINISH.
- WIDE HANDLE KICK HOLE BY DOOR MANUFACTURER.
- NOT USED.
- 22 GAUGE METAL MARVELL CAP.
- LINE OF ROOF SING.
- AIR CONDENSER. SEE MECHANICAL DRAWINGS.
- ROOF SCOPES AND DOWNPOUT. SEE DETAIL BMS.
- WALLS OF CE BLACK.
- WALL MOUNTED LIGHT FIXTURE. SEE ELECTRICAL DRAWINGS.
- LED LIGHT BANG. SEE ELECTRICAL DRAWINGS.
- LED PANEL. SEE ELECTRICAL DRAWINGS.
- ELECTRICAL OUTLET. SEE ELECTRICAL DRAWINGS.
- HOSE BIBB. SEE PLUMBING DRAWINGS.
- PROPOSED DOWNPOUT BY OTHERS UNDER SEPARATE PERMIT.
- DOWNPOUT DOWNPOUTS TO UNDERGROUND PIPING. REF. CIVIL.
- PANORAMIC GLASS.
- NEW SECURITY CAMERA.
- CUSTOMER PROVIDED SIGN PANELS TO BE MOUNTED TO FACIA BY OTHERS. SEE SIGNAGE DETAIL SHEET FOR MOUNTING LOCATION USING PROPER MOUNTING AND FASTENING (NAIL-CONCRETE).



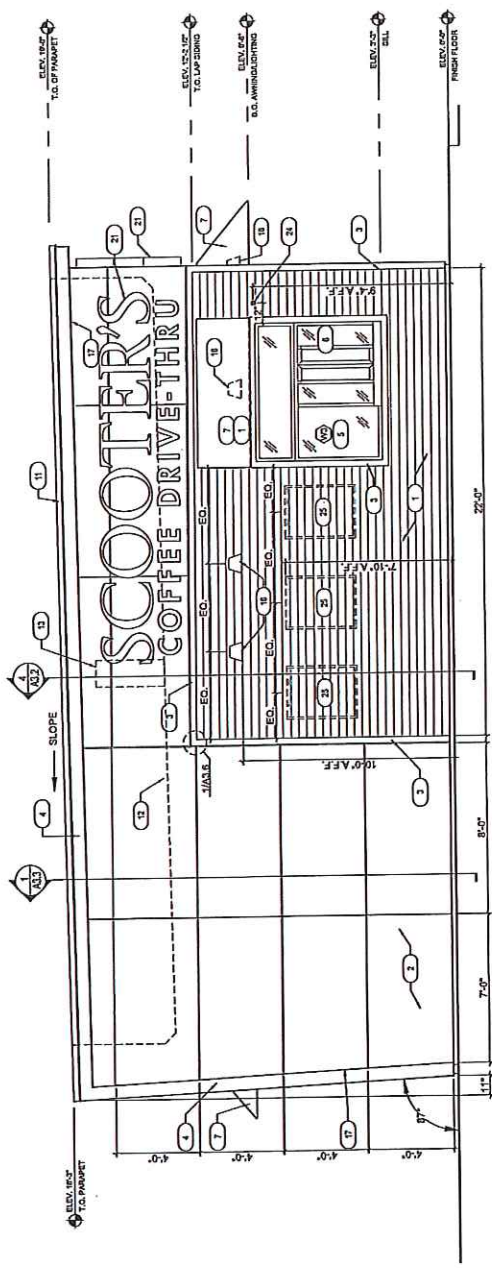
1 FRONT EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"



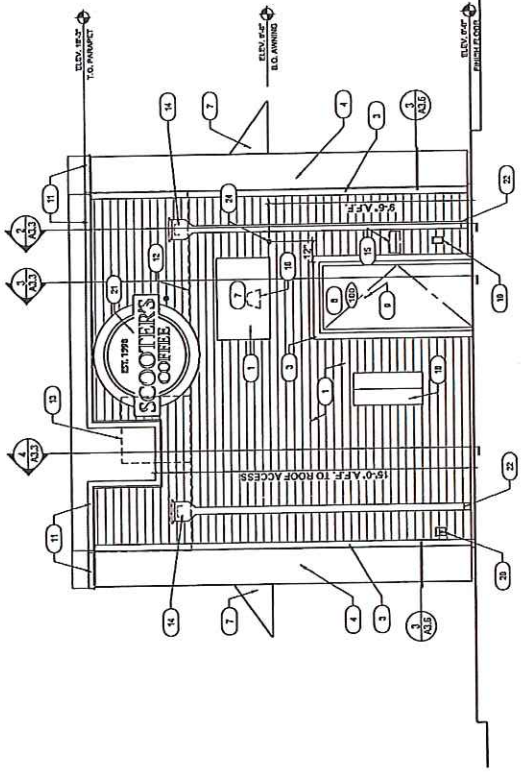
2 SIDE EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"

KEYNOTES

1. HANGAR PLANKS LAY USING CEDAR/MILL LAM. SEE HANGAR DETAIL SHEET AS-B.
2. HANGAR PLANKS LAY USING CEDAR/MILL LAM. SEE HANGAR DETAIL SHEET AS-B.
3. 1/2" HANGAR TRIM. SEE HANGAR DETAIL SHEET AS-B.
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1 EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"



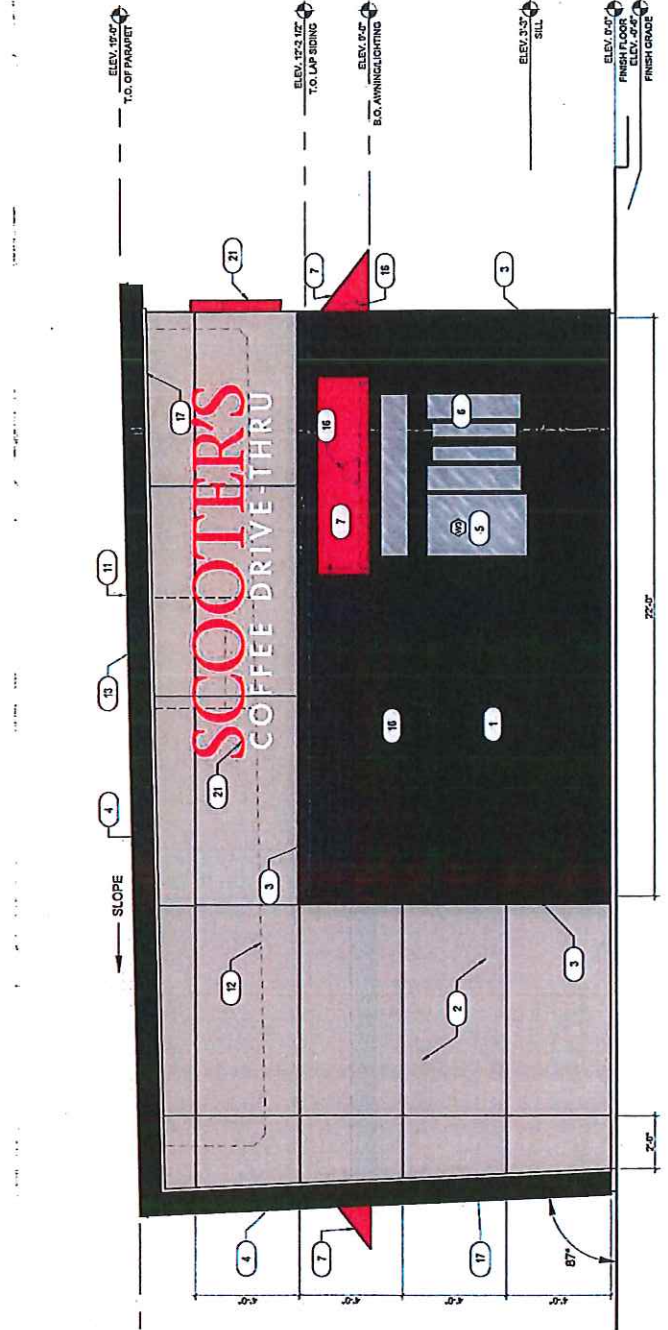
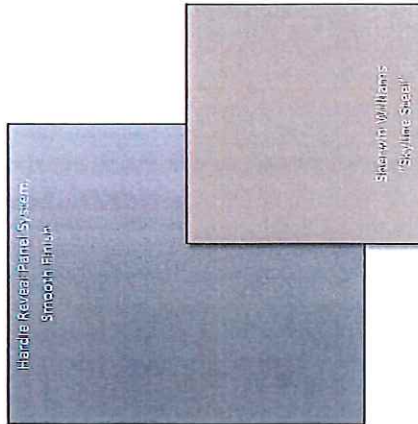
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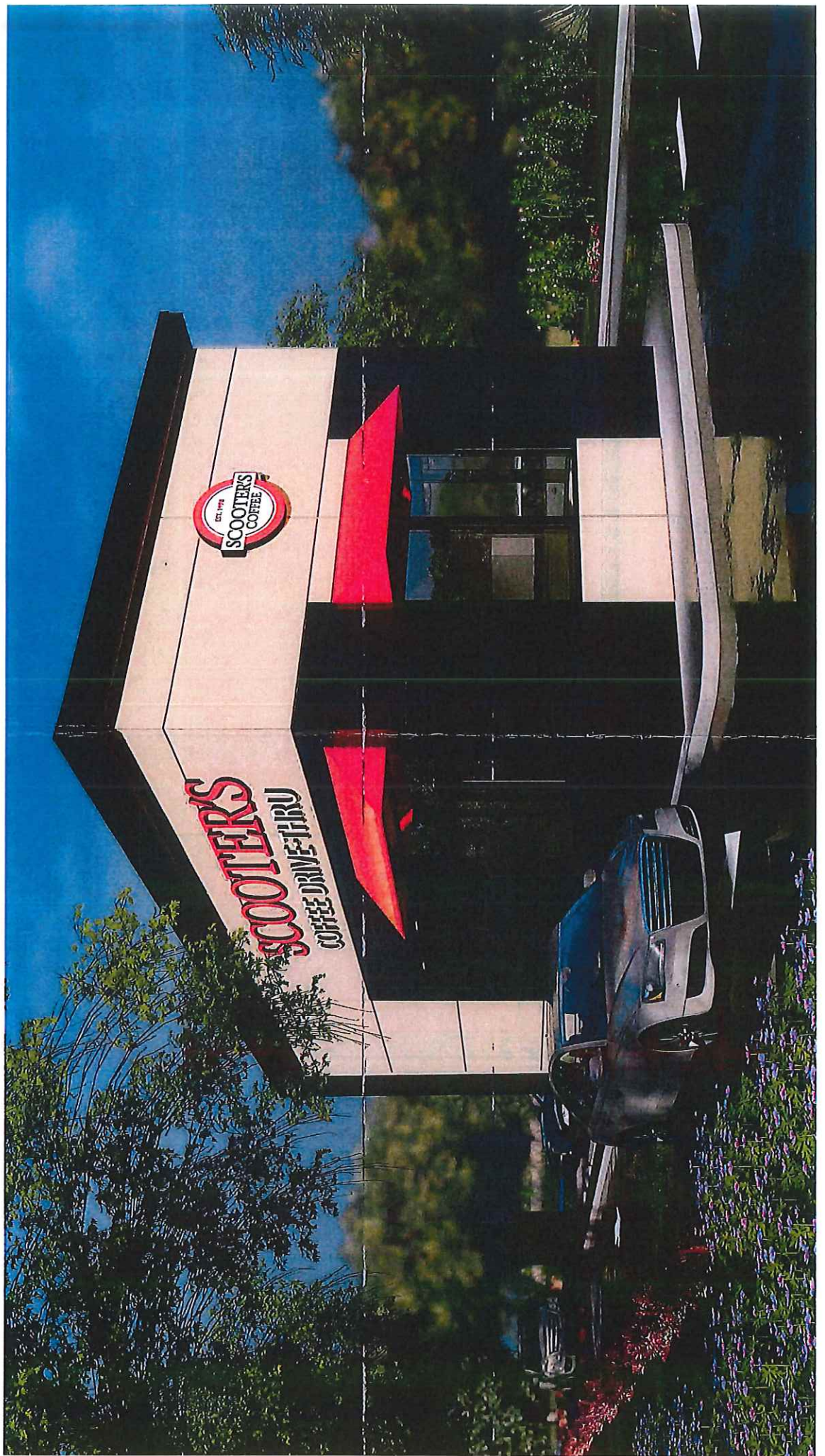


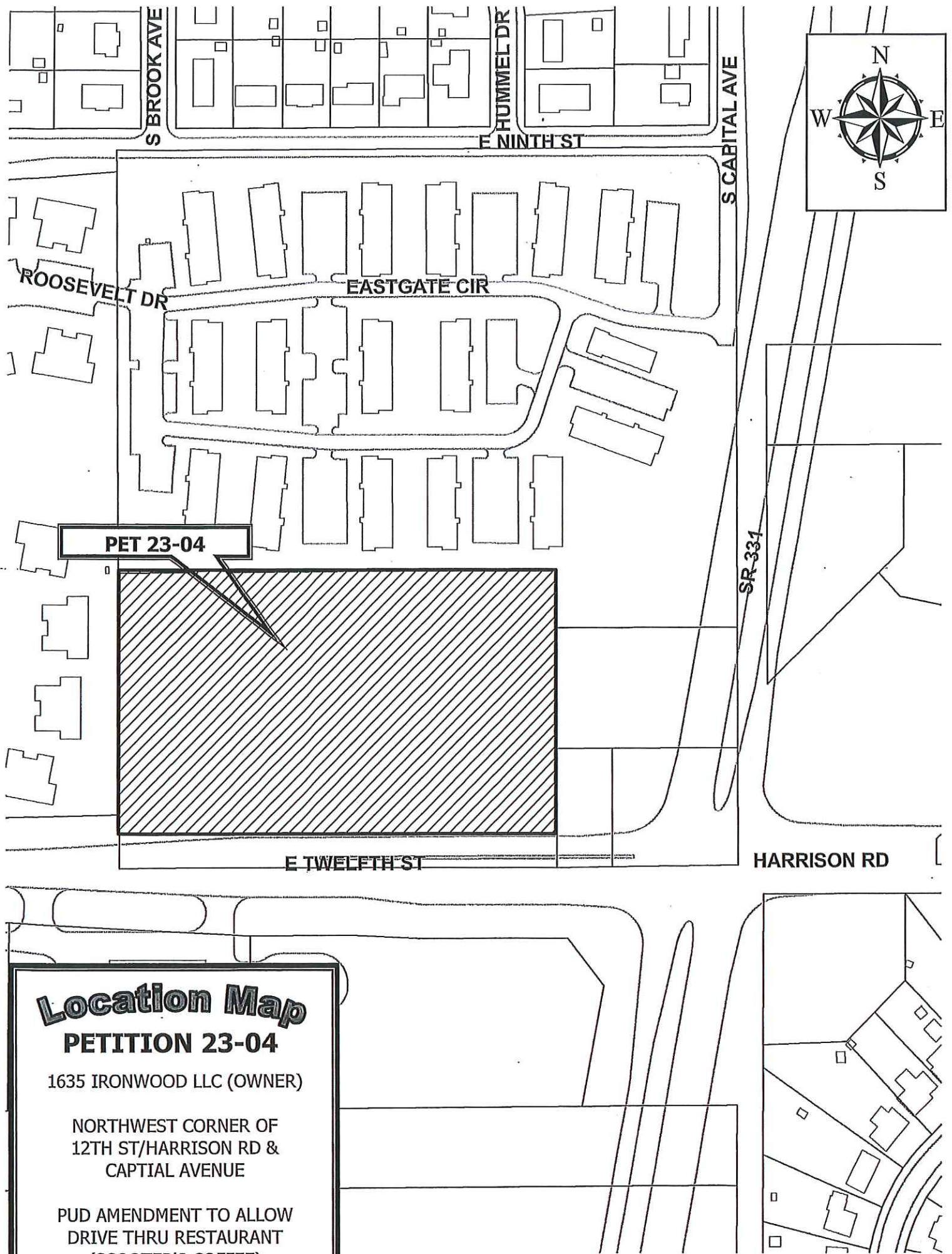
TWENTY FIVE YEARS
15974 N. 77th ST., STE. 100
SCOTTSDALE, AZ 85260

FINISH LEGEND	
Exterior Finish	HardiePlank HZ10 CedarMill Lap Siding (6.25" Width) Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Exterior Finish	Hardie Reveal Panel System WZ10 Smooth Finish Painted to match Sherwin Williams "Skyline Steel" SW 1015
Exterior Finish	3.5" HardieTrim Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Window Frames	Dark Bronze Aluminum
Door Frames	Insulated Hollow Metal Door and Frame Painted to match Sherwin Williams "Inkwell" SW 6992, Eggshell Finish
Exterior Accents	Black 20 Gauge Metal

Scooter's Coffee







Date: 02/22/23
Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

Deborah S. Block, IAMC, MMC

FEB 23 2023

City Clerk
Mishawaka, IN

PET 23-04
Received

FEB 22 2023

RE: Grandview Phase III PUD Amendment

Planning and
Community Development

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3. Landscaping to follow the C-1 Commercial Zoning requirements.
4. Screening fence to be 6' in height.
5. Signage as presented in the building package will be acceptable with appropriate height and size requirements per C1-General Commercial Standards.
6. See Conditions of approval for remaining conformance regulations.

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


1835 IRONWOOD, LLC
my number
John Freidline

CONTACT PERSON

Steve Ruby
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 538-2201
sruby@abonmarche.com



Conditions of Approval

Northwest E. 12th Street & Capital Avenue PUD Amendment

Uses:

1. Permitted uses shall be limited to uses identified in the C-1 General Commercial District including one (1) restaurant with drive through facilities only.
2. Off-premise signs/billboards shall be prohibited.

Utilities:

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

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed on the site shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. An opaque six-foot high fence shall be provided along the entire northern property line. The fence shall be installed with the development of each individual lot. The fence is not required where adjacent to an existing pond.
2. A 15' wide landscape buffer shall be provided between the property and the adjacent residentially zoned property to the north. The landscape buffer shall be planted with a continuous evergreen screen combined with required plantings as identified in minimum landscaping and screening regulations (Section 137-815). Minimum size of the evergreen plantings at the time of planting shall be 6 foot in height. The buffer shall be provided with the development of each individual lot.
3. All other landscaping shall comply with the minimum landscaping and screening regulations for commercial property (Section 137-815).

Signage:

1. All signage shall comply with the height and display area requirements for the C-1 General Commercial District, including but not limited to, all freestanding and directional signs.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. Shielding of lighting shall be required in the areas to the rear of buildings adjacent to (in sight of) residential areas.
2. A photometric lighting plan shall be submitted as part of the final site plan. Lighting shall not exceed one-half footcandles as measured along property lines abutting residentially zoned property.

Architectural Requirements:

1. Building materials for the proposed restaurant with drive through facilities shall be permitted to utilize fiber cement board, including HardiePlank CedarMill Lap Siding and a Hardie Reveal Panel System, as an appropriate exterior building material. Building colors shall comply with the C-1 General Commercial District.

Other:

1. All other developmental standards not identified shall comply with the height, area, and development regulations of the C-1 General Commercial District.

KEYNOTES

1. HANDED PLANK LAP SIDING (WOODGULL & CAP, SEE HANDED DETAIL SHEET)
2. HANDED INSULATED PANEL SYSTEM (METAL, SMOOTH FINISH, SEE HANDED DETAIL SHEET)
3. HANDED INSULATED PANEL SYSTEM (METAL, SMOOTH FINISH, SEE HANDED DETAIL SHEET)
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PROJECT ADDRESS:
STREET
CITY, STATE, ZIP

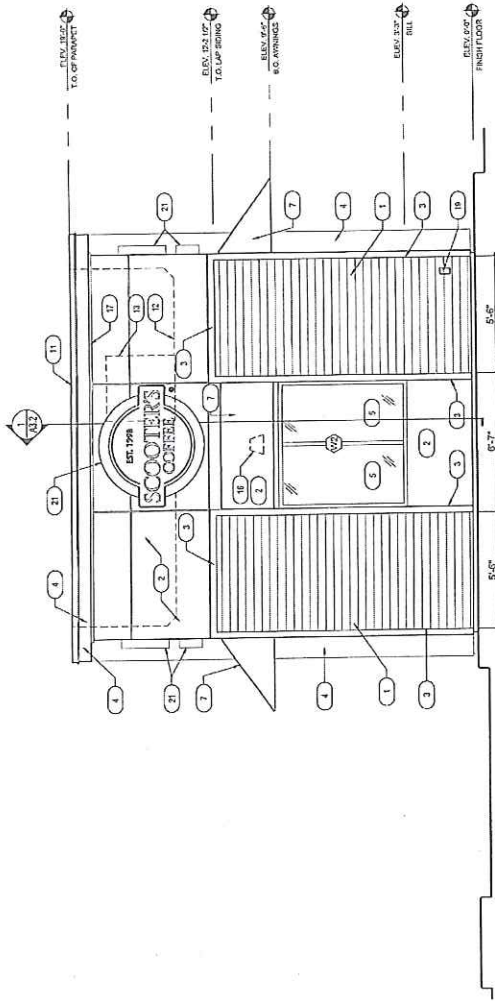
REVISIONS:

TITLE:
EXTERIOR
ELEVATIONS

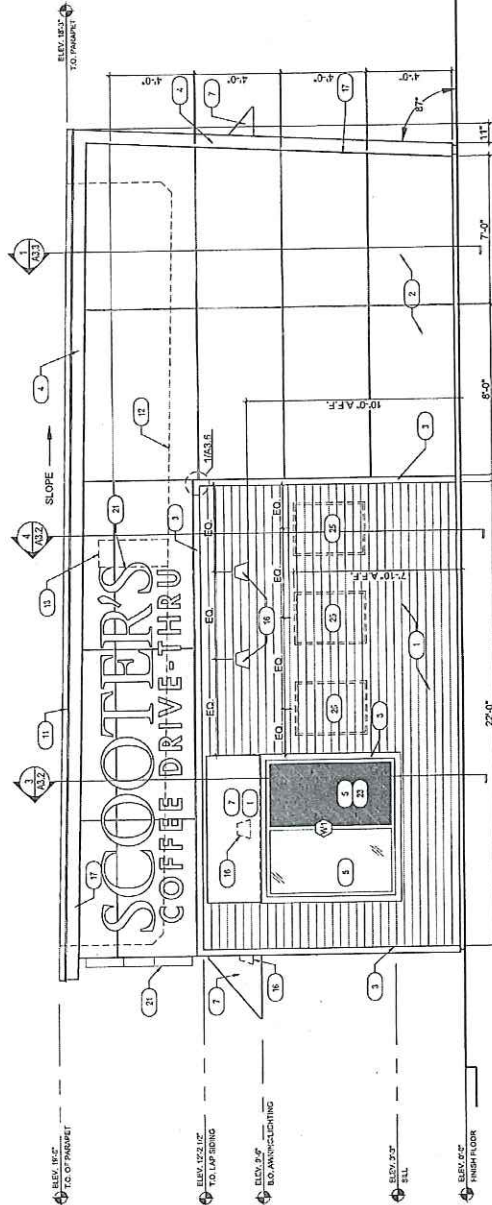
KICKER SIGNATURE
MAY 2022
DATE:
PROJECT NO.
220004

☒ PERMITTING SUBMITTAL
☐ CONSTRUCTION ISSUE
SHEET NO.

A2.1



1 FRONT EXTERIOR ELEVATIONS



2 SIDE EXTERIOR ELEVATIONS

1. HARDIE PLANK NZTS LAP SINKING CEARUALL 6 1/4". SEE HARDIE DETAIL SHEET A3.6 - COLOR: SHERRMAN WILLIAMS SW9325 INHVELL EGGSHELL FINISH



PROJECT ADDRESS:
STREET
CITY, STATE, ZIP

REVISIONS:

TITLE:
EXTERIOR
ELEVATIONS

KIOSK PROTOTYPE:
4.1 PROTOTYPE
MAY 2022

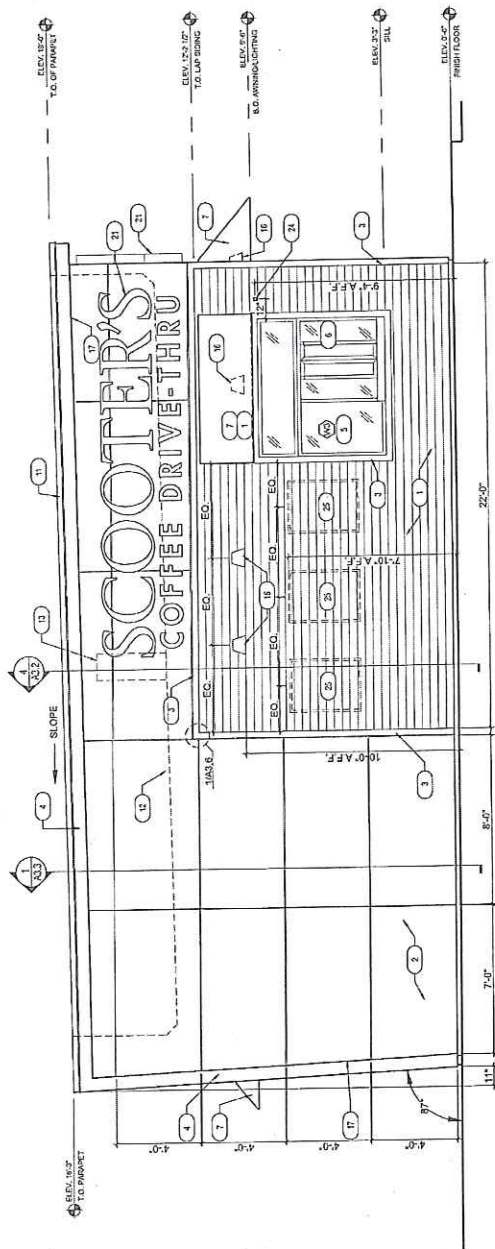
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PROJECT NO.
22XXXX

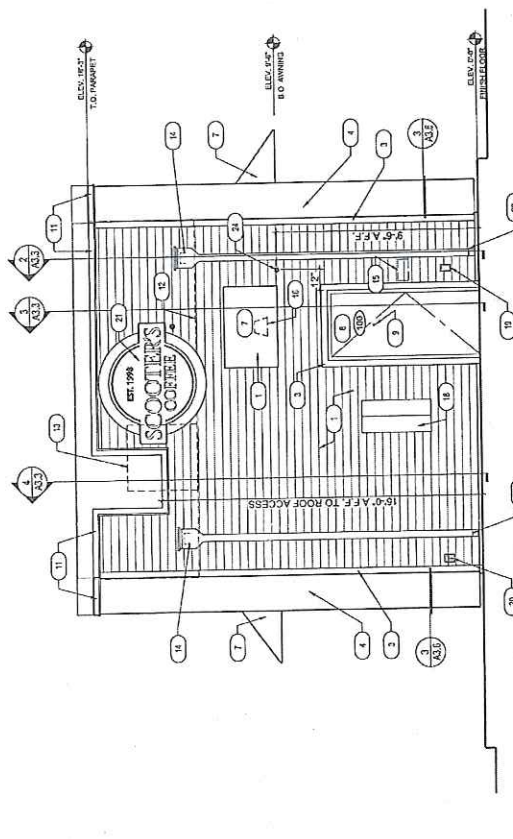
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☐ CONSTRUCTION ISSUE

SHEET NO. _____

A2.2



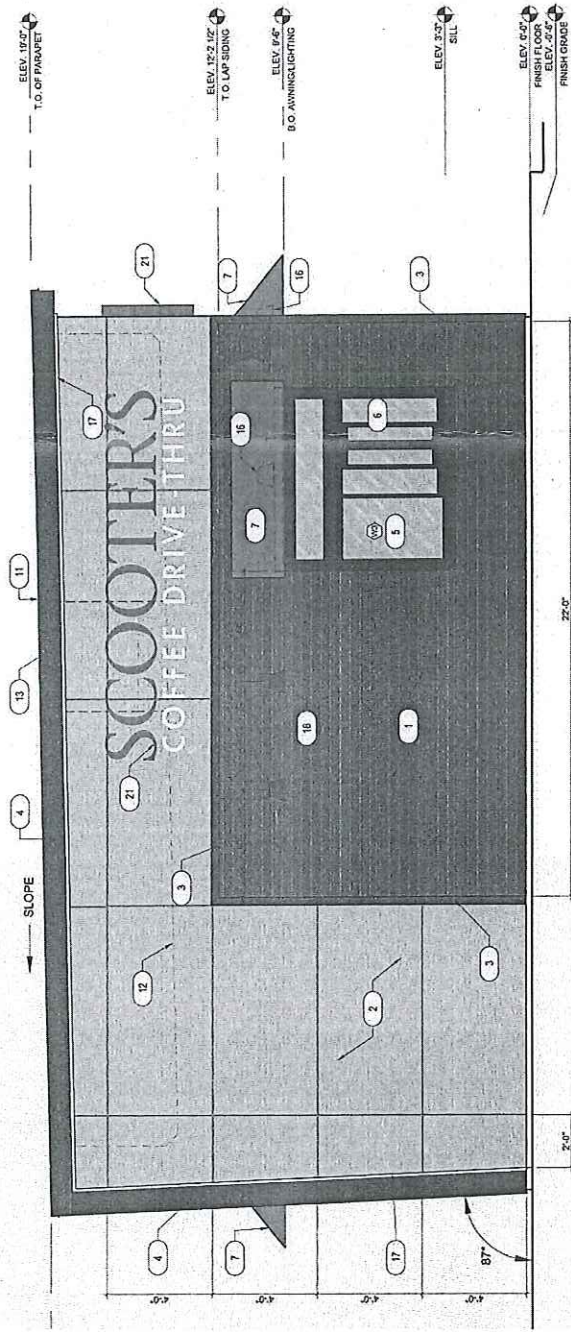
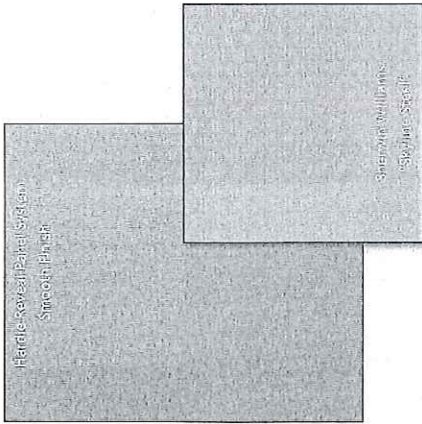
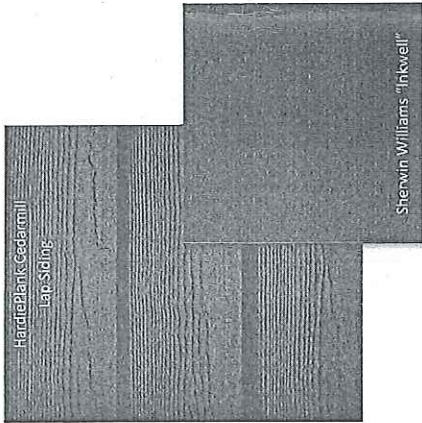
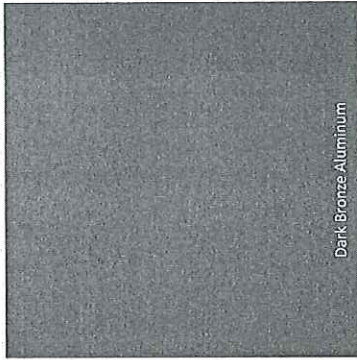
1 EXTERIOR ELEVATIONS
SCALE: 3/8" = 1'-0"



2 EXTERIOR ELEVATIONS

FINISH LEGEND	
Exterior Finish	HardiePlank HZLO CedarMill Lap Siding (6.25" Width)
Exterior Finish	Hardie Reveal Panel System WZLO, Smooth Finish
Exterior Finish	3.5" HardieTrim
Window Frames	Dark Bronze Aluminum
Door Frames	Insulated Hollow Metal Door and Frame
Exterior Accents	Black 20 Gauge Metal

Scooter's Coffee







Location Map

PETITION 23-04

1635 IRONWOOD LLC (OWNER)

NORTHWEST CORNER OF
12TH ST/HARRISON RD &
CAPTIAL AVENUE

PUD AMENDMENT TO ALLOW
DRIVE THRU RESTAURANT
(SCOOTER'S COFFEE)

MAR 16 2023

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2023-12
ORDINANCE NO. _____

An Ordinance concerning the construction of additions and improvements to the sewage works of the City of Mishawaka, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Mishawaka, Indiana ("City") has heretofore established, constructed and financed its sewage works, and now owns and operates said sewage works in accordance with the provisions of Title 36, Article 9, Chapter 23 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized (all references hereinafter to the Indiana Code are designated as "IC" followed by the applicable code section or sections); and

WHEREAS, the Common Council of the City ("Common Council") now finds that certain additions, improvements and extensions to said works are necessary; and that preliminary plans, specifications and estimates have been or will be prepared and filed by the engineers employed by the City for the construction of said additions, improvements and extensions, as more fully described on Exhibit A attached hereto and made a part hereof (the "Project"), which preliminary plans, specifications and engineering estimates have been or will be approved by the Common Council and by all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management, will be approved by the aforesaid governmental authorities and are incorporated herein by reference and will be open for inspection at the office of the City Clerk (the "Clerk"), as required by law; and

WHEREAS, the City has obtained engineer's estimates for the costs of the construction of the Project, and will advertise for and receive bids for the construction of the Project, which bids will be subject to the City's determination to construct all or a portion of the Project and subject to the City obtaining funds to pay for all or a portion of the Project; that on the basis of said engineer's estimates, the maximum cost of the Project, including estimated incidental expenses, is in an amount not to exceed Forty Million Dollars (\$40,000,000); and

WHEREAS, the Common Council finds that it does not have sufficient funds on hand to apply to the costs of the Project, and that the entire cost of the Project is hereby authorized to be financed by the issuance of sewage works revenue bonds, in one or more series, in an aggregate amount not to exceed Forty Million Dollars (\$40,000,000), and, if necessary, bond anticipation notes ("BANs") in an aggregate principal amount not to exceed Forty Million Dollars (\$40,000,000); and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue Bonds of 2010, Series A," dated January 28, 2010 ("2010A Bonds"), originally issued in the amount of \$2,398,000,

now outstanding in the amount of \$1,012,000, and maturing semiannually over a period ending March 1, 2030, which 2010A Bonds constitute a first charge upon the Net Revenues (as hereinafter defined) of the sewage works; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the refunding of certain outstanding sewage works bonds designated "Sewage Works Refunding Revenue Bonds of 2015," dated August 20, 2015 ("2015 Bonds"), originally issued in the amount of \$34,755,000, now outstanding in the amount of \$14,055,000, and maturing semiannually over a period ending March 1, 2027, which 2015 Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the refunding of certain outstanding sewage works bonds and the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue and Refunding Revenue Bonds of 2017, Series A," dated December 12, 2017 ("2017A Bonds"), originally issued in the amount of \$16,315,000, now outstanding in the amount of \$10,295,000, and maturing semiannually over a period ending March 1, 2034, which 2017A Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds and the 2015 Bonds; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the refunding of certain outstanding sewage works bonds and the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue and Refunding Revenue Bonds of 2017, Series B," dated December 12, 2017 ("2017B Bonds"), originally issued in the amount of \$24,210,000, now outstanding in the amount of \$18,910,000, and maturing semiannually over a period ending September 1, 2034, which 2017B Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds, the 2015 Bonds and the 2017A Bonds; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue Bonds of 2018," dated October 16, 2018 ("2018 Bonds"), originally issued in the amount of \$12,550,000, now outstanding in the amount of \$11,240,000, and maturing semiannually over a period ending September 1, 2038, which 2018 Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds, the 2015 Bonds, the 2017A Bonds and the 2017B Bonds; and

WHEREAS, the 2010A Bonds, the 2015 Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds are hereafter referred to as the Outstanding Bonds; and

WHEREAS, the ordinances authorizing the issuance of the Outstanding Bonds permit the issuance of additional bonds ranking on a parity with the Outstanding Bonds provided that certain conditions can be met, and the City finds that the finances of the sewage works will enable the City to meet the conditions for the issuance of additional parity bonds and that, accordingly, the revenue bonds authorized herein shall constitute a first charge on the Net

Revenues of the sewage works, on a parity with the Outstanding Bonds; and

WHEREAS, the Mishawaka Redevelopment Commission ("Redevelopment Commission") has previously adopted and amended a Declaratory Resolution designating and declaring an area known as the Consolidated Tax Increment Financing District ("Area") as an economic development area and an allocation area within the meaning of IC 36-7-14, and the Declaratory Resolution was ratified and confirmed by the Redevelopment Commission; and

WHEREAS, in connection with the issuance of the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds, the Redevelopment Commission adopted resolutions (collectively, the "Resolutions") which pledge an annual amount of all real and personal property tax proceeds in the Area allocated and deposited in the Allocation Fund created pursuant to IC 36-7-14 ("Tax Increment") to the payment of the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds, and the funding of any reserves for such 2010A Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds; and

WHEREAS, in connection with the issuance of bonds under this Ordinance, the Redevelopment Commission has adopted or will adopt a resolution ("2023 Resolution") to allow the pledge of Tax Increment as described in the Resolutions, to also apply to the payment of all bonds issued under this Ordinance, and the funding of any reserves for all bonds issued under this Ordinance; and

WHEREAS, the Resolutions and 2023 Resolution direct that the Pledged Tax Increment (as hereafter defined) shall be used as Net Revenues of the sewage works; and

WHEREAS, the Common Council has been advised that Tax Increment has been pledged to the payment of the City of Mishawaka, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2015 ("2015 Tax Increment Bonds") and the City of Mishawaka, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2017 ("2017 Tax Increment Bonds"); the resolutions authorizing such 2015 Tax Increment Bonds and 2017 Tax Increment Bonds (collectively, "Tax Increment Bonds") pledge Tax Increment to the Tax Increment Bonds, but such pledges do not include the Pledged Tax Increment which Pledged Tax Increment is junior and subordinate to the payment of the Tax Increment Bonds; and

WHEREAS, the bonds to be issued pursuant to this Ordinance will constitute a first charge against the Net Revenues of the sewage works, on a parity with the Outstanding Bonds, and are to be issued subject to the provisions of the laws of IC 5-1-14 and IC 36-9-23, each as in effect on the issue date of the bonds authorized herein (collectively, the "Act"), and the terms and restrictions of this Ordinance; and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, in one or more series, if necessary, payable from the proceeds of the Bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

WHEREAS, Section 1.150-2 of the Treasury Regulations (the "Reimbursement Regulations") specifies conditions under which a reimbursement allocation may be treated as an expenditure of bond proceeds, and the City intends by this Ordinance to qualify amounts advanced

by the City to the Project for reimbursement from proceeds of the BANs or the Bonds in accordance with the requirements of the Reimbursement Regulations; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and a debt service reserve surety for the Bonds authorized herein; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said BANs and Bonds have been complied with in accordance with the provisions of the Act;

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

Section 1. Authorization of Project. The City shall proceed with the construction of the Project in accordance with the preliminary cost estimates, plans and specifications heretofore prepared or to be prepared and filed by the consulting engineers employed by the City, which preliminary costs estimates, plans and specifications are now on file or will be subsequently placed on file in the office of the Clerk of the City, and are hereby adopted and approved, and by reference made a part of this Ordinance as fully as if the same were attached hereto and incorporated herein and two (2) copies of which are now on file or shall be placed on file in the office of the Clerk and open for public inspection pursuant to IC 36-1-5-4. The estimated cost of the Project is expected not to exceed the sum of Forty Million Dollars (\$40,000,000), plus investment earnings on the Bond and BAN proceeds. The terms "sewage works," "sewage works system," "works," "system," and other like terms where used in this Ordinance shall be construed to mean the Treatment Works, as defined in the Financial Assistance Agreement, dated January 28, 2010 ("Financial Assistance Agreement") between the City and the Indiana Finance Authority ("Authority") as part of its wastewater loan program established and existing pursuant to IC 5-1.2-10 ("SRF Program"), and includes the existing structures and property of the sewage works, including items defined at IC 36-9-1-8, and all real estate and equipment used in connection therewith and appurtenances thereto, and all enlargements, extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the plans, specifications and cost estimates heretofore mentioned, which Project is hereby approved. The Project shall be constructed and the BANs and Bonds herein authorized shall be issued pursuant to and in accordance with the Act.

Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to the cost of the Project, including costs of issuance in connection therewith. The City may issue its BANs, in one or more series, in an aggregate amount not to exceed Forty Million Dollars (\$40,000,000) to be designated "Sewage Works Bond Anticipation Notes of ____" (to be completed with the year in which issued and appropriate series designation, if any). The BANs shall be sold at not less than ninety-nine percent (99%) of their par value, shall be numbered consecutively from 1 upward, shall be in any denominations of Five Thousand Dollar (\$5,000), or any integral multiples in excess thereof if sold at a competitive sale, or One Hundred Thousand Dollars (\$100,000) and in integral multiples of Five Thousand Dollars (\$5,000) in excess thereof if sold through a private placement, as set forth in the hereinafter defined Bond Anticipation Note Agreement for the BANs, shall be dated

as of the date of delivery thereof, and shall bear interest at a rate not to exceed five and one half percent (5.5%) per annum (the exact rate or rates to be determined through bidding or negotiation with the purchaser of the BANs) payable at maturity or upon redemption. The BANs will mature no later than two (2) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed five and one half percent (5.5%) per annum (the exact rate or rates to be determined through bidding or negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

(b) The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act.

The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes (“PILOTs”)) of the sewage works of the City, on a parity with the Outstanding Bonds. The Net Revenues of the sewage works shall include the Pledged Tax Increment. For purposes of this Ordinance, the “Pledged Tax Increment” shall mean an annual amount not to exceed \$3,360,000 of the Tax Increment remaining after payment of the Tax Increment Bonds available for deposit under this Ordinance. The Pledged Tax Increment is pledged to pay, on a parity basis, the debt service on and fund reserves for the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, and the Bonds issued under this Ordinance. The Pledged Tax Increment shall remain in force for so long as the Bonds authorized under this Ordinance are outstanding, provided, however, that (i) the Pledged Tax Increment may be reduced or shall be increased (but not in excess of \$3,360,000 annually) so that Net Revenues of the sewage works (including Pledged Tax Increment) in the fiscal year are not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the sewage works; or (ii) Pledged Tax Increment shall no longer be pledged or treated as Net Revenues of the sewage works upon the one time showing that prior to the City’s determination to release the Pledged Tax Increment from the payment of the bonds, the sewage rates and charges are increased sufficiently so that the increased rates and charges applied to the previous fiscal year’s operations would have produced Net Revenues (not including Pledged Tax Increment) for said year equal to not less than one hundred twenty-five (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the sewage works. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings prepared annually by a certified public accountant employed by the City for that purpose within 120 days of the close of each fiscal year.

(c) The City shall issue its sewage works revenue bonds, in one or more series, in an aggregate principal amount not to exceed Forty Million Dollars (\$40,000,000) to be designated “Sewage Works Revenue Bonds of _____” (to be completed with the year in which issued and appropriate series designation, if any) (“Bonds”), for the purpose of procuring funds to be applied on the cost of the Project, the payment of costs of issuance, including premiums for municipal bond insurance and a debt service reserve surety, if any, refunding the BANs, if issued, and all other costs related to the Project and/or the issuance of the Bonds.

The Bonds shall be issued in fully registered form. The Bonds shall be sold at a price not less than ninety-nine percent (99%) of their par value, shall be issued in the denominations of Five Thousand Dollar (\$5,000), or any integral multiples in excess thereof if sold at a competitive sale, or One Hundred Thousand Dollars (\$100,000) and in integral multiples of Five Thousand Dollars (\$5,000) in excess thereof if sold through a private placement, numbered consecutively from 1 upward, originally dated as of the first day of the month in which they are issued or sold or their date of delivery, as determined by the Controller with the advice of the City's municipal advisor, and shall bear interest at a rate or rates not exceeding five and one half percent (5.5%) per annum (the exact rate or rates to be determined by bidding or through negotiation), payable semiannually on March 1 and September 1 in each year, commencing on the first March 1 or the first September 1 following the date of issuance of the Bonds, as determined by the Controller, with the advice of the City's municipal advisor. Principal shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined) and the Bonds shall mature semiannually on March 1 and September 1, commencing no later than one year following the date of issuance, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on March 1 and September 1 of each year, over a period not exceeding thirty-five (35) years from the date of issuance of the Bonds and in such amounts that will produce as level annual debt service as practicable taking into account the annual debt service of the Outstanding Bonds.

All or a portion of the Bonds may be issued as one or more term bonds, upon election of the purchaser thereof. Such term bonds shall have a stated maturity or maturities consistent with the maturity schedule determined in accordance with the preceding paragraph, on the dates as determined by the purchaser thereof, but in no event later than the last serial maturity date of the Bonds as determined in accordance with the preceding paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at one hundred percent (100%) of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the preceding paragraph.

Interest on the Bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

Each series of Bonds shall rank on a parity with the other for all purposes, including the pledge of Net Revenues under this Ordinance.

Section 3. Registrar and Paying Agent; Book-entry Provisions. (a) The Controller is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds and the BANs ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Bonds, and if required the BANs. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Controller is further authorized to pay such fees as the Registrar and Paying Agent may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sinking Fund (as defined and continued herein) to pay the principal of and interest on the Bonds and fiscal agency charges.

As to the BANs and as to the Bonds, if the purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and would be hereby charged with the performance of and all duties of and responsibilities of Registrar and Paying Agent.

(b) The principal of the Bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the Bonds and principal of and interest on the BANs shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof, as the names appear as of the fifteenth day of the month preceding each interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

(c) Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar, by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner thereof, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity and the same series, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(d) The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving thirty (30) days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such thirty (30) day period or upon the earlier appointment of a successor registrar and paying agent by the City. Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the City, the Controller is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Controller is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Sinking Fund continued in Section 15 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

(e) Interest on the Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid. Notwithstanding anything to the contrary herein, the Bonds shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of the Bonds or earlier payment in full of the Bonds.

(f) The City has determined that it may be beneficial to the City to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Bonds may be initially issued in the form of a separate single authenticated fully registered bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this Ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such

Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this Ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this Ordinance.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of the Depository Trust Company, the Registrar shall cause the Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other

action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this Ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

The City is authorized to issue its BANs in book-entry form and, in that case, all of the provisions set forth in this subsection (d) shall apply.

Section 4. Redemption of BANs and Bonds. (a) The BANs are prepayable by the City, in whole or in part, on any date after one hundred eighty (180) days from the date of issuance, upon twenty (20) days' notice to the owner of the BANs, without premium.

(b) The Bonds of this issue are redeemable at the option of the City, but no sooner than ten (10) years after their date of issuance, and thereafter on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, at face value plus accrued interest to the date fixed for redemption. The exact redemption provisions shall be established by the Controller, with the advice of the City's municipal advisor, prior to the sale of the Bonds.

(c) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at one hundred percent (100%) of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each authorized denomination amount of the Bonds shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption at one time, the Bonds to be redeemed shall be selected by lot within a maturity by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(d) Notice of redemption shall be given not less than thirty (30) days prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is forty-five (45) days prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Section 5. Execution and Negotiability. Each of the Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the Controller, and attested by the manual or facsimile signature of the Clerk, and the seal of the City shall be affixed, imprinted or impressed to or on each of the BANs and Bonds manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The BANs and Bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

The Bonds shall also be authenticated by the manual signature of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

The Bonds, and any bonds ranking on a parity therewith, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon the Net Revenues of the sewage works of the City. The City shall not be obligated to pay the Bonds or the interest thereon except from the Net Revenues of said works, and said Bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Section 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery thereof:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Mishawaka, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ST. JOSEPH

CITY OF MISHAWAKA
SEWAGE WORKS REVENUE BOND OF _____[, SERIES ____]

INTEREST RATE	MATURITY DATE	ORIGINAL DATE	AUTHENTICATION DATE	[CUSIP]
------------------	------------------	------------------	------------------------	---------

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Mishawaka ("City"), in St. Joseph County, State of Indiana, for value received, hereby promises to pay to the Registered Owner (named above) or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above, on [the Maturity Date set forth above] **OR** [September 1 and March 1 on the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this hereinafter defined Bond be subject to and shall have been duly called for redemption and payment as provided for herein), and to pay interest hereon until the Principal Sum shall be fully paid at the [Interest Rate specified above] **OR** [Interest Rate[s] per annum set forth on Exhibit A attached hereto] from the interest payment date to which interest has been paid next preceding the Authentication Date of this Bond unless this Bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before _____ 15, 20__, in which case it shall bear interest from the Original Date, until the principal is paid, which interest is payable semiannually on the first day of September and March of each year, beginning on _____ 1, 20__. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

The principal of this Bond is payable at the [principal corporate trust] office of _____ (“Registrar”) or “Paying Agent”), in the _____ of _____, _____. All payments of interest on this Bond shall be paid by check mailed one business day prior to the interest payment date to the registered owner hereof, as of the fifteenth day of the month preceding such interest payment date, at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. Notwithstanding anything to the contrary herein, this bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this bond or earlier payment in full of this bond. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THIS BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA, AND THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE SPECIAL FUND PROVIDED FROM THE NET REVENUES, ON A PARITY WITH THE OUTSTANDING BONDS (EACH AS HEREINAFTER DEFINED).

This Bond is [the only] one of an authorized issue of bonds of the City[, to be issued in series,] [of like tenor and effect, except as to numbering, interest rate[, series designation] and dates of maturity,] in the total amount of _____ Dollars (\$_____) [for this series] (“Bonds”); numbered consecutively from 1 up; issued for the purpose of providing funds to be applied on the cost of certain additions, extensions and improvements to the City’s sewage works[, to refund interim notes issued in anticipation of the Bonds] and to pay issuance expenses[, including premiums for a municipal bond insurance and a debt service reserve surety], as authorized by an Ordinance adopted by the Common Council of the City (the “Common Council”) on the _____ day of March, 2023, entitled “An Ordinance concerning the construction of additions and improvements to the sewage works of the City of Mishawaka, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith” (“Ordinance”), and in strict compliance with the provisions of IC 5-1-14 and IC 36-9-23, each as in effect on the issue date of the Bonds (collectively, the “Act”).

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this Bond and all other bonds of said issue, [including the Sewage Works Revenue Bonds of _____, Series _____ (the “Series _____ Bonds”),] and any bonds hereafter issued on a parity therewith are payable solely from the Sinking Fund (as continued by the Ordinance) to be provided from the Net Revenues (defined as the gross revenues of the sewage works of the City remaining after the

payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the sewage works of the City. The bonds of this issue of which this Bond is a part rank on parity with the Outstanding Bonds (as defined in the Ordinance). Under the Ordinance, Net Revenues include the Pledged Tax Increment (as defined in the Ordinance) subject to Section 2(b) of the Ordinance.

The City reserves the right to issue additional bonds on a parity with this Bond and the issue of which it is a part, as provided in the Ordinance. The City irrevocably pledges the entire Net Revenues of said sewage works to the prompt payment of the principal of and interest on the Bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Bonds [and the Series ____ Bonds], to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works, as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers of the City shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this Bond, the owner of this Bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this Bond and the interest hereon.

[The Bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this Bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available or more often if necessary, a sufficient amount of the Net Revenues of said works to meet: (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due; (b) the necessary fiscal agency charges for paying the bonds and interest; (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works, as such principal shall fall due; and (d) an additional amount as a margin of safety to maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge against the Net Revenues of said works, on a parity with the Outstanding Bonds [and the Series ____ Bonds].

The Bonds of this issue [maturing on _____ 1, 2031, and thereafter,] are redeemable at the option of the City on _____ 1, 2031, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, without premium, plus accrued interest to the date fixed for redemption.

[The Bonds maturing on _____ 1, 20__ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

Term Bond

Date Amount

*

***Final Maturity]**

Each authorized denomination amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the Bonds to be redeemed shall be selected by lot by the Registrar. [If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.]

Notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption unless the notice is waived by the registered owner of this Bond. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this Bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank an amount sufficient to pay such Bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This Bond is transferable or exchangeable only upon the books of the City kept for that purpose at the [principal corporate trust] office of the Registrar, by the registered owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. This Bond may be transferred without cost to the registered owner except for any tax or governmental charge required to be paid with respect to the transfer. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this Bond may treat and consider the person in whose name this Bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

This Bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN

THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance, if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the Bonds.

The Bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000] **OR** [\$100,000] any integral multiple in excess thereof not exceeding the aggregate principal amount of the Bonds maturing in such year.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the preparation and complete execution, issuance and delivery of this Bond have been done and performed in regular and due form as provided by law.

This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Mishawaka, in St. Joseph County, Indiana, has caused this Bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned with the manual or facsimile signature of the Controller, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF MISHAWAKA, INDIANA

[SEAL]

By: _____
Mayor

COUNTERSIGNED

By: _____
Controller

Attest:

Clerk

[BOND INSURANCE LEGEND]

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this Bond is one of the Bonds described in the Ordinance.

_____,
as Registrar

By: _____,
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within Bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

[EXHIBIT A]

(End of Bond Form)

Section 7. Authorization for Preparation and Sale of the BANs and Bonds; Official Statement; Continuing Disclosure; Bond Insurance. (a) The Controller is hereby authorized and directed to have the BANs and Bonds prepared, and the Mayor, the Controller and the Clerk are hereby authorized and directed to execute and attest the BANs and Bonds in the form and manner provided herein.

(b) The Controller is hereby authorized and directed to deliver the BANs and Bonds to the respective purchasers thereof after sale made in accordance with the provisions of this Ordinance, provided that at the time of delivery of the BANs and Bonds, the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than ninety-nine percent (99%) of the par value of the BANs, and not less than ninety-nine percent (99%) of the par value of the Bonds, as the case may be, plus accrued interest to the date of delivery, if any. The City may receive payment for the BANs and the Bonds in installments. Each series of Bonds, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Net Revenues of the City's sewage works, to be set aside into the Sinking Fund as herein provided, on a parity with the Outstanding Bonds. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers

of the City are hereby directed to sell the Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this Ordinance.

(c) If necessary, distribution of one or more Official Statements (preliminary and final) for the Bonds, prepared by Baker Tilly Municipal Advisors, LLC on behalf of the City, are hereby authorized and approved and the Mayor and the Controller are authorized and directed to execute any such Official Statement on behalf of the City in a form consistent with this Ordinance. The Mayor or Controller is hereby authorized to designate any such preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

If an Official Statement is not required, upon delivery of the Bonds the City shall obtain an investment letter from the purchaser of the Bonds which satisfies federal and state securities laws applicable to the Bonds.

(d) If required under the Rule, the Mayor and Controller are hereby authorized and directed to complete, execute and attest one or more Continuing Disclosure Undertakings (each a "Disclosure Undertaking") for the Bonds on behalf of the City. Notwithstanding any other provisions of this Ordinance, failure of the City to comply with the Disclosure Undertaking shall not be considered an event of default under the Bonds or this Ordinance.

(e) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy, the City hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the total debt service on the Bonds if issued without municipal bond insurance and (b) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this Ordinance for all purposes and is hereby incorporated herein by reference.

(f) Prior to the delivery of the Bonds, the Controller (i) shall be authorized, but not required, to investigate and to obtain credit rating(s) on the Bonds and (ii) shall obtain a legal opinion as to the validity of the Bonds from Krieg DeVault LLP, bond counsel, of Indianapolis, Indiana, and shall furnish this opinion to the purchaser of the Bonds. The cost of obtaining any such credit ratings, together with the bond counsel fee in preparing and delivering such opinion and in the performance or related services of bond counsel, and the City's municipal advisor in connection with the issuance, sale and delivery of the Bonds, shall be considered as part of the costs incidental to these proceedings and may be paid out of proceeds of the Bonds.

Section 8. Sale of the Bonds; Award of Bonds. Unless sold to the Indiana Bond Bank, the Bonds may be sold at a competitive sale and, in such case, the Controller shall cause to be published either (i) a notice of such sale in the *South Bend Tribune* and the *Mishawaka Enterprise*, two (2) times, at least one (1) week apart, with the first publication made at least fifteen (15) days

before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in both newspapers described in (i) above and the *Indianapolis Star* or the *Indianapolis Business Journal*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Indianapolis Star* or the *Indianapolis Business Journal*, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the time and place of sale, the purpose for which the Bonds are being issued, the total amount and maturities thereof, the maximum rate of interest thereon and any limitations as to the number of interest rates and the setting of such rates, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem necessary or advisable. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price under Treasury Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the Preliminary Official Statement and/or the bid form. Such notice shall also provide, among other things, that each bid shall be accompanied by a certified or cashier's check or wire transfer in an amount equal to one percent (1%) of the par amount of the Bonds to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then such check and the proceeds thereof shall become the property of the City and shall be considered as the City's liquidated damages on account of such default. Such wire transfer can be made by a time specified in the Bond Sale Notice within one day of the award of the Bonds by the best bidder. All bids for the Bonds shall be sealed and shall be presented to the Controller or his or her designee at the physical or electronic address identified in the notice. Bidders for the Bonds shall be required to name the rate or rates of interest which the Bonds are to bear, not exceeding five and one half percent (5.5%) per annum. Such interest rate or rates shall be in multiples of one-eighth (1/8) or one-hundredth (1/100) of one percent (1%). Bids may be received electronically. No conditional bid or bid for less than ninety-nine percent (99.0%) of the par value of the Bonds will be considered. The opinion of Krieg DeVault LLP, nationally recognized bond counsel of Indianapolis, Indiana, approving the legality of said Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Controller to the best bidder who has submitted a bid in accordance with the terms of this Ordinance, IC 5-1-11, and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the Bonds from the date thereof to their respective maturities, adding thereto the discount bid, if any, and deducting therefrom the premium bid, if any. The City shall have the right to reject any and all bids. In the event an acceptable bid is not received on the date fixed in the notice, the Controller shall be authorized to continue the sale from day to day for a period of not to exceed thirty (30) days without readvertising. During the continuation of the sale, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time originally fixed for the sale of the Bonds in the bond sale notice.

As an alternative to competitive bid, the Controller may negotiate the sale of said Bonds at an interest rate or rates not exceeding five and one half percent (5.5%) per annum. The Mayor and the Controller are hereby authorized to (i) execute a purchase agreement with the purchaser, and (ii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this Ordinance. The final form of the purchase agreement shall be approved by

the Mayor and Controller, upon the advice of the City's bond counsel and municipal advisor, and the Mayor and Controller are hereby authorized and directed to complete, execute and attest the same on behalf of the City so long as its provisions are consistent with this Ordinance.

Section 9. Use of Proceeds and Costs of Issuance; Reimbursement. Any accrued interest received at the time of delivery of the Bonds, and premium, if any, shall be deposited in the Sinking Fund, continued in Section 15. The remaining proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Mishawaka, Sewage Works Construction Account" ("Construction Account"). All funds deposited to the credit of the Sinking Fund or Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, and the acts amendatory thereof and supplemental thereto. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds and BANs. The cost of obtaining any credit ratings, insurance and the cost of obtaining the services of Krieg DeVault LLP and Baker Tilly Municipal Advisors, LLC shall be considered as a part of the cost of the Project on account of which the BANs and Bonds are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Sinking Fund and used solely for the purposes of the Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

The City hereby declares its "official intent", as such term is used in the Reimbursement Regulations, to reimburse the City's advances for costs incurred for the Project from proceeds of the BANs or the Bonds herein authorized by this Ordinance. The City reasonably expects to make such advances for the costs of the Project.

Section 10. Financial Records and Accounts and Maintenance of Books. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the sewage works and all disbursements made therefrom and all transactions relating to the sewage works. Copies of all such statements and reports shall be kept on file in the office of the Clerk. The City shall maintain on file the audited financial statements of said works prepared by the State Board of Accounts.

Section 11. Pledged Tax Increment. The Net Revenues of the sewage works shall continue to include the Pledged Tax Increment. The Pledged Tax Increment is pledged to the payment of the Bonds, on a parity with the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds, subject to Section 2(b) of this Ordinance.

Section 12. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this Ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, on a parity with the Outstanding

Bonds, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Bonds, to the extent necessary for that purpose.

Section 13. Revenue Fund. The City shall segregate, deposit and keep in a special fund, separate and apart from all other funds of the City, all gross revenues received on account of the sewage works, which special fund was established and designated as the "City of Mishawaka, Indiana, Sewage Works Revenue Fund" ("Revenue Fund") and is continued hereby. Out of said revenues the proper and reasonable expenses of operation, repair and maintenance of the sewage works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, reserves shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided. No moneys derived from the revenues of the sewage works shall be transferred to the general fund of the City or be used for any purpose not connected with the sewage works so long as any bonds payable from the revenues of the sewage works are outstanding.

Section 14. Operation and Maintenance Fund. The Operation and Maintenance Fund ("O&M Fund") is hereby continued. On the last day of each calendar month, a sufficient amount of revenues of the sewage works shall be transferred from the Revenue Fund to the O&M Fund so that the balance maintained in the O&M Fund shall be sufficient to pay the expenses of operation, repair and maintenance of the sewage works for the then next succeeding two (2) calendar months. The moneys credited to the O&M Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the monies in the O&M Fund shall be used for transfers for PILOTs, depreciation, replacements, improvements, extensions or additions. Any monies in the O&M Fund may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the sewage works, or if necessary to eliminate any deficiencies in credits to or minimum balance in the Reserve Accounts described below.

Section 15. Sewage Works Sinking Fund. The Sewage Works Sinking Fund ("Sinking Fund") is hereby continued for the payment of the principal of and interest on all revenue bonds which by their terms are payable from the Net Revenues of the sewage works and the payment of any fiscal agency charges in connection with the payment of bonds. The Sinking Fund shall consist of a Debt Service Account, and two Reserve Accounts hereby continued. The Sinking Fund shall be continued until all of the bonds payable from the Net Revenues of the sewage works have been paid.

(a) Debt Service Account. All Pledged Tax Increment shall be deposited into the Sinking Fund and shall be deemed as Net Revenues of the sewage works. Upon receipt by the City, the Pledged Tax Increment shall be credited to the Debt Service Account. Any Pledged Tax Increment received by the City in excess of the requirements of the Debt Service Account shall be used to satisfy the requirements of the 1994 Reserve Account and the 1999 Reserve Account (each as hereinafter defined) on a parity basis. After making the required monthly payments into the O&M Fund, Net Revenues shall be deposited into the Debt Service Account monthly, as available, in an amount sufficient for the payment of: (a) the amount required for the interest on all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the sewage works; (b) the principal of all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the

sewage works; and (c) the necessary fiscal agency charges for paying the principal of and interest on all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the sewage works. After accounting for the amount of Pledged Tax Increment on deposit in the Debt Service Account, the monthly payments into the Debt Service Account shall be in an amount equal to at least one-sixth (1/6) of the amount required during the next succeeding six (6) calendar months for the payment of interest on and principal of the Outstanding Bonds, the Bonds, and all bonds hereafter issued payable by their terms from the Net Revenues of the sewage works, and an amount necessary to pay the bank fiscal agency charges as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Debt Service Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(b) Reserve Accounts. (i) The 2015 Bonds are secured by the 1994 Reserve Account described below. The 2010A Bonds purchased by the Authority as part of its SRF Program and the 2017A Bonds, 2017B Bonds, and 2018 Bonds are secured by the 1999 Reserve Account described below. The 1999 Reserve Account will serve as the reserve for the Bonds issued hereunder.

(i) 1994 Reserve Account. The reserve account, as continued for the 2015 Bonds (the "1994 Reserve Account") is hereby continued. The 1994 Reserve Account serves as the reserve for the 2015 Bonds and it may also serve as the reserve for any series of future bonds not purchased by the Authority as part of its SRF Program. The 1994 Reserve Account contains a surety which funds, in part, the required balance for the 1994 Reserve Account with the remaining balance being funded with cash. The balance to be maintained in the 1994 Reserve Account, taking into account the surety held therein and the cash, shall equal the maximum annual debt service on the 2015 Bonds ("1994 Reserve Requirement").

The 1994 Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the 2015 Bonds and any future bonds not purchased by the Authority as part of its SRF Program but secured by the 1994 Reserve Account, and the moneys in the 1994 Reserve Account shall be used to pay current principal and interest on the 2015 Bonds to the extent that moneys in the Debt Service Account are insufficient for that purpose. No moneys in the 1994 Reserve Account shall secure or be used to pay the principal of or interest on the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, or the Bonds issued under this Ordinance. Any moneys in the 1994 Reserve Account in excess of the 1994 Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

(ii) 1999 Reserve Account. The 1999 Reserve Account ("1999 Reserve Account") and together with the 1994 Reserve Account, the "Reserve Accounts") is hereby continued. The 1999 Reserve Account shall continue to serve as the reserve for the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, and shall also serve as the reserve for any future bonds purchased by the Authority as part of its SRF Program. The 1999 Reserve Account shall also serve as the reserve for the Bonds

issued under this Ordinance. The balance therein shall equal but not exceed the maximum annual debt service on the Bonds, the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, and any parity bonds issued in the future by the City which are payable from the Net Revenues of the sewage works and secured by the 1999 Reserve Account ("1999 Reserve Requirement" and together with the 1994 Reserve Requirement, the "Reserve Requirements"). If the initial deposit into the 1999 Reserve Account does not cause the balance therein to equal the 1999 Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be deposited to the 1999 Reserve Account on the last day of each calendar month until the balance therein equals the 1999 Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the 1999 Reserve Requirement within five (5) years of the date of delivery of the Bonds.

The 1999 Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, and the Bonds, and the moneys therein shall be used to pay current principal and interest on the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, the 2018 Bonds, and the Bonds to the extent that moneys in the Debt Service Account are insufficient for that purpose. No moneys in the 1999 Reserve Account shall secure or be used to pay the principal of or interest on the 2015 Bonds. Any moneys in the 1999 Reserve Account in excess of the 1999 Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

(iii) Deficiency Restoration. Any deficiency in the balance maintained in the 1994 Reserve Account and the 1999 Reserve Account shall be made up on a parity (pro rata) basis, from the next available Net Revenues remaining after credits into the Debt Service Account.

Section 16. Sewage Works Improvement Fund. The Sewage Works Improvement Fund ("Improvement Fund") is hereby continued. After meeting the requirements of the O&M Fund and the Sinking Fund, any excess Net Revenues may be transferred or credited from the Revenue Fund to the Improvement Fund, and said Improvement Fund shall be used for improvements, replacements, additions or extensions to the sewage works, or for any other lawful purpose, including the payment of PILOTs. The City reserves the right to transfer PILOTs from the Improvement Fund to the City but no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the O&M Fund, the Sinking Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. In no event shall any PILOTs be treated as an expense of operation and maintenance, nor in any case shall any PILOT be payable from the O&M Fund or the Sinking Fund. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the then outstanding bonds of the sewage works or, if necessary, to eliminate any deficiencies in credits to or minimum balance in any of the Reserve Accounts of the Sinking Fund, or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the sewage works.

Section 17. Maintenance of Accounts; Investments. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City.

The O&M Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City (including, without limitation, any funds and accounts relative to any other utility of the City beyond the Sewage Works) and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly IC 5-13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this Ordinance.

Section 18. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's sewage works.

Section 19. Rate Covenant. The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewage system of the City, or that in any way uses or is served by such works, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the City, together with the Pledged Tax Increment reasonably expected to be collected and available to provide for the timely payment of debt service on the Bonds, the 2010A Bonds, the 2015 Bonds, the 2017A Bonds, the 2017B Bonds, and the 2018 Bonds) to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement) of the sewage works, to comply with and satisfy all covenants contained in this Ordinance and the Financial Assistance Agreement, and to pay all obligations of the sewage works and of the City with respect to the sewage works. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient (together with the Pledged Tax Increment reasonably expected to be collected and available to provide for the timely payment of debt service on the Bonds, the 2010A Bonds, the 2015 Bonds, the 2017A Bonds, the 2017B Bonds and the 2018 Bonds) to meet the expenses of Operation and Maintenance of the sewage works and the requirements of the Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and service rendered to the City and all departments thereof, and shall be paid by the City or the various departments thereof as the charges accrue.

For purposes of determining whether the Pledged Tax Increment will be considered to be reasonably expected to be collected and available to provide for the timely payment of debt service, the following shall control:

- (a) the estimated Pledged Tax Increment to be collected shall be based on the existing assessed valuation (unless such valuation has been challenged by the owner of the property, in which case the prior assessed value shall be used) and the then current tax rate;
- (b) any delinquent payments of property taxes constituting Pledged Tax Increment shall not be considered available; and
- (c) if there is any pending challenge against the establishment or propriety of the Pledged Tax Increment, or its proposed use under this Ordinance, such challenged portion of the Pledged Tax Increment shall not be considered available.

If in any year while the Bonds, the 2010A Bonds, the 2017A Bonds, the 2017B Bonds, or the 2018 Bonds are outstanding, the Net Revenues of the sewage works and the Pledged Tax Increment received from (a) the June settlement is less than the next September 1 payment on all outstanding bonds or (b) the June settlement (after payment of such September 1 payment), together with the December settlement, is less than the next March 1 payment on all outstanding bonds, then the City shall take all steps required to immediately increase sewage works rates and charges to the level required to provide for the timely payment of debt service on all outstanding bonds. Any such increase shall be enacted to be effective within forty-five (45) days after the receipt of the June or December settlement, as the case may be.

Section 20. Additional Bond Provisions. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City shall not issue any additional obligations payable from or secured by the Pledged Tax Increment without the prior written consent of the Authority. The City reserves the right to authorize and issue additional bonds or other obligations payable out of the Net Revenues of its sewage works ranking on a parity with the Bonds and Outstanding Bonds (the "Parity Bonds") for the purpose of financing the cost of future additions, extensions and improvements to its sewage works, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this Ordinance, and the interest on and principal of all bonds or other obligations payable from the Net Revenues of the sewage works shall have been paid to date in accordance with their terms.

(b) The Net Revenues of the sewage works, including the Pledged Tax Increment, in the fiscal year immediately preceding the issuance of any such Parity Bonds (provided, within the 90 day period following the end of such preceding fiscal year, if such year's accounting records are not final as of the sale date of the additional bonds, the fiscal year preceding such year may be used in lieu of the immediately preceding fiscal year) shall be not less than one hundred twenty-

five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the additional Parity Bonds, the sewage rates and charges shall be increased sufficiently so that the increased rates and charges, if realized and when applied to the previous year's operations would have produced Net Revenues for said year, including the Pledged Tax Increment, equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the sewage works, including the additional Parity Bonds proposed to be issued.

For purposes of this subsection, the records of the sewage works shall be analyzed and all showings shall be prepared by an independent certified public accountant employed by the City for that purpose who shall certify the satisfaction of the foregoing conditions for the issuance of the additional Parity Bonds.

(c) The interest on the additional Parity Bonds shall be payable semiannually on the first day of March and September and the principal of, or mandatory sinking fund redemption dates for, the additional Parity Bonds shall be payable semiannually on March 1 and September 1.

(d) The Reserve Requirements shall be satisfied for the additional Parity Bonds either as of the date of delivery of said additional Parity Bonds or through equal monthly deposits of Net Revenues sufficient to accumulate the reserve in a manner which is commensurate with and proportional to the provisions established by Section 15 of this Ordinance.

(e) So long as any 2010A Bonds are outstanding and owned by the Authority as part of the SRF Program, (i) the City obtains the consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and the ordinance authorizing the 2010A Bonds, and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the additional Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Section 21. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the BANs and the Bonds, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employer's liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City.

(c) So long as any of the BANs or Bonds are outstanding, the City shall at all times maintain the sewage works system in good condition, and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the BANs or Bonds are outstanding, the City shall maintain insurance coverage on the insurable parts of said works, of a kind and in an amount, including fidelity bonds, such as would normally be carried by private corporation engaged in a similar type of business and, so long as any 2010A Bonds are owned by the Authority as part of its SRF Program, acceptable to the Authority. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. All insurance proceeds shall be used in replacing or repairing the property destroyed or damaged, unless so long as the 2010A Bonds are owned by the Authority as part of its SRF Program, the Authority consents to a different use.

(e) So long as any of the BANs or Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber the property and plant of its sewage works system, or any part thereof, nor shall it sell, lease or otherwise dispose of any part of the same, excepting only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility; provided, however, the City shall obtain the prior written consent of the Authority so long as any 2010A Bonds are owned by the Authority as part of the SRF Program.

(f) For so long as any of the 2010A Bonds are outstanding and owned by the Authority as part of the SRF Program, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the sewage works, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the sewage works.

(g) Except as otherwise specifically provided in Section 20 of this Ordinance, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, issued or executed by the City, except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds are redeemed or defeased pursuant to Section 18 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this Ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, all the terms of which shall be enforceable by any bondholder by any and all appropriate proceedings in law or in equity. After the issuance of the Bonds or BANs, this Ordinance shall not be repealed, amended or modified in any respect which will adversely affect the rights or interests of the owners of the Bonds or BANs, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as any of the Bonds, the BANs, or the interest thereon, remain outstanding or unpaid. Except in the case of changes described in Section 22 (a)-(f), this Ordinance may be amended, however, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds or BANs.

(i) The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds and BANs herein authorized for the uses and purposes herein set forth, and the owners of the Bonds and BANs shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and of the governing Act. The provisions of this Ordinance shall also be construed to create a trust in a portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of the Sinking Fund as in this Ordinance set forth. The owners of the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act, including the right to have a receiver appointed to administer said sewage works, in the event the City shall fail or refuse to fix and collect sufficient rates and charges for said purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof, or if there be a default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event of default in respect to any of the provisions of this Ordinance or the governing Act.

(j) The City shall take all action or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(k) For purpose this Section 21, the term "lease" shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the sewage works, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

Section 22. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 21(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this Ordinance and then outstanding shall have the right, from time to time, to consent to and approve the adoption by the Common Council of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for any Bond issued pursuant to this Ordinance; or

(b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the sewage works ranking prior to the pledge thereof created by this Ordinance; or

(d) A preference or priority of any Bond or Bonds issued pursuant to this Ordinance over any other Bond or Bonds issued pursuant to the provisions of this Ordinance; or

(e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or

(f) A reduction in the Reserve Requirements.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk, no owner of any Bond issued pursuant to this Ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this Ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this Ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this Ordinance, and the terms and provisions of the Bonds and this Ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

Section 23. Investment of Funds. (a) The Controller is hereby authorized to invest moneys pursuant to the provisions of this Ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

(b) The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of this Ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any fees as operation expenses of the sewage works.

Section 24. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986, as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The sewage works will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business.

No person or entity other than the City or another state or local governmental unit will use more than ten percent (10%) of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than ten percent (10%) of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the sewage works, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than ten percent (10%) of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than ten percent (10%) of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds or BANs, this Ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than five percent (5%) of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than five percent (5%) of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

(e) No more than five percent (5%) of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this Ordinance if the interest on any Bond or BAN is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.

(h) The City covenants that it will rebate any arbitrage profits to the United States to the extent required by the Code and the regulations promulgated thereunder.

(i) The City represents that the Bonds and the BANs are not private activity bonds as defined in Section 141 of the Code.-

(j) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds or BANs, as the case may be.

Section 25. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank, or any other purchaser pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Controller are hereby authorized and directed to execute a Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Controller may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 26. Non-compliance with Tax Covenants. Notwithstanding any other provisions of this Ordinance, the covenants and authorizations contained in this Ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption. At the time of delivery of the BANs and Bonds, the Mayor and the Controller will provide a copy of its post-issuance compliance procedures with respect to the BANs and Bonds relating to continued compliance of the City with respect to the Tax Sections to preserve the Tax Exemption.

Section 27. Rates and Charges. The present rates and charges of the sewage works are set forth in Ordinance No. 5568 adopted on March 6, 2017, which ordinance is incorporated herein by reference.

Section 28. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this Ordinance shall not be construed as

modifying, amending or repealing the ordinances authorizing the Outstanding Bonds or as adversely affecting the rights of the owners of the Outstanding Bonds.

Section 29. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Ordinance.

Section 30. Effective Date. This Ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

* * * * *

Passed and adopted by the Common Council of the City of Mishawaka, Indiana on the ____ day of March, 2023.

COMMON COUNCIL OF THE CITY OF
MISHAWAKA

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ____ day of
March, 2023, at ____:____.m.

Deborah S. Block, IAMC, MMC, Clerk

Presented to and approved by me, the Mayor of the City of Mishawaka, Indiana, and
signed this ____ day of March, 2023, at ____:____.m.

David A. Wood, Mayor

KD_14467310_4.docx

EXHIBIT A

PROJECT DESCRIPTION

The bond proceeds will fund projects that impact LTCP and are common to the Sanitary Sewer Neighborhood Revitalization Plan with right-of-way-to-right-of-way improvements. These projects will include new storm sewer, revitalizing existing sewer for sanitary only use with CIPP, replacement of sanitary lateral services, water main adjustments and lead water lateral replacement, new concrete curb and sidewalk, and new full depth pavement. The project locations will span the city limits which includes but is not limited to the Linden Study Area, Twin Branch Area, West Street Area, Beiger/Byrkit/Bendix Study Area, the City Central area, and Third Street storage-conveyance Projects.

In addition to the right-of-way projects, the wastewater facility will fund minor facility upgrades throughout the site which include, but are not limited to, chlorine storage/feed system improvements, and pumps and system upgrades.

**CITY OF MISHAWAKA, INDIANA
SEWAGE WORKS REVENUE BONDS OF 2023**

PRELIMINARY TRANSACTION TIMETABLE

*All dates are estimates and are subject to change
as of February 23, 2023

2023

S	M	T	W	T	F	S
February						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

S	M	T	W	T	F	S
March						
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

S	M	T	W	T	F	S
April						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

S	M	T	W	T	F	S
May						
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

City/Issuer:	City of Mishawaka, Indiana
Common Council:	Mishawaka Common Council
Redevelopment Commission:	Mishawaka Redevelopment Commission
Issuer's Counsel:	Patrick Hinkle, John J. Roggeman and David V. Bent
Bond Counsel:	Krieg DeVault LLP
Municipal Advisor:	Baker Tilly Municipal Advisors, LLC
Underwriter/Placement Agent:	TBD
Registrar/Paying Agent:	[The Bank of New York Mellon Trust Company, N.A.]

<u>Date</u>	<u>Activity</u>	<u>Responsibility</u>	<u>Completed</u>
February 22	Bond Counsel circulates draft Bond Ordinance and preliminary transaction timetable.	Bond Counsel	Yes
Week of March 6	Comments due on draft Bond Ordinance and preliminary transaction timetable.	City Municipal Advisor	

<u>Date</u>	<u>Activity</u>	<u>Responsibility</u>	<u>Completed</u>
Early March	• [Municipal Advisor submits requests for proposals for Bonds from underwriters and placement agents.] • Municipal Advisor circulates either draft Preliminary Official Statement (if bonds to be sold by underwriter) or draft Information about the City and Sewage Works (if bonds to be sold by placement agent) for review by the working group. • Municipal Advisor requests IFA's approval to issue parity Bonds (as required by 2010A Bonds).	Municipal Advisor	
Monday, March 20	• Introduction of Bond Ordinance at Common Council meeting. • Common Council unanimously votes to suspend rules and pass Bond Ordinance at the same meeting it was introduced on first reading. • Common Council approves Bond Ordinance.	Common Council Issuer's Counsel	
Tuesday, March 21	• Bond Counsel delivers Notice of Intent to Sell Bonds to the <i>Mishawaka Enterprise</i>, <i>South Bend Tribune</i> and <i>Indy Star</i>. • Bond Counsel delivers Notice of Adoption and Purport of the Bond Ordinance to the <i>Mishawaka Enterprise</i> and <i>South Bend Tribune</i> (objections must be brought within 20 days of publication of notice).	Bond Counsel	
Wednesday, March 22	• [Proposals from prospective underwriters or placement agents due to City.]	Municipal Advisor	
By Friday, March 24	• Municipal Advisor requests rating and submits documents to S&P. • First publication of Notice of Intent to Sell Bonds in the <i>Mishawaka Enterprise</i>, <i>South Bend Tribune</i> and <i>Indy Star</i> (publish once each week for 2 weeks) (bond bids must be received within 90 days of publication). • Notice of Adoption and Purport of the Bond Ordinance published in the <i>Mishawaka Enterprise</i> and <i>South Bend Tribune</i>.	Municipal Advisor Newspapers	

<u>Date</u>	<u>Activity</u>	<u>Responsibility</u>	<u>Completed</u>
Monday, March 27	Redevelopment Commission adopts Resolution Pledging Tax Increment to Bonds.	Redevelopment Commission	
By Friday, March 31	- Second publication of Notice of Intent to Sell Bonds in the <i>Mishawaka Enterprise</i>, <i>South Bend Tribune</i> and <i>Indy Star</i>. [City selects underwriter/placement agent for Bonds.]	Newspapers City Municipal Advisor	
Tuesday, April 4	Last day to contest validity of Bonds (15 days after adoption of Bond Ordinance).		
Thursday, April 13	Last day to object to construction of sewage works project (petition must be filed within 20 days after publication of Notice of Adoption and Purport of the Bond Ordinance).		
Week of April 10	- Receive rating letter from S&P (valid for 90-days) - Finalize, print and post Preliminary Official Statement - Last day for interested bidders on Bonds to submit information (not less than 7 days after last publication of Notice of Intent to Sell Bonds).	S&P Municipal Advisor	
Tuesday April 18	Potential Bond bidders given at least 24 hour notice of date and time where bids are due.	Municipal Advisor	
Wednesday April 19	Bond Sale; Bond Purchase Agreement Executed	Municipal Advisor Bond Counsel	
Monday April 24	Bond Counsel circulates draft closing documents for review.	Bond Counsel	
Monday April 24	Last day to contest Bond sale (5 days after bond sale).		
Week of April 24	Finalize and distribute Final Official Statement.	Municipal Advisor	
Monday, May 1	Comments due on closing documents.	All	
Wednesday, April 26	Bond Counsel distributes closing packages for execution.	Bond Counsel	

<u>Date</u>	<u>Activity</u>	<u>Responsibility</u>	<u>Completed</u>
Tuesday, May 2	• Pre-closing for Bonds	Bond Counsel	
Wednesday, May 3	• Bond closing; Project funds available for disbursement; Notice to proceed given.	All	
By Friday, June 2	• Municipal advisor submits post-bond sale information to DLGF (within 30 days after the date the Bonds are issued, if Bonds are issued before October 1st).	Municipal Advisor	

Assumptions:

- Common Council meets the 1st and 3rd Monday of the month at 7:00 pm.
- Redevelopment Commission meets the 4th Monday of the month at 5:30 pm.
- The Bond are payable solely from the Net Revenues of the sewage works of the City, on a parity with the Outstanding Bonds (as defined in the Bond Ordinance).
- Construction of projects are subject to public bidding laws per IC 36-9-23-6(c).
- Competitive or Negotiated Sale with an Official Statement and Rating.
- All bodies comply with Indiana Open Door Law.
- All meetings have quorum.
- No objections will be received or lawsuits filed with respect to any of the proceedings.
- Conference calls will be held as needed.
- Newspaper agencies publishing schedules are not altered.
 - *Mishawaka Enterprise* publishes on Thursdays.
 - Notice deadline Tuesday at 5:00 p.m. (MishawakaNews@gmail.com)
 - *South Bend Tribune* publishes every day.
 - Notice deadline three (3) working days prior to publication (legals@sbtinfo.com)
 - *Indy Star* publishes Monday-Friday.
 - Notice deadline is 12:00 Noon on two (2) business days prior to publication (publicnotices@indystar.com)